

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

In re: ERIEN LOIS FRAZIER REVOCABLE LIVING TRUST v. FirstEnergy (West Penn Rate District)

Docket No.: C-2025-3056017

OPPOSITION TO RESPONDENT’S MOTION TO DISMISS

Complainant, ERIEN LOIS FRAZIER REVOCABLE LIVING TRUST, by and through its Trustee, respectfully submits this Opposition to the Respondent’s Motion to Dismiss, and in support thereof states:

I. Introduction

Complainant, the Erien Lois Frazier Revocable Living Trust, by and through its Trustee, Erien Frazier (“Trustee”), respectfully submits this combined Opposition to Respondent’s Motion to Dismiss and Petition for Leave to Amend Caption.

Respondent moves for dismissal on the basis that a trust cannot appear without licensed counsel. The Trust opposes dismissal because:

1. The Trustee is the real party in interest vested with authority to assert and protect the Trust’s rights;
2. The Commission has broad discretion to allow amendment of pleadings in furtherance of justice rather than dismissing a meritorious complaint; and
3. Equity disfavors dismissal where the defect is purely nominal and curable by amending the caption to properly reflect the Trustee as Complainant.

Accordingly, dismissal is unwarranted. In the alternative, the Trustee respectfully petitions for leave to amend the caption to proceed in her own name as Trustee.

II. Opposition to Motion to Dismiss

A. Trustee is the Real Party in Interest

- Pennsylvania courts distinguish governing fiduciary interests from corporate representation. A trust has no separate legal personality; the Trustee holds legal title and enforces the trust’s rights. Although there is no authoritative appellate decision on this exact point, procedural flexibility is warranted.

B. PUC Rules Favor Adjudication Over Dismissal

- Under 52 Pa. Code § 5.91, pleadings may be amended to cure defects, including captions or representation. The Commission may also waive technical

requirements under § 1.2(c). Elevating procedural form over substantive justice in a consumer billing dispute contradicts the Commission's mandate.

C. Legal Standards Recognize Pro Se Trustees in Limited Scenarios

- While Pennsylvania appellate panels have generally disallowed trustees representing trusts pro se—on unauthorized practice grounds—those cases often involve trusts viewed as separate legal entities. See Commonwealth Court opinions (e.g., *Straban Twp. v. Hanoverian Trust*), and *Estate of Rowley* (Superior Court), which affirm that where there are beneficiaries or trust complexity, counsel may be required. Here, the Trustee is protecting her own proprietary interest as sole fiduciary. Refusal to permit that appearance in an administrative context would thwart fundamental fairness. The Pennsylvania Code (52 Pa. Code § 5.91) expressly authorizes amendment of pleadings “at any time” to ensure that claims are adjudicated on the merits.
- Courts and commissions alike have consistently held that dismissal is a disfavored remedy when amendment would cure the defect without prejudice.

2. Dismissal Would Cause Manifest Injustice

- Respondent has actual notice of the claims. No prejudice would result from permitting the Trustee to be expressly named as Complainant.
- The Commission's fundamental purpose is to ensure just and reasonable utility practices. Procedural technicalities should not be elevated above substantive justice.

III. Petition for Leave to Amend Caption

Should the Commission find merit in Respondent's procedural objection, the Trustee respectfully petitions to amend the caption to read:

Erien Frazier, Trustee of the Erien Lois Frazier Revocable Living Trust, Complainant, v. FirstEnergy (West Penn Power), Respondent.

Such amendment would align the caption with the Trustee's role as the proper legal representative of the Trust estate.

This amendment would:

- Cure the alleged defect,

- Cause no prejudice to Respondent, and
- Allow the matter to proceed on its merits as required by equity and public policy.

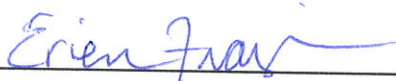
IV. Conclusion

For these reasons, the Commission should deny Respondent's Motion to Dismiss. Alternatively, the Commission should grant leave to amend the caption as set forth herein, and permit the Trustee to proceed as Complainant.

VERIFICATION

I, Erien Frazier, Trustee of the ERIEN LOIS FRAZIER REVOCABLE LIVING TRUST, hereby state that the facts set forth in the foregoing Opposition to Respondent's Motion to Dismiss are true and correct to the best of my knowledge, information, and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Respectfully submitted this August 18, 2025,



Erien Frazier, Trustee and Real Party in Interest
ERIEN LOIS FRAZIER REVOCABLE LIVING TRUST
963 Norland Ave Unit 1025
Chambersburg, Pennsylvania 17201

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Response to the Respondent's Motion to Dismiss upon the following individual by email to:

Margaret A. Morris, Esq.
Reger Rizzo & Darnall LLP
2929 Arch Street, 13th Floor
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Dated: August 18, 2025

Signed: *Eileen Fralce*