

Angelina Umstead, Esq.
(610) 921-6202
(330) 315-9263 (Fax)

August 26, 2025

VIA ELECTRONIC FILING

Matt Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

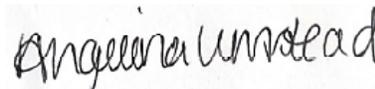
Re: Anthony Topper v. FirstEnergy Pennsylvania Electric Company
Docket No. C-2025-3056699

Dear Secretary Homsher:

Enclosed please find the Preliminary Objection of FirstEnergy Pennsylvania Electric Company, on behalf of the Met-Ed Rate District in the above-referenced matter. This document has been served on the Complainant as shown in the Certificate of Service.

Please contact me if you have any questions regarding this matter.

Very truly yours,



Angelina Umstead

AU/mlr

Enclosures

c: As Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ANTHONY TOPPER

v.

**FIRSTENERGY PENNSYLVANIA
ELECTRIC COMPANY**

:
:
:
:
:
:

Docket No. C-2025-3056699

NOTICE TO PLEAD

TO: Anthony Topper

Pursuant to 52 Pa. Code § 5.101, you are hereby notified that, if you do not file a reply to the enclosed Preliminary Objections of Pennsylvania Electric Company within ten (10) days from service of this notice, the facts set forth by FirstEnergy Pennsylvania Electric Company in the Preliminary Objections may be deemed to be admitted, thereby requiring no other proof. All pleadings, such as a Reply to Objection, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy service to counsel for FirstEnergy Pennsylvania Electric Company, and where applicable, the Administrative Law Judge presiding over the case.

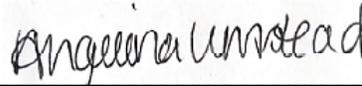
File with:

Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

With a copy to:

Angelina Umstead
FirstEnergy Service Company
341 White Pond Drive
Akron, OH 44308

Date: August 26, 2025



Angelina Umstead, Esquire

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ANTHONY TOPPER

v.

**FIRSTENERGY PENNSYLVANIA
ELECTRIC COMPANY**

:
:
:
:
:
:

Docket No. C-2025-3056699

**PRELIMINARY OBJECTION TO
THE COMPLAINT OF ANTHONY TOPPER**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

AND NOW, FirstEnergy Pennsylvania Electric Company (“FE PA” or the “Company”), on behalf of its Met-Ed Rate District,¹ by and through Angelina Umstead, files this Preliminary Objection pursuant to Section 5.101(a) of Pennsylvania Public Utility Commission (“Commission”) regulations, 52 Pa. Code § 5.101(a)(1), and in support thereof, avers as follows:

I. Introduction

1. In their recently filed Formal Complaint, Anthony Topper (“Complainant”) allege they sustained damages to personal property located at 26 Stedtle Avenue, Littlestown PA, 17340 (“Service Location”) as a result of an outage that occurred on June 22, 2025. The Complainant requests that FE PA financially compensate them for food that spoiled.

2. As explained below, the Commission does not have the power and legal authority to award monetary damages. As a result, the Company requests that this Preliminary Objection be granted and that the Commission: (i) grant its Preliminary Objections and strike the

¹ On January 1, 2024, FirstEnergy Corp.’s Pennsylvania operating companies (i.e., Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company) merged into FirstEnergy Pennsylvania Electric Company. Due to the merger transaction, the affected operating companies’ tariffs were consolidated into a single tariff, with each former operating company’s rates becoming its own rate district. As such, the customers of the former Pennsylvania Electric Company have their own separate and distinct rate district under FirstEnergy Pennsylvania Electric Company’s tariff.

Complainant's request for monetary damages; (ii) expressly prohibit the Complainants from introducing any testimony or exhibits at any evidentiary hearing regarding alleged damages; (iii) dismiss the Formal Complaint in its entirety with prejudice; and (iv) grant the Company such other relief as may be just and reasonable under the circumstances.

II. Background

3. The Company is an electric distribution company certificated as a public utility permitted to operate within the Commonwealth in Pennsylvania.

4. The Complainant filed a Formal Complaint with the Commission against the Company at the above-captioned docket requesting that the Commission direct the Company to financially reimburse the Complainant for damages incurred due to food spoilage.²

5. On August 6, 2025, the Complainants filed a Formal Complaint with the Commission against the Company at the above-captioned docket.

6. The Company is timely filing its Answer and New Matter contemporaneously with this Preliminary Objection, which Answer and New Matter is incorporated into this Preliminary Objection as if fully set forth herein.

III. Argument

7. The Commission's Rules of Practice and Procedure permit parties to file preliminary objections. The grounds for preliminary objections are limited to those set forth in 52 Pa. Code § 5.101(a) as follows:

- (1) Lack of Commission jurisdiction or improper service of the pleading initiating the proceeding.
- (2) Failure of a pleading to conform to this chapter or the inclusion of scandalous or impertinent matter.
- (3) Insufficient specificity of a pleading.
- (4) Legal insufficiency of a pleading.

² Formal Complaint ¶ 5.

- (5) Lack of capacity to sue, nonjoinder of a necessary party or misjoinder of a cause of action.
- (6) Pendency of a prior proceeding or agreement for alternative dispute resolution.
- (7) Standing of a party to participate in the proceeding.

8. The Commission's procedure regarding the disposition of preliminary objections is similar to that utilized in Pennsylvania civil practice.³

9. The Commission's procedural regulations allow a party to object to pleadings that fail to comply with the rules of administrative practice or that include scandalous or impertinent matters.⁴

10. In their Formal Complaint, the Complainants state the following as his request for relief: "I want Met Ed to reimburse me for the loss of food due to spoilage and had to be discarded."⁵

11. Clearly, the only relief sought through the Formal Complaint is an award of monetary damages from the Company.

12. It is well-established under Pennsylvania law that the enforcement powers of the Commission do not include the power to award money damages.⁶

13. In *Feingold*, the Pennsylvania Supreme Court explained:

. . . the statutory array of PUC remedial and enforcement powers does not include the power to award damages to a private litigant for breach of contract by a public utility. Nor can we find an express grant of power from which the power to award such damages can be fairly implied. Thus, it can be concluded that the Legislature did not intend for the PUC to have such a power.⁷

³ *Equitable Small Transportation Intervenors v. Equitable Gas Company*, Docket No. C-00935435 (Opinion and Order entered July 18, 1994).

⁴ See 52 Pa. Code § 5.101(a)(2).

⁵ Formal Complaint ¶ 5.

⁶ *Elkin v. Bell Tel. Co. of PA.*, 420 A.2d 371 (Pa. 1980); *Feingold v. Bell of Pa.*, 383 A.2d 791 (Pa. 1978); see *Nagy v. Bell Tel. Co. of PA.*, 436 A.2d 701 (Pa. Super. 1981).

⁷ *Feingold*, 383 A.2d at 794.

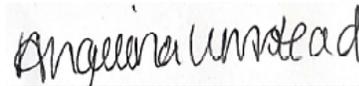
14. A prayer for damages which are not legally recoverable in the cause of action is “impertinent matter” in the sense that it is irrelevant to that cause of action and is correctly challenged through a motion to strike the requested relief as impertinent matter.⁸

15. Therefore, in accordance with Pennsylvania law, this Commission does not have the power to award monetary damages, and the Complainant’s request for money damages is an impertinent matter that must be stricken.

IV. Conclusion

WHEREFORE, for the foregoing reasons, FirstEnergy Pennsylvania Electric Company respectfully requests that the Commission: (1) grant its Preliminary Objections and strike the Complainant’s request for monetary damages; (2) expressly prohibit the Complainants from introducing any testimony or exhibits at any evidentiary hearing regarding alleged damages; (3) dismiss the Formal Complaint in its entirety with prejudice; and (4) grant the Company such other relief as may be just and reasonable under the circumstances.

Respectfully submitted,



Angelina Umstead
Attorney No. 309615
FirstEnergy Service Company
341 White Pond Drive
Akron, OH 44308
(610) 921-6202
aumstead@firstenergycorp.com

Counsel for FirstEnergy Pennsylvania Electric
Company, Met-Ed Rate District

Dated: August 26, 2025

⁸ *Third Avenue Realty Limited Partners v. Pennsylvania-American Water Co.*, Docket No. C-2010-2167286 (Final Order entered September 30, 2010) (citing *Hudock v. Donegal Mut. Ins. Co.*, 264 A.2d 668 (Pa. 1970)).

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ANTHONY D. TOPPER	:	
	:	
Complainant	:	
	:	
v.	:	Docket No. C-2025-3056699
	:	
FIRSTENERGY PENNSYLVANIA	:	
ELECTRIC COMPANY	:	
	:	
	:	
Respondent(s)	:	

VERIFICATION

I, Jessica Rohrbach, hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief and that I expect FirstEnergy Pennsylvania Electric Company on behalf of its Met-Ed Rate District to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904.

08/25/2025
Date

Jessica Rohrbach

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ANTHONY TOPPER

v.

**FIRSTENERGY PENNSYLVANIA
ELECTRIC COMPANY**

:
:
:
:
:

Docket No. C-2025-3056699

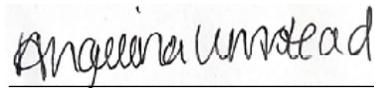
CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the Preliminary Objection of FirstEnergy Pennsylvania Electric Company, on behalf of the Met-Ed Rate District, upon the individual listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Service by electronic mail only, as follows:

Anthony Topper
Atopper27@comcast.net

Dated: August 26, 2025



Angelina Umstead
Attorney No. 309615
FirstEnergy Service Company
341 White Pond Drive
Akron, OH 44308
(610) 921-6202
aumstead@firstenergycorp.com

Counsel for FirstEnergy Pennsylvania Electric
Company, Met-Ed Rate District