

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Glenn Barrie	:	
	:	
v.	:	C-2025-3055899
	:	
	:	
PECO Energy Company	:	

ORDER
GRANTING PRELIMINARY OBJECTION

On June 23, 2025, Glenn Barrie (“Mr. Barrie”) filed a Formal Complaint against PECO Energy Company (“PECO”) with the Pennsylvania Public Utility Commission (“Commission”). In his Complaint, Mr. Barrie alleged that PECO threatened to shut off his service if he did not pay the \$455 deposit and that incorrect charges were on his bill. Complaint ¶ 4. For relief, Mr. Barrie requested damages in the amount of \$2,000 to cover the expense of food that was lost due to PECO’s negligence in turning off his service and to levy the maximum financial amount against PECO due to PECO’s hostile attitude. In addition, he requested termination of employment of all PECO representatives, who mishandled his account and mistreated him as a customer. Complaint ¶ 5.

On July 14, 2025, PECO filed an Answer with New Matter to the Complaint. In its Answer, PECO stated that on September 5, 2024, Mr. Barrie’s service was terminated, in error, after payment had been made to stop the termination; however, Mr. Barrie’s services were restored the same day. In addition, pursuant to Section 12.1 of PECO Energy Commission approved tariff, Mr. Barrie was paid \$1,000.00 for his claim seeking reimbursement for food items discarded during the outage.

Further, in accordance with Commission regulation at 52 Pa. Code § 56.291, on May 2, 2025, Mr. Barrie was assessed a deposit in the amount of \$455.00 for failure to make timely payments on the account. Answer ¶ 4.

In its New Matter, properly endorsed with a Notice to Plead, PECO asserted that to the extent that Mr. Barrie seeks an award of damages against PECO for his claim seeking reimbursement for food items discarded during the outage, such relief is beyond the power of the Commission to order. PECO concluded its Answer with New Matter by requesting dismissal of the Complaint.

Pursuant to 52 Pa. Code § 5.63, Mr. Barrie had twenty (20) days from the date of service to file an answer to the New Matter. As of the date of this Order, Mr. Barrie has not filed an answer.

Also on July 14, 2025, PECO filed a Preliminary Objection to the Complaint, properly endorsed with a Notice to Plead. In its Preliminary Objection, PECO seeks dismissal of the Complaint's claims for damages, pursuant to 52 Pa. Code § 5.101(a)(1), arguing that the Commission lacks authority to award damages.

Pursuant to 52 Pa. Code § 5.101(f)(1), Mr. Barrie had ten (10) days from the date of service to file an answer to the Preliminary Objections. As of the date of this Order, Mr. Barrie has not filed an answer to PECO's Preliminary Objection.

On August 15, 2025, the Commission issued a Motion Judge Assignment Notice, assigning me as Presiding Officer over this proceeding.

PECO's Preliminary Objection is procedurally ready to be ruled upon. For the reasons discussed below, the Preliminary Objection will be granted.

DISCUSSION

PECO in this matter filed a Preliminary Objection to the Formal Complaint. The Commission's regulations provide that preliminary objections are available to parties and may be filed in response to a pleading. 52 Pa. Code § 5.101(a). The grounds for preliminary objections are limited to those set forth 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.
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.

52 Pa. Code § 5.101(a).

Commission procedure regarding the disposition of preliminary objections is similar to the procedure utilized in Pennsylvania civil practice. A preliminary objection in civil practice seeking dismissal of a pleading will be granted only where relief is clearly warranted and free from doubt. *Pennsylvania State Lodge, Fraternal Order of Police v. Dept. of Conservation & Natural Resources*, 909 A.2d 413 (Pa. Cmwlth. 2006), *aff'd*, 592 Pa. 304, 924 A.2d 1203 (2007).

The Commission may not rely upon the factual assertions of the moving party but must accept as true for purposes of disposing of the motion all well pleaded, material facts of the nonmoving party, as well as every inference from those facts. *County of Allegheny v. Commonwealth of Pennsylvania*, 490 A. 2d 402 (Pa. 1985); *Commonwealth of Pennsylvania v. Bell Telephone Co. of Pa.*, 551 A.2d 602 (Pa. Cmwlth. 1988). The Commission must view the complaint in this case in the light most favorable to the Complainant and should dismiss the complaint only if it appears that the Complainant would not be entitled to relief under any circumstances as a matter of law. *Equitable Small Transportation Intervenors v. Equitable Gas Company*, 1994 Pa. PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994). PECO asserts that the Commission does not have jurisdiction over damages claims pursuant to 52 Pa. Code

§- 5.101(a)(1). The law supports the position of PECO.

The Commission, as a creation of the General Assembly, has only the powers and authority granted to it by the General Assembly contained in the Public Utility Code. *Tod and Lisa Shedlosky v. Pennsylvania Electric Co.*, Docket No. C-20066937 (Opinion and Order entered May 28, 2008); *Feingold v. Bell Tel. Co. of Pa.*, 383 A.2d 791 (Pa. 1977). The Commission must act within, and cannot exceed, its jurisdiction. *City of Pittsburgh v. Pa. Pub. Util. Comm'n*, 43 A.2d 348 (Pa.Super. 1945). Jurisdiction may not be conferred by the parties where none exists. *Roberts v. Martorano*, 235 A.2d 602 (Pa. 1967). Subject matter jurisdiction is a prerequisite to the exercise of power to decide a controversy. *Hughes v. Pennsylvania State Police*, 619 A.2d 390 (Pa.Cmwlth. 1992) *alloc. denied* 637 A.2d 293 (Pa. 1993).

It is well-established under Pennsylvania law that the enforcement powers of the Commission do not include the power to award money damages. *Elkin v. Bell Tel. Co. of Pa.*, 420 A.2d 371 (Pa. 1980); *Feingold v. Bell of Pa.*, 383 A.2d 791 (Pa. 1978). The Commission cannot award the reimbursement sought by Mr. Barrie here. *See Morrow v. Bell Telephone Co. of Pa.*, 330 Pa.Super. 276, 479 A.2d 548 (1984); *West Penn Power Co. v. Pa. Pub. Util. Comm'n*, 104 Pa.Cmwlth. 21, 521 A.2d 75 (1987); *Ostrov v. I.F.T., Inc.*, 402 Pa.Super. 87, 586 A.2d 409 (1991). A request for monetary damages must be pursued before a Magisterial District Justice or a Court of Common Pleas.

Given that the Commission does not have jurisdiction over damages claims, the Preliminary Objection will be granted, and the portions of the Complaint seeking monetary damages will be dismissed. This Order does not dismiss the Complaint in its entirety; therefore, a hearing will be held on the other matters raised in the Complaint.

ORDER

THEREFORE,

IT IS ORDERED:

1. That PECO Energy Company's Preliminary Objection filed in the matter of Glenn Barrie v. PECO Energy Company, Docket No. C-2025-3055899, is granted.
2. That the portions of the Formal Complaint seeking monetary damages are dismissed.
3. That the matter shall be set for an evidentiary hearing on the issues raised in the Complaint.

Date: August 28, 2025

/s/
Barbara Shadie Nause
Administrative Law Judge

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