

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Thomas M. Voss	:	
	:	
v.	:	C-2025-3056388
	:	
PECO Energy Company - Electric	:	

ORDER
GRANTING PRELIMINARY OBJECTIONS

HISTORY OF THE PROCEEDING

On July 21, 2025, Thomas M. Voss (“Mr. Voss”) filed a Formal Complaint (“Complaint”) against PECO Energy Company – Electric (“PECO”), with the Pennsylvania Public Utility Commission (“Commission”). In his Complaint, Mr. Voss alleged that he suffered a power outage on May 6, 2025, which damaged his furnace aquastat and the PCB boards in his heat pump. Mr. Voss submitted a claim for damages with PECO, which was denied. For relief, Mr. Voss requested that the Commission order PECO to pay him monetary damages in the amount of \$2,752.15, the amount of which represents the costs to repair the furnace aquastat and the PCB boards, and the cost to install a whole-house surge protector.

On August 11, 2025, PECO filed an Answer to the Complaint. In its Answer, PECO denied that the power outage experienced by Mr. Voss on May 6, 2025, was within PECO’s control and that it is responsible for the damages to Mr. Voss’s personal property. Specifically, PECO asserted that the power outage was caused by an off right-of-way tree that fell onto PECO’s line. Pursuant to its tariff, PECO asserted that it is not liable for damages when the event is beyond PECO’s control. Additionally, PECO asserted that the Commission cannot award monetary damages. PECO concluded its Answer by requesting dismissal of the Complaint.

Also on August 11, 2025, PECO filed Preliminary Objections to the Complaint, properly endorsed with a Notice to Plead. In its Preliminary Objections, PECO sought dismissal of the Complaint's claims for damages, pursuant to 52 Pa. Code § 5.101(a)(2), arguing that Mr. Voss's request for money damages is an impertinent matter that must be stricken from the Complaint.

On September 10, 2025, the Commission issued a Motion Judge Assignment Notice, assigning me as Presiding Officer over this proceeding.

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

DISCUSSION

PECO in this matter filed Preliminary Objections 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 claim in the Complaint for money damages is an impertinent matter that must be stricken from the Complaint. 52 Pa. Code § 5.101(a)(2). The law supports the position of PECO.

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. Voss in his Complaint. *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.

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