

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

William Cvecko	:	
	:	
v.	:	C-2025-3056663
	:	
FirstEnergy Pennsylvania Electric Company	:	

**INTERIM ORDER
GRANTING IN PART AND DENYING IN PART
RESPONDENT’S PRELIMINARY OBJECTIONS**

On August 4, 2025, William Cvecko (Complainant) filed a Formal Complaint (Complaint) against FirstEnergy Pennsylvania Electric Company (FirstEnergy or Respondent) with the Pennsylvania Public Utility Commission (Commission), using the Formal Complaint form. Regarding the reason for his Complaint, he checked the box indicating he had a problem with the reliability, safety or quality of his electric service. Complaint ¶ 4. He provided additional explanation, writing that he had experienced frequent outages, flickering lights and surges for a few weeks, and that due to an outage and surge on June 27, 2025, three major appliances in his home were damaged and had to be replaced. Complaint ¶ 4. As relief, the Complainant indicated he wanted Respondent to reimburse him \$2,443.33, the cost of the appliances. Mr. Cvecko asserted in his Complaint that he wanted to be served by the Commission via efilng. Complaint ¶ 9.

On August 22, 2025, Respondent filed an Answer to the Complaint. In its Answer, Respondent admitted that the service location experienced interruptions of service but reported Respondent’s actions have been reasonable at all times, and performed in accordance with all laws, Respondent’s Commission-approved tariff, the Pennsylvania Public Utility Code, and Commission regulations and order. Answer ¶ 4.

Also on August 22, 2025, Respondent filed Preliminary Objections. In the Preliminary Objections, FirstEnergy averred the Complainant seeks monetary damages, and that an award of monetary damages would be outside the jurisdiction of the Commission, and therefore the requested relief is impertinent matter. Respondent's Preliminary Objection included a Notice to Plead pursuant to 52 Pa. Code §5.101.

On September 26, 2025, the Commission issued a Motion Judge Assignment assigning this matter to me for resolution of the Preliminary Objections.

It is now appropriate to rule on the Preliminary Objections.

Discussion

Commission regulations permit the filing of preliminary objections. 52 Pa. Code §§ 5.101(a)(1)-(7). Preliminary objection practice before the Commission is similar to Pennsylvania civil practice respecting preliminary objections. *Equitable Small Transportation Intervenors v. Equitable Gas Company*, 1994 Pa. PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994).

Commission regulations provide as follows:

§ 5.101. Preliminary objections.

(a) *Grounds*. Preliminary objections are available to parties and may be filed in response to a pleading except motions and prior preliminary objections. Preliminary objections must be accompanied by a notice to plead, must state specifically the legal and factual grounds relied upon and be limited to the following:

- (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.

In deciding preliminary objections, the Commission must determine whether, based on well-pleaded factual averments of the Complainant, recovery or relief is possible. *Dep't of Auditor General, et al v. SERS, et al.*, 836 A.2d 1053, 1064 (Pa.Cmwlth. 2003); *P.J.S. v. Pa. State Ethics Comm'n*, 669 A.2d 1105, 1108 (Pa. Cmwlth. 1996). Any doubt must be resolved in favor of the non-moving party by refusing to sustain the preliminary objections. *Boyd v. Ward*, 802 A.2d 705, 707 (Pa. Cmwlth. 2002). All of the non-moving party's averments in the complaint must be viewed as true for purposes of deciding the preliminary objections, and only those facts specifically admitted may be considered against the non-moving party. *Ridge v. State Employees' Retirement Bd.*, 690 A.2d 1312, 1314 (Pa.Cmwlth. 1997).

A preliminary objection can be granted only if recovery or relief is not possible after all of the Complainant's averments in the complaint are viewed as true for purposes of deciding the preliminary objection, using only those facts specifically admitted.

In the present case, Respondent asserts that the Commission lacks jurisdiction regarding Complainant's request for damages. Respondent requests that the Preliminary Objections be granted, that the Commission strike Complainant's request for damages and that any introduction by Complainant of evidence regarding alleged damages is prohibited.

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., Co. of Pa. PA.*, 420 A.2d 371, 375 (Pa. 1980); *Feingold v. Bell of Pa.*, 383 A.2d 791, 794 (Pa. 1978) (*Feingold*); *see Nagy v. Bell Tel Co. of PA.*, 436 A.2d 701, 704 (Pa. Super. 1981).

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 damages can be fairly implied. Thus, it can be concluded that the Legislature did not intend for the PUC to have such a power.

Feingold, 383 A.2d at 794.

Complainant seeks compensation for the alleged service issues that caused damage to three appliances. Based on the foregoing, Respondent's Preliminary Objection is granted with regard to the Complainant's request for monetary damages. Complainant's request for monetary damages is struck from the Complaint.

Although Complainant requested relief in the form of monetary damages, he also made allegations of reliability, safety, or quality issues with his utility service. Therefore, while Respondent's Preliminary Objection regarding the portion of the Complaint that requests damages is granted, the remainder of the Complaint still must be addressed.

The remaining claims raised in the Complaint are appropriate to move forward at this stage of the litigation, and this matter will be set for an evidentiary hearing. At the hearing, Complainant will have the burden of presenting substantial evidence that Respondent violated a regulation, statute, tariff provision or order over which the Commission has authority. If the Commission finds that Respondent did violate a statute, regulation, order or tariff provision, per Commission regulations, the Commission may impose a fine, but that fine would be payable to the Commission, not Complainant.

Respondent requested Complainant be prohibited from presenting any evidence “regarding alleged damages” at any evidentiary hearing. While the Commission does not have jurisdiction to award monetary damages, a blanket prohibition against certain evidence is premature at this juncture. However, Respondent is not precluded from raising objections in the future in an evidentiary hearing, and any objections will be ruled on by the presiding officer.

THEREFORE,

IT IS ORDERED:

1. That the Preliminary Objections filed by FirstEnergy against the Formal Complaint filed by William Cvecko at Docket Number C-2025-3056663 are granted, insofar as the requests for monetary damages and reimbursements in the Formal Complaint are struck from the Complaint.

2. That FirstEnergy Pennsylvania Electric Company’s request to exclude evidence “regarding alleged damages” is denied at this juncture.

3. That the matter shall be scheduled for an evidentiary hearing.

Date: October 1, 2025

/s/
Ann Quimby
Administrative Law Judge

C-2025-3056663 – WILLIAM F. CVECKO v. FIRSTENERGY PENNSYLVANIA ELECTRIC COMPANY

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