

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Stacey and Joe Harbaugh	:	
	:	
v.	:	C-2025-3057378
	:	
PECO Energy Company - Electric	:	

ORDER
GRANTING PRELIMINARY OBJECTIONS AND REFERRING THE COMPLAINT TO
THE COMMISSION’S MEDIATION UNIT

HISTORY OF THE PROCEEDING

On September 10, 2025, Stacey and Joe Harbaugh (“Complainants”) filed a Formal Complaint (“Complaint”) against PECO Energy Company – Electric (“PECO”), with the Pennsylvania Public Utility Commission (“Commission”). Complainants alleged that on June 23, 2025, their home experienced a power surge that damaged their HVAC system. Complainants further alleged that they have experienced more than three dozen power outages in the over two months following the June 23, 2025, incident. Additionally, Complainants complained that PECO did not properly investigate the power outages. Complainants requested that PECO investigate the power outages and reimburse them for the damage done to their HVAC system.

On September 30, 2025, PECO filed an Answer with New Matter to the Complaint. PECO asserted that Complainants’ electric service was impacted on June 19, 2025, as a result of fallen vegetation caused by a storm and that their service was restored on June 20, 2025. PECO asserted that it is currently investigating Complainants’ complaints concerning the June 23, 2025, incident and requested that the Complaint be assigned to the Commission’s mediation unit. In its New Matter, properly endorsed with a Notice to Plead, PECO asserted that

the Commission cannot award monetary damages. PECO concluded its Answer with New Matter by requesting dismissal of the Complaint.

Also on September 30, 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)(1), arguing that the Commission lacks jurisdiction to award damages.

Complainants did not file a Reply to PECO's New Matter or an Answer to PECO's Preliminary Objections.

On October 29, 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. Further, this Complaint will be referred to the Commission's mediation unit.

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 claims in the Complaint seeking monetary damages must be dismissed, pursuant to 52 Pa. Code § 5.101(a)(1), as the Commission lacks jurisdiction to award monetary damages. 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 Complainants in their 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.

Given that the Commission does not have jurisdiction over damages claims, Preliminary Objections will be granted, and the portions of the Complaint seeking monetary damages will be dismissed. The remaining matters in the Complaint will be referred to the Commission's mediation unit in the Ordering paragraphs below.

ORDER

THEREFORE,

IT IS ORDERED:

1. That PECO Energy Company – Electric's Preliminary Objections filed in the matter of Stacey and Joe Harbaugh v. PECO Energy Company - Electric, Docket No. C-2025-3057378, are granted.
2. That the portions of the Formal Complaint seeking monetary damages are dismissed.

C-2025-3057378 - STACEY AND JOE HARBAUGH v. PECO ENERGY COMPANY

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Served via eService October 29, 2025

(Counsel for PECO Energy Company)