

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Constance Dionne	:	
	:	
v.	:	C-2025-3057291
	:	
FirstEnergy Pennsylvania Electric Company	:	

ORDER
GRANTING IN PART AND DENYING IN PART
FIRSTENERGY’S PRELIMINARY OBJECTION

This Order grants in part and denies in part the preliminary objection of FirstEnergy Pennsylvania Electric Company (FirstEnergy or Company). Because the Pennsylvania Public Utility Commission (Commission) does not have the authority to award monetary damages as a remedy that portion of the Formal Complaint (Complaint) will be dismissed. However, this Order also directs that this matter be referred to the Commission’s Mediation Unit.

History of the Proceeding

On September 8, 2025, Constance Dionne (Ms. Dionne or Complainant) filed a Formal Complaint against the Company. Ms. Dionne “other” as the reason for her Complaint, explaining:

Four day power outage caused loss of frozen and refrigerated food even though ice was purchased and coolers were used. Transformers were replaced with inadequate equipment and caught fire twice. My phone and computer were out of service and my pacemaker monitor were out also.

Complaint ¶ 4.

As relief requested, the Complainant stated the following:

Photos were taken when the power was back on and spoiled food was tossed then replaced, receipts are copied to show some not all of the lost food Met-Ed/FirstEnergy claims they are not required to provide power even though they replaced the transformer with a less than adequate replacement which also caught fire for 3^{1/2} hours If Med-Ed/FirstEnergy is a descent public utility which always seems to be granted rate increases, it won't break them to send us a certified check for three hundred and thirty dollars while actually doing the right thing.

Complaint ¶ 5.

On September 29, 2025, FirstEnergy filed an Answer. In its Answer, FirstEnergy admitted Complainant experienced a power outage on June 23, 2025, caused by equipment failure. Answer ¶ 4. The Company further admitted that due to extreme temperatures, the lines were deenergized on June 23, 2025, and the Company restored service on June 26, 2025. *Id.* The Company denied failure to provide adequate service. *Id.* The Company averred Complainant cannot be awarded monetary damages by the Commission. *Id.*

In its Preliminary Objection, filed on September 29, 2025, the Company requested that the portion of the Complaint pertaining to a request for monetary damages—i.e., the reimbursement of \$330 Complainant incurred for replacing food items, be summarily dismissed. FirstEnergy averred that under Section 5.101(a)(2) of the Commission's regulations, a request for damages constitutes impertinent matter which should be dismissed because the Commission does not have the authority to award monetary damages. *See*, 52 Pa. Code § 5.101(a)(2). FirstEnergy further requested that the Commission dismiss the Complaint in its entirety.

On October 9, 2025, Ms. Dionne filed a response to FirstEnergy's Preliminary Objection.

On October 29, 2025, a Motion Judge Assignment Notice was issued informing the parties that I was assigned as the Presiding Officer responsible to resolve any issues which may arise during the preliminary phase of the proceeding.

FirstEnergy's Preliminary Objection is now ready for disposition.

Discussion

The Commission's Rules of Administrative Practice and Procedure permit the filing of preliminary objections and provides:

§ 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(a) (emphasis added).

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 v. SERS*, 836 A.2d 1053, 1064 (Pa. Cmwlth. 2003); *P.J.S. v. Pa. State Ethics Comm'n*, 669 A.2d 1105 (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 (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' Ret. Bd.*, 690 A.2d 1312 (Pa. Cmwlth. 1997). Therefore, the primary focus is on whether, based on well-pleaded factual averments of the complainant, recovery or relief is possible. *Id.*

Additionally, as a matter of law, to establish a legally sufficient claim, a complainant must show that the named utility company is responsible or accountable for the problem described in the complaint in order to prevail. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa. P.U.C. 196 (1990). The offense must be a violation of the Pennsylvania Public Utility Code (Code), a Commission regulation or order or a violation of a Commission-approved tariff. 66 Pa.C.S. § 701. A finding of a violation of a Commission Order, regulation, or statute, by the public utility may result in the imposition of a civil penalty on the public utility company, consistent with Section 3301 or other provisions of the Code.

In the instant case, Ms. Dionne alleged in her Complaint that FirstEnergy provided inadequate and/or unreasonable electric service, which FirstEnergy disputes. This claim of inadequate and/or unreasonable service is cognizable under the Code and Commission Regulations.¹ Therefore, since there is a factual dispute as to these allegations, the Complainant should be afforded the opportunity to present evidence on the claim and prove them by a preponderance of the evidence. *See Carlock v. United Tel. Co. of Pa.*, Docket No. F-00163617 (Order entered July 14, 1993) (holding that, in general, a *pro se* complainant may find it difficult

¹ For example, *see* 66 Pa.C.S. § 1501 (providing that every public utility must provide reasonable service); Chapter 56 of the Commission regulations (providing standards and billing practices for residential utility service).

to navigate through pre-hearing motions and should be given the chance to orally describe his basic issue and supporting facts).

However, even *assuming arguendo* that Ms. Dionne proves that the Company violated the Code, Commission regulation or order or a violation of its Commission-approved tariff, the Commission cannot award Ms. Dionne monetary compensation as relief. Although the Commission has general jurisdiction over the rates and services of public utilities operating in Pennsylvania, the Commission only has the powers and authority granted to it by the General Assembly in the Code. Nothing in the Code confers jurisdiction upon the Commission to award monetary damages. *Feingold v. Bell*, 383 A.2d 791 (Pa. 1977) (*Feingold*); *DeFrancesco v. Western Pa. Water Co.*, 453 A.2d 595 (Pa. 1982); *Elkin v. Bell of Pa.*, 420 A.2d 371 (Pa. 1980).

Rather, monetary damage payments must be pursued and ordered by a court of competent jurisdiction, such as a county court of common pleas or magisterial district justice, not the Commission. *Feingold*. A finding, if any, that FirstEnergy violated a Commission Order, regulation or statute, may result in the imposition of a civil penalty, but does not require it, consistent with Section 3301 or other provision of the Code. Further, it should be noted that a fine, if any, that is imposed on FirstEnergy is payable to the Commonwealth of Pennsylvania, not the customer—Ms. Dionne in this instance.

Therefore, to the extent that Ms. Dionne seeks compensatory damages in the form of reimbursement for food loss, FirstEnergy's preliminary objection will be sustained because the Commission does not have the authority to award monetary damages.

However, viewing the Complaint in the light most favorable to Ms. Dionne as the non-moving party and accepting as true every well-pleaded material fact in the Complaint, as well as every reasonable inference from those facts, Ms. Dionne raised issues of fact as to the adequacy and reasonableness of FirstEnergy's service. Quality of service issues lie within the jurisdiction of the Commission and will not be dismissed on preliminary objections but will proceed forward for mediation, or if unsuccessfully mediated, adjudication.

Under the circumstances, it is appropriate to transfer this matter to the Mediation Unit of the Office of Administrative Law Judge.

The parties should be advised, however, that if they do not reach a settlement and this matter proceeds to an evidentiary hearing, Complainant will bear the burden to present substantial evidence the Company violated a statute which the Commission has jurisdiction to administer, a tariff provision, or a regulation or order of the Commission. 52 Pa. Code § 5.12(a).

Thus, this matter is referred to the Mediation Unit of the Office of Administrative Law Judge.

THEREFORE,

IT IS ORDERED:

1. That the Preliminary Objection filed by FirstEnergy Pennsylvania Electric Company, at Docket No. C-2025-3057291, is hereby granted, in part, and denied, in part, consistent with this Order.

2. That the portion of FirstEnergy's Preliminary Objection which requests that the Complainant's request for monetary damages be stricken from the Complaint for lack of Commission jurisdiction is granted.

3. That the portion of FirstEnergy's Preliminary Objection which requests that the Formal Complaint be dismissed is denied.

4. That this matter is referred to the Mediation Unit of the Office of Administrative Law Judge.

Date: November 4, 2025

_____/s/_____
Emily A. Farren
Administrative Law Judge

**C-2025-3057291 - CONSTANCE DIONNE v. FIRSTENERGY PENNSYLVANIA
ELECTRIC COMPANY**

CONSTANCE DIONNE
15 EASY STREET
LITTLESTOWN PA 17340
717.359.7486

Served via mail- November 4, 2025

ANGELINA UMSTEAD ESQUIRE
FIRSTENERGY SERVICE COMPANY
341 WHITE POND DRIVE
AKRON OH 44320
610.921.6202

aumstead@firstenergycorp.com

Served via eService- November 4, 2025

(Counsel for FirstEnergy Pennsylvania Power Company)