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December 9, 2025

Via Electronic Filing

Matthew Homsher, Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Jack Brosius v. Palmco Power PA LLC d/b/a Indra Energy
Docket No. C-2025-3058702

Dear Secretary Homsher:

Enclosed for electronic filing please find the Preliminary Objections of Palmco Power PA LLC d/b/a Indra Energy (“Indra Energy”) with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

Bryce R. Beard
Bryce R. Beard

BRB/red
Enclosure

cc: Cert. of Service w/enc.

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of Palmco Power PA LLC d/b/a Indra Energy (“Indra Energy”) **Preliminary Objections** upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via Email

Jack Brosius
98 Penn Ave
Clarion, PA 16214
Jackbrosius241@gmail.com

Date: December 9, 2025

/s/ Bryce R. Beard

Bryce R. Beard, Esq.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Jack Brosius,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2025-3058702
	:	
Palmco Power PA LLC d/b/a Indra Energy	:	
Respondent.	:	

NOTICE TO PLEAD

To: Jack Brosius
98 Penn Ave
Clarion, PA 16214
Jackbrosius241@gmail.com

You are hereby notified that an Answer to the enclosed **Preliminary Objections** of Palmco Power PA LLC d/b/a Indra Energy must be filed within 10 days of the date of service.

All pleadings, such as an Answer to Preliminary Objections, must be filed with the Secretary of the Pennsylvania Public Utility Commission with a copy served to counsel for Palmco Power PA LLC d/b/a Indra Energy.

File with:

Matthew Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

With a copy to:

Daniel Clearfield, Esq. (I.D. No. 26183)
Bryce R. Beard, Esq. (I.D. No. 325837)
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Bryce R. Beard

Bryce R. Beard Esquire

Date: December 9, 2025

Attorneys for *Palmco Power PA LLC d/b/a
Indra Energy*

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Jack Brosius,	:	
	Complainant,	:
	:	
v.	:	Docket No. C-2025-3058702
	:	
Palmco Power PA LLC d/b/a Indra Energy	:	
Respondent.	:	

**PRELIMINARY OBJECTIONS OF
PALMCO POWER PA LLC D/B/A INDRA ENERGY**

Pursuant to 52 Pa. Code § 5.101(a)(1), (a)(4) of the regulations of the Pennsylvania Public Utility Commission (“Commission”), Palmco Power PA LLC d/b/a Indra Energy (“Indra Energy”) submits the following Preliminary Objections to the Complaint of Jack Brosius (“Complainant”), respectfully requesting dismissal of the Complaint. In support hereof, Indra Energy avers as follows.

I. INTRODUCTION

1. Indra Energy is an electric generation supplier (“EGS”) authorized to supply electricity to customers in Pennsylvania under a license issued by the Commission at Docket No. A-2009-2108338.

2. The Complaint was served on Indra Energy by the Commission on November 19, 2025. Indra Energy is simultaneously filing an Answer and New Matter to the Complaint.

3. The Complainant requests that the Commission direct Indra Energy to pay him damages of “\$1000 to me via check via certified mail... ASAP” and further asks that “interest charges on the debt... of 30% annually... [after] 11/18/2025” be applied to the award. Compl. at ¶ 5.

4. The basis for the damage request is that, allegedly, Mr. Brosius' bill was "incorrect... from Sep 18 to Oct 19 says a rate of § 0.16750000. the rate should be §".¹ Compl. at ¶ 5.

5. Under the Commission's regulations, refunds of supply charges are warranted only: (a) if a customer disputes an enrollment within the first two billing periods since the customer should have reasonably known of a change of the supplier; and (b) the dispute investigation establishes that the change occurred without the customer's consent.² Accepting as true the averments in the complaint, the Complainant's dispute regarding his electric supply account fails both parts (a) and (b) whereby Mr. Brosius does not dispute his enrollment in a variable rate product with Indra Energy.

6. Further, the Commission does not have statutory authority under the Public Utility Code to require Indra Energy to issue a refund to Complainant. *Blue Pilot Energy, LLC v. Pa. Public Utility Commission*, 241 A.3d 1254, 1267 (October 27, 2020); *Paul W. Kerr v. Energy Plus Holdings LLC*, Docket No. F-2022-3032332 (Order Granting in Part and Denying in Part Preliminary Objections dated July 7, 2022, at p. 7).

7. It is also fundamental that the Commission lacks the statutory authority to hear claims on, or award damages for, such items.³ Pennsylvania law has long held that damages are a

¹ Note that Complainant's narrative appears to cut off in ¶ 5 and the sentence is not continued elsewhere.

² 52 Pa. Code § 57.177(b); 52 Pa. Code § 59.97(b).

³ *Byer v. Peoples Nat. Gas Co.*, 380 A.2d 383 (Pa. Super. 1977); *Feingold v. Bell of Pa.*, 477 Pa. 1, 383 A.2d 791 (1977); *DeFrancesco v. W. Pa. Water Co.*, 499 Pa. 374, 453 A.2d 595 (1982); *Elkin v. Bell of Pa.*, 491 Pa. 123, 420 A.2d 371 (1980).

question for the trial courts.⁴ The Commission has consistently dismissed claims for alleged monetary damages and compensation for lack of jurisdiction.⁵

8. The Complaint is also legally insufficient as there are no legal basis for Complainant's allegation that Indra Energy was required to send him notice "45 days" prior to any variable rate changes as he alleged because he enrolled in a variable rate product with Indra Energy. The Commission's regulations only requires notice of subsequent price changes where a fixed rate contract is expiring and will transition to a variable rate following initial and options notices. 52 Pa. Code § 54.10.

9. Therefore, because Commission lacks jurisdiction to award the Complainant the relief he is requesting and the Complaint is legally insufficient, it should be dismissed in its entirety.

II. ARGUMENT

A. Applicable Legal Standards

10. The Commission's Rules of Administrative Practice and Procedure permit the filing of preliminary objections.⁶ 52 Pa. Code §5.101(a)(1)-(7). *Equitable Small Transportation Interveners v. Equitable Gas Company*, 1994 Pa. P.U.C. LEXIS 69, Docket No. C-00935435 (July

⁴ See *Miller Oral Surgery, Inc. v. Dinello*, 416 Pa. Super. 310, 611 A.2d 232 (1992) (finding award of lost profits as damages); see also *Delahanty v. First Pa. Bank, N.A.*, 318 Pa. Super. 90, 126, 464 A.2d 1243, 1261 (1983).

⁵ See, e.g. *Carlson v. Equitable Gas Co.*, Docket No. C-20078025, Opinion and Order (Order Entered June 10, 2008) (citing *DeFrancesco v. W. Pa. Water Co.*, 499 Pa. 374, 453 A.2d 595 (1982)) (holding that the complainant's claims of lost income, property damage, and mental stress were "monetary damages" that the Commission lacked authority to award).

⁶ 52 Pa. Code §5.101(a)(1)-(7). *Equitable Small Transportation Interveners v. Equitable Gas Company*, 1994 Pa. P.U.C. LEXIS 69, Docket No. C-00935435 (July 18, 1994).

18, 1994). The Commission's procedure regarding the disposition of preliminary objections is similar to that utilized in Pennsylvania civil practice.⁷

11. Under Section 5.101(a) of the Commission's regulations, preliminary objections must specifically state the legal and factual grounds relied upon and should 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; and
- (7) Standing of a party to participate in the proceeding.

12. The moving party may not rely on its own factual assertions, but must accept for the purposes of disposition of the preliminary objection, all well-pleaded, material facts of the other party, as well as every inference fairly deducible from those facts.⁸ However, the Commission need not accept as true conclusions of law, unwarranted inferences from facts, argumentative allegations or expressions of opinion.⁹

⁷ *Id.*

⁸ *County of Allegheny v. Cmwlth. of Pa.*, 490 A.2d 402 (Pa. 1985).

⁹ *Stanton-Negley Drug Co. v. Dep't of Pub. Welfare*, 927 A.2d 671, 673 (Pa. Cmwlth. 2007).

13. In deciding the preliminary objections, the Commission must determine whether, based on the well-pleaded factual averments of the party, recovery or relief is possible.¹⁰

14. The filing of preliminary objections serves judicial economy by avoiding a hearing where no factual dispute exists. If no factual issue pertinent to the resolution of a case exists, a hearing is unnecessary.¹¹

B. Lack of Commission Jurisdiction, 52 Pa. Code §5.101(a)(1).

15. Under Section 5.101(a)(1) of the Commission's regulations, preliminary objections may be filed against a complaint alleging lack of Commission jurisdiction.

16. The Commission is a creation of the General Assembly and only has the powers and authority granted to it by the legislature that are contained in the Public Utility Code.¹² The Commission must act within and cannot exceed its jurisdiction.¹³ Jurisdiction cannot be conferred by the parties where none exists.¹⁴ Subject matter jurisdiction is a prerequisite to the exercise of power to decide a controversy.¹⁵

17. The only instance in which the Commission's regulations provide for a refund of EGS supply charges to a customer is: (a) when the enrollment is disputed within the first two billing periods since the customer should reasonably have known of a change of the supplier; and (b) and the dispute investigation establishes that the change occurred without the customer's

¹⁰ *Department of Auditor General, et al. v. SERS, et al.*, 836 A.2d 1053, 1064 (Pa. Cmwlth. 2003); *P.J.S. v. Pa. State Ethics Commission*, 669 A.2d 1105 (Pa. Cmwlth. 1996).

¹¹ 66 Pa.C.S. §703(a); *Lehigh Valley Power Committee v. Pa. PUC*, 563 A.2d 557 (Pa. Cmwlth. 1989).

¹² *Shedlosky v. Pa. Electric Co.*, Docket No. C-20066937 (Order entered May 28, 2008); *Feingold v. Bell Tel. Co. of Pa.*, 383 A.2d 791 (Pa. 1977).

¹³ *City of Pittsburgh v. Pa. Pub. Util. Comm'n*, 43 A.2d 348 (Pa. Super. 1945).

¹⁴ *Roberts v. Martorano*, 235 A.2d 602 (Pa. 1967).

¹⁵ *Hughes v. Pa. State Police*, 619 A.2d 390 (Pa. Cmwlth. 1992), alloc. denied, 637 A.2d 293 (Pa. 1993).

consent.¹⁶ Accepting as true the averments in the complaint, the Complainant’s dispute regarding his electric supply account fails both parts (a) and (b) whereby Mr. Brosius does not dispute his enrollment in a variable rate product with Indra Energy.

18. The Commission also lacks statutory authority to grant the relief requested by the Complaint for a refund of EGS supply charges.¹⁷

19. It is also fundamental that the Commission lacks the statutory authority to hear claims on, or award damages for, such items.¹⁸ Pennsylvania law has long held that damages are a question for the trial courts.¹⁹ The Commission has consistently dismissed claims for alleged monetary damages and compensation for lack of jurisdiction.²⁰ Mr. Brosius’s request for “\$1000” with interest awarded to him “30% annually calculated and compounded daily... starting... 11/18/2025” (Compl. at ¶ 5) is a request for damages which cannot be granted by this Commission.

20. Granting preliminary objections when there is no reason for going to hearing conserves valuable administrative resources and promotes judicial economy. No reason exists for going to hearing when the Commission lacks statutory authority to direct the issuance of a refund of EGS supply charges or award damages and interest to the Complainant. Accordingly, the Complaint should be dismissed.

¹⁶ 52 Pa. Code § 57.177(b); 52 Pa. Code § 59.97(b).

¹⁷ *Blue Pilot Energy, LLC v. Pa. Public Utility Commission*, 241 A.3d 1254, 1267 (October 27, 2020). *Paul W. Kerr v. Energy Plus Holdings LLC*, Docket No. F-2022-3032332 (Order Granting in Part and Denying in Part Preliminary Objections dated July 7, 2022, at p. 7).

¹⁸ *Byer v. Peoples Nat. Gas Co.*, 380 A.2d 383 (Pa. Super. 1977); *Feingold v. Bell of Pa.*, 477 Pa. 1, 383 A.2d 791 (1977); *DeFrancesco v. W. Pa. Water Co.*, 499 Pa. 374, 453 A.2d 595 (1982); *Elkin v. Bell of Pa.*, 491 Pa. 123, 420 A.2d 371 (1980).

¹⁹ *See Miller Oral Surgery, Inc. v. Dinello*, 416 Pa. Super. 310, 611 A.2d 232 (1992) (finding award of lost profits as damages); *see also Delahanty v. First Pa. Bank, N.A.*, 318 Pa. Super. 90, 126, 464 A.2d 1243, 1261 (1983).

²⁰ *See, e.g. Carlson v. Equitable Gas Co.*, Docket No. C-20078025, Opinion and Order (Order Entered June 10, 2008) (citing *DeFrancesco v. W. Pa. Water Co.*, 499 Pa. 374, 453 A.2d 595 (1982)) (holding that the complainant’s claims of lost income, property damage, and mental stress were “monetary damages” that the Commission lacked authority to award).

C. Legal Insufficiency, 52 Pa. Code §5.101(a)(4).

21. Under Section 5.101(a)(4) of the Commission’s regulations, preliminary objections may be filed against a complaint that is legal insufficiency in the pleading.

22. Pennsylvania law requires that "the law says with certainty that no recovery is possible" to determine legal insufficiency, with courts obligated to accept all well-pleaded facts as true and resolve any doubts in favor of overruling the objection. ²¹ Mr. Brosius’ complaint is legally insufficient for two reasons.

23. First, as discussed above, he requests only “\$1000 to me via check via certified mail... ASAP” and further asks that “interest charges on the debt... of 30% annually... [after] 11/18/2025”. Compl. ¶ 5. These are damages claims tied to no legal basis whatsoever, either in the Commission’s regulations or in any statute within the Commission’s authority and are thus legally insufficient.

24. Second, as discussed in the Complaint, Mr. Brosius enrolled with Indra Energy in a variable rate product. In his “Additional Space (if needed)” narrative, Mr. Brosius argues that “45 days notice is required prior to any rate increases.” Compl. Page 9.

25. As a matter of law, the Commission’s regulations do not require any notice for a variable rate customer’s rate change, and as such there is certainty that no recovery is possible. Mr. Brosius complaint is legally insufficient because he enrolled with Indra Energy in a variable rate product and Indra Energy was not required to send notices of variable rate changes.

26. Indeed, 52 Pa. Code § 54.10 only requires notice of subsequent price changes where a fixed rate contract is expiring and will transition to a variable rate following initial and options notices. 52 Pa. Code § 54.10 provides:

²¹ *Murphy v. Secretary of Department of Labor and Industry*, 285 A.3d 347 (2022)

(1) An initial notice shall be provided to each affected customer 45 to 60 days prior to the expiration date of the fixed duration contract...

...

(2) An options notice shall be provided, by first class mail, to each affected customer at least 30 days prior to the expiration date of the fixed duration contract...

52 Pa. Code § 54.10

27. Therefore, Mr. Brosius complaint is legally insufficient as there is no legal basis for his claim that Indra Energy was required to send him notice “45 days” prior to any variable rate changes. Compl. at “Additional Space (if needed)”.

WHEREFORE, Palmco Power PA LLC d/b/a Indra Energy respectfully requests that the Commission (a) grant these Preliminary Objections; (b) dismiss the Complaint; and (c) grant any other relief deemed appropriate.

Respectfully submitted,

/s/ Bryce R. Beard

Daniel Clearfield, Esquire (I.D. No. 26183)

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Date: December 9, 2025

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