

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Lisa Gambaro	:	
	:	
v.	:	C-2025-3057901
	:	
PECO Energy Company - Electric	:	

ORDER
GRANTING PRELIMINARY OBJECTIONS

HISTORY OF THE PROCEEDING

On October 9, 2025, Lisa Gambaro (“Ms. Gambaro”) filed a Formal Complaint (“Complaint”) against PECO Energy Company – Electric (“PECO”), with the Pennsylvania Public Utility Commission (“Commission”). In her Complaint, Ms. Gambaro alleged that due to low hanging PECO wires connecting to her electrical box, a Shop Rite truck tore down wires connecting her house. Ms. Gambaro alleged that she was without power for four days, and requests that PECO compensate her for the loss of her refrigerator food items and for electrical repairs.

On October 29, 2025, PECO filed an Answer with New Matter to the Complaint. In its Answer, PECO admitted that Ms. Gambaro suffered a power outage due to a Shop Rite truck pulling down wires but asserted that it is not responsible for damages to Ms. Gambaro’s property caused by a third party. In its New Matter, PECO asserted that the Commission lacks jurisdiction to award damages. PECO concluded its Answer with New Matter by requesting dismissal of the Complaint.

Also on October 29, 2025, PECO filed Preliminary Objections to the Complaint. 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 monetary damages.

Ms. Gambaro did not file a Reply to PECO's New Matter, nor an Answer to PECO's Preliminary Objections.

On December 10, 2025, the Commission issued a Hearing Notice scheduling this matter for an evidentiary hearing on January 26, 2026, and assigning me to the matter as Presiding Officer.

On December 11, 2025, the Commission issued my Prehearing Order which provided the procedural rules that would govern the hearing.

On December 29, 2025, the Commission issued a Rescheduled Hearing Notice which rescheduled the evidentiary hearing for this matter for February 2, 2026.

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).

In the Complaint, Ms. Gambaro seeks monetary damages in the amount of \$400 for lost food items, and \$1,500 for the cost of electrical repairs. PECO asserts that these claims must be dismissed, as the Commission lacks jurisdiction to award monetary damages.

52 Pa. Code § 5.101(a)(1). 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.

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. This Order does not dismiss the Complaint in its entirety; therefore, the evidentiary hearing for this matter will be held as scheduled.

ORDER

THEREFORE,

IT IS ORDERED:

1. That PECO Energy Company – Electric’s Preliminary Objections filed in the matter of Lisa Gambaro v. PECO Energy Company - Electric, Docket No. C-2025-3057901, are granted.
2. That the portions of the Formal Complaint seeking monetary damages are dismissed.

Date: January 7, 2026

/s/
Alphonso Arnold III
Administrative Law Judge

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Revised: December 29, 2025

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Accepts eService January 7, 2026

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