

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Charmaine Custis	:	
	:	
v.	:	C-2025-3058831
	:	
PECO Energy Company	:	

**ORDER
GRANTING PRELIMINARY OBJECTION
AND CONSOLIDATING COMPLAINTS**

Before
Steven K. Haas
Administrative Law Judge

INTRODUCTION

This Order grants, in part, the preliminary objection filed by PECO Energy Company and dismisses allegations involving a violation of the Americans with Disabilities Act (ADA) as well as any allegations arguably involving violations of the Complainant’s civil rights beyond her basic rights to due process. Other allegations in the complaint arguably involving violations of the Pennsylvania Public Utility Code are preserved for hearing. In addition, this Order consolidates this complaint with three previous formal complaints filed by the Complainant, which were consolidated by Order dated November 14, 2025.

Preliminary Objection

On or about November 5, 2025, the Complainant, Charmaine Custis (Ms. Custis or Complainant) filed a formal complaint against PECO Energy Company (PECO). On her complaint form, Ms. Custis checked the boxes indicating that (1) the utility is threatening to shut off my service or has already shut off my service, (2) she would like a payment arrangement, (3)

there are incorrect charges on her bills, and (4) she is having a reliability, safety or quality problem with her service. She further notes that she is appealing the decisions of informal complaint numbers 4095112, 40940862, 4087874, 4069204 and 4037393, arguing that these decisions were withheld in violation of her civil rights of due process and the ADA.

On December 11, 2025, PECO filed an answer and a preliminary objection in response to the complaint. In its answer, PECO denied all material allegations in the complaint. In its preliminary objection, to which a Notice to Plead was properly attached, PECO argued that any allegations involving violations of Complainant's civil rights and the ADA should be dismissed as beyond the jurisdiction of the Commission. The Complainant did not file a response to PECO's preliminary objection.

By Motion Judge Assignment Notice dated January 9, 2026, PECO's preliminary objection was assigned to me for disposition.

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:

§ 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.

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 (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' Retirement Bd.*, 690 A.2d 1312 (Pa.Cmwlth. 1997). Therefore, the primary focus is on the Complainant's pleadings.

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.

As a creature of legislation, the Commission possesses only the authority that the General Assembly has specifically granted to it in the Public Utility Code. That is, the

Commission has only the powers expressly conferred or necessarily implied by its enabling statute. *Feingold v. Bell of Pa.*, 383 A.2d 791 (Pa. 1977).

Nothing in the Public Utility Code empowers the Commission to interpret and enforce the ADA. In fact, the Commission has consistently held that it lacks jurisdiction to determine whether a person has a disability defined by the ADA and to enforce the ADA's provisions. *Frompovich v. PECO Energy Co.*, Docket No. C-2015-2474602 (Order entered May 3, 2018). Accordingly, any allegations in the complaint involving violations of the ADA are stricken.

With respect to PECO's preliminary objection seeking to strike allegations of violations of Complainant's civil rights, I note that Ms. Custis connects her allegation of a violation of her civil rights to her allegation that the decisions on previous informal complaints were improperly withheld from her in violation of her due process rights. The Complainant may certainly allege a violation of her due process rights in this proceeding. Accordingly, PECO's request to strike her allegation of violations of her civil rights is denied in as much as the allegation relates to her claim of a violation of due process rights.

Consolidation of Complaints

As noted, the Complainant's three previous formal complaints at Docket Nos. C-2023-3039196, C-2025-3058086 and C-2025-3058088 were consolidated by Order dated November 14, 2025. In that Order, I noted that the complaints involved the same Complainant, the same Respondent and allegations that, if true, may constitute violations of the Public Utility Code, including improper billing and service termination procedures. Likewise, in checking the boxes on this formal complaint indicating (1) the utility is threatening to shut off my service or has already shut off my service, (2) she would like a payment arrangement, (3) there are incorrect charges on her bills, and (4) she is having a reliability, safety or quality problem with her service, she is arguably alleging violations of the Public Utility Code, which are common

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CHARMAINE CUSTIS



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