

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Gregg Warner	:	
	:	
v.	:	C-2026-3059943
	:	
PECO Energy Company - Electric	:	

**ORDER**  
**GRANTING PRELIMINARY OBJECTIONS**

**HISTORY OF THE PROCEEDING**

On January 20, 2026, Gregg Warner (“Mr. Warner”) filed a Formal Complaint (“Complaint”) against PECO Energy Company – Electric (“PECO”), with the Pennsylvania Public Utility Commission (“Commission”), stating that he was having a reliability, safety, or quality problem with his utility service. Mr. Warner alleged that on June 26, 2025, he experienced brief power outages and that these outages led to his HVAC system being damaged. Mr. Warner requested to be compensated for the damage to his HVAC system. Mr. Warner also alleged that he routinely experiences power outages.

On February 10, 2026, PECO filed an Answer with New Matter to the Complaint. In its Answer, PECO admitted or denied the allegations in the Complaint. PECO specifically averred that Mr. Warner experienced a power outage on September 19, 2025, as a result of a major rainstorm that impacted the entire service territory. Pursuant to its tariff, PECO stated that it is not responsible for damage resulting from an event outside of its control. In its New Matter, properly endorsed with a notice to plead, PECO asserted that the Commission has no jurisdiction to award monetary damages and that the Public Utility Code does not mandate that utilities provide its customers with perfect service.

Also on February 10, 2026, PECO filed Preliminary Objections to the Complaint. In its Preliminary Objections, PECO sought dismissal of the Complaint's claim for damages, pursuant to 52 Pa. Code § 5.101(a)(2) as scandalous or impertinent matter arguing that the Commission lacks jurisdiction to award monetary damages.

On February 12, 2026, the Commission issued a Motion Judge Assignment Notice, assigning this matter to me.

On February 23, 2026, Mr. Warner filed a Reply to PECO's New Matter, arguing that the power outages that damaged his HVAC system took place in June 2025, not September 19, 2025, and that inclement weather did not contribute to the June 2025 power outages.

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, Mr. Warner seeks monetary damages for the damage done to his HVAC system as a result of power outages. PECO asserts that these claims must be dismissed, 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 Mr. Warner 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 monetary 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, an evidentiary hearing in this matter will be scheduled.

#### ORDER

THEREFORE,

IT IS ORDERED:

1. That PECO Energy Company – Electric’s Preliminary Objections filed in the matter of Gregg Warner v. PECO Energy Company - Electric, Docket No. C-2026-3059943, are granted.
2. That the portions of the Formal Complaint seeking monetary damages are dismissed.

Date: February 27, 2026

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/s/  
Alphonso Arnold III  
Administrative Law Judge

**C-2026-3059943 - GREGG WARNER v. PECO ENERGY COMPANY**

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