

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Theresa Dorner-Kolich	:	
	:	
v.	:	C-2026-3060455
	:	
PECO Energy Company	:	

INTERIM ORDER
GRANTING IN PART AND DENYING IN PART
PRELIMINARY OBJECTION OF PECO ENERGY COMPANY

This Order grants, in part, and denies, in part, the Preliminary Objection of PECO Energy Company (PECO 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 a hearing will be scheduled and held on the claims raised in the Complaint, without prior express prohibition limiting Complainant’s testimony or exhibits.

History of the Proceeding

On February 12, 2026, Theresa Dorner-Kolich (Ms. Dorner-Kolich or Complainant) filed a Complaint against the Company. Ms. Dorner-Kolich checked “other” as the reason for her Complaint and explained:

PECO did not respond to 2 emergency calls [on] 11/10/25 or 11/21/25. Pole was leaning and eventually fell on 12/19/25. We had no idea it was our pole that THEIR equipment was on and we didn’t know what we were allowed to do

Complaint ¶ 4.

For relief, Complainant made three requests: (1) “some sort of compensation”; (2) the Company “should be held accountable in some way for their negligence”; (3) an explanation of why PECO did not respond to her November 10, 2025, and November 21, 2025 calls. Complaint ¶ 5.

On March 4, 2026, PECO filed an Answer that either admitted or denied the various material allegations of the Complaint. Answer ¶ 4. Specifically, PECO averred the pole in question is customer-owned and denied that the Company was responsible for maintaining or inspecting customer-owned property. *Id.*

Also on March 4, 2026, PECO filed a Preliminary Objection. In its Preliminary Objection, the Company requests that the portion of the Complaint pertaining to a request for monetary reimbursement be stricken from the Complaint. PECO avers that under Section 5.101(a)(2) of the Commission’s regulations, a request for damages constitutes impertinent matter which should be stricken because the Commission does not have the authority to award monetary damages. *See* 52 Pa. Code § 5.101(a)(2).

A notice to plead appropriately accompanied the Preliminary Objection.

Ms. Dorner-Kolich did not file a responsive pleading to PECO’s Preliminary Objection.

PECO’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, in relevant part:

§ 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:

* * *

(2) Failure of a pleading to conform to this chapter or *the inclusion of scandalous or impertinent matter*.

* * *

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. State Employees' Ret. System*, 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. The 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, 66 Pa.C.S. § 3301, or other provisions of the Code.

Discussion

In the instant case, Complainant alleges that PECO failed to respond to two emergency calls she placed regarding her concerns of a bent pole inhabited by PECO's equipment. This claim of unreasonable service is cognizable under the Code and Commission Regulations.¹ Therefore, since there is a factual dispute as to these allegations, Complainant should be given the opportunity to present evidence on his claims 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) (*Carlock*) (holding that, in general, a *pro se* complainant may find it difficult 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. Dorner-Kolich proves that the Company violated the Code, Commission regulation or order or committed a violation of its Commission-approved tariff, the Commission cannot award Ms. Dorner-Kolich monetary compensation as relief. Although this 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. W. 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 UGI 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

¹ For example, *see* 66 Pa.C.S. § 1501 (providing that every public utility must provide reasonable service); *Peterson v. PECO Energy Co.*, Docket No. C-2016-2572890 (Opinion and Order entered Aug. 16, 2017); *Horn v. Pa. American Water Co.*, Docket No. C-2024-3046231 (Opinion and Order entered Apr. 24, 2025); *Harpster v. PPL Elec. Util. Corp.*, Docket No. C-2024-3052644 (Opinion and Order entered Jan. 7, 2026).

imposed on PECO is payable to the Commonwealth of Pennsylvania, not the customer—Ms. Dorner-Kolich, in this instance.

Therefore, to the extent that Ms. Dorner-Kolich seeks compensatory damages for reimbursement, PECO'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. Dorner-Kolich 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. Dorner-Kolich raised issues of fact as to the reliability, safety or quality of utility service provided by PECO. I find that there is a sufficient basis to proceed to a hearing where Ms. Dorner-Kolich will have the opportunity to provide testimony and evidence, as a complainant must, to carry the burden of proof in support of Complainant's position. *See Carlock*. These issues lie within the jurisdiction of the Commission and will not be dismissed on the preliminary objection but will proceed forward for adjudication.

To the extent that Complainant asserted a service-related complaint against Respondent, Complainant may attempt to introduce testimony and exhibits at the evidentiary hearing in this case regarding alleged damages sustained relative to the alleged incident and with respect to the alleged actions or failure to act by Respondent or its agents, as it relates to service and/or safety issues. Complainant will be permitted to introduce any admissible evidence as it relates to alleged service-related conduct of the Respondent and damages sustained thereby, and PECO's request that Complainant be expressly prohibited from introducing any testimony or exhibits regarding the alleged damages is denied. PECO may instead raise objections, as appropriate, at the hearing in this proceeding.

A hearing will be scheduled by a separate hearing notice on the claims raised in the Complaint and over which remedies the Commission does have authority. 66 Pa.C.S. §§ 102, 1501.

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