

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Roderick McDowell	:	
	:	
v.	:	C-2026-3061171
	:	
PECO Energy Company	:	

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

**HISTORY OF THE PROCEEDING**

On March 18, 2026, Roderick McDowell filed a Formal Complaint against PECO Energy Company with the Pennsylvania Public Utility Commission. In his Complaint, Mr. McDowell complained of low gas pressure issues and the smell of gas odors in his home. For relief Mr. McDowell requested:

- 1) A full refund or billing credit for the period of December 2022 to November 2025 due to providing him with unreasonable service during that period,
- 2) Restitution for the costs of repairing his burner, hot water heater, and gas valve resulting from the low gas pressure issues,
- 3) Credit for hotel stays resulting from his home becoming inhabitable due to low gas pressure issues, and,
- 4) That PECO be assessed a civil penalty for the alleged violations.

On April 8, 2026, PECO filed an Answer with New Matter to the Complaint. In its Answer, PECO admitted or denied the material allegations of the Complaint. In its New Matter, PECO asserted that the Public Utility Code requires reasonable, not perfect, service and

that the Commission lacks jurisdiction to award damages. PECO concluded its Answer with New Matter by requesting dismissal of the Complaint.

Also on April 8, 2026, PECO filed Preliminary Objections to the Complaint. In its Preliminary Objections, PECO sought dismissal of the Complaint's claims for damages, arguing that the Commission does not have the power to award monetary damages. Therefore, PECO argued that the Complainant's request for monetary damages is an impertinent matter that must be stricken pursuant to 52 Pa. Code § 5.101(a)(2).

On April 14, 2026, Mr. McDowell filed a Reply to PECO's New Matter and an Answer to PECO's Preliminary Objections. In both his Reply and Answer, Mr. McDowell acknowledged that the Commission does not have the jurisdiction to award monetary damages but asked that he be given an opportunity at hearing to address his unreasonable service allegations.

On April 15, 2026, a Motion Judge Assignment Notice was issued assigning this matter to me.

### 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).

Mr. McDowell requested that PECO credit his account: (1) for the repairs that he has made due to low gas pressure issues caused by PECO and (2) for the hotel stays resulting from his home becoming inhabitable due to the pressure issues. PECO asserted that these claims must be dismissed because the Commission does not have the authority 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. McDowell 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, an evidentiary hearing for this matter will be scheduled.

ORDER

THEREFORE,

IT IS ORDERED:

1. That PECO Energy Company's Preliminary Objections filed in the matter of Roderick McDowell v. PECO Energy Company, Docket No. C-2026-3061171, are granted.
2. That the request for monetary damages in the Complaint filed by Roderick McDowell at Docket No. C-2026-3061171 are stricken from the Formal Complaint.

Date: May 8, 2026

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/s/  
Alphonso Arnold III  
Administrative Law Judge

**C-2026-3061171 - RODERICK MCDOWELL v. PECO ENERGY COMPANY**

RODRICK MCDOWELL  
1548 MARKLEY STREET  
NORRISTOWN PA 19401

**610-579-2350**

[Rmcd9292@gmail.com](mailto:Rmcd9292@gmail.com)

Accepts eService May 8, 2026

MARGARET MORRIS ESQUIRE  
REGER RIZZO & DARNALL  
CIRA CENTRE 13TH FL  
2929 ARCH STREET  
PHILADELPHIA PA 19104

**215-495-6524**

[mmorris@regerlaw.com](mailto:mmorris@regerlaw.com)

Accepts eService May 8, 2026

*(Counsel for PECO Energy Company)*