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June 4, 2021

**Via Electronic Filing**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Keystone Bldg. 2nd Floor W  
400 N. Street  
Harrisburg, PA 17120

**RE: Nationwide Energy Partners, LLC v. Duquesne Light Company**  
**Docket No. R-2021-3024750 and C-2021-3026057**

Dear Secretary Chiavetta:

Enclosed please find Duquesne Light Company's Preliminary Objection to the Formal Complaint of Nationwide Energy Partners, LLC in the above-referenced matter(s). A copy of this document and the enclosed filing were served upon the parties in accordance with the enclosed Certificate of Service.

On June 2, 2021, Nationwide filed a Motion to Consolidate, requesting its Formal Complaint matter at Docket No. C-2021-3026057 be consolidated with the base rate case proceeding at Docket No. R-2021-3024750. Given Duquesne Light's position that Nationwide does not have standing to pursue its Formal Complaint, Duquesne Light respectfully requests the Commission deny Nationwide's Motion to Consolidate as moot. In the event Nationwide's intervention is granted, Duquesne Light does not oppose consolidation of the previously mentioned proceedings.

Please feel free to contact me if you have any questions.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Emily M. Farah", is written over a light blue rectangular background.

Emily M. Farah  
Counsel, Regulatory

cc: Certificate of Service (w/ encl.)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

NATIONWIDE ENERGY PARTNERS, LLC,	:	
	:	
	:	
Complainant	:	
	:	Docket No. R-2021-3024750
v.	:	C-2021-3026057
	:	
	:	
DUQUESNE LIGHT COMPANY,	:	
	:	
	:	
Respondent.	:	

**PRELIMINARY OBJECTION**

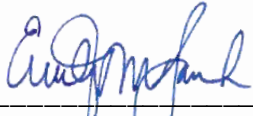
Filed on behalf of Respondent,  
Duquesne Light Company

**NOTICE TO PLEAD**

**TO COMPLAINANT NATIONWIDE ENERGY PARTNERS:**

**YOU ARE HEREBY NOTIFIED TO FILE A WRITTEN RESPONSE TO THE WITHIN  
PRELIMINARY OBJECTION OF RESPONDENT DUQUESNE LIGHT COMPANY  
WITHIN TEN (10) DAYS OF SERVICE HEREOF PURSUANT TO 52 PA. CODE § 5.101  
OR A JUDGMENT MAY BE ENTERED AGAINST YOU.**

DUQUESNE LIGHT COMPANY

  
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Emily M. Farah  
Counsel for Duquesne Light Company

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

NATIONWIDE ENERGY PARTNERS,	:	
LLC,	:	
	:	
Complainant,	:	
	:	Docket No. R-2021-3024750
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	:	
	:	
DUQUESNE LIGHT COMPANY,	:	
	:	
	:	
Respondent.	:	

**PRELIMINARY OBJECTION**

Pursuant to 52 Pa. Code. § 5.101(a)(7), Duquesne Light files its Preliminary Objection to the above-captioned Formal Complaint filed by Nationwide Energy Partners, LLC (“Nationwide” or “Complainant”), and in support thereof, states as follows:

**I. INTRODUCTION**

1. Duquesne Light seeks to dismiss Nationwide’s Formal Complaint in its entirety because the Complainant does not have a direct, immediate, or substantial interest in the proceeding pursuant to 52 Pa. Code. § 5.101(a)(7).

2. On April 16, 2021, Duquesne Light filed Supplement No. 25 to Tariff Electric – PA PUC No. 25 pursuant to 66 Pa. C.S. § 1308(d) (“Supplement No. 25”). Duquesne Light is requesting that the Pennsylvania Public Utility Commission (“Commission”) approve an overall annual increase in distribution revenue of approximately \$115.0 million.

3. Supplement No. 25 included proposed changes to Duquesne Light’s Tariff Rules 18 and 41, which in relevant part pertain to residential master metering.

4. The Company's April 16, 2021 filing included the Direct Testimony of Yvonne Phillips, Statement No. 6, which explained the Company's master metering proposal.

5. On May 26, 2021 Nationwide filed a Formal Complaint in the above-captioned proceeding.

6. As more fully set forth, below, Nationwide lacks standing to bring the present case. See 52 Pa. Code. § 5.101(a)(7) (allowing a party to file preliminary objections for lack of standing). Therefore, the Formal Complaint should be dismissed in its entirety, and Nationwide should not be permitted to participate in this proceeding.

## **II. STANDARD OF REVIEW**

7. Pursuant to the Commission's regulations, preliminary objections in response to a pleading may be filed on several grounds, including:

- (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) (emphasis added).

8. In ruling on preliminary objections, the Presiding Officer must accept as true all well-pled allegations of material facts as well as all inferences reasonably deducible therefrom.

Stilp v. Commonwealth, 910 A.2d 775, 781 (Pa. Cmwlth. 2006) (citing Dep't of Gen. Serv. v. Bd.

of Claims, 881 A.2d 14 (Pa. Cmwlth. 2005)); accord Complaint of Nat'l Fuel Gas Distrib. Corp. and Petition for an Order to Show Cause, Docket No. P-00072343 (Dec. 26, 2007).

9. The Presiding Officer need not accept as true conclusions of law, unwarranted inferences from facts, argumentative allegations, or expressions of opinion. Stanton-Negley Drug Co. v. Dep't of Pub. Welfare, 927 A.2d 671, 673 (Pa. Cmwlth. 2007).

10. For preliminary objections to be sustained, it must appear with certainty that the law will permit no recovery, and any doubt must be resolved in favor of the non-moving party. Stilp, 910 A.2d at 781.

### **III. LAW AND ARGUMENT**

11. Pursuant to 52 Pa. Code. § 5.101(a)(7), a party may file preliminary objections on the grounds of “[s]tanding of a party to participate in the proceeding.”

12. Standing to pursue a formal complaint before the Commission requires the complainant to be aggrieved. A complainant is aggrieved when the complainant experiences a “direct, immediate, and substantial interest in the subject matter of the controversy.” Sunoco Pipeline L.P. v. Dinniman, 217 A.3d 1283, 1287 (Pa.Cmwlth., 2019).

13. A complainant’s interest is direct when “her interest is adversely affected by the actions challenged in the complaint[.]” Luke, 2014 WLC 3824555 at \*5 (citing Ken R. ex rel. C.R. v. Arthur Z., 682 A.2d 1267 (Pa. 1996)).

14. A complainant’s interest is immediate when “there is a causal nexus between her asserted injury and the actions challenged in the complaint[.]” Id.

15. A complainant’s interest is substantial when “she has a discernible interest other than the general interest of all citizens in seeking compliance with the law.” Id.

16. A party who asserts standing “in a representational capacity would still be required to demonstrate an interest on the part of its members that is direct, immediate and substantial.”

Pennsylvania Pub. Utility Comm'n v. Pennsylvania Gas & Water Company, et al., R-922169, 1992 WL 687130, at \*3 (Oct. 29, 1992). Notably, Nationwide has not alleged that it represents any customer of Duquesne Light.

17. Here, Nationwide lacks standing because it does not have a direct, immediate and substantial interest in the above-captioned proceeding.

18. Nationwide's interest in this proceeding is not direct because Nationwide is not a Duquesne Light customer, nor does it currently provide services in Duquesne Light's service territory. See Formal Complaint ¶ 1 ("Nationwide has received requests from Duquesne Light customers to expand its services in Pennsylvania into Duquesne Light's service territory.").

19. Nationwide's interest in this proceeding is not immediate because there is no nexus between the Nationwide's ability to provide any future energy conservation services within Duquesne Light's service territory and the master metering proposal in the Company's April 16, 2021 filing. See Formal Complaint ¶ 9 ("Nationwide seeks to ensure that Duquesne Light's tariff with respect to master metering does not prohibit Nationwide's ability to provide cost-effective and energy efficient services to certain commercial customers in Duquesne Light's service territory.").

20. Nationwide's interest in this proceeding is not substantial because Nationwide's interest is no different than the general interest of a member of the public. See Formal Complaint ¶¶ 1, 9 (Nationwide is not a Duquesne Light customer, and has no customers within Duquesne Light's service territory).

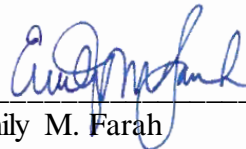
21. Complainant has no more interest in the master metering proposals or base rate increase proposed in the Company's April 16, 2021 filing beyond the general interest of a member of the public, which is inadequate to confer standing.

22. Moreover, Complainant seeks to represent the interests of other unnamed entities, which cannot confer standing. See Sunoco Pipeline L.P. v. Dinniman, 217 A.3d, 1287 (Pa.Cmwth., 2019) (denying the petition to intervene of a legislator seeking to represent the interests of others in a Commission proceeding).

23. Given the foregoing, the Formal Complaint should be dismissed, and Nationwide should be denied party status in this proceeding.

**WHEREFORE**, Duquesne Light Company respectfully requests that the Commission sustain its Preliminary Objection and dismiss the Complaint with prejudice.

DUQUESNE LIGHT COMPANY



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Emily M. Farah  
Counsel for Duquesne Light Company

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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	:	
	:	
DUQUESNE LIGHT COMPANY,	:	
	:	
	:	
Respondent.	:	

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing Preliminary Objection upon the following parties to this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant):

**VIA ELECTRONIC MAIL ONLY**

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The Honorable John M Coogan  
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DUQUESNE LIGHT COMPANY



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DATE: June 4, 2021