



Duquesne Light

Our Energy...Your Power

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Krycia Kubiak
Assistant General Counsel

October 6, 2010

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

RE: Kipling Forbes v. Duquesne Light Company
Docket No. C-2010-2181728

Dear Secretary Chiavetta:

Enclosed please find Duquesne Light Company's Responsive Motion. A copy of this document has been served upon Complainant in accordance with Commission regulations.

Sincerely,

Krycia Kubiak
Assistant General Counsel
Duquesne Light Company

encs

cc: Kipling Forbes (w/enclosure)

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

KIPLING FORBES,)	
)	
Complainant,)	
)	
v.)	Docket No. C-2010-2181728
)	
DUQUESNE LIGHT COMPANY,)	
)	
Respondent.)	

**RESPONDENT'S DUQUESNE LIGHT COMPANY'S
RESPONSIVE MOTION**

TO THE HONORABLE COMMISSION:

NOW comes Respondent Duquesne Light Company, by and through its attorney Krysia Kubiak, and files this Responsive Motion to Complainant's Motion to Require Production of Recordings:

1. In a letter dated August 3, 2010, Complainant requested "a true, correct and unedited copy of all tape or other (i.e. digital) electronic recordings of my conversations with Duquesne Light Company representatives in the Customer Services or equivalent Department within Duquesne Light Company, regarding the June 15, 2010 interruption of service to my residence."

2. In the same letter, Complainant also requested "a true, correct and unedited copy of all transcripts of the mentioned tape or other electronically recorded documents."

3. 52 Pa. Code §5.349(a)(1) describes the documents available in the discovery process, specifically those that the requesting party may inspect and copy, as "writings, drawings, graphs, charts, photographs, computer records and other compilations of data from which information can be obtained, translated, if necessary, by the respondent through detection devices into reasonable usable form." Transcripts of audio records are documents derived from other compilations of

data, and are available in the discovery process. However, the Code does not provide for the requests for copies of audio records themselves.

4. 52 Pa. Code §5.349(b) states, “As an alternative to permission to inspect and copy, and if requested by the party seeking discovery, the party against whom discovery is sought shall reproduce the designated documents at the requesting party’s expense.” Complainant’s August 3, 2010 letter is an apparent request for documents under this code section.

5. In an August 27, 2010 letter to Complainant, Respondent denied Complainant’s request for audio records.

6. In the same August 27, 2010 letter, Respondent offered to hire a court reporter, at Complainant’s expense, per 52 Pa. Code §5.349(b), to produce transcripts of all conversations in question.

7. Although Complainant did not request copies of computer records, in the same August 27, 2010 letter, Respondent enclosed printouts of computer records of notes that Customer Service Representatives made regarding the conversations in question. These records were provided at no cost to Complainant, as a good faith gesture.

8. On September 15, 2010, Respondent received Complainant’s Motion to Require Production of Recordings.

9. 52 Pa. Code § 5.361(b) states, “In rate proceedings, discovery is not limited under subsection (a) [relating to limitations on discovery] solely because the discovery request requires the compilation of data or information which the answering party does not maintain in the format requested, in the normal course of business, or because the discovery request requires that the answering party make a special study or analysis, if the study or analysis cannot reasonably be conducted by the party making the request.”

10. Complainant claims that his Formal Complaint concerns a rate increase and that under 52 Pa. Code § 5.361(b), the scope of discovery should be expanded. On the contrary, his complaint does not concern rate increases. LIHEAP grants and participation in the CAP program

help to lower a customer's bill and/or arrearages, but they do not affect the residential service rate. Therefore, 52 Pa. Code § 5.361(b), does not apply to this complaint.

11. Respondent increased rates in 2006 and recently proposed another rate increase to the Pennsylvania Public Utility Commission. The Formal Complaint concerns a period in early 2010, after the 2006 rate increase was already in effect but before another rate increase was proposed.

12. Complainant has moved that the Commission waive the fees associated with the production of recordings and transcripts of recordings based on 52 Pa. Code §5.324(a)(3).

13. 52 Pa. Code §5.324(a)(3) states that facts known and opinions held by an expert, may be obtained “[u]pon cause shown, the presiding officer may order further discovery by other means, subject to restrictions as to scope and provisions concerning fees and expenses as he may deem appropriate.”

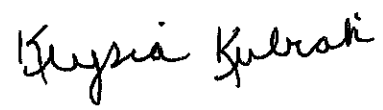
14. The recordings and transcripts of recordings that Complainant seeks are unrelated to expert testimony. The recordings are business records of the Respondent, and they are part of a training system for customer service representatives so that calls can be reviewed and feedback can be provided. Furthermore, Respondent is unable at this time to copy the calls in a way that can be heard by people who do not own the software.

15. Other issues that Complainant raises in the Motion to Require Production of Recordings do not relate to the discovery process and will not be addressed in this Motion.

WHEREFORE, Respondent requests that the Commission:

- (a) Deny Complainant's Motion to Require Production of Recordings, and deny Complainant's request for Respondent to produce audio recordings.
- (b) Deny Complainant's request for Respondent to produce audio recordings at a hearing.
- (c) Require that if transcripts of audio recordings are taken, the requesting party should bear the expense.

Respectfully submitted,

A handwritten signature in black ink that reads "Krysia Kubiak". The signature is written in a cursive style with a large initial 'K'.

Krysia Kubiak
Attorney for Respondent
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Pittsburgh, PA 15219
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FAX: (412) 393-5897

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

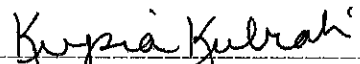
KIPLING FORBES,)
)
 Complainant,)
)
 v.) Docket No. C-2010-2181728
)
 DUQUESNE LIGHT COMPANY,)
)
 Respondent.)

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the participant listed below in accordance with the requirements of 52 PA. Code § 1.54 (relating to service by a participant).

Kipling Forbes
1115 Fox Hill Drive
Apt. T-14
Monroeville, PA 15146

Dated this 6th day of October, 2010.



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