



**Duquesne Light**

*Our Energy...Your Power*

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**Krycia Kubiak**  
Assistant General Counsel

May 9, 2011

*Via Electronic Filing*

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

RE: Linda Hawn v. Duquesne Light Company  
Docket No. C-2010-2171660

Dear Secretary Chiavetta:

Enclosed please find Duquesne Light Company's Reply to Exceptions. 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: Linda Hawn (w/enclosure)  
Special Agent David Alexander (w/enclosure)

Before the  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

MRS. PAUL HAWN,	)	
	)	
Complainant,	)	
	)	
v.	)	Docket No. C-2010-2171660
	)	
DUQUESNE LIGHT COMPANY,	)	
	)	
Respondent.	)	

**RESPONDENT’S DUQUESNE LIGHT COMPANY’S  
REPLY EXCEPTIONS**

AND NOW comes Respondent Duquesne Light Company, by and through its attorney Krysia Kubiak, and files the following Reply to Complainant’s Exceptions to the Initial Decision:

**BACKGROUND**

Complainant filed the above-captioned Formal Complaint on or about April 22, 2010. The Formal Complaint alleged an inability to pay her electric bill and that her utility service was being terminated. Under Relief, she requested *inter alia* a payment agreement. An initial telephonic hearing was held in the matter on March 4, 2011 before Special Agent David A. Alexander. On April 7, 2011, an Initial Decision was served on all parties. Special Agent Alexander made eleven Findings of Fact and five Conclusions of Law. The Initial Decision dismissed the Formal Complaint because, “the Commission

lacks the authority to establish a payment arrangement for the Complainant [because she participates in Respondent's Customer Assistance Program]." I.D. at 6. On April 27, 2010, the Commission served notice upon Respondent that Complainant had filed Exceptions to the Initial Decision.

Prior to the filing of this Formal Complaint, Complainant or her husband filed two Formal Complaints and eleven Informal Complaints. Since 2000, Complainant has received one company payment agreement, one reset of a company payment agreement, two Commission payment agreements, one reset of a Commission payment agreement (offered by the company), and one informal payment agreement to address CAP arrears through CAP.

### **REPLY TO EXCEPTIONS**

*A. Special Agent Alexander's Initial Decision correctly dismissed the Formal Complaint because the Commission lacks the authority to establish a payment agreement for Complainant under these circumstances.*

Special Agent Alexander dismissed the Formal Complaint in accordance with the limitations of the Commission's authority to provide payment agreements. The Initial Decision states, "The Responsible Utility Customer Protection Act... applies to this proceeding. This law provides strict guidelines that the Commission must follow in handling customer complaints. Section 1405(c) of the Public Utility Code reads as follows:

(C) Customer Assistance Programs.—Customer assistance program rates shall be timely paid and shall not be the subject of payment agreements negotiated or approved by the commission.

about Complainant's income or household information were irrelevant to the questions raised by Complainant in this formal, namely, the Commission's authority to offer a payment agreement. In dismissing the Formal Complaint, Special Agent Alexander did not rely on any information that he had previously ruled was not required to be produced.

Special Agent Alexander's Findings of Fact were based on the Formal Complaint, testimony, and Respondent Exhibits 1 and 4, which are company records. I.D. at 3 and 4. None of the documents that Complainant provided in the discovery process were relied upon in the Initial Decision.

Although none of the documents that Respondent requested in discovery were considered in the Findings of Fact, they were not excluded as evidence. Special Agent Alexander's Order on Respondent's Motion for Sanctions held that Complainant was not required to produce certain documents. When she produced them voluntarily, there was no prohibition on their admission into evidence. In addition, Complainant did not object to their admissibility at the hearing. Moreover, this discussion is largely tangential, as Special Agent Alexander did not rely on any of Complainant's discovery responses in dismissing the Formal Complaint.

*B. The record has closed in this matter and Complainant has not shown good cause for introducing additional material into the record.*

Respondent respectfully submits that as the record has closed on this matter, it is not proper to now introduce additional material into the record. Complainant's second Exception states, "I have proof of everything I said. I didn't know I was to show it and I will prove they threw me off cap." Exceptions at 2.

However, this Exception does not identify a basis for allowing the introduction of additional information. At the conclusion of the hearing, the record closed on this matter. The Pennsylvania Code states, "The record will be closed at the conclusion of the hearing unless otherwise directed by the presiding officer or the Commission." 52 Pa. Code §5.431(a). The Code further states that, "After the record is closed, additional matter may not be relied upon or accepted into the record unless allowed for good cause shown by the presiding officer or the Commission upon motion." 52 Pa. Code §5.431(b).

In this matter, the parties were on notice that all information needed to be introduced at the hearing. The Hearing Cancellation/Reschedule Notice that rescheduled the hearing for Friday, March 4, 2011, states,

"If you have any hearing exhibits to which you will refer during the hearing, three (3) copies must be sent to the Administrative Law Judge and 1 copy each must be sent to every other party. All Copies **must be received** at least 5 days **before** the hearing. *Attention: You may lose the case if you do not take part in this hearing and present facts on the issues raised.*" Hearing Cancellation/Reschedule Notice at 2, (emphasis in original).

Despite the receipt of this Notice, Complainant did not offer any exhibits at the initial telephonic hearing. I.D. at 2 and 3.

The proper time to introduce evidence was at the hearing, and Complainant was on notice of this fact. If Complainant did have information that was relevant to her request for a payment agreement from the Commission, it was required to be introduced at the hearing. The Commission may allow additional matter to be introduced into the record for good cause shown, in accordance with 52 Pa. Code §5.431(b). However, Complainant's second Exception merely states that Complainant has additional information in her possession. The Exception does not state a good cause to explain why

the information was not introduced at the hearing and why it should presently be allowed. Therefore, Respondent respectfully requests that the Commission deny any requests to re-open the record.<sup>1</sup>

*C. Complainant had the right to appear before the Commission pro se, and the fact that she availed herself of this right and represented herself at the hearing is not a basis for granting Complainant's Exceptions.*

Complainant's Exception Three states, "I plan to get legal help." Exceptions at 2. Respondent respectfully submits that this is not a basis for granting Complainant's Exceptions. Section 1.21 of the Pennsylvania Code states, "Individuals may represent themselves." 52 Pa. Code §1.21(a). The Formal Complaint was dismissed because Special Agent Alexander concluded that the Commission did not have the authority to offer Complainant a payment agreement. Complainant's decision to appear before the Commission *pro se* is not relevant to this conclusion.

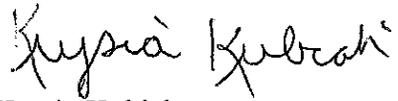
## **CONCLUSION**

Special Agent David Alexander made accurate and relevant Findings of Fact and correct Conclusions of Law, when, in the Initial Decision, the Formal Complaint was dismissed. Respondent submits that for all of the reasons contained in its Answer, testimony, and herein, Complainant's Exceptions should be denied.

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<sup>1</sup> The record reflects that Complainant is currently enrolled in Respondent's CAP Program and has participated in the program since 2003. I.D. at 6.

Respectfully submitted,

A handwritten signature in cursive script that reads "Krysia Kubiak".

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

Before the  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

LINDA HAWN,	)	
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Complainant,	)	
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v.	)	Docket No. C-2010-2171660
	)	
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).

Linda Hawn  
836 Forbes Road  
Monroeville, PA 15146

Dated this 9th day of May 2011.

  
\_\_\_\_\_  
Krysta Kubiak  
Pa. I.D. # 90619  
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