



Duquesne Light
Our Energy... Your Power

ORIGINAL

Legal Department
411 Seventh Avenue, 8-2
Pittsburgh, PA 15219

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Regina M. Sestak
Assistant General Counsel

May 15, 2006

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Certificate of Mailing

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

RE: Groveton Housing Partnership, LP v. Duquesne
Light Company
Docket No. C-20066236

Dear Secretary McNulty:

An original and three copies of Duquesne Light Company's Answer are enclosed. A copy of this document has been served upon Complainant and its attorneys in accordance with Commission regulations.

Sincerely,

Regina M. Sestak
Assistant General Counsel
Duquesne Light Company

DOCUMENT
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encs

- c: Groveton Housing Partnership, LP (w/enclosure)
- Clifford B. Levine, Attorney at Law (w/enclosure)
- David J. Montgomery, Attorney at Law (w/enclosure)

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

GROVETON HOUSING)
PARTNERSHIP, LP,)
)
Complainant,)
)
v.)
)
DUQUESNE LIGHT COMPANY,)
)
Respondent.)

DOCUMENT
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Docket No. C-20066236

DOCKETED
JUN 08 2006

ANSWER

TO THE HONORABLE COMMISSION:

AND NOW comes the Respondent, Duquesne Light Company, by and through its attorney, Regina M. Sestak, and files the within Answer of which the following is a statement:

Cover Letter:

No response is required to Complainant's cover letter. However, to the extent that said cover letter requests that this Formal Complaint be joined with the Formal Complaint of Ohioview Infrastructure, Inc. against Respondent which is docketed at Public Utility Commission (PUC) Docket No. C020066233, Respondent joins in this request.

WHEREFORE, Respondent requests that these Formal Complaints be joined in accordance with Commission Regulation 5.23(a), 52 Pa. Code §5.23(a).

Identification Sheet:

No response is required to Complainant's Identification Sheet, which is in the form prescribed by Rule 198.6 of the Allegheny County Court of Common Pleas Rules of Civil Procedure.

Complaint:

To the extent that Complainant's averment that it is filing for "Declaratory Relief Concerning the Application of Duquesne Light Company Tariff No. 13.2 and Refund Pursuant to 66 Pa. C.S.A. §1312," characterizes this Formal Complaint, no response is required.

The Parties

1. Admitted.
2. After reasonable investigation, Respondent is without sufficient knowledge or information to form a belief as to the truth of Complainant's averment that it is a land developer and general contractor, and this averment is therefore denied.
3. Complainant's averment concerning the names and addresses of its attorneys is admitted to the extent that said attorneys have entered their appearance for Complainant in this matter in accordance with Commission Regulation 1.24(b)(1), 52 Pa. Code §1.24(b)(1).

4. Admitted.

Groveton Village

5. After reasonable investigation, Respondent is without sufficient knowledge or information to form a belief as to the truth of Complainant's averment that Complainant's averment that Complainant constructed Groveton

Village, an affordable housing development located in the Township of Robinson, Pennsylvania in 2001 and 2002, and this averment is therefore denied.

6. After reasonable investigation, Respondent is without sufficient knowledge or information to form a belief as to the truth of Complainant's averment, "[i]n the course of construction of Groveton Village, the existing 100 unit barracks-style public housing was demolished," and this averment is therefore denied.

7. After reasonable investigation, Respondent is without sufficient knowledge or information to form a belief as to the truth of Complainant's averments that the streets within Groveton Village were vacated and excavated and replaced with a new pattern of streets, and these averments are therefore denied.

8. After reasonable investigation, Respondent is without sufficient knowledge or information to form a belief as to the truth of Complainant's averment, "the Partnership then constructed sixty-nine townhouse units of affordable housing in twenty-four buildings," and this averment is therefore denied.

9. Admitted.

10. After reasonable investigation, Respondent is without sufficient knowledge or information to form a belief as to the truth of Complainant's averment that in the course of the project the site was resubdivided into new parcels of land, and this averment is therefore denied.

Groveton Village Qualifies as a “New Residential Development”

Under Section 13.2.A of Duquesne Light’s Tariff

11. Complainant’s averment, “[a]s required by the Public Utility Code, Duquesne Light has filed a Tariff with the Public Utility Commission (“the PUC”), is admitted.

Complainant’s averment, “See Duquesne Light Company Schedule of Rates, Tariff Nos. 13.2B and 13.2C(6) (Exhibit A)” is an apparent reference to the attached document labeled Exhibit A. If so, the authenticity of said tariff provisions are admitted. By way of further response, a complete copy of Respondent’s Tariff Rule 13.2 is attached hereto, incorporated herein, and marked Exhibit 1.

12. Complainant’s averment that, under its Tariff, Respondent is required to pay the costs incurred during the construction and installation of facilities for “New Residential Developments” is a conclusion of law to which no response is required. To the extent that a response may be appropriate, this averment is an inaccurate summary of the Tariff Rules in question, in that it fails to note circumstances under which a developer may incur costs. Further, as discussed more fully below in Paragraph 14(f), said Tariff Rules do not apply to the development in question.

13. Complainant’s averment regarding the definition of a “Development” in Respondent’s Tariff, ELECTRIC - PA P.U.C. No. 23, Rule 13.2 A. (3), is admitted.

14. Complainant’s averment, “[t]he Groveton Village development meets all of the elements of the foregoing definition,” is a statement of opinion

and/or conclusion of law to which no response is required. To the extent that a response may be appropriate, this averment is denied, as is discussed more fully under (f) below.

- a) After reasonable investigation, Respondent is without sufficient knowledge or information to form a belief as to the truth of Complainant's averment that Groveton Village is a "planned project," and this averment is therefore denied.
- b) After reasonable investigation, Respondent is without sufficient knowledge or information to form a belief as to the truth of Complainant's averment that the Groveton Village development is being developed by a developer, and this averment is therefore denied.
- c) After reasonable investigation, Respondent is without sufficient knowledge or information to form a belief as to the truth of Complainant's averment, "set out in a recorded plot plan of five or more adjoining unoccupied lots," and this averment is therefore denied.
- d) After reasonable investigation, Respondent is without sufficient knowledge or information to form a belief as to the truth of Complainant's averment that Groveton Village contains single family residences, detached or otherwise, or mobile homes and one or more five-unit apartment houses, and this averment is therefore denied.

- e) After reasonable investigation, Respondent is without sufficient knowledge or information to form a belief as to the truth of Complainant's averment that the Groveton Village homes are intended for year-round occupancy, and this averment is therefore denied.
- f) Complainant's averment, "the project necessitates extending Duquesne Light's existing distribution lines" is denied. On the contrary, the tract of land in question was being served through Respondent's existing distribution system prior to Complainant's development.

15. Complainant's averment, 'subsection 13.2.A does not define what constitutes a "New" development,' is a conclusion of law to which no response is required. To the extent that a response may be appropriate, this averment is denied as stated. On the contrary, although the term "new" development is not explicitly defined, the definition of "Development" in Rule 13.2 A(3) clearly indicated that, inter alia, a development under Rule 13.2 is one to which Respondent's existing distribution lines must be extended.

Complainant's averment that the Groveton Village project satisfies the criterion for a "New" development is a conclusion of law to which no response is required. To the extent that a response may be appropriate, this averment is denied. On the contrary, as noted above in Paragraph 13(f), the tract of land in question was being served through Respondent's existing distribution system prior to Complainant's development.

After reasonable investigation, Respondent is without sufficient knowledge or information to form a belief as to the truth of Complainant's averment, "the project involves the construction of sixty-nine new townhouse units of affordable housing in twenty-four buildings on vacant land that has been subdivided with new lot lines, streets and rights of way," and this averment is therefore denied.

16. Complainant's averment, "[p]rior to beginning construction of Groveton Village, the Partnership supplied Duquesne Light with a copy of the project subdivision plan, identifying boundaries and any necessary easements or rights of way as required under subpart 13.2.C (1)," is admitted.

17. Complainant's averment that it advised Respondent that it would comply with subpart 13.2.C (2)'s requirement that Complainant would clear and grade the installation area is admitted.

**Duquesne Light's Improper Charges for the Installation of
Underground Facilities at Groveton Village**

18. Complainant's averment, "[o]n March 27, 2002, Duquesne Light submitted a cost estimate to Mistick Construction, the general contractor acting on behalf of the Partnership, for the cost of installing the underground electric facilities (and the removal of existing overhead lines) at Groveton Village," is admitted.

Complainant's averment, "[s]ee Exhibit B" is an apparent reference to Complainant's Exhibit B, which is a copy of the above-mentioned letter. If so, the authenticity of said document is admitted.

19. Complainant's averment, "[t]he cost estimate required the payment of \$117,590.05," is admitted.

20. Complainant's averment, "[t]he Partnership paid Duquesne Light the \$117,590.05," is admitted.

21. Complainant's averment, "[b]ecause Groveton Village qualifies as a New Residential Development, Duquesne Light erred in the Application of its Tariff when it required the Partnership to pay the \$117,590.05 payment for the installation of the underground facilities," is a conclusion of law to which no response is required.

22. Complainant's averment that, pursuant to 66 Pa. C.S.A. §1312, Complainant is entitled to a refund of its \$117,590.05 payment with interest is a conclusion of law to which no response is required. To the extent that a response is appropriate, for reasons set forth more fully above, Respondent's Tariff Rule 13.2 does not apply to Groveton Village and Complainant is therefore not entitled to a refund of its payment.

WHEREFORE, Respondent requests that after reasonable investigation and hearing the Complaint be dismissed.

Respectfully submitted:

DUQUESNE LIGHT COMPANY
By Counsel:



Regina M. Sestak
Pa. I.D. # 23632
Duquesne Light Company
411 Seventh Avenue, 8-2
Pittsburgh, PA 15219
Telephone: (412) 393-1546
FAX (412) 393-1418

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S OFFICE

AFFIDAVIT

I, Michael S. Thomas, being duly sworn according to law depose and say that I am authorized to make this affidavit on behalf of Duquesne Light Company being the holder of the office of Director of Work Management with that corporation, and that the facts set forth in the foregoing document are true and correct to the best of my knowledge, information and belief and Duquesne Light Company expects to be able to prove the same at any hearing hereof.

Michael S. Thomas
Michael S. Thomas

Sworn and subscribed before me this 15th day of May, 2006.

Mary Jane Hammer
Notary Public

My Commission Expires October 6, 2007

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PA PUBLIC UTILITY COMMISSION
810 N. LEXINGTON AVENUE

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Mary Jane Hammer, Notary Public
City of Pittsburgh, Allegheny County
My Commission Expires Oct. 6, 2007
Member, Pennsylvania Association of Notaries

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

GROVETON HOUSING)
PARTNERSHIP, LP,)
)
Complainant,)
)
v.)
)
DUQUESNE LIGHT COMPANY,)
)
Respondent.)

Docket No. C-20066236

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).

Groveton Housing Partnership, LP
230 Wyoming Avenue
Kinston, PA 18704

Clifford B. Levine
Attorney at Law
Thorp Reed & Armstrong, LLP
One Oxford Centre
301 Grant Street, 14th Floor
Pittsburgh, PA 15219-1425

David J. Montgomery
Attorney at Law
Thorp Reed & Armstrong, L
One Oxford Centre
301 Grant Street, 14th Floor
Pittsburgh, PA 15219-1425

Dated this 15th day of May, 2006.



Regina M. Sestak
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PA PUBLIC UTILITY COMMISSION
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Duquesne Light

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Krycia Kubiak
Assistant General Counsel

August 21, 2007

ORIGINAL

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

RE: Groveton Housing Partnership, LLP v. Duquesne Light Company
Docket No. C-20066236

**DOCUMENT
FOLDER**

Dear Secretary McNulty:

Enclosed please find an original and three copies of Duquesne Light Company's Notice of Withdrawal of Appearance and Entry of Appearance. A copy of this document has been served upon Complainant's counsel in accordance with Commission regulations.

Sincerely,

Krycia Kubiak
Assistant General Counsel
Duquesne Light Company

encs

c: Clifford B. Levine (w/enclosure)
David Montgomery (w/enclosure)
Administrative Law Judge Michael A. Nemecek (w/enclosure)

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Before the SECRETARY'S BUREAU
PENNSYLVANIA PUBLIC UTILITY COMMISSION

GROVETON HOUSING)
PARTNERSHIP, LLP,)
Complainant,)
v.)
DUQUESNE LIGHT COMPANY,)
Respondent.)

Docket No. C-20066236

**DOCUMENT
FOLDER**

NOTICE OF WITHDRAWAL OF APPEARANCE AND
ENTRY OF APPEARANCE

TO THE HONORABLE COMMISSION:

Please withdraw my appearance on behalf of Respondent, Duquesne
Light Company, in the above-captioned matter.

Regina M. Sestak
Regina M. Sestak
Pa. I.D. #23632

Please enter my appearance on behalf of Respondent, Duquesne Light
Company, in the above-captioned matter.

Krycia Kubiak Vila-Roger
Krycia Kubiak Vila-Roger
Pa. I.D. # 90619
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AUG 28 2007