

DOCKET

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Irene Preobrazhenskaya

v.

Duquesne Light Company

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C-20031085

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PREHEARING ORDER

An initial hearing in this case is scheduled for Wednesday, March 10, 2004 at 10:00 a.m., in an 11th Floor Hearing Room, State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222. Accordingly, the parties are hereby directed to comply with the following requirements:

1. You must serve me directly with a copy of any document that you file in this proceeding at the time of filing. If you send me any correspondence or document, you must send a copy to all other parties. For your convenience, a copy of the Commission's current service list of the parties to this proceeding is enclosed with this Order.

2. A request for a change of the scheduled hearing date must be submitted in writing no later than five (5) days prior to the hearing. 52 Pa. Code §1.15(b). Requests for changes of initial hearings must be sent to the undersigned Administrative Law Judge, 1103 Pittsburgh State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222. Only the undersigned Administrative Law Judge or OALJ Scheduling Staff may grant a request for a change of an initial hearing. Such changes are granted only in rare situations where sufficient cause exists. Requests for changes of subsequent hearings, if any, should also be served directly on me.

RJP

3. YOU MAY LOSE THIS CASE, IF YOU DO NOT TAKE PART IN THIS HEARING AND PRESENT EVIDENCE ON THE ISSUES RAISED.

4. THIS HEARING IS A FORMAL PROCEEDING AND WILL BE CONDUCTED IN ACCORDANCE WITH THE COMMISSION'S RULES OF PRACTICE AND PROCEDURE.

5. Pursuant to 52 Pa. Code §§1.21 & 1.22, you may represent yourself, if you are an individual, or you may have an attorney represent you. However, if you are a partnership, corporation, trust, association or governmental agency or subdivision, you must have an attorney represent you in this proceeding. Unless you are an attorney, you may not represent someone else.

6. The Complainant bears the burden of proof in this proceeding and must show by a preponderance of the evidence that the Respondent has violated the Public Utility Code or a regulation or an Order of this Commission so that the Complainant is entitled to the relief requested in the complaint.

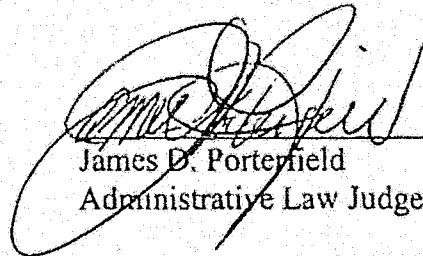
7. If you intend to subpoena witnesses for the hearing, you should review the procedures established in 52 Pa. Code §5.421. You must submit your written application to me sufficiently in advance of the hearing date so the other parties will have the required ten (10) days' notice to answer or object, and so you will have enough time to receive the subpoena and serve it.

8. Any party may conduct discovery to learn the factual basis of another party's position in this case. However, 52 Pa. Code §5.331(b) provides, in relevant part, that "[a] participant shall endeavor to initiate discovery as early in the proceedings as reasonably possible." Additionally, 52 Pa. Code §5.322 provides, in relevant part, that "participants are encouraged to exchange information on an informal basis." All parties are urged to cooperate in informal information exchanges and in conducting discovery. Cooperation is preferable to

disagreements, which require my participation to resolve. There are limitations on discovery (52 Pa. Code §5.361) and sanctions for abuse of the discovery process (52 Pa. Code §§5.371 & 5.372).

9. Commission policy is to encourage settlements. 52 Pa. Code §5.231(a). Therefore, you are urged to discuss informally between yourselves the possible settlement of this case at least one week before the hearing. If you are unable to settle this case, you may still resolve as many questions or issues as possible during your informal discussion.

Date: January 15, 2004



James D. Porterfield  
Administrative Law Judge



**Duquesne Light**

A DQE Company

Regina M. Sestak  
Assistant General Counsel

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

Tel 412-393-1546  
Fax 412-393-1418  
rsestak@duqlight.com

ORIGINAL

March 2, 2004

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2004 MAR 24 AM 12:02  
SECRETARY'S BUREAU

DOCUMENT  
FOLDER

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17120

RE: Irene Preobrazhenskaya v. Duquesne Light Company  
PUC Docket No. C-20031085

Dear Secretary McNulty:

An original and three copies of Respondent's Motion for Continuance are enclosed. Copies have been served upon Complainant and the presiding officer in accordance with Commission Regulations.

Sincerely,

Regina M. Sestak  
Attorney for Duquesne Light Company

cc: Irene Preobrazhenskaya (with enclosure)  
Administrative Law Judge James D. Porterfield (with enclosure)

RJP 30

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SECRETARY'S OFFICE BEFORE PENNSYLVANIA PUBLIC UTILITY COMMISSION

IRENE PREOBRAZHENS KAYA, )  
 )  
 Complainant, )  
 )  
 v. )  
 )  
 DUQUESNE LIGHT COMPANY, )  
 )  
 Respondent )

Docket No. C-20031085

DOCKETED  
MAR 19 2004

DUQUESNE LIGHT COMPANY'S MOTION FOR CONTINUANCE

AND NOW comes the Respondent, Duquesne Light Company, by and through its attorney, Regina M. Sestak, and files the within Motion for Continuance, in accordance with Commission Regulation 1.15(b), 52 Pa. Code §1.15(b).

1. The above-captioned formal complaint is scheduled for hearing before Administrative Law Judge James D. Porterfield on March 10, 2004.

2. On February 23, 2004, a copy of Complainant's Application for Subpoenas (hereinafter "Complainant's Application") was received via Respondent's Legal Unit fax machine.

3. As will be discussed more fully in Respondent's Objections to Complainant's Application for Subpoenas, this is not proper service under Commission Regulation 1.54(b), 52 Pa. Code §1.54(b), which provides that service may be made by telecopier to parties who consent to accept service in that manner.

4. Respondent has not consented to accepting service by telecopier.

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5. Even assuming, *arguendo*, that service upon Respondent had been proper, Respondent's Objection is not due until March 4, 2004, which may allow insufficient time for determination of the objections and for service of any subpoenas that may be granted.

6. Complainant's Application seeks to subpoena four witnesses, two of whom are employed by RSKCo, an independent claims adjuster, which is not affiliated with Respondent.

7. As will be discussed more fully in Respondent's Objections to Complainant's Application for Subpoenas, Complainant's Application does not include a Certificate of Service as required by Commission Regulation 1.57, 52 Pa. Code §1.57, nor does it otherwise indicate that it was served upon the two witnesses who are not employed by a party to this matter, as required by Commission Regulation 5.421(b), 52 Pa. Code §5.421(b).

8. As will be discussed more fully in Respondent's Objections to Complainant's Application for Subpoenas, Complainant's Application does not include a notice to either Respondent or to said non-party proposed witnesses that an objection may be filed, as required by Commission Regulation 5.421(b), 52 Pa. Code §5.421(b).

9. There is insufficient time before the scheduled hearing date for Complainant to properly serve the non-party proposed witnesses with a copy of her Application and still allow them ten days in which to respond to it.

10. The instant complaint concerns, *inter alia*, a service interruption that occurred on April 7, 2002.

11. Complainant filed a civil action against Respondent raising the same issues raised in this complaint in the Court of Common Pleas of Allegheny County, Pennsylvania at Docket No. AR02-6050.

12. The Common Pleas Court action was scheduled for trial on March 9, 2004, but, by Order of Court dated February 18, 2004, and signed by the Honorable Eugene B. Strassburger, said trial has been continued. A copy of said Order of Court is attached hereto, incorporated herein, and marked Exhibit 1.

13. The Motion for Continuance was premised upon the unavailability of George Andreykovich, a former Duquesne Light Company employee who, prior to his retirement, became knowledgeable about the service interruption in question. A copy of the Defendant's Motion for Continuance is attached hereto, incorporated herein, and marked Exhibit 2.

14. It is Respondent's understanding that George Andreykovich is presently out of state and is not expected to return until after March 10, 2004.

WHEREFORE, Respondent requests that the hearing scheduled for March 10, 2004 be continued.

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

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

IRENE PREOBRAZHENSKAYA,

CIVIL DIVISION

Plaintiff,

No. AR-02-6050

v.

DUQUESNE LIGHT COMPANY,

Defendant.

ORDER OF COURT

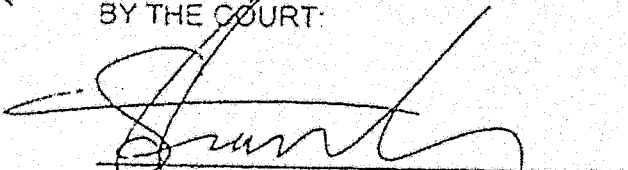
AND NOW, this 18<sup>th</sup> day of Feb, 2004, upon consideration of

Duquesne Light Company's Motion for Continuance, it is hereby ORDERED, ADJUDGED and DECREED that the Motion is GRANTED. The March 9, 2004 trial is continued to a date to be

set by this Court

*4/1/04. Discovery period extended 3 weeks*

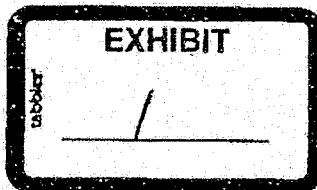
BY THE COURT:



HON. EUGENE B. STRASSBURGER

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COURT CLERK



IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

IRENE PREOBRAZHENSKAYA,

Plaintiff,

v.

DUQUESNE LIGHT COMPANY,

Defendant.

CIVIL DIVISION

No. AR-02-6050

DEFENDANT'S MOTION FOR  
CONTINUANCE

Submitted by Counsel for Defendant:

Duquesne Light Company

Kenneth G. Scholtz, Esq.  
PA I.D. # 87467

TUCKER ARENSBERG, P.C.  
1500 One PPG Place  
Pittsburgh, PA 15222

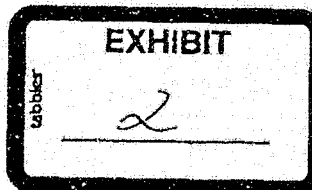
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ALLEGHENY COUNTY

LIT.313607-1 014657-110099



IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

IRENE PREOBRAZHENSKAYA,

Plaintiff,

v.

DUQUESNE LIGHT COMPANY,

Defendant.

CIVIL DIVISION

No. AR-02-6050

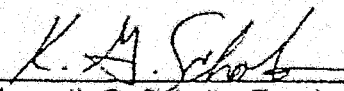
NOTICE OF PRESENTATION

Please take notice that the within Motion for Continuance will be presented to The Honorable Eugene B. Strassburger on Wednesday, February 18, 2003 at 9:30 a.m.

Respectfully submitted,

TUCKER ARENSBERG, P.C.

By:

  
Kenneth G. Scholtz, Esquire  
Pa. I.D. #87457

1500 One PPG Place  
Pittsburgh, PA 15222  
(412) 566-1212

Counsel for Defendant,  
Duquesne Light Company

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

IRENE PREOBRAZHENSKAYA,

CIVIL DIVISION

Plaintiff,

No. AR-02-6050

v.

DUQUESNE LIGHT COMPANY,

Defendant.

DEFENDANT'S MOTION FOR CONTINUANCE

AND NOW, Defendant, Duquesne Light Company, through its counsel, Tucker Arensberg, P.C., serves the following Motion for Continuance.

1. This action was initiated by Plaintiff's Complaint, filed 10/10/02, alleging damages to property as a result of Duquesne Light Company power outage that occurred on 4/7/01. The Plaintiff claims property damages in the amount of \$3,985.00.
2. This matter was brought before a board of arbitrators in the Court of Common Pleas of Allegheny County, Arbitration Division, on 2/14/03.
3. At the close of Plaintiff's case, a nonsuit was granted in favor of Duquesne Light Company.
4. Plaintiff appealed the arbitrators' award, and the discovery period has been ongoing since March, 2003.
5. The trial date for this matter is now set for March 9, 2004.
6. Defendant's sole fact witness in this matter, Duquesne Light Company employee, George Andreykovich, will be out of town on that date, and for the following three weeks. Mr. Andreykovich has retired from the company, and will be in South Carolina on an extended family vacation.

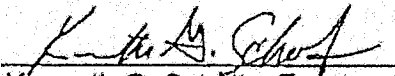
7. Without Mr. Andreykovich's testimony, Defendant cannot support its defenses in this matter, and would be unfairly prejudiced. Further, Plaintiff will be unable to cross-examine Defendants' sole fact witness regarding his investigation of her power outage claim.

8. We expect the trial in this matter will not take more than a half-day.

WHEREFORE, Duquesne Light Company requests a trial date during the last week of March (3/29 - 3/31), or on the May, 2004 trial list.

Respectfully submitted,

TUCKER ARENSBERG, P.C.

By:   
Kenneth G. Scholtz, Esquire  
Pa. I.D. #87467

1500 One PPG Place  
Pittsburgh, PA 15222  
(412) 566-1212

Counsel for Defendant,  
Duquesne Light Company

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

IRENE PREOBRAZHENSKAYA,

CIVIL DIVISION

Plaintiff,

No. AR-02-6050

v.

DUQUESNE LIGHT COMPANY,

Defendant.

ORDER OF COURT

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2004, upon consideration of Duquesne Light Company's Motion for Continuance, it is hereby ORDERED, ADJUDGED and DECREED that the Motion is GRANTED. The March 9, 2004 trial is continued to a date to be set by this Court.


BY THE COURT:

\_\_\_\_\_  
HON. EUGENE B. STRASSBURGER

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was sent to Plaintiff at the address listed below by U.S. Mail, postage prepaid this 10<sup>th</sup> day of February, 2004:

Ms. Irene Preobrazhenskaya  
5610 Hobart Street  
Apt. 1  
Pittsburgh, PA 15217

  
\_\_\_\_\_  
Kenneth G. Scholtz, Esquire

Before the  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

IRENE PREOBRAZHENSKAYA, )  
 )  
 Complainant, )  
 )  
 v. ) Docket No. C-20031085  
 )  
 DUQUESNE LIGHT COMPANY, )  
 )  
 Respondent )

CERTIFICATE OF SERVICE

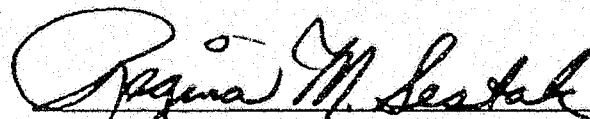
I hereby certify that I have this day served a true and correct copy of the foregoing document in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a participant) by first-class mail upon:

Irene Preobrazhenskaya  
5610 Hobart Street, Apt. 1  
Pittsburgh, PA 15217

Administrative Law Judge James D. Porterfield  
Pennsylvania Public Utility Commission  
1103 Pittsburgh State Office Building  
300 Liberty Avenue  
Pittsburgh, PA 15222

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

SECRETARY'S BUREAU

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