

October 18, 2017

*Via Electronic Filing*

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
2nd Floor, Room-N201  
Harrisburg, PA 17120

**RE: Walter Kolas v. Duquesne Light Company**  
Docket No. F-2017-2626722

Dear Secretary Chiavetta:

Enclosed please find Duquesne Light Company's Preliminary Objections to Formal Complaint filed by Walter Kolas. A copy of this document has been served upon Complainant in accordance with Commission regulations.

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

Sincerely,



Paul Shane Miller  
Attorney for Duquesne Light Company

Jeremy V. Farrell  
Attorney for Duquesne Light Company

Enclosure

cc: Walter Kolas (with enclosure)

LIT:630286-2 014657-158498



**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

|                         |   |                    |
|-------------------------|---|--------------------|
| WALTER KOLAS,           | : |                    |
|                         | : |                    |
| Complainant,            | : |                    |
|                         | : |                    |
| vs.                     | : | No: F-2017-2626722 |
|                         | : |                    |
| DUQUESNE LIGHT COMPANY, | : |                    |
|                         | : |                    |
| Respondent.             | : |                    |

**PRELIMINARY OBJECTIONS TO FORMAL COMPLAINT**

Pursuant to 52 Pa. Code. § 5.101, Duquesne Light files its preliminary objections to the Formal Complaint:

**I. Factual Background**

1. On or about September 25, 2017, Complainant Walter Kolas (“Complainant”) filed a Formal Complaint (the “Complaint”) against Duquesne Light Company (“Duquesne Light”) initiating this matter.

2. In his Complaint, Complainant claims that he had a “fast and faulty meter” that resulted in incorrect charges on his bill and that Duquesne Light failed to replace his meter in a timely manner. (Complaint, ¶¶ 4-5).

3. As relief, Complainant seeks an adjustment on his total bill “since [the] inception of the account,” which was September 2, 2011. (Complaint, ¶ 5).

## II. Law and Argument

4. The Commission's Rules of Practice and Procedure permit parties to file preliminary objections for the inclusion of scandalous or impertinent matter. 52 Pa. Code. § 5.101(a)(2).

5. A preliminary objection in the nature of a motion to strike impertinent matter is the appropriate method to challenge an erroneous prayer for relief. Hudock v. Donegal Mut. Ins. Comp., 264 A. 2d 688 (Pa. 1970).

6. Pursuant to 66 Pa. C.S.A. § 1312, "the [C]ommission shall have the power and authority to make an order requiring the public utility to refund the amount of any excess paid by any patron . . . **within four years** prior to the date of the filing of the complaint . . ." 66 Pa. C.S.A. § 1312 (emphasis added).

7. "As a regulatory agency, the [Commission] has only those powers, duties, responsibilities and jurisdiction given to it by the Legislature." United Tel. Co. of Pa. v. Pa. Pub. Util. Comm'n, 676 A. 2d 1244, 1251 (Pa. Commw. Ct. 1996)

8. On the face of the Complaint, the only relief that Complainant seeks is a refund of his bill dating back to September 2, 2011 for alleged overpayments. (See Complaint, ¶¶ 4-5). However, pursuant to 66 Pa. C.S.A. § 1312, this request for relief exceeds the Commission's power and authority on this issue, as the Commission only has the power and authority to order Duquesne Light to refund Complainant for four (4) years of overpayments. See 66 Pa.C.S.A. § 1312.

9. The Complaint otherwise fails to state any further violations of the Public Utility Code and its corresponding regulations.

10. For these reasons, the Complaint should be dismissed and/or Complainant's request for relief should be stricken as impertinent to the extent that he seeks relief for payments made more than four years prior to the date that he filed this Complaint.

WHEREFORE, Duquesne Light Company respectfully requests that the Commission sustain its Preliminary Objections and dismiss the Complaint with prejudice and/or strike Complainant's request for relief as impertinent.

Respectfully submitted,

TUCKER ARENSBERG, P.C.



Paul Shane Miller, Esquire

PA I.D. No. 319174

Jeremy V. Farrell, Esquire

PA I.D. No. 316258

1500 One PPG Place

Pittsburgh, PA 15222

(412) 566-1212

Counsel for Respondent, Duquesne Light  
Company

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

|                         |   |                    |
|-------------------------|---|--------------------|
| WALTER KOLAS,           | : |                    |
|                         | : |                    |
| Complainant,            | : |                    |
|                         | : |                    |
| vs.                     | : | No: F-2017-2626722 |
|                         | : |                    |
| 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):

Walter Kolas  
127 Avon Road  
West Mifflin, PA 15122

Dated this 18<sup>th</sup> day of October, 2017

  
\_\_\_\_\_  
Paul Shane Miller, Esquire  
PA I.D. No. 319174  
[smiller@tuckerlaw.com](mailto:smiller@tuckerlaw.com)  
Jeremy V. Farrell, Esquire  
PA I.D. No. 316258  
[jfarrell@tuckerlaw.com](mailto:jfarrell@tuckerlaw.com)  
1500 One PPG Place  
Pittsburgh, PA 15222  
(412) 566-1212  
(412) 594-5619 (fax)

Counsel for Respondent, Duquesne Light  
Company