

December 12, 2017

*Via Federal Express, Priority Overnight*

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Keystone Bldg. 2nd Floor W  
400 N. Street  
Harrisburg, PA 17120

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DEC 12 2017

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**RE: Gary Bottoms v. Duquesne Light Company  
Docket No. F-2017-2634988**

Dear Secretary Chiavetta:

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

Sincerely,



Paul Shane Miller  
Attorney for Duquesne Light Company

Enclosure

cc: Gary Bottoms (with enclosure)

LIT:632588-1 014657-158498

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

GARY BOTTOMS,

Complainant,

vs.

DUQUESNE LIGHT COMPANY,

Respondent.

No: F-2017-2634988

**PRELIMINARY OBJECTIONS**

Filed on behalf of Respondent  
Duquesne Light Company

Counsel of Record for this Party:

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

**NOTICE TO PLEAD**

TO GARY BOTTOMS:

YOU ARE HEREBY NOTIFIED TO FILE A WRITTEN RESPONSE TO THE WITHIN PRELIMINARY OBJECTIONS OF RESPONDENT, DUQUESNE LIGHT COMPANY, WITHIN TEN (10) DAYS OF SERVICE HEREOF OR A JUDGMENT MAY BE ENTERED AGAINST YOU.

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SECRETARY'S BUREAU

TUCKER ARENSBERG, P.C.



Paul Shane Miller, Esquire  
Attorney for Duquesne Light Company

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

GARY BOTTOMS, :  
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Complainant, :   
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vs. :   
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**PRELIMINARY OBJECTIONS TO FORMAL COMPLAINT**

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

**I. Introduction**

1. This Formal Complaint (the "Complaint") is legally insufficient for two reasons and therefore must be dismissed under 52 Pa. Code § 5.101(4).

2. First, Complainant Gary Bottoms ("Complainant") is not entitled to a payment arrangement as a matter of law because he has not complied with previous payment arrangements as a Duquesne Light customer and has not made a good-faith attempt to pay for his utility service.

3. Second, as a matter of law, Complainant is responsible for the account balance at the service property because he was an adult occupant of the premises while the balance accrued.

4. Given that the Complaint is legally insufficient, it must be dismissed in its entirety.

II. **The Complainant's Allegations**

5. On or about November 20, 2017, Complainant filed the Complaint against Duquesne Light Company ("Duquesne Light").

6. In the Complaint, Complainant states that he wants a payment arrangement and that Duquesne Light is trying to "charge arrears for my deceased mother . . . Due to residing at the address . . ." (Complaint, ¶ 4).

7. As relief, Complainant seeks to "eliminate older accounts and start new service" in his own name at 1425 Elm Street, Pittsburgh, PA 15221 (the "Property"). (Complaint, ¶ 5).

III. **Law and Argument**

A. **Complainant is not entitled to a payment arrangement as a matter of law because has not complied with previous payment arrangements as a Duquesne Light customer and has not made a good-faith attempt to pay for his utility service.**

8. Under 66 Pa. C.S. § 1405(d), the Commission "shall not establish or order a public utility to establish a second or subsequent payment arrangement if a customer has defaulted on a previous payment arrangement established by a commission order or decision."

9. The award of a payment arrangement is not mandatory, and the Commission has declined to award payment arrangements when the customer has not demonstrated a good-faith attempt to pay for their utility service. Kathleen L. Petrich v. Duquesne Light Co., F-2014-2457352, 2015 WL 4063921, at \*5 (June 9, 2015).

10. Here, Complainant resided at the Property while Duquesne Light entered into several payment arrangements for service at the Property; those payment arrangements were not kept and a large account balance has accrued at the Property.

11. Given that a large account balance has accrued at the Property, Complainant has not demonstrated good-faith attempt to pay for his utility service.

12. Given that Complainant has not complied with prior payment arrangements while residing at the Property and has not made a good-faith attempt pay for his utility service, he is not entitled to a payment arrangement as a matter of law.

13. For this reason, the Complaint is legally insufficient and must be dismissed under 52 Pa. Code § 5.101(4).

**B. Complainant is responsible for the account balance at the Property as a matter of law because he was an adult occupant of the premises while the balance accrued.**

14. Under Section 5a of Duquesne Light's Tariff – which has been filed with and approved by the Commission – the company may:

[R]equire the payment of an outstanding balance or portion of any outstanding balance as a condition of furnishing service if the applicant or customer resided at the property for which service is required during the time the outstanding balance accrued and for the time applicant/customer resided there, not exceeding four (4) years from the date that the last bill rendered. . . .

15. Similarly, 52 Pa. Code § 56.35(b)(1) states:

A public utility may require the payment of an outstanding balance or portion of an outstanding balance if the applicant resided at the property for which service is requested during the time the outstanding balance accrued and for the time the applicant resided there, not exceeding 4 years from the date of the service request . . .

16. Here, Complainant admits that he is seeking service at the Property and that he resided at the Property while the account balance accrued.

17. Because Complainant resided at the Property for which service is now requested during the time the outstanding balance accrued and for the time Complainant resided there, Duquesne Light may require the payment of the outstanding account balance as a condition of furnishing service to Complainant.

18. For this reason, the Complaint is legally insufficient and must be dismissed under 52 Pa. Code § 5.101(4).

WHEREFORE, Duquesne Light Company respectfully requests that the Commission sustain its Preliminary Objections and dismiss the Complaint in its entirety with prejudice.

Respectfully submitted,

TUCKER ARENSBERG, P.C.



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Counsel for Respondent, Duquesne Light  
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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):

Gary Bottoms  
1425 Elm Street  
Pittsburgh, PA 15221

Dated this 12<sup>th</sup> day of December, 2017



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Company