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June 18, 2018

Via Electronic Filing

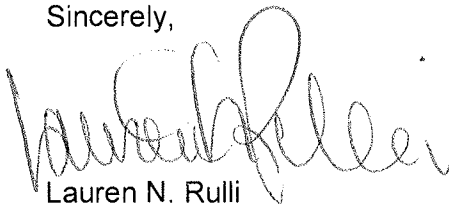
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Keystone Bldg. 2nd Floor W
400 N. Street
Harrisburg, PA 17120

RE: Corrine Green v. Duquesne Light Company
Docket No. C-2018-3002223

Dear Secretary Chiavetta:

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

Sincerely,



Lauren N. Rulli
Attorney for Duquesne Light Company

Jeremy V. Farrell
Attorney for Duquesne Light Company

Enclosure

cc: Corrine Green (w/ enclosure)
LIT:642111-1 014657-158498

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

CORRINE GREEN,

Complainant,

vs.

DUQUESNE LIGHT COMPANY,

Respondent.

No: C-2018-3002223

PRELIMINARY OBJECTIONS TO
COMPLAINT

Filed on behalf of Respondent
Duquesne Light Company

Counsel of Record for this Party:

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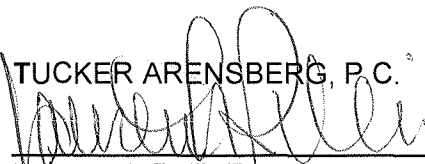
1500 One PPG Place

Pittsburgh, PA 15222

NOTICE TO PLEAD

TO: COMPLAINANT, CORRINE GREEN

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.

TUCKER ARENSBERG, P.C.


Lauren N. Rulli, Esquire

Jeremy V. Farrell, Esquire

Counsel for Duquesne Light Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

CORRINE GREEN,

Complainant,

vs.

DUQUESNE LIGHT COMPANY,

Respondent.

No: C-2018-3002223

PRELIMINARY OBJECTIONS

Pursuant to 52 Pa. Code. § 5.101, Duquesne Light files its Preliminary Objections to the Formal Complaint filed by Complainant Corrine Green ("Complainant"):

I. Introduction

1. Complainant filed a Formal Complaint against Duquesne Light in an effort to postpone the installation of a smart meter at a home owned by Timothy Carroll, Jr. ("Carroll") until 2023.

2. Duquesne Light files these Preliminary Objections seeking dismissal of the Formal Complaint on two grounds: 1) legal insufficiency, because Pennsylvania law requires Duquesne Light to install a smart meter at the property of all customers in its service territory by the end of 2018; and 2) lack of standing, because Complainant does not allege any specific harm to her, and she is not Duquesne Light's customer with respect to the account involved.

II. Relevant Factual Background

3. Service at the property located at 6300 Lowell Drive, Verona, Pennsylvania 15147 (the "Property") is active in Carroll's name.

4. Complainant is not listed on the account as an adult occupant. Duquesne Light records do not show that Carroll authorized Complainant to speak on the account.

5. Carroll is the sole owner of the Property.
6. Duquesne Light has made several phone calls to Carroll, informing him that a smart meter would be installed at the Property.
7. Carroll has given Duquesne Light his consent to install a smart meter at the Property.
8. Duquesne Light and its contractor have visited the Property on multiple occasions to attempt to install a smart meter.
9. Despite the fact that the Property owner, Carroll, consented to the installation of a smart meter at the Property, Complainant has prevented Duquesne Light and its contractor from doing so.
10. Complainant wants to postpone the installation of a smart meter at the Property until 2023.
11. Complainant's only allegation related to the safety of smart meters is a general fear that smart meters "cause health issues."
12. Complainant has not alleged that she is suffering from any medical condition attributable to smart meters, or that a smart meter will aggravate an existing medical condition.

III. Argument

A. The Formal Complaint must be dismissed because it is legally insufficient.

13. Preliminary objections may be filed for "legal insufficiency of a pleading." 52 Pa. Code § 5.101(a)(4). "In order to be legally sufficient, a complaint must set forth an act or thing done or omitted to be done or about to be done or omitted to be done by the respondent in violation, or claimed violation, of a statute which the Commission has jurisdiction to administer, or of a regulation or order of the Commission." Drake v. Pa. Elec. Co., Docket No. C-2014-2413771, 2014 WL 2003281, at *1 (Pa. P.U.C. May 7, 2014) (Salapa, ALJ).

14. Section 703(b) of the Public Utility Code ("Code") allows the Commission to dismiss any complaint without a hearing if, in its opinion, a hearing is not necessarily in the

public interest. 66 Pa. C.S. § 703(b); See also, Campisi v. PECO Energy Co., Docket No. 2014-2434501, 2014 WL 4644282, at *1 (Pa. P.U.C. Sept. 3, 2014) (Salapa, ALJ) (“The provision at 52 Pa. Code § 5.101(a)(4) serves judicial economy by avoiding a hearing where no factual dispute exists.”).

15. Even accepting as true all well-pleaded material facts and reasonable inferences, the Formal Complaint does not raise a violation of the Code, Commission Order or regulation, or any Commission-approved tariff. It is, therefore, legally insufficient.

16. Act 129 of 2008 (“Act 129”) requires electric distribution companies with more than 100,000 customers, including Duquesne Light, to deploy smart throughout their service territories. 66 Pa. C.S. § 2807.

17. Act 129 also requires electric distribution companies with more than 100,000 customers, including Duquesne Light, to file a smart meter technology procurement and installation plan with the Commission for approval. 66 Pa. C.S. § 2807(f)(1).

18. Duquesne Light filed a smart meter technology procurement and installation plan, which the Commission approved on May 6, 2013. See Docket No. M-2009-2123948.

19. The Commission approved, in relevant part, Duquesne Light’s amended smart meter technology procurement and installation plan (“Smart Meter Plan”) on April 7, 2017. See Docket No. P-2015-2497267, Opinion and Order at 9, 51.

20. The Smart Meter Plan requires Duquesne Light to finish installing residential smart meters, including at Carroll’s Property, by the end of 2018.

21. Thus, by attempting to install a smart meter at the Property in accordance with the Smart Meter Plan and Carroll’s consent, Duquesne Light is complying with the law.

22. Duquesne Light's installation of smart meters is consistent with, and not a violation of, the Code and Commission regulations and orders.

23. This renders the Formal Complaint legally insufficient. See Campisi, supra (granting preliminary objections for legal insufficiency where the complainant sought to opt out of PECO's smart meter program) (citing additional cases); Jackson v. PECO, Docket No. C-2017-2600495 (June 26, 2017) (Salapa, ALJ) (sustaining preliminary objections and dismissing a formal complaint that opposed the installation of a smart meter).

24. Accordingly, the Formal Complaint should be dismissed.

B. The Formal Complaint must be dismissed because Complainant lacks standing.

25. In order to bring a complaint before the Commission, the Complainant must first demonstrate that he or she has standing to maintain the action. Nye v. Erie Ins. Exchange, 470 A.2d 98, 99 (Pa. 1983).

26. Standing to participate in proceedings before an administrative agency is primarily within the discretion of the agency. Pa. National Gas Assoc. v. T.W. Phillips Gas and Oil Co., Docket Nos. C-902909, C-913239, 1991 WL 474870 (Pa. P.U.C. Dec. 20, 1991).

27. Generally, a person or entity has standing when the person or entity has a direct, immediate, and substantial interest in the subject matter of a proceeding. William Penn Parking Garage, Inc. v. City of Pittsburgh, 346 A.2d 269, 285-86 (Pa. 1975); Landlord Service Bureau, Inc. v. Equitable Gas Co., Docket No. C-00934801, 1993 WL 740945 (Pa. P.U.C. June 8, 1993) (Cohen, ALJ).

28. Requiring a person or entity to have a direct, immediate, and substantial interest in the subject matter of a proceeding helps avoid frivolous, harassing lawsuits whose costs are ultimately borne, at least in part, by utility ratepayers. Application of Menia Transportation, LLC, A-2014-2447631, 2015 WL 9595660, at *4 (Nov. 30, 2015) (Cheskis, ALJ).

29. The Commission has held that, in general, a complainant must be respondent's customer to have standing to file a complaint about utility service. See Re: Pa. American Water Co., Docket Nos. A-212285F019 and A-212285F021, 1995 WL 945231, at *6-7 (Pa. P.U.C. Oct. 26, 1995); Pa. P.U.C. v. Marietta Gravity Water Co., Docket Nos. R-00973991, R-00973991C0001-C0003, 1997 WL 1050739 (Pa. P.U.C. Nov. 21, 1997).

30. In other words, a complainant who is not a customer of a utility generally does not have the requisite substantial, direct, and immediate interest necessary to confer standing to bring the complaint about the service of that utility. John Lavelly v. West Penn Power Co., Docket No. C-2014-2408502, 2015 WL 730170, at *3 (Pa. P.U.C. May 22, 2014) (Watson, ALJ).

31. The Public Utility Code defines "customer" as a natural person in whose name a residential service account is listed and who is primarily responsible for payment of bills, or any adult occupant whose name appears on the mortgage, deed, or lease of the property. 66 Pa. C.S. § 1403.

32. Complainant does not have standing to pursue this matter.

33. Complainant does not have a direct, immediate, and substantial interest in the subject matter of this case because she is not a customer of Duquesne Light at the Property or claim any specific harm by the installation of a smart meter at the Property.

34. Service at the Property is in the name of Carroll, not Complainant.

33. Carroll is the owner of the Property, not Complainant.

34. Complainant is not an adult occupant at the Property, and she is not authorized to speak on the account.

35. The Property owner, Carroll, has given consent to Duquesne Light to install a smart meter at the Property.

36. Complainant also has not alleged that the installation of a smart meter at the Property would cause her to personally suffer any harm, other than a vague claim that "studies" purportedly show that smart meters "cause health issues" in general. Eckstein v. PECO, F-

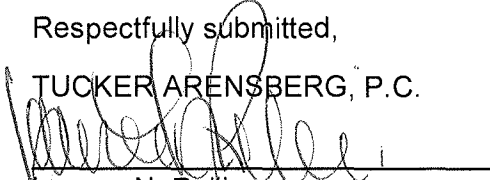
2017-2601990, 2018 WL 2085879, at *9 (Mar. 26, 2018) (Heep, ALJ) (dismissing formal complaint because there was insufficient evidence that the installation of a smart meter would cause adverse health affects to Complainant's family member).

37. Given that Complainant lacks standing to pursue this matter, it should be dismissed.

WHEREFORE, Duquesne Light Company respectfully requests that the Commission sustain its Preliminary Objections and dismiss the Complaint with prejudice without a hearing.

Respectfully submitted,

TUCKER ARENSBERG, P.C.



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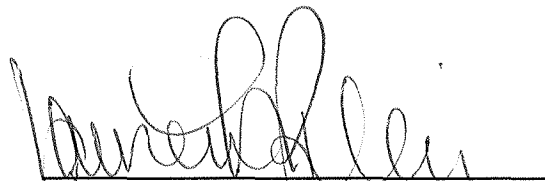
No: C-2018-3002223

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):

Corrine Green
6300 Lowell Drive
Verona, PA 15147

Dated this 18th day of June, 2018



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