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September 17, 2018

Via Electronic Filing

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

**RE: Valerie Hobson v. Duquesne Light Company
Docket No. F-2018-3003220**

Dear Secretary Chiavetta:

Enclosed please find Duquesne Light Company's Motion for Partial Judgment on the Pleadings. A copy of this document has been served upon Complainant in accordance with Commission regulations.

Sincerely,

A handwritten signature in blue ink, appearing to read "Emily M. Farah", is written over a faint, circular stamp or watermark.

Emily M. Farah
Counsel for Duquesne Light Company

Enclosure

cc: Valerie Hobson (with enclosure)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

VALERIE HOBSON,

Complainant,

vs.

DUQUESNE LIGHT COMPANY,

Respondent.

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No: F-2018-3003220

**MOTION FOR PARTIAL JUDGMENT ON
THE PLEADINGS**

Filed on behalf of Respondent
Duquesne Light Company

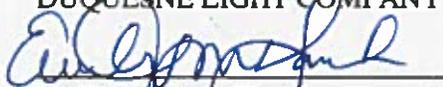
Counsel of Record for this Party:
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NOTICE TO PLEAD

TO: COMPLAINANT VALERIE HOBSON

**YOU ARE HEREBY NOTIFIED TO FILE A WRITTEN RESPONSE TO THE WITHIN
MOTION FOR PARTIAL JUDGMENT ON THE PLEADINGS OF RESPONDENT DUQUESNE
LIGHT COMPANY WITHIN TWENTY (20) DAYS OF SERVICE HEREOF OR A JUDGMENT
MAY BE ENTERED AGAINST YOU.**

DUQUESNE LIGHT COMPANY



Emily M. Farah, Esquire
Attorney for Duquesne Light Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

VALERIE HOBSON,

Complainant,

vs.

DUQUESNE LIGHT COMPANY,

Respondent.

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No: F-2018-3003220

MOTION FOR PARTIAL JUDGMENT ON THE PLEADINGS

Pursuant to 52 Pa. Code § 5.102, Respondent Duquesne Light Company (“Duquesne Light” or the “Company”), by and through its attorney, Emily M. Farah, Esq., files this Motion for Partial Judgment on the Pleadings:

I. OVERVIEW

1. The Formal Complaint filed by Complainant Valerie Hobson (“Complainant”) should be dismissed because Complainant is not entitled to the relief sought. Specifically, Complainant does not meet the income eligibility requirements for enrollment into Duquesne Light’s Customer Assistance Program (“CAP”) under the Company’s Commission-approved Universal Services and Energy Conservation Plan (“USECP”), and therefore cannot be enrolled in CAP.

2. Accordingly, Duquesne Light’s Motion for Partial Judgment on the Pleadings should be granted, and to the extent Complainant asks to be enrolled into CAP, that portion of the Formal Complaint should be dismissed with prejudice.

II. FACTUAL AND PROCEDURAL BACKGROUND

3. On or about July 5, 2018 Complainant filed the Formal Complaint against Duquesne Light.

4. In the Formal Complaint, Complainant indicated there were incorrect charges on her bill. Complaint, ¶ 4.

5. As relief, Complainant states that she wants a “reasonable” payment arrangement, and to be re-enrolled in CAP. Complaint ¶ 4, 5.

6. Duquesne Light filed an Answer and New Matter on July 30, 2018.

7. The Answer and New Matter included a “Notice to Plead” addressed to Complainant, which stated, **“YOU ARE HEREBY NOTIFIED TO FILE A WRITTEN RESPONSE TO THE WITHIN NEW MATTER OF RESPONDENT DUQUESNE LIGHT COMPANY WITHIN TWENTY (20) DAYS OF SERVICE HEREOF OR A JUDGMENT MAY BE ENTERED AGAINST YOU.”** (bold in original).

8. On September 17, 2018, Duquesne Light received a letter from the Complainant, containing: (a) the Bureau of Consumer Services (“BCS”) decision to Complainant’s informal complaint (No. 3617354), including the BCS payment arrangement, (b) the bills attached to her Formal Complaint (dated May 17, 2018 and August 19, 2018), (c) a copy of her Formal Complaint, and (d) a letter Duquesne Light sent Complainant confirming receipt of her complaint, with Complainant’s annotation indicating she “never” qualifies for Dollar Energy Fund grants. The cover letter states the documents are presented for Your Honor’s consideration.

9. Duquesne Light respectfully requests that the Commission deem the allegations in Duquesne Light’s New Matter admitted.

10. Complainant’s letter and enclosures do not deny any of the facts asserted in Duquesne Light’s New Matter. Rather, the documents affirm the fact that the Complainant received a BCS payment arrangement, and do not dispute the fact that Complainant’s household income makes her eligible for CAP.

11. Furthermore, to the extent Complainant’s letter seeks to respond to Duquesne Light’s Answer and New Matter, such response is not timely. The deadline for a response to the New Matter was August 20, 2018. Complainant’s letter was served on the Company four weeks later, on September 17, 2018.

12. By failing to timely deny the allegations in the New Matter, the Commission can find that Complainant has admitted to the allegations contained therein. See 52 Pa. Code § 5.63(b) (“Failure to file a timely reply to new matter may be deemed in default, and relevant facts stated in the new matter may be deemed to be admitted”); Stefanowicz v. Pennsylvania-American Water Co., C-20078165, 2008 WL 8014613, at *4 (Pa. P.U.C. May 22, 2008) (“The Commission’s Regulations clearly provide that failure to respond to affirmative allegations in New Matter may cause those allegations to be deemed admitted.”). As such, Duquesne Light respectfully requests that the Commission deem the allegations in its New Matter admitted.

13. A party may move for judgment on the pleadings “after the pleadings are closed, but within a time so that the hearing is not delayed.” 52 Pa. Code § 5.102(a).

14. The pleadings are closed in this case, and a hearing has been scheduled more than three weeks from this filing (October 12, 2018). Accordingly, this Motion for Judgment on the Pleadings will not delay the hearing.

III. LAW AND ARGUMENT

15. Complainant’s request to be re-enrolled in CAP must be dismissed because the Complainant’s household income exceeds 150% of the FPL, rendering her ineligible for CAP under Duquesne Light’s Commission-approved Universal Services and Energy Conservation Plan (USECP).

14. Duquesne Light’s USECP, approved by Commission Order entered April 19, 2018 at M-2016-2534323, provides that customers must have household incomes no greater than 150% of the FPL to participate in CAP. Duquesne Light USECP Amended Three-Year Plan, pp. 5.

15. 150% of the FPL for a household of two equates to monthly household income of \$2,058.00.

16. Complainant indicated that her household, with two occupants, earns \$3,683.60 per month. See Answer and New Matter Exhibit A.

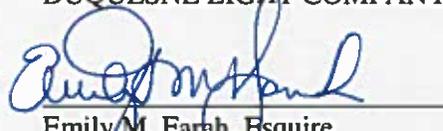
17. Consistent with Duquesne Light's Commission-approved USECP plan, Complainant defaulted from CAP for exceeding income eligibility requirements.

18. Because the Commission cannot provide Complainant the relief she is seeking (CAP re-enrollment), this portion of the Formal Complaint fails as a matter of law and should be dismissed with prejudice.

WHEREFORE, Duquesne Light Company respectfully requests that the Commission grant its Motion for Partial Judgment on the Pleadings and dismiss the Complainant's request to be re-enrolled into CAP with prejudice.

Respectfully submitted,

DUQUESNE LIGHT COMPANY

A handwritten signature in blue ink, appearing to read "Emily M. Farah", is written over a horizontal line.

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