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September 19, 2018

Via Electronic Filing

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

**RE: Adrienne Scott v. Duquesne Light Company
Docket No. C-2018-3003820**

Dear Secretary Chiavetta:

Enclosed please find Duquesne Light Company's Motion for 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 circular stamp or seal.

Emily M. Farah
Counsel for Duquesne Light Company

Enclosure

cc: Adrienne Scott (with enclosure)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ADRIENNE SCOTT,

Complainant,

vs.

DUQUESNE LIGHT COMPANY,

Respondent.

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No: C-2018-3003820

**MOTION FOR JUDGMENT ON THE
PLEADINGS**

Filed on behalf of Respondent
Duquesne Light Company

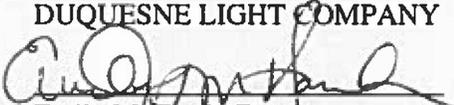
Counsel of Record for this Party:
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NOTICE TO PLEAD

TO: COMPLAINANT ADRIENNE SCOTT

**YOU ARE HEREBY NOTIFIED TO FILE A WRITTEN RESPONSE TO THE WITHIN
MOTION FOR 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

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. By failing to respond to the New Matter, the Pennsylvania Public Utility Commission (“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.

9. 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).

10. The pleadings are closed in this case, and a hearing has not been scheduled. Accordingly, this Motion for Judgment on the Pleadings will not delay the hearing.

III. LAW AND ARGUMENT

11. Complainant is not entitled to a payment arrangement because she has not made a good faith attempt to pay for electric service.

12. Unlike Customer Assistance Program (“CAP”) arrears, the Commission can order a payment arrangement on non-CAP arrears at its discretion. Victor Oliver, Jr., v. Pa. Elec. Co., F-2017-2595557, 2017 WL 5564159, at *5 (Pa. P.U.C. Oct. 19, 2017).

13. A payment arrangement, however, is a privilege, not a right. Mandell v. Duquesne Light Co., Docket No. C-20030234, 2004 WL 1372864, at *2 (Pa. P.U.C. Mar. 17, 2004).

14. The Commission thus “should exercise its discretion only on behalf of customers who have demonstrated some evidence of good faith efforts to pay their utility bills, or who have experienced a significant change of circumstances outside their control.” Crawford v. Nat’l Fuel Gas Distrib. Corp., Docket No. C-20066348, 2007 WL 4699560, at *9 (Pa. P.U.C. Dec. 6, 2007).

15. The Commission has held that a customer has not demonstrated a good faith effort to pay his or her utility bills if the customer has a poor payment history, has repeatedly violated past payment arrangements, or has accumulated a large account balance. Oliver, Jr., 2017 WL 5564159, at *6; Pickett v. Phila. Gas Works, Docket No. C-2014-2444967, 2015 WL 5915467, at *6 (Pa. P.U.C. Oct. 1, 2015) (Commission not required to issue payment arrangement on non-CAP arrears if customer has poor payment history or has failed to maintain past payment arrangements); Hewitt v. PECO Energy Co., Docket No. F-2011-2273271, 2013 WL 5232291, at *7 (Pa. P.U.C. Sept. 12, 2013) (Commission can refuse to issue payment arrangement on non-CAP arrears if customer has poor payment history and defaulted on prior payment arrangements).

16. Here, Complainant has repeatedly defaulted on past payment arrangements.

17. The first payment arrangement Complainant received was issued by the Company, beginning on June 5, 2015.

18. The second payment arrangement Complainant received was from the Commission’s Bureau of Consumer Services (“BCS”), which issued a payment arrangement comprising Complainant’s budget bill plus \$16 beginning March 2016. See Answer and New Matter Exhibit B.

10. The third payment arrangement Complainant received was issued by the Company on May 11, 2017. See 66 Pa.C.S. §1405(d) (allowing a public utility to enter into a second or subsequent payment arrangement with a customer at the utility’s discretion).

11. Complainant violated each of the three payment arrangements by failing to make timely, in-full payments. See Answer and New Matter Exhibit A.

12. In fact, since establishing service over four years ago, Complainant has made only eighteen payments, many of which were for less than her current charges for that month. See Answer and New Matter Exhibit A; Andre R. Seay v. Philadelphia Gas Works, Docket No. C-2017-2630357, 2018 WL 1836920, at *4 (Pa. P.U.C. Mar. 27, 2018) (finding no good faith effort to pay utility bills and noting complainant's sporadic payment history generally did not include payment in full for current charges).

13. Complainant's payment history demonstrates that she has not made a good-faith attempt for her electric service. See Julia Clemm v. Equitable Gas Co., Docket No. C-2013-2366038, 2013 WL 6073341, at *5 (Pa. P.U.C. Oct. 9, 2013) (finding no good faith effort to pay utility bills when complainant did not experience a significant change in circumstance and only made three payments in seven months).

14. Complainant's request for a payment arrangement must be dismissed because she has received two Company payment arrangements and one Commission payment arrangement, and she is not entitled to a fourth payment arrangement because she has not made a good-faith attempt to pay for her electric service. See 66 Pa.C.S.A. § 1405(d).

19. Given that the Commission cannot grant Complainant the relief she seeks, the Formal Complaint must be dismissed with prejudice.

WHEREFORE, Duquesne Light Company respectfully requests that the Commission grant its Motion for Judgment on the Pleadings and dismiss the Complaint against Duquesne Light with prejudice.

Respectfully submitted,
DUQUESNE LIGHT COMPANY



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Counsel for Respondent,
Duquesne Light Company

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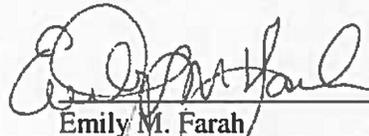
No: C-2018-3003820

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):

Adrienne Scott
2110 7th Avenue, Rear
Beaver Falls, PA 15010

Dated this 19th day of September, 2018



Emily M. Farah
PA I.D. No. 322559
Counsel for Respondent,
Duquesne Light Company