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April 2, 2019

Via Electronic Filing

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

**RE: Kristopher Haddad v. Duquesne Light Company
Docket No. C-2019-3008472**

Dear Secretary Chiavetta:

Enclosed please find Duquesne Light Company's Preliminary Objections to the Formal Complaint filed by Kristopher Haddad. A copy of this document was served upon Complainant in accordance with Commission regulations.

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

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Emily M. Farah", is written over the typed name.

Emily M. Farah
Counsel, Regulatory

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

KRISTOPHER HADDAD	:	
	:	
Complainant,	:	
	:	
vs.	:	No: C-2019-3008472
	:	
DUQUESNE LIGHT COMPANY,	:	
	:	
Respondent.	:	

PRELIMINARY OBJECTIONS

Pursuant to 52 Pa. Code § 5.101(a)(1), Duquesne Light files its preliminary objections to Complainant’s Formal Complaint (“Complaint”):

I. INTRODUCTION

1. Duquesne Light seeks to dismiss this Complaint in its entirety because the Pennsylvania Public Utility Commission (“Commission”) lacks jurisdiction to rule on the Complainant’s allegations in accordance with 52 Pa. Code § 5.22(a)(1) because the Complaint disputes a security deposit assessed on his account, and the authority to terminate for failure to pay said security deposit, pursuant to the United States Bankruptcy Code. Complaint, ¶ 4.

2. Because the Commission lacks jurisdiction over the Complainant’s allegations in the Complaint, the Complaint must be dismissed in its entirety.

III. LAW AND ARGUMENT

3. The Commission lacks subject matter jurisdiction to decide the Complainant’s allegations regarding the assessment of a security deposit after a customer files bankruptcy, and termination of electric service for failure to pay said security deposit, is governed by federal law, namely, 11 U.S. Code § 366(b) (“Section 366”).

4. Pursuant to Section 366, a utility company is permitted to assess a security deposit on a customer who files bankruptcy as adequate assurance that the customer will make future payments. 11 U.S. Code § 366(b).

5. Subject matter jurisdiction to adjudicate the request for a security deposit as an adequate assurance of payment arising under Section 366 of the United States Bankruptcy Code is vested in the United States District Court and its Bankruptcy Court. Berkey v. Metropolitan Edison Co., Docket No. F-2018-3000765, 2018 WL 5994790, at *10 (Nov. 2, 2018).

6. Here, the Complainant's allegations dispute the Company's ability to assess a security deposit after he filed for bankruptcy, which is rooted in federal bankruptcy law and outside of the Commission's jurisdiction. Complaint, ¶ 4; Berkey v. Metropolitan Edison Co. at *10.

7. Without adequate assurance, the utility should not be forced "to provide services for which it may never be paid." Berkey v. Metropolitan Edison Co. at *7, citing Begley v. Philadelphia Electric Co., 760 F.2d 46, 49 (3rd Cir. 1985).

8. Section 366, therefore, allows a utility to terminate service if the customer fails to provide adequate assurance. Id. at *6.

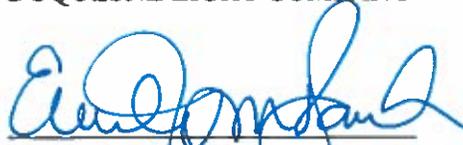
9. Regardless of whether Duquesne Light terminated the Complainant's electric service, a termination pursuant to Section 366 is not within the Commission's jurisdiction. Id. at *7.

10. Because the Commission lacks jurisdiction over the Complainant's allegations that are rooted in federal bankruptcy law, the Complaint must be dismissed in its entirety pursuant to 52 Pa. Code § 5.101(a)(1).

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

[signature on the following page]

DUQUESNE LIGHT COMPANY



Emily M. Farah
Counsel for Duquesne Light Company

