



Emily M. Farah  
Counsel, Regulatory

411 Seventh Avenue  
Mail drop 15-7  
Pittsburgh, PA 15219

Tel: 412-393-6431  
efarah@duqlight.com

May 8, 2019

**Via Electronic Filing**

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

RECEIVED  
2019 MAY 13 AM 10:29  
PA PUC  
SECRETARY'S BUREAU

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

Dear Secretary Chiavetta:

Enclosed please find Duquesne Light Company's Motion for Judgment on the Pleadings regarding 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,

Emily M. Farah  
Counsel, Regulatory

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED  
2019 MAY 13 AM 10:29  
PA PUC  
SECRETARY'S BUREAU

KRISTOPHER HADDAD  
:  
:  
Complainant, :

vs. :

DUQUESNE LIGHT COMPANY,  
:  
:  
Respondent. :

No: C-2019-3008472

**MOTION FOR JUDGMENT ON THE  
PLEADINGS**

Filed on behalf of Respondent  
Duquesne Light Company

Counsel of Record for this Party:

Emily M. Farah, Esquire  
PA I.D. No. 322559  
[efarah@duqlight.com](mailto:efarah@duqlight.com)

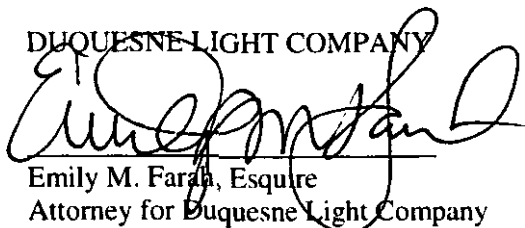
411 Seventh Avenue, 15<sup>th</sup> Fl.  
Pittsburgh, PA 15219

**NOTICE TO PLEAD**

**TO COMPLAINANT KRISTOPHER HADDAD:**

**YOU ARE NOTIFIED TO FILE A WRITTEN RESPONSE TO RESPONDENT'S MOTION FOR  
JUDGMENT ON THE PLEADINGS WITHIN 20 DAYS OF SERVICE 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**

**RECEIVED  
2019 MAY 13 AM 10: 29  
PA PUC  
SECRETARY'S BUREAU**

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

**MOTION FOR JUDGMENT ON THE PLEADINGS**

Respondent Duquesne Light Company (“Duquesne Light” or the “Company”) files this Motion for Judgment on the Pleadings pertaining to the Formal Complaint (“Complaint”) filed by Complainant Kristopher Haddad, stating as follows:

**BACKGROUND**

1. The Presiding Administrative Law Judge should dismiss the Complaint filed by Kristopher Haddad because the undisputed facts establish that a security deposit was assessed pursuant to federal bankruptcy law, which is outside of the Pennsylvania Public Utility Commission’s (“Commission”) jurisdiction.
2. Complainant filed a Chapter 13 Bankruptcy Petition on or about August 28, 2018 at Docket No. 18-23387-TPA in the United States Bankruptcy Court for the Western District of Pennsylvania.
3. Pursuant to 11 U.S. Code § 366(b) of the Federal Bankruptcy Code (“Section 366”), Duquesne Light is permitted to assess a security deposit to a customer who has filed Chapter 13 bankruptcy as adequate assurance that the Complainant will make future payments.

**UNDISPUTED FACTS**

4. On or about March 13, 2019, Complainant filed a Complaint against Duquesne Light.
5. Attached to the Complaint was a handwritten page titled, “Reason for Complaint,” wherein Complainant alleges Duquesne Light was not authorized to assess a security deposit on his account.

6. On April 2, 2019, Duquesne Light filed an Preliminary Objections, Answer, and New Matter to the Formal Complaint.

7. The Preliminary Objections contained a “Notice to Plead” addressed to Complainant.

8. The Notice to Plead stated, **“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.”**

9. Complainant did not respond to Duquesne Light’s Preliminary Objections.

10. The Answer and New Matter contained a “Notice to Plead” addressed to Complainant.

11. The Notice to Plead stated, **“YOU ARE NOTIFIED TO FILE A WRITTEN RESPONSE TO RESPONDENT’S NEW MATTER WITHIN 20 DAYS OF SERVICE OR A JUDGMENT MAY BE ENTERED AGAINST YOU.”** (emphasis in original).

12. Complainant did not respond to Duquesne Light’s Answer and New Matter.

13. \_\_\_ days have elapsed since Duquesne Light filed its Answer and New Matter.

13. By failing to respond to 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.”); Joan R. Moore v. Pa. Power Co., No. C-2016-2564550, 2017 WL 660616, at \*2 (Jan. 23, 2017) (Salapa, ALJ) (facts alleged in new matter which are not denied by the Complainant, may also be accepted as true).

14. As such, Duquesne Light respectfully requests that the Commission deem the allegations in its New Matter admitted.

15. In the Answer, Duquesne Light denied all material allegations in the Formal Complaint. Answer and New Matter ¶ 4.

16. In the New Matter, Duquesne Light stated that after Complainant filed a Chapter 13 Bankruptcy Petition at Docket No. 18-23387-TPA in the United States Bankruptcy Court for the Western District of Pennsylvania, it assessed a \$362 security deposit on Complainant's account pursuant to Section 366. Answer and New Matter ¶ 11-13.

17. Also in the New Matter, Duquesne Light stated that failure to pay the security deposit would result in termination of service pursuant to Section 366.

### **LEGAL STANDARD**

18. The Commission's Rules of Practice and Procedure at 52 Pa. Code § 5.102 govern motions for judgment on the pleadings.

19. The Commission will grant a motion for judgment on the pleadings only if the pleadings show there is no genuine issue as to a material fact and that the moving party is entitled to judgment as a matter of law. 52 Pa. Code § 5.102(d)(1).

20. In ruling on a motion for judgment on the pleadings, the tribunal must consider as true all well-pleaded averments of the party against whom the motion is directed and consider against only those facts specifically admitted. Maureen Whitlock v. PECO Energy Co., No. F-2015-2488833, 2015 WL 7348610, at \*2 (Nov. 3, 2015) (Buckley, ALJ).

21. 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).

22. The pleadings are closed, and a hearing has not yet been scheduled. As such, this Motion for Judgment on the Pleadings will not delay the hearing in this matter.

### **ARGUMENT**

23. Complainant filed a Chapter 13 Bankruptcy Petition on or about August 28, 2018 at Docket No. 18-23387-TPA in the United States Bankruptcy Court for the Western District of Pennsylvania.

24. Under Section 366, the Company is authorized to require Complainant to pay a \$362 security deposit as adequate assurance that the Complainant will make future payments.

25. The crux of the Complaint is a security deposit assessed pursuant to the United States Bankruptcy Code, which is outside the Commission's jurisdiction.

26. Complainant's allegation that the Company has improperly disconnected or improperly threatened to disconnect his electric service is unfounded. Complainant's electric service has not been, and is not currently, terminated at the Property.

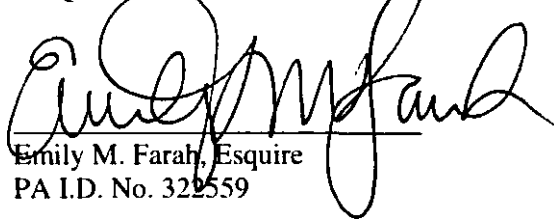
27. Complainant was merely notified that failure to pay the security deposit pursuant to Section 366 may result in termination of his electric service.

28. As the allegations in the Complaint are based in federal law, the Commission does not have jurisdiction over the Complaint. See Berkey v. Metropolitan Edison Co., Docket No. F-2018-3000765, 2018 WL 5994790, at \*10 (Nov. 2, 2018).

WHEREFORE, Respondent Duquesne Light Company, respectfully requests that the Pennsylvania Public Utility Commission deny the relief sought by Complainant in the Formal Complaint, and dismiss the Complaint with prejudice.

Respectfully submitted,

DUQUESNE LIGHT COMPANY



Emily M. Farah, Esquire  
PA I.D. No. 322559

411 Seventh Avenue, 15<sup>th</sup> Fl.  
Pittsburgh, PA 15219  
(412) 393-6431  
Counsel for Duquesne Light Company

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED  
2019 MAY 13 AM 10:29  
PA PUC  
SECRETARY'S BUREAU

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

CERTIFICATE OF SERVICE

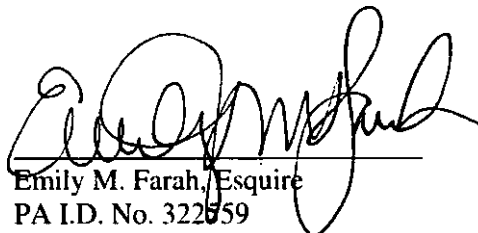
I certify that I have this day served a true copy of this Answer to Formal Complaint upon the participant listed below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant):

Kristopher Haddad  
645 Duquesne Blvd., Fl. 2  
Duquesne, PA 15110

Dated this 8<sup>th</sup> day of May, 2019.

Respectfully submitted,

DUQUESNE LIGHT COMPANY

  
Emily M. Farah, Esquire  
PA I.D. No. 322759

411 Seventh Avenue, 15<sup>th</sup> Fl.  
Pittsburgh, PA 15219  
(412) 393-6431  
Counsel for Duquesne Light Company




411 Seventh Avenue  
Pittsburgh, PA, 15219  
MD-15-7

**RETURN SERVICE REQUESTED**

PITTSBURGH  
PA 150  
09 MAY '19  
PM 4 L

FORM D81-00150 (7/16)



UNITED STATES POSTAGE  
  
PITNEY BOWES  
\$000.65<sup>0</sup>  
02 1P  
0000717342 MAY 08 2019  
MAILED FROM ZIP CODE 15219

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Keystone Building, 2<sup>nd</sup> Floor W.  
400 North Street  
Harrisburg, PA 17120

17120-009399

