



Emily M. Farah  
Counsel, Regulatory

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

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

July 22, 2019

**Via Electronic Filing**

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

**RE: James Flynn v. Duquesne Light Company  
Docket No. C-2019-3011296**

Dear Secretary Chiavetta:

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

Respectfully,

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

Emily M. Farah  
Counsel, Regulatory

Enclosure

cc: James Flynn (with enclosure)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JAMES FLYNN,

Complainant,

vs.

DUQUESNE LIGHT COMPANY,

Respondent.

:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:

No: C-2019-3011296

**PRELIMINARY OBJECTION**

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)  
(412) 393-6431  
411 Seventh Avenue, 15th Fl.  
Pittsburgh, PA 15219

**NOTICE TO PLEAD**

**TO: COMPLAINANT, JAMES FLYNN**

**YOU ARE HEREBY NOTIFIED TO FILE A WRITTEN RESPONSE TO THE WITHIN  
PRELIMINARY OBJECTION OF RESPONDENT, DUQUESNE LIGHT COMPANY, WITHIN  
TEN (10) DAYS OF SERVICE HEREOF, OR A JUDGMENT MAY BE ENTERED AGAINST  
YOU.**

DUQUESNE LIGHT COMPANY



Emily M. Farah, Esquire  
Counsel for Duquesne Light Company

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JAMES FLYNN,

Complainant,

vs.

No: C-2019-3011296

DUQUESNE LIGHT COMPANY,

Respondent.

**PRELIMINARY OBJECTIONS**

Pursuant to 52 Pa. Code. § 5.101, Duquesne Light Company (“Duquesne Light” or the “Company”) files its preliminary objection to James Flynn’s Formal Complaint:

**I. Factual Background**

1. On or about July 2, 2019, Duquesne Light was served with James Flynn’s (“Complainant”) Formal Complaint (the “Complaint”) initiating this matter.
2. Complainant alleges that his past due balance with Duquesne Light is “due to a defective heat pump as well as a third party supplier who increased [his] rate drastically.” Complaint ¶ 5.
3. Duquesne Light files this Preliminary Objection on the grounds that the Complaint fails to identify any alleged violation of a Commission rule or regulation and therefore, the Complaint is legally insufficient.

**II. Legal Argument - Complainant’s Complaint Should be Dismissed on the Grounds of Legal Insufficiency.**

4. According to Commission regulations, a preliminary objection 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. Pennsylvania Electric Co., Docket No. C-2014-2413771, 2014 WL 2003281 at \*1 (Pa. P.U.C. May 7, 2014) (Salapa, ALJ).

5. Section 703(b) of the Public Utility 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) (“The provision at 52 Pa. Code § 5.101(a)(4) serves judicial economy by avoiding a hearing where no factual dispute exists.”).

6. Even accepting as true all well-pleaded material facts and reasonable inferences, the Complaint does not raise a violation of the Public Utility Code, Commission Order or regulation, or any rule contained within the Company’s Commission-approved tariff. It is, therefore, legally insufficient.

7. Complainant admits he has a past-due balance with Duquesne Light Company, but attributes his past-due balance to “a defective heat pump as well as a third party supplier who increased [his] rates drastically.” Complaint ¶ 5.

8. According to the Complaint, the “past due balance of over \$7[, ]000,” is not due to any act or omission done or about to be done or omitted by Duquesne Light Company. Complaint ¶ 5.

9. Any dispute Complainant has regarding the supply charges on his account while enrolled with a third-party electric generation supplier (“EGS”) is with the EGS, and not Duquesne Light.

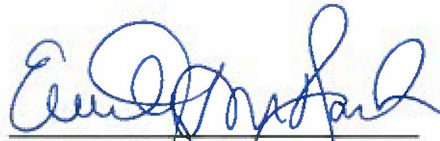
10. Any dispute Complainant has regarding his alleged defective heat pump is with the party who manufactured, installed, or maintained that heat pump, and not Duquesne Light.

11. Because the Complaint fails to state an act or omission to be done or about to be done by Duquesne Light Company in violation of its Commission-approved tariff, the Commission’s regulations, or Commission’s orders, the Complaint is legally insufficient.

12. Consequently, the Complaint fails as a matter of law, and must be dismissed in its entirety.

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

DUQUESNE LIGHT COMPANY



---

Emily M. Farah, Esquire  
411 Seventh Avenue, 15th Fl.  
Pittsburgh, PA 15219  
efarah@duqlight.com  
(412) 393-6431  
Counsel for Respondent,  
Duquesne Light Company

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JAMES FLYNN

Complainant,

vs.

DUQUESNE LIGHT COMPANY,

Respondent.

:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:

No: C-2019-3011296

**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):

James Flynn  
117 Old Quarry Road  
Clinton, PA 15026

Dated this 22<sup>nd</sup> day of July, 2019



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