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August 20, 2020

Via Electronic Filing

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

RE: James Maloney v. Duquesne Light Company
Docket No. C-2020-3021171

Dear Secretary Chiavetta:

Enclosed please find Duquesne Light Company's Preliminary Objection to the Formal Complaint filed by James Maloney. A copy of this document and the enclosed filing were 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 a faint, larger version of the signature.

Emily M. Farah
Counsel, Regulatory

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JAMES MALONEY,	:	
	:	
Complainant,	:	
	:	
v.	:	No: C-2020-3021171
	:	
DUQUESNE LIGHT COMPANY,	:	
	:	
Respondent.	:	

PRELIMINARY OBJECTION

Filed on behalf of Respondent
Duquesne Light Company

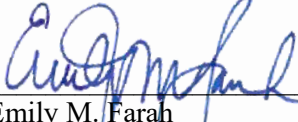
Counsel of Record for this Party:
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NOTICE TO PLEAD

TO COMPLAINANT JAMES MALONEY:

YOU ARE HEREBY NOTIFIED TO FILE A WRITTEN RESPONSE TO RESPONDENT'S PRELIMINARY OBJECTION WITHIN 10 DAYS OF SERVICE PURSUANT TO 52 PA. CODE §5.101 OR A JUDGMENT MAY BE ENTERED AGAINST YOU.

DUQUESNE LIGHT COMPANY



Emily M. Farah
Counsel for Duquesne Light Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JAMES MALONEY,	:	
	:	
Complainant,	:	
	:	
v.	:	No: C-2020-3021171
	:	
DUQUESNE LIGHT COMPANY,	:	
	:	
Respondent.	:	

PRELIMINARY OBJECTION

Pursuant to 52 Pa. Code § 5.101(a)(1), Duquesne Light files its preliminary objection to James Maloney’s Formal Complaint docketed at C-2020-3021171, and in support thereof, states as follows:

I. FACTUAL BACKGROUND

1. On or about April 10, 2020 Duquesne Light was dispatched to Complainant’s property, located at 271 Woods Avenue, Pittsburgh, PA 15202 (the “Property”) in response to a downed electrical wire.
2. Complainant contends that Duquesne Light caused damage to the Property in the process of restoring service. Complaint ¶¶ 4-5.
3. Complainant seeks to be compensated for the alleged damage to the Property in excess of \$6,700. See Complaint ¶¶ 4-5.
4. Duquesne Light seeks to dismiss the Formal Complaint in its entirety because the Pennsylvania Public Utility Commission (“Commission”) lacks jurisdiction to provide Complainant with monetary damages.

II. LAW AND ARGUMENT

5. Pursuant to 52 Pa. Code § 5.101(a)(1), a party may file a preliminary objection for “[l]ack of Commission jurisdiction.”

6. Duquesne Light filed the present Preliminary Objection because the Commission lacks jurisdiction over the Complainant's requested relief.

7. The Complainant plainly states that the sole request for relief is monetary damages. See Complaint ¶ 4 ("I am seeking compensation from Duquesne Light to restore the wall and replace the tree"); Complaint ¶ 5 ("I would like the PUC to order Duquesne Light to pay \$5500 for wall repairs, \$1200 for tree replacement, all expenses moving forward related to pursuing this claim and to be made whole in every way.").

8. The Commission must act within its jurisdiction, and may only hear complaints regarding the Pennsylvania Code, Commission Regulations or Commission Order. 66 Pa. C.S. § 701; Haleema B. Alkhatib v. PECO Energy Co., C-2011-2242125, 2012 WL 641672, at *5 (Pa. P.U.C. Jan. 12, 2012); City of Pittsburgh v. Pa. Pub. Util. Comm'n., 43 A.2d 348, 348 (Pa. Super. 1945).

9. The Commission lacks jurisdiction to award damages or to litigate a private action for damages on behalf of a complainant. Poorbaugh v. Pa. Public Utility Comm'n., 666 A.2d 744 (Pa. Cmwlth. 1995).

10. As stated on the Complaint form on which the Complainant filed initiated this matter, the Commission "cannot decide whether a utility or company should pay customers for loss or damages. Damage claims may be sought in an appropriate civil court." Complaint, p. 3.

11. Accordingly, the Commission lacks the jurisdiction to award the monetary damages sought in the Complaint. See Complaint ¶¶ 4-5.

12. For these reasons, the Formal Complaint should be dismissed because it is outside of the Commission's jurisdiction to provide the Complainant with his sole request for relief, namely, money damages.

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

DUQUESNE LIGHT COMPANY



Emily M. Farah
Counsel for Duquesne Light Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

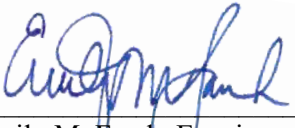
JAMES MALONEY,	:	
	:	
Complainant,	:	
	:	
vs.	:	No: C-2020-3021171
	:	
DUQUESNE LIGHT COMPANY,	:	
	:	
Respondent.	:	

CERTIFICATE OF SERVICE

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

James Maloney
271 Woods Avenue
Pittsburgh, PA 15202
jmaloneyjr@hotmail.com

Dated this 20th day of August, 2020.



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