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November 30, 2020

**Via Electronic Filing**

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

**RE: A. Raymond Kochis v. Duquesne Light Company  
Docket No. C-2019-3012955**

Dear Secretary Chiavetta:

Enclosed please find Duquesne Light Company's Reply Exceptions in the matter indicated above. Copies of this document and the enclosed filing have been served upon the parties listed in the Certificate of Service.

Please contact me with any questions, comments, or concerns.

Respectfully,

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  
Duquesne Light Company  
Counsel, Regulatory

Enclosure

cc: Certificate of Service (with enclosure)



**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

A. RAYMOND KOCHIS	:	
	:	
Complainant,	:	
	:	
vs.	:	No: C-2019-3012955
	:	
DUQUESNE LIGHT COMPANY,	:	
	:	
Respondent.	:	

**DUQUESNE LIGHT’S REPLY EXCEPTIONS**

Respondent Duquesne Light Company (“Duquesne Light” or the “Company”) files this Motion for Judgment on the Pleadings pertaining to the above-captioned Formal Complaint filed by A. Raymond Kochis (“Complainant”), pursuant to 5.102(a) and states as follows:

**I. BACKGROUND**

Complainant filed a formal complaint at Docket No. C-2017-2601038 on or about April 26, 2017 (“Prior Complaint”) alleging incorrect charges appeared on his Duquesne Light bills and alleging that the Company improperly threatened to terminate his electric service. Administrative Law Judge Katrina Dunderdale issued an Initial Decision denying the Prior Complaint on January 22, 2018. The Initial Decision became final on April 26, 2018 when the Complainant failed to file Exceptions by the required due date. The Complainant filed the present formal complaint at docket no. C-2019-3012955 on or about September 18, 2019 (“Present Complaint”). The Present Complaint made the same two allegations in the Prior Complaint, but added a request for a payment arrangement. Present Complaint ¶ 4. The request for a payment arrangement was subsequently removed at the hearing for the Present Complaint. See Initial Decision, p. 3, FOF

No. 5. Administrative Law Judge Mark A. Hoyer held a hearing on the Present Complaint on February 10, 2020, and subsequently issued an Initial Decision denying the Prior Complaint on July 30, 2020. On November 20, 2020, the Secretary's Bureau docketed Complainant's Exceptions to Administrative Law Judge Mark A. Hoyer's Initial Decision. In response to Complainant's exceptions, Duquesne Light Company files this Reply.

## II. FACTS

Complainant's Exceptions make one reference to the Initial Decision denying the Present Complaint, specifically, the Findings of Fact related to when the Complainant was present in his home, located at 416 Commonwealth Avenue, West Mifflin, PA 15122 (the "Property"). Upon information and belief, Complainant's Exceptions attempt to re-assert his position that he should not be billed for electric service when he is not present at the Property. See Initial Decision, p. 3, FOF No. 5.

## III. LAW AND ARGUMENT

### A. **The Initial Decision rightfully denied the Present Complaint on the basis of *res judicata* and collateral estoppel.**

Collateral estoppel is a doctrine of issue preclusion that seeks to prevent the re-litigation of a finally litigated issue of law or fact in a subsequent proceeding between the same parties. Baker v. Pa. Human Relations Comm'n., 462 A.2d 881 (Pa.Cmwlt. 1983).

For the doctrine of collateral estoppel to apply, four requirements must be met: (1) the issues decided in the prior adjudication are identical to the ones presented in the later action, (2) there was a final judgment on the merits, (3) the party against whom collateral estoppel is asserted was a party or in privity with a party to the prior adjudication, and (4) the party against whom collateral estoppel is asserted had a full and fair opportunity to litigate the issue in question in the prior action. Day v. Volkswagenwerk Aktiengesellschaft, 464 A.2d 1313 (Pa.Super. 1983).

Here, Complainant's allegation that he is not responsible for the electric charges that accrued while he is not physically present at the Property has already been fully litigated during the hearing for the Prior Complaint. At hearing, Complainant testified that he should not be billed for distribution charges when he is absent from his home and allegedly not using any electricity. Initial Decision, pg. 5 (citing Tr. 17-18).

Here, all elements of the collateral estoppel doctrine have been met. Specifically, the issues pertaining to the Company's termination attempts and charges on Complainant's bills were decided in the Prior Complaint and are identical to the ones presented in the Present Complaint action, (2) final judgment for those two issues were adjudicated on the merits, (3) the parties in the Prior Complaint and the Present Complaint are identical, and (4) the Complainant had a full and fair opportunity to litigate the issues in question in the Prior Complaint.

In summary, it is not in the public's or the Commission's best interest to entertain or afford the Complainant with another bite at the apple. The Initial Decision rightfully denied the Complainant's claims on the basis that collateral estoppel has attached.

**B. The allegation that the Complainant is not responsible for electric charges associated with his Property while he is not physically present is inaccurate as a matter of law.**

Even if the Commission determines that the claims made by the Complainant had not been subject to a Final Order, the allegation that the Complainant is not responsible for electric charges while he is not physically present at the Property are incorrect as a matter of law.

Customers are obligated to pay for utility service. If customers fail to pay for utility service, the cost of the unpaid bills fall on the backs of the remaining customers as a part of a utility's uncollectible expenses. Bolt v. Duquesne Light Co., Docket No. Z-8712758 (April 8, 1988).

Here, it is undisputed that the Complainant is the Property owner and named account holder for electric service provided to the Property. See Initial Decision, p. 3, FOF Nos. 1-2. As the account holder of record, Complainant is responsible for the electric charges attributable to the Property regardless of whether he physically resided there for certain periods of time. See 52 Pa. Code § 56.2 (defining a “customer” as a natural person at least 18 years of age in whose name a residential service account is listed[.]”)

In summary, the Complainant is responsible for the Duquesne Light electric charges that have accrued at the Property because the electric service is listed in his name.

#### **IV. CONCLUSION**

Complainant seeks to re-litigate a claim that is subject to an Initial Decision, the Administrative Law Judge correctly denied the Present Complaint. Duquesne Light respectfully requests that the Commission affirm the Initial Decision and mark the Complaint as closed. Should Duquesne Light further reserves the right to address any and all matters as may be necessary throughout the course of this proceeding.

**WHEREFORE**, Respondent Duquesne Light Company, respectfully requests that the Pennsylvania Public Utility Commission deny the Complainant’s Exceptions, with prejudice.

Respectfully submitted,

DUQUESNE LIGHT COMPANY



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(412) 393-6431

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Complainant,	:	
	:	
vs.	:	No: C-2019-3012955
	:	
DUQUESNE LIGHT COMPANY,	:	
	:	
Respondent.	:	

**CERTIFICATE OF SERVICE**

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

**VIA FIRST-CLASS MAILING**

A. Raymond Kochis  
416 Commonwealth Avenue  
West Mifflin, PA 15122

A. Raymond Kochis  
311 Case Ave  
Sharon, PA 16146

**ELECTRONIC MAILING**

Pennsylvania Public Utility Commission  
Office of Special Assistants  
ra-OSA@pa.gov

Dated this 30th day of November, 2020.



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