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December 21, 2020

**Via Electronic Filing**

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

**RE: Susan Blake v. Duquesne Light Company**  
**Docket No. C-2020-3023154**

Dear Secretary Chiavetta:

Enclosed please find Duquesne Light Company's Preliminary Objection to the Formal Complaint filed by Susan Blake. Copies 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".

Emily M. Farah  
Counsel, Regulatory

cc: Susan Blake (w/encl.)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

SUSAN BLAKE,	:	
	:	
Complainant,	:	
	:	
v.	:	No: C-2020-3023154
	:	
DUQUESNE LIGHT COMPANY,	:	
	:	
Respondent.	:	

**PRELIMINARY OBJECTION**

Filed on behalf of Respondent  
Duquesne Light Company

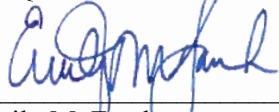
Counsel of Record for this Party:  
Emily M. Farah, Esquire  
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**NOTICE TO PLEAD**

**TO COMPLAINANT SUSAN BLAKE:**

**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  
Counsel for Duquesne Light Company

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

SUSAN BLAKE	:	
	:	
Complainant,	:	
	:	
v.	:	No: C-2020-3023154
	:	
DUQUESNE LIGHT COMPANY,	:	
	:	
Respondent.	:	

**PRELIMINARY OBJECTION**

Pursuant to 52 Pa. Code §§ 5.101(a)(1), Duquesne Light files its Preliminary Objection to the Formal Complaint (“Complaint”) filed by Susan Blake, and in support thereof, states as follows:

**I. INTRODUCTION**

1. Duquesne Light seeks to dismiss the Complaint in its entirety because the Pennsylvania Public Utility Commission (“Commission” or “PUC”) lacks the legal authority and jurisdiction to provide Complainant with the requested relief in the form of a monetary judgment.

2. The Complaint states, in part, “I would like Duquesne Light to compensate me for the repairs to my hot tub.” Complaint Statement Paper.

3. Because the sole relief sought in the Complaint is relief the Commission lacks the legal authority to award, the Complaint must be dismissed in its entirety.

**II. BACKGROUND**

4. Duquesne Light is an electric distribution company certificated as a public utility permitted to operate within the Commonwealth in Pennsylvania.

5. The Commission's Rules of Practice and Procedure permit parties to file preliminary objections. The grounds for preliminary objections are limited to those set forth in 52 Pa. Code § 5.101(a) as follows:

- (1) Lack of Commission jurisdiction or improper service of the pleading initiating the proceeding.
- (2) Failure of a pleading to conform to this chapter or the inclusion of scandalous or impertinent matter.
- (3) Insufficient specificity of a pleading.
- (4) Legal insufficiency of a pleading.
- (5) Lack of capacity to sue, nonjoinder of a necessary party or misjoinder of a cause of action.
- (6) Pendency of a prior proceeding or agreement for alternative dispute resolution.
- (7) Standing of a party to participate in the proceeding.

6. The Commission's procedural regulations allow a party to file a preliminary objection to pleadings that fail to comply with the rules of administrative practice or where the Commission lacks jurisdiction over the proceeding. See 52 Pa. Code § 5.101(a)(1).

7. On December 4, 2020, the Company was electronically served with Complainant's Formal Complaint at the above-captioned docket.

8. Duquesne Light is timely filing its Answer contemporaneously with this Preliminary Objection.

### **III. LAW AND ARGUMENT**

9. The Complaint is requesting to be "compensated for the repairs to [Complainant's] hot tub." Complaint Statement Paper.

10. Specifically, Complainant states, "I would like Duquesne Light to compensate me for the repairs to my hot tub. I had to pay \$812.13 to have it fixed." Complaint Statement Paper.

11. Clearly, the sole relief sought in the Formal Complaint is an award of monetary damages from the Company.

12. It is well established that the Commission does not have jurisdiction over actions for damages. Horowitz v. PECO, Docket No. C-2013-2382740, 2013 WL 7019109, at \*3 (Dec. 30, 2013).

13. In Elkin v. Bell Telephone Co., 420 A.2d 371 (Pa. 1980), the Superior Court of Pennsylvania stated:

The courts retain jurisdiction of a suit for damages based on negligence or breach of contract wherein a utility's performance of its legally imposed and contractually adopted obligations are examined and applied to a given set of facts.

Elkin, 420 A.2d at 379 (citations omitted).

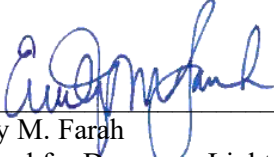
14. Further, “[t]here is no question that the Commission lacks authority to award damages.” Horowitz at \*3, citing Terminato v. Pa. National Insurance Co., 645 A.2d 1287 (Pa. 1994); Elkin v. Bell Telephone Co., 420 A.2d 371 (Pa. 1980); Feingold v. Bell Telephone Co. of Pa., 383 A.2d 791 (Pa. 1977); Ostrov v. I.F.T., Inc., 586 A.2d 409 (Pa. Super. 1991); Poorbaugh v. Pa. Pub. Util. Comm'n, 666 A.2d 744 (Pa. Cmwlth. 1995).

15. The Commission’s jurisdiction is limited only to “regulatory matters essential to utility service.” Horowitz at \*3.

16. Because Complainant’s sole relief is a request for monetary damages in the amount of \$812.13, and granting of such relief is outside the Commission’s jurisdiction, the Complaint must be dismissed in its entirety.

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

DUQUESNE LIGHT COMPANY

  
\_\_\_\_\_  
Emily M. Farah  
Counsel for Duquesne Light Company

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

SUSAN BLAKE,	:	
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Complainant,	:	
	:	
v.	:	No: C-2020-3023154
	:	
DUQUESNE LIGHT COMPANY,	:	
	:	
Respondent.	:	

**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):

Susan Blake  
258 Emlyn Street  
North Versailles, PA 15137

Dated this 21st day of December, 2020.



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Counsel for Respondent, Duquesne Light  
Company