



Emily M. Farah
Counsel, Regulatory

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

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

June 18, 2021

Via Electronic Filing

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

RE: Jevan, LLC v. Duquesne Light Company
Docket No. F-2021-3025453

Dear Secretary Chiavetta:

Enclosed please find Duquesne Light Company's Motion for Judgment on the Pleadings in the above-mentioned matter. A copy of this document and the enclosed filing have been served upon the participants in the manners indicated in the enclosed 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 light blue circular stamp.

Emily M. Farah
Counsel, Regulatory
Duquesne Light Company

Enclosure

cc: Certificate of Service (with enclosure)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JEVAN LLC,	:	
	:	
Complainant,	:	
	:	
v.	:	No: F-2021-3025453
	:	
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 above-captioned formal complaint (“Complaint” or “Formal Complaint”) filed by Jevan, LLC. (“Complainant” or “JEVAN”) regarding electric service at 1430-1432 Potomac Avenue, Pittsburgh, PA 15216 (the “Property”), pursuant to 52 Pa. Code § 5.102(a), and states as follows:

I. OVERVIEW

1. The Formal Complaint must be dismissed because Complainant is a registered business entity who is not represented by an attorney licensed to practice law in the Commonwealth of Pennsylvania.

2. Accordingly, Duquesne Light’s Motion for Judgment on the Pleadings should be granted, and the Formal Complaint should be dismissed with prejudice.

II. FACTUAL AND PROCEDURAL BACKGROUND

3. On April 23, 2021, the above-captioned Formal Complaint was served upon Duquesne Light.

4. The Formal Complaint listed the customer for electric service at the Property as “Jevan LLC.” Complaint ¶ 1.

5. On May 13, 2021, the Company filed a timely Answer and New Matter to the Formal Complaint.

6. Duquesne Light’s Answer and New Matter, included a “Notice to Plead” addressed to Complainant, which stated, **“YOU ARE HEREBY NOTIFIED TO FILE A WRITTEN RESPONSE TO THE WITHIN NEW MATTER WITHIN 20 DAYS OF SERVICE PURSUANT TO 52 PA. CODE §5.63 OR A JUDGEMENT MAY BE ENTERED AGAINST YOU.”** (bold in original).

7. 36 days have passed since the Answer and New Matter were filed with the Pennsylvania Public Utility Commission (“Commission”) and served upon the Complainant.

8. Complainant has not filed a response to Duquesne Light’s New Matter as of the date of this filing.

9. 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.”).

10. Duquesne Light respectfully requests that the Commission deem the allegations in its New Matter admitted.

III. LEGAL STANDARD

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

12. 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).

13. 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. Whitlock v. PECO Energy Co., Docket No. F-2015-2488833, 2015 WL 7348610, at *2 (Nov. 3, 2015).

14. 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).

15. The pleadings are closed in this case, and a hearing has not yet been scheduled.

16. Accordingly, this Motion for Judgment on the Pleadings will not delay the hearing, should one be necessary.

IV. ARGUMENT

17. The Complaint must be dismissed because Complainant is a business corporation who is not represented by an attorney licensed to practice law in the Commonwealth of Pennsylvania.

18. The Complaint was written by Justin Berger on behalf of JEVAN to dispute the charges at the Property associated with foreign wiring. Complaint ¶¶ 1, 4-5, 9.

19. The electric account holder for charges relating to foreign wiring at the Property is, JEVAN. See Complaint ¶ 1; Answer and New Matter **Exhibit D**.

20. JEVAN is an active and registered business entity listed on the Pennsylvania Department of State's website. See Answer and New Matter **Exhibit B**.

21. The Property owner for the address at issue in the Complaint is JEVAN. See Complaint ¶ 1; Answer and New Matter **Exhibit A**.

22. Under 52 Pa. Code §§ 1.21-22, a company must have an attorney licensed to practice law in the Commonwealth of Pennsylvania represent them in this proceeding.

23. JEVAN is not represented by counsel, but by Justin Berger, who is a non-attorney representative of the company. Answer and New Matter ¶ 16.

24. Given that the Complainant, JEVAN, must be represented by a licensed attorney in this proceeding under 52 Pa. Code §§ 1.21-22, the Formal Complaint must be dismissed with prejudice.

25. The pleadings in this matter show that there is no genuine issue of material fact as to whether the Complainant is a business entity being represented by a non-lawyer in this proceeding.

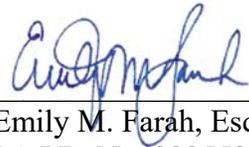
26. As such, Duquesne Light Company is entitled to judgment as a matter of law.

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WHEREFORE, Respondent Duquesne Light Company, respectfully requests that the Pennsylvania Public Utility Commission grant its Motion for Judgement on the Pleadings, deny the relief sought by the Complainant, and dismiss the Complaint with prejudice.

Respectfully submitted,

DUQUESNE LIGHT COMPANY



Emily M. Farah, Esquire
PA I.D. No. 322559
411 Seventh Avenue, Mail Drop 15-7
Pittsburgh, PA 15219
(412) 393-6431
Counsel for Duquesne Light Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JEVAN LLC,	:	
	:	
Complainant,	:	
	:	
v.	:	No: F-2021-3025453
	:	
DUQUESNE LIGHT COMPANY,	:	
	:	
Respondent.	:	

CERTIFICATE OF SERVICE

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

VIA FIRST-CLASS MAILING AND ELECTRONIC MAILING

JEVAN, LLC
c/o Justin Berger
1430 Potomac Avenue
Pittsburgh, PA 15216
Juberger18@gmail.com

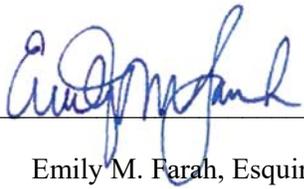
VIA FIRST-CLASS MAILING

JEVAN, LLC
229 Meadowfield Lane
Clairton, PA 15025

VIA ELECTRONIC MAILING ONLY

Honorable Eranda Vero, Administrative Law Judge
Pennsylvania Public Utility Commission
Commonwealth Keystone Building, Second Floor
400 North Street
Harrisburg, PA 17120
evero@pa.gov

Dated this 18th day of June, 2021.


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