

To: Pennsylvania Public Utility Commission

From: Karen A. Feitt & Higinio Mendoza Jr.

Date: 01/01/2023

Re: Complainants **Answers** of Respondents Preliminary Objections (Case No: C-2022-3037095)

Dear, Pennsylvania Public Utility Commission (Et al):

This communication is in response to Respondent Preliminary Objections. Page 2 of the Respondents preliminary objections under paragraph underlined bolded preliminary objections Respondent has one "Complaint" Karen A. Feitt, however an email was (Photo)sent to the Respondent for the correction from the Complaint that establishes the complaint form sent to the Pennsylvania Public Utility Commission clearly displays the complaint form was signed by HIGINIO MENDOZA JR. This distinction establishes an error.

I. Answers to the Introduction of Respondents Preliminary Objections

1. We agree.
2. We agree.
3. Complaint agree in part, and disagrees in part, that the Pennsylvania Public Utility Commission has jurisdiction over matters concerning Complainants claim of a billing error (see Act 129 of 2008 Bill/ cost recovery), therefore, Complaints is afforded due process with the Pennsylvania Public Utility Commission having jurisdiction. Furthermore, the Complainant agrees in part that specific laws, Truth in Lending Act, Fair Debt Collection Practice Act, Fair Credit Reporting Act, and the Uniform Commercial Code cannot be ruled with the Pennsylvania Public Utility Commission having jurisdiction, however the Pennsylvania Public Utility Commission has jurisdiction over matters that can be ruled upon, regarding real-time pricing, and market misconduct.

II. Answers to Respondents basis for Preliminary Objections

1. Complainants agrees in part, and disagrees in part. The Complainants agrees that the Commission's Rules of Practice and Procedure permit parties to file preliminary objections, and limited as set forth by law (Code 52 Pa. 5.101(a), however the Pennsylvania Public Utility Commission has jurisdiction from the rulemaking to amend the provisions of 52 Pa. Code, Chapter 56 to comply with the amended provisions of 66 Pa. C.S. Chapter 14. Specifically, the Tentative Order addresses three aspects of Chapter 14: court orders relating to protection from abuse, and privacy guidelines relating to the means of communication used to provide notice of termination of service. The Respondent states the Pennsylvania Public Utility Commission
 - (1) Lack of jurisdiction or improper service of the pleading initiating the proceeding, but the Complainants disagrees, and it is common knowledge that the Commission has jurisdiction consisting of rulemaking.
 - (2) Complainant disagrees that Respondents alleges failure of the pleading in is conformity, inclusion of

scandalous or impertinent matter due to that on February 25, 2021, the Pennsylvania Public Utility Commission (“Commission” or “PUC”) issued a Tentative Order, regarding three outstanding issues from the rulemaking to amend the provisions of 52 Pa. Code, Chapter 56 to comply with the amended provisions of 66 Pa. C.S. Chapter 14. Specifically, the Tentative Order addresses the following three aspects of Chapter 14: court orders relating to protection from abuse, and privacy guidelines relating to the means of communicating used to provide notice of termination of service.) Complainants alleges an error in billing, therefore guidelines relating to the means of communicating should be used to provide avoid notice of termination of service, or any adverse actions by Respondents place of business.

(3) Complainants disagree because or claim indicates that we the obligors believe that the statement of account sent by Respondents place of business contains a billing error and the amount of such billing error is specific in our claim.

(4) The Complainants disagrees with this response to this Preliminary objection, and the legal matters within this response establishes legal sufficiency, due to the fact that Complainant up request, or order can amend the pleading.

(5) The Complainant disagree with this Respondent statement of having lack of capacity to sue, nonjoinder of a necessary party or misjoinder of a cause of action due to the fact the no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. The Courts has determined that due process requires, at a minimum an opportunity to be heard with any impartiality.

(6) Pendency or a prior proceeding or agreement for alternative dispute resolution is at best disagreed. The Complaint establishes "Nunc Pro Tunc" as it was then it is now, being pending due to a state or time frame was settled by law, not awaiting. The Complainant was not given alternative dispute resolution, furthermore, the Respondent has refused in the most recent past regarding mediation (Office of Attorney General Complaint/ BCP-22-05-02818: Dated November 2, 2022) regarding requested mediation that Respondent Supervisor Regulatory Consumer Relations refused.

(7) We the Complainants are within our capacity to bring suit, recovery or restitution for equitable relief, protection from abuse or wrongs of billing errors.

2. Complainants agree The Commission procedural regulations allow a party to file a preliminary objection where the Commission lacks jurisdiction over the proceeding.

3. Complainants disagrees with Respondent request to dismiss. Complainant can amend the Complaint or invoke the Commission rulemaking, issued Tentative Order, or **standard billing practices** over the proceedings. Complainants agree the Commission lack jurisdiction to interpret federal law, and Uniform Commercial Code (UCC).

III. Rebuttal to Respondents Argument

4. Complainants agree The Commission procedural regulations allow a party to file a preliminary objection where the Commission lacks jurisdiction over a proceeding.

5. Complainants agree in part, and disagree in part. Complaint rebuttal to the matter is agreed

upon that the Commission has limited powers due to the legislature. Likewise, Respondents attorney cannot produce legislative law authority, statutes at large that is under congressional enacted authority that allows Respondent attorney to create this paperwork against the Complainants claim.

6. Complainants agree that the Commission must act within its jurisdiction, however the Commission issued a Tentative Order, regarding outstanding issues from the rulemaking to amend the provisions of 52 Pa. Code, Chapter 56 to comply with the amended provisions of 66 Pa. C.S. Chapter 14. Specifically, the Tentative Order addressed aspects of what appears as relative to Complainants claim. Chapter 14 court orders relating to protection from abuse, and privacy guidelines relating to the means of communicating used to provide notice of termination of service. Complainants alleges an error in billing, that appears as an abuse, therefore guidelines relating to the means of communicating should be used to provide avoid notice of termination of service, or any adverse actions from Respondents place of business. Therefore, the Commission has control within the Public Utility Codes, Commission regulations, Commissions orders to move with its administrative process for Complainant who is a consumer, regarding relief.

7. Complainants rebuttal to this argument establishes an agreement in part the Commission does not have jurisdiction over claims arising under the United States Code, or the UCC, however could process a claim within its **discretion by an Order of Court Commission regulations**, or Public Utility Codes to decide what should be done in a particular situation.

8. Complainants rebuttal to this argument establishes an agreement in part, however disagrees of the alleged violations being Acts that are claims arising under the United States Code, UCC. General rule-- PA law 1965 Act 356 (i) An institution may, subject to any applicable restriction under other provisions of this act, lend money, extend credit and discount or purchase evidences of indebtedness and agreements for the payment of money at such interest, **finance charge**, rate or terms authorized under this section or at **any interest**, finance charge, rate or terms permitted for any other financial institution or any other lender regulated by any Federal or State supervisory authority on the specified class of loan. (ii) This section shall govern all direct and indirect extensions of credit by an institution for personal, family, household, business or agricultural purposes to an individual, a partnership, a limited liability company or an unincorporated association, whether as closed-end credit or open-end credit. (c) **Disclosures**--In connection with any loan or extension of credit, an institution shall make disclosures required by applicable Federal law, including the Real Estate Settlement Procedures Act of 1974 (Public Law 93-533, 88 Stat. 1724), the Truth in Lending Act and the Equal Credit Opportunity Act (Public Law 93-495, 15 U.S.C. § 1691 et seq.), in lieu of any disclosure requirement that may be imposed under Pennsylvania law. Just as important Act Title 66 (Public Utilities) of the Pennsylvania HOUSE BILL No. 2200 Session of 2008 establishes cost, and in the most instant case the Complainant claim is that of a billing error. Act Title 66 states and I quote the AVAILABILITY OF ADEQUATE, RELIABLE, AFFORDABLE, EFFICIENT, ENVIRONMENTALLY SUSTAINABLE **ELECTRIC SERVICE** AT THE LEAST **COST**, TAKING INTO ACCOUNT ANY BENEFITS OF PRICE STABILITY, OVER TIME.

8. Complainants rebuttal to this argument establishes an agreement in part, however disagrees in part. The allege violation of the claim arises under the United States Code, UCC, however the

Complainant request is within the power of the Commission regarding cost of a bill, or billing errors.

9. Complainants rebuttal to this argument establishes an agreement in part, however disagrees in part. The Complainants disagree due to the fact that an interpretation by the Commission **under Act 129** cost recovery, real time pricing plans, in lieu of any disclosure requirement that may be imposed under Pennsylvania law can be addressed by the Commission. Although Complainants agree that an application, or interpretation is outside of Commission jurisdiction, however Complainant should be allowed to amend their claim.

10. Complainants rebuttal to this argument disagrees. Although it may appear that Complainant allegations arises from federal law, UCC, however Complainant makes a clear distinction that is rooted within the reach of the Commission.

11. Complainants rebuttal to this argument establishes an agreement in part, however disagrees in part. The Commission has within its power to grant relief for the consumer regarding market misconduct, cost recovery, however agreed upon that outside of the Commission jurisdiction is federal law. It is not a federal law, but a uniformly adopted state law because uniformity of law is essential in this area for the interstate transaction of business. The UCC has been universally adopted, therefore, the Commission can enter and hear Complainants claim with confidence that the terms will be enforced in the same way by the Courts of every American jurisdiction.

WHEREFORE, KAREN A. FEITT, and HIGINIO MENDOZA JR, respectfully requests that the Commission dismiss Respondents Preliminary Objections in portions of the above-captioned formal complaint having sufficient jurisdiction to rule upon

KAREN A. FEITT, and HIGINIO MENDOZA JR

A handwritten signature in black ink, appearing to read "Higinio Mendoza Jr.", with a stylized flourish at the end.

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

KAREN A. FEITT, HIGINIO MENDOZA JR
Complainant,

v.

No: C-2022-3037095

DUQUESNE LIGHT COMPANY
Respondent,

Certificate of Service

I, Higinio Mendoza, Jr. hereby certify that a true and correct copy has been electronically (emailed) submitted mailed to the opposing counsel at the address below on this day Tuesday, January 3, 2023.

Emily M. Farah, Esquire
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Counsel for Respondents



Mendoza, Jr., Higinio (CLA)