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January 9, 2023

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

**Re: Laura Andracchio Johnson & Charles Johnson v. Duquesne Light Company
Docket No. C-2022-3032695**

Dear Secretary Chiavetta:

Enclosed for filing please find the Answer of Duquesne Light Company to the Motion For Determination That The PUC Lacks Primary Jurisdiction To Decide The Question Transferred By The Court Of Common Pleas, And To Transfer Matter Back To Common Pleas in the above referenced. A copy has been served accordance with the attached Certificate of Service.

If you have any questions, please contact me.

Best Regards

STEVENS & LEE



Michael A. Gruin

Enclosures

cc: Certificate of Service
ALJ Emily Devoe (via email)

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

LAURA ANDRACCHIO JOHNSON &	:	
CHARLES JOHNSON	:	
Complainants	:	
	:	Docket No. C-2022-3032695
v.	:	
	:	
DUQUESNE LIGHT COMPANY	:	
Respondent	:	

**DUQUESNE LIGHT COMPANY’S ANSWER TO MOTION FOR DETERMINATION
THAT THE PUC LACKS PRIMARY JURISDICTION TO DECIDE THE QUESTION
TRANSFERRED BY THE COURT OF COMMON PLEAS AND TO TRANSFER
MATTER BACK TO THE COURT OF COMMON PLEAS**

Duquesne Light Company (“Duquesne Light”) hereby files its Answer to the Complainant’s Motion For Determination That The PUC Lacks Primary Jurisdiction To Decide The Question Transferred By The Court Of Common Pleas, And To Transfer Matter Back To Common Pleas (“Motion”). As set forth herein, the Motion should be denied, with prejudice.

1. Duquesne Light opposes the Motion, for the reasons set forth in Duquesne Light’s Memorandum on Preliminary Objections, filed on November 4, 2022, and in Duquesne Light’s Reply Memorandum on Preliminary Objections, filed on November 16, 2022, both of which are incorporated in full herein by reference.

2. For the reasons stated in Duquesne Light’s previously filed Memoranda, the Complainants’ Motion should be denied as an improper collateral attack on the Common Pleas Court’s Bifurcation Order which stayed the Civil Action “pending a determination by the PUC as to the duty owned by Defendant to Plaintiffs regarding the location of the proposed transmission line and the appropriate time to give notice thereof.” *See* Duquesne Light’s Reply Memorandum on Preliminary Objections, at pp. 2-4.

3. The Formal Complaint filed by the Complainants' clearly raises issues over which the Commission has jurisdiction, as explained in detail in Duquesne Light's previously filed Memoranda. Specifically, the Formal Complaint makes allegations that trigger Commission jurisdiction under Section 1501 of the Public Utility Code (66 Pa.C.S. § 1501), the Commission's Final Order Establishing Interim Guidelines for the Filing of Electric Transmission Line Siting Applications, Docket No. M-2009-2141293 at 12 (Order entered Nov.4, 2010), codified at 52 Pa. Code §§ 69.3101-3107, and the Commission's regulation at 52 Pa. Code § 57.91. *See* Duquesne Light's Memorandum on Preliminary Objections, at p. 5-7, and Duquesne Light's Reply Memorandum of Preliminary Objections, at pp. 4-8.

4. If the Complainants desire to withdraw their Formal Complaint, the Commission's regulation at 52 Pa. Code §5.94 requires them to file a petition to request leave to withdraw the Formal Complaint, and in doing so the Complainants must demonstrate that the withdrawal is in the public interest.

5. It is not in the public interest to allow the Complainants to withdraw their Formal Complaint as such a withdrawal would be directly contrary to the Common Pleas Court's explicit direction in Bifurcation Order to obtain determination from the Commission on the issues raised in the Formal Complaint, and because the Formal Complaint raises important issues regarding transmission line approval issues and the timing and content of public communications regarding proposed transmission line projects that require uniformity and the Commission's technical expertise. *See* Duquesne Light's Memorandum on Preliminary Objections, at pp. 7-11.

WHEREFORE, for the reasons set forth above and in Duquesne Light's previously filed Memoranda in this matter, Duquesne Light respectfully requests that the Commission deny the Motion, with prejudice, and enter an appropriate order allowing this matter to move forward

for a resolution of the issues raised in the Formal Complaint over which the Commission has jurisdiction.



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COUNSEL FOR DUQUESNE LIGHT COMPANY

Dated: January 9, 2023

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

LAURA ANDRACCHIO JOHNSON &	:	
CHARLES JOHNSON	:	
Complainant	:	
	:	Docket No. C-2022-3032695
v.	:	
	:	
DUQUESNE LIGHT COMPANY	:	
Respondent	:	

CERTIFICATE OF SERVICE

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

VIA ELECTRONIC MAIL

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Michael Gruin

Dated: January 9, 2023