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April 3, 2023

Via Electronic Filing

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

RE: Craig Murphy v. Duquesne Light Company
Docket No. C-2023-3038940

Dear Secretary Chiavetta:

Enclosed please find Duquesne Light Company's Preliminary Objections to the Formal Complaint filed by Craig Murphy at the above-mentioned docket. A copy of this document and the enclosed filing were served upon Complainant, as indicated on the enclosed Certificate of Service.

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", is placed over a light blue rectangular background.

Emily M. Farah
Counsel, Regulatory

Enclosures

cc: Certificate of Service (w/encl.)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

CRAIG MURPHY,

Complainant,

v.

DUQUESNE LIGHT COMPANY,

Respondent.

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No: C-2023-3038940

PRELIMINARY OBJECTIONS

Filed on behalf of Respondent,
Duquesne Light Company

Counsel of Record for this Party:

Emily M. Farah, Esquire

PA I.D. No. 322559

efarah@duqlight.com

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Pittsburgh, PA 15219

NOTICE TO PLEAD

TO COMPLAINANT CRAIG MURPHY:

YOU ARE HEREBY NOTIFIED TO FILE A WRITTEN RESPONSE TO RESPONDENT'S PRELIMINARY OBJECTION(S) WITHIN 10 DAYS OF SERVICE PURSUANT TO 52 PA. CODE § 5.101 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**

CRAIG MURPHY,	:	
	:	
Complainant	:	
	:	
v.	:	No. C-2023-3038940
	:	
	:	
DUQUESNE LIGHT COMPANY,	:	
	:	
Respondent.	:	
	:	

PRELIMINARY OBJECTIONS

Pursuant to 52 Pa. Code § 5.101(a)(1), Duquesne Light files its preliminary objections to Complainant Craig Murphy’s above-captioned formal complaint (“Complaint”), and states as follows:

1. Duquesne Light seeks to dismiss the portions of the formal complaint rooted in the 14th Amendment to the United States Constitution on the basis that the Pennsylvania Public Utility Commission (“Commission”) lacks jurisdiction to address such matters.

2. 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.

3. The Commission's procedural regulations allow a party to file preliminary objections to pleadings where the Commission lacks jurisdiction over the proceeding. See 52 Pa. Code § 5.101(a)(1).

4. The Commission may only exercise powers that are expressly conferred upon it by the legislature. See Feingold v. Bell of Pa., 383 A.2d 791, 794 (Pa. 1978).

5. The Commission must act within its jurisdiction, and may only hear complaints regarding the Pennsylvania Code, Commission regulations, or Commission Order. 66 Pa. C.S. § 701; Haleema B. Alkhatib v. PECO Energy Co., Docket No. C-2011-2242125, 2012 WL 641672, at *5 (Jan. 12, 2012); City of Pittsburgh v. Pa. Pub. Util. Comm'n., 43 A.2d 348, 348 (Pa. Super. 1945).

6. The Commission has held that claims relating to violations of the United States Constitution were beyond the Commission's subject matter jurisdiction. White v. PPL Elec. Utilities Corp., Docket No. C-2018-3003468, 2019 WL 2250756 (May 6, 2019) (stating the Commission has no jurisdiction to determine if an issue violates a complainant's constitutional rights). See James Coppedge v. PECO Energy Co., Docket No. F-2009-2135893, 2010 WL 3183815, at *1 (July 29, 2010).

7. Here, the Complaint alleges that the Company violated Complainant's constitutional rights, specifically, violations of the 14th Amendment of the United States Constitution. Complaint ¶ 5.

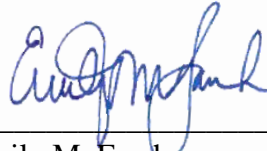
8. Application and interpretation of the United States Constitution are outside of the Commission's express jurisdiction of Pennsylvania Code, Commission regulations, or Commission Order. Alkhatib v. PECO, at *5 (Jan. 12, 2012).

9. Therefore, the Commission lacks jurisdiction over the Complainant's allegations that are rooted in alleged constitutional violations.

10. Because the Commission lacks jurisdiction over the portion(s) of the Complaint that allege a 14th Amendment constitutional violation, such allegation(s) must be dismissed pursuant to 52 Pa. Code § 5.101(a)(1).

WHEREFORE, Duquesne Light Company respectfully requests that the Commission sustain its Preliminary Objections and dismiss the portions of the Complaint based in allegations of constitutional violations.

DUQUESNE LIGHT COMPANY



Emily M. Farah
Counsel for Duquesne Light Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

CRAIG MURPHY,	:	
	:	
Complainant	:	
	:	
v.	:	No. C-2023-3038940
	:	
	:	
DUQUESNE LIGHT COMPANY,	:	
	:	
Respondent.	:	

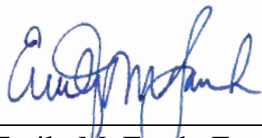
CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing Preliminary Objections 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 & ELECTRONIC MAILING ONLY

Craig Murphy
117 Friendship St.
Duquesne, PA 15110
murphy.craig.pro@gmail.com

Dated this 3rd day of April, 2023.



Emily M. Farah, Esquire
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Counsel for Duquesne Light Company