



Emily M. Farah
Counsel, Regulatory

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

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

April 18, 2023

Via Electronic Filing

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

RE: Karen Feitt & Higinio Mendoza Jr. v. Duquesne Light Company
Docket No. C-2022-3037095

Dear Secretary Chiavetta:

Enclosed please find Duquesne Light Company's Responsive Written Statement in the above-mentioned matter. Copies of this cover letter and the enclosed filing were served upon Complainants and the Presiding Officer in accordance with Pennsylvania Public Utility 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", is written over a light gray rectangular background.

Emily M. Farah
Counsel, Regulatory

Enclosures

cc: Certificate of Service (w/encl.)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

KAREN FEITT & HIGINIO MENDOZA JR.	:	
	:	
v.	:	C-2022-3037095
	:	
DUQUESNE LIGHT COMPANY	:	

**RESPONDENT DUQUESNE LIGHT COMPANY'S
RESPONSIVE WRITTEN STATEMENT**

Pursuant to the Interim Order Directing Written Statements dated March 21, 2023 (“Interim Order”), Respondent Duquesne Light Company (“Duquesne Light” or the “Company”) hereby states as follows:

I. BACKGROUND & PROCEDURAL HISTORY

On Monday, December 5, 2022, Duquesne Light was electronically served with the above-captioned formal complaint (“Complaint”). In the Complaint, the Complainants’ checked the boxes for incorrect charges on their bill and requested a payment arrangement. On December 21, 2022, Duquesne Light timely filed an Answer and Preliminary Objections to the Formal Complaint. Pursuant to the Interim Order Sustaining Preliminary Objections and Referring Complaint to Mediation dated January 9, 2023, the Administrative Law Judge (“ALJ”) sustained the Company’s Preliminary Objections and approved the parties’ request to assign the proceeding to the Commission’s Mediation Unit. On February 10, 2023, the matter was scheduled for an evidentiary hearing.

An evidentiary hearing was held on March 21, 2023, as scheduled. At hearing, the ALJ instructed the Complainants to file, by April 11, 2023, a written statement with the Secretary’s Bureau setting forth their requested relief. The ALJ also instructed Duquesne Light to file a

written response, as necessary, by April 18, 2023. The ALJ's instructions were memorialized in her Interim Order.

Complainants' written statement did not comply with the Interim Order to file their written response and the Administrative Law Judge's instructions to do so at hearing.¹ As of the date and time of this filing, the Complainants' written statement has not been posted on the Commission's online docket. Instead of properly filing their statement, the Complainants emailed their written statement to counsel for Duquesne Light, the ALJ, and Commission Secretary Rosemary Chiavetta on April 11, 2023. In the event the Commission accepts the Complainants' statement as a properly filed document, Duquesne Light provides the within response.

II. ARGUMENT

Overall, Complainants' written statement contains pseudo-legal jargon intended to confuse the parties, blur the issues, and ultimately avoid paying for utility services. While Complainants should be afforded some leeway because of their status of pro-se litigants, the Commission should deny the Complaint in its entirety for three reasons. First, the Commission must dismiss the allegations rooted in the Uniform Commercial Code, the United States Constitution, and the United States Code, because those matters are outside of the Commission's jurisdiction. Second, the Commission must dismiss the allegations related to Act 129 of 2008 ("Act 129") because such allegations were not properly plead and are wholly irrelevant to the relief requested in the Complaint. Third, the evidence presented at hearing supports a finding that the Complainants failed to carry their burden of proving that the Company violated any Commission regulation, rule, or order.

¹ Interim Order, ¶ 1 (March 21, 2023).

- A. The Complainant’s references to the Uniform Commercial Code, United States Constitution, and the United States Code should be dismissed.

The Complainants repeatedly allege issues related to the Uniform Commercial Code (“UCC”), the United States Constitution, the United States Code. For the reasons stated in Duquesne Light’s Preliminary Objections and during hearing, such allegations must be dismissed because those issues are outside of the Commission’s express jurisdiction over Pennsylvania Code, Commission regulations, or Commission orders. Duquesne Light hereby incorporates its Preliminary Objections and its jurisdictional argument(s) during hearing as if fully restated herein.

- B. The Complainant’s references to Act 129 of 2008 must be dismissed because such allegations were not properly plead and are wholly irrelevant to the relief requested in the Complaint.

In Complainants’ written statement, the Complainants make a last-ditch effort to tie their allegations to Act 129. Presumably, Complainants are arguing that Act 129 gives the Commission authority to order Duquesne Light to issue a billing credit to Complainants and relieve Complainants from their obligation to pay their electric bills. Such allegations must be dismissed because they are improperly raised and unrelated to the Complainants’ requested relief.

The Commission must dismiss the references and allegations related to Act 129 because Complainants did not properly raise Act 129 issues. Pursuant to the Interim Order Directing Written Statements dated March 21, 2023, the ALJ instructed the parties to “file a written statement which explains *how the evidence presented at the hearing* supports each party’s position” (emphasis added). There are no Act 129 matters raised in the Complaint, and the Complainants did not present evidence regarding Act 129 at hearing. Because the references to

Act 129 were first raised in the Complainants' written statement dated April 11, 2023, the references to Act 129 have been improperly raised and must be dismissed.

The Commission must dismiss the references to Act 129 because the Complainants' requested relief is unrelated to the requested relief, namely, a billing credit. In the Complaint and at hearing, Complainants made unspecific allegations of a "billing error."² Presumably, the Complainants believe that for every dollar that Duquesne Light bills them, Duquesne Light should credit their account in the same amount. In other words, Complainants believe that they should be absolved of their responsibility to pay their utility bills. This belief is evidenced in their written statement dated April 11, 2023, when they contend that Act 129 "allows cost recovery through the consumer credit transaction."³ Unfortunately for the Complainants, the purpose of the "cost recovery" in Act 129 is not what they purport it to be. The purpose of Act 129 cost recovery mechanisms is to ensure that energy efficiency measures approved by the Commission are financed appropriately.⁴ In other words, the cost recovery referenced in Act 129 is not related to consumer allegations of improper billing. Because Complainants' Act 129 allegations are unrelated to the relief requested, namely, a billing credit, Complainant's references to Act 129 must be dismissed.

- C. The evidence presented at hearing supports a dismissal of the Complaint on the basis that the Complainants failed to carry their burden of proving that Duquesne Light violated any Commission regulation, rule, or order.

It is well settled that the party seeking affirmative relief from the Commission Complainant bears the burden of proof.⁵ The evidence admitted into the record at hearing does not support a finding that Duquesne Light violated any Commission regulation, rule or order.

² Complaint ¶ 4.

³ Complainant's Written Statement, p. 2 (April 11, 2023).

⁴ See 66 Pa.C.S. § 2806.1.

⁵ 66 Pa.C.S. § 332(a).

At hearing, Duquesne Light witness, Roxanne Morris, Supervisor of Regulatory Consumer Relations for Duquesne Light, sponsored three Exhibits, which were identified as Exhibit A, Exhibit C, and Exhibit K. Additionally, the first page of Duquesne Light's Exhibit D was admitted via ALJ Motion. Duquesne Light hereby incorporates the testimony presented at hearing in support of each exhibit. For the purposes of this responsive statement, Duquesne Light will highlight Exhibit A and Exhibit C, and states as follows:

1. Exhibit A – Statement of Account

The Complainants allegation that there has been, or should be, a credit on Complainants' account in or around June 2022 is baseless. It is well settled that customers are obligated to pay for utility service provided to them.⁶ Customers' unpaid bills are included in the utility's uncollectible expense and ultimately paid by the remaining ratepayers.⁷

At hearing, Duquesne Light submitted Exhibit A, which is the Complainants' Statement of Account. The Statement of Account was generated on March 6, 2023, and lists the transactions on the Complainants' Duquesne Light account since March 2019. Ms. Morris credibly testified that Complainants' outstanding account balance at the time of hearing was \$2,421.45 according to the Statement of Account. Further, Ms. Morris testified that the Statement of Account showed only 4 payments had been posted to Complainants' account within the last year, and of those 4 payments, only 1 was for the fully billed amount.

In summary, Duquesne Light maintains that Complainants are not owed a credit, but instead, are responsible for the paying Duquesne Light the account balance as listed on Exhibit

⁶ Kea v. Peoples Natural Gas Co., 60 Pa. PUC 215 (1985); Scaccia v. West Penn Power Co., 55 Pa. PUC 637 (1982).

⁷ Bolt v. Duquesne Light Co., 66 Pa. PUC 463 (1988).

A, in addition to any charges that have accrued on the account since the hearing, in exchange for utility service provided to them.

2. Exhibit C – Payment Arrangement History

It is unclear whether Complainants are still seeking a payment arrangement, as indicated on the Complaint.⁸ Even if Complainants are requesting a payment arrangement, they are not entitled to one.

The Commission can order a payment arrangement on certain balances at its discretion, but the Commission “should exercise its discretion only on behalf of customers who have demonstrated some evidence of good faith efforts to pay their utility bills, or who have experienced a significant change of circumstances outside their control.”⁹ A customer has not demonstrated a good faith effort to pay his or her utility bills if the customer has a poor payment history or has repeatedly violated past payment arrangements.¹⁰

At hearing, Duquesne Light submitted Exhibit C, which is a history of the payment arrangements provided to the Complainants created by Ms. Morris using data in the Company’s Customer Care & Billing system. Ms. Morris testified that Complainants have been provided a total of 3 payment arrangements within the last 4 years. Of those 3 payment arrangements, 2 were issued by the Company and 1 was issued by the Commission. As reflected on Exhibit C, the Complainants failed to comply with each payment arrangement.

Given that the Complainants have demonstrated a lack of good faith effort to pay their utility bills and adhere to past payment arrangements, the Commission may, and should, decline to issue the Complainants another payment arrangement.

⁸ Complaint ¶ 4.

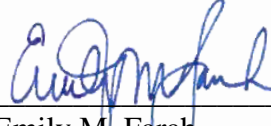
⁹ Crawford v. Nat’l Fuel Gas Distrib. Corp., Docket No. C-20066348, 2007 WL 4699560, at *9 (Dec. 6, 2007). See 66 Pa.C.S.A. § 1405(d).

¹⁰ Oliver v. Pa. Electric Co., Docket No. F-2017-2595557, 2017 WL 5564159, at *6 (October 19, 2017).

IV. CONCLUSION

Duquesne Light respectfully requests that this Commission deny the Complaint, find that the Complainants have failed to carry their burden of proving that Duquesne Light Company violated any Commission regulation, rule or order, and dismiss the Complaint with prejudice.

Respectfully Submitted,
DUQUESNE LIGHT COMPANY



Emily M. Farah
Counsel for Duquesne Light Company

