

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Kristen Flaherty	:	
	:	
v.	:	C-2023-3039314
	:	
Duquesne Light Company	:	

INITIAL DECISION

Before
Chad L. Allensworth
Administrative Law Judge

INTRODUCTION

This decision dismisses a Formal Complaint based on the company’s motion for judgement on the pleadings asserting the doctrine of *res judicata* or claim preclusion and bars the customer from filing any further complaints against the utility until she pays the outstanding balance on her account, or the balance is otherwise forgiven. The current complaint sought identical relief from the company one week after an order was issued dismissing a prior complaint on identical issues.

HISTORY OF THE PROCEEDINGS

On March 28, 2023, Kristen Flaherty (“Complainant” or “Ms. Flaherty”) filed a Formal Complaint (“complaint”) with the Pennsylvania Public Utility Commission (“Commission”) against Duquesne Light Company (“Respondent” or “Duquesne Light”) at Docket No. C-2023-3039314. The complaint: (1) alleged that Respondent was threatening to

shut off Complainant's "gas" service¹ and (2) requested a payment arrangement. (Complaint ¶¶ 3-5). The Complainant included an attached shut-off notice from Respondent showing an outstanding amount owed of \$1,424.64 for electric service as of March 22, 2023. (Complaint attachment).

On April 17, 2023, Respondent filed its answer and new matter accompanied by a notice to plead. In its answer, Respondent admitted or denied various averments in the complaint. Specifically, Respondent admitted to providing electric service to Complainant and admitted to issuing a termination notice to Complainant for electric service based on repeated and persistent failure to pay monthly bills. (Answer and new matter ¶ 4). Respondent denied that it provided gas service to Complainant, denied any wrongdoing in issuing the termination notice, and denied that Complainant is entitled to a payment arrangement based on her current enrollment in the customer assistance program ("CAP"). (Answer and new matter ¶¶ 4-5). Respondent also avers that Complainant has failed to make any payments on her account since establishing service in her name. (Answer and new matter ¶¶ 4-5).

In its new matter, Respondent asserted that it provides electric service to Complainant and that Complainant has not made any payments since establishing the account in her name on August 6, 2021, including not making CAP payments since her enrollment in that program on April 12, 2022. (Answer and new matter ¶ 13). Respondent further asserted that Complainant filed a prior complaint on September 19, 2022 making the same allegations of threats to shut off electric service and requesting a payment arrangement at Docket No. C-2022-3035389 as she is making in the current complaint. (Answer and new matter ¶ 15). Respondent averred that the prior complaint was dismissed by initial decision dated February 16, 2023 with the final order of dismissal entered on March 21, 2023. (Answer and new matter ¶¶ 18-19).

The new matter also averred that Complainant filed the current complaint, which is substantively identical to the prior complaint, one week after entry of the final order dismissing the prior complaint thereby making the current complaint barred by the doctrine of

¹ It is noted that Duquesne Light Company does not provide gas service in the Commonwealth. According to Commission records, Duquesne Light Company is an electric distribution company.

res judicata. (Complaint ¶¶ 20-21).² Finally, Respondent claims that Complainant is filing complaints, including the current complaint, to avoid paying utility bills and therefore constitutes an abuse of process. (Answer and new matter ¶¶ 31-35). Respondent requested that the Commission dismiss the complaint with prejudice and prohibit the Complainant from filing any further Complaints against Respondent until the current balance is paid in full or the balance is completely forgiven by making timely CAP payments. (Answer and new matter, p.10). Complainant did not file an answer to the new matter.

On May 17, 2023, Respondent filed a motion for judgment on the pleadings (“motion”) that included a notice to plead. In the motion, Respondent asserted the complaint raised the same issues that were dismissed with prejudice in the prior complaint and therefore the current complaint should be dismissed based on the doctrine of *res judicata* or claim preclusion. (Motion ¶¶ 28-34). Respondent again requested that the Commission dismiss the complaint with prejudice and prohibit the Complainant from filing any further Complaints against Respondent until the current balance is paid in full or the balance is completely forgiven by making timely CAP payments. (Motion p.12). Complainant did not file a reply to the motion.

For the reasons discussed herein, Respondent’s motion for judgment on the pleadings will be granted and the complaint will be dismissed.

FINDINGS OF FACT

1. Complainant is Kristen Flaherty, who resides at 349 Old Gilkeson Road, Pittsburgh, PA 15228 in Allegheny County, Pennsylvania (“service address”). (Complaint ¶ 1).
2. Respondent is Duquesne Light Company who provides electric service to Ms. Flaherty at the service address. (Complaint ¶ 2; complaint attachment).

² Respondent also asserts that Complainant has filed no less than 15 formal complaints against various utility companies in the last three years and that these prior complaints were all substantively identical and were dismissed. (Complaint ¶¶ 22-31).

3. The current complaint asserted that Duquesne Light was threatening to terminate Ms. Flaherty's electric service and she was requesting a payment arrangement for her electric service account at No. XXXX-XXX-574. (Complaint ¶¶ 4-5; complaint attachment).

4. Ms. Flaherty made no payments to Duquesne Light since establishing electric service on August 6, 2021 and made no payments since enrollment in Duquesne Light's customer assistance program ("CAP") on April 12, 2022. (Answer and new matter ¶ 13).

5. Ms. Flaherty owed an outstanding balance of \$1,424.64 for electric service on her account at No. XXXX-XXX-574 as of March 22, 2023 with \$1,184.64 in frozen arrearage from CAP. (Complaint attachment; answer and new matter ¶ 4; Respondent's exhibit A).

6. On or about March 22, 2023, Duquesne Light issued a ten-day shut off notice for Ms. Flaherty's electric service based on the unpaid balance. (Complaint attachment).

7. Ms. Flaherty has filed at least 15 formal complaints with the Commission against various utility services in the last three years, including six against Pennsylvania-American Water Company, six against Columbia Gas of Pennsylvania, Inc., one against West Penn Power Company, and two against Duquesne Light. (Answer and new matter ¶ 22).

8. The various complaints filed by Ms. Flaherty over the last three years were substantively identical to the current complaint seeking to avoid having utility services shut off and requesting payment arrangements. (Answer and new matter ¶¶ 23-33).

9. On September 19, 2022, Ms. Flaherty filed a prior complaint with the Commission against Duquesne Light that was docketed at C-2022-3035389 regarding the same electric service account seeking to avoid having her electric service shut off and requesting a payment arrangement. (Answer and new matter ¶ 15).

10. The Commission conducted an evidentiary hearing for the prior complaint at Docket No. C-2022-3035389 on January 25, 2023, but Ms. Flaherty failed to appear at the hearing. (Answer and new matter ¶ 17).

11. Ms. Flaherty's prior complaint against Duquesne Light at Docket No. C-2022-3035389 was dismissed by initial decision dated February 16, 2023 with the final dismissal order issued on March 21, 2023. (Answer and new matter ¶¶ 18-19).

12. On March 28, 2023, one week after dismissal of the prior complaint at Docket No. C-2022-3035389, Ms. Flaherty filed the current complaint raising identical claims to the case that was dismissed. (Answer and new matter ¶ 20).

13. Ms. Flaherty failed to file an answer or otherwise reply to Duquesne Light's answer and new matter or the motion for judgment on the pleadings, which both included a notice to plead.

DISCUSSION

Res Judicata or Claim Preclusion

The Commission's Rules of Administrative Practice and Procedure permit the filing of motions for judgment on the pleadings. 52 Pa. Code § 5.102. Because the motion is an affirmative defense, the question of whether the Commission is legally empowered to grant the requested relief is properly raised as such in new matter. 52 Pa. Code § 5.62(b). Since the basis for requesting dismissal of the current complaint is found in the pleadings (*i.e.*, the complaint and the answer and new matter), Duquesne Light was procedurally correct to file a motion for judgment on the pleadings pursuant to 52 Pa. Code § 5.102.

The standard for granting a motion for judgment on the pleadings is contained in 52 Pa. Code § 5.102(d)(1), which provides in pertinent part as follows, “[t]he judgment sought will be rendered if the applicable pleadings ... show that there is no genuine issue as to a material

fact and that the moving party is entitled to a judgment as a matter of law.” 52 Pa. Code § 5.102(d)(1). In ruling on a motion for judgment on the pleadings, the Commission must consider as true all well-pleaded averments of the party against whom the motion is directed and consider against her only those facts that she admits. *Mahn v. PECO Energy Co.*, Docket No. C-2014-2444240 (Order entered Nov. 14, 2014). Judgment on the pleadings should be entered only when the case is clear and free from doubt. *Id.*

Regulations also provide that failure to file a timely answer/reply to new matter may be deemed in default, and relevant facts stated in the new matter may be deemed to be admitted. 52 Pa. Code § 5.63(b). Because Ms. Flaherty failed to respond to Duquesne Light’s new matter and its motion for judgment on the pleadings, which were both accompanied by a notice to plead, I find that there is no dispute as to the material facts related to this case.

In this case, it has been established that Ms. Flaherty filed a prior complaint against Duquesne Light on September 19, 2022 at Docket No. C-2022-3035389 that sought to avoid having her electric service at 349 Old Gilkeson Road, Pittsburgh, PA 15228 shut off and requested a payment arrangement for her account. Upon conclusion of the pleadings, Ms. Flaherty was provided with a hearing to allow her the opportunity to support her complaint; however, she failed to appear at the January 25, 2023 hearing. As a result, the Commission dismissed the prior complaint filed at Docket No. C-2022-3035389 with prejudice via final order issued on March 21, 2023.³ *Flaherty v. Duquesne Light Co.*, Docket No. C-2022-3035389 (Final Order entered Mar. 21, 2023).

It was also established that on March 28, 2023, which was one week after the final order dismissing the prior complaint, Ms. Flaherty filed the current complaint against Duquesne Light raising identical claims regarding her electric service at 349 Old Gilkeson Road, Pittsburgh, PA 15228. As such, Duquesne Light contended in its answer and new matter that Ms. Flaherty’s current complaint is barred by the doctrine of *res judicata* or claim preclusion.

³ Commission records reflect that no exceptions were filed at Docket No. C-2022-3035389.

Res judicata or claim preclusion prevents the litigation of a claim that has already been adjudicated and litigated resulting in a valid final judgment on the merits. *Hopewell Estates, Inc. v. Kent*, 646 A.2d 1192 (Pa. Super. 1994); *Ehrhart v. PPL Elec. Util. Corp.*, Docket No. C-00015253 (Order entered Sept. 4, 2001). This doctrine may be invoked where the following four conditions are met: (1) identity of issues, (2) identity of causes of action, (3) identity of persons and parties to the action, and (4) identity of the quality or capacity of the parties suing or sued. *Id.* The essential inquiry in applying the principle of *res judicata* or claim preclusion is whether the ultimate and controlling issues in a complaint have been decided in a prior proceeding where the parties had an opportunity to appear and be heard. *Stevens Painton Corp. v. First State Ins. Co.*, 746 A.2d 649 (Pa. Super. 2000).

The first two factors to examine are whether the issue and causes of action decided in the prior case are identical to the issue and cause of action presented here. It is axiomatic that issues and causes of action in the prior case at Docket No. C-2022-3035389 and the current case at Docket No. C-2023-3039314 are identical as both involve: (a) the same residential electric service account, (b) the same claims of threats to shut off electric service and (c) the same requests for a payment arrangement as relief. Thus, the first and second elements for *res judicata* or claim preclusion are met.

As for the third factor of identical parties or persons, it is equally clear that this element is met. Both the prior case at Docket No. C-2022-3035389 and the current case at Docket No. C-2023-3039314 involve Ms. Flaherty and Duquesne Light.

Finally, the fourth factor of quality or capacity to sue was also clearly met. Ms. Flaherty was provided with a hearing for the prior complaint at Docket No. C-2022-3035389 on January 25, 2023 where she was provided an opportunity to support and litigate her claims. However, Ms. Flaherty failed to attend the hearing resulting in dismissal of her prior complaint with prejudice via a Final Order entered on March 21, 2023. Ms. Flaherty also failed to file any timely exceptions to the Initial Decision. Instead, Ms. Flaherty chose to file a new complaint at Docket No. C-2023-3039314 raising identical claims. As such, evaluation of the current complaint at Docket No. C-2023-3039314 would require re-examination of the substantive

claims of the prior complaint, which is not permitted. Therefore, all four of the elements for *res judicata* or claim preclusion have been met.

Accordingly, Ms. Flaherty may not pursue her complaint at Docket No. C-2023-3039314 since it is barred by *res judicata* or claim preclusion. Since Ms. Flaherty's claims are precluded, there is no basis to hold an evidentiary hearing. The Commission may dismiss any Complaint without hearing if, in its opinion, hearing is not necessary in the public interest. 66 Pa.C.S. § 703(b), 52 Pa. Code § 5.21(d). A hearing is necessary only to resolve disputed questions of fact, and when the question is one of law, the Commission need not hold a hearing. *Lehigh Valley Power Comm. v. Pa. Publ. Util. Comm'n*, 563 A.2d 548 (Pa. Cmwlth. 1989); *Edan Transp. Corp. v. Pa. Publ. Util. Comm'n*, 623 A.2d 6 (Pa. Cmwlth. 1993). Accordingly, the motion to dismiss is granted.

Abuse of Process

The Commission has consistently held that a party may be precluded from filing additional formal or informal complaints if they have abused the administrative process and the Commission's complaint procedures. *See, Brown v. Phila. Gas Works*, Docket No. C-2022-3032000 (Opinion and Order entered Nov. 10, 2022); *Sanford v. Phila. Gas Works*, Docket No. C-2019-3009831 (Final Order entered Aug. 10, 2020); *Mazza v. PECO Energy Co.*, Docket No. C-2012-2318472 (Opinion and Order entered Apr. 23, 2014); *see also, Argento's Pizza v. Phila. Gas Works*, Docket No. C-2009-2138055 (Final Order entered Oct. 1, 2010) (*Argento's Pizza*). In *Seidenstricker v. Metropolitan Edison Co.*, Docket No. F-2008-2019388 (Opinion and Order entered July 28, 2009) (*Seidenstricker*), the Commission precluded the filing of further complaints pertaining to the same account until the arrearage was paid in full after finding that the Complainant had abused the system by using the Commission's procedures to prevent termination of service while receiving utility service and accruing a large outstanding balance.

Similarly, in *Manu v. The Bell Telephone Co. of Pennsylvania*, Docket No. F-09029141 (Opinion and Order entered May 9, 1994) (*Manu*), the Commission found an abuse of process had occurred and it precluded complainants from filing further complaints, formal or informal, until their arrearages were paid in full. The factors to be considered as put forth in the

Argento's Pizza case include the following: (1) the number and nature of complaints; (2) the number of defaulted payments; (3) the use of tactics to avoid payments and service terminations that became due; and (4) the history of payments. *Argento's Pizza*.

In this case, it was established Ms. Flaherty has filed approximately 15 complaints against various utilities to stop termination of utility services and request payment arrangements. This includes six complaints against Pennsylvania-American Water Company ("PAWC"),⁴ five complaints against Columbia Gas of Pennsylvania, Inc. ("Columbia Gas"), two complaints against West Penn Power Company ("West Penn") and two complaints against Respondent including the current complaint. In light of the volume and repetition of her complaints, it is necessary to briefly examine Ms. Flaherty's history of filings and their disposition based on Commission records.

Pennsylvania-American Water Company Cases

Ms. Flaherty filed her first Formal Complaint against PAWC at Docket No. C-2020-3018721 on February 12, 2020. In that case, Ms. Flaherty alleged that PAWC was threatening to or already had shut off her water service and she sought a payment arrangement from the Commission regarding service at 3998 Millers Run Road, McDonald, PA 15057. The case was resolved by a certificate of satisfaction filed on May 11, 2020 prior to a hearing being held.

Ms. Flaherty filed her second Formal Complaint against PAWC at Docket No. C-2022-3031149 on February 28, 2022. This complaint alleged that PAWC was threatening to or already had shut off her water service and she sought a payment arrangement from the Commission regarding service at 3998 Millers Run Road, McDonald, PA 15057. The case was resolved by a certificate of satisfaction filed on May 5, 2022 prior to a hearing being held.

⁴ Ms. Flaherty recently filed a seventh complaint against Pennsylvania-American Water Company at Docket No. C-2023-3041584 on July 3, 2023, wherein she requested a payment arrangement from the Commission after receiving another ten-day shut off notice, that is currently pending before the Commission thereby bringing her total filings to 16 complaints. The complaint at Docket No. C-2023-3041584 was filed less than four months after her prior complaint against PAWC was resolved by a certificate of satisfaction.

Ms. Flaherty filed her third Formal Complaint against PAWC at Docket No. C-2022-3031223 on March 2, 2022. This complaint alleged that PAWC was threatening to or already had shut off her water service and she sought a payment arrangement from the Commission regarding service at 349 Old Gilkeson Road, Pittsburgh, PA 15228. This case was resolved by a certificate of satisfaction filed on May 5, 2022 prior to a hearing being held.

Ms. Flaherty filed her fourth and fifth Formal Complaints against PAWC at Docket No. C-2022-3033567 and C-2022-3033697 on July 6, 2022. These complaints alleged that PAWC was threatening to or already had shut off her water service and she sought a payment arrangement from the Commission regarding service at both 3998 Millers Run Road, McDonald, PA 15057 and 349 Old Gilkeson Road, McDonald, PA 15228. The cases were consolidated and a hearing was held on August 31, 2022. Ms. Flaherty withdrew her complaints at the hearing and the matters were resolved by a certificate of satisfaction filed on August 31, 2022.

Ms. Flaherty filed her sixth Formal Complaint against PAWC at Docket No. C-2023-3037932 on January 30, 2023. This complaint alleged that PAWC was threatening to or already had shut off her water service and she sought a payment arrangement from the Commission regarding service at 3998 Millers Run Road, McDonald, PA 15057. This case was resolved by a certificate of satisfaction filed on March 30, 2023 prior a hearing being held.

Columbia Gas of Pennsylvania Cases

Ms. Flaherty filed her first Formal Complaint against Columbia Gas at Docket No. C-2022-3031205 on March 2, 2022. This complaint alleged that Columbia Gas was threatening to or already had shut off her gas service and she sought a payment arrangement from the Commission regarding service at 3998 Millers Run Road, McDonald, PA 15057. The case was resolved by a certificate of satisfaction filed on April 1, 2022 prior to a hearing being held.

Ms. Flaherty filed her second and third Formal Complaints against Columbia Gas at Docket Nos. C-2022-3033548 and C-2022-3034018 on July 5, 2022. The complaints alleged

that Columbia Gas was threatening to or already had shut off her gas service and she sought a payment arrangement from the Commission regarding service at both 3998 Millers Run Road, McDonald, PA 15057 and 349 Old Gilkeson Road, McDonald, PA 15228. The cases were consolidated, and hearings were held on September 20, 2022 and December 20, 2022.⁵ The parties agreed to a settlement at the September 20, 2022 hearing pending a payment from Ms. Flaherty. Ultimately, the settlement was not finalized and the cases were dismissed in accordance with Columbia Gas' motion to dismiss by final order entered March 7, 2023.

Ms. Flaherty filed her fourth and fifth Formal Complaints against Columbia Gas at Docket Nos. C-2023-3039238 and C-2023-3039291 on March 27, 2023. The complaints alleged that Columbia Gas was threatening to or already had shut off her gas service and she sought a payment arrangement from the Commission regarding service at both 3998 Millers Run Road, McDonald, PA 15057 and 349 Old Gilkeson Road, Pittsburgh, PA 15228. The cases were resolved by a certificate of satisfaction filed on June 23, 2023 prior to a hearing being held.

West Penn Power Company Cases

Ms. Flaherty filed her first Formal Complaint against West Penn at Docket No. C-2022-3031846 on April 11, 2022. This complaint alleged that West Penn was threatening to or already had shut off her electric service and she sought a payment arrangement from the Commission regarding service at 349 Old Gilkeson Road, Pittsburgh McDonald, PA 15228. The case was resolved by a certificate of satisfaction filed on September 13, 2022 prior to a hearing being held.

Ms. Flaherty filed her second Formal Complaint against West Penn at Docket No. C-2023-3039663 on April 6, 2022. This complaint alleged that West Penn was threatening to or already had shut off her electric service and she sought a payment arrangement from the Commission regarding service at 3998 Millers Run Road, McDonald, PA 15057. The Commission held a hearing for this matter on June 14, 2023 at which time a settlement was agreed to by the parties resulting in the filing of a certificate of satisfaction on June 15, 2023.

⁵ Ms. Flaherty failed to appear at the December 20, 2022 hearing resulting in Respondent making a motion to dismiss that was taken under advisement.

Prior Duquesne Light Company Case

Ms. Flaherty filed her first Formal Complaint against Duquesne Light at Docket No. C-2022-3035389 on September 19, 2022. This complaint alleged that Duquesne Light was threatening to or already had shut off her electric service and she sought a payment arrangement from the Commission regarding service at 349 Old Gilkeson Road, Pittsburgh, PA 15228. The Commission held a hearing in this matter on January 25, 2023 where Ms. Flaherty failed to appear. As a result, Duquesne Light moved to dismiss the case and the matter was dismissed with prejudice by final order entered March 21, 2023.

Current Duquesne Light Company Case

As previously stated herein, Ms. Flaherty failed to file a timely reply to Duquesne Light's new matter. 52 Pa. Code § 5.63(b). As such, it is admitted that the current complaint against Duquesne Light was filed only seven days after the Commission dismissed the prior complaint of Ms. Flaherty against Duquesne Light with prejudice and raised the identical issues. It is also admitted that Ms. Flaherty has not made a payment to Duquesne Light since establishing electric service on August 6, 2021, including not making any payments since her enrollment in Duquesne Light's CAP on April 12, 2022. Finally, Ms. Flaherty failed to oppose Duquesne Light's assertions that her actions show a pattern of attempts to delay termination of utility services or that her actions are an abuse of process.

Thus, Ms. Flaherty: (1) has a pattern of filing numerous complaints with the Commission to avoid termination of utility services over the last three years, (2) has filed back-to-back complaints against Duquesne Light raising the same claims despite dismissal of the first complaint with prejudice to prevent termination of her service and (3) demonstrated bad faith in making payments to Duquesne Light for her electric service. Moreover, Ms. Flaherty's behavior is sufficiently similar to the facts of the case precedent cited in *Manu* and *Seidenstricker* where the Commission has found an abuse of process. Filing 15 complaints over a three-year period raising essentially identical claims each time, including filing an identical complaint against Duquesne Light within a week of her prior complaint being dismissed, constitutes an abuse of process. Therefore, I find that Ms. Flaherty is abusing the Commission's administrative due

process and complaint procedures to avoid payment and potential termination of her electric service from Duquesne Light.

By law, a public utility is entitled to receive payment for the service it provides, and the Complainant must pay the Respondent for the service she consumes. *Scaccia v. W. Penn Power Co.*, 55 Pa.P.U.C. 637 (1982); *Kea v. Peoples Nat. Gas Co.*, 60 Pa.P.U.C. 215 (1985); *Mill v. Pa. Pub. Util. Comm'n*, 447 A.2d 1100 (Pa. Cmwlth. 1982). The Respondent has the right to bill and receive payment for the utility service actually supplied. 66 Pa.C.S. § 1303, *Neal v. Phila. Gas Works*, Docket No. Z-00871874, (Final Order entered Jan. 4, 2002); *Angie's Bar v. Duquesne Light Co.*, 72 Pa.P.U.C. 213 (1990). Otherwise, unpaid bills are included in the utility's uncollectible expenses, which all its remaining customers must pay. 66 Pa.C.S. § 1402(1). The record in this case highlights a trend in Ms. Flaherty's use of the Commission's complaint procedures to avoid paying her utility bills, including her electric bill while evading Duquesne Light's termination procedures.

Due to Ms. Flaherty's abuse of the Commission's complaint process, the amount of Ms. Flaherty's outstanding balance, and in order to prevent the unnecessary expenditure of any additional Commission resources, Ms. Flaherty will be prohibited from filing any further informal or formal complaints with the Commission regarding her Duquesne Light electric account until such time as the current outstanding balance on her Duquesne Light electric account is paid in full or otherwise forgiven.

Accordingly, Ms. Flaherty's complaint will be dismissed on based on *res judicata*/claim preclusion and abuse of process.

CONCLUSIONS OF LAW

1. Motions for judgment on the pleadings are appropriate under Commission regulations. 52 Pa. Code § 5.102.

2. A motion for judgment on the pleadings is an affirmative defense that is properly raised in new matter before the Commission. 52 Pa. Code § 5.62(b).

3. A motion for judgment on the pleadings will be granted if applicable pleadings show no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. 52 Pa. Code § 5.102(d)(1).

4. 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 her only those facts that she admits. *Mahn v. PECO Energy Co.*, Docket No. C-2014-2444240 (Order entered Nov. 14, 2014).

5. Failure to file a timely reply to new matter may be deemed in default, and any relevant facts stated in the new matter may be deemed to be admitted. 52 Pa. Code § 5.63(b).

6. *Res judicata* or claim preclusion prevents the litigation of a claim that has already been adjudicated and litigated resulting in a valid final judgment on the merits. *Hopewell Estates, Inc. v. Kent*, 646 A.2d 1192 (Pa. Super. 1994); *Ehrhart v. PPL Elec. Util. Corp.*, Docket No. C-00015253.

7. The Commission dismissed the Formal Complaint at *Flaherty v. Duquesne Light Co.*, Docket No. C-2022-3035389 (Order entered March 21, 2023) with prejudice.

8. The Commission is granted discretion to dismiss a complaint without a hearing if a hearing is not necessary in the public interest. 66 Pa.C.S. § 703(b); 52 Pa. Code § 5.21(d).

9. The Commission may preclude a Complainant from filing additional formal or informal complaints if they have abused the administrative process and the Commission's complaint procedures. *See, Brown v. Phila. Gas Works*, Docket No. C-2022-3032000 (Opinion and Order entered Nov. 10, 2022); *Sanford v. Phila. Gas Works*, Docket No. C-2019-3009831 (Final Order entered Aug. 10, 2020); *Mazza v. PECO Energy Co.*, Docket No. C-2012-2318472 (Opinion and Order entered Apr. 23, 2014); *see also, Argento's Pizza v. Phila. Gas Works*, Docket No. C-2009-2138055 (Final Order entered Oct. 1, 2010).

10. The Complainant has abused the administrative due process by filing multiple similar complaints, incurring an unpaid balance and evidencing a poor payment history, in order to avoid termination and payment for services. *Brown v. Phila. Gas Works*, Docket No. C-2022-3032000 (Opinion and Order entered Nov. 10, 2022); *Sanford v. Phila. Gas Works*, Docket No. C-2019-3009831 (Final Order entered Aug. 10, 2020); *Mazza v. PECO Energy Co.*, Docket No. C-2012-2318472 (Opinion and Order entered Apr. 23, 2014); *Argento's Pizza v. Phila. Gas Works*, Docket No. C-2009-2138055 (Final Order entered Oct. 1, 2010); *Seidenstricker v. Metro. Edison Co.*, Docket No. F-2008-2019388 (Opinion and Order entered July 28, 2009); *Manu v. Bell Tel. Co. of Pa.*, Docket No. F-09029141 (Opinion and Order entered May 9, 1994).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the motion for judgment on the pleadings filed by Duquesne Light Company at Docket No. C-2023-3039314 is granted.
2. That the Formal Complaint filed at Kristen Flaherty v. Duquesne Light Company, Docket No. C-2023-3039314 is dismissed.
3. That Commission staff (including but not limited to the Bureau of Consumer Services and the Secretary's Bureau) shall reject any formal or informal complaints that Kristen Flaherty, or any person acting on her behalf, may attempt to file with the Commission, pertaining to the current balance on her Duquesne Light Company electric service account until the entire outstanding account balance is paid in full or is otherwise forgiven.

4. That Duquesne Light Company shall notify the Secretary's Bureau within ten (10) days of the date Kristen Flaherty pays her Duquesne Light Company electric service account in full or otherwise forgives the same.

5. That a copy of this decision shall be served to the Bureau of Consumer Services and the Secretary's Bureau.

6. That the matter at Docket No. C-2023-3039314 be marked closed.

Date: July 26, 2023

/s/
Chad L. Allensworth
Administrative Law Judge