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August 9, 2023

Via Electronic Filing

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

Re: Frank J. Cservak, Jr., P.E. v. Duquesne Light Company
Docket No. C-2022-3036252

Dear Secretary Chiavetta:

Enclosed for filing is Duquesne Light Company's Reply to Exceptions in the above-referenced matter. A copy has been served on the Complainant in 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
Administrative Law Judge Conrad Johnson
Office of Special Assistants (via electronic mail)

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A PROFESSIONAL CORPORATION

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

FRANK J. CSERVAK, JR.	:	
Complainant	:	
	:	
v.	:	Docket No. C-2022-3036252
	:	
DUQUESNE LIGHT COMPANY	:	
Respondent	:	

**DUQUESNE LIGHT COMPANY’S
REPLY TO EXCEPTIONS**

Pursuant to 52 Pa Code § 5.535, Duquesne Light Company (“Duquesne Light” or “Company”), hereby replies to the Exceptions filed by the Complainant, Frank J. Cservak, Jr. (“Complainant” or “Mr. Cservak”). As set forth below, the Complainant’s Exceptions should be denied, and the Initial Decision (“I.D.”) should be upheld by the Commission. After carefully reviewing the sizable record in the case, the Administrative Law Judge (“ALJ”) correctly determined that Mr. Cservak had failed to prove that the Company had violated any provisions of the Public Utility Code, or the regulations or orders of the Commission. Mr. Cservak’s Exceptions provide no basis for rejecting the Initial Decision, and instead merely restate many of the same unsubstantiated allegations that the ALJ correctly rejected.

I. Reply to Exceptions

A. Reply to Exceptions Regarding Procedural History

The Procedural History outlined in the Initial Decision is correct, and to the extent Complainant’s Exceptions allege that the Procedural History is incorrect, such Exceptions should be denied. Notably, the majority of the Complainant’s discussion of

the Procedural History in the Exceptions relates to events that were litigated in Mr. Cservak's prior Formal Complaint against Duquesne Light at Docket No. F-2020-3019005 ("*Cservak P*"), which the Commission previously dismissed. See *Cservak v. Duquesne Light Co.*, Docket No. F-2020-3019005 (Opinion and Order entered June 16, 2022).¹ Of the six paragraphs in Complainant's Procedural History that relate to the current proceeding, two of them (paragraphs 35 and 37) make allegations about events that were subsequent to the February 15, 2023 evidentiary hearing in this matter, and therefore are not part of the record in this proceeding and should be disregarded.²

B. Reply to Exceptions to Findings of Fact

On page 7 of the Exceptions, the Complainant disputes the Finding of Fact that there is a commercial building at the Complainant's residence ("the Barn"), and asserts that there is no electrical consumption related to commercial activities. This Exception is without merit, because as the ALJ correctly noted, the Complainant operates a non-profit organization out of the Barn, and because Duquesne Light was precluded from inspecting the Barn to calculate the percentage of commercial usage, it was proper for the Barn to be classified as a commercial account. See I.D., at p. 17, and Duquesne Light Exhibit 12. Duquesne Light's witness explained that the Barn account was placed on a commercial rate in accordance with the Company's tariff, which states that residential rates are only available when less than 25% of the premise's monthly consumption is attributable to commercial use. In light of the fact that a non-profit enterprise was being operated out of the Barn, the Company attempted to inspect the property to substantiate whether 25% or

¹ Complainant filed a Petition for Review of the Commission's Opinion and Order denying Complainant's exceptions and dismissing Complainant's 2020 Formal Complaint with the Commonwealth Court of July 15, 2022, which petition remains pending with the Commonwealth Court.

less of the consumption related to commercial use so that it could be placed on a residential rate. But the Company was never able to gain access to inspect the property, so the Barn account remained on a commercial rate. See N.T., 92-94. However, this issue is now moot because Duquesne Light stated on the record that it would convert the Barn account back to a residential classification retroactive to August 2021 based on confirmation that Mr. Cservak provided. See N.T. pages 104, lines 17-21 and 181, lines 18-23. Mr. Cservak's Exceptions acknowledge this reclassification has occurred. See p. 7 of Exceptions, under Answer to Exception 10, and p. 8 of the Exceptions.

C. Reply to Exceptions Regarding Commercial Classification of the Service Account

All of the Initial Decision's Findings of Fact and Conclusions of Law regarding the classification of Mr. Cservak's Barn Account are fully supported by the record, and Mr. Cservak's Exceptions provide no basis to reject any of those Findings or Conclusions.

As stated above, ALJ Johnson correctly determined that Duquesne Light did not act improperly by classifying the Barn as a commercial account. Duquesne Light's decision to classify the Barn as a commercial account was based on the fact that a non-profit entity was operating out of the Barn, and because Duquesne Light was prevented from accessing the Barn to evaluate the percentage of commercial use. N.T., 144-145, 149-150, and DLC Exhibit 12. As stated above, this issue is now moot because Duquesne Light stated on the record that it would convert the Barn account back to a residential classification retroactive to August 2021 based on confirmation that Mr.

² Notably, on July 24, 2023, the same date the Exceptions were filed, the Complainant filed a third Formal Complaint, which again raises the same allegations that he raised in the 2020 and 2022 Complaints.

Cservak provided, and Mr. Cservak has acknowledged that the reclassification has occurred.

D. Reply to Exception Regarding Threat of Service Termination

The Complainant's Exceptions appear to raise an issue regarding the issue of a threat of termination, but the ALJ correctly concluded that the service termination issue was already reviewed and addressed in *Cservak I*, and because that case is still pending before the Commonwealth Court, the Commission had no authority to re-open the matter in this proceeding. See I.D., at pp. 8-9.

E. Reply to Exception Regarding Solar Credits

The Complainant's Exceptions appear to dispute the I.D.'s conclusion that Duquesne Light properly handled Mr. Cservak's solar net metering credits. The Complainant disputes the I.D.'s findings that Duquesne Light issued refund checks to Mr. Cservak for his net-metering credits, but his Exceptions provide no basis for rejecting the I.D.'s findings. Duquesne Light provided credible testimony and evidence to fully explain how Mr. Cservak's net-metering credits were calculated and applied to his accounts, and how they were refunded to him in the form of checks that he cashed. See N.T. 87-92, DLC Exhibits 1,2,4,5,6, and 7. As such, there is no basis to reject any of the I.D.'s Findings of Fact or Conclusions of Law with respect to the solar net metering credits on Mr. Cservak's accounts.

II. Conclusion

As the Complainant, Mr. Cservak bears the burden of proving the allegations of his Complaint by a preponderance of the evidence. Mr. Cservak has not met this burden. In short, there is nothing in this record that would allow for a conclusion that Duquesne Light violated the Public Utility Code or the Commission's orders or regulations, or in acted improperly in connection with Mr. Cservak's accounts. The Initial Decision is fully supported by the evidence of record, and there is no basis for granting any of the Complainant's Exceptions or overturning the Initial Decision.

Respectfully submitted,



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Counsel for
Duquesne Light Company

Dated: August 9, 2023

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	:	
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing Reply to Exceptions 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

Frank J. Cservak, Jr.
174 Barberry Road
Sewickley Heights, PA 15143
Email: FCservak@C-MServices.com
Email: Frank.Cservak@gmail.com



Michael A. Guin

Dated: August 9, 2023