

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

TODD ELLIOTT KOGER,

Complainant

V.

C-2023-3038703

**DUQUESNE LIGHT COMPANY,
Respondent.**

MOTION FOR MISTRIAL AND NEW HEARING

Todd Elliott Koger ("Complainant") hereby files the present Motion for Mistrial and New Hearing. The Administrative Judge Conrad A. Johnson committed an error on August 16, 2023 by failing to provide a hearing with regard to the Complainant's particular grievances. The Complainant's "Due Process" was breached by the hearing limiting the "discussion of facts" to events occurring after September of 2022 so as to deliberately disregard the explicit allegation(s) maintained in the Complainant's March 2023 complaint C-2023-3038703.

OBJECTION(S) MADE ON THE RECORD

The complainant pointedly asserted in his March 2023 complaint C-2023-3038703 complaint that there was an "endemic" breach of faith (in contravention of preceding agreements at C-2019-3013238 and C-2020-3020394).

1. Utility is in clear violation of a second agreement at C-2022-3032231.
2. The Utility withheld a termination notice 3-times to allow a CRSIS grant.

Complainant additionally identified:

3. The Utility is in apparent conspiracy with others knowingly withheld a termination notice to prevent "LIHEAP 2" Crisis benefits.
4. The company even called and didn't mention scheduled termination.
5. The company continues to violate any (sic) agreement to refrain from bad faith and intentional misconduct.
6. The company appears to have (part of the pattern) hand delivered a termination letter on March 1, 2023.
7. The Utility knowingly "violated" an agreement at C-2019-3013238 and C-2020-3020394 where rights were not waived.
8. The Utility in 2023 caused intentional harm by withholding the termination notice.
9. Complaint was required to file complaint(s) with LIHEAP and unnecessary prove the pending termination for weeks.
10. Duquense Light knowingly terminated electric service on April 28, 2022 without cause.
11. Complaint had filed "timely" applications for energy assistance programs for which Todd Elliott Koger (Complainant) is eligible – LIHEAP, CRISIS, and the Pennsylvania Housing Assistance Agency.
12. LIHEAP by telephone advised Todd Elliott Koger (Complainant) to "fax" and new "shut off" notices.
13. Todd Elliott Koger faxed on 3-occasions a "shut off" notice to LIHEAP,
14. On April 2, 2022, a Duquense Light representative (LEAH) identified that on March 11, 2022, there was a telephone conversation with LIHEAP in similar

fashion to the relevant facts C-2019-3013238 and C-2020-3020394 that caused a denial of the CRISIS application.

15. That is, specifically the second “shut off” notice was faxed to LIHEAP on March 9, 2022, but Duquense Light told LIHEAP “by telephone” there wasn’t a “shut off” notice on the account to cause the CRISIS application to be denied (facts relevant to (C-2019-3013238 and C-2020-3020394).

DENIAL OF DUE PROCESS

Administrative agencies, like the Public Utility Commission, are required to provide due process to the parties appearing before them. This requirement is satisfied when the parties are afforded notice and the opportunity to appear and be heard. *J.P. v. Dep't of Human Servs.*, 150 A.3d 173 (Pa. Cmwlth. 2016). *Schneider v. Pa. Pub. Util. Comm'n*, 479 A.2d 10 (Pa.Cmwlth. 1984).

On August 16, 2023, the Complainant was denied the chance to be heard (claims identified in the March 2023 complaint C-2023-3038703). Administrative Judge Conrad A. Johnson in error gave the Complainant two warnings during the introduction of his case and advised them of the "limits of the evidence" he was willing to allow (confined testimony facts and events after September 2022).

Subsequently, the Complaint was censured a third time and asked to specify “in the March 2023 Complaint C-2023-3038703” where an accusation of termination of electric service is asserted to have happened, after September 2022.

The Administrative Law Judge Conrad A. Johnson prejudicially precluded any impartial hearing concerning the purported "bad faith" continual breach of the

agreements at C-2019-3013238 and C-2020-3020394. The lack of due process ensured that the proceedings went ahead without even addressing the allegedly unlawful actions identified in the March 2023 complaint C-2023-3038703.

CONCLUSION

Due process mandated at J.P. v. Dep't of Human Servs., 150 A.3d 173 (Pa. Cmwlth. 2016). Schneider v. Pa. Pub. Util. Comm'n, 479 A.2d 10 (Pa.Cmwlth. 1984) was knowingly denied the complainant on August 16, 2023 requiring a Mistrial and new hearing.

/s/ Todd Elliott Koger
Complainant
515 Kelly Avenue
Pittsburgh, PA 15221

CERTIFICATE OF SERVICE

The forgoing Motion for was e-filed at C-2023-3038703 and served on the forgoing, address as follows:

1. e-Filing: C-2023-3038703 Secretary, Pennsylvania Public Utility Commission, 400 North Street. Harrisburg, PA 17120
2. Administrative Law Judge, Conrad A. Johnson, 301 Fifth Avenue, Suite 220 Piatt Place, Pittsburgh, PA 15222, cojohnson@pa.gov
3. Emily M. Farah, Duquense Light Company, 411 Seventh Avenue, Pittsburgh, PA 15219, efarah@duqlight.com

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