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October 31, 2023

Via Electronic Filing

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

RE: Todd Koger v. Duquesne Light Company
Docket No. C-2023-3038703

Dear Secretary Chiavetta:

Enclosed please find Duquesne Light Company's Reply to Complainant's Motion to Open Record Add New Claims filed by Complainant Todd Elliott Koger. A copy of this document and the enclosed filing have been served upon Complainant and the Administrative Law Judge in accordance with Pennsylvania Public Utility Commission regulations.

Please contact me with any questions, comments, or concerns.

Respectfully,

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
Duquesne Light Company

Enclosure

cc: Certificate of Service (w/encl.)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

TODD ELLIOTT KOGER,	:	
Complainant	:	
	:	
v.	:	No. C-2023-3038703
	:	
DUQUESNE LIGHT COMPANY,	:	
Respondent.	:	

**RESPONDENT DUQUESNE LIGHT COMPANY’S REPLY TO
COMPLAINANT’S MOTION TO OPEN RECORD ADD NEW CLAIMS**

Pursuant to 52 Pa. Code § 5.61, Respondent, Duquesne Light Company (“Duquesne Light” or “Company”), files this Reply to Complainant’s “Motion to Open Record Add ‘New’ Claims” (“Motion to Add New Claims”), stating as follows:

PROCEDURAL HISTORY

1. On March 3, 2023, Complainant filed a Formal Complaint (“Complaint”) against Duquesne Light.
2. In the Complaint, Complainant alleged that Duquesne Light withheld termination notices and improperly interfered with Complainant’s eligibility for Low-Income Home Energy Assistance Program (“LIHEAP”) grant(s).
3. Duquesne Light filed a timely Answer denying Complainant’s claims and contemporaneously filed Preliminary Objections requesting the Complaint be dismissed in its entirety.
4. On June 5, 2023, the Administrative Law Judge (“ALJ” or “Presiding Officer”) issued a First Interim Order Sustaining Preliminary Objections in part but denying the Company’s request for dismissal in its entirety.

5. On August 16, 2023, an evidentiary hearing was held. During the hearing, the Presiding Officer excluded testimony and evidence related to Complainant's previously-settled formal complaints, at docket numbers C-2019-3013238, C-2020-3020394, C-2021-3026214, and C-2022-3032231, collectively referred to hereinafter as "Prior Complaints."¹

6. The day after hearing, on August 17, 2023, Complainant filed a Motion for Mistrial and New Hearing ("Motion for Mistrial"), alleging "Due Process was breached by the hearing limiting the 'discussion of the facts' to events occurring after September of 2022."

7. Duquesne Light filed its written response to Complainant's Motion for Mistrial on September 2, 2023.

8. To the extent appropriate, Duquesne Light hereby incorporates its response to the Complainant's Motion for Mistrial as if fully restated herein.

9. The Motion for Mistrial remains ripe for disposition.

10. On October 11, 2023, the Presiding Officer issued an Interim Order Closing the Record, which closed the hearing record as of September 15, 2023, and indicated that an Initial Decision would be prepared.

11. On or about October 12, 2023, the Complainant filed the Motion to Add New Claims.

12. While the Motion to Add New Claims² did not contain a "Notice to Plead" as required by 52 Pa. Code § 5.103(b), the Company provides the within response, and respectfully

¹ Complainant has filed five formal complaints in the last five years, including the present formal complaint. The formal complaints are identified by Docket Nos. C-2019-3013238, C-2020-3020394, C-2021-3026214, C-2022-3032231, and C-2023-3038703. Two of the five formal complaints, at Docket Nos. C-2019-3013238 and C-2020-3020394 were consolidated pursuant to the Second Interim Order Consolidating Formal Complaint Proceedings, Amending Caption and Ordering the Scheduling of a Telephone Conference dated October 14, 2020.

² The Complainant's filing is labeled and docketed as a motion, and thus, Duquesne Light is filing a Reply pursuant to 52 Pa. Code § 5.61. To the extent that the Complainant's Motion to Add New Claims is interpreted as a procedurally deficient Petition pursuant to 52 Pa. Code § 5.571, Duquesne Light requests the Commission consider the within Reply as an Answer to a Petition, *nunc pro tunc*.

requests the Motion to Add New Claims be denied, and the Company further requests that the Commission direct the Complainant to file a new formal complaint.

REPLY TO MOTION TO ADD NEW CLAIMS

13. The Complainant's Motion to Add New Claims makes allegations regarding events that occurred after the record in the above-captioned formal complaint proceeding was closed.

14. The Complaint at issue in the present case alleges wrongdoing associated with termination notices and LIHEAP grant(s). See Complaint ¶¶ 4-5.

15. The Complainant's Motion to Add New Claims raises issues related to reliability or safety of his electric service on or near October 11, 2023. See Motion to Add New Claims ¶ 4.

16. The Complainant's new allegations in the Motion to Add New Claims are outside of the scope of the present Complaint and pertain to events that occurred after the hearing record was closed. See Motion to Add New Claims ¶ 4; See Complaint ¶¶ 4-5.

17. Pursuant to the Interim Order Closing the Record, the hearing record was closed as of September 15, 2023. Interim Order Closing the Record ¶ 1.

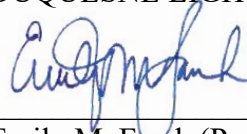
18. Because the Complainant's new allegations are outside of the scope of the Complaint initiating the present proceeding, and occurred after the record was closed for the above-captioned Complaint, Duquesne Light respectfully requests that the Complainant's Motion to Add New Claims be denied, and further requests that the Complainant be directed to file a new formal complaint for the issues outlined in the Motion to Add New Claims.

19. To the extent necessary, Duquesne Light denies all material allegations in Complainant's Motion to Add New Claims and reserves the right to address the Complainant's allegations at length in an Answer pursuant to 52 Pa. Code § 5.61.

20. By way of further response, Duquesne Light denies that any of the Company's actions or inactions related to the Complainant's electric service are, or were, in "retaliation" for the Complaint or any of the Prior Complaints. See Motion to Add New Claims ¶ 2; Complaint ¶¶ 4-5.

WHEREFORE, Respondent, Duquesne Light Company, respectfully requests that the Pennsylvania Public Utility Commission deny the Complainant's Motion to Add New Claims and direct the Complainant to file a new formal complaint for any matters that occurred, or are alleged to have occurred, after September 15, 2023.

Respectfully submitted,
DUQUESNE LIGHT COMPANY



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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

TODD ELLIOTT KOGER,	:	
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Complainant	:	
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v.	:	No. C-2023-3038703
	:	
	:	
DUQUESNE LIGHT COMPANY,	:	
	:	
Respondent.	:	

CERTIFICATE OF SERVICE

I hereby certify that I have served a true copy of the foregoing upon the participant(s) listed below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant):

VIA ELECTRONIC MAILING ONLY

Todd Elliott Koger
515 Kelly Avenue
Pittsburgh, PA 15221
kogerfriend@gmail.com

Administrative Law Judge Conrad A. Johnson
Nick Miskanic, Legal Assistant
Piatt Place Downtown
301 Fifth Ave #220
Pittsburgh, PA 15222
nmiskanic@pa.gov

Dated this 31st day of October, 2023



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