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December 19, 2023

VIA EFILE

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

Re: Roberta Mendolia v. Duquesne Light Company
Docket No. C-2023-3044471

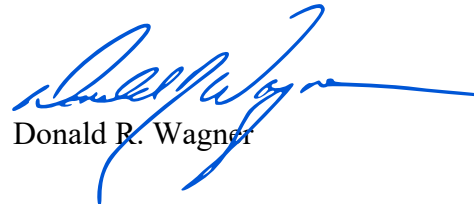
Dear Secretary Chiavetta:

Enclosed for filing are the Preliminary Objections of Respondent, Duquesne Light Company to the above-referenced Complaint. A copy has been served on the Complainant in accordance with the attached Certificate of Service. Respondent, Duquesne Light Company, will concurrently file its Answer and New Matter in the above-referenced Complaint via a separate filing.

If you have any questions, please feel free to contact me.

Very truly yours,

STEVENS & LEE



Donald R. Wagner

Enclosure

cc: Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ROBERTA MENDOLIA	:	
Complainant	:	
	:	
v.	:	Docket No. C-2023-3044471
	:	
DUQUESNE LIGHT COMPANY	:	
Respondent	:	
	:	

NOTICE TO PLEAD

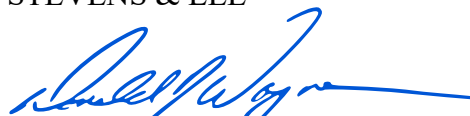
To: *Roberta Mendolia*

You are hereby notified to file a written response to the attached Preliminary Objection of Duquesne Light Company within ten (10) days from the date of service of this notice. If you do not file a written response denying or correcting the enclosed Preliminary Objection within ten (10) days of service, pursuant to 52 Pa. Code § 5.101 or a judgment may be entered against you. All pleadings, such as responses to Preliminary Objections, must be filed with the Secretary of the Pennsylvania Public Utility Commission:

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

You must also serve a copy of your response on the undersigned counsel for Duquesne Light Company. Failure to respond to this Preliminary Objections could result in the dismissal of your case.

STEVENS & LEE



Donald R. Wagner (Attorney ID No. 80280)
David R. Beane (Attorney ID No. 53343)
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Reading, PA 19601
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email: donald.wagner@stevenslee.com
email: david.beane@stevenslee.com
COUNSEL FOR DUQUESNE LIGHT COMPANY

Dated: December 19, 2023

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ROBERTA MENDOLIA	:	
Complainant	:	
	:	
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Respondent	:	
	:	

**PRELIMINARY OBJECTIONS OF RESPONDENT,
DUQUESNE LIGHT COMPANY**

Pursuant to 52 Pa Code § 5.101(a)(1) and (a)(2), Duquesne Light Company (“Respondent” or “Company”), by and through its attorneys Stevens & Lee, P.C., hereby files its Preliminary Objections and responds to the formal complaint (“Complaint”) filed by Roberta Mendolia (“Complainant”). In support thereof, the Company avers as follows:

Introduction

1. The Company was electronically served with the Complaint on November 29, 2023.
2. The Company is a “public utility” and an “electric distribution company” as defined in Sections 102 and 2803 of the Pennsylvania Public Utility Code (“Code”), 66 Pa. C.S. §§ 102, 2803.
3. The Company seeks to dismiss the portions of the Complaint that request monetary compensation for damages which the Public Utility Commission (“Commission”) lacks jurisdiction to provide. See Complaint ¶ 5.

4. As more fully set forth, below, the Company provides Preliminary Objections to the above-captioned Complaint on the grounds that the Commission lacks jurisdiction, pursuant to 52 Pa. Code § 5.101(a)(1).

5. Respondent is timely filing its Answer and New Matter to the Complaint contemporaneously with this Preliminary Objection.

Legal Standard

6. The Commission regulation at 52 Pa. Code § 5.21(a) provides that a person may file a formal complaint with the Commission claiming a violation of a statute that the Commission has jurisdiction to administer, or a regulation or order of the Commission.

7. The Commission's Rules of Practice and Procedure permit parties to file preliminary objections. The grounds for preliminary objections are limited to those set forth in 52 Pa. Code § 5.101(a) as follows:

- (1) Lack of Commission jurisdiction or improper service of the pleading initiating the proceeding.
- (2) Failure of a pleading to conform to this chapter or the inclusion of scandalous or impertinent matter.
- (3) Insufficient specificity of a pleading.
- (4) Legal insufficiency of a pleading.
- (5) Lack of capacity to sue, nonjoinder of a necessary party or misjoinder of a cause of action.
- (6) Pendency of a prior proceeding or agreement for alternative dispute resolution.
- (7) Standing of a party to participate in the proceeding.

8. Although it has general jurisdiction over service disputes between public utilities operating in Pennsylvania and their customers, the Commission, as a creation of the General Assembly, has only the powers and authority granted to it by the General Assembly contained in the Public Utility Code. City of Pittsburg v. Pa. Public Utility Commission, 42 A.2d 348 (Pa. Super. 1945), Norfolk Southern Ry. v. Pennsylvania Public Utility Commission, 875 A.2d 1243 (Pa. Cmwlth. 2005).

9. The Commission has initial jurisdiction over “matters involving the reasonableness, adequacy or sufficiency of a public utility’s service, facilities or rates.” DeFrancesco et al. v. Western Pennsylvania Water Company, 435 A.2d 616 (Pa. Super. 1981) vacated and remanded on other grounds, 435 A.2d 595 (1982). To the extent the Complaint includes matters not involving the reasonableness, adequacy or sufficiency of a public utility’s service, facilities or rates, the Commission does not have jurisdiction over such matters.

10. It is well established that the Commission does not have jurisdiction over actions for damages. Horowitz v. PECO, Docket No. C-2013-2382740 (Dec. 30, 2013).

11. For the sole purpose of ruling on Preliminary Objections, the Commission must assume all well-pleaded facts in the Complaint are true. County of Allegheny v. Commw. of Pa., 490 A.2d 402 (Pa. 1985).

12. Accepting all of Complainant’s allegations as true for purposes of the present Preliminary Objections, it is clear that the Complainant requests monetary damages. See Complaint ¶ 5 (“you owe me money for the inconvenience of no electricity...”).

13. The Commission does not have jurisdiction over actions for damages. Horowitz v. PECO.

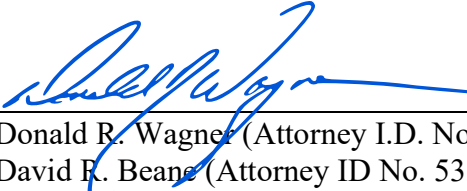
14. Because Complainant's requested relief includes a request for monetary compensation for inconvenience and granting such relief is outside the Commission's jurisdiction, such portions of the Complaint must be dismissed.

15. Duquesne Light respectfully requests that the portions of the Complaint seeking monetary relief be dismissed, and further requests that the matter be referred to the Commission's Mediation Unit for further proceedings.

WHEREFORE, for all the reasons stated herein Respondent Duquesne Light Company respectfully requests that your Honorable Commission sustain its Preliminary Objections, dismiss all portions of the Complaint seeking monetary relief, and further requests that the matter be referred to the Commission's Mediation Unit for further proceedings.

Respectfully submitted,

STEVENS & LEE



Donald R. Wagner (Attorney I.D. No. 80280)

David R. Beane (Attorney ID No. 53343)

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COUNSEL FOR DUQUESNE LIGHT COMPANY

Dated: December 19, 2023

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

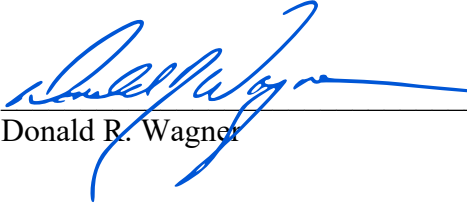
ROBERTA MENDOLIA	:	
Complainant	:	
	:	
v.	:	Docket No. C-2023-3044471
	:	
DUQUESNE LIGHT COMPANY	:	
Respondent	:	
	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing Preliminary Objections 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

Roberta Mendolia
1973-1975 Crafton Blvd.
Pittsburgh, PA 15205
Email: robertaelainemendolia68@mail.com
*Accepts eService.



Donald R. Wagner

Dated: December 19, 2023