

---

Megan E. Rulli

mrulli@postschell.com  
717-612-6012 Direct  
717-731-1985 Direct Fax  
File #: 205337

April 1, 2024

***VIA ELECTRONIC FILING***

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor North  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**Re: Steven Williams v. Duquesne Light Company**  
**Docket No. C-2024-3047276**

Dear Secretary Chiavetta:

Attached please find the Preliminary Objections of Duquesne Light Company in response to the Complaint of Steven Williams in the above-referenced proceeding. Copies are being provided per the Certificate of Service.

Respectfully submitted,



Megan E. Rulli

MER/dmc  
Attachment

cc: Certificate of Service

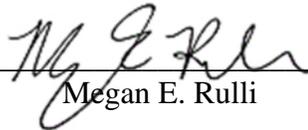
**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

**VIA EMAIL AND FIRST-CLASS MAIL**

Steven Williams  
214 Buena Vista  
Pittsburgh, PA 15212  
Swill1214@aol.com

Date: April 1, 2024

  
Megan E. Rulli

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Steven Williams,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2024-3047276
	:	
Duquesne Light Company,	:	
	:	
Respondent.	:	

---

**NOTICE TO PLEAD**

---

YOU ARE HEREBY ADVISED THAT, PURSUANT TO 52 PA. CODE § 5.101, YOU MAY FILE AN ANSWER TO THE ENCLOSED PRELIMINARY OBJECTION WITHIN TEN (10) DAYS OF THE DATE OF SERVICE HEREOF. YOUR ANSWER TO THE PRELIMINARY OBJECTION MUST BE FILED WITH THE SECRETARY OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION, P.O. BOX 3265, HARRISBURG, PA 17105-3265. A COPY SHOULD ALSO BE SERVED ON THE UNDERSIGNED COUNSEL.

  
\_\_\_\_\_  
Megan E. Rulli (ID # 331981)  
Post & Schell, P.C.  
17 North Second Street, 12th Floor  
Harrisburg, PA 17101-1601  
Phone: 717-731-1970  
Fax: 717-731-1985  
mrulli@postschell.com

Date: April 1, 2024

Attorney for Duquesne Light Company

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Steven Williams,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2024-3047276
	:	
Duquesne Light Company,	:	
	:	
Respondent.	:	

---

**PRELIMINARY OBJECTIONS OF  
DUQUESNE LIGHT COMPANY TO  
THE COMPLAINT OF STEVEN WILLIAMS**

---

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

AND NOW, comes Duquesne Light Company (“Duquesne Light” or the “Company”) and hereby files these Preliminary Objections, pursuant to the regulations of the Pennsylvania Public Utility Commission (“Commission”) at 52 Pa. Code § 5.101, and respectfully requests that the portions of the Formal Complaint of Steven Williams (“Complainant”) be dismissed that: (1) allege defamation, because the Commission lacks subject matter jurisdiction over defamation claims; (2) raise claims on behalf of unidentified members of the public, because the Complainant has no standing to bring those claims; and (3) request damages, because the Commission has no power to award damages.

In support thereof, Duquesne Light states as follows:

## **I. BACKGROUND**

1. Duquesne Light is a “public utility,” an “electric distribution company,” and a “default service provider” as defined in Sections 102 and 2803 of the Pennsylvania Public Utility Code, 66 Pa. C.S. §§ 102, 2803.

2. On March 12, 2024, Duquesne Light was served with the above-captioned Complaint. The issues raised in the Complaint relate to a seven minute outage that affected properties owned by the Complainant. (Complaint ¶ 4.)

3. The Company’s records indicate that the Complainant is the property owner of 1210, 1212, 1214, and 1216 Buena Vista Street, Pittsburgh, PA 15212 (collectively “Properties”). The properties at 1210 and 1216 Buena Vista Street each have three residential meters and one commercial meter. The commercial meters at these properties are in the Complainant’s name and billed at the Company’s small commercial rate. The properties at 1212 and 1214 Buena Vista Street each have one residential meter, and both are in the Complainant’s name and billed at the Company’s residential service rate. In total, the Complainant has 4 accounts in his name at the Properties.

4. In the Complaint, the Complainant alleges that his “relationship with [his] tenants was defamed” due to the actions of Duquesne Light in relation to the outage. (Complaint ¶ 4.)

5. As relief, the Complainant requests, among other things, that the Commission require Duquesne Light to send “a letter of apology to everybody shutoff on the circuit referencing the formal complaint filed on their behalf by Steven Williams.” (Complaint ¶ 5.)

6. In addition, the Complainant avers that he was “forced to retain Wahl plumbing and heating, December 27, 2024, to inspect and certify in front of the tenants that there were no

issues with the building or it's electrical system.” (Complaint ¶ 5.) The Complainant attached an invoice to the Complaint in support of this averment.

7. Duquesne Light herein files these Preliminary Objection to the Complaint. For the reasons explained below, Duquesne Light respectfully requests that the portions of the Complaint pertaining to allegations of defamation, claims brought on behalf of unidentified neighbors; and a request for monetary reimbursement to compensate for expenses incurred, be dismissed pursuant to Sections 5.101(a)(1), (2), and (7) of the Commission's regulations.

## II. STANDARD OF REVIEW

8. Pursuant to the Commission's regulations, preliminary objections in response to a pleading may be filed on several grounds, including:

- (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 a 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.

52 Pa. Code § 5.101(a) (emphasis added).

9. In ruling on preliminary objections, the Presiding Officer must accept as true all well-pled allegations of material facts as well as all inferences reasonable deducible therefrom. *Stilp v. Commonwealth*, 910 A.2d 775, 781 (Pa. Cmwlth. 2006) (“*Stilp*”) (citing *Dep't of Gen. Servs. v. Bd. Of Claims*, 881 A.2d 14 (Pa. Cmwlth. 2005)), *affirmed*, 974 A.2d 491 (Pa. 2009).

However, the Presiding Officer need not accept as true conclusions of law, unwarranted inferences from facts, argumentative allegations, or expressions of opinion. *Stanton-Negley Drug Co. v. Dep't of Pub. Welfare*, 927 A.2d 671, 673 (Pa. Cmwlth. 2008), *affirmed*, 963 A.2d 670 (Pa. 2009). Notwithstanding, any doubt must be resolved in favor of the non-moving party. *Stilp* at 781.

10. In addition, the Presiding Officer must determine whether, based on the factual pleadings, if recovery is possible. *See Rok v. Flaherty*, 527 A.2d 211, 214 (Pa. Cmwlth. 1987) (citation omitted). Indeed, for preliminary objections to be sustained, it must appear with certainty that the law will permit no recovery. *See Stilp* at 781; *Milliner v. Enck*, 709 A.2d 417, 418 (Pa. Super. 1998) (quoting *Santiago v. Pa. Nat. Mut. Cas. Ins. Co.*, 613 A.2d 1235, 1238 (Pa. Super 1992)).

### **III. PRELIMINARY OBJECTIONS**

#### **A. PRELIMINARY OBJECTION NO. 1 – THE COMPLAINANT’S ALLEGATIONS OF DEFAMATION SHOULD BE DISMISSED BECAUSE THE COMMISSION LACKS SUBJECT MATTER JURISDICTION OVER DEFAMATION CLAIMS**

11. Duquesne Light incorporates by reference Paragraphs 1 through 10 as if fully set forth herein.

12. The Complaint should be dismissed because the Commission lacks subject matter jurisdiction over the defamation claims raised therein.

13. As a creature of statute, the Commission “has only those powers which are expressly conferred upon it by the Legislature and those powers which arise by necessary implication.” *Feingold v. Bell*, 383 A.2d 791, 794 (Pa. 1977) (citations omitted).

14. “Nothing contained in the Public Utility Code or the PUC’s regulations vests the PUC with the authority to consider and decide tort claims by private citizens.” *Davis v. PPL Sustainable Energy Fund*, 2011 Pa. Dist. & Cnty. Dec. LEXIS 593 (C.P. Lackawanna 2011) (holding that the plaintiff’s cause of action for defamation could not have been raised before the

Commission and so was not barred by the doctrine of *res judicata*); *see also DeFrancesco v. Western Pennsylvania Water Company*, 453 A.2d 595, 597 (Pa. 1982) (finding the Commission did not have jurisdiction to determine water utility's liability for negligent failure to provide adequate water service to extinguish a fire on plaintiff's property); *Ostrov v. I. F. T., Inc.*, 586 A.2d 409, 415 (Pa. 1991) (holding that "matters involving not what service the utility owed to the general public, but rather whether the service provided to a particular litigant was negligently provided, are for the courts to resolve.").

15. Defamation "is the tort of detracting from a person's reputation, or injuring a person's character, fame, or reputation, by false and malicious statements." *Joseph v. The Scranton Times*, 959 A.2d 322, 334 (Pa. Super. 2008), *app. dismissed as moot*, 982 A.2d 1223 (Pa. 2009).

16. Here, the Complainant alleges that his "relationship with [his] tenants was *defamed*" due to the actions of Duquesne Light in relation to the outage and that "Duquesne Light . . . [has] *defamed* me and seriously damaged my professional and community reputation." (Complaint ¶¶ 4-5) (emphasis added).

17. These portions of the Complaint allege that Duquesne Light defamed the Complainant and are outside of the Commission's subject matter jurisdiction.

18. Thus, the Commission should dismiss those allegations in the Complaint related to defamation pursuant to 52 Pa. Code § 5.101(a)(1).

**B. PRELIMINARY OBJECTION NO. 2 – THE COMPLAINANT HAS NO STANDING TO BRING CLAIMS ON BEHALF OF UNIDENTIFIED MEMBERS OF THE PUBLIC**

19. Duquesne Light incorporates by reference Paragraphs 1 through 18, *supra*, as if fully set forth herein.

20. The Complainant's request for relief includes, among other things, that the Commission require Duquesne Light to send "a letter of apology to *everybody shutoff on the circuit* referencing the formal complaint *filed on their behalf* by Steven Williams." (Complaint ¶ 5) (emphasis added).

21. The Complainant has no standing to bring claims on behalf of other, unidentified members of the public on his circuit who may have been affected by the seven minute outage at issue in the Complaint.

22. Under Pennsylvania law, "[i]n seeking judicial resolution of a controversy, a party must establish as a threshold matter that he has standing to maintain the action." *Stilp v. Commonwealth*, 940 A.2d 1227, 1233 (Pa. 2007). "[T]he core concept of standing is that a person who is not adversely affected in any way by the matter he seeks to challenge is not aggrieved thereby and has no standing to obtain a judicial resolution of his challenge." *Fumo v. City of Phila.*, 972 A.2d 487, 496 (Pa. 2009) (citing *Wm. Penn Parking Garage, Inc. v. City of Pittsburgh*, 346 A.2d 269, 280-81 (Pa. 1975)).

23. To have standing, a party must establish that its interest is substantial, direct, and immediate. *See Del-Aware Unlimited. v. Commonwealth*, 551 A.2d 1117, 1121 (Pa. Cmwlt. 1988) (citation omitted); *1000 Grandview Ass'n v. Mt. Washington Assocs.*, 434 A.2d 796, 797 (Pa. Super. 1981) (citation omitted).

24. To establish a party's interest is "substantial," the interest must exceed the interest "of all citizens in procuring obedience to the law." *In re Hickson*, 821 A.2d 1238, 1243 (Pa. 2003). Further, the party's interest is "direct" when "there is a causal connection between the asserted violation and the harm complained of," and the interest is "immediate" when "that causal

connection is not remote or speculative.” *City of Phila. v. Commonwealth*, 838 A.2d 566, 577 (Pa. 2003).

25. Here, the Complainant has absolutely no standing to bring claims on behalf of unidentified members of the public on his circuit who may have been affected by the seven minute outage at issue in the Complaint. Such claims would have to be brought by those unidentified individuals against Duquesne Light, not the Complainant.

**C. PRELIMINARY OBJECTION NO. 3 - THE COMPLAINANT’S REQUEST FOR DAMAGES SHOULD BE DISMISSED BECAUSE THE COMMISSION HAS NO POWER TO AWARD DAMAGES**

26. Duquesne Light incorporates by reference Paragraphs 1 through 25 as if fully set forth herein.

27. The portion of the Complaint requesting damages should be dismissed because the Commission cannot award damages.

28. In the Complaint, the Complainant avers that he was “forced to retain Wahl plumbing and heating, December 27, 2024, to inspect and certify in front of the tenants that there were no issues with the building or it’s electrical system.” (Complaint ¶ 5.) The Complainant also attached an invoice to the Complaint in support of this averment.

29. It is well-established that the Commission does not have authority to order a public utility to pay damages, as requested by the Complainant. *See DeFrancesco v. W. Pa. Water Co.*, 453 A.2d 595, 596-97 (Pa. 1982); *Elkin v. Bell of Pa.*, 420 A.2d 371, 375 (Pa. 1980); *Feingold v. Bell of Pa.*, 383 A.2d 791, 794-95 (Pa. 1977).

30. Here, the Complainant’s request for damages is impertinent matter “in the sense that it is irrelevant to [the] cause of action” because the Commission lacks authority to award damages. *See Stoner v. PPL Elec. Utils. Corp.*, Docket No. C-2013-2385588, p. 3 (Nov. 14, 2013 (order sustaining preliminary objections). Indeed, requests for damages are regularly stricken from

complaints as being impertinent matter. *See, e.g., id.* at pp. 3, 5; *Powell v. Verizon Pa., Inc.*, Docket No C-2011-226876, 2011 Pa. PUC LEXIS 652, at \*8-9, 16-17 (Dec. 21, 2011), *adopted by Comm'n*, 2012 PA. PUC LEXIS 374 (Order Entered Mar. 1, 2012); *J.E. Culbertson Co. v. Pa. Elec. Co.*, Docket No. C-2010-2204947, 2011 Pa. PUC LEXIS 781, at \*8-9, 12 (Feb. 4, 2011), *adopted by Comm'n*, Docket No. C-2010-2204947 (Order Entered Apr. 8, 2011).

31. Therefore, consistent with longstanding Commission precedent, the Complainant's request for damages is impertinent matter and should be stricken from his Complaint pursuant to 52 Pa. Code § 5.101(a)(2).

**IV. CONCLUSION**

WHEREFORE, Duquesne Light Company respectfully requests that the Pennsylvania Public Utility Commission grant these Preliminary Objections.

Respectfully submitted,



\_\_\_\_\_  
Megan E. Rulli (ID # 331981)

Post & Schell, P.C.

17 North Second Street, 12th Floor

Harrisburg, PA 17101-1601

Phone: 717-731-1970

Fax: 717-731-1985

mrulli@postschell.com

Date: April 1, 2024

Attorney for Duquesne Light Company

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Steven Williams,	:	
	:	
Complainant,	:	
	:	
v.	:	No: C-2024-3047276
	:	
DUQUESNE LIGHT COMPANY,	:	
	:	
Respondent.	:	

**VERIFICATION**

I, Benjamin Cain, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information, and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

  
Benjamin Cain

Date 3/28/24