

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Elizabeth Wozniak	:	
	:	C-2024-3046538
v.	:	
	:	
Duquesne Light Company	:	

**INTERIM ORDER  
GRANTING IN PART AND DENYING IN PART THE  
PRELIMINARY OBJECTIONS OF DUQUESNE LIGHT COMPANY**

Elizabeth Wozniak (Complainant) filed a Formal Complaint (Complaint) dated February 16, 2024, against Duquesne Light Company (Respondent, Duquesne Light or Company) regarding 450 Semple Street, Pittsburgh, Pennsylvania (Service Location). Complainant alleges that Respondent Contracted with Wright Tree Service (Wright or Contractor) to trim trees around the power lines near her property. Complainant avers that the Contractor caused damage to her asphalt parking pad and lawn. Complainant averred that Wright repaired the damage to her lawn, but the asphalt damage was not repaired.

Complainant seems to request that the damage to her asphalt be repaired. She further stated that she would like for the Commission to enact rules regarding engaging contracted companies to perform work for Respondent. Complainant averred that Respondent should have some responsibility surrounding responsible and safe work completed by their contractors. She submits there should be some sort of strike system in place for contracted companies and if they are found to be irresponsible, they should not be allowed to be engaged by Respondent.<sup>1</sup>

On March 11, 2024, Duquesne Light Company (Respondent, Duquesne Light or Company) filed its Answer, contemporaneously with its Preliminary Objections. Respondent averred that it contracted Wright Tree Service to trim trees at the service location. Respondent

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<sup>1</sup> Format Complaint, p. 3.

denied that the asphalt area was damaged by the actions of the contractor. In its Preliminary Objections, Respondent objects to the request for damages as impertinent matter that should be stricken pursuant to 52 Pa. Code § 5.101(a)(2). Pursuant to 52. Pa. Code § 5.101, Respondent objects to the Complaint on the grounds that the Commission lacks jurisdiction to award monetary damages.

In its preliminary objections, Respondent averred that the subject of the Formal Complaint is beyond the jurisdiction of the Pennsylvania Public Utility Commission (Commission) who is without authorization to grant the Complainant's request for damages. Accordingly, the Respondent requests that the Commission grant its Preliminary Objections and dismiss the portions of the Complaint that request damages.

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.

Commission's procedure regarding the disposition of preliminary objections is similar to that utilized in Pennsylvania civil practice.<sup>2</sup> Respondent argues that requested relief sought through the Formal Complaint is an award of monetary damages from the Company.

It is well-established under Pennsylvania law that the enforcement powers of the Commission do not include the power to award money damages.<sup>3</sup>

In *Feingold*, the Pennsylvania Supreme Court explained:

... the statutory array of PUC remedial and enforcement powers does not include the power to award damages to a private litigant for breach of contract by a public utility. Nor can we find an express grant of power from which the power to award such damages can be fairly implied. Thus, it can be concluded that the Legislature did not intend for the PUC to have such a power.

<sup>4</sup>

The Court of Common Pleas retains original jurisdiction over suits for monetary damages.<sup>5</sup>

Additionally, in accordance with Pennsylvania law, this Commission does not have the power to award monetary damages and the Complainant's request for money damages, as impertinent matter, must be stricken within the use and meaning of Commission regulation at 52 Pa. Code § 5.101(a)(2).

Under Pennsylvania law, this Commission does not have jurisdiction to hear and award money damages and accordingly, Complainant's request for relief, to the extent that it requests money damages will be dismissed.

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<sup>2</sup> *Equitable Small Transportation Intervenors v. Equitable Gas Company*, Docket No. C-00935435 (Opinion and Order entered July 18, 1994).

<sup>3</sup> *Elkin v. Bell Tel. Co. of PA.*, 420 A.2d 371 (Pa. 1980); *Feingold v. Bell of Pa.*, 383 A.2d 791 (Pa. 1978); see *Nagy v. Bell Tel. Co. of PA.*, 436 A.2d 701 (Pa. Super. 1981).

<sup>4</sup> *Feingold*, 383 A.2d at 794.

<sup>5</sup> *Behrend, supra*.

The Commission lacks the jurisdiction to award Complainant money damages related to the averments set forth in the prayer for relief filed in this proceeding. This point has been well-settled in numerous decisions.<sup>6</sup> However, the Commission retains the jurisdiction to rule on any service and safety issues and may order other relief as appropriate.<sup>7</sup> The Commission has broad powers to supervise and regulate all public utilities doing business within the Commonwealth and is empowered to determine whether a public utility is providing safe, adequate and reasonable service.<sup>8</sup> The Commission may impose civil penalties upon a utility which is found to be in violation of a statute, regulation or order of the Commission.<sup>9</sup> Utility service is not limited to the provision of service and includes “any and all acts” related to that function.<sup>10</sup>

Accordingly, the request to dismiss Complainant’s claim for the award of money damages will be granted.

THEREFORE,

IT IS ORDERED:

1. That the preliminary objections of Respondent, Duquesne Light Company and request to dismiss Complainant’s request for money damages from the formal complaint filed at Docket No. C-2024-3046538 by Complainant, is granted.

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<sup>6</sup> *Elkin v. Bell Telephone Company of Pennsylvania*, 491 Pa. 123, 420 A.2d 371 (1980); *Feingold v. Bell of Pennsylvania*, 477 Pa. 1, 383 A.2d 791 (1977); *Poorbaugh v. Pa. Pub. Util. Comm’n*, 666 A.2d 744 (Pa.Cmwlth. 1995).

<sup>7</sup> 66 Pa.C.S. § 1501.

<sup>8</sup> 66 Pa.C.S. §§ 501, 1501.

<sup>9</sup> 66 Pa.C.S. § 3301.

<sup>10</sup> 66 Pa.C.S. § 102 (defining “service”); *West Penn Power Co. v. Pa. Pub. Util. Comm’n*, 578 A.2d 75 (Pa.Cmwlth. 1990); *McCall v. Pennsylvania Electric Company*, PUC Docket No. C-2009-2105240 (Initial Decision issued February 25, 2010).

2. That the preliminary objections filed by Duquesne Light Company in the above-captioned proceeding at Docket No. C-2024-3046538 are denied in all other respects.

Date: April 25, 2024

/s/  
Jeffrey A. Watson  
Administrative Law Judge

C-2024-3046538 - ELIZABETH WOZNIAK v. DUQUESNE LIGHT COMPANY

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