
Megan E. Rulli

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File #: 206067

May 20, 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 Bizon v. Duquesne Light Company
Docket No. C-2024-3048742

Dear Secretary Chiavetta:

Attached, please find the Preliminary Objection of Duquesne Light Company in response to the Complaint of Steven Bizon 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

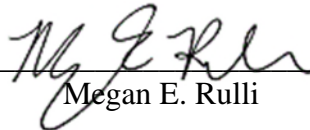
CERTIFICATE OF SERVICE

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 Bizon
701 Willruth Drive
Allison Park, PA 15101
smbizon@hotmail.com

Date: May 20, 2024



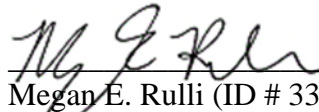
Megan E. Rulli

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Steven Bizon,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2024-3048742
	:	
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)

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mrulli@postschell.com

Date: May 20, 2024

Attorney for Duquesne Light Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Steven Bizon,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2024-3048742
	:	
Duquesne Light Company,	:	
	:	
Respondent.	:	

**PRELIMINARY OBJECTION OF
DUQUESNE LIGHT COMPANY TO
THE COMPLAINT OF STEVEN BIZON**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

AND NOW, comes Duquesne Light Company (“Duquesne Light” or the “Company”) and hereby files this Preliminary Objection, 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 Bizon (“Complainant”) requesting damages be dismissed because the Commission has no authority 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 April 30, 2024, Duquesne Light was served with the above-captioned Complaint. The issues raised in the Complaint pertain to household appliances the Complainant

alleges were damaged due to an outage on February 27, 2024. (Complaint ¶ 4.) As relief, the Complainant requests, among other things, for “Duquesne Light to cover the cost of all the damages that [he] received on that day.” (Complaint ¶ 5.)

3. Duquesne Light herein files this Preliminary Objection to the Complaint. For the reasons explained below, Duquesne Light respectfully requests that the portions of the Complaint pertaining to a request for monetary reimbursement to compensate for losses be dismissed pursuant to Section 5.101(a)(2) of the Commission’s regulations because a request for damages constitutes impertinent matter. 52 Pa. Code § 5.101(a)(2).

II. STANDARD OF REVIEW

4. 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)(2) (emphasis added).

5. 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.

6. In addition, the Presiding Officer must determine whether, based on the factual pleadings, 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 OBJECTION NO. 1: THE COMPLAINANT’S REQUEST FOR DAMAGES SHOULD BE DISMISSED BECAUSE THE COMMISSION HAS NO POWER TO AWARD DAMAGES

7. Duquesne Light incorporates by reference Paragraphs 1 through 6 as if fully set forth herein.

8. The portions of the Complaint requesting damages should be dismissed because the Commission cannot award damages.

9. In the Complaint, the Complainant requests, among other things, for “Duquesne Light to cover the cost of all the damages that [he] received on that day.” (Complaint ¶ 5.) The Complainant alleges these damages total \$3,930.00, a total which includes replacing two televisions, an “HVAC quote,” an “electric quote,” “[d]oggy day care because [his] house was 49

degrees,” and “late fees on [his] mortgage because [he] drained his account to front these repairs.” (Complaint, p. 9.)

10. 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).

11. 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).

12. 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 Complainant's request for damages be summarily dismissed pursuant to 52 Pa. Code § 5.101(a)(2).

Respectfully submitted,



Megan E. Rulli (ID # 331981)

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Date: May 20, 2024


Attorney for Duquesne Light Company

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	:	
DUQUESNE LIGHT COMPANY,	:	
	:	
Respondent.	:	

VERIFICATION

I, Chad Hirsh, 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).



Chad Hirsh

_____ 5/20/2024
Date