
Megan E. Rulli

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File #: 208244

October 3, 2024

VIA ELECTRONIC FILING

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

Re: Rason Harris v. Duquesne Light Company
Docket No. F-2024-3051146

Dear Secretary Chiavetta:

Attached for filing, please find the Preliminary Objection of Duquesne Light Company to the Complaint of Rason Harris in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,



Megan E. Rulli

MER/skr
Attachment

cc: Certificate of Service

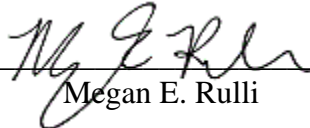
CERTIFICATE OF SERVICE

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 FIRST-CLASS MAIL

Rason Harris
7227 Travella Boulevard
Pittsburgh, PA 15235

Date: October 3, 2024



Megan E. Rulli

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Rason Harris,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. F-2024-3051146
	:	
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: October 3, 2024

Attorney for Duquesne Light Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Rason Harris,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. F-2024-3051146
	:	
Duquesne Light Company,	:	
	:	
Respondent.	:	

**PRELIMINARY OBJECTION OF
DUQUESNE LIGHT UTILITIES CORPORATION TO THE
COMPLAINT OF RASON HARRIS**

AND NOW, comes Duquesne Light Company (“Duquesne Light”) 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 Complaint filed by Rason Harris (“Complainant”) be dismissed in its entirety as against Duquesne Light. 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. By Secretarial Letter dated September 13, 2024, Duquesne Light was served with the above-captioned Complaint. In the Complaint, the Complainant raises allegations that her electric service bill(s) contain incorrect charges due to an enrollment with electric generation

supplier (“EGS”) Inspire Energy Holdings, LLC (“Inspire”) without her consent. (Complaint ¶¶ 4, 5.)

3. Duquesne Light herein files this Preliminary Objection to the Complaint. For the reasons explained below, Duquesne Light respectfully requests that the Complaint be dismissed in its entirety and with prejudice as against Duquesne Light pursuant to Section 5.101(a)(5) of the Commission’s regulations, 52 Pa. Code § 5.101(a)(5), due to the nonjoinder of a necessary party, *i.e.*, the EGS at issue.

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 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).

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 reasonably deducible therefrom. *Stilp v. Cmwlt.*, 910 A.2d 775, 781 (Pa. Cmwlt. 2006) (citing *Dep’t of Gen. Serv. v. Bd. of Claims*, 881 A.2d 14 (Pa. Cmwlt. 2005)); accord *Complaint of Nat’l Fuel Gas Distrib. Corp. and*

Petition for an Order to Show Cause, Docket No. P-00072343 (December 26, 2007). 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. 2007). For preliminary objections to be sustained, it must appear with certainty that the law will permit no recovery, and 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, if recovery is possible. *See Rok v. Flaherty*, 527 A.2d 211, 214 (Pa. Cmwlth. 1987). 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).

III. PRELIMINARY OBJECTION

A. PRELIMINARY OBJECTION NO. 1 – THE COMPLAINANT HAS FAILED TO JOIN A NECESSARY PARTY

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

8. The Complaint should be dismissed because the Complainant has failed to join a necessary party.

9. Under Pennsylvania law, “a necessary party is one whose presence, while not indispensable, is essential if the court is to resolve completely a controversy and to render complete relief.” *Pa. Human Relations Comm’n v. Phila. Sch. Dist.*, 651 A.2d 177 (Pa. Cmwlth. 1993) (citation omitted.)

10. According to the Complaint and following further investigation by Duquesne Light, the Complainant was a shopping customer who received competitive electric generation supply service from EGS Inspire during the time period in question. (*See* Complaint ¶ 5.)

11. Inspire is a licensed EGS that is authorized to offer, render, furnish or supply electricity or electric generation services in the Commonwealth of Pennsylvania, including within Duquesne Light's service territory. *See License Application of DWP Energy Holdings, LLC for Approval to Offer, Render, Furnish or Supply Electricity or Electric Generation Services as a Supplier of Electricity to the Public in the Commonwealth of Pennsylvania*, Docket No. A-2013-2376802 (Order entered September 26, 2013), *request to change name to Inspire Energy Holdings, LLC approved*, Docket No. A-2013-2376802 (effective September 26, 2013).

12. The Complainant alleges that she was enrolled with EGS Inspire without her consent and that her electric service bill(s) contain incorrect charges related to that enrollment. (Complaint ¶¶ 4, 5.)

13. The Complainant's allegations concerning slamming are unrelated to electric distribution or default generation supply service provided by Duquesne Light to the Complainant. (Complaint ¶ 5.)

14. In her request for relief, the Complainant references charges on her account due to her enrollment with Inspire. (Complaint ¶ 5.)

15. Here, Inspire is a necessary party to this proceeding, given that the Complainant's allegations and requested relief pertain directly to Inspire.

16. The Commission's determination in this case could affect Inspire because Inspire provided electric generation supply service to the Complainant during the period relevant to the Complaint, and the allegations in the Complaint are against Inspire.

17. As such, without Inspire, the Commission cannot resolve the dispute or award relief concerning the material allegations in the Complaint against Inspire.

18. Based on the foregoing, the Complainant has failed to join a necessary party, *i.e.*, Inspire, in this proceeding. Therefore, the Complaint should be dismissed in its entirety and with prejudice as against Duquesne Light, pursuant 52 Pa. Code § 5.101(a)(5).

19. To the extent that the Complaint is not dismissed in its entirety, Duquesne Light respectfully requests that an Order be issued joining Inspire to the instant proceeding as an indispensable party.

IV. CONCLUSION

WHEREFORE, Duquesne Light Company respectfully requests that the Complaint be dismissed in its entirety and with prejudice as against Duquesne Light Company pursuant to 52 Pa. Code § 5.101(a)(5).

Respectfully submitted,



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Date: October 3, 2024

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