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Megan E. Rulli

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File #: 209161

November 14, 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: Patricia Brennan v. Duquesne Light Company**  
**Docket No. C-2024-3051798**

Dear Secretary Chiavetta:

Attached please find the Preliminary Objections of Duquesne Light Company in response to the Complaint of Patricia Brennan 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 E-MAIL AND FIRST-CLASS MAIL**

Patricia Brennan  
218 Shannon Heights Drive  
Verona, PA 15147  
Pbre746704@aol.com

Dated: November 14, 2024



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Megan E. Rulli

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

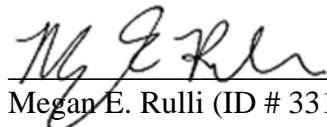
Patricia Brennan,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2024-3051798
	:	
Duquesne Light Company,	:	
	:	
Respondent.	:	

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**NOTICE TO PLEAD**

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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.

  
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Megan E. Rulli (ID # 331981)  
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mrulli@postschell.com

Date: November 14, 2024

Attorney for Duquesne Light Company

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Patricia Brennan,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2024-3051798
	:	
Duquesne Light Company,	:	
	:	
Respondent.	:	

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**PRELIMINARY OBJECTION OF  
DUQUESNE LIGHT UTILITIES CORPORATION TO THE  
COMPLAINT OF PATRICIA BRENNAN**

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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 Patricia Brennan (“Complainant”) be summarily dismissed 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 October 25, 2024, Duquesne Light was served with the above-captioned Complaint. In the Complaint, the Complainant raises allegations that she is a net metering customer enrolled with the electric generation supplier (“EGS”) Reliant Energy

Northeast LLC d/b/a NRG Retail Solutions (“NRG”) and that she is not receiving credit for the excess generation produced by her solar system. (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 summarily dismissed in its entirety and with prejudice against Duquesne Light pursuant to Section 5.101(a)(5) of the Commission’s regulations, 52 Pa. Code §.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. Cmwltth.*, 910 A.2d 775, 781 (Pa. Cmwltth. 2006) (citing *Dep’t of Gen. Serv. v. Bd. of Claims*, 881 A.2d 14 (Pa. Cmwltth. 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 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 is a shopping customer who receives competitive electric generation supply service from EGS NRG. (*See* Complaint ¶¶ 4-5.)

11. NRG 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 Reliant Energy Northeast, LLC d/b/a Reliant Energy for Approval to Offer, Render, Furnish or Supply Electricity or Electric Generation Services as a Supplier of Retail Electric Power*, Docket No. A-2010-2192350 (Order entered October 18, 2010).<sup>1</sup>

12. The Complainant alleges that while enrolled with EGS NRG she was not properly compensated for the excess generation received from her solar system. (Complaint ¶¶ 4, 5.)

13. In accordance with its Commission-approved tariff, Duquesne Light does not compensate customers with an EGS for the excess kWh at the end of the year. Net metering customers with an EGS must contact their EGS to receive credit for any excess kWh generated during the preceding year. *See* Supp. No. 36 to Electric – Pa. P.U.C. No. 25, Second Revised Page No. 136A.

14. Thus, the Complainant must contact NRG to receive credit for any excess kWh generated during the preceding year.

15. The Complainant's allegations are unrelated to electric distribution or default generation supply service provided by Duquesne Light to the Complainant. (Complaint ¶ 4.)

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

17. The Commission's determination in this case could affect NRG because the terms for excess electricity produced by customer-generators who are customers of EGSs are stated in

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<sup>1</sup> On July 10, 2013, Reliant Energy Northeast, LLC d/b/a Reliant Energy filed a letter with the Commission stating that the licensee would also do business under the additional trade names of NRG Residential Solutions and NRG Retail Solutions. The license name change was approved by Secretarial Letter issued August 12, 2013, at Docket No. A-2010-2192350.

the service agreement between the customer-generator and the EGS. *See* Supp. No. 36 to Electric – Pa. P.U.C. No. 25, Second Revised Page No. 136A.

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

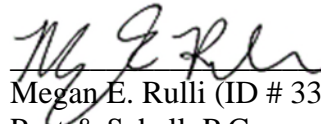
19. Based on the foregoing, the Complainant has failed to join a necessary party, *i.e.*, NRG, in this proceeding. Therefore, the Complaint should be summarily dismissed as against Duquesne Light, pursuant 52 Pa. Code § 5.101(a)(5).

20. To the extent that the allegations in the Complaint regarding NRG are not summarily dismissed, Duquesne Light respectfully requests that an Order be issued joining NRG to the instant proceeding as an indispensable party.

**IV. CONCLUSION**

WHEREFORE, Duquesne Light Company respectfully requests that the Complaint be summarily dismissed with prejudice as against Duquesne Light pursuant to 52 Pa. Code §§ 5.101(a)(4) and 5.101(a)(5).

Respectfully submitted,



Megan E. Rulli (ID # 331981)

Post & Schell, P.C.

17 North Second Street, 12th Floor

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Fax: 717-731-1985

mrulli@postschell.com

Date: November 14, 2024

Attorney for Duquesne Light Company

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Patricia Brennan, :  
 :  
 Complainant, :  
 :  
 v. : No: C-2024-  
 3051798 :  
 DUQUESNE LIGHT COMPANY, :  
 :  
 Respondent. :

VERIFICATION

I, Mark Skosnik, 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).



Mark Skosnik

11/14/2024  
Date