



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
COMMONWEALTH KEYSTONE BUILDING  
400 NORTH STREET  
HARRISBURG, PENNSYLVANIA 17120

November 18, 2024

*Via hand delivery*

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

RCVD PUC SEC BUR  
NOV 18 2024 AM 10:48

Re: *Valen Tasser v Duquesne Light*  
Docket No F-2024-3050302

Dear Secretary Chiavetta:

Enclosed for filing is an Objection on behalf of the Pennsylvania Public Utility Commission's Bureau of Consumer Services (BCS) to the attached Subpoena Form in the *Valen Tasser v. Duquesne Light* case at Docket No. F-2024-3050302.

Copies of this Objection are being served upon the parties of record in this proceeding and the presiding officer as referenced in the attached certificate of service.

Should you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads 'Elizabeth H. Barnes'.

Elizabeth H. Barnes, Deputy Chief Counsel  
Attorney ID No. 64389  
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Pennsylvania Public Utility Commission  
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400 North Street  
Harrisburg, PA 17120  
Tel: (717) 787-5000  
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[ebarnes@pa.gov](mailto:ebarnes@pa.gov)

Enclosure

cc: The Honorable Mary D. Long (via electronic mail)  
David Screven, Chief Counsel (via electronic mail)  
Lori Mohr, Director of Bureau of Consumer Services (via electronic mail)  
Holly Pyle, Bureau of Consumer Services (via electronic mail)  
As per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**VALEN TASSER,**  
**Complainant**

**v.**

**DUQUESNE LIGHT COMPANY,**  
**Respondent**

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**RCVD PUC SEC BUR  
NOV 18 2024 AM 10:49**

**Docket No. F-2024-3050302**

**OBJECTION OF THE BUREAU OF CONSUMER SERVICES  
TO COMPLAINANT'S SUBPOENA FORM**

On November 12, 2024, Valen Tasser, *pro se* Complainant (Complainant), electronically mailed<sup>1</sup> the attached unsigned Subpoena Form to Holly Pyle, Duquesne Light Company, David Screven, Chief Counsel of the Pennsylvania Public Utility Commission (Commission), and Administrative Law Judge Mary D. Long (“ALJ Long” or “presiding officer”). The Subpoena Form seeks to subpoena Investigator Holly Pyle, an employee in the Commission’s Bureau of Consumer Services (BCS), for her testimony and production of documents and records at a hearing scheduled for 10:00 AM on January 15, 2025, in the above-captioned matter.

The Subpoena Form appears to also seek signature approval from the presiding officer for the issuance of a subpoena for recordings, transcripts, documents and records pertaining to a telephonic conversation between Complainant and Ms. Pyle. The Subpoena Form contains a notice stating: “Any response or objection to this application shall be filed with the Commission and presiding officer within ten (10) days of service of this application.” See Attachment A, Subpoena Form at 2.

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<sup>1</sup> There is no indication that Complainant’s Subpoena Form was properly filed with the Commission’s Secretary’s Bureau pursuant to the Commission’s regulations pertaining to documentary filings pursuant to 52 Pa. Code § 1.31, and as of the date of this filing, the Subpoena Form is not on the public docket of this proceeding.

BCS respectfully requests the Subpoena Form provided by Complainant be stricken as it is fatally procedurally deficient. Alternatively, to the extent that the Subpoena Form would be construed as an Application for Issuance of Subpoena under the Commission's regulations at Section 5.421(b), 52 Pa.Code § 5.421(b), BCS hereby files this Objection pursuant to 52 Pa. Code § 5.421(f). The entirety of Complainants' request seeks records and documents and the testimony of Holly Pyle regarding a phone conversation Ms. Pyle had with Complainant on June 10, 2024. Section 5.421(c) of the Commission's regulations require service of a subpoena directed to a Commission employee upon the Law Bureau as well as the individual being subpoenaed. 52 Pa. Code § 5.421(c)(4). Complainant emailed a copy of the Subpoena Form to the presiding officer, person to be subpoenaed, and the Director of Law Bureau, Chief Counsel David E. Screven; however, the unsigned form should have been attached to an application that is nonexistent. Moreover, the notice regarding the right to respond or object is on the Subpoena Form instead of on an application.

BCS respectfully requests that the presiding officer deny Complainant's Subpoena Form because it is fatally deficient as to service and has not yet been properly accepted and filed by the Secretary's Bureau. Alternatively, to the extent that the Subpoena Form is deemed to be an Application procedurally proper pursuant to the Commission's regulations governing the subpoena process, BCS hereby files an Objection to the Application pursuant to 52 Pa. Code § 5.421(f).

## **I. BACKGROUND**

On July 12, 2024, Complainant filed a formal complaint against Duquesne Light Company (Duquesne Light) alleging that her bills are too high, Duquesne Light is not calculating her budget bill correctly, and her payments are not being correctly applied to her balance. The formal complaint is an appeal of BCS Decision No. 3982003. Duquesne Light filed an answer on August 14, 2024, which denied the material allegations of the complaint. By hearing notice dated August 21, 2024, the Office of

Administrative Law Judge scheduled a hearing by telephone for October 3, 2024, and assigned the complaint to ALJ Long. Also on August 21, 2024, ALJ Long issued a prehearing order which set forth the procedure for the conduct of the hearing. On September 26, 2024, Complainant requested a continuance of the hearing. A continuance was granted by Order dated September 26, 2024. Complainant's appeal of a BCS Decision regarding her billing dispute with Duquesne Light is currently scheduled for 10:00 AM on Wednesday, January 15, 2025. On November 6, 2024, ALJ Long mailed Complainant a letter stating she was unable to act upon Complainant's prior request for a subpoena for nonconformity with notice and service requirements at Section 5.421(b) of the Commission's regulations. Subsequently, on November 12, 2024, Complainant emailed the instant Subpoena Form to ALJ Long and copied Chief Counsel David Screven, BCS Investigator Holly Pyle, and counsel for Duquesne Light. Complainant seeks the presence and testimony of Holly Pyle at the evidentiary hearing scheduled for January 15, 2025. The Subpoena Form was not filed with the Commission, was not attached to an Application for Issuance of Subpoena, and does not appear on the docket of this proceeding. It contains a Certificate of Service.

For the reasons described below, BCS respectfully requests that Your Honor deny Complainant's Application and strike the Subpoena Form as it is procedurally deficient, or, in the alternative, if not stricken, BCS requests that the attempt to subpoena Holly Pyle to testify and produce records on Complainant's behalf at the Initial Hearing be denied.

## **II. OBJECTIONS**

### **A. Complainant's Subpoena Form Should Be Stricken Because It Is Procedurally Deficient And Fails To Contain An Application For Issuance Of Subpoena**

Commission regulations at 52 Pa. Code Section 5.421 identify the form and service requirements for a written application for issuance of a subpoena. 52 Pa. Code

§§ 5.421(b)-(c). Complainant, who is self-represented, disregarded the Commission's procedural regulations. The Commission has previously recognized that a *pro se* litigant is not excused from complying with the Commission's procedural rules. See *Lewis v. PECO Energy Company*, Docket No. C-2010-2189187 (Initial Decision issued June 2, 2011; Final Order entered July 15, 2011)(dismissing a *pro se* complainant's formal complaint for failing to comply with a presiding officer's Order). The right of self-representation is not a license to not comply with relevant rules of procedure and substantive law. *Faretta v. California*, 422 U.S. 806, 834 n.6, 45 L.Ed.2d 562, 95 S.Ct. 2525 (1975). See also, *Vann v. Unemployment Compensation Board of Review*, 508 Pa. 139, 494 A.2d 1081 (1985)(*pro se* litigant must to some extent assume the risk that his lack of legal training will prove his undoing). In the instant case, Complainant initiated and is engaged in a formal contested proceeding and the fact that Complainant is unrepresented is no excuse for failing to follow the Commission's regulations governing the issuance of subpoenas.

In fact, ALJ Long apprised Complainant of the Commission's procedural requirements as they relate to subpoenas in her November 6, 2024, letter. Despite this, Complainant emailed an unsigned Subpoena Form without an attached Application for Issuance of Subpoena to ALJ Long, Holly Pyle and Chief Counsel David Screven as well as counsel for Duquesne Light, with a certificate of service and notice attached. This Subpoena Form is fatally deficient as not only has it not been filed with the Commission's Secretary's Bureau, but it fails to contain the application in violation of Section 5.421(a) of the Commission's regulations that state in pertinent part:

(a) Issuance.

- (1) A subpoena may be issued by the Commission upon its own motion.
- (2) Other than under paragraph (1), **a subpoena will issue only upon application in writing to the presiding officer**, except that during a hearing in a proceeding, the application may be made orally on the record before the presiding officer, who will determine the necessity of issuing the subpoena.

52 Pa. Code § 5.421(a)(2)(emphasis added). Additionally, the written application “must specify as nearly as possible the general relevance, materiality and scope of the testimony . . . sought.” 52 Pa. Code § 5.421(b)(1). It must contain a notice indicating that a response or objection shall be filed within ten (10) days of service of the application and must have a certificate of service. 52 Pa. Code § 5.421(b)(3)-(4).

The filing of an application is a necessary and mandatory aspect of the Commission’s subpoena process as the application is designed to put the parties on notice as to the relevance, materiality and scope of the testimony and provide the parties with an opportunity to object. The Commission has previously denied subpoenas that failed to contain an application that was: (1) served on the essential parties or individuals; and (2) specify the relevance or scope of testimony sought. *Seese v. PPL Electric Utilities Corporation*, Docket No. C-2015-2500818 (Initial Decision issued March 17, 2016; Final Order entered April 29, 2016). Complainant deprives interested parties of such an opportunity here; therefore, the Subpoena Form should be stricken. There is no explanation as to the relevance or materiality of Ms. Pyle’s testimony as it would relate to the allegations advanced by Complainant. Applications for Subpoena must be approved by a presiding officer prior to the issuance of the Subpoena. Complainant improperly seeks to avoid this step by seemingly issuing a subpoena upon Ms. Pyle without the approval and signature of the presiding officer upon the subpoena. Thus, for all of these reasons, Complainant’s proposed Subpoena Form should be stricken in its entirety as it disregards the Commission’s regulations pertaining to the issuance of subpoenas.

**B. In The Alternative, Should Complainants' Subpoena Form Be Entertained, It Should Be Denied Because It Seeks To Mandate A BCS Employee's Participation Beyond The Scope Of Her Responsibilities And Contrary To Independent Discretion To Decide Informal Complaints**

The Bureau of Consumer Services is charged with investigating informal consumer complaints regarding utility service, acting as a liaison between consumers and utilities as well as assisting the Commission in its formulation of policy regarding consumers and the billing and other matters relative to their service provided by regulated utilities consistent with 66 Pa.C.S. § 308(d). *Implementation of Act 129 of 2008; Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (Order entered August 11, 2011)(Reorganization Order). Complainant's proposed Subpoena Form does not comply with Section 308(d) of the Public Utility Code, the Reorganization Order or normal procedures in that it seeks a directive to an employee of BCS to participate and provide testimony in a proceeding in which neither BCS nor its employee Holly Pyle is a party. Section 308.1. Consumer protection and information, which provides in pertinent part:

- (a) **Informal complaints.** – The commission shall promulgate regulations by which a consumer may make informal complaints. A party may appeal a determination regarding the informal complaint and seek review by an administrative law judge or special agent subject to the procedures in section 335 (relating to initial decisions and release of documents). The commission shall keep records of each informal complaint received, the matter complained of, the utility involved and the disposition and shall at least annually prepare a report on these matters.

66 Pa.C.S.A. § 308.1. In the instant case, Holly Pyle investigated Complainant's prior informal complaint and issued a decision pursuant to Section 308.1 that Complainant timely appealed. Pursuant to 52 Pa. Code § 56.163(3), Commission staff resolutions of informal complaints are binding upon the parties unless and until formal proceedings are

initiated under 52 Pa. Code §§ 56.171—56.174 (relating to formal complaints). Any documents or recording that may or may not exist of a telephone call between Complainant and Ms. Pyle are irrelevant to this *de novo* appeal, meaning “from the beginning.” Complainant has opportunity to present evidence in support of her Complaint before the Office of Administrative Law Judge. The BCS decision was provided to the parties and either party could offer the decision as an exhibit for the Commission’s consideration. The testimony of Ms. Pyle is neither necessary nor warranted.

**C. In The Alternative, Should Complainant’s Subpoena Form Be Entertained, It Should Be Denied Because It Seeks Disclosure Of Privileged Or Otherwise Protected Materials And Is Unduly Burdensome**

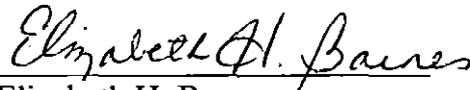
Complainant seeks the testimony of Investigator Holly Pyle and also “recordings, transcripts and/or everything archived from the telephone conversation on June 10, 2024, at 9:40 AM.” Attachment A, Subpoena Form at 1. Recordings, transcripts, notes taken and everything archived from this phone call are privileged and/or otherwise non-discoverable materials. Further, BCS recordings are not retained indefinitely; therefore, it is unduly burdensome to require BCS to make an unreasonable search for the recording and investigator Holly Pyle’s notes and for her to be compelled to produce these and testify at the January 15, 2025 hearing. Discovery or deposition is not permitted which: (1) is sought in bad faith; (2) would cause unreasonable annoyance, embarrassment, oppression, burden or expense to the deponent, a person or participant; (3) relates to a matter which is privileged; or (4) would require the making of an unreasonable investigation by the deponent, a participant or witness. 52 Pa. Code § 5.361(a). The records sought by Complainant are protected as privileged documents and compelling Ms. Pyle to search for and produce these documents and testify as Complainant’s witness at hearing is unduly burdensome. This fishing expedition for privileged information at the sole cost and expense of BCS should be denied. While discovery is broad in

Pennsylvania, parties are not entitled to engage in “fishing expeditions.” *Land v. State Farm Mut. Ins. Co.*, 600 A.2d 605, 608 (Pa. Super. 1991).

Further, the Application fails to comply with 52 Pa. Code § 5.421(b)(2) by failing to identify facts to be proved by the documents in sufficient detail to indicate the necessity of the documents. The Subpoena Form seeks the release of records related to BCS’s decision making and exercise of discretion, which are privileged. 52 Pa. Code § 5.361(a)(3). This request implicates records subject to the deliberative process privilege that would expose confidential deliberations of law reflecting agency decisions that become binding unless they are appealed. Such requests have been denied by the Commission in the past and these decisions have been upheld by the Commonwealth Court of Pennsylvania. *Commonwealth v. Pa. Pub. Util. Comm’n*, 331 A.2d 598 (Pa. Cmwlth. 1975) (finding PUC technical staff reports used to determine the appropriateness of utility tariff changes were not discoverable because they revealed the PUC’s decision-making process). *See also, Columbia Gas Transmission Corp. v. Piper*, 615 A.2d 979 (Pa. Cmwlth. 1992) (party may not use expert report of another party); *see also, Spino v. John S. Tilley Ladder Co.*, 671 A.2d 726 (Pa. Super. 1996) *aff’d* 696 A.2d 1169 (Pa. 1997) (party may not use subpoena to compel an expert opinion).

**WHEREFORE**, for all the foregoing reasons, the Bureau of Consumer Services of the Pennsylvania Public Utility Commission respectfully requests that Your Honor issue an Order striking and denying Complainant's Subpoena Form because it is procedurally improper. Alternatively, if Your Honor treats the Subpoena Form as an Application for Issuance of Subpoena, this should be denied as it seeks records that are privileged, irrelevant, and would create an unreasonable burden and expense to the Bureau of Consumer Services. It should also be denied because it seeks to mandate a BCS employee's participation in a proceeding before the Office of Administrative Law Judge, which is beyond the scope of her responsibilities and contrary to a BCS Investigator's independent discretion to decide informal complaints.

Respectfully submitted,



Elizabeth H. Barnes  
Deputy Chief Counsel  
Law Bureau  
PA Attorney ID No. 64389

Pennsylvania Public Utility Commission  
400 North St., 3<sup>rd</sup> Floor  
Harrisburg, PA 17120  
(717) 772-5408  
[ebarnes@pa.gov](mailto:ebarnes@pa.gov)  
Date: November 18, 2024

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# ATTACHMENT A



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In the Matter of:

Docket No. F-2024-3050302

Valen Tasser  
V  
Duquesne Light

SUBPOENA

To: Holly Pyle - PA Public Utility Commission Investigator - Commonwealth  
(hopyk@pa.gov) (Name and Address) 400 North Street D Keystone Bldg.  
Harrisburg, PA 17120

Pursuant to the authority of this Commission under §§309, 331(d)(2) and 333(j) of the Public Utility Code:

1. YOU ARE ORDERED by the Commission to come to Call in telephone hearing  
(place)  
\_\_\_\_\_ , at \_\_\_\_\_

Pennsylvania, on January 15, 2025, at 10:00am o'clock, in the above case, to testify  
(date)  
on behalf of the Valen Tasser and to remain until excused;

2. And bring with you and produce the following: Recordings, transcripts,  
and/or everything archived from the telephone conversation  
on June 10, 2024 at 9:40am. Ms. Pyle contacted  
me from phone number 717-783-1240. This was  
a seven (7) minute conversation. Please see  
attachment, which is hereby

This subpoena is issued subject to the provisions of 52 Pa. Code §5.421 (with regard to issuance, notice, service and witness fees).

BY THE COMMISSION

hereby  
incorporated  
by reference.

Date \_\_\_\_\_

\_\_\_\_\_  
Administrative Law Judge

Valen Tasser

Docket No. F-2024-3050302

v.

Duquesne Light

**Addition to #2 on Subpoena:**

I am requesting Holly Pyle, PUC Investigator, to be called as a witness to testify about a conversation we had on June 10, 2024 at 9:40 a.m. and any existing recordings or transcripts of said conversation on said date. This conversation is relevant to my case and defense in this pending matter. Ms. Pyle's testimony and/or recording of such is material to my case, and a denial goes against my due process rights by not allowing me the opportunity to put forth a proper defense, which is prejudicial. I have included this information in my appeal. Ms. Pyle advised me during this call that she was going to cite Duquesne Light for having me on an incorrect budget plan. If the budget was incorrect, like she stated, then I would not have an outstanding balance of \$1507.81 (current balance: \$1789.71). I paid the budget amount on time every month that Duquesne Light advised me to pay and Ms. Pyle advised that was incorrect.

**NOTICE:**

Any response or objection to this application shall be filed with the Commission and presiding officer within ten (10) days of service of this application.

Dated: November 12, 2024

  
\_\_\_\_\_  
Valen Tasser

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Subpoena, Attachment, and Notice in reference to Docket No. F-2024-3050302 have been served upon the following, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 5.421.

*VIA ELECTRONIC MAIL and FIRST-CLASS U.S. Mail:*

Administrative Law Judge Mary D. Long  
PA Public Utility Commission  
301 Fifth Avenue, Suite 220  
Pittsburgh, PA 15222  
[malong@pa.gov](mailto:malong@pa.gov)

Megan E. Rulli, Esquire  
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David Screven, Chief Counsel, Law Bureau  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, PA 17120  
[dascreven@pa.gov](mailto:dascreven@pa.gov)

Dated: November 12, 2024

  
Valen Tasser

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
CERTIFICATE OF SERVICE**

I hereby certify that I have on this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

Service as indicated below:

**Via First Class Mail and Electronic Mail:**

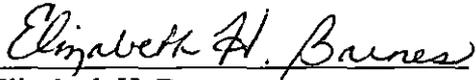
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*Complainant (pro se)*

Dated: November 18, 2024

  
Elizabeth H. Barnes  
Deputy Chief Counsel  
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