

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Valen Tasser	:	
	:	
v.	:	F-2024-3050302
	:	
Duquesne Light Company	:	

**INTERIM ORDER
DENYING APPLICATION FOR A SUBPOENA**

On July 12, 2024, Valen Tasser (Complainant) filed a formal complaint against Duquesne Light Company. Ms. Tasser alleged that her bills are too high, and among other things, Duquesne Light is not calculating her budget bill correctly and her payments are not being correctly applied to her balance. Her formal complaint is an appeal of a determination by the Bureau of Consumer Services (BCS) at 3982003. Duquesne Light filed an answer on August 14, 2024, which denied the material allegations of the complaint. A hearing is scheduled on the complaint on January 15, 2025.

On November 12, 2024, Ms. Tasser emailed a request for a subpoena for Holly Pyle, an investigator with the BCS. On November 18, 2024, BCS objected to the subpoena request.

Ms. Tasser requested a subpoena for BCS Investigator Holly Pyle to offer testimony regarding a telephone conversation between Ms. Tasser and Ms. Pyle that took place on June 10, 2024. According to Ms. Tasser, Ms. Pyle’s testimony is essential to her claim that Duquesne Light incorrectly calculated her budget bill. According to Ms. Tasser, Ms. Pyle “advised me during this call that she was going to cite Duquesne Light for having [her] on an incorrect budget plan.”

BCS objects to the subpoena and contends that Ms. Tasser's request should be stricken because she did not file an "application" as required by Section 5.421 of the Commission's regulations.¹

There is no reason to strike Ms. Tasser's request. While not styled as an "application," Ms. Tasser's request includes the information required by the regulation. The Commission's rules state that an application for a subpoena:

- (1) Must specify as nearly as possible the general relevance, materiality and scope of the testimony or documentary evidence sought, including, as to documentary evidence, specification as nearly as possible of the documents desired.
- (2) Must list the facts to be proved by the documents in sufficient detail to indicate the necessity of the documents.
- (3) Must contain a notice that a response or objection to the application shall be filed with the Commission and presiding officer within 10 days of service of the application.
- (4) Must include a certificate of service.
- (5) May attach the proposed subpoena to the application.

Ms. Tasser's request includes an explanation of why she believes Ms. Pyle's testimony is relevant under "Addition #2 on Subpoena." She explained that she believes that Ms. Pyle's testimony that Duquesne Light had her "on an incorrect budget plan. If the budget was incorrect, like she stated, then I would not have an outstanding balance" Ms. Tasser identifies the date and time of the conversation that she had with Ms. Pyle. On the subpoena form itself.² Ms. Tasser included a notice that "any response or objection to this application shall be filed with the Commission and presiding officer within ten (10) days of service of the application."³

¹ 52 Pa. Code § 5.421.

² 52 Pa. Code § 5.421(b)(1) and (b)(2).

³ 52 Pa. Code § 5.421(b)(3).

Ms. Tasser also included a certificate of service stated that she served her subpoena request on me, counsel for the utility, Ms. Pyle and the Chief Counsel for the Commission.⁴

BCS has failed to point to any essential information that is required by the regulation that is missing from Ms. Tasser's subpoena request, other than the fact that it does not contain the title "application." BCS not only fails to explain what information is missing, but also does not explain how it is prejudiced by the defect. BCS was clearly able to respond to Ms. Tasser's request and lodge an objection to the issuance of the subpoena. While it is true that self-represented litigants are not excused from ignoring rules and of the Commission, it is also true that this Commission has a tradition of construing the filings of self-represented litigants liberally. Indeed, this tradition is codified in the Commission's regulations:

(a) This subpart shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which it is applicable. The Commission or presiding officer at any stage of an action or proceeding may disregard an error or defect of procedure which does not affect the substantive rights of the parties.

(b) The singular includes the plural, and the plural, the singular. Words used in the masculine gender include the feminine and neuter. Words used in the past or present tense include the future.

(c) The Commission or presiding officer at any stage of an action or proceeding may waive a requirement of this subpart when necessary or appropriate, if the waiver does not adversely affect a substantive right of a party.

(d) These liberal construction provisions apply with particularity in proceedings involving pro se litigants.^[5]

⁴ 52 Pa. Code § 5.421(b)(4) and (c). It is not clear that Ms. Tasser filed her application with the Secretary's Bureau. As a courtesy, I have requested the Secretary's Bureau to add it to the docket for this case.

⁵ 52 Pa. Code § 1.2. Indeed, in *Seese v. PPL Electric Utilities Corp.*, the presiding officer did not deny the request for a subpoena because it did not include an application. Instead, the presiding officer deemed the request by the complainant as an application but denied it because it had not been served on the non-party witness. See *Seese v. PPL Electric Utilities Corp.* Docket C-2015-25000818, Tr. 4-5.

However, I will deny Ms. Tasser’s application for a subpoena for Ms. Pyle’s testimony, recordings, and transcripts related to Ms. Tasser’s conversation with her on June 10, 2024. Even if Ms. Pyle corroborated Ms. Tasser’s characterization of the conversation, Ms. Pyle’s testimony would not be given any weight or deference. Review of a timely appeal of a decision by BCS is *de novo*.⁶ This means that as the administrative law judge, my consideration is “new.” No part of the record in the informal complaint proceeding can be relied upon in the formal complaint proceeding.⁷ Ms. Tasser, as the party with the burden of proof, must develop a record which supports the relief she seeks in her complaint.⁸ In the event that Ms. Tasser proves that Duquesne Light violated the Public Utility Code, Commission regulations or order of the Commission, I have the authority to assess a civil penalty if the evidence demonstrates that it appropriate to do so. The statements of the BCS investigator in the prior proceeding is not part of my determination.⁹

THEREFORE,

IT IS ORDERED:

That the application of Valen Tasser to issue a subpoena for testimony of Holly Pyle at the January 15, 2025, hearing and for recordings or transcripts of a telephone conversation on June 10, 2024, is denied.

Date: 11/22/2024

/s/
Administrative Law Judge
Mary D. Long

⁶ 52 Pa. Code §§ 56.173(a), 56.403(a).

⁷ *Leung v. Philadelphia Gas Works*, Docket F-2020-3020041 (Opinion and Order entered October 28, 2021).

⁸ *Id.*

⁹ Because I am denying the application on the basis of relevance, I will not address BCS’s claim of deliberative process privilege or that producing the recordings or transcripts of the conversation are unduly burdensome.

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