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Megan E. Rulli

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File #: 209307

November 18, 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: Higinio Mendoza, Jr. and Karen A. Feitt v. Duquesne Light Company**  
**Docket No. C-2024-3051871**

Dear Secretary Chiavetta:

Attached please find the Preliminary Objections of Duquesne Light Company in response to the Complaint of Higinio Mendoza, Jr. and Karen A. Feitt 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

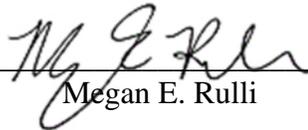
**CERTIFICATE OF SERVICE**

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**

Higinio Mendoza, Jr.  
Karen A. Feitt  
1036 Jackman Ave  
Pittsburgh, PA 15202  
[technologyfm@gmail.com](mailto:technologyfm@gmail.com)

Date: November 18, 2024

  
Megan E. Rulli

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

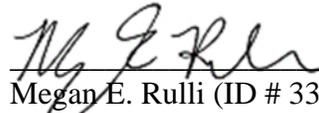
Higinio Mendoza Jr. and Karen A. Feitt,	:	
	:	
Complainants,	:	
	:	
v.	:	Docket No. C-2024-3051871
	:	
Duquesne Light Company,	:	
	:	
Respondent.	:	

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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.

  
\_\_\_\_\_  
Megan E. Rulli (ID # 331981)  
Post & Schell, P.C.  
17 North Second Street, 12th Floor  
Harrisburg, PA 17101-1601  
Phone: 717-731-1970  
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mrulli@postschell.com

Date: November 18, 2024

Attorney for Duquesne Light Company

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Higinio Mendoza Jr. and Karen A. Feitt,	:	
	:	
Complainants,	:	
	:	
v.	:	Docket No. C-2024-3051871
	:	
Duquesne Light Company,	:	
	:	
Respondent.	:	

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**PRELIMINARY OBJECTIONS OF  
DUQUESNE LIGHT COMPANY TO THE COMPLAINT OF  
HIGINIO MENDOZA JR. AND KAREN A. FEITT**

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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 Higinio Mendoza Jr. and Karen A. Feitt (“Complainants”) alleging violations of the United States Code be dismissed because the Pennsylvania Public Utility Commission (“Commission”) lacks subject matter jurisdiction over those claims.

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 October 29, 2024, Duquesne Light was served with the above-captioned Complaint. The issues raised in the Complaint relate to claims that Duquesne Light is in violation of certain portions of the United States Code, specifically 39 U.S.C. § 101(A)(b) (related to the United States Postal Service’s service to rural areas) and 15 U.S.C. § 1692(e) (related to debt collection practices). (Complaint ¶ 5.)

3. The Complainants do not claim that the Company billed them in violation of the Public Utility Code, the Commission’s regulations or orders, or the Company’s Commission-approved tariff. (Complaint ¶¶ 4-5.)

4. As relief, the Complainants request, among other things, for their electric service bills to be corrected. (Complaint ¶ 5.)

5. 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 alleging violations of the United States Code be dismissed pursuant to Section 5.101(a)(1) of the Commission’s regulations because the Commission lacks subject matter jurisdiction over those federal claims. 52 Pa. Code § 5.101(a)(1).

## **II. STANDARD OF REVIEW**

6. 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) (emphasis added).

7. 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.

8. 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) (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 – PORTIONS OF THE COMPLAINT SHOULD BE DISMISSED BECAUSE THE COMMISSION LACKS SUBJECT MATTER JURISDICTION OVER THE CLAIMS RAISED THEREIN**

9. Duquesne Light incorporates by reference Paragraphs 1 through 8 as if fully set forth herein.

10. The issues raised in the Complaint relate to claims that Duquesne Light is in violation of certain portions of the United States Code, specifically 39 U.S.C. § 101(A)(b) (related to the United States Postal Service’s service to rural areas) and 15 U.S.C. § 1692(e) (related to debt collection practices). (Complaint ¶ 5.)

11. The Complainants do not allege that the Company billed them in violation of the Public Utility Code, the Commission’s regulations or orders, or the Company’s Commission-approved tariff. Neither do the Complainants dispute the amount of the balance on their electric service account.

12. As a creature of statute, the Commission “has only those powers which are expressly conferred upon it by the Legislature and those powers which arise by necessary implication.” *Feingold v. Bell*, 383 A.2d 791, 794 (Pa. 1977) (citations omitted).

13. The Commission must act within its jurisdiction and may only hear complaints regarding the Public Utility Code, Commission regulations, or Commission orders. *See Alkhatib v. PECO Energy Co.*, Docket No. C-2011-2242125, 2012 Pa. PUC LEXIS, at \*13-14 (Jan. 12, 2012) *citing* 66 Pa. C.S. § 701.

14. The Commission does not have jurisdiction over claims arising under the United States Code. *Feingold v. Bell*, at 794.

15. Here, the Complaint raises alleged violations of portions of the United States Code related to the United States Postal Service's service to rural areas (39 U.S.C. § 101(A)(b)) and debt collection practices (15 U.S.C. § 1692(e)). (Complaint ¶ 5.)

16. Application and interpretation of federal law are outside of the Commission's express jurisdiction of Pennsylvania Code, Commission regulations, or Commission orders. *See* 66 Pa. C.S. § 701; *Alkhatib v. PECO* at \*13-14.

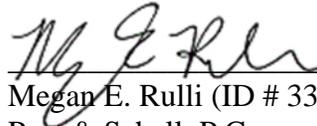
17. Therefore, the Commission lacks jurisdiction over the Complainant's allegations that are rooted in alleged violations of federal law.

18. Thus, the Commission should dismiss the portions of the Complaint alleging violations of the United States Code (*i.e.*, 39 U.S.C. § 101(A)(b) and 15 U.S.C. § 1692(e)) pursuant to Section 5.101(a)(1) of the Commission's regulations because the Commission lacks subject matter jurisdiction over those claims. 52 Pa. Code § 5.101(a)(1).

**CONCLUSION**

WHEREFORE, Duquesne Light Company respectfully requests that the Pennsylvania Public Utility Commission grant this Preliminary Objection.

Respectfully submitted,



Megan E. Rulli (ID # 331981)

Post & Schell, P.C.

17 North Second Street, 12th Floor

Harrisburg, PA 17101-1601

Phone: 717-731-1970

Fax: 717-731-1985

mrulli@postschell.com

Date: November 18, 2024

Attorney for Duquesne Light Company

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Higinio Mendoza Jr. and Karen A. Feitt,	:	
	:	
Complainant,	:	
	:	
v.	:	No: C-2024-3051871
	:	
DUQUESNE LIGHT COMPANY,	:	
	:	
Respondent.	:	

**VERIFICATION**

I, Roxanne Morris, 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).



\_\_\_\_\_  
Roxanne Morris

11/18/24

\_\_\_\_\_  
Date