
Megan E. Rulli

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File #: 209899

December 17, 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: Lauren and Bill Thompson v. Duquesne Light Company
Docket No. C-2024-3052318

Dear Secretary Chiavetta:

Attached for filing please find the Preliminary Objection on behalf of Duquesne Light Company in response to the Complaint of Lauren and Bill Thompson in the above-referenced proceeding. Copies are being provided per the Certificate of Service.

Respectfully submitted,



Megan E. Rulli

MER/cdy

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

Lauren and Bill Thompson
1664 Route 68
New Brighton, Pennsylvania 15066
Laurenthompson721@gmail.com

Date: December 17, 2024



Megan E. Rulli

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Lauren and Bill Thompson,	:	
	:	
Complainants,	:	
	:	
v.	:	Docket No. C-2024-3052318
	:	
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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Fax: 717-731-1985
mrulli@postschell.com

Date: December 17, 2024

Attorney for Duquesne Light Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Lauren and Bill Thompson,	:	
	:	
Complainants,	:	
	:	
v.	:	Docket No. C-2024-3052318
	:	
Duquesne Light Company,	:	
	:	
Respondent.	:	

**PRELIMINARY OBJECTION OF
DUQUESNE LIGHT COMPANY TO
THE COMPLAINT OF LAUREN AND BILL THOMPSON**

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 Lauren and Bill Thompson (“Complainants”) requesting damages be dismissed because the Commission has no power to award damages.

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 November 27, 2024, Duquesne Light was served with the above-captioned Complaint. The issues raised in the Complaint pertain to household appliances the Complainants

allege were damaged due to the electric service provided by Duquesne Light. (Complaint ¶¶ 4, 5, 7.) As relief, the Complainants request, among other things, that Duquesne Light “assum[e] responsibility for the repayment of the majority of these items.” (Complaint ¶ 5.)

3. 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 pertaining to a request for monetary reimbursement to compensate for losses be dismissed pursuant to Section 5.101(a)(2) of the Commission’s regulations because a request for damages constitutes impertinent matter. 52 Pa. Code § 5.101(a)(2).

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 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)(2) (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 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.

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) (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: THE COMPLAINANTS’ REQUEST FOR DAMAGES SHOULD BE DISMISSED BECAUSE THE COMMISSION HAS NO POWER TO AWARD DAMAGES

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

8. The portion of the Complaint requesting damages should be dismissed because the Commission cannot award damages.

9. In the Complaint, the Complainants detail various household appliances they allege were damaged by Duquesne Light and request, among other things, that Duquesne Light “assum[e] responsibility for the repayment of the majority of these items.” (Complaint ¶¶ 4, 5.)

10. It is well-established that the Commission does not have authority to order a public utility to pay damages, as requested by the Complainant. *See DeFrancesco v. W. Pa. Water Co.*,

453 A.2d 595, 596-97 (Pa. 1982); *Elkin v. Bell of Pa.*, 420 A.2d 371, 375 (Pa. 1980); *Feingold v. Bell of Pa.*, 383 A.2d 791, 794-95 (Pa. 1977).

11. Here, the Complainants' request for damages is impertinent matter "in the sense that it is irrelevant to [the] cause of action" because the Commission lacks authority to award damages. See *Stoner v. PPL Elec. Utils. Corp.*, Docket No. C-2013-2385588, p. 3 (Nov. 14, 2013 (order sustaining preliminary objections)). Indeed, requests for damages are regularly stricken from complaints as being impertinent matter. See, e.g., *id.* at pp. 3, 5; *Powell v. Verizon Pa., Inc.*, Docket No C-2011-226876, 2011 Pa. PUC LEXIS 652, at *8-9, 16-17 (Dec. 21, 2011), *adopted by Comm'n*, 2012 PA. PUC LEXIS 374 (Order Entered Mar. 1, 2012); *J.E. Culbertson Co. v. Pa. Elec. Co.*, Docket No. C-2010-2204947, 2011 Pa. PUC LEXIS 781, at *8-9, 12 (Feb. 4, 2011), *adopted by Comm'n*, Docket No. C-2010-2204947 (Order Entered Apr. 8, 2011).

12. Therefore, consistent with longstanding Commission precedent, the Complainants' request for damages is impertinent matter and should be stricken from the Complaint pursuant to 52 Pa. Code § 5.101(a)(2).

IV. CONCLUSION

WHEREFORE, Duquesne Light Company respectfully requests that the Complainants' request for damages be summarily dismissed pursuant to 52 Pa. Code § 5.101(a)(2).

Respectfully submitted,



Megan E. Rulli (ID # 331981)
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Date: December 17, 2024

Attorney for Duquesne Light Company

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Complainant,	:		
	:		
v.	:	No: C-2024-3052318	:
DUQUESNE LIGHT COMPANY,	:		
	:		
Respondent.	:		

VERIFICATION

I, Carolyn Cingel, 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).



Carolyn Cingel

12/17/24
Date