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Megan E. Rulli

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File #: 208244

January 10, 2025

***VIA ELECTRONIC FILING***

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**Re: Patricia Brennan v. Duquesne Light Company**  
**Docket No. C-2024-3051798**

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Dear Secretary Chiavetta:

As directed by the Interim Order Joining Indispensable Party Dismissing Preliminary Objection and Referring Complaint to Mediation (“Interim Order”) issued on January 8, 2025, in the above referenced proceeding, enclosed are copies of the Answer and Preliminary Objection of Duquesne Light Company (“Duquesne Light” or “Company”) to the Complaint of Patricia Brennan. The Company’s Answer and Preliminary Objection are marked as Appendix A and B, respectively.

Copies are being provided per the Certificate of Service, consistent with the directive of Ordering Paragraph No. 4 of the Interim Order.

Respectfully submitted,



Megan E. Rulli

Attachments

cc: The Honorable Mary D. Long (via email; w/attachments)  
Karen O. Moury, Esquire (via email, w/ attachments)  
Certificate of Service

**CERTIFICATE OF SERVICE**

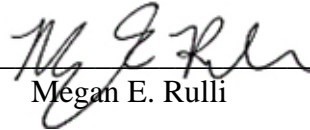
I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

**VIA EMAIL AND FIRST-CLASS MAIL**

Leah Gibbons Senior Director  
NRG Energy Inc  
2929 Arch Street Suite 1902  
Philadelphia Pa 19104  
301.509.1508  
NERetailRegulatory@nrg.com

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

Date: January 10, 2025

  
Megan E. Rulli

# **DLC APPENDIX "A"**

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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 Answer and New Matter 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



Commonwealth of Pennsylvania  
**Pennsylvania Public Utility Commission**  
 Harrisburg, PA 17105-3265  
**EFILING - FILING DETAIL**

<b>Date Created</b>	<b>Filing Number</b>
11/14/2024	2700725

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**Docket Number:** C-2024-3051798

**Case Description:**

**Transmission Date:** 11/14/2024 4:13 PM

**Filed On:** 11/14/2024 4:13 PM

**eFiling Confirmation Number:** 2700725

File Name	Document Type	Upload Date
DLC - Brennan - Answer to Complaint (FINAL 11.14.24).pdf	Answer to Formal Complaint	11/14/2024 4:13:29 PM

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**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 § 5.63, YOU MAY FILE A REPLY TO THE ENCLOSED NEW MATTER WITHIN TWENTY (20) DAYS AFTER THE DATE OF SERVICE. YOUR REPLY SHOULD BE FILED WITH THE SECRETARY OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION, P.O. BOX 3265, HARRISBURG, PA 17105-3265. A COPY OF YOUR REPLY SHOULD ALSO BE SERVED ON THE UNDERSIGNED COUNSEL.

  
\_\_\_\_\_  
Megan E. Rulli (ID # 331981)  
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17 North Second Street, 12th Floor  
Harrisburg, PA 17101-1601  
Phone: 717-731-1970  
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.	:	Docket No. C-2024-3051798
	:	
Duquesne Light Company,	:	
	:	
Respondent.	:	

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**ANSWER AND NEW MATTER OF  
DUQUESNE LIGHT COMPANY TO THE  
COMPLAINT OF PATRICIA BRENNAN**

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TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Duquesne Light Company (“Duquesne Light” or the “Company”) files this Answer and New Matter to the Complaint of Patricia Brennan (“Complainant”) pursuant to Sections 5.61 and 5.62 of the Pennsylvania Public Utility Commission’s (“Commission”) regulations, 52 Pa. Code §§ 5.61 and 5.62, and responds to each of the separately-numbered paragraphs as follows:

**ANSWER**

1. Admitted.
2. Admitted.
3. Admitted.

4. Admitted in part and denied in part. Specifically, it is admitted that the Complainant is a net metering customer with Duquesne Light and that the Complainant receives competitive electric generation supply from electric generation supplier (“EGS”) Reliant Energy Northeast LLC d/b/a NRG Retail Solutions (“NRG”). It is admitted that the Complainant did not

receive compensation for her excess generation at the end of each year from Duquesne Light. Pursuant to the Net Metering Rider provisions applicable to shopping customers, shopping customers must seek credit for excess generation from their applicable EGS at the end of each year. As such, the Complainant must seek credit for any excess generation at the end of each year from her EGS, *i.e.*, NRG. Duquesne Light is without sufficient knowledge or information as to whether the Complainant has been properly compensated for her excess generation by NRG and, therefore, denies the same.

By way of further response, the Complainant established electric service in her name at 218 Shannon Heights Drive, Verona, Pennsylvania 15147 (“Service Address”) effective March 10, 2017. The Complainant has been enrolled with NRG since July 13, 2021. The Complainant receives a single bill for electric service while enrolled with NRG that includes supply charges from NRG and distribution charges from Duquesne Light.

Here, the Complainant is a net metering customer with the Company who has had a 3.8 kWh AC solar system installed and active at her service address since January 5, 2023. In months where the Complainant supplied more electricity to the electric distribution system than Duquesne Light delivered to the Complainant, the excess generation was carried forward and credited against the customer-generator’s usage in subsequent billing periods at the full retail rate. Each month, any excess, unused generation was reported to the Complainant. The Complainant’s accumulated, unused generation is also reported to her yearly. This year-end report allows the Complainant to seek credit or compensation from NRG for any accumulated, unused generation. Most recently, in May 2024, the Company calculated the Complainant’s total accumulated, unused generation for the prior year to be 1,150.489 kWh. Accordingly, the Company reported this accumulated, unused generation to the Complainant so she could receive compensation from NRG.

By way of further response, Duquesne Light incorporates Paragraph 5, *infra*, as though fully set forth herein.

5. Denied. The averments contained in Paragraph 5 of the Complaint are requests for relief to which no responsive pleading is required. To the extent a response is deemed necessary, Duquesne Light denies that the Complainant is entitled to the relief requested. It is denied that the excess generation reported to the Complainant in May 2023, totaled 683.16 kWh; the Company's records show the excess generation was 683.819 kWh. It is denied that the excess usage reported to the Complainant in May 2024 was 245.08 kWh. In May 2024, the Company calculated the Complainant's total accumulated, unused generation for the prior year to be 1,150.489 kWh. Duquesne Light is without sufficient knowledge or information as to the compensation the Complainant received or is entitled to for any excess generation under her contract with NRG and, therefore, denies the same.

In further response, Duquesne Light incorporates Paragraph 4, *supra*, as though fully set forth herein.

6. Paragraph 6 of the Complaint relates to Protection from Abuse orders, to which no responsive pleading is required.

7. Admitted. Specifically, it is admitted that the Complaint is not an appeal from a decision of the BCS and that the Complainant has had contact with the Company regarding the issues raised in the Complaint.

8. Paragraph 8 of the Complaint sets forth the instructions for filing the Complaint, to which no responsive pleading is required.

9. Paragraph 9 of the Complaint relates to the Complainant's communication preferences, to which no responsive pleading is required.

10. Paragraph 10 of the Complaint pertains to the Complainant's legal representation, to which no responsive pleading is required.

11. Paragraph 11 sets forth the verification and signature, to which no responsive pleading is required.

### **NEW MATTER**

1. Duquesne Light incorporates Paragraphs 1 through 11 of the Answer as though set forth fully herein.

2. The Complainant has been enrolled to receive competitive electric supply service from NRG since July 13, 2021.

3. 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>

4. The Complainant is also a net metering customer with the Company who has had a 3.8 kW AC solar system active at her service address since January 5, 2023.

5. In accordance with its Net Metering Rider, Duquesne Light does not compensate customers with an EGS for any excess kWh accumulated at the end of the year. Net metering customers with an EGS must contact their EGS to receive credit for any excess kWh generated

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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.

during the preceding year. *See* Supplement No. 36 to Electric – Pa. P.U.C. No. 25, Second Revised Page No. 136A.

6. Thus, pursuant to the Company’s Net Metering Tariff, the Complainant must seek compensation for the excess generation produced at the end of the year from NRG.

7. The allegations in the Complaint are unrelated to the electric distribution or default generation supply service provided by Duquesne Light.

8. Instead, the issues raised in the Complaint pertain to a claim that the Complainant did not receive credit for the excess kWh produced by her solar system, which, pursuant to the Company’s Commission-approved tariff must be sought from her EGS, *i.e.*, NRG. (Complaint ¶¶ 4-5.)

WHEREFORE, Duquesne Light Company respectfully requests that the Complaint of Patricia Brennan be denied in its entirety and with prejudice as against Duquesne Light Company.

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 14, 2024

Attorney for Duquesne Light Company



# **DLC APPENDIX "B"**

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Megan E. Rulli

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717-612-6012 Direct  
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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



Commonwealth of Pennsylvania  
**Pennsylvania Public Utility Commission**  
 Harrisburg, PA 17105-3265  
**EFILING - FILING DETAIL**

<b>Date Created</b>	<b>Filing Number</b>
11/14/2024	2700734

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**Docket Number:** C-2024-3051798

**Case Description:**

**Transmission Date:** 11/14/2024 4:15 PM

**Filed On:** 11/14/2024 4:15 PM

**eFiling Confirmation Number:** 2700734

File Name	Document Type	Upload Date
DLC - Brennan - Preliminary Objections (FINAL 11.14.24).pdf	Preliminary Objection	11/14/2024 4:14:54 PM

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**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.

  
\_\_\_\_\_  
Megan E. Rulli (ID # 331981)  
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17 North Second Street, 12th Floor  
Harrisburg, PA 17101-1601  
Phone: 717-731-1970  
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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.

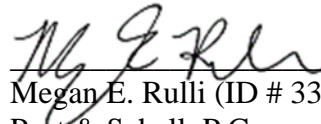
19. Based on the foregoing, the Complainant has failed to join a necessary party, *i.e.*, NRG, in this proceeding. Therefore, the Complaint should be summarily dismissed as against Duquesne Light, pursuant 52 Pa. Code § 5.101(a)(5).

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)

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Date: November 14, 2024

Attorney for Duquesne Light Company

