

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Higinio Mendoza Jr. & Karen Feitt	:	
	:	
v.	:	C-2024-3051871
	:	
Duquesne Light Company	:	

**INTERIM ORDER
SUSTAINING PRELIMINARY OBJECTIONS**

On or about October 29, 2024, Higinio Mendoza and Karen Feitt (Complainants) filed a formal complaint against Duquesne Light Company (DLC). Complainants checked the boxes indicating that the utility is threatening to terminate their service and “Other”¹. Complainants further averred they have a right to correct their bill and that the bill sent in the bill by Respondent constituted fraud and a violation of “15 USC 1692 (e7).”² Complainant also attached a two-page letter to the complaint entitled “: [A]MICUS-CURIAE-LETTER BY THE GLOBAL-POSTAL-UNION-TREATY : : STOPPING AND CORRECTING-WRONGS” (Letter). 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.)

As relief, the Complainants request, among other things, for their electric service bills to be corrected.³

¹ Complaint, ¶ 4.

² Complaint, ¶ 5.

³ Complaint ¶ 5.

DLC filed an answer and new matter on November 18, 2024. DLC admits to issuing a termination notice to the Complainants but denies that there are any incorrect charges on the Complainants' bill. Respondent further denied that the Company's billing practices constitute fraud or have violated the Public Utility Code, Commission Regulations, a Commission Order, or the Company's Commission-approved tariff. Respondent further avers the complaint is barred by the doctrines of *res judicata* and collateral estoppel.

DLC also filed preliminary objections on November 18, 2024. DLC alleges that the Complaints allegations that DLC violated provisions of the United States Code are outside of the Commission's express jurisdiction of Pennsylvania Code, Commission regulations, or Commission orders, and should be dismissed. 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).⁴ DLC argues 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.⁵

Complainants did not file a response to DLC's preliminary objections.

This matter was assigned to me on December 31, 2024.

Preliminary objection practice before the Commission is similar to Pennsylvania civil practice respecting preliminary objections.⁶ In deciding the preliminary objections, the Commission must determine whether, based on well-pleaded factual averments of the

⁴ Complaint ¶ 5.

⁵ See 52 Pa. Code § 5.101(a)(1).

⁶ *Equitable Small Transportation Intervenors v. Equitable Gas Company*, 1994 Pa. PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994).

petitioners, recovery or relief is possible.⁷ Any doubt must be resolved in favor of the non-moving party by refusing to sustain the preliminary objections.⁸ All of the non-moving party's averments in the complaint must be viewed as true for purposes of deciding the preliminary objections, and only those facts specifically admitted may be considered against the non-moving party.⁹

It is well-settled that the Commission does not have jurisdiction to resolve claims that arise under federal law.¹⁰ The Complainants did not provide any authority to support the position that the Commission has jurisdiction to resolve such claims. Under the circumstances, DLC's preliminary objections will be sustained.

DLC does not seek dismissal of the complaint in its entirety. Therefore, the Complainants' may proceed with their claim to the extent that Complainants allege fraud in the billing practices of Respondent or that Respondent is threatening to terminate their service in violation of the Pennsylvania Public Utility Code, Commission regulations, or Commission orders. Complainants have the burden of proving that the utility is responsible or accountable for the problem described in the complaint in order to prevail.

THEREFORE,

IT IS ORDERED:

1. That the preliminary objections of Duquesne Light Company are sustained.

⁷ *Dept. of Auditor General v. SERS*, 836 A.2d 1053, 1064 (Pa. Cmwlth. 2003); *P.J.S. v. Pa. State Ethics Comm'n*, 669 A.2d 1105 (Pa. Cmwlth. 1996).

⁸ *Boyd v. Ward*, 802 A.2d 705 (Pa. Cmwlth. 2002).

⁹ *Ridge v. State Employees' Retirement Board*, 690 A.2d 1312 (Pa. Cmwlth. 1997).

¹⁰ *See, e.g. Alkhatib v. EPOC Energy Co.*, Docket C-2011-2242125 (Opinion and Order entered January 12, 2012).

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