

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Darryl Shawfield c/o Donna L. Shawfield Bennett	:	
	:	
v.	:	F-2024-3052032
	:	
Duquesne Light Company	:	

**ORDER**  
**GRANTING PRELIMINARY OBJECTIONS**

**HISTORY OF THE PROCEEDING**

On November 8, 2024, Donna L. Shawfield Bennett (“Complainant”) filed a Formal Complaint with the Pennsylvania Public Utility Commission (“Commission”) against Duquesne Light Company (“Respondent”) concerning utility service provided to Darryl S. Shawfield. Complainant identified herself as the “Trustee for Darryl S. Shawfield.” Complaint ¶ 1. Complainant checked the boxes on the Complaint form indicating “Incorrect charges are on my bill” and “Other (explain).” Complainant explained her Complaint stating the following:

This is about Mystery Charges and not one but several lost or uncredited payments, and bills sent to them for mishandling payments and billing. This is a cumulative issue concerning accounting, clarification of billing, incorrect assumptions of Disputed Amounts, navigation of the payment process, and several mishandled payments which have remained unresolved beginning in December 2023. Please see enclosed outline titled RE: Complaint Duquesne Light: Account 3879-512-985 PUC BCS 4000867 November 2, 2024 Answer for 2 checked boxes.

Complaint ¶ 4.

For relief, Complainant stated the following:

I want the P.U.C. to order Duquesne Light to clarify and correct the billing discrepancies, admit their technology is fallible, and clear the poor credit rating it has created. To take responsibility, and make reparations, for their actions. Their actions have ignored Pennsylvania codes Title 13: §3310, §3311, §3502, & §3603, along with others noted in the enclosed letter dated March 2, 2024, for which they have been billed \$446.00 with penalties of \$5,000.00 under Title 18 Chapter 41 §4107. I would like to have the laws followed, and the reparation of \$5,446.00 under these laws credited to this account. Duquesne Light has not disputed the bills I sent to them concerning breaking the Pennsylvania Codes, they simply ignored the bills.

#### Complaint ¶ 5.

Further, there are several attachments to the Complaint, containing letters between Complainant and Respondent regarding bill payments and charges, and copies of bills for the account in question with billing due dates ranging from January 2024 to October 2024.

On November 14, 2024, Complainant filed a document with the Commission titled “Additional Info to Formal Complaint,” wherein she goes into additional detail concerning misapplied payments to the account in question.

On November 27, 2024, Respondent filed an Answer to the Complaint, admitting or denying the allegations in the Complaint. Respondent in its Answer noted that the account in question is in the name of Darryl Shawfield and that Complainant is an authorized user on the account. Respondent specifically denied that there were mystery charges on the account in question and that the account was not properly credited for payments made. Respondent concluded its Answer by requesting that the Complaint be denied.

Also on November 27, 2024, Respondent filed Preliminary Objections to the Complaint. Respondent argued that the portions of the Complaint raising claims under Title 13 and Title 18 of the Pennsylvania Code should be dismissed, pursuant to 52 Pa. Code §

5.101(a)(1), as the Commission lacks subject matter jurisdiction over such claims. Respondent also argued that the portion of the Complaint requesting monetary damages should be dismissed, pursuant to 52 Pa. Code § 5.101(a)(2), as impertinent matter.

Respondent's Preliminary Objections contained a Notice to Plead, which informed Complainant that it had 10 days to file an Answer to the Preliminary Objections. Complainant did not file an Answer to the Preliminary Objections.

On December 27, 2024, the Commission issued a Motion Judge Assignment Notice assigning me as Presiding Officer over this proceeding.

On December 31, 2024, Complainant filed a Letter with the Commission, wherein she stated that her husband recently passed away, and that she wished to be given the month of January to get her affairs in order before continuing with further proceedings.

Respondent's Preliminary Objections are ready to be ruled upon and will be granted in the Ordering paragraphs below.

### DISCUSSION

Respondent in this matter filed Preliminary Objections to the Formal Complaint. The Commission's regulations provide that preliminary objections are available to parties and may be filed in response to a pleading. 52 Pa. Code § 5.101(a). The grounds for preliminary objections are limited to those set forth as follows:

- (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).

Commission procedure regarding the disposition of preliminary objections is similar to the procedure utilized in Pennsylvania civil practice. A preliminary objection in civil practice seeking dismissal of a pleading will be granted only where relief is clearly warranted and free from doubt. *Pennsylvania State Lodge, Fraternal Order of Police v. Dept. of Conservation & Natural Resources*, 909 A.2d 413 (Pa. Cmwlth. 2006), *aff'd*, 592 Pa. 304, 924 A.2d 1203 (2007).

The Commission may not rely upon the factual assertions of the moving party but must accept as true for purposes of disposing of the motion all well pleaded, material facts of the nonmoving party, as well as every inference from those facts. *County of Allegheny v. Commonwealth of Pennsylvania*, 490 A. 2d 402 (Pa. 1985); *Commonwealth of Pennsylvania v. Bell Telephone Co. of Pa.*, 551 A.2d 602 (Pa. Cmwlth. 1988). The Commission must view the complaint in this case in the light most favorable to the Complainant and should dismiss the complaint only if it appears that the Complainant would not be entitled to relief under any circumstances as a matter of law. *Equitable Small Transportation Intervenors v. Equitable Gas Company*, 1994 Pa. PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994).

#### *Commission jurisdiction*

A person complaining of an act done or omitted to be done by a person subject to the jurisdiction of the Commission, in violation, or claimed violation of a statute which the Commission has jurisdiction to administer, or of a regulation or order of the Commission, may file a formal complaint with the Commission. 52 Pa. Code § 5.21(a); *see also* 66 Pa.C.S. § 701.

The Commission, as a creation of the General Assembly, has only the powers and authority granted to it by the General Assembly contained in the Public Utility Code. *Shedlosky v. Pa. Elec. Co.*, Docket No. C-20066937 (Opinion and Order entered May 28, 2008); *Feingold v. Bell Tel. Co. of Pa.*, 383 A.2d 791 (Pa. 1977). The Commission must act within, and cannot exceed, its jurisdiction. *City of Pittsburgh v. Pa. Pub. Util. Comm'n*, 43 A.2d 348 (Pa. Super. 1945). Jurisdiction may not be conferred by the parties where none exists. *Roberts v. Martorano*, 235 A.2d 602 (Pa. 1967). Subject matter jurisdiction is a prerequisite to the exercise of power to decide a controversy. *Hughes v. Pa. State Police*, 619 A.2d 390 (Pa. Cmwlth. 1992).

Respondent argued that the portions of the Complaint raising claims under Title 13 and Title 18 of the Pennsylvania Code should be dismissed, pursuant to 52 Pa. Code § 5.101(a)(1), as the Commission lacks subject matter jurisdiction over such claims. Respondent is correct. The Commission lacks the jurisdiction to enforce Title 13 (the Uniform Commercial Code) or Title 18 (the Crimes Code). The Commission may only hear complaints regarding the Public Utility Code, Commission regulations, or Commission orders. 52 Pa. Code § 5.21; 66 Pa. C.S. § 701. As such, the portions of the Complaint raising claims under Title 13 and Title 18 of the Pennsylvania Code will be dismissed in the Ordering paragraphs below.

#### *Impertinent matter*

Respondent also argued that the portion of the Complaint requesting monetary damages should be dismissed, pursuant to 52 Pa. Code § 5.101(a)(2), as impertinent matter.

In her Complaint, Complainant requests reparations in the amount of \$5,446 credited to the account at issue. Respondent is correct that as a matter of law that the Commission does not have the authority to award damages. *See Byer v. Peoples Natural Gas Co.*, 380 A.2d 383 (Pa. Super. 1977) (holding that the Commission does not have the authority to award damages); *Feingold v. Bell of Pennsylvania*, 477 Pa. 1, 383 A.2d 791 (1977) (holding that the Commission does not have the authority to award damages), *DeFrancesco v. Western Pennsylvania Water Company*, 499 Pa. 374, 453 A.2d 595 (1982); *Elkin v. Bell of Pa.*, 491 Pa.



**F-2024-3052032 - DONNA L SHAWFIELD BENNETT v. DUQUESNE LIGHT COMPANY**

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