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File #: 209307

April 3, 2025

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 is the Motion for Judgment on the Pleadings of Duquesne Light Company in the above-referenced proceeding. Copies are being provided per the Certificate of Service.

Respectfully submitted,



Megan E. Rulli

MER/dmc
Attachment

cc: The Honorable Jeffrey Watson (*via email; w/attachment*)
Certificate of Service

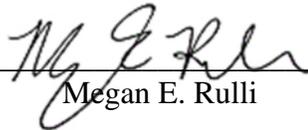
CERTIFICATE OF SERVICE

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

Date: April 3, 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.	:	

NOTICE TO PLEAD

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.



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Date: April 3, 2025

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.	:	

**MOTION FOR JUDGMENT ON THE PLEADINGS OF
DUQUESNE LIGHT COMPANY**

TO ADMINISTRATIVE LAW JUDGE JEFFREY WATSON:

AND NOW, comes Duquesne Light Company (“Duquesne Light” or “Company”), by and through its attorneys, Post & Schell, P.C., and files this Motion for Judgment on the Pleadings pursuant to Section 5.102 of the Pennsylvania Public Utility Commission’s (“Commission”) regulations, 52 Pa. Code § 5.102.

As set forth in this Motion, Duquesne Light respectfully requests that the above-captioned Complaint of Higinio Mendoza Jr. and Karen A. Feitt (“Complainants”) be summarily dismissed in its entirety. This is the **Third** Formal Complaint filed by the Complainants against Duquesne Light alleging their electric service bills are not correct and generally challenging the Company’s billing practices for the Complainants’ account at 1036 Jackman Avenue, Pittsburgh, Pennsylvania

15202 (“Service Address”).¹ The prior Complaints were fully litigated and dismissed by the Commission. Now, the Complainants have filed another Complaint against the Company. As explained below, these rulings are final and binding on the Complainants and, therefore, the **Third Complaint** is barred by Section 316 of the Public Utility Code, 66 Pa.C.S. § 316, and the doctrines of *res judicata* and collateral estoppel. Moreover, the Complainants’ repeated filing of nearly identical complaints constitute an abuse of process and the instant Complaint should be dismissed with prejudice. For these reasons, and as explained in more detail below, Duquesne Light respectfully requests that Administrative Law Judge Jeffrey Watson (the “ALJ”) grant this Motion for Judgment on the Pleadings and dismiss the **Third Complaint** with prejudice.

In support thereof, Duquesne Light states as follows:

I. INTRODUCTION AND 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 Public Utility Code, 66 Pa. C.S. §§ 102, 2803.

2. On October 29, 2024, Duquesne Light was served with the above-captioned **Third Complaint**. The issues raised in the **Third Complaint** relate to claims that the Complainants

¹ The First Complaint was filed at Docket No. F-2017-2636316. The Commission dismissed the claims made in the First Complaint related to Duquesne Light’s billing practices, which consisted of vague and unsubstantiated legal theories alleging their electric service bills contained errors and were not due and payable, and denied the Complainants’ request for a payment agreement after the Complainants averred that they would continue to sign their electric bill and return the bill unpaid because they did not recognize United States currency as legal tender. *See Karen Feitt and Higinio Mendoza Jr. v. Duquesne Light Company*, Docket No. F-2017-2636316 (Order entered June 13, 2019) *petition for review dismissed*, 1095 C.D. 2019 (Pa. Cmwlth. 2019) (“*First Complaint Order*”). The *First Complaint Order* is attached hereto as **Appendix A**. The Second Complaint was filed at Docket No. C-2022-3037095. The Commission dismissed the claims made in the Second Complaint related to Duquesne Light’s billing practices, which again consisted of vague and unsubstantiated legal theories alleging their electric service bills contained errors and were not due and payable. *See Karen Feitt and Higinio Mendoza Jr. v. Duquesne Light Company*, Docket No. C-2022-3037095 (Order entered August 1, 2024) (“*Second Complaint Order*”). The *Second Complaint Order* is appended hereto as **Appendix B**.

received a termination notice from Duquesne Light, and that the Company's billing practices violate 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 ¶¶ 4-5.)

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. On November 18, 2024, Duquesne Light timely filed an Answer and New Matter to the Complaint, admitting in part and denying in part the factual basis of the Complainants' allegations.

5. Also on November 18, 2024, Duquesne Light filed a Preliminary Objection to the Complaint, requesting that the portions of the **Third Complaint** alleging violations of the United States Code be dismissed because the Commission lacks subject matter jurisdiction over those claims.

6. Notices to Plead accompanied the Company's responsive pleadings, informing the Complainants that any replies to the Company's New Matter and/or Preliminary Objection were due within 20 days of service. The Complainants never replied to the Company's New Matter or Preliminary Objection.

7. On December 31, 2024, the Commission issued a Motion Judge Assignment Notice, assigning the ALJ as the Presiding Officer in the above-captioned proceeding.

8. On January 28, 2025, the ALJ issued an Interim Order Sustaining Preliminary Objections, which dismissed the portions of the Complaint alleging violations of the United States Code because the Commission lacks subject matter jurisdiction over those federal claims.

9. On March 10, 2025, the Commission issued an Initial Call-In Telephone Hearing Notice, scheduling an evidentiary hearing for April 30, 2025 at 10:00 AM before the ALJ.

10. Also on March 10, 2025, the ALJ issued a Prehearing Order, confirming the date and time of the evidentiary hearing.

II. STANDARD FOR JUDGMENT ON THE PLEADINGS

11. Section 5.102 of the Commission's regulations provides the Commission's standard of review for a request for judgment on the pleadings:

(1) Standard for grant or denial on all counts. The presiding officer will grant or deny a motion for judgment on the pleadings or a motion for summary judgment, as appropriate. The judgment sought will be rendered if the applicable pleadings, depositions, answers to interrogatories and admissions, together with affidavits, if any, show that there is no genuine issue as to a material fact and that the moving party is entitled to a judgment as a matter of law.

(2) Standard for grant or denial in part. The presiding officer may grant a partial summary judgment if the pleadings, depositions, answers to interrogatories and admissions, together with affidavits, if any, show that there is no genuine issue as to a material fact and that the moving party is entitled to a judgment as a matter of law on one or more but not all outstanding issues.

52 Pa. Code § 5.102(d)(1)-(2).

12. The Commission is granted discretion to dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest. 66 Pa. C.S. § 703(b); 52 Pa. Code § 5.21(d). A hearing is necessary only to resolve disputed questions of fact, and when the question presented is one of law, the Commission need not hold a hearing. *Lehigh Valley Power Comm. v. Pa. PUC*, 563 A.2d 548 (Pa. Cmwlth. 1989); *Edan Transportation Corp. v. Pa. PUC*, 623 A.2d 6 (Pa. Cmwlth. 1993); *Pa. PUC, et al. v. Holzwarth t/a K & H Bus Serv.*, 2023 PA. PUC LEXIS 94, Docket No. C-2022-3035753 (Order entered Apr. 20, 2023); *Moyer v. PPL Elec. Util. Corp.*, 2022 PA. PUC LEXIS 396, Docket No. C-2022-3031294 (Order entered Dec. 8, 2022).

13. The moving party bears the burden of showing that no genuine issue of material fact exists and that it is entitled to judgment as a matter of law. 52 Pa. Code § 5.102(d)(1). When deciding whether a motion for judgment on the pleadings should be granted, the court must examine the record in the light most favorable to the non-moving party, and all doubts as to the existence of a genuine issue of material fact must be resolved in favor of the non-moving party. *First Mortgage Co. of Pennsylvania v. McCall*, 459 A.2d 406 (Pa. Super. 1983).

14. Pursuant to Section 5.63 of the Commission’s regulations, replies to answers containing new matter must be filed and served within 20 days after date of service of the answer. *See* 52 Pa. Code § 5.63(a).

15. “Failure to file a timely reply to new matter may be deemed in default, and relevant facts stated in the new matter may be deemed to be admitted.” 52 Pa. Code § 5.63(b).

16. As explained below, this case does not involve genuine disputes of material fact. The questions presented are matters which the Complainants have already had the opportunity to litigate against Duquesne Light in two prior proceedings and which were rejected by the Commission’s final rulings in those proceedings.²

17. For these reasons and as more fully explained below, Duquesne Light is entitled to judgment on the pleadings, and the above-captioned Complaint should be dismissed in its entirety.

II. ARGUMENT

A. The Third Complaint Must Be Dismissed Because the Billing Allegations Are Barred by the Section 316 of the Public Utility Code

18. Duquesne Light incorporates by reference Paragraphs 1 through 17 as if fully set forth herein.

² *See* note 1, *supra*.

19. To the extent that the Complainants attempt to re-litigate claims that have already been raised in prior proceedings, those issues have already been ruled on by the Commission and, therefore, are barred by Section 316 of the Public Utility Code 66 Pa. C.S. § 316.

20. On October 29, 2024, Duquesne Light was served with the above-captioned Formal Complaint (“*Third Complaint*”), which raises claims challenging the Company’s billing practices. (*Third Complaint* ¶ 5.)

21. Specifically, it appears that the Complainants continue to argue, as they have in previous proceedings, that the Company’s billing practices are not correct and, therefore, that they are not responsible for payment for the service received. (*See Third Complaint* ¶ 5; Letter attached to Complaint.)

22. Previously, on or about December 4, 2017, the Complainants filed a Complaint at Docket No. F-2017-2636316 (“*First Complaint*”) requesting a payment agreement and challenging the Company’s billing practices, relying on vague and unsubstantiated legal theories alleging their electric service bills were not due and payable.

23. The *First Complaint* was fully litigated and dismissed by the Commission, with the Commission finding that “the Company’s required payment methods were reasonable and in compliance with Section 1501 of the [Public Utility] Code, 66 Pa. C.S. § 1501,” and that the Commission did “not find merit in the Complainants’ arguments.”³

24. Additionally, on or around December 5, 2022, the Complainants filed a second complaint against the Company at Docket No. C-2022-3037095 (“*Second Complaint*”) again

³ See *First Complaint Order* at p. 10.

challenging the Company's billing practices by relying on vague and unsubstantiated legal theories alleging their electric service bills were not due and payable.

25. The *Second Complaint* was fully litigated and dismissed by the Commission, with the Commission determining that “[t]he charges billed to [the Complainants] for electric utility service have accrued pursuant to, and have been issued in accordance with, a Commission-approved tariff,” and that the Complainants “are obligated to pay for the receipt of such service and the Respondent is entitled to be compensated for the provision of service.”⁴

26. Now, the Complainants have filed yet another Complaint against challenging the Company's billing practices, stating that the Company's billing practices constitute “fraud” and relying on provisions of the U.S. Code to assert that they “have a right to correct the bill.”

27. The allegations raised in the *Third Complaint* attempt to raise similar claims challenging the Company's billing practices, which were previously rejected by the Commission in the *First Complaint Order* and the *Second Complaint Order*.

28. The Complainants in the instant action are the same Complainants whose *First* and *Second Complaints*, which also challenged the Company's billing practices, were dismissed by the Commission.

29. The Complainants' electric service account and Service Address are also the same that were dealt with in the *First* and *Second Complaint* proceedings.

30. Despite the Commission's prior rejections of the Complainants' allegations challenging the Company's billing practices, through the *Third Complaint*, the Complainants continue to raise issues that were or could have been raised in the two prior proceedings.

⁴ See *Second Complaint Order* at p. 8.

31. Pursuant to 66 Pa. C.S. § 316, the instant Complaint is barred by the Orders in the *First and Second Complaint* proceedings. Section 316 states, in relevant part:

Whenever the [c]ommission shall make any rule, regulation, finding, determination or order, the same shall be prima facie evidence of the facts found and shall remain conclusive upon all parties affected thereby, unless set aside, annulled or modified on judicial review.

66 Pa. C.S. § 316.

32. Under Section 316 of the Public Utility Code, a complainant is prohibited from raising issues that were previously decided. *See Moore, Jr. v. PECO Energy Co.*, Docket No. C-2012-2309932, 2012 Pa. PUC LEXIS 1251, at *12 (Initial Decision dated July 18, 2019), *adopted without modification*, Docket No. C-2012-2309932 (Order entered Oct. 24, 2012); *see also Denlinger v. PPL Elec. Utils. Corp.*, Docket No. C-2019-3014786 (Initial Decision issued Feb. 24, 2020), *adopted without modification*, Docket No. C-2019-3014786 (Order entered May 21, 2020).

33. Section 316 precludes a collateral attack upon a Commission order which has not been reversed upon appeal. *See Lehigh Valley Power Comm. v. Pa. PUC*, 563 A.2d 548, 556 (Pa. Cmwlth. 1989) (citing 66 Pa. C.S. § 316).

34. The Orders rejecting the Complainants' arguments challenging Duquesne Light's billing practices have not been set aside, annulled, or otherwise overturned. *See Karen Feitt and Higinio Mendoza Jr. v. Duquesne Light Company*, Docket No. F-2017-2636316 (Order entered June 13, 2019) *petition for review dismissed*, 1095 C.D. 2019 (Pa. Cmwlth. 2019); *Karen Feitt and Higinio Mendoza Jr. v. Duquesne Light Company*, Docket No. C-2022-3037095 (Order entered August 1, 2024).

35. For these reasons, the Complainants' claims and issues raised in the *Third Complaint* are barred by Section 316 of the Public Utility Code.

B. The Third Complaint Must Be Dismissed Because the Billing Allegations Are Barred by the Doctrines of Res Judicata and Collateral Estoppel

36. The Complainants' claims and issues also are barred by *res judicata* and collateral estoppel because such claims and issues challenging the Company's billing practices were or could have been raised and ruled on in the *First* and *Second Complaint* proceedings.

37. *Res judicata*, or claim preclusion, prevents a future suit between the same parties on the same cause of action after a final judgment is entered on the merits of the action. *See PMA Ins. Grp. v. Workmen's Comp. Appeal Bd. (Kelley)*, 665 A.2d 538 (Pa. Cmwlth. 1995), *appeal denied*, 1996 Pa. LEXIS 619 (Pa. 1999).

38. *Res judicata* "prohibits parties involved in a prior litigation from subsequently asserting claims in a later action that were raised, or could have been raised, in the previous adjudication." *Hillgartner v. Port Auth.*, 936 A.2d 131, 141 (Pa. Cmwlth. 2007) (quoting *Montella v. Berkheimer Assocs.*, 690 A.2d 802 (Pa. Cmwlth. 1997)).

39. *Res judicata* also "shields parties from the burden of re-litigating claims with the same parties, or parties in privity with the original litigant, and serves to protect the courts from inefficiency and confusion that re-litigation fosters." *Hillgartner*, at 141. (emphasis added) (citation omitted).

40. For the doctrine of *res judicata* to apply, a party must demonstrate: (1) identity of issues, (2) identity of causes of action, (3) identity of persons and parties to the action, and (4) identity of the quality or capacity of the parties suing or being sued. *Day v. Volkswagenwerk Aktiengesellschaft*, 464 A.2d 1313, 1316-17 (Pa. Super. 1983).

41. The *Third Complaint* is barred by *res judicata* because in the *First*, *Second* and *Third Complaints*: (1) the issues concern the validity of the Company's billing practices; (2) the cause of action is a formal complaint related to the Company's billing practices; (3) the parties in

the prior actions and the instant proceeding are the same (*i.e.*, Karen Feitt and Higinio Mendoza Jr. and Duquesne Light); and (4) the complainants and respondent in the *First* and *Second Complaints* and *Third Complaint* are the same and, therefore, have identical quality or capacity.

42. Collateral estoppel, or issue preclusion, prevents re-litigation of an issue of fact or law between the same parties upon a different claim or demand. *See Fiore v. Commonwealth*, 508 A.2d 371, 374 (Pa. Cmwlth. 1986).

43. The doctrine of collateral estoppel, or issue preclusion, applies where: (1) “[a]n issue decided in a prior action is identical to the one presented in a later action”; (2) “[t]he prior action resulted in a final judgment on the merits”; (3) “[t]he party against whom collateral estoppel is asserted was a party to the prior action, or is in privity with a party to the prior action”; and (4) “[t]he party against whom collateral estoppel is asserted had a full and fair opportunity to litigate the issue in the prior action.” *Rue v. K-Mart Corp.*, 713 A.2d 82, 84 (Pa. 1998) (emphasis added) (citations omitted).

44. The *Third Complaint* is barred by collateral estoppel because in the *First*, *Second* and *Third Complaints*: (1) the issues are related to the Company’s billing practices; (2) the *First* and *Second Complaints* were adjudicated on the merits; (3) the parties in the prior action and the instant proceeding are the same (*i.e.*, Karen Feitt and Higinio Mendoza Jr. and Duquesne Light); and (4) in the prior actions, the Complainants had a full and fair opportunity to raise claims and litigate issues regarding the Company’s billing practices.

45. Thus, the Complainants’ claims and issues raised in the *Third Complaint* are barred by *res judicata* and collateral estoppel.

C. The Third Complaint Should Be Dismissed With Prejudice Because it Constitutes an Abuse of Administrative Process

46. In addition, the *Third Complaint* constitutes an abuse of administrative process due to the Complainants' repeated filing of Complaints about the same issues and, therefore, should be dismissed with prejudice.

47. As noted previously, the Complainants previously filed two Complaints against Duquesne Light concerning the Company's billing practices, including challenging the Company's billing practices by relying on vague and unsubstantiated legal theories alleging their electric service bills were not due and payable.

48. Both of those Complaints were dismissed by the Commission.⁵

49. As such, Duquesne Light's billing practices at issue in the *Third Complaint* have already been extensively litigated by the Complainants before the Commission.⁶

50. In all of those proceedings, the Complainants' allegations were rejected, and the Complaints were dismissed.

51. The Complainants have a history of filing numerous informal complaints against the Company, having filed 10 informal complaints against Duquesne Light with the Commission's Bureau of Consumer Services ("BCS") since 2017 related to the past due charges on their electric service account with Duquesne Light.

52. Further, the Complainants also have a history of filing Formal Complaints against their natural gas utility, Peoples Natural Gas Company, LLC, raising similar challenges to that utility's billing practices. Each of these Complaints has been dismissed by the Commission. *See Karen Feitt and Higinio Mendoza Jr. v. Peoples Natural Gas Co. LLC*, Docket No. F-2018-3003833 (Order entered Mar. 19, 2019); *Higinio Mendoza Jr. v. Peoples Natural Gas Co. LLC*,

⁵ See note 1, *supra*.

⁶ See *id.*

Docket No. F-2019-3015189 (Order entered July 15, 2021); *Karen Feitt v. Peoples Natural Gas Company LLC*, Docket No. C-2023-3040660 (Order entered June 17, 2024).

53. The Commission has also held that serial filing of the same or similar complaints can constitute an abuse of administrative process, with complaints appropriately dismissed with prejudice. See *Moyer v. PPL Elec. Utils. Corp.*, Docket No. C-2022-3031294 (Order entered Dec. 8, 2022) (“The facts of the present case reflect an egregious example of the Complainant’s use of the administrative process to repeatedly raise the same issues which have been previously decided against [Complainant]. This proceeding demonstrates that both the agency and the utility, [], have expended substantial resources to address claims which have been previously reviewed and decided. Accordingly, in these extreme circumstances, in view of the substantial wasteful use of the Commission’s and the respondent’s time, energy and resources, we conclude that dismissal with prejudice is appropriate.”); See also *Jefferson v. UGI Utilities, Inc.*, Docket No. Z-00269892 (Order entered December 26, 1995), see also, e.g., *Charles Nichols III v. Bell-Atlantic-Pennsylvania*, Docket No. C-00956667 (Order entered August 4, 1995).

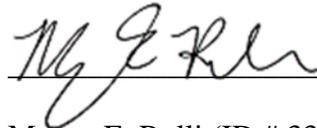
54. Here, the Complainants once again challenge the Company’s billing practices by relying on vague and unsubstantiated legal theories that the Commission does not have the jurisdiction to consider. (See *Third Complaint* ¶¶ 4-5; Preliminary Objection of Duquesne Light.)

55. Therefore, Duquesne Light respectfully submits that the Complainants’ *Third Complaint* constitutes an abuse of administrative process.

56. For these reasons, Duquesne Light is entitled to judgment as a matter of law and, therefore, respectfully requests that the instant Complaint be dismissed in its entirety and with prejudice.

WHEREFORE, Duquesne Light Company respectfully requests that the Complaint of Higinio Mendoza Jr. and Karen A. Feitt be dismissed in its entirety and with prejudice as against Duquesne Light Company.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "M E Rulli", is written over a solid horizontal line.

Megan E. Rulli (ID # 331981)
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Date: April 3, 2025

Attorney for Duquesne Light Company

APPENDIX A

OPINION AND ORDER

DOCKET NO. F-2017-2636316

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Public Meeting held June 13, 2019

Commissioners Present:

Gladys Brown Dutrieuille, Chairman
David W. Sweet, Vice Chairman
Norman J. Kennard
Andrew G. Place
John F. Coleman, Jr.

Karen Feitt and H. Mendoza, Jr.

F-2017-2636316

v.

Duquesne Light Company

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are the Exceptions filed by Karen Feitt and H. Mendoza, Jr. (Complainants) on August 20, 2018, to the Initial Decision (I.D. or Initial Decision) of Administrative Law Judge (ALJ) Conrad A. Johnson served on August 7, 2018, in the above-captioned proceeding. Duquesne Light Company (Duquesne Light or the Company) filed a Motion to Quash Complainants' Exceptions (Motion to Quash) on September 6, 2018. For the reasons stated below, we will deny the Complainants'

Exceptions, adopt the Initial Decision, and grant, in part, Duquesne Light's Motion to Quash, consistent with this Opinion and Order.

I. History of the Proceeding

On November 28, 2017, the Complainants filed a Formal Complaint (Complaint) requesting a payment arrangement.¹ The Complainants also alleged that Duquesne Light failed to honor a "payment agreement" and to "discharge the debts." The Complainants contended that the Company's actions were crimes, including theft by deception, extortion, and embezzlement of public money. The Complainants cited to various federal criminal statutes in support of their position.

On December 21, 2017, Duquesne Light filed an Answer and Preliminary Objections. In its Answer, the Company: (1) denied that the Complainants were entitled to a payment arrangement that was different from the Company payment arrangement granted to them on March 22, 2016, on which the Complainants defaulted, and (2) averred that the Complainants were responsible for an outstanding account balance of \$623.84. In its Preliminary Objections, Duquesne Light argued that the Commission lacked jurisdiction over the Complainants' claims because they invoked criminal statutes and potentially Pennsylvania laws pertaining to contracts, debt collection, unfair trade practices, or damages. Duquesne Light requested that the ALJ sustain its Preliminary Objections and dismiss the Complaint with prejudice and/or strike the Complainants' request for relief as impertinent.

On March 13, 2018, the ALJ issued an interim order, sustaining Duquesne Light's Preliminary Objections on the grounds that the Commission lacked jurisdiction over the Complainants' allegations invoking federal crimes and banking laws and

¹ The Complaint is a timely appeal of the Commission's Bureau of Consumer Services' (BCS) informal decision at BCS Case No. 3545710.

asserting debt collection and damages under the Pennsylvania Unfair Trade Practices Consumer Protection Law, 73 P.S. § 201-1, *et seq.* The ALJ, however, denied Duquesne Light's request for dismissal of the Complaint in its entirety, reasoning that the Complainants requested a payment arrangement and "the return of arrears, billing refunds and considerations," and these requests raised questions of fact on matters within the Commission's jurisdiction that could not be resolved on a preliminary motion.

A telephonic hearing was held on April 25, 2018. The Complainants appeared *pro se* and testified. The Complainants did not sponsor any exhibits. The Company was represented by counsel who presented one witness that sponsored six exhibits which were admitted into the record. The ALJ also took official notice of Duquesne Light's Exhibit N, a March 14, 2018, electric bill that the Complainants signed and mailed to the Company. The hearing generated a ninety-seven-page transcript. The record was closed by an interim order issued on May 29, 2018.

By Initial Decision served on August 7, 2018, ALJ Johnson denied the Complainants' request for a payment arrangement and dismissed the Complaint due to the Complainants' failure to satisfy their burden of proof.

As previously noted, the Complainants filed Exceptions on August 20, 2018, and the Company filed a Motion to Quash on September 6, 2018.

II. Discussion

A. Legal Standards

As the proponent of a rule or order, the Complainant in this proceeding bears the burden of proof pursuant to Section 332(a) of the Public Utility Code (Code).

66 Pa. C.S. § 332(a). To establish a sufficient case and satisfy the burden of proof, the Complainant must show that the Respondent is responsible or accountable for the problem described in the Complaint. *Patterson v. The Bell Telephone Company of Pennsylvania*, 72 Pa. P.U.C. 196 (1990). Such a showing must be by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. denied*, 529 Pa. 654, 602 A.2d 863 (1992). That is, the Complainant's evidence must be more convincing, by even the smallest amount, than that presented by the Respondent. *Se-Ling Hosiery, Inc. v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950). Additionally, this Commission's decision must be supported by substantial evidence in the record. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. Co. v. Pa. PUC*, 489 Pa. 109, 413 A.2d 1037 (1980).

Upon the presentation by a complainant of evidence sufficient to initially satisfy the burden of proof, the burden of going forward with the evidence to rebut the evidence of the complainant shifts to the respondent. If the evidence presented by the respondent is of co-equal value or "weight," the burden of proof has not been satisfied. The complainant now has to provide some additional evidence to rebut that of the respondent. *Burleson v. Pa. PUC*, 443 A.2d 1373 (Pa. Cmwlth. 1982), *aff'd*, 501 Pa. 433, 461 A.2d 1234 (1983). While the burden of going forward with the evidence may shift back and forth during a proceeding, the burden of proof never shifts. The burden of proof always remains on the party seeking affirmative relief from the Commission. *Milkie v. Pa. PUC*, 768 A.2d 1217 (Pa. Cmwlth. 2001).

Additionally, Chapter 14 of the Code, 66 Pa. C.S. §§ 1401-1418, sets forth the law the Commission must follow in handling payment arrangement requests. Section 1405(a) of the Code, 66 Pa. C.S. § 1405(a), authorizes the Commission to establish a payment arrangement and provides as follows:

§ 1405. Payment arrangements.

(a) **General rule.** – The commission is authorized to investigate complaints regarding payment disputes between a public utility, applicants and customers. The commission is authorized to establish payment arrangements between a public utility, customers and applicants within the limits established by this chapter.

Section 1403 of the Code defines a “payment arrangement” as “[a]n agreement whereby a customer who admits liability for billed service is permitted to amortize or pay the unpaid balance of the account in one or more payments.” 66 Pa. C.S. § 1403.

In the Initial Decision, ALJ Johnson made fourteen Findings of Fact, I.D. at 5-7, and reached seven Conclusions of Law, I.D. at 13-14. We shall adopt and incorporate herein by reference the ALJ’s Findings of Fact and Conclusions of Law unless they are either expressly or by necessary implication overruled or modified by this Opinion and Order.

Before addressing the Exceptions, we note that any issue or Exception that we do not specifically address shall be deemed to have been duly considered and denied without further discussion. It is well settled that we are not required to consider, expressly or at length, each contention or argument raised by the parties. *Consolidated Rail Corp. v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); *also see, generally, University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

B. Initial Decision

The ALJ denied the Complainants' request for a payment arrangement under Section 1405(a) of the Code, 66 Pa. C.S. § 1405(a). The ALJ stated that by definition under Section 1403 of the Code, 66 Pa. C.S. § 1403, a payment arrangement requires an unpaid account balance and a customer's admission of liability for billed service. I.D. at 11. Based on the evidence in this case, the ALJ concluded that because the Complainants maintain they do not owe any money to the Company, granting the Complainants a payment arrangement on a zero balance would be contrary to the definition of "payment arrangement" in the Code. *Id.* at 12.

The ALJ found that the evidence demonstrated that although the Complainants have received electric service from the Company from October 2017 to April 2018 and have an unpaid account balance of \$1,036.64, the Complainants contend they do not owe Duquesne Light any money for service. *Id.* at 11 (citing Tr. at 39, 41, 52). The ALJ explained that the Complainants argue they do not owe the Company any money because since October 2017, they have been signing and stamping their electric bill with the endorsement "ACCEPT FOR VALUE" and mailing it to the Company as a form of payment for their electric usage. Specifically, the Complainants believe that there is no legal tender such as United States currency, and their bill is paid by operation of law through the use of their signature and endorsement. I.D. at 11 (citing Tr. at 85-87). The Complainants cite to a June 5, 1933 House Joint Resolution of the United States Congress in support of their position. I.D. at 12 (citing Tr. at 44-45). The ALJ concluded that several courts in other jurisdictions have found "bills of exchange purporting to be drawn against a trust account at the United States Treasury to be 'nothing more than a string of words that sound as though they belong in a legal document, but which, in reality, are incomprehensible, signifying nothing.'" I.D. at 12. (citing *In re: Denise Fachini*, 2012 Bankr. LEXIS 448 at 5 (Bankr. M.D. Ga. 2012)).

The ALJ indicated that as an alternative to resolving the Complainants' request for a payment arrangement, he asked the Complainants whether they would continue to sign their electric bill and return the bill as payment for their service if the Commission granted them a payment arrangement, and the Complainants answered in the affirmative. I.D. at 12 (citing Tr. at 86-87). Therefore, the ALJ determined that it would be futile to grant the Complainants a payment arrangement on their unpaid \$1,036.64 balance when they intended to continue their past payment practice. I.D. at 12.

Additionally, the ALJ found that the Complainants did not meet their burden of proving that Duquesne Light violated the Code, the Commission's Regulations, or a Commission Order by asking the Complainants to pay their bills in United States currency. *Id.* (citing Tr. at 71). The ALJ stated that the Commission's Regulation relating to service termination provides that a customer may avoid termination if "payment in full is tendered in any reasonable manner." I.D. at 12 (citing 52 Pa. Code § 56.94). The ALJ determined that the Company's requirement that the Complainants pay their bills in United States currency was a reasonable manner of payment and complied with Section 1501 of the Code, 66 Pa. C.S. § 1501. I.D. at 13.

C. Exceptions and Motion to Quash

The Complainants have filed Exceptions in the format of a "Commercial Affidavit of Truth." In their Exceptions, the Complainants aver that under federal law and the United States Constitution, it is impossible for the Complainants to make payments in United States currency because the Constitution permits only silver and gold currency which has been removed from circulation. As a result, the Complainants contend that their "signature is now a security and has value to it" and "the payment of debt is now against Congressional and public policy." Exc. at 1-3.

In response to the Complainants' filing, Duquesne Light filed a Motion to Quash, arguing that the Exceptions should be quashed because the Complainants' Commercial Affidavit of Truth does not comply with Section 5.533(b) of the Commission's Regulations, 52 Pa. Code § 5.533(b), and relies on the Complainants' incorrect interpretation of laws that are outside of the Commission's jurisdiction. Duquesne Light states that the Complainants' Commercial Affidavit of Truth does not come close to satisfying the requirements in Section 5.533(b), because the Complainants do not identify any finding of fact or conclusion of law they contend was in error and do not cite to evidence of record or any provisions of the Code or the Commission's Regulations in support of their argument. Motion to Quash at 4. The Company avers that while *pro se* complainants receive some procedural leniency, the Commission has declined to consider exceptions filed by *pro se* complainants when the exceptions contain additional arguments about the underlying case and rely on extra-record evidence. *Id.* at 4-5 (citing *Blauhut v. PECO Energy Company*, Docket No. C-2009-2087552 (Order entered January 29, 2010)). The Company contends that in this case, the Complainants' averments in the Commercial Affidavit of Truth constitute additional argument about the underlying case and rely on laws that are outside of the Commission's jurisdiction, as the ALJ determined in sustaining the Company's preliminary objections. Motion to Quash at 5.

For these reasons, Duquesne Light requests that the Complainants' Exceptions be quashed and that the Complaint be dismissed. In the alternative, Duquesne Light requests that the Commission issue a briefing schedule that sets deadlines by which the Parties may submit briefs concerning the Complainants' Exceptions. Duquesne Light also reserves the right to present additional arguments regarding its position that the Exceptions should be denied. *Id.*

D. Disposition

Based on our review of the record and the applicable law, we shall deny the Complainants' Exceptions and adopt the ALJ's Initial Decision. Initially, we acknowledge that the Complainants' Exceptions, titled as a "Commercial Affidavit of Truth," do not comply with Section 5.533(b) of our Regulations, 52 Pa. Code § 5.533(b), which requires that Exceptions be numbered, identify the Findings of Fact or Conclusions of Law to which exception is taken, cite to the relevant pages of the ALJ's decision, and provide supporting reasons for the Exceptions. Nevertheless, we will consider the Complainants' Exceptions as filed pursuant to Section 1.2 of our Regulations, 52 Pa. Code § 1.2, in order to secure a just, speedy, and inexpensive resolution in this proceeding, particularly because the Complainants are filing *pro se*. Our consideration of the Complainants' Exceptions is consistent with our prior consideration of similar Exceptions *pro se* complainants have filed. *See James Coppedge v. PECO Energy Company (Coppedge 2015 Order)*, Docket No. F-2014-2406180 (Order entered January 29, 2015) (considering the complainant's Exceptions titled as a "Notice of Exemptions and Proof of Claim," although the filing did not comply with 52 Pa. Code § 5.533(b)); *James Coppedge v. PECO Energy Company*, Docket No. F-2009-2135893 (Order entered August 3, 2010) (considering the complainant's Exceptions titled as an "Affidavit of Truth," although the filing did not comply with 52 Pa. Code § 5.533(b)).

We will, however, deny the Exceptions on the merits. The Complainants appear to except to the portion of the ALJ's decision determining that the Company's requirement that the Complainants pay their bills in United States currency was a reasonable manner of payment. The Complainants reiterate their argument throughout this proceeding that based on federal law and a June 5, 1933 House Joint Resolution of the United States Congress, there is no legal tender such as United States currency, and their bill is paid by operation of law through the use of their signature and endorsement.

Based on our prior decisions addressing similar arguments, our Regulations, and the Company's tariff, we agree with the ALJ's conclusion on this issue. *See Coppedge 2015 Order* (finding that the complainant failed to satisfy his burden of proving that PECO provided unreasonable or unreliable service by declining to accept as payment Mr. Coppedge's self-styled and self-proclaimed negotiable instruments under the Uniform Commercial Code).² While our Regulations do not specify the forms of payment a utility must accept from a customer, our Regulation concerning service termination states that a customer may avoid termination if "payment in full is tendered in any reasonable manner." 52 Pa. Code § 56.94. Additionally, Section 20.3 of Duquesne Light's Tariff Electric – Pa. P.U.C. No. 24 provides that bills for electric service may be paid with a check or money order or in the manner explained under the "Billing and Payment Conveniences" on the customer's bill, which includes online payment options. All methods of payment must be in United States currency. Under the circumstances, we find the Company's required payment methods to be reasonable and in compliance with Section 1501 of the Code, 66 Pa. C.S. § 1501, and we do not find merit in the Complainants' arguments.

We also agree with the ALJ's decision to deny the Complainants' request for a payment arrangement, as the Complainants do not admit liability for the unpaid balance on their electric account and do not plan to make payments to the Company in United States currency. For these reasons, we shall deny the Exceptions and adopt the Initial Decision. We shall also grant, in part, Duquesne Light's Motion to Quash, to the extent that we are dismissing the Complaint. Because we are denying the Exceptions and dismissing the Complaint, we do not find it necessary or an efficient use of resources to permit Duquesne Light to file an additional response to the Exceptions at this time.

² In that case, the complainant argued that cash has no value and averred that the portion of his bill which he detached and returned with his payment comprised a coupon, bond, or money order that had a value he set in accordance with the amount due and which he then forwarded to the Internal Revenue Service to be discharged.

Conclusion

Based on our review of the record evidence and applicable law, we shall deny the Complainants' Exceptions, adopt the ALJ's Initial Decision, and grant, in part, Duquesne Light's Motion to Quash, all consistent with this Opinion and Order;

THEREFORE,

IT IS ORDERED:

1. That the Exceptions filed by Karen Feitt and H. Mendoza, Jr. on August 20, 2018, are denied.

2. That the Initial Decision of Administrative Law Judge Conrad A. Johnson served on August 7, 2018, is adopted, consistent with this Opinion and Order.

3. That the Complaint filed by Karen Feitt and H. Mendoza, Jr. against Duquesne Light Company at Docket No. F-2017-2636316 is dismissed.

4. That the Motion to Quash Complainants' Exceptions filed by Duquesne Light Company on September 6, 2018, is granted, in part, consistent with this Opinion and Order.

5. That this matter shall be marked closed.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta". The signature is written in a cursive, flowing style.

Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: June 13, 2019

ORDER ENTERED: June 13, 2019

APPENDIX B

OPINION AND ORDER

DOCKET NO. C-2022-3037095

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120**

Public Meeting held August 1, 2024

Commissioners Present:

Stephen M. DeFrank, Chairman
Kimberly Barrow, Vice Chair
Ralph V. Yanora
Kathryn L. Zerfuss
John F. Coleman, Jr.

Karen Feitt & Higinio Mendoza Jr.

C-2022-3037095

v.

Duquesne Light Company

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is a Petition for Rehearing or Reconsideration (Petition) filed by Karen Feitt and Higinio Mendoza Jr. (Petitioners or Complainants) on December 15, 2023, seeking reconsideration of the final Commission Opinion and Order entered on December 7, 2023 (*December 7, 2023 Order*) in the above-captioned

proceeding. On consideration of the Petition,¹ it shall be denied. We shall, hereby, relinquish jurisdiction of this matter and request the Secretary mark this docket closed.

Background

This proceeding is a formal complaint (Complaint) brought by the Petitioners naming Duquesne Light Company (Duquesne or Respondent) as Respondent. By Order entered December 21, 2023, we granted reconsideration of the Petition, within the meaning of Pa. R.A.P. 1701(b)(3), pending review of, and consideration on, the merits. No Answer to the Petition is noted on the Commission dockets.²

On December 5, 2022, Karen Feitt and Higinio Mendoza Jr. filed a Complaint against Duquesne. The Complaint was filed subsequent to a Commission, Bureau of Consumer Services (BCS), Informal Complaint closed on September 29, 2022. *See* BCS # 3854655; *December 7, 2023 Order* at 2.

In the Complaint, the Petitioners asserted vague and unsubstantiated legal theories under which they, *inter alia*, took the position that indebtedness incurred by them to Duquesne for past due utility bills rendered for electric utility service provided to their Service Address were not due and payable. The bills for electric utility service from

¹ Subsequent to the final Commission Order in this matter, the Petitioners submitted to the Commission documents styled, “Motion . . . to Dismiss and Reconsider New Hearing” (December 22, 2023), an “Answer . . .” to the Petition (January 18, 2024) and “Executor Letter” (January 25, 2024). These submittals are non-permitted pleadings under the Commission’s Rules of Practice and Procedure. We shall not consider these documents in the instant, Opinion and Order.

² By Commission Secretarial Letter dated January 3, 2024, a copy of the Petition was served on the participants to the proceeding as no Certificate of Service evidencing service of the Petition was attached. We also note that Commission dockets indicate that on January 10, 2024, counsel for Duquesne filed a Notice of Withdrawal of Appearance.

Duquesne were issued pursuant to a Commission-approved tariff. Petitioners, in reliance on the vague and unsubstantiated legal theories raised in the Complaint and expressed in pleadings, appeared to take the position, in pertinent part, that the utility bills at issue were contestable as a result of these theories and that they were entitled to withhold payment pending, *inter alia*, some form of accounting. *December 7, 2023 Order* at 3.

Duquesne filed an Answer to the Complaint. Duquesne admitted to issuing a service termination notice to the Complainants for past due utility bills. However, Duquesne denied that there were any incorrect charges on the said bills. Duquesne also filed Preliminary Objections seeking the dismissal of the Complaint. *December 7, 2023 Order* at 4.

The matter was assigned to Administrative Law Judge (ALJ) Mary D. Long as presiding officer. By order entered January 9, 2023, ALJ Long sustained Duquesne's Preliminary Objections in part. The ALJ concluded that the Petitioners conceded that the Commission did not have jurisdiction to adjudicate certain of their claims which arose pursuant to federal law. However, the ALJ also held that the Complainants could proceed with their claim(s) that there were incorrect charges on their bill(s). *See, e.g. Alkhatib v. EPOC Energy Co.*, Docket No. C-2011-2242125 (Opinion and Order entered January 12, 2012) (*Alkhatib*). *December 7, 2023 Order* at 4.

On March 21, 2023, a hearing was convened as mediation between the Parties proved unsuccessful. Higinio Mendoza, Jr. appeared, *pro se*, and testified on his own behalf. Mr. Mendoza sponsored two exhibits that were admitted into the record. Duquesne was represented by counsel and presented the testimony of one witness. Duquesne further moved for the admission of three exhibits. Additionally, the ALJ directed the admission of one of Duquesne's proposed exhibits (exhibit D). Duquesne Exhibits A, C, D and K were admitted into the record. *December 7, 2023 Order* at 5.

An evidentiary hearing was held which generated a transcript of 55 pages. At the conclusion of the hearing the Parties were given the opportunity to file written statements to clearly explain their respective positions. Both the Petitioners and Duquesne served written statements. The record was closed by order entered April 26, 2023. *December 7, 2023 Order* at 5.

On July 20, 2023, the Initial Decision of ALJ Long was issued. The ALJ concluded that the Complaint should be dismissed. Exceptions and Replies to Exceptions were filed by the participants. By Opinion and Order entered December 7, 2023, we denied the Exceptions of the Petitioners, adopted the Initial Decision, and dismissed the Complaint. *December 7, 2023 Order*.

On December 15, 2023, the Complainants' Petition was filed. No Answer has been received.

Discussion

A. Legal Standards

With respect to petitions for rehearing, reconsideration, rescission and amendment of Commission orders, the Public Utility Code (Code), 66 Pa.C.S. §§ 101, *et seq.* establishes a party's right to seek relief within fifteen days following the service of a Commission order pursuant to Subsections 703(f). 66 Pa.C.S. § 703(f) (relating to rehearing).³ Upon the filing of a petition for relief pursuant to Section 703(f), the Commission may affirm, rescind, or modify its original order. 66 Pa.C.S. § 703(f).

³ Petitions under this section which do not allege new evidence are typically treated as petitions for reconsideration. Petitions for rehearing pursuant to Section 703(f) of the Code, typically include an allegation of new evidence. 66 Pa.C.S. § 703(f); *see, West Penn Power Co. v. Pa. PUC*, 659 A. 2d 1055 (Cmwlth. 1995).

The Code further provides that the Commission may, at any time, after notice and opportunity to be heard by all affected parties, rescind or amend any order made by the Commission, pursuant to Section 703(g). 66 Pa.C.S. § 703(g) (relating to rescission and amendment of orders). A request for relief pursuant to § 703(f) or § 703(g) must be brought as a petition for relief consistent with Section 5.572 of Commission Regulations. 52 Pa. Code § 5.572 (relating to petitions for relief).

Petitions for relief predicated upon Sections 703(f) and 703(g) of the Code, whether brought under Section 5.572(c) of Commission Regulations as a petition for reconsideration, rehearing, reargument, clarification, supersedeas or others within fifteen days of the service of a Commission order, or under Section 5.572(d) as a petition for rescission or amendment filed at any time following service of a Commission order, are reviewed by the Commission as matters seeking relief falling within the agency's discretion.

The Commission's application of the standard for granting a petition for amendment, reconsideration, or rescission is set forth in *Philip Duick, et al v Pennsylvania Gas and Water Company*, 56 Pa. PUC 553 (1982) (*Duick*) as follows:

A petition for reconsideration, under the provisions of 66 Pa. C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part on the grounds that the decision or ruling of the Commission on a matter or issue was either unwise or in error.

In this regard we agree with the Court in the Pennsylvania Railroad Company case, wherein the Court said,

[b]ut the grounds for reconsideration should be restricted to the new matters and new or changed conditions set up in the joint petition, which had arisen since and were not presented in the several petitions of

these appellants ... and dismissed by the Commission ... and not appealed from. Parties, ..., cannot be permitted, by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them and not appealed from. ...

Pennsylvania Railroad Co. v. Public Service Commission, 118 Pa. Super. 380 (1935).

What we expect to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission. Absent such matters being presented, we consider it unlikely that a party will succeed in persuading us that our initial decision on a matter or issue was either unwise or in error.

Duick at 559; *see also*, *AT&T v Pa. PUC*, 568 A.2d 1362 (Pa. Cmwlth. 1990).

The Commission utilizes a two-step analysis in determining whether to exercise its discretion to grant relief under *Duick*. *See, e.g., SBG Management Services, Inc./Colonial Garden Realty Co., L.P. v. Philadelphia Gas Works*, Docket No. C-2012-2304183 (Opinion and Order entered May 19, 2019) (SBG Order)⁴ (discussing *Application of La Mexicana Express Service, LLC, to transport persons in paratransit service, between points within Berks County*, Docket No. A-2012-2329717; A-6415209 (Opinion and Order entered September 11, 2014)).

The first step is to determine whether a party has offered any basis to persuade the Commission to exercise its discretion, including but not limited to, new and novel arguments or identified considerations that appear to have been overlooked or not addressed by the Commission in its previous order. This initial step examines whether a

⁴ *Affirmed, Phila. Gas Works v. Pa. PUC*, 249 A.3d 963 (2021); No. 14 EAP 2020 (April 29, 2021); 2021 WL 1681311; *remand granted, in part* (June 15, 2021); 2021 WL 2697432 (Table).

party raises the same questions which were specifically considered and decided against them by the prior Order of the Commission. If so, it is unlikely that the Commission will be persuaded to exercise its discretion to grant relief. *Duick* at 559 (citing *Pennsylvania Railroad Co. v. Public Service Commission*, 118 Pa. Super. 380 (1935)). The second step of the *Duick* analysis is to evaluate any matter the Commission has deemed worthy of consideration, to determine whether to grant any relief.

B. Petition

The Petition raises the following as the basis for rehearing and/or reconsideration:

The PENNSYLVANIA PUBLIC UTILITY COMMISSION court shall Reconsider, Rehearing, (52 Pa. Code § 5.572, Pa. Code § 35.241) for the reasons and evidence set forth in this Petition. All proceedings enacted in this case after decisions made by Administrative Law Judge Mary D. Long, OPINION, ORDER, and the [PENNSYLVANIA PUBLIC UTILITY] Commissioners public hearing dated December 7th, 2023, are OPINION, and not the facts. Decisions based on opinions deny the claimant's credible new evidence because opinions, orders are not factual, therefore based on violations of Claimants right to be heard in person at (Commissioners public hearing dated December 7th, 2023) said hearings. Opinions, orders are not the Facts, and claimant due process allows the factual aspects of the case to be based on facts presented against the Respondent knowingly deprive Claimant fundamental rights, liberties as afforded by the PENNSYLVANIA PUBLIC UTILITY COMMISSION authority, the state constitution, the Constitution, and Bill of Rights.

Petition at 1.

C. Disposition

On consideration of the Petition, it is denied. On review, the Petition alleges neither any new evidence, new or novel arguments or matters overlooked, nor any reasons in support of a request that the Complaint be reconsidered and/or the subject of a rehearing. The Petition alludes to “new evidence.” However, the Petitioners do not state such new evidence with any specificity. Also, Petitioners appear to erroneously conclude that the use of the term “opinion” as used in the Commission’s Opinion and Order, renders the Commission’s orders invalid, as based upon “opinion” rather than facts and legal conclusions. However, pursuant to statute, the specific findings of fact and conclusions of law reached by the presiding ALJ have been independently reviewed by the Commission as the ultimate fact finder. 66 Pa.C.S. § 335 (a). Further, Commission orders must be based on substantial evidence. 2 Pa.C.S. § 704; *Popowsky v. Pa. PUC*, 164 Pa. Commw. 338, 642 A.2d 648(1994).

The charges billed to Petitioners for electric utility service have accrued pursuant to, and have been issued in accordance with, a Commission-approved tariff. *See* Pa.C.S. § 1302; 1303. On issuance of the bills by Duquesne to the Petitioners in accordance with the Respondent’s duly filed tariff and Commission Regulations, the Petitioners, as ratepayers, are obligated to pay for the receipt of such service and the Respondent is entitled to be compensated for the provision of service. *See Scaccia v. West Penn Power Company*, 55 Pa.P.U.C. 637 (1982).

Based on the forgoing we conclude that the Petition fails to meet the standard for either rehearing or reconsideration. The Petition fails to raise any considerations based upon which to provide relief. A petition to amend or rescind a final Commission order may be granted only judiciously and under appropriate circumstances because such an action results in the disturbance of final Commission orders. *City of Pittsburgh v. Pennsylvania Department of Transportation*, 416 A.2d 461 (Pa. 1980). We

conclude that it would be improvident for this Commission to further entertain the merits of the Complaint.

Conclusion

Consistent with the discussion in this Opinion and Order, we will deny the Petition; **THEREFORE;**

IT IS ORDERED:

1. That the Petition for Rehearing and Reconsideration of the Opinion and Order entered December 7, 2023, of Karen Feitt and Higinio Mendoza Jr. at Docket No. C-2022-3037095 is denied, consistent with the discussion in this Opinion and Order.
2. That the Commission Secretary shall mark this matter closed.

BY THE COMMISSION:



Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: August 1, 2024

ORDER ENTERED: August 1, 2024