

# Stevens & Lee

17 N. Second Street, 16<sup>th</sup> Floor  
Harrisburg, PA 17101  
(717) 234-1090  
www.stevenslee.com

Direct Dial: (717) 255-7365  
Email: michael.gruin@stevenslee.com  
Direct Fax: (610) 988-0852

April 21, 2025

VIA ELECTRONIC FILING

Matthew L. Homsher, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

**RE: Frank J. Cservak, Jr. v. Duquesne Light Company**  
**Docket No. C-2023-3041897**

Dear Secretary Homsher:

Enclosed for filing are Duquesne Light Company's Replies to Exceptions in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

If you have any questions, please feel free to contact me.

Best Regards,

STEVENS & LEE



Michael A. Gruin

Enc.

cc: Office of Administrative Law Judge (*via email* – [crainey@pa.gov](mailto:crainey@pa.gov))  
Office of Special Assistants (*via email* – [ra-OSA@pa.gov](mailto:ra-OSA@pa.gov)).

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Frank J. Cservak, Jr.,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2023-3041897
	:	
Duquesne Light Company,	:	
Respondent	:	

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**REPLIES OF DUQUESNE LIGHT COMPANY  
TO THE EXCEPTIONS OF FRANK J. CSERVAK, JR.**

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**I. INTRODUCTION**

Duquesne Light Company (“Duquesne Light” or the “Company”) hereby files its Replies to the Exceptions filed by the Complainant, Frank J. Cservak, Jr., P.E. (“Complainant”). On April 9, 2025,<sup>1</sup> the Complainant filed Exceptions to the well-reasoned March 20, 2025, Initial Decision (“ID”) issued by Administrative Law Judge Conrad A. Johnson (hereinafter, the “ALJ”). The ID dismissed the Complaint with prejudice, correctly holding that all the allegations raised by the Complainant in this proceeding were previously litigated and dismissed and, therefore, cannot be relitigated under the doctrine of claim preclusion. (ID, at 26.)

As a threshold matter, the Complainant’s Exceptions are untimely. The ID was issued on March 20, 2025. The ID was accompanied by a Secretarial Letter dictating that any Exceptions to the ID were due within 20-days of the ID, consistent with 52 Pa. Code § 5.533(b). Thus, the Complainant’s Exceptions were due on or before April 9, 2025, at

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<sup>1</sup> Duquesne Light was served with the Complainant’s Exceptions via email at 5:19 p.m. on April 9, 2025.

4:30 p.m.<sup>2</sup> However, the Complainant did not serve Duquesne Light with the Exceptions until 5:19 p.m. on April 9, 2025, via email. It further appears that the Complainant did not file his Exceptions with the Commission before 4:30 p.m., as the docket reflects an “Action Date” for the Exceptions of April 10, 2025. Documents filed and served after 4:30 p.m. are deemed to be served the next business day, in this case, April 10, 2025. This means that the Complainant’s Exceptions were one day beyond the deadline for filing the same and, therefore, should not be considered by the Commission.

Moreover, the Complainant’s Exceptions do not conform to the Pennsylvania Public Utility Commission’s (“Commission”) regulations because they are unnumbered, and often do not cite to any of the ID’s Findings of Fact, Conclusions of Law, or specific pages of the ID.<sup>3</sup> That being said, to aid in the Commission’s review of the Exceptions to the extent they are considered, Duquesne Light has grouped and numbered the arguments made in the Complainant’s Exceptions and will respond in Sections II(A)-(D), *infra*.

To the extent that the Commission considers the Exceptions, which it should not, the Complainant should not prevail on their merits. Critically, this is the **Third** Formal Complaint filed by the Complainant against Duquesne Light alleging incorrect billing related to the Company’s net-metering practices.<sup>4</sup> In *Cservak I*, the Commission dismissed the complaint, finding that the Complainant failed to carry his burden of proving that: (1) there were incorrect charges on his bills dating back to 2020; (2) that his service account was not properly credited for the energy produced by his solar panels; or

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<sup>2</sup> See 52 Pa. Code § 1.11

<sup>3</sup> Section 5.533(b) of the Pennsylvania Public Utility Commission’s regulations provides that “[e]ach exception must be numbered and identify the finding of fact or conclusion of law to which exception is taken and cite relevant pages of the decision. Supporting reasons for the exceptions shall follow each specific exception.” 52 Pa. Code § 5.533(b).

(3) that service termination, based upon his admission of tampering with the utility's facilities, violated the Commission's regulations. Shortly thereafter, the Complainant filed a Petition for Review of the Commission's dismissal of *Cservak I* with the Commonwealth Court. That Petition for review was dismissed by the Commonwealth Court on November 6, 2024.<sup>5</sup>

In *Cservak II*, the Complainant once again alleged that the Company was improperly crediting his account for net-metering solar credits, among other things. The Commission properly dismissed that complaint. As the ID correctly points out, "under the Pennsylvania Rules of Appellate Procedure, Pa.R.A.P. Rule 341, the Opinion and Order [in *Cservak III*] became final and the issues raised in *Cservak II* cannot be relitigated, including: 1) the allegation regarding threat of service termination (*i.e.*, the 10-day termination notice issued October 10, 2022); 2) the allegation of wrongful reclassification of service account from residential rate to small commercial rate; and 3) the allegation of improper deletion of solar credits from the Complainant's electric account." (ID, at 10-11.)

Through the instant Third Complaint, the Complainant plainly seeks to relitigate what was previously litigated in *Cservak I* and *II*. Indeed, the Complainant acknowledges as much throughout the Exceptions, but attempts to differentiate the disputed charges from what was previously litigated by arguing that the subject balance addressed in both

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<sup>4</sup> *Cservak v. Duquesne Light Co.*, Docket No. F-2020-3019005 (Opinion and Order entered June 16, 2022) ("*Cservak I*"); *Cservak v. Duquesne Light Co.*, Docket No. C-2022-3036252 (Opinion and Order entered Oct. 19, 2023) ("*Cservak II*").

<sup>5</sup> *Cservak v. Pennsylvania Public Utility Commission*, No. 768 CD 2022 (Order entered Nov. 6, 2024) ("*Petition for Review*"). Throughout the Exceptions, the Complainant argues that the ALJ dismissed the *Petition for Review*. (Complainant's Exc., at 1, 5.) This is incorrect. The Commonwealth Court of Pennsylvania dismissed the *Petition for Review* after the Complainant lost before the Commission in *Cservak I* and appealed. The Commission did not have jurisdiction to make a ruling regarding the *Petition for Review*, nor did it rule on the *Petition for Review*.

*Cservak I* and *II* has changed between “due” and “disputed.” In reality, these are the exact same allegations that have had alternate labelling due to the Complainant’s continuous filing of complaints. This inappropriate attempt by the Complainant to get another bite at the apple should be rejected by the Commission and the Complainant’s Exceptions should be denied for the reasons more fully laid out below.

## **II. REPLIES TO EXCEPTIONS**

### **A. REPLY TO EXCEPTION NO. 1 – The ID Correctly Delineated the Procedural History Relevant to the Third Complaint.**

The Complainant’s Exception(s) pain to walk through the procedural history present in this proceeding, including *Cservak I* and *Cservak II*. (See Complainant’s Exc., at 1-6.) However, the Complainant does not contend that any of the ID’s noted procedural history, of which there is much,<sup>6</sup> is incorrect or inaccurate. Rather the Complainant merely utilizes this Exception to re-hash arguments previously heard and rejected in *Cservak I* and *Cservak II*, as well as the *Petition for Review*. Indeed, it is unclear what the Complainant is excepting to with respect to the ID’s procedural history, beyond a general disagreement with the outcomes and process in previously litigated proceedings. This is not a ground for an Exception and, as such, the Company respectfully submits that the Complainant’s Exception No. 1 should be denied as meritless.

### **B. REPLY TO EXCEPTION NO. 2 – The ID’s Findings of Fact Are Correct and the Complainant Offers no Basis to Hold Otherwise.**

Through Exception No. 2, the Complainant once again presents an alternative recitation of a portion of the ID. In doing so, the Complainant makes clear that the purpose of the Third Complaint is to relitigate issues previously rejected by the Commission and appellate courts in *Cservak I* and *II*. Indeed, the Complainant argues

that the ALJ “wrongfully dismissed” his complaint in, and the Commission “wrongfully denied” his exceptions in, *Cservak I*. (Complainant’s Exc., at 7.) Similarly, the Complainant contends that the Commission issued a “defective” opinion and order in *Cservak II*. (Complainant’s Exc., at 7.) The ID acknowledged these prior cases, then went on to deftly explain that the Third Complaint is barred by “claim preclusion,” which was defined as:

Claim preclusion, formerly technical or strict res judicata, is the term used to describe the effects of merger and bar a prior judgment will have in a later action. Matters which were actually litigated and also matters which should have been litigated in prior actions as part of the same cause of action will not be allowed to be re-litigated in a subsequent action.<sup>7</sup>

The Complainant fails to grapple with the reason(s) for the Third Complaint’s dismissal in his alternative recitation of the Findings of Fact. The reasoning for this tact is simple: he cannot maneuver around the fact that the Third Complaint is a bald attempt to relitigate both the Company’s net-metering practices and the billed amounts at issue in *Cservak I* and *II* and, in doing so, the Third Complaint is barred by claim preclusion. Nothing in the Complainant’s Exception No. 2 warrants disturbing the ID’s well-reasoned analysis and findings related to the same, and the Complainant’s Exception on this point should be denied.

**C. REPLY TO EXCEPTION NO. 3 – The Complainant has been Provided Ample Due Process Throughout his Three Complaints and Should not be Permitted to Relitigate the Same or Similar Issues Again.**

In his Exceptions, the Complainant argues that “[the ALJ] and the [Commission] have failed to provide to process to Complainant Frank J. Cservak Jr P.E., by dismissing

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<sup>6</sup> See ID, at 1-17.

Cservark’s Formal Complaint with the PAPUC against [Duquesne Light] on July 24, 2024, at Docket No. C-2023-3041897 [ ], without providing the opportunity to appear and be heard.” (Complainant’s Exc., at 12.) The Complainant goes on to allege that the ALJ and Commission “operated as a cartel” and “colluded” with Duquesne Light to “defame, destroy, and publicly humiliate” him. (Complainant’s Exc., at 12.) These contentions are meritless and should be rejected.

The Complainant has been afforded ample due process throughout the instant Complaint, and in *Cservak I* and *II*. As noted previously, this is the **Third** Formal Complaint filed by the Complainant contesting his bills and the Company’s net-metering credit practices. *Czervak I* and *II* were fully litigated and the Complainant lost on their merits and on appeal of *Cservak I*.

Furthermore, on August 19, 2024, the ALJ issued the First Interim Order at this docket. The First Interim Order stayed this proceeding pending the Commonwealth Court’s decision on the *Petition for Review*. Consistent with the First Interim Order, Counsel for Duquesne Light provided the ALJ with a Commonwealth Court’s dismissal of the *Petition for Review* on November 12, 2024. In the Second Interim Order issued on November 14, 2024, the ALJ further stayed this proceeding to allow for the Complainant to pursue subsequent appellate relief in *Cservak I*. On December 13, 2025, Counsel for the Company provided a subsequent status report consistent with the dictate of the Second Interim Order, stating that there was no indication of a Petition for Allowance of Appeal to the Supreme Court of Pennsylvania being filed by the Complainant. On December 23, 2024, the ALJ issued a Third Interim Order, which lifted the stay in this proceeding and took official notice of the following:

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<sup>7</sup> ID, at 14.

(1) that a Petition for Allowance of Appeal of the Pennsylvania Commonwealth Court’s Memorandum Opinion in *Frank J. Cservak, Jr. v. Pennsylvania Public Utility Commission*, Docket No. 768 CD 2022 was not taken to the Pennsylvania Supreme Court, pursuant to Pa. R.A.P. Rule 1113(a), 42 Pa.C.S.A.

2) that the Pennsylvania Commonwealth Court’s Memorandum Opinion in *Frank J. Cservak, Jr. v. Pennsylvania Public Utility Commission*, Docket No. 768 CD 2022 is final.<sup>8</sup>

Therein, the ALJ directed that objection to any of the facts officially noticed may be filed by January 3, 2025. The Complainant did not file any objection to those facts noticed by January 3, 2025. As it relates to due process, the ID correctly explained that:

As the Commission noted in *Cservak II*, in all three cases filed by Mr. Cservak he was seeking relief against Duquesne Light for alleged improper charges on his electric accounts in 2020. In *Cservak III*, Mr. Cservak alleged the same service termination issues that he raised in *Cservak I* and *Cservak II*. Additionally, in *Cservak III*, Mr. Cservak is again requesting reimbursement of charges, \$5,541.71, occurring prior to his service termination on March 4, 2020, and removal of “Disputed Charges,” of \$3,822.12 placed on his billing statement in 2020. See *Cservak III*, Complaint p. 5 ¶¶ 27, 28. Importantly, Mr. Cservak was afforded due process with the convening of an evidentiary hearing in *Cservak I* and *II*. However, he failed to carry his burden of proof and the decisions in those two cases are now final. In *Cservak III*, Mr. Cservak does not raise any new issues that were not ruled upon in *Cservak I* and *II*.

In *Cservak III*, Mr. Cservak alleges only three events occurring after the February 15, 2023, evidentiary hearing in *Cservak II*: 1) his phone calls to DLC’s customer service on March 29, 2023 and April 4, 2023; 2) the issuance of the Initial Decision in *Cservak II* on July 5, 2023; and 3) the receipt of the July 10, 2023 bill containing the same disputed charges that were previously the subject of the Formal Complaints in *Cservak I* and *Cservak II*. See

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<sup>8</sup>*Cservak v. Duquesne Light Company*, Docket No. C-2023-3041897, Ordering Paragraphs 1-2 (Third Interim Order Taking Official Notice and Lifting Stay issued Dec. 23, 2024).

*Cservak III*, ¶¶ 33-37. Viewing these allegations in the light most favorable to Mr. Cservak, none of rise to the level warranting the convening of an evidentiary hearing in *Cservak III*.<sup>9</sup>

The ID also explained that “[m]atters which were actually litigated *and also matters which should have been litigated in prior actions as part of the same cause of action* will not be allowed to be re-litigated in a subsequent action.”<sup>10</sup> With this in mind, the ALJ correctly explained that the Third Complaint does not allege any violations by the Company that occurred after the Evidentiary Hearing in *Cservak II*. (ID, at 25.)

The Complainant’s protestations to the contrary must fail. In his Exceptions, the Complainant fails to counter the fact that nothing in this proceeding was not – or could not have been - litigated in *Cservak I* or *II*. Therefore, Duquesne Light submits that the Complainant has been afforded ample due process and that the ID was correct in finding the same. Complainant’s Exception No. 3 fails for that reason.

**D. REPLY TO EXCEPTION NO. 4 – The ID’s Conclusions of Law are Correct and the Complainant’s Requested Relief is Without Merit.**

The Complainant seeks to revise the ID’s well-reasoned Conclusions of Law. (Complainant’s Exc. at 13-14.) The Complainant’s assertions with respect to the Conclusions of Law are meritless. Indeed, instead of identifying the reasoning behind the purported legal errors in the ID, the Complainant merely revises the same in an inappropriate and slanted way. For instance, the Complainant argues that he has “demonstrated beyond a reasonable doubt” that *Cservak I*, *II*, and *III* have different issues, timeframes, and relief. (Complainant’s Exc. at 13, 14.) These distinctions are

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<sup>9</sup> ID, at 24-25.

<sup>10</sup> ID, at 25; *See also Buoncrisitano v. Phila. Gas Works*, Docket No. C-2015-2466853, Initial Decision at 5 (Final Order entered Apr. 29, 2016) (citing *Pa. Pub. Util. Comm’n v. Schuylkill Twp. Borough of Phoenixville*, 1993 Pa. PUC LEXIS 78) (emphasis added).

without difference. Through the Third Complaint, the Complainant seeks to challenge the Company's net-metering credit practices and the balance on the Complainant's account that he believes is a result of those practices. This too was the case in the fully litigated *Cservak I* and *II* proceedings.

In combating the ID's Conclusions of Law, the Complainant also requests summary relief against Duquesne Light. (Complainant's Exc. at 14.) Inherent in this argument the untenable position that: (1) the Complainant has allegedly not been afforded due process; (2) the Complainant seeks to litigate the Third Complaint on its merits (which have been litigated twice previously); and (3) that despite the Complainant's request for "due process," he would deny the same to Duquesne Light by issuing summary relief to himself, part of which includes "damages." (Complainant's Exc., at 15.) Duquesne Light notes that it is well-established that the Commission does not have authority to order a public utility to pay damages, as requested by the Complainant. *See DeFrancesco v. W. Pa. Water Co.*, 453 A.2d 595, 596-97 (Pa. 1982); *Elkin v. Bell of Pa.*, 420 A.2d 371, 375 (Pa. 1980); *Feingold v. Bell of Pa.*, 383 A.2d 791, 794-95 (Pa. 1977).

As such, Duquesne Light submits that the Complainant's concerns with the ID's Conclusions of Law and his requested means of relief are meritless, inherently contradictory, and should be rejected by the Commission.

### III. CONCLUSION

WHEREFORE, for the foregoing reasons, and those set forth in the well-reasoned Initial Decision, the Exceptions of Frank J. Cservak, Jr., P.E. should be denied and the Pennsylvania Public Utility Commission should adopt the March 20, 2025, Initial Decision without modification.

Respectfully submitted,



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Michael A. Gruin (I.D. No. 78625)  
17 North Second Street  
16th Floor  
Harrisburg, PA 17101  
Telephone: 717-255-7365  
Facsimile: 610-988-0852  
mag@stevenslee.com

Donald R. Wagner (I.D. No. 80280)  
David R. Beane (I.D. No. 53343)  
111 N. 6th Street Reading, PA 19601  
Phone: (610) 478-2216  
Fax: (610) 988-0846  
email: donald.wagner@stevenslee.com:  
david.beane@stevenslee.com

*Counsel for Duquesne Light Company*

Dated: April 21, 2025

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Frank J. Cservak, Jr.,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2023-3041897
	:	
Duquesne Light Company,	:	
Respondent	:	

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing Replies to Exceptions upon the party listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

**VIA ELECTRONIC MAIL AND FIRST-CLASS MAIL**

Frank J. Cservak, Jr.  
174 Barberry Road  
Sewickley Heights, PA 15143  
Email: [FCservak@C-MServices.com](mailto:FCservak@C-MServices.com)  
Email: [Frank.Cservak@gmail.com](mailto:Frank.Cservak@gmail.com)

Dated: April 21, 2025



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Michael A. Guin