

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Todd Elliott Koger, Sr. and Elliot-Todd Koger,	:	
Complainants	:	
	:	
v.	:	C-2024-3049627
	:	
Duquesne Light Company,	:	
Respondent	:	

INTERIM ORDER
GRANTING PRELIMINARY OBJECTIONS OF DUQUESNE LIGHT COMPANY

On June 19, 2024, Todd Elliott Koger, Sr. and Elliot-Todd Koger (Complainants) filed a Complainant against Duquesne Light Company (Respondent). Complainants averred, *inter alia*, that the Company issued a termination notice to the Complainants; that Complainants are seeking a payment arrangement from the Company; that the Complainants' electric service bill(s) contain incorrect charges; that Respondent caused damage to Complainants' service address; and that Complainants are experiencing ongoing issues with their electric service; that Respondent forced the Complainants to file for bankruptcy.

On July 23, 2024, counsel on behalf of Duquesne Light Company filed a Motion Of Duquesne Light Company For Leave To File Responsive Pleadings To Complainants' Formal Complaint Nunc Pro Tunc to the Motion are an Answer, New Matter, and Preliminary Objection and a Notice to Plead, which were attached to the Motion and which advised the Complainant that any reply must be filed within 20 days. The Respondent asserted in its Motion that it is requesting leave to file an Answer nunc pro tunc pursuant to 52 Pa. Code §§ 1.2 and 5.103. Respondent requested that the Commission accept the Answer, New Matter, and Preliminary Objection to Formal Complaint nunc pro tunc due to an administrative error. Respondent averred the Company's Answer, New Matter, and Preliminary Objection to the Complaint were served on the Complainants on July 10, 2024, but were not filed with the Commission by the

July 10, 2024, regulatory deadline. The Complainant did not file a response or objection to the Motion.

In its Answer and New Matter, Respondent admitted that the Company issued a termination notice to the Complainants and that the Complainants are seeking a payment arrangement from the Company. The Respondent denied the material averments set forth in the Complaint. Respondent admitted that the Company repaired a loose neutral at the Complainants' service address on October 11, 2023, but denied that the Company provided damaging voltage to the service address related to the loose neutral and that the Company did not provide the Complainants with reasonable service in responding to the Complainants' service concerns. Respondent further averred that it issued a termination notice to the Complainants indicating that service would be terminated at the service address on or after May 16, 2024, due to nonpayment. Respondent further denied that the actions or omissions of Duquesne Light have forced the Complainants to file for bankruptcy in relation to their balance with the Company.

Respondent also filed a New Matter and Preliminary Objections and averred the Complainant Elliot-Todd Koger filed for Chapter 7 Bankruptcy on May 3, 2024. Respondent averred the Commission lacks subject matter jurisdiction over the portion of the Complaint requesting a payment agreement for the arrears that have accumulated on the Complainants' account prior to the Bankruptcy Petition's filing.

Respondent averred that a petition filed pursuant to the U.S. Bankruptcy Code will operate as a stay and bars either the commencement or continuation of a judicial or administrative proceeding against the debtor where the proceeding was commenced prior to the start of the bankruptcy proceeding or to recover a claim against the debtor that arose before the commencement of the bankruptcy proceeding.¹ Respondent also argued that that, pursuant to the Section 362(a)(1) of the U.S. Bankruptcy Code, 11 U.S.C. § 362, the Commission lacks jurisdiction over arrearages for utility services that accrued prior to the filing of a bankruptcy

¹ Steele v. Metro. Edison Co., 2020 Pa. PUC LEXIS 444, at *11 (Order entered Aug. 27, 2020) (citing 11 U.S.C. § 362(a)(1)).

petition.² Accordingly, Respondent argues the Commission should summarily dismiss the portions of the Complaint requesting a payment agreement for lack of subject matter jurisdiction.

On August 8, 2024, the Motion was assigned to Administrative Law Judge Darlene Heep. On August 13, 2024, Administrative Law Judge Heep granted the Motion of Duquesne Light Company for Leave to file Responsive Pleadings to Complainant's Formal Complaint Nunc Pro Tunc.

On August 14, 2024, the Commission Secretary received a Notice of Bankruptcy Case Filing from the United States Bankruptcy Court, Western District of Pennsylvania with regard to a bankruptcy proceeding filed at Case Number 24-21081, which advised, in part, that a bankruptcy case concerning a debtor, Elliott-Todd Parker Koger, was filed on May 3, 2024.

On September 27, 2024, a Motions Judge Change Assignment Notice was entered reassigning the undersigned presiding officer to this proceeding.

On November 26, 2024, an Interim Order was entered extending the deadline for Complainants, Todd Elliott Koger, Sr. and Elliot-Todd Koger to file responsive pleadings to the Answer and New Matter and to the Preliminary Objections filed by Respondent, Duquesne Light Company until December 30, 2024 as well as any response to the Answer and New Matter and to the Preliminary Objections filed by Respondent, Duquesne Light Company.

No responsive pleadings to the Answer and New Matter or to the Preliminary Objections were filed by Complainants. Respondent has the Complainant Elliot-Todd Koger filed for Chapter 7 Bankruptcy on May 3, 2024. In addition, there was no averment that Todd Elliott Koger Sr. initiated a proceeding pursuant to the U.S. Bankruptcy Code.

On March 7, 2025, an Interim Order was entered requiring the Parties, by April 7, 2025, to file a status report detailing the posture of the Bankruptcy Court proceeding identified in

² See, e.g., Cooper v. PECO Energy Co., Docket No. F-09152102, (Order entered January 12, 2006); Stempo v. Metropolitan Edison Co., Docket No. C-2010-2200864, (Order entered July 19, 2012).

this matter, the parties position regarding how the Bankruptcy Court filing affects this proceeding as it relates to each individual Complainant, and the procedural status of the current bankruptcy Court proceeding.

On April 7, 2025, Elliott-Todd Parker Koger and Todd Elliott Koger, Sr., filed a Status Report and certified that they provided a Notice to Duquesne Light regarding the Decision on the Request for Stay Pending Appeal and/or any other decision in Bankruptcy case(s) have not yet been issued and/or communicated to the Complainants. The pleading provided , in part, that on October 11, 2023, the Duquesne Light Supervisor advised the company enervated fried all of the electrical wiring and the appliances in the house and the Bankruptcy Stay was not an available defense for Duquesne Light's failure to mitigate the ongoing harm and Section 1501 responsibility identified on October 11, 2023 by a Duquesne Light Supervisor. The Status Report filed by Complainants did not address the issues required by the Interim Order requiring the filing of Status Reports by the Parties.

On April 7, 2025, the Respondent filed a Status Report. Respondent provided that, pursuant to the Interim Order, Duquesne Light further investigated the ongoing Bankruptcy Petition filed at Case No. 24-21081. Although that proceeding is ongoing, based on the Company's review of the Bankruptcy Petition docket, Respondent averred that proceeding should not stay or otherwise affect the instant Complaint before the Public Utility Commission.

The Respondent averred the instant Complaint was filed by Todd Elliot Koger, Sr. and Elliot-Todd Parker Koger on June 19, 2024. Prior to the Complaint's filing, on May 3, 2024, Complainant Elliot-Todd Parker Koger filed a Chapter 7 Bankruptcy Petition with the U.S. Bankruptcy Court for the Western District of Pennsylvania at Docket No. 24-210801-GLT (Bankruptcy Petition. The Bankruptcy Petition indicates that Elliot-Todd Parker Koger claimed \$1.00 related to an account with Duquesne Light Company. The account indicated by Elliot-Todd Parker Koger in the Bankruptcy Complaint is the same account at issue in the instant Complaint, which is solely in the name of Todd Elliot Koger, Sr.³

³ See Complaint ¶ 1, Duquesne Light Answer, Appendix A.

Respondent averred that on March 31, 2025, Chief U.S. Bankruptcy Judge Gregory L. Taddonio issued an Order (Bankruptcy Order) at the Bankruptcy Petition docket denying two Motions for Sanctions filed by Elliot-Todd Parker Koger and Todd Elliot Koger, Sr. in that proceeding. Respondent avers that in the Bankruptcy Order, Judge Taddonio states that: (1) Todd Elliot Koger, Sr. is not a debtor or creditor in the Bankruptcy Petition proceeding and so is not protected by any stay in place to protect his son's bankruptcy estate (Bankruptcy Order, pp. 2-3)¹; and (2) the Duquesne Light account at issue is not in the debtor Elliot-Todd Parker Koger's name and, therefore, the stay in place during the pendency of the Bankruptcy Petition does not prevent Duquesne Light from issuing termination notices to Todd Elliot Koger, Sr. (Bankruptcy Order, p. 5). Taken together with the fact that Complainant Elliot-Todd Parker Koger's initial claim related to Duquesne Light was only \$1.00, Respondent avers that a reasonable reading of the Bankruptcy Order indicates that the Bankruptcy Order notes that Todd Elliot Koger, Sr. is a debtor in his own bankruptcy proceedings (Case No. 20-23340), and the stay is admittedly no longer in place because he received a discharge and the case was eventually closed in 2023. The Respondent avers that although Mr. Koger Sr. has apparently moved to reopen the case and reinstate the stay, the motions remained pending as of March 31, 2025, and Duquesne Light is not aware of any order reinstating the stay. The Respondent further avers that it appears that Todd Elliot Koger, Sr. represented to Judge Taddonio that he has a "zero balance" on his Duquesne Light service account.⁴ While Duquesne Light does not agree with this characterization of Mr. Koger Sr.'s account balance with the Company, the Respondent avers this representation also cuts against a claim that the outcome of the pending Bankruptcy Petition should affect the instant Complaint proceeding. The Respondent concludes the Bankruptcy Petition should not operate as a stay of the instant Complaint proceeding, because the account balance at issue is in Complainant Todd Elliot Koger, Sr.'s name and that account is not subject to the pending Bankruptcy Petition.

Even if there remains some question as to whether the Duquesne Light account balance at issue is subject to the pending Bankruptcy Petition, Respondent submits the Company's Preliminary Objection should be granted, the Complainants' request for a payment agreement should be dismissed from the Complaint, and the proceeding should not be otherwise

⁴ See Bankruptcy Order, p. 5.

stayed pending the outcome of the Bankruptcy Petition. Respondent asserts the remaining issues in the Complaint are ripe for consideration, i.e., the Complainants' claims related to the administration of the Company's Customer Assistance Program (CAP) and an alleged loose neutral at the Complainants' service address.⁵

Respondent asserts while it is well-established that the Commission lacks jurisdiction to establish payment arrangements for utility accounts subject to active bankruptcy proceedings, the Commission has held that when a Complainant files for bankruptcy protection, the Commission retains jurisdiction over issues concerning reasonable service. It is Duquesne Light's position that those issues remain clearly within the Commission's jurisdiction and, therefore, can be heard during the pendency of Elliot-Todd Parker Koger's Bankruptcy Petition.⁶

The Respondent concludes that the Commission has jurisdiction over the entirety of the instant Complaint, considering that: (1) the electric service account is in the name of Todd Elliot Koger, Sr. and Mr. Koger Sr. does not have an active bankruptcy petition that includes claims related to that account; and (2) a pending bankruptcy petition does not deprive the Commission of the jurisdiction to hear service-related claims. Therefore, the Company maintains that this matter can be set for hearing and should not be stayed pending the outcome of Elliot-Todd Parker Koger's Bankruptcy Petition.

Under the circumstances, the undersigned presiding officer agrees with Respondent that this this proceeding should not stay before the Public Utility Commission. As Respondent has filed Preliminary Objections and no responsive pleading was filed by Complainants, the Preliminary Objections are now ripe for determination.

⁵ See Complaint ¶¶ 4-5.

⁶ See, e.g., Jonathan DiBello v. PECO Energy Co., Docket No. C-2023-3041825, 2023 Pa. PUC LEXIS 315, at *6 (Order entered Dec. 7, 2023). See also Steele v. Metro. Edison Co., 2020 Pa. PUC LEXIS 444, at *11 (Order entered Aug. 27, 2020) (citing 11 U.S.C. § 362(a)(1)) (“Generally any bankruptcy petition filed pursuant to the U.S. Bankruptcy Code will operate as a stay and bars either the commencement or continuation of a judicial or administrative proceeding against the debtor where the proceeding was commenced prior to the start of the bankruptcy proceeding or to recover a claim against the debtor that arose before the commencement of the bankruptcy proceeding.”).

Duquesne Light filed its Preliminary Objections requesting that the portions of the Complaint request a payment arrangement be dismissed, arguing the Commission lacks subject matter jurisdiction due to the Complainant's active Chapter 7 bankruptcy proceeding. Complainants did not file a responsive pleading to the Preliminary Objection.

Pursuant to the Commission's regulations, preliminary objections in response to a pleading may be filed on several grounds, including:

- (1) Lack of Commission jurisdiction or improper service of the pleading initiating the proceeding.
- (2) Failure of a pleading to conform to this chapter or the inclusion of scandalous or impertinent matter.
- (3) Insufficient specificity of a pleading.
- (4) Legal insufficiency of 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.

The Respondent argues the portions of the Complaint requesting a payment agreement should be dismissed because the Commission lacks subject matter jurisdiction due to the existence of an active Chapter 7 bankruptcy proceeding. The Respondent argues that the Complainant's Chapter 7 bankruptcy proceeding remains active as of the date of this Preliminary Objection and attaches Duquesne Light Exhibit B to its Preliminary Objection. Respondent submits it is well established that the Commission lacks subject matter jurisdiction over portions of the instant Complaint because the Complainant has an active Chapter 7 bankruptcy proceeding and the Complainant is requesting a payment agreement.

Generally, a bankruptcy petition filed pursuant to the U.S. Bankruptcy Code will operate as a stay and bars either the commencement or continuation of a judicial or administrative proceeding against the debtor where the proceeding was commenced prior to the start of the bankruptcy proceeding or to recover a claim against the debtor that arose before the commencement of the bankruptcy proceeding. *Steele v. Metro. Edison Co.*, 2020 Pa. PUC LEXIS 444, at *11 (Order entered Aug. 27, 2020) (citing 11 U.S.C. § 362(a)(1)).

The Commission concluded that, pursuant to the Section 362(a)(1) of the U.S. Bankruptcy Code, 11 U.S.C. § 362, the Commission lacks jurisdiction over arrearages for utility services that accrued prior to the filing of a bankruptcy petition. See, e.g., *Cooper v. PECO Energy Co.*, Docket No. F-09152102, (Order entered January 12, 2006); *Stempo v. Metropolitan Edison Co.*, Docket No. C-2010-2200864, (Order entered July 19, 2012).

Here, under the circumstances and the pleadings filed in this proceeding, the Commission lacks subject matter jurisdiction over portions of the instant Complaint as Complainant has an active Chapter 7 bankruptcy proceeding and Complainant is requesting a payment agreement. Therefore, the portions of the Complaint requesting a payment agreement will be dismissed for lack of subject matter jurisdiction pursuant to 52 Pa. Code § 5.101(a)(1) and (a)(4).

Under the circumstances, the following Interim Order will be entered.

THEREFORE,

IT IS ORDERED:

**C-2024-3049627 - TODD ELLIOTT KOGER SR AND ELLIOT-TODD KOGER v.
DUQUESNE LIGHT COMPANY**

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