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File #: 208357

July 17, 2025

VIA ELECTRONIC FILING

Matthew Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Deyde L. Montanez v. Duquesne Light Company
Docket No. C-2024-3051295

Dear Secretary Homsher:

Attached for filing is the Reply of Duquesne Light Company to the Exceptions of Deyde L. Montanez in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,



Megan E. Rulli

MER/dmc
Attachment

cc: Office of Special Assistants (*via email; w/attachment*)
The Honorable Alphonso Arnold III (*via email; w/attachment*)
Certificate of Service

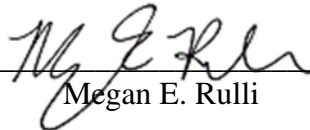
CERTIFICATE OF SERVICE

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

Deyde L. Montanez
2905 Stafford Street
Pittsburgh, PA 15204
Deliyale4@gmail.com

Date: July 17, 2025



Megan E. Rulli

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Deyde L. Montanez,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2024-3051295
	:	
Duquesne Light Company,	:	
	:	
Respondent.	:	

**REPLY OF DUQUESNE LIGHT COMPANY TO THE
EXCEPTIONS OF DEYDE L. MONTANEZ**

Duquesne Light Company (“Duquesne Light” or the “Company”), pursuant to 52 Pa. Code § 5.535, hereby respectfully submits this Reply to the Exceptions of Deyde L. Montanez (“Complainant”). In the Initial Decision (“ID”), Administrative Law Judge Alphonso Arnold III (the “ALJ”) dismissed the Complainant’s Formal Complaint alleging that her electric service bill(s) contain incorrect charges because the Complainant failed to appear for the hearing and prosecute her Complaint. The ALJ correctly dismissed the Complaint with prejudice, considering that the Complainant was provided notice and the opportunity to be heard in this proceeding but failed to appear at a second hearing, which was scheduled to accommodate her request that a translator be present. In her Exceptions, the Complainant concedes that she was provided notice of the date and time of the second hearing and fails to offer a reasonable explanation as to why her absence was unavoidable. The Complainant also attempts to introduce and rely on extra-record evidence in support of her requested relief.

As explained herein, the Complainant's Exceptions are without merit and should be denied. Accordingly, the Company respectfully requests that the Commission deny the Complainant's Exceptions and adopt the ID without modification.

I. INTRODUCTION

On September 20, 2024, the Complainant filed the instant Complaint against Duquesne Light alleging that her electric service bill(s) contain incorrect charges.

On October 10, 2024, Duquesne Light filed an Answer and New Matter to the Complaint, as well as Preliminary Objections. The Complainant did not file responses to the Company's New Matter or Preliminary Objections.

On November 15, 2024, the Commission issued a Motion Judge Assignment Notice assigning this matter to the ALJ to rule on preliminary matters and issue an Initial Decision.

On December 13, 2024, the ALJ issued an Order Granting Preliminary Objections, which granted the Company's Preliminary Objections and dismissed the portions of the Complaint that sought monetary damages and raised issues that were previously resolved through the settlement of the Complainant's prior formal complaint at Docket No. F-2023-3040836.

On December 17, 2024, a Telephonic Hearing Notice was issued, scheduling a telephonic evidentiary hearing for March 4, 2025.

A Prehearing Order was also issued on December 17, 2024.

On March 4, 2025, the evidentiary hearing was convened as scheduled. Both parties appeared for the hearing. However, the hearing was continued after the Complainant requested that an interpreter be present to translate on her behalf. Duquesne Light did not object to continuing the hearing to accommodate the Complainant's request.

On March 5, 2025, a Further Call-In Telephone Hearing Notice ("Second Hearing Notice") was issued, scheduling a further telephonic hearing for May 6, 2025, at 10:00 AM before the ALJ.

Also on March 5, 2025, a Prehearing Order (“Second Prehearing Order”) was served on the parties confirming the date and time of the hearing.

On May 6, 2025, the further telephonic evidentiary hearing was held as scheduled. When the Complainant did not appear for the hearing, Duquesne Light moved to dismiss the Complaint with prejudice due to the Complainant’s failure to appear and prosecute the Complaint. The ALJ took the Company’s motion under advisement.

On June 16, 2025, the ALJ’s ID was issued, which dismissed the Complaint with prejudice due to the Complainant’s failure to appear for the rescheduled hearing and prosecute her complaint.

On June 25, 2025, the Complainant served her Exceptions to the ID on the Company via email. It is unclear whether the Complainant filed her Exceptions with the Commission.¹

For the reasons explained in more detail below, the Complainant’s Exceptions are without merit. Accordingly, the Commission should adopt the ALJ’s well-reasoned ID without modification and dismiss the Complaint with prejudice.

II. REPLY TO EXCEPTIONS

A. THE COMPLAINANT WAS AFFORDED DUE PROCESS AND THE ALJ PROPERLY DISMISSED THE COMPLAINT WITH PREJUDICE DUE TO THE COMPLAINANT’S FAILURE TO APPEAR AND PROSECUTE HER COMPLAINT

In this matter, the Complainant does not allege that the ALJ made any error of fact or law or abused his discretion in any manner. The Complainant concedes that she was aware that a second hearing was scheduled for May 6, 2025, and that she received the Second Hearing Notice and the Second Prehearing Order, which contained the call-in details for the second hearing.

¹ Duquesne Light notes that the Commission’s electronic docket for the instant Complaint does not include the Complainant’s Exceptions. Duquesne Light received service of the Complainant’s Exceptions via email on June 25, 2025, but is unaware of whether the Complainant ever filed her Exceptions with the Commission. To the extent that the Complainant’s Exceptions were not filed with the Commission prior to the deadline for Exceptions, *i.e.*, July 7, 2025, the Company maintains that she has waived her opportunity to challenge the ID and her Exceptions should be denied.

(Complainant’s Exceptions at 1-2.) The Complainant also concedes that she did not appear for the second hearing and that she did not contact the Commission regarding her absence. (*Id.* at 1.) The Complainant now alleges that she did not appear for the second hearing because she did not receive additional notice from the Commission confirming that a translator would be present and restating the call-in details for the hearing. (*Id.* at 1-2.) The Complainant’s alleged confusion did not render her absence from the May 6, 2025, hearing unavoidable and her Exception No. 1 should be denied.

The ALJ properly afforded the Complainant due process throughout this proceeding. As explained above, it is undisputed that the Complainant failed to appear for the second hearing after being provided notice. (*Id.* at 1-2.) Both the Second Hearing Notice and the Second Prehearing Order contained the call-in information for the second hearing and warned that failure to appear could result in the Complaint being dismissed with prejudice. (ID at 6.) The Complainant does not dispute the ID’s finding that she failed to communicate any reasons to the Commission or the ALJ that her failure to appear at the second hearing was unavoidable. (Complainant’s Exceptions at 1-2; ID at 8.)

In determining whether to dismiss the Complaint with prejudice, the ALJ appropriately relied on relevant Commission precedent related to failure to appear, waiver, and the “unavoidable” standard. (ID at 7-8.) As the ALJ explained, “[o]nce a hearing is scheduled and the parties are duly notified by the Commission, it is the responsibility of the parties to appear and participate in the hearing.” (ID at 7.)² The ALJ further described that “[b]oth the Public Utility Code and the Commission’s regulations provide that, after being notified, a party who fails to appear at a scheduled hearing shall be deemed to have waived the opportunity to participate in the hearing and shall not be permitted to later reopen the matter or be permitted to recall excused

² Citing *Mumma v. PPL Elec. Utils. Corp.*, Docket No. C-00014869 (Opinion and Order entered Jan. 28, 2002).

witnesses.” (ID at 7.)³ Regarding the “unavoidable” standard, the ALJ correctly explained that “[t]he party who failed to appear at the hearing has the burden of explaining why his/her failure to appear was unavoidable,” and that “[w]hen there are no facts in the record that the party’s failure to appear was unavoidable, the complaint should be dismissed with prejudice.” (ID at 8) (emphasis added).⁴

Here, the ALJ properly dismissed the Complaint with prejudice because the Complainant’s failure to appear was not unavoidable. (ID at 1, 6-9.) Importantly, the Complainant’s participation in the first hearing demonstrates her ability to review the Commission’s orders and use the call-in number and PIN provided to successfully participate in a telephonic hearing. (ID at 5; Complainant’s Exceptions at 1.) Although the Complainant now claims that she expected to receive additional notice confirming a translator would be present, the Complainant does not explain why this expectation was reasonable, why this expectation prevented her from calling into the hearing or requesting a continuance, or why she did not take any reasonable steps to follow-up on her concerns prior to the date of the hearing, such as contacting the Commission or the ALJ. Nor does the Complainant explain why she failed to contact the ALJ or the Commission after May 6, 2025, to either explain her absence or follow-up regarding a translator. As such, the Complainant has failed to demonstrate that her failure to appear for the May 6, 2025, hearing was unavoidable and the ALJ correctly dismissed her Complaint with prejudice.

³ Citing 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(a).

⁴ Citing 66 Pa.C.S. § 332(a); 66 Pa.C.S. § 332(f); 52 Pa. Code § 5.245(a); *Herr v. West Penn Power Co.*, Docket No. C-2021-3028202 (Opinion and Order entered Sept. 15, 2022); *Brown v. PECO Energy Co.*, Docket No. C-2019-3009486 (Opinion and Order entered Apr. 22, 2022); *Little v. Pittsburgh Water & Sewer Auth.*, Docket No. F-2021-3027107 (Opinion and Order entered Feb. 7, 2022); *Williams v. PECO Energy Co.*, Docket No. C-2018-3000734 (Opinion and Order entered Mar. 14, 2019); *Jefferson v. UGI Utils., Inc.*, Docket No. Z-00269892 (Opinion and Order entered Dec. 26, 1995).

B. THE COMMISSION SHOULD REJECT THE COMPLAINANT'S ATTEMPTS TO INTRODUCE AND RELY ON EXTRA-RECORD EVIDENCE IN HER EXCEPTIONS

The majority of the Complainant's Exceptions are devoted to presenting her case in chief by introducing and relying on evidence that is not a part of the record in this proceeding. However, there has been no evidence entered into the record in this proceeding and the Complainant cannot present her direct case for consideration through Exceptions in lieu of appearing for a hearing.

Here, the Complainant presents the following items, which are **not** in the record:

- "Part One," "Section A - Inconsistency in Monthly Invoices." Allegations related to billed charges in 2023, 2024, and 2025. (Complainant's Exceptions at 3-4.)
- "Part Two," "Section B – KWH Consumption Impossibility [sic]" – Allegations related to the conditions of the Complainant's home, actions taken by Duquesne Light in response to prior complaints. (Complainant's Exceptions at 4-5.)
- "Conclusions" – Allegations related to the Complainant's consumption and billing. (Complainant's Exceptions at 5.)
- "Agreement" – Complainant's requests for relief. (Complainant's Exceptions at 5.)
- Exhibit 2 – "Excel sheet with Duquesne Light Company's charges for the period 2023."
- Exhibit 3 – "Excel sheet with Duquesne Light Company's charges for the period 2024."
- Exhibit 4 – "Excel sheet with Duquesne Light Company's charges for the period 2025."
- Exhibit 5 – "Photo proving that in March 2022 the property was incomplete."
- Exhibit 6 – "Formal complaint through PAPUC with BCS Case #3891582."
- Exhibit 7 – "Resolution, the formal complaint generated with docket No. F-2023-30240836."
- Exhibit 8 – "[Q]uotation for air conditioning repair."
- Exhibit 9 – "Screenshots with alarm records due to low temperatures in the property."

The Commission should completely disregard the Complainant's extra-record evidence and her arguments based on that extra-record evidence. It is well-established that parties cannot

introduce new evidence and arguments for the first time at the exceptions stage.⁵ “The Commission, as an administrative body, is bound by the due process provisions of constitutional law and by the principles of common fairness.” *Hess v. Pa. PUC*, 107 A.3d 246, 266 (Pa. Cmwlth. 2014) (citations omitted). “Among the requirements of due process are notice and an opportunity to be heard on the issues, to be apprised of the evidence submitted, to cross-examine witnesses, to inspect documents, and to offer evidence in explanation or rebuttal.” *Id.* (citations omitted). Indeed, Section 332(c) of the Public Utility Code entitles every party to, among other things, “submit rebuttal evidence” and “conduct such cross-examination as may be required for a full and true disclosure of the facts.” 66 Pa. C.S. § 332(c); *see Pa. PUC v. Nat’l Fuel Gas Distrib. Corp.*, 1993 Pa. PUC LEXIS 95, at *10 (Order entered July 30, 1993) (“[S]uch material was outside the record and could be detrimental to the rights of other parties to confront such evidence.”).

Here, all of the Complainant’s evidence and arguments based thereon were presented for the first time in her Exceptions. By presenting this evidence and these arguments in Exceptions, the Complainant denied Duquesne Light an opportunity to review and inspect that evidence and to present evidence and arguments in rebuttal. Therefore, it would violate Duquesne Light’s due process rights for any of the Commission’s findings to be based upon or influenced by the Complainant’s extra-record evidence and arguments.

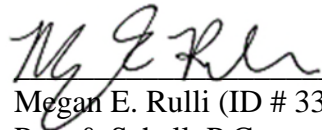
For these reasons, the Complainant’s Exceptions should be denied.

⁵ *See, e.g., Application of Apollo Gas Co.*, 1994 Pa. PUC LEXIS 45, at *8-9 (Order entered Feb. 10, 1994) (denying party’s attempt to introduce extra-record evidence in its exceptions); *Arthurs v. Pa. Elec. Co.*, 2019 Pa. PUC LEXIS 197, at *14 (Order entered May 23, 2019) (“This Commission can consider only the evidence in the record before us, and we cannot consider extra record evidence or new arguments presented for the first time in the Exceptions stage of the proceeding.”).

III. CONCLUSION

WHEREFORE, for all the foregoing reasons, as well as those more fully explained in the Initial Decision of Administrative Law Alphonso Arnold III, Duquesne Light Company respectfully requests that the Pennsylvania Public Utility Commission deny the Exceptions served by Deyde L. Montanez and adopt the Initial Decision without modification.

Respectfully submitted,



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Date: July 17, 2025

Attorney for Duquesne Light Company