

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

**Todd Elliott Koger, Sr.
and Elliot-Todd Parker Koger**

v.

C-2024-3049627

Duquesne Light Company

**Todd Elliott Koger, Sr.
and Elliot-Todd Parker Koger**

v.

C-2025-3054190

Duquesne Light Company

COMPLAINANTS' PROPOSED ORDER – MOTION TO COMPEL DISCOVERY

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

**1. Duquesne Light's Objections to Request Nos. 3, 4, and 5 of
Complainants' First Set of Requests for Production of Documents and Things are
OVERRULED.**

◦ Under 52 Pa. Code § 5.321 and Pa.R.C.P. 4003.1, discovery is permitted for "any matter not privileged which is relevant to the subject matter involved in the proceeding" and "reasonably calculated to lead to admissible evidence". The PUC applies a liberal relevance standard to ensure "full and fair adjudication".

◦ The requested field books, service logs, work orders, inspection checklists, emergency audit reports, handwritten notes, tangible materials containing investigation reports, test data sheets, calibration records, laboratory analyses, hard-copy correspondence, letters, internal memoranda, and interoffice mailings are **directly**

relevant to the Complainants' claim of gross negligence. These documents bear on Duquesne Light's duty to provide safe service under 66 Pa.C.S. § 1501, whether that duty was breached by failing to maintain the neutral and altering the meter box, and the proximate cause of the alleged total loss and damages.

- Duquesne Light's claims of attorney-client privilege and work product are misplaced. These are primarily **routine business records created in the ordinary course of operations**, not in anticipation of litigation or at counsel's direction, and therefore are not shielded from discovery by 52 Pa. Code § 5.323 or Pa.R.C.P. 4003.3. Factual admissions and analyses by non-legal personnel are not privileged.

- The "correction" of the meter and neutral connection post-incident by Duquesne Light risks **spoliation of evidence**, and production of all pre- and post-repair records is necessary for a full assessment of the electrical condition on October 11, 2023.

- To the extent that Duquesne Light claims the requests are overly broad or vague, the Complainants have specified the documents relating to the Koger residence's electrical condition, service meter, neutral connection, and the October 11, 2023 incident and subsequent inspections/repairs.

- **Duquesne Light shall produce all responsive documents and tangible things for Request Nos. 3, 4, and 5.**

2. Duquesne Light's Objection to Interrogatory No. 2 of Complainants' First Set of Interrogatories is OVERRULED.

- Interrogatories seeking factual information, such as the parameters of file searches, are discoverable.

- **52 Pa. Code § 5.323(a)** excludes only "mental impressions of a party's attorney" and legal theories, but not factual descriptions of search procedures, custodians, or databases used during routine claim handling.

- **Duquesne Light shall provide sworn answers detailing the procedures, search parameters, keywords, custodians, and databases searched** in formulating the statement regarding the lack of documentation for the Koger family's damage claim.

3. Duquesne Light's Objection to Interrogatory No. 10 of Complainants' First Set of Interrogatories is OVERRULED.

- While discovery should be "reasonably calculated to lead to admissible evidence" (Pa.R.C.P. 4003.1), relevance is construed liberally in PUC matters.

- Information regarding other complaints, incidents, claims, or field reports involving meter base defects, neutral connection failures, or electrical arcs in Duquesne Light's service territory from January 1, 2020, to the present, is **relevant to determine if the Koger incident was isolated or part of a pattern of utility negligence.**

- Under 52 Pa. Code § 5.361(b), Duquesne Light may **tailor or redact sensitive customer data** (such as names or specific account numbers) but must produce a summary of incidents (e.g., account identifiers, dates, and resolutions) responsive to the scope of the Complaint. Blanket non-production is impermissible when the information is relevant and non-privileged.

- To the extent that "resolution" includes confidential settlement agreements, such details may be redacted or handled under a protective order, but the existence and general nature of the resolution should be provided.

◦ **Duquesne Light shall provide sworn answers listing other complaints, incidents, claims, or field reports** as requested, with appropriate redactions for sensitive customer information if a protective order is deemed insufficient.

4. Duquesne Light shall produce all documents and information responsive to Requests for Production Nos. 3, 4, and 5, and provide sworn answers to Interrogatories Nos. 2 and 10, within ten (10) days of the date of this Order.

5. Should Duquesne Light contend that any produced materials contain sensitive or proprietary information that cannot be adequately protected by redaction, Complainants are amenable to the entry of a narrowly tailored **protective order** under 52 Pa. Code §§ 5.365–5.372.

BY THE COMMISSION,

Administrative Law Judge/Commissioner Name

Date: Date of Order