

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Todd Elliott Koger Sr. and Elliott Todd	:	C-2024-3049627
Parker Koger	:	
	:	
v.	:	
	:	
Duquesne Light Company	:	

Todd Elliott Koger Sr. and Elliott Todd	:	C-2025-2054190
Parker Koger	:	
	:	
v.	:	
	:	
Duquesne Light Company	:	

**INTERIM ORDER  
DENYING COMPLAINANTS’ FIRST AND SECOND MOTIONS TO OVERRULE  
DUQUESNE LIGHT OBJECTIONS TO REQUESTS FOR DEEMED ADMISSIONS**

On or about August 5, 2025, Complainants served Complainants Set I Request For Admissions (RFA) upon Respondent. On or about August 15, 2025, Respondent served Objections to Complainants Set I RFAs. Respondent objected to Requests for Admission Nos. 2, 3, 4, 7, 11, 13, and 15.

In its Answer To Complainants’ First And Second Motions To Overrule Duquesne Light Objections To Requests For Deemed Admissions, Respondent avers that on August 15, 2025, counsel for Respondent followed up with the Complainants by telephone, phone call, expressing a willingness to work with the Complainants informally to attempt to resolve the Objections. Respondent averred Complainants refused to engage in a good faith conversation regarding the Objections.

On or about August 18, 2025, Complainants filed their First Motion to Overrule Duquesne Light Objections to Requests for Deemed Admission (First Motion). The First Motion was undated and no certificate of service was attached or filed. In addition, Complainants did not serve the undersigned presiding officer.

On or about August 25, 2025, Respondent served its Answers to the remaining requests contained in Complainants Set I RFAs.

On or about August 27, 2025, Complainants filed their Second Motion to Overrule Duquesne Light Objections to Requests for Deemed Admission (Second Motion). The Second Motion was undated and no certificate of service was attached or filed. In addition, Complainants did not serve the undersigned presiding officer.

On or about September 8, 2025, Respondent filed its Answer To Complainants' First And Second Motions To Overrule Duquesne Light Objections To Requests For Deemed Admissions.

### Complainants' Motions To Overrule Objections

#### Request For Admission No. 2

Request for Admission No. 2 states:

2. Admit that the meter base at the Service Address, and all connections on the load side of the meter within it, including the neutral connection, are explicitly identified by Duquesne Light Company as being "owned and maintained by" the customer, not Duquesne Light Company.

The Company objected to Request for Admission No. 2 as being vague.

Respondent argues this request uses a number of vague and undefined phrases such as "all connections," "on the load side of the meter within it," and "explicitly identified"

and fails to specify which facilities the Company is being asked to identify as customer-owned. Without clarification as to the meaning of these phrases and identification of the facilities at issue, Duquesne Light argues it cannot reasonably provide a complete and accurate response.

Complainants, in their First Motion, claim that this request is not vague because they included a definition of “Customer-Side Equipment” with their Requests.<sup>1</sup> Respondent argues Complainants failed to use their defined term “Customer-Side Equipment” in Request No. 2, which contributes to the vagueness of the request. Respondent further asserts none of the terms identified by Duquesne Light in Paragraph 10, were defined by the Complainants.

Complainants assert the request is not vague because the Company has referenced customer-owned facilities in response to other discovery requests.<sup>2</sup> Respondent asserts it does not object because it does not know which facilities it classifies as customer owned. Respondent submits it objects to being asked to admit that *unidentified* facilities are customer-owned. Without knowledge of what facilities are being referenced by the Complainants in this request, Respondent asserts it cannot provide an accurate response.

Respondent further asserts this request encompasses multiple unidentified facilities in a single request, while the Commission’s regulations require that “[e]ach matter of which an admission is requested shall be separately set forth.”<sup>3</sup> Respondent argues if the Complainants want the Company to admit or deny that specific electric facilities are customer-owned, the Complainants must separately identify the facilities at issue so that the Company can respond accurately. Alternatively, Respondent asserts the Complainants have the ability to propound discovery asking the Company to identify which facilities at the service address it considers to be customer-owned. Respondent concludes the Request is vague and the Company cannot reasonably provide a complete and accurate response.

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<sup>1</sup> Complainants’ First Motion at 2.

<sup>2</sup> Complainants’ First Motion at 3.

<sup>3</sup> See 52 Pa. Code § 5.350(b).

Requests For Admission Nos. 3, 4, And 7

Requests for Admission Nos. 3, 4, and 7 state:

3. Admit that 52 Pa. Code § 56.32 prohibits Duquesne Light Company from tightening, repairing, or otherwise touching any customer-owned wiring or connections downstream of the meter.
4. Admit that Duquesne Light Company's tariff (e.g., Electric Pa. P.U.C. No. 1, Rule 6) incorporates 52 Pa. Code § 56.32, thereby disclaiming responsibility and lacking authority to perform maintenance or alterations on customer-side wiring, including neutral connections.
7. Admit that Duquesne Light Company does not possess records detailing the specific training materials, manuals, or bulletins provided to Darryl Honick, or similar field personnel, that explicitly describe the prohibition on tightening, repairing, or otherwise touching customer-owned wiring or connections downstream of the meter, as stipulated by 52 Pa. Code § 56.32 and its own tariff, prior to October 11, 2023.

Respondent objected to Requests for Admission Nos. 3, 4, and 7 because they are vague and call for legal opinions or conclusions. Respondent argues the requests are vague because 52 Pa. Code § 56.32 concern security deposits and Electric Pa. P.U.C. No. 1 is not the Company's currently effective tariff. Respondent further asserts Rule 6 of the Company's currently effective tariff does not contain any provisions relating to Section 56.32 or prohibiting the Company from physically interacting with customer-owned facilities. Because it is unclear what provisions of the Company's tariff or the Commission's regulations the Complainants are referencing, Respondent argues these requests are unreasonably vague, and asserts it cannot reasonably provide complete and accurate responses to these requests.

Respondent argues, in their Motions, Complainants fail to clarify how these cited provisions relate to the instant Complaints or to provide updated references to the authorities they claim impose the duties stated. Respondent argues the Requests continue to lack basic

clarity. Respondent asserts these requests also string together a number of vague and undefined phrases such as “disclaiming responsibility,” “perform maintenance or alterations,” and “downstream of the meter.” Without clarification as to the meaning of these phrases, Respondent asserts it cannot reasonably provide complete and accurate responses to these requests. Further, Respondent asserts the use of compound phrasing in these requests adds to their ambiguity and fails to set forth each matter to be admitted separately, as the Commission’s regulations require.<sup>4</sup> Respondent submits these requests also improperly seek legal opinions or conclusions about the meaning of the Commission’s regulations and their application to the Company’s Commission-approved tariff.

Respondent explains Request No. 3 asks the Company’s fact witnesses to interpret the meaning of a Commission regulation, which Respondent asserts, calls for a legal conclusion. Request No. 4 asks the Company’s fact witnesses to interpret the legal result of the alleged incorporation of a Commission regulation into the Company’s tariff, which calls for a legal conclusion. Request No. 7 asks the Company’s witnesses to draw on the legal conclusions requested in Nos. 3 and 4 to interpret the legal consequences of an employee’s actions, which Respondent asserts, calls for a legal conclusion.

In their First Motion, Complainants claim that these requests do not call for legal conclusions.<sup>5</sup> Respondent acknowledges the Commission’s regulations allow for requests for admission to inquire about the application of law to fact, however Respondent asserts Complainants cannot ask the Company’s fact witnesses to draw purely legal conclusions. Respondent submits the purpose of requests for admission is to allow for the efficient resolution of potentially disputed facts before a hearing, not to extract legal conclusions from fact witnesses.

Respondent submits discovery is intended for the discovery of facts and evidence that may be presented at the evidentiary hearing, not the legal opinions of Duquesne Light’s attorneys that are protected by attorney-client privilege and the attorney work product doctrine.

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<sup>4</sup> See 52 Pa. Code § 5.350(b).

<sup>5</sup> See Complainants’ First Motion at 3.

Accordingly, Respondent concludes Requests for Admission Nos. 3, 4, and 7 are vague and improperly seek legal conclusions.

Objections To Requests For Admission Nos. 11 And 15

Requests for Admission Nos. 11 and 15 state:

11. Admit that the tightening of the loose customer-side neutral connection on October 11, 2023, by Duquesne Light Personnel had the potential to alter or obscure evidence relevant to the electrical condition at the Service Address and any subsequent legal claim.
15. Admit that the action of Duquesne Light Company's Senior Operator, Darryl Honick, in tightening the customer-side neutral connection as a "favor" to the customer, as noted in Duquesne Light's internal claims report, aligns with the Complainants' "strict liability" assertion that Duquesne Light Personnel unlawfully "touched" their property.

Respondent objects to Requests for Admission Nos. 11 and 15 as being vague and calling for legal opinions. Respondent argues these requests use a number of vague and undefined phrases such as "alter or obscure," "electrical condition," "subsequent legal claim," "strict liability" assertion," and "unlawfully 'touched.'" Without clarification as to the meaning of these phrases, Respondent argues it cannot reasonably provide a complete and accurate response.

Respondent also asserts the requests improperly seek legal opinions regarding Complainants' case. Request for Admission No. 11 asks the Company's witness to provide an opinion on whether hypothetical evidence relevant to a potential legal claim existed at the Complainants' service address on October 11, 2023. Request for Admission No. 15 asks the Company's witness to provide an opinion regarding the legal effect a Duquesne Light statement may have on the Complainants' "strict liability" assertion." Respondent argues that responding to these requests would require the Company's fact witnesses to draw legal conclusions related

to the merits of the Complainants' case or the legal consequences of certain actions. Accordingly, Respondent asserts these requests go beyond the application of law to fact and improperly seek legal opinions or conclusions.

Respondent submits discovery is intended for the discovery of facts and evidence that may be presented at the evidentiary hearing, not the legal opinions of Duquesne Light's attorneys that are protected by attorney-client privilege and the attorney work product doctrine. Accordingly, Respondent concludes that Complainants' Requests for Admission Nos. 11 and 15 are vague and improperly seek legal opinions or conclusions.

### Objections To Request For Admission No. 13

Request for Admission No. 13 states:

13. Admit that Duquesne Light Company was aware of the Koger family's "Total Loss" claim related to the October 11, 2023 Incident through documented communications with its legal representatives as early as November 7, 2023, and continuing through June 18, 2024, and August 14, 2024.

Respondent objects to Request for Admission No. 13 on the grounds that the request is vague and fails to comply with the Commission's regulations governing requests for admission.

Respondent argues Request for Admission No. 13 includes a number of vague and undefined phrases such as "'Total Loss' claim," "legal representatives," and "documented communications." Without clarification as to the meaning of these phrases, Respondent argues it cannot reasonably provide a complete and accurate response and that the use of compound phrasing in these requests adds to their ambiguity and fails to set forth each matter to be admitted separately, as the Commission's regulations require.<sup>6</sup> Complainants did not specifically identify or provide copies of the communications referenced in the requests, as required by 52 Pa. Code §

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<sup>6</sup> See 52 Pa. Code § 5.350(b).

5.350(a)<sup>7</sup> (“Copies of documents shall be served with the request unless they have been or are otherwise furnished or available for inspection and copying.”).

In their First Motion, the Complainants assert that they have no obligation to produce the referenced communications because these communications are within the Company’s possession or knowledge, and that they provided the dates of the communications at issue.<sup>8</sup> Respondent asserts that merely alleging that communications were sent to Duquesne Light on certain dates does not provide enough clarity for the Company to accurately respond to the request.

Respondent argues if the Complainants seek to establish whether and when the Company received certain correspondence, or the contents of that correspondence, they must clearly identify the communications or produce copies of the communications for review. Respondent asserts the Company must be provided the opportunity to review the specific communications at issue in order to provide a complete and accurate response and should not be forced to speculate as to which correspondence the Complainants are referring. Accordingly, Respondent concludes Request for Admission No. 13 is vague and fails to comply with the Commission’s regulations governing requests for admission.

#### Complainants’ Requested Relief

Respondent argues its objections to the Complainants’ First Set of Requests for Admission are valid and should not be overruled. Complainants claim that if the ALJ determines that the Company’s Objections are insufficient, then the Requests for Admission at issue must be deemed admitted.<sup>9</sup> The Complainants are incorrect.

Under the Commission’s regulations, parties have the right to raise objections to requests for admission.<sup>10</sup> “The party who has requested the admission may move to determine

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<sup>7</sup> See 52 Pa. Code § 5.350(a)

<sup>8</sup> Complainant’s First Motion at 4.

<sup>9</sup> Complainants’ First Motion at 5.

<sup>10</sup> See 52 Pa. Code § 5.350(d)(3).

the sufficiency of the answer or objection.”<sup>11</sup> “Unless the presiding officer determines that an objection is justified, the presiding officer will order that an answer be served.”<sup>12</sup> It is only after the presiding officer determines that an answer does not comply with the Commission’s regulations that the presiding officer may order either that: (1) the matter is admitted; or (2) that final disposition of the request be made at a prehearing conference or at a designated time prior to hearing.<sup>13</sup> Respondent asserts, to the extent that the ALJ determines that the Company’s objections are insufficient, and the Company maintains that they are not, then the proper relief is to require the Company to serve answers to the requests at issue.

### The Complainants’ Allegations Regarding Spoliation

Complainants allege that Respondent “removed any and all evidence of the Koger family’s claims” by responding to a service call on October 11, 2023, and performing a minor repair at the Complainants’ service address.<sup>14</sup> As relief, Complainants request that the presiding officer draw an adverse inference “regarding the unproduced ‘Trouble Shooting Inspections’ from July 29 and August 14, 2024, and any other withheld relevant documents.”<sup>15</sup> Respondent argues the Complainants’ theory of spoliation is premature and vague.

Respondent argues the spoliation claim asserted by Complainants is premature as this proceeding is still in the discovery phase and no evidence has been admitted into the record. Respondent argues, if evidence was spoliated, is a disputed factual issue that must be proven by the Complainants at an evidentiary hearing. Respondent asserts bare assertions do not establish that spoliation has occurred and do not justify the requested relief.

Respondent also argues the spoliation claim advanced by Complainants is also vague. Respondent asserts Complainants fail to identify any evidence they allege was “removed” or spoliated by the Company. Respondent further argues Complainants also fail to

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<sup>11</sup> 52 Pa. Code § 5.350(e).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> complainants’ First Motion at 4-5; Second Motion at 4-5.

<sup>15</sup> Complainants’ First Motion at 7; Second Motion at 6.

explain how Respondent was in control of any evidence of the condition of the Complainants' customer-owned electric facilities at their own service address prior to the October 11, 2023, service visit. Respondent further argues the requested relief is based in part on the Complainants' alleged false assertion that the Company is withholding records related to visits to the Complainants' service address on July 29 and August 14, 2024.<sup>16</sup> Respondent submits the Complainants' claims that these records remain outstanding are false. Respondent asserts the Company has already produced all records related to the July 29 and August 14, 2024, visits. Respondent submits the Company served its Supplemental Response to Request for Production No. 3 on the Complainants, which contains the information the Complainants now claim is being withheld.

Respondent also asserts it has also diligently provided responsive records to the Complainants' discovery requests to date. Although the Company raised various objections to the Complainants' First Set of Requests for Production of Documents and Things and First Set of Interrogatories, on July 31, 2025, the Company answered all but one of the requests. Respondent submits, on August 25, 2025, the Company also responded to the Complainants' Requests for Admission to which it did not object.

Respondent argues Complainants' claims that the Company is withholding documents are inaccurate mischaracterizations of the Company's attempts to provide the Complainants with the information they have requested to date. Respondent submits that, merely because the Company has raised objections to the discovery served does not mean that the Company is acting in bad faith. Accordingly, Respondent submits the presiding officer should reject the Complainants' spoliation claims and the requests for relief related thereto.

Respondent further asserts that Complainants, through their Motions, make a variety of inappropriate factual allegations and requests for relief that are wholly unrelated to the current discovery dispute.<sup>17</sup> Respondent argues the remaining allegations and requests, as well as the legal conclusions drawn from those allegations, should be disregarded completely, as,

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<sup>16</sup> See First Motion at 7; Second Motion at 5-6.

<sup>17</sup> See Complainants' First Motion at 7; Second Motion at 3, 7.

Respondent asserts, they relate to factual issues in dispute in this proceeding that can only be decided through the presentation of evidence at hearings.

Respondent asserts Complainants have filed several discovery motions in this proceeding and that Respondent has attempted to resolve these discovery disputes informally, however Complainants have rejected Respondents attempts outright. Respondent requests that a prehearing conference be held in this proceeding.<sup>18</sup> Respondent further requests that the presiding officer deny the First and Section Motions to Overrule Objections to Requests for Deemed Admission of Complainants Todd Elliott Koger, Sr. and Elliot-Todd Koger.

52 Pa. Code § 5.350 provides, as follows:

§ 5.350. Request for admissions.

(a) *General.* A party may serve upon another party a written request for the admission of the truth of any matters, within the scope of § § 5.321—5.324 (relating to general discovery), set forth in the request, that relate to statements or opinions of fact or of the application of law to fact, including the genuineness, authenticity, correctness, execution, signing, delivery, mailing or receipt of a document described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or available for inspection and copying.

(b) *Form.* Each matter of which an admission is requested shall be separately set forth.

(c) *Failure to admit.* The matter is admitted unless, within 20 days after service of the request, the party to whom the request is directed answers or makes an objection to the matter, signed by the party or by his attorney.

(d) *Response.*

(1) *Answer*. The answer must admit or deny the matter or set forth in detail the reasons why the answering party cannot truthfully do so.

(2) *Denial*. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify an answer or deny only a part of the matter of which an admission is requested, the party shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless the party states he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny.

(3) *Objection*. Grounds for objections must be specifically stated. A party who considers that a matter of which an admission has been requested presents a genuine issue for hearing may not, on that ground alone, object to the request.

(e) *Motion to determine sufficiency of response*. The party who has requested the admission may move to determine the sufficiency of the answer or objection. Unless the presiding officer determines that an objection is justified, the presiding officer will order that an answer be served. If the presiding officer determines that an answer does not comply with this section, the presiding officer may order either that the matter is admitted or may determine that final disposition of the request be made at a prehearing conference or at a designated time prior to hearing.

(f) *Effect of admission*. A matter admitted under this section is conclusively established unless the presiding officer on motion permits withdrawal or amendment of the admission. An admission by a party under this section is for the purpose of the pending action only and is not an admission by him for another purpose. An admission may not be used against a party in another proceeding.

A party may serve requests for admissions as permitted under 52 Pa. Code § 5.350. The purpose of this discovery tool is to clarify and simplify the issues raised in prior pleadings in order to expedite the litigation process. *Brindley v. Woodland Village Restaurant, Inc.*, 438 Pa.Super. 385, 397, 652 A.2d 865, 871 (1995). Section 5.350(d)(2) provides that a

denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify an answer or deny only a part of the matter of which an admission is requested, the party shall specify so much of it as is true and qualify or deny the remainder.

52 Pa. Code § 5.350(d) (2) provides: (2) *Denial*. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify an answer or deny only a part of the matter of which an admission is requested, the party shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless the party states he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny.

Based upon a review of the Motions filed by Complainants and the Response filed by Respondent, I agree with the arguments advanced by Respondent, as stated above, and accordingly, the following Interim Order will be entered.

THEREFORE,

IT IS HEREBY ORDERED:

1. That the Motion To Overrule Duquesne Light Company's Objections To Requests For Admissions And For Deemed Admissions Filed By Complainants on or about August 19, 2025, is DENIED.

2. That the Second Motion To Overrule Duquesne Light Company's Objections To Requests For Admissions And For Deemed Admissions Filed By Complainants on or about August 27, 2025, is DENIED.

3. That the Parties are reminded to provide the undersigned presiding officer and the opposing party with copies of all pleadings filed in this proceeding and certificates of service, pursuant to the Pennsylvania Public Utility Code and Commission Regulations. Any



**C-2024-3049627, C-2025-3054190 - TODD ELLIOTT KOGER SR AND ELLIOT TODD KOGER v. DUQUESNE LIGHT COMPANY**

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