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February 12, 2026

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: Todd Elliot Koger, Sr. and Elliot-Todd Parker Koger v. Duquesne Light Company
Docket No. C-2024-3049627**

**Todd Elliott Koger, Sr. and Elliot-Todd Parker Koger v. Duquesne Light Company
Docket No. C-2025-3054190**

Dear Secretary Homsher:

Enclosed for filing are the Replies of Duquesne Light Company to the Exceptions of Todd Elliot Koger, Sr., and Elliot-Todd Parker Koger (“Complainants”) in the above-captioned proceedings. Copies are being provided as indicated on the Certificate of Service.

Respectfully submitted,



Megan E. Rulli

MER/dmc
Attachment

cc: The Honorable Jeffrey A. Watson (*via email; w/attachment*)
Office of Special Assistants (*via email; w/attachment*)
Certificate of Service

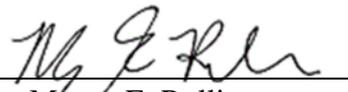
CERTIFICATE OF SERVICE

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

Todd Elliott Koger and Elliott-Todd Parker Koger
515 Kelly Avenue
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Dated: February 12, 2026



Megan E. Rulli

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Todd Elliott Koger, Sr. and Elliot-Todd :
Parker Koger, :
 :
Complainants, :
 : Docket No. C-2024-3049627
v. :
 :
Duquesne Light Company, :
 :
Respondent. :

Todd Elliott Koger, Sr. and Elliot-Todd :
Parker Koger, :
 :
Complainants, :
 : Docket No. C-2025-3054190
v. :
 :
Duquesne Light Company, :
 :
Respondent. :

**REPLIES OF DUQUESNE LIGHT COMPANY TO THE EXCEPTIONS OF
TODD ELLIOT KOGER, SR. AND ELLIOT-TODD PARKER KOGER**

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Date: February 12, 2026

Attorney for Duquesne Light Company

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I. INTRODUCTION

Duquesne Light Company (“Duquesne Light” or the “Company”), pursuant to 52 Pa. Code § 5.535, hereby respectfully submits these Replies to the Exceptions of Todd Elliot Koger, Sr. and Elliot-Todd Parker Koger (“Complainants”). In their Exceptions, the Complainants dispute Administrative Law Judge Jeffrey A. Watson’s (the “ALJ”) Initial Decision (“ID”) dismissing their Formal Complaints. Specifically, the Complainants challenge the ALJ’s dismissal of the Complaints with prejudice without holding a hearing, claiming that the decision misapplies Pennsylvania Public Utility Commission (“Commission”) precedent regarding treatment of *pro se* complainants and is an “extreme” sanction for their failure to provide any responses to the Company’s discovery requests and to comply with several of the ALJ’s Interim Orders. The ALJ correctly determined that dismissal of the Complaints without a hearing was appropriate due to the Complainants’ failure to comply with Commission regulations and orders, and that holding a hearing under the circumstances would violate the due process rights of Duquesne Light.

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

II. PROCEDURAL BACKGROUND¹

On September 9, 2025, Duquesne Light served Interrogatories and Requests for Production of Documents on the Complainants – Set I, Questions 1 through 19 (“DLC to Complainants Set I”) via electronic and first-class mail.

Pursuant to the Commission’s regulations, objections to DLC to Complainants Set I were due on or before September 19, 2025, and responses were due on or before September 29, 2025.

¹ The Company notes that the abbreviated procedural background presented here does not reflect the Complainants’ own prodigious filings made in these proceedings. The Complainants also served their own discovery,

The Complainants never served any objections to DLC to Complainants Set I by September 19, 2025.

Additionally, the Complainants did not provide responses to DLC to Complainants Set I by September 29, 2025.

On October 1, 2025, Counsel for Duquesne Light emailed the Complainants to inquire into the status of the Complainants' responses to the discovery requests, but the Complainants' response gave no indication that they planned to serve any responses.

On October 16, 2025, Duquesne Light filed a Motion to Compel responses to DLC to Complainants Set I.

The Complainants never filed an Answer to the Motion to Compel.

On October 16, 2025, the Commission issued an Initial In-Person Hearing Notice, scheduling the in-person hearings for the above-captioned Complaints for December 8 and 10, 2025, at the Commission's Pittsburgh headquarters. Also on October 16, 2025, the ALJ issued a Prehearing Order Requiring Distribution of Proposed Exhibits and Other Requirements for the Evidentiary Hearings, which, among other things, required each party to serve copies of all proposed evidence on the opposing party and the ALJ on or before 4:00 PM on December 3, 2025.

On October 31, 2025, the ALJ issued an Order granting Duquesne Light's Motion to Compel. The Order specifically directed the Complainants to "serve upon counsel for Respondent, full and complete answers and responses, in their entirety, to Duquesne Light Companies Set I discovery requests, as identified in the Motion to Compel filed on October 16, 2025, on or before

which the Company answered fully and in good faith, subject to objections that were sustained in an Order denying the Complainants' Motion to Compel. In addition, the Complainants served eight prehearing motions seeking relief, four of which were discovery motions seeking sanctions of some sort against the Company. These prolific filings evidence the Complainants' ability to understand the litigation process, and their own requests for sanctions suggest their understanding of the consequences of failing to properly respond to discovery requests. *See, e.g.*, ID, p. 14; Interim Order Denying Prehearing Motions of Todd Elliot Koger, Sr. and Elliot-Todd Parker Koger issued November 21, 2025; Interim Order Denying Complainants' Motion to Compel Discovery Responses issued September 25, 2025.

4:00 p.m. on Thursday, November 6, 2025.” (Order, p. 23.) In addition, the Order noted that “the failure of Complainants to fully and timely comply with the terms and provisions set forth in this Interim Order may result in the imposition of sanctions, upon the filing of an appropriate Motion or request for relief.” (*Id.*)

On or about November 3, 2025, the Complainants filed a document entitled “Complainants Compliance and Motion to Admit Evidence,” purporting to comply with the Order granting Duquesne Light’s Motion to Compel. The document includes a “summary table” that appears to group the subject matters of Duquesne Light’s discovery requests into categories and provides a brief, one sentence summary of the Complainants’ position on each of these issues. The Complainants failed to serve this filing on the Company or its counsel.

The Complainants failed to serve any responses or responsive documents to the Company’s discovery requests by the November 6, 2025, deadline.

On November 12, 2025, Duquesne Light filed a Motion to Dismiss the Complainants’ Formal Complaints with prejudice, due to their failure to comply with the ALJ’s October 31, 2025 Order granting Duquesne Light’s Motion to Compel, as well as the Commission’s discovery regulations.

On or about November 18, 2025, the Complainants filed their Opposition to the Company’s Motion to Dismiss.

On November 20, 2025, the ALJ issued an Order holding the Motion to Dismiss of Duquesne Light Company in abeyance and extending the deadline for the Complainants to comply with the October 31, 2025 Order to 4:00 PM on November 25, 2025. The November 20, 2025 Order also extended the deadline for Duquesne Light to submit its exhibits until December 5, 2025,

considering the Complainants' failure to provide discovery responses. The deadline for serving exhibits for the Complainants was not extended.

The Complainants failed to serve responses to DLC to Complainants Set I on the Company by the November 25, 2025, deadline.

On November 26, 2025, the Company filed a Renewed Motion to Dismiss the Formal Complaints. In the renewed Motion to Dismiss, Duquesne Light requested that Complainants' Formal Complaints be dismissed with prejudice, due to their failure to comply with the October 31, 2025 Order, the November 20, 2025 Order, and the Commission's discovery regulations.

On or about December 1, 2025, the Complainants filed their Response in Opposition to Renewed Motion, which requested that the case continue to hearing and provided no reason for the Complainants' continued failure to provide any responses to the Company's requests. The Complainants' Response also requested that discovery sanctions be applied against Duquesne Light because the Company objected to certain of the Complainants' requests for admission.

The Complainants failed to serve any proposed exhibits by the December 3, 2025, deadline.

On December 4, 2025, the ALJ issued the Interim Order Closing the Record and Cancelling Evidentiary Hearing, which closed the record and canceled the two days of in-person hearings scheduled for December 8 and 10, 2025, considering the Complainants' failure to comply with multiple Interim Orders and the pending Renewed Motion to Dismiss filed by Duquesne Light.

On January 13, 2026, the ID was issued dismissing the Complaints with prejudice.

On January 26, 2026, the Complainants filed their Exceptions to the ID.²

² The Secretarial Letter issued on January 13, 2026, at the above-captioned dockets specified that the Complainants' Exceptions were due within 20 days of the issuance of the Initial Decision, *i.e.*, by February 2, 2026. Reply Exceptions are due within 10 days of the Exceptions' due date, *i.e.*, by February 12, 2026. Thus, Duquesne Light's Replies to the Complainants' Exceptions are timely filed.

III. REPLIES TO EXCEPTIONS

A. REPLY TO EXCEPTION NOS. 1 AND 5: THE ALJ PROPERLY DISMISSED THE COMPLAINT WITHOUT A HEARING

In their First Exception, the Complainants claim that the “ALJ Misapplied Controlling PUC Precedent Governing Dismissal of Pro Se Complaints,” arguing that Commission precedent “establish[es] that dismissal is disfavored where unrepresented complainants have demonstrated a good-faith effort to comply with procedural requirements.” (Complainants’ Exceptions, p. 2.) The Complainants also argue that the ALJ erred by not properly applying the Commission’s holdings in *Carlock*,³ *Halpern*,⁴ *Schleisher*,⁵ and *Gera*⁶ when ruling on the Company’s Renewed Motion to Dismiss. Similarly, in their Fifth Exception, the Complainants claim that in light of their *pro se* status they are entitled to a hearing on the merits and argue that their case should not be resolved on “procedural technicalities.” (Complainants’ Exceptions, p. 5.) The Complainants’ arguments have no merit and should be rejected.

The ALJ properly held that the Complainants’ repeated failure to comply with the Commission’s regulations and orders warranted dismissal of their Complaints without a hearing. (ID, p. 27.) Although the Complainants try to rely on the Commission’s rulings in *Carlock*, *Halpern*, *Schleisher*, and *Gera*, their argument fails because those cases do not excuse unrepresented parties from complying with the ALJ’s Orders or the Commission’s regulations. The ALJ gave appropriate weight to the Commission’s holdings in *Carlock*, *Halpern*, *Schleisher*, and *Gera*, acknowledging that this precedent typically “afford[s] unrepresented complainants the opportunity to orally set forth their cases on the record, and cautions against dismissing cases on a

³ *Carlock v. United Tel. Co. of Pa.*, Docket No. F-00163617 (Order entered July 14, 1993) (“*Carlock*”).

⁴ *Halpern v. Bell Tel. Co. of Pa.*, Docket No. C-00923950 (Order entered Oct. 27, 1992) (“*Halpern*”).

⁵ *Schleisher v. Bell Tel. Co. of Pa.*, Docket No. F-00161252 (Order entered Dec. 17, 1992) (“*Schleisher*”).

⁶ *Gera v. PPL Elec. Utils. Corp.*, Docket No. C20054657 (Opinion and Order entered Nov. 2, 2005) (“*Gera*”).

preliminary basis.” (ID, p. 26.) However, the ALJ explained that “[t]he Commission has held that the orders of an administrative law judge must be complied with and that a failure to do so is a sufficient basis to support dismissal of the matter.” (ID, p. 26) (citing *Snyderville Cmty. Dev. Corp. v. Phila. Gas Works*, Docket No. C-20055032 (Opinion and Order entered July 31, 2006). The ALJ also cited numerous cases in which “[t]he Commission has dismissed customer complaints with prejudice due to the complainants’ failure to answer discovery in compliance with the presiding ALJ’s orders granting motions to compel.” (ID, p. 22.)⁷ Thus, the ALJ’s decision to dismiss the Complaints with prejudice was well grounded in Commission precedent, and the Complainants’ *pro se* status does not excuse them from complying with the presiding ALJ’s Orders.

The Complainants’ attempts to frame their actions as “good faith effort[s] to comply with procedural requirements” mischaracterize the record and should be rejected outright. The Complainants failed to provide any responses to the Company’s discovery requests despite being ordered to do so in two separate Orders and despite being warned that failure to fully and timely compliance could result in the imposition of sanctions. In the ID, the ALJ laid out the ample opportunities provided to the Complainants to comply with his orders, stating:

On October 31, 2025, an Interim Order was entered granting Duquesne Light’s Motion to Compel. The Order specifically directed Complainants to “serve upon counsel for Respondent, full and complete answers and responses, in their entirety, to Duquesne Light Company’s Set I discovery requests, as identified in the

⁷ Citing *Carol Sojda & Carol Lutzkanin v. Metropolitan Edison Co.*, Docket No. C-2017-2638350, pp. 7-8 (Jan. 9, 2019), *adopted*, Docket No. C-2017-2638350 (Order entered Mar. 28, 2019); *Kimberly Beckmann v. Metropolitan Edison Co.*, Docket No. C-2017-2613702, pp. 7-10 (Jan. 31, 2019), *adopted*, Docket No. C-2017-2613702 (Order entered Apr. 11, 2019); *Darlene Stanton v. Pennsylvania Electric Co.*, Docket No. C-2018-3001144, pp. 6-11 (May 10, 2019), *adopted*, Docket No. C-2018-3001144 (Order entered July 11, 2019); *Diana Cook v. West Penn Power Co.*, Docket No. C-2018-3003051, pp. 6-10 (May 1, 2019), *adopted*, Docket No. C-2018-3003051 (Order entered July 11, 2019); *Kyle M. Denlinger v. PPL Electric Utilities Corp.*, Docket No. C-2018-3005721, pp. 4-9 (Aug. 16, 2019), *adopted*, Docket No. C-2018-3005721 (Order entered Sept. 26, 2019); *Mary Toleno v. PPL Electric Utilities Corp.*, Docket No. C-2019-3007821, pp. 4-10 (Sept. 23, 2019), *adopted*, Docket No. C-2019-3007821 (Order entered Nov. 7, 2019).

Motion to Compel filed on October 16, 2025, on or before 4:00 p.m. on Thursday, November 6, 2025.” In addition, the Order noted that “the failure of Complainants to fully and timely comply with the terms and provisions set forth in this Interim Order may result in the imposition of sanctions, upon the filing of an appropriate Motion or request for relief.”

On November 3, 2025, Complainants filed a document entitled “Complainants Compliance and Motion to Admit Evidence,” purporting to comply with the Order granting Duquesne Light’s Motion to Compel. The document includes a “summary table” that appears to group the subject matters of Duquesne Light’s discovery requests into categories and provides a brief, one sentence summary of Complainants’ position on each of these issues. Complainants failed to serve this filing on the presiding officer.

On November 12, 2025, Duquesne Light filed a Motion to Dismiss the Complainants’ Formal Complaints with prejudice, due to their failure to comply with the October 31, 2025, Interim Order granting Duquesne Light’s Motion to Compel, as well as the Commission’s discovery regulations.

On November 18, 2025, Complainants filed their Opposition to the Company’s Motion to Dismiss. Complainants failed to serve this filing on the presiding officer. On November 20, 2025, an Interim Order was entered which held the Motion to Dismiss of Duquesne Light Company in abeyance and extended the deadline for Complainants to comply with the October 31, 2025 Order to November 25, 2025. Complainants did not timely file a certificate of service indicating the service of its full and complete responses to DLC to Complainants Set I discovery requests.

(ID, pp. 5-6.) In their Exceptions, the Complainants offer no valid reason or excuse for why they did not provide any responses to the Company’s straightforward discovery requests or did not comply with the other procedural requirements of the ALJ’s Interim Orders, such as identifying fact and expert witnesses and serving intended exhibits. The Complainants were afforded every opportunity to fully comply with the ALJ’s Interim Orders. The Complainants failed to act on these opportunities and ignored the ALJ’s directives, despite receiving clear warnings of the consequences of noncompliance.

Furthermore, the Commission should reject the Complainants' claims that their Complaints were dismissed on a "technicality," as argued in their Fifth Exception. Prior to the dismissal of their Complaints, the Complainants could have made the basic effort of providing responses, or to provide some reason they were unable to provide responses on the timeline imposed. The Complainants never objected to the discovery served or provided reasonable reasons for failing to comply with the Orders requiring them to serve responses. While *Carlock*, *Halpern*, *Schleisher*, and *Gera* emphasize the Commission's "hesitan[ce] to rule unfavorably against *pro se* litigants based on technical grounds,"⁸ these cases do not require that all customer complaints proceed to hearing. As the Commission has explained:

In the normal course, we generally will not dismiss a *pro se* complaint without first providing a hearing during which the *pro se* complainant can further explain their position and the factual basis for the complaint. See *Carlock v. The United Telephone Company of Pennsylvania*, Docket No. F-00163617 (Order entered July 14, 1993) (*Carlock*). At the same, however, we have recognized that the public interest is prejudiced by the wasteful use of the agency's and the company's time and resources in addressing a complaint. See e.g., *Jefferson v. UGI Utilities, Inc.*, Docket No. Z-00269892 (Order entered December 26, 1995) (*Jefferson*), see also, e.g., *Charles Nichols III v. Bell Atlantic-Pennsylvania*, Docket No. C-00956667 (Order entered August 4, 1995) (*Nichols III*).

Failure to comply with an order issued by a presiding officer warrants dismissal of a complaint. See e.g., *Application of And Ex Cor*, Docket No. A-2012-2337848 (Final Order entered June 19, 2013); *New Fizon Catering, Inc. v. PECO Energy Co.*, Docket Nos. C-2008-2065498 and C-2008-2079076 (Order entered June 24, 2009); *Snyderville Community Development Corp. v. Philadelphia Gas Works*, Docket No. C-20055032 [*12] (Order entered July 31, 2006) (*Snyderville*) (citing, *Treffinger v. PPL Electric Utilities Corp.*, Docket No. C-20027978 (Order entered March 3, 2003) (*Treffinger*)).

⁸ *Krisciunas v. Phila. Suburban Water Co.*, Docket No. C-00967689, 1996 Pa. PUC LEXIS 87, *2 (Order dated July 24, 1996) (citing *Destefano v. Peoples Natural Gas Company*, 56 Pa. P.U.C. 489 (1982); *Halpern*; *Schlinder v. The Bell Telephone Company of Pa.*, Docket No. F-00161252 (March 26, 1993)).

Boyer v. Pa. Electric Co., Docket No. C-2019-3012287, 2021 Pa. PUC LEXIS 453, at *11-12 (Order entered Oct. 7, 2021) (“*Boyer*”). Contrary to the Complainants’ characterizations, “Commission precedent supports dismissal of the Complaint with prejudice for refusal to respond to properly propounded Discovery.” *Id.* at *18. (citing *Application of Santos E. Pineda*, Docket No. A-2009-2126367 (Final Order entered June 21, 2010)).

Ultimately, the Complainants’ own failure to act reasonably resulted in the dismissal of their Complaints, not a legal technicality. As the Commission stated regarding the actions of a *pro se* complainant in *Boyer*, “regardless of the Complainant’s desire for an evidentiary hearing, he failed to cooperate with the discovery process and to comply with the related Orders of the presiding officer that, if followed, would have resulted in the hearing he desired and would have avoided the wasteful use of the Commission’s and the Company’s time and resources, which has occurred in this matter.” *Boyer*, at *26.

For these reasons, the Commission should deny the Complainants’ Exception Nos. 1 and 5, because the ALJ afforded the Complainants ample opportunity to comply with his Interim Orders in light of their *pro se* status, and their failure to do so warrants dismissal without a hearing under well-established Commission precedent.

B. REPLY TO EXCEPTION NOS. 2 AND 4: THE ALJ APPROPRIATELY DISMISSED THE COMPLAINTS WITH PREJUDICE

In their Second Exception, the Complainants argue that dismissal with prejudice was “severe” and unjustified, considering: (1) “[l]esser sanctions were available”; (2) “[t]he record does not demonstrate intentional misconduct”; and (3) “Complainants made efforts to participate despite their *pro se* status.” (Complainants’ Exceptions, p. 3.) The Complainants claim that “[t]he ALJ’s imposition of the harshest sanction is inconsistent with Commission policy and constitutes an abuse of discretion.” (*Id.*) Similarly, in their Fourth Exception, the Complainants claim that

the ALJ “failed to consider reasonable alternatives to dismissal.” (*Id.*, p. 4.) The Complainants claim that “[b]efore imposing dismissal, Commission precedent requires consideration of alternatives such as”: (1) “Reopening discovery”; (2) “Issuing a revised scheduling order”; (3) “Holding a prehearing conference”; or (4) “Proceeding to an evidentiary hearing to clarify disputed facts.” (*Id.*) Based on this “precedent,” the Complainants claim that because the ID “does not reflect meaningful consideration of these alternatives,” the ALJ’s “omission constitutes reversible error.” (*Id.*) The Complainants’ arguments are not based in Commission regulations, policy, or precedent and should be rejected.

First, contrary to the Complainants’ characterizations, the Commission’s regulations at 52 Pa. Code §§ 5.371-5.372 do not require a showing that lesser sanctions were not available or that the affected party engaged in “intentional misconduct.” *See* 52 Pa. Code §§ 5.371-5.372. Rather, as explained by the ALJ, these regulations provide ALJs with the authority to “impose appropriate sanctions upon a party found to be in violation of the obligations set forth in the Commission’s regulations.” (ID, p. 28.) These sanctions include “entering a judgment against the disobedient party or individual advising the disobedience.” 52 Pa. Code § 5.372(a)(3).

As the ID describes, the Orders dated October 31, 2025, and November 20, 2025, specifically warned the Complainants that failure to comply could result in the imposition of sanctions. (*See, e.g.*, ID, pp. 10-11, 12.) Specifically, the October 31, 2025, Interim Order warned the Complainants “[t]hat the failure of Complainants to fully and timely comply with the terms and provisions set forth in this Interim Order may result in the imposition of sanctions, upon the filing of an appropriate Motion or request for relief.” (*See* October 31, 2025 Order, p. 23.) In addition, the November 20, 2025 Order stated “[t]hat the failure of Complainants to fully and timely comply with the terms and provisions set forth in this Interim Order may result in the

imposition of sanctions, which may include dismissal of the formal complaints filed by complainants, upon the filing of an appropriate Motion or request for relief.” (See November 20, 2025 Order, p. 6) (emphasis added). Considering the Complainants’ failure to comply with either of these Orders, the ALJ’s decision to dismiss the Complaints with prejudice was both reasonable and foreseeable.

Second, the Company is unaware of any Commission precedent requiring ALJs to consider the “alternatives” suggested by the Complainants prior to the dismissal of customer complaints. Adopting the Complainants’ standard would require extending a procedural schedule, and even proceeding to hearing, to accommodate complainants who have shown no willingness to comply with the presiding ALJ’s orders. However, as the ALJ properly concluded, “[w]hile every opportunity has been provided to Complainants to comply with Commission regulations and orders, Respondent also has due process rights that must be protected. As such, a hearing in this matter is not necessary or appropriate and is not in the public interest.” (ID, p. 27.)

The Complainants have offered no reasons or excuses for their failure to comply with the ALJs’ directives that would justify extending the litigation schedule and have made no indication that if the record were reopened here, they would comply moving forward. The Commission has “recognized that the public interest is prejudiced by the wasteful use of the agency’s and the company’s time and resources in addressing a complaint.” *Boyer*, at *11 (citing *Jefferson v. UGI Utilities, Inc.*, Docket No. Z-00269892 (Order entered Dec. 26, 1995); *Charles Nichols III v. Bell Atlantic-Pennsylvania*, Docket No. C-00956667 (Order entered Aug. 4, 1995)). The Complainants’ suggested alternatives are unwarranted under the circumstances of this case and are not required by the Commission’s regulations, policies, or orders.

For these reasons, the ALJ properly dismissed the Complaints with prejudice without further procedural accommodations or review. Thus, the Complainants' Exception Nos. 2 and 4 should be denied.

C. REPLY TO EXCEPTION NO. 3: THE ALJ CORRECTLY FOUND THAT DUQUESNE LIGHT WAS PREJUDICED BY THE COMPLAINANTS' FAILURE TO PROVIDE ANY DISCOVERY RESPONSES

In their Third Exception, the Complainants object to the ALJ's finding that their failure to provide any responses to the Company's discovery requests prejudiced Duquesne Light. (*See* Complainants' Exceptions, pp. 3-4.) Without any support, the Complainants claim that Duquesne Light's due process rights were not violated because: (1) "Respondent had extensive notice of the claims"; (2) "Respondent had already produced its own discovery"; (3) "Respondent did not demonstrate actual prejudice"; and (4) "Any alleged prejudice could have been remedied through procedural adjustments." (*Id.*, p. 4.) The Complainants' arguments have no merit and should be rejected.

The ALJ properly determined that Duquesne Light's due process rights would be violated should the case proceed to hearing. As the ALJ stated:

Respondent is entitled to the requested information to enable it to fully investigate and defend against Complainants' allegations. Despite the various efforts to compel the production of appropriate discovery responses, Complainants have failed or refused to comply. In addition, no request was made to seek any appropriate relief or to continue the hearing scheduled for December 8, 2025. Apparently, Respondent was expected to appear at the hearing without the benefit of responses to its discovery requests and Complainants' proposed exhibits, and attempt to defend the claims asserted against it without the ability to prepare a defense. To require Respondent to participate at a hearing under such circumstances would constitute a deprivation of its due process rights and cannot be permitted under the circumstances presented in this case.

(ID, p. 25.) Duquesne Light sought reasonable, straightforward discovery in this case to gather further details of the numerous claims raised by the Complainants in their Complaints. (*See* ID,

pp. 21-22.) Without full and complete responses to these requests, the Company was unable to properly respond to the Complainants' claims or prepare for the scheduled hearings. The fact that the Company produced discovery in response to the Complainants' requests does not excuse the Complainants from providing the basic information sought by the Company, precisely because the Company sought information that was not in its possession.⁹

Further, the Complainants provide no support for their claims that "Commission precedent requires a showing of **actual, not speculative**, prejudice before dismissal is justified." (Complainants' Exceptions, p. 4) (emphasis in original). First, the ALJ correctly applied Commission precedent and determined that dismissal was justified due to the Complainants' own conduct, stating:

Complainants' conduct in this proceeding involves not just failing to comply with several orders of the presiding officer, but also involves a failure to provide Respondent with responses to discovery requests, identification of Complainants' expert and factual witnesses, and service of Complainants' proposed exhibits and evidence, in order to provide Respondent with an opportunity to prepare a defense to the claims advanced in the Complaints. Here, Complainants have failed to comply with these straightforward orders. In addition, the interim order entered on November 20, 2025, specifically stated that the Motion to Dismiss the Complaints was being held in abeyance in order to provide Complainants with another opportunity to comply with the order granting Respondent's motion to compel and to provide Respondent with full and complete responses to the discovery requests propounded by Respondent. Complainants failed to provide Respondent with the discovery responses.

(ID, p. 26) (internal citations omitted). Second, the prejudice to Duquesne Light was not "speculative" as the Complainants claim. Due process requires that Duquesne Light be provided with full and complete responses to its discovery requests so that it can prepare and defend its

⁹ Indeed, the Company's discovery requests simply asked the Complainants to provide explanations for the statements made in their pleadings and to provide documentation supporting those claims. *See* Interim Order Granting Duquesne Light's Motion to Compel (issued October 31, 2025).

actions at hearing. *See Schneider v. Pa. PUC*, 479 A.2d 10 (Pa. Cmwlth. 1984). The ALJ properly found that the Company's due process rights would be violated should it be forced to litigate a case without the ability to prepare a defense to the claims against it. (ID, p. 25.) Thus, the ALJ appropriately protected against the violation of the Company's due process rights by dismissing the Complaints.

For these reasons, the Commission should reject the Complainants' argument that the Company was not prejudiced by their failure to produce discovery responses and, accordingly, deny their Exception No. 3.

IV. CONCLUSION

WHEREFORE, for all the foregoing reasons, as well as those more fully explained in the Initial Decision of Administrative Law Judge Jeffrey A. Watson, the Company respectfully requests that the Pennsylvania Public Utility Commission deny the Exceptions filed by Todd Elliott Koger, Sr. and Elliot-Todd Parker Koger and adopt the Initial Decision without modification.

Respectfully submitted,



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Date: February 12, 2026

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