

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Velva Millender	:	
	:	
v.	:	C-2026-3059729
	:	
Duquesne Light Company	:	

**INITIAL DECISION**

Before  
Katrina L. Dunderdale  
Administrative Law Judge

**INTRODUCTION**

This Initial Decision grants the Preliminary Objections of Duquesne Light Company, based on the doctrine of *res judicata*, and dismisses the Formal Complaint.

**HISTORY OF THE PROCEEDINGS**

On January 7, 2026, Velva Millender (Complainant or Ms. Millender) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Duquesne Light Company (Respondent or DLC) alleging the utility was threatening to shut off electric service and was trying to bill her for \$540.18 since 2020 and for \$378 in past due payments. For relief, Complainant requested the Commission order the utility to remove the charges from her electric service account. Complainant noted the Complaint appeals a decision of the Commission’s Bureau of Consumer Services (BCS), at BCS No. 3962086, which dismissed her informal

complaint. In her Complaint, Ms. Millender requested service of all documents by First Class Mail. The Complaint was served by the Commission on DLC on January 13, 2026.

On February 2, 2026, Respondent filed the Answer and New Matter, with a Notice to Plead, in which DLC generally denied the allegations in the Complaint. DLC admitted it issued a termination notice on January 12, 2026, due to non-payment of an outstanding balance due of \$540.20, but argued the proposed termination was cancelled when the Complaint was filed.

In New Matter, DLC alleged Ms. Millender filed a substantially similar complaint with the Commission, at Docket No. C-2024-3048892, on April 30, 2024 (2024 Complaint). In the 2024 Complaint, Ms. Millender contended DLC had billed her incorrectly since 2020, and she requested the removal of those charges. Respondent alleged the Commission issued an Initial Decision on April 28, 2025, in which the presiding officer stated, “Duquesne Light is authorized to collect the current disputed amount of \$540.18.” New Matter ¶ 16 (citing the Initial Decision at 11). DLC noted the Commission issued a Final Order in that proceeding on May 30, 2025, which marked the proceeding at Docket No. C-2024-3048892 as closed. No exceptions or appeals have been taken of the 2024 Complaint, since the issuance of the Final Order.

Also, on February 2, 2026, Respondent filed Preliminary Objections (P.O.’s). In its P.O.’s, DLC argued the Complaint should be dismissed. DLC contended the Complaint was legally insufficient and contained impertinent matter which, pursuant to 52 Pa. Code § 5.101(a), justified the filing of P.O.’s and dismissal of the Complaint. Specifically, DLC contended the Complaint was barred by the doctrine of *res judicata* because the 2024 Complaint was a “substantially similar” formal complaint. Respondent asserted the Initial Decision in the 2024 Complaint dismissed the earlier complaint and indicated DLC was authorized to collect \$540.18. In the P.O.’s, DLC did not provide any reference to authority or cite to any provision within the Public Utility Code, the

Commission's regulations or orders, or in any Pennsylvania statute in relation to its assertion the Complaint was barred by *res judicata*.

However, in addition to its claim of *res judicata*, Respondent alleged Ms. Millender's claim - to have \$378 and \$540 removed from her service account – was impertinent matter because the Commission does not have jurisdiction over actions for damages. DLC claimed Ms. Millender's request for relief – to have incorrect charges removed her account – amounted to a request for damages.

On March 2, 2026, the Office of Administrative Law Judge (OALJ) notified the parties that Administrative Law Judge Katrina L. Dunderdale (ALJ Dunderdale or presiding officer) was assigned to resolve any issues arising from the P.O.'s and any other issue arising during the preliminary phase of the proceeding.

Though not required, it is noted Complainant did not file a response to the Preliminary Objections. The Preliminary Objections are ready for disposition.

### FINDINGS OF FACT

1. Complainant is Velva Millender, 1374 Woodlawn Avenue, Pittsburgh, Pennsylvania 15221.
2. Respondent is Duquesne Light Company, a jurisdictional public utility providing residential electric service in the Commonwealth of Pennsylvania.
3. On April 30, 2024, Complainant filed a Formal Complaint (2024 Complaint) against Respondent at Docket No. C-2024-3048892 alleging there were incorrect charges of an unspecified amount on her bills from DLC, and she requested the

Commission order DLC to give her corrected bills with unspecified incorrect charges removed.

4. On July 17, 2024, an Initial Call-In Telephonic Hearing was conducted before an Administrative Law Judge (ALJ) within the Commission’s Office of Administrative Law Judge, at which Complainant appeared and provided testimonial evidence in support of her 2024 Complaint allegations.

5. On April 28, 2025, an Initial Decision was served upon Complainant and Respondent, in which the ALJ determined Ms. Millender did not meet the burden of proving the bills were incorrect.

6. The Initial Decision issued by the ALJ in the 2024 Complaint dismissed Ms. Millender’s 2024 Complaint and authorized Duquesne Light to collect the disputed amount of \$540.18.

7. On May 30, 2025, the Commission issued its Final Order which made final the Initial Decision issued on April 28, 2025, and closed the case. *Velva Millender v. Duquesne Light Co.*, Docket No. C-2024-3048892 (Final Order entered May 30, 2025).

8. No exceptions or appeals were filed in the 2024 Complaint proceeding at Docket No. C-2024-3048892.

9. On January 7, 2026, Complainant filed a new complaint, at Docket No. C-2026-3059729, alleging DLC was threatening to shut off electric service, and the utility was trying to “put . . . \$540.18 on [her]” in addition to alleging a past-due amount of \$378. Ms. Millender requested Respondent take both dollar amounts off her bills.

10. On February 2, 2026, DLC filed its Answer which generally denied the allegations, contended the stated issue in the present Complaint is the same as the issue in a fully adjudicated case at Docket No. C-2024-3048892 (2024 Complaint), and the Complaint should be dismissed due to *res judicata*.

11. On February 2, 2026, DLC filed Preliminary Objections which averred the Complaint should be dismissed because of *res judicata* and because a request for charges to be reversed is a request for damages which issue is outside the Commission's jurisdiction.

12. No response to the Preliminary Objections was filed.

### DISCUSSION

Commission preliminary objection practice is similar to Pennsylvania civil practice. *Equitable Small Transportation Interveners v. Equitable Gas Co.*, 1994 Pa. PUC LEXIS 69, Docket No. C-000935435 (July 18, 1994). When considering the preliminary objection, the Commission must determine “whether the law says with certainty, based on well-pleaded factual averments . . . that no recovery or relief is possible. *P. J. S. v. Pa. State Ethics Comm’n*, 669 A.2d 1105 (Pa. Cmwlth. 1996). Any doubt must be resolved in favor of the non-moving party by refusing to sustain the preliminary objections. *Boyd v. Ward*, 802 A.2d 705 (Pa. Cmwlth. 2002).” *Dept. of Auditor General v. State Employees’ Retirement System*, 836 A.2d 1053, 1064 (Pa. Cmwlth. 2003).

The present section regarding preliminary objections reads as follows:

**§ 5.101. Preliminary objections.**

(a) *Grounds.* Preliminary objections are available to parties and may be filed in response to a pleading except motions and prior preliminary objections. Preliminary objections must be accompanied by a notice to plead, must state specifically the legal and factual grounds relied upon and be limited to the following:

- (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 a 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.

52 Pa. Code § 5.101(a).

Well-established rules of law do not permit the re-litigation of those issues which already have been the subject of full and fair litigation. *Res judicata* is referred to now as “claim preclusion,” and is a term used to describe the effects a judgment in a prior proceeding will have upon a later proceeding. In short, a matter which was litigated previously, or which should have been litigated previously, in a prior action as part of the same cause of action will not be allowed to be re-litigated in a subsequent action. Claim

preclusion applies only when four conditions are the same in both the prior and the subsequent action: (1) identity of the subject matter; (2) identity of the cause of action; (3) identity of the parties; and (4) identity of the quality or capacity (legal status) of the parties suing or being sued.<sup>1</sup>

Claim preclusion requires that a final judgment on the merits by a court of competent jurisdiction will bar any future action on the same cause of action between the parties and their privies.<sup>2</sup> Furthermore, the doctrine of claim preclusion, or *res judicata*, applies to cases before the Commission and has been summarized by the Commission in *O'Toole v. Bell Telephone Company of Pennsylvania, Inc.*, 77 Pa. P.U.C. 98, 104 (1992) as follows:

The doctrine of *res judicata* reflects the refusal of the law to tolerate the relitigation of a matter decided by a court of competent jurisdiction. Final valid judgment on the merits by a court of competent jurisdiction bars any future suit between the same parties on the same cause of action. For the doctrine to prevail, four conditions must be met: (1) identity of issues, (2) identity of causes of action, (3) identity of persons and parties to the action, and (4) identity of the quality and capacity of the parties suing or sued. *Day v. Volkswagenwerk Aktiengesellschaft*, 318 Pa. Superior Ct. 255, 474 A.2d 1313, 1316, 1317 (1983).

In addition to the doctrine of *res judicata*, a complaint may be barred also by the provisions in 66 Pa.C.S. § 316, which provide, in pertinent part, that:

Whenever the commission shall make any rule, regulation, finding, determination or order, the same shall be prima facie evidence of the facts found and shall remain

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<sup>1</sup> *Buoncrisiano v. Phila. Gas Works*, Docket No. C-2015-2466853 (Final Order entered Apr. 29, 2016); *Pa. Pub. Util. Comm'n v. Schuylkill Twp., Boro. of Phoenixville*, 1993 Pa. PUC LEXIS 78 (Order entered Oct. 1, 1993).

<sup>2</sup> *Hopewell Estates, Inc. v. Kent*, 646 A.2d 1192 (Pa. Super. 1994).

conclusive upon all parties affected thereby, unless set aside, annulled or modified on judicial review.

This section of the Public Utility Code precludes a collateral attack upon any Commission order that has not been reversed upon appeal.<sup>3</sup>

### Analysis

The analysis herein now turns to determining whether the two cases – the instant Complaint and the 2024 Complaint - meet the standard set forth in claim preclusion matters. Four determinations must be made: (1) the issues in both complaints are identical; (2) the causes of action identified in both complaints are identical; (3) the parties in both complaints are identical and appear in identical capacities; and (4) there was a final judgment on the merits in the first proceeding.

In this proceeding, both complaints accuse DLC of overcharging Complainant for electric service at the same service address. The 2024 Complaint does not allege the amount of money at issue while the 2026 Complaint specifies the amounts at issue are \$540.18 and \$378. Both complaints allege Ms. Millender believes she was overcharged by DLC, and both complaints refer to electric distribution service provided by DLC to Ms. Millender at the same service address. The complainant in both complaint proceedings is Velva Millender, who is a ratepayer of Respondent. In both complaints, the utility involved has been DLC, which provides electric distribution service to Complainant at the service address. As is evident from the Initial Decision and the Final Order issued by the Commission in the 2024 Complaint, the 2024 Complaint was litigated fully after Complainant participated fully in a hearing. Lastly, Complainant had a full and fair opportunity to pursue her complaint. The 2024 complaint was the

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<sup>3</sup> *Jordan v. United Tele. Co. of Pa.*, 1995 Pa. PUC LEXIS 158 (Initial Decision dated Dec. 22, 1995).

subject of an evidentiary hearing and an initial decision by the administrative law judge, followed by the Commission's Final Order disposing of the case.

Following the issuance of a Commission order, the parties are given the opportunity to file either a petition for reconsideration, 52 Pa. Code § 5.572, or to take an appeal to the Commonwealth Court. Complainant took advantage of neither option. Accordingly, the Commission's Final Order entered May 30, 2025 in the 2024 Complaint case became final, and Ms. Millender cannot re-litigate the issue of incorrect charges. Under the doctrine of claim preclusion, the Final Order in the 2024 Complaint is not subject to collateral attack now.

It should be noted Complainant has not injected a new issue into this proceeding when she references a past due amount of \$378. The amount of \$378 is referred to by Complainant as a past due amount, which means it is not the total amount due. The total amount due would be \$540.18, of which \$378 is the past due portion. It should also be noted Complainant's allegations in the 2024 Complaint were nebulous and lacking in detail, and therefore encompass any sum incurred by Complainant prior to the date of the Final Order in the 2024 Complaint on May 30, 2025. Complainant did not allege in the instant Complaint that the past due amount accrued after May 30, 2025.

Respondent points out that Commission regulations permit dismissal of a complaint without a hearing if a hearing is not necessary in the public interest.<sup>4</sup> Here, recovery on the issues raised in the present Complaint is completely barred from Commission consideration by the final adjudication of the Commission, at Docket No. C-2024-3048892. Further proceedings on the matter would not be useful. Therefore, the present Complaint is dismissed and the docket closed.

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<sup>4</sup> 52 Pa. Code § 5.21(d).

## CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter of the proceeding.
2. Commission preliminary objection practice is similar to Pennsylvania civil practice. *Equitable Small Transportation Interveners v. Equitable Gas Co.*, 1994 Pa. PUC LEXIS 69, Docket No. C-000935435 (July 18, 1994).
3. When considering the preliminary objection, the Commission must determine “whether the law says with certainty, based on well-pleaded factual averments . . . that no recovery or relief is possible. *P. J. S. v. Pa. State Ethics Comm’n*, 669 A.2d 1105 (Pa. Cmwlth. 1996). Any doubt must be resolved in favor of the non-moving party by refusing to sustain the preliminary objections. *Boyd v. Ward*, 802 A.2d 705 (Pa. Cmwlth. 2002).” *Dept. of Auditor General v. State Employees’ Retirement System*, 836 A.2d 1053, 1064 (Pa. Cmwlth. 2003).
4. Claim preclusion, formerly technical or strict *res judicata*, is the term used to describe the effects a prior judgment will have in a later action. Matters which were litigated - including matters which should have been litigated in a prior action as part of the same cause of action - will not be allowed to be re-litigated in a subsequent action. *Day v. Volkswagenwerk Aktiengesellschaft*, 474 A.2d 1313 (Pa. Super. 1983).
5. Claim preclusion applies only when four conditions all exist: (1) identity of the subject matter; (2) identity of the cause of action; (3) identity of the parties; and (4) identity of the quality or capacity (legal status) of the parties suing or being sued. 66 Pa.C.S. § 316; *Day v. Volkswagenwerk Aktiengesellschaft*, 474 A.2d 1313 (Pa. Super. 1983).

6. The issues in both complaints, the causes of action identified in both complaints, the parties in both complaints, the capacities in which the parties in both complaints appeared are identical, and the prior proceeding was fully litigated resulting in a final judgment on the merits. 66 Pa.C.S. § 316; *Day v. Volkswagenwerk Aktiengesellschaft*, 474 A.2d 1313 (Pa. Super. 1983).

7. Following the issuance of the Commission's Final Order on May 30, 2025, Complainant was given the opportunity to either file a petition for reconsideration or take an appeal to the Pennsylvania Commonwealth Court, but she did not exercise either opportunity. 52 Pa. Code § 5.572.

8. Commission regulations permit dismissal of a complaint without a hearing, if conducting a hearing is not necessary for the public interest. 52 Pa.Code § 5.21(d).

9. Recovery on the issues raised in the present Complaint are completely barred from Commission consideration by the final adjudication of the Commission, at Docket No. C-2024-3048892, and further proceedings on the matter would not be useful. *Velva Millender v. Duquesne Light Co.*, Docket No. C-2024-3048892 (Final Order entered May 30, 2025).

