

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

James Defoggi	:	
	:	
v.	:	C-2026-3061661
	:	
Duquesne Light Company	:	

INTERIM ORDER
GRANTING IN PART AND DENYING IN PART DLC’S PRELIMINARY OBJECTION
AND DIRECTING COMPLAINANT TO CAUSE COUNSEL
TO ENTER AN APPEARANCE OR SHOW CAUSE

On April 9, 2026, James Defoggi (Mr. Defoggi) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission), in his capacity as Trustee for the Defoggi Family Irrevocable Living Trust. On the Formal Complaint form, Mr. Defoggi checked the box indicating the utility was threatening to shut off service or had already shut off service, and the “other” box, writing,

Formal commercial dispute involving a Perfected Security Interest in Trust assets. Utility has failed to provide a verified accounting per UCC § 9-210. **This is not a consumer complaint.**

Complaint ¶ 4 (emphasis added).

As relief, Mr. Defoggi wrote,

I request an Emergency Stay of the utility service shut-off scheduled for April 20, 2026, to protect Trust assets. I ask the Commission to order the Respondent to provide a verified accounting and the original contract pursuant to UCC § 9-210. Furthermore, all collection activity must be stayed until the Respondent provides a point-by-point rebuttal to the Forensic Audit served via Certified Mail (Tracking

#9589071052701734941147). I also seek enforcement of the Administrative Fee Schedule for any unauthorized interference with the Trust's perfected security interest.

Complaint ¶ 5.

Mr. Defoggi further alleged DLC was “proceeding with an unauthorized service shut-off without providing a verified accounting of the debt.” Complaint ¶ 7(c).

Mr. Defoggi signed and verified the Complaint as “Trustee for the Defoggi Family Irrevocable Living Trust.” Complaint ¶ 11.

On April 29, 2026, DLC filed an Answer, New Matter, and Preliminary Objections. Respondent avers it issued a termination notice for service to 103 Shanor Drive, New Brighton, PA (service address) due to an overdue account balance. In its New Matter and Preliminary Objection, DLC argues Complainant is not entitled to the requested relief because the claims lie beyond the Commission’s jurisdiction – Commission lacks jurisdiction over claims governed by the application of the Uniform Commercial Code. New Matter ¶ 17, Preliminary Objection ¶¶ 7-11.

On May 4, 2026, Mr. Defoggi filed a Reply to New Matter. He denies that this is a residential customer dispute and denies that he is a “residential customer,” explaining that he is “a Trustee acting in a fiduciary capacity for the Defoggi Family Irrevocable Living Trust, an entity established of public record at the Beaver County Courthouse on November 8, 2024.” Reply to New Matter ¶ 2. Mr. Defoggi continues,

Respondent’s New Matter is based on an obsolete accounting ledger. Under **Accrual Basis Accounting** and the All Events Test (26 U.S.C. § 461, Respondent had a mandatory obligation to reconcile this account to the Trust’s standing. Respondent’s failure to recognize the August 9, 2025 Assignment constitutes a violation of 66 Pa. C.S. § 1501.... The Commission has jurisdiction over this matter as it involves the failure of a public utility to provide “adequate and reasonable service” by maintaining inaccurate, non-reconciled corporate ledgers for nearly 29 years.

Reply to New Matter ¶¶ 4-5 (emphasis added).

Complainant did not file a response to the Preliminary Objections.

On May 19, 2026, Mr. Defoggi filed a Motion for Stay. He again explains he is appearing in his fiduciary capacity as the Trustee for the Defoggi Family Irrevocable Living Trust and not as an individual. He avers the case caption listing the complainant as “James Defoggi” is “factually and legally erroneous.” He explains he has filed a “Notice of Judicial Recognition of Fiduciary Capacity,” and the Commission should modify the caption of this proceeding to read “James Samuel Defoggi, Trustee for the Defoggi Family Irrevocable Living Trust v. Duquesne Light Company.” Finally, he requests this matter be stayed.

Also on May 19, 2026, Mr. Defoggi filed a document entitled, “Complainant’s Formal Notice of Opposition to Respondent’s Attempted Termination Tracking.” He reiterates his position that this matter is not a consumer dispute. He argues, *inter alia*, “The Trustee’s fiduciary status and capacity to manage and protect the Trust estate are matters of settled law, and the Respondent is legally bound to recognize and comply with this status.”

Also on May 19, 2026, Mr. Defoggi filed a document entitled, “Notice of Automatic Stay Maintenance and Administrative Accounting Dispute,” which essentially reiterates his claims, arguments, and positions previously raised.

On May 20, 2026, the Commission issued a Motion Judge Assignment Notice assigning this matter to me.

On May 29, 2026, Mr. Defoggi filed a document entitled, “Complainant’s Formal Notice of Administrative Default.”

On June 2, 2026, Mr. Defoggi filed a document entitled, “Memorandum of Record and Notice of Non-Compliance.” He avers, *inter alia*, “the formal assignment of the account at issue to the

Defoggi Family Irrevocable Living Trust was executed on August 9, 2025. Furthermore, the documentation confirming this lawful assignment was officially placed into the public record within Complainant's Answer to New Matter, filed on May 1, 2026, and remains a permanent fixture in the official PUC case files for this matter." He further argues, "the Trust must be explicitly recognized in the case heading. This existing record removes the matter entirely from standard personal consumer classifications and establishes it strictly as a Trust matter governed by fiduciary and commercial standards."

The Preliminary Objection is ready for adjudication.

Discussion

Preliminary objection practice before the Commission is similar to Pennsylvania civil practice respecting preliminary objections. *Equitable Small Transportation Intervenors v. Equitable Gas Company*, 1994 Pa. PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994). In deciding the preliminary objections, the Commission must determine whether, based on well-pleaded factual averments of the petitioners, recovery or relief is possible. *Dept. of Auditor General v. SERS*, 836 A.2d 1053, 1064 (Pa.Cmwlth. 2003); *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). All of the non-moving party's averments in the complaint must be viewed as true for purposes of deciding the preliminary objections. *County of Allegheny v. Commw. of Pa.*, 490 A.2d 402 (Pa. 1985); *Pennsylvania State Lodge, Fraternal Order of Police v. Dept. of Conservation and Natural Resources*, 909 A.2d 413 (Pa.Cmwlth. 2006), *aff'd per curiam*, 924 A.2d 1203 (Pa. 2007). Only those facts specifically admitted may be considered against the non-moving party. *Ridge v. State Employees' Retirement Board*, 690 A.2d 1312 (Pa.Cmwlth. 1997).

As discussed above, when disposing of Preliminary Objections, I look only at the factual assertions contained in the Complaint. In the Complaint, Mr. Defoggi clearly and repeatedly identifies his claims as arising under the Uniform Commercial Code, explaining that the Complaint is a "Formal commercial dispute" and is "not a consumer complaint." Complaint ¶¶ 4, 5.

The Company is correct that the Commission lacks jurisdiction over federal statutes and regulations. The Commission, as a creation of the General Assembly, only has the powers and authority granted to it by the General Assembly and contained in the Public Utility Code. *Tod and Lisa Shedlosky v. Pennsylvania Electric Co.*, Docket No. C-20066937, Opinion and Order (May 28, 2008); *Feingold v. Bell Tel. Co. of Pa.*, 383 A.2d 791 (Pa. 1977). The Commission must act within and cannot exceed its jurisdiction. *City of Pittsburgh v. PUC*, 43 A.2d 348 (Pa.Super. 1945). Jurisdiction may not be conferred by the parties where none exists. *Roberts v. Martorano*, 235 A.2d 602 (Pa. 1967).

Therefore, the claims regarding alleged violations of the UCC are dismissed due to lack of Commission jurisdiction.

Although the Complaint does not explicitly allege a violation of the Commission's regulations, a liberal reading of the Complaint reasonably includes an alleged violation of 66 Pa.C.S. § 1501. Because that claim remains, dismissal of the entire Complaint, at this juncture, is inappropriate.

Therefore, the Preliminary Objections are granted in part and denied in part, consistent with the Ordering Paragraphs below.

Finally, in my review of the pleadings, I identified an issue unrelated to the Preliminary Objections. Mr. Defoggi clearly and repeatedly indicates that the Complaint is “not a consumer complaint” and he is not bringing the Complaint in his individual capacity, but as Trustee for the Defoggi Family Irrevocable Living Trust, an entity he avers was “established of public record at the Beaver County Courthouse on November 8, 2024.” *See e.g.*, Complaint ¶ 4 (emphasis added); Reply to New Matter ¶ 2.

The Commission's regulations provide that “[i]n adversarial proceedings, partnerships, corporations, **trusts**, associations, agencies, political subdivisions and government entities shall be represented only by . . . an attorney.” 52 Pa. Code § 1.21 (emphasis added). An adversarial proceeding is defined as “a proceeding initiated by a person to seek authority, approvals, tariff changes, enforcement, fines, remedies or other relief from the Commission which is contested by one or more other persons, and which will be decided on the basis of a formal record.” 52 Pa. Code § 1.8. The

absence of an attorney where one is required deprives the Commission of jurisdiction to adjudicate the matter. *Scheaffer v PPL Electric Utilities Corp.*, Docket No. F-2016-2577647 (Opinion and Order entered April 3, 2018).

The Commission's obligation to require attorneys in adversarial proceedings for parties other than individual *pro se* proceedings is well-settled:

In Pennsylvania, the Supreme Court is responsible for regulating the practice of law, and this Commission is bound by the Supreme Court's rules. The only persons authorized to practice law in Pennsylvania are as follows: (1) persons fully admitted to the Pennsylvania Bar; (2) persons admitted *pro hac vice* under Rule 301; and (3) persons qualified as certified legal interns under Rule 321. The Pennsylvania Supreme Court in *Shorz v. Farrell*, 327 Pa. 81, 193 A.20 (1937), held that if the nature of an administrative hearing is to determine questions of fact or interpretation of administrative law, then the hearing is of a judicial character. Any participation in such a hearing constitutes the practice of law. Accordingly, it would be unlawful to allow non-attorney representation in adversarial proceedings before the Commission.

James and Judith Simon v. Franklin Water Company, Docket No. C-00956589 (Order entered January 29, 1996).

As mentioned above, Mr. Defoggi clearly and repeatedly insists that he is bringing this case in his fiduciary capacity as Trustee of a legally established trust, the Defoggi Family Irrevocable living Trust.

As such, consistent with the ordering paragraphs below, Mr. Defoggi shall cause counsel to enter an appearance on behalf of the Defoggi Family Irrevocable Living Trust or show cause as to why the Defoggi Family Irrevocable Living Trust is not required to be represented by counsel under the Commission's regulations.

THEREFORE,

IT IS ORDERED:

1. That the Preliminary Objections filed by Duquesne Light Company against the Complaint filed at Docket Number C-2026-3061661 are granted in part and denied in part.
2. That the Preliminary Objections filed by Duquesne Light Company against the Formal Complaint filed at Docket Number C-2026-3061661 are granted in that all claims arising under the federal Uniform Commercial Code are dismissed.
2. That the Preliminary Objections filed by Duquesne Light Company against the Formal Complaint filed at Docket Number C-2026-3061661 are denied regarding all other claims.
3. That, by **June 19, 2026**, James Defoggi, shall either: (1) cause counsel to enter an appearance pursuant to 52 Pa. Code § 1.24, or (2) show cause as to why the Defoggi Family Irrevocable Living Trust is not required to be represented by counsel per the Commission's regulations.
4. That Mr. Defoggi's failure to comply with Ordering Paragraph 3 may result in dismissal of the Complaint.

Date: May 6, 2026

/s/
Emily I. DeVoe
Administrative Law Judge

C-2026-3061661 - JAMES DEFOGGI v. DUQUESNE LIGHT COMPANY

JAMES DEFOGGI
103 SHANOR DRIVE
NEW BRIGHTON PA 15066
724.680.2994

jcdefoggi1@comcast.net

Served via eService June 4, 2026

SOPHIA AL RASHEED ESQUIRE
DUQUESNE LIGHT COMPANY
100 SOUTH COMMONS SUITE 118
PITTSBURGH PA 15212
412.393.6505

salrasheed@duqlight.com

Served via eService June 4, 2026