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May 6, 2016

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120

RE: Maria Povacz v. PECO Energy Company
Docket No. C-2015-2475023

Dear Ms. Chiavetta:

Enclosed for filing with the Commission is PECO Energy Company's Emergency Motion to Compel the Production of Medical Records.

Very truly yours,

Ward L. Smith
Counsel for PECO Energy Company



WS/ab
Enclosure

cc: Christopher P. Pell, ALJ
Darlene D. Heep, ALJ
Ed Lanza, Esquire

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Maria Povacz

v.

PECO Energy Company

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:
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:
:

Docket No. C-2015-2475023

NOTICE TO PLEAD

Pursuant to the modified discovery rules in this proceeding, you are hereby notified that, within 3 days, you must answer the enclosed Emergency Motion to Compel the Production of Medical Records. You must provide a full copy of any answer to counsel for PECO. If you serve an answer, you must file answer with the Commission or the Administrative Law Judge.

File with:

Rosemarie Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120

With a copy to:

Ward L. Smith
PECO Energy Company
2301 Market Street, S-23
Philadelphia, PA 19103

Dated at Philadelphia, PA, May 6, 2016



Ward L. Smith
Counsel for PECO Energy Company
2301 Market Street S-23
Philadelphia, PA 19101-8699
215-841-6863
Ward.Smith@exeloncorp.com

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Maria Povacz	:	
	:	
v.	:	C-2015-2475023
	:	
PECO Energy Company	:	

**PECO Energy Company's
Emergency Motion to Compel the Production of Medical Records**

The central issue in this proceeding is the claim of the Complainant, Maria Povacz, that exposure to radio frequency ("RF") transmissions from a PECO Advanced Meter Infrastructure ("AMI")¹ meter caused, or will exacerbate, her adverse health conditions. PECO has now twice served formal discovery seeking any medical records that state that Ms. Povacz's health conditions were caused by, or could be exacerbated by, RF exposure. Complainant objected to the first request and, after discussion between counsel, PECO submitted a second set of discovery that was tailored to avoid the Complainant's objections to the first request.

On Tuesday, May 3, PECO received Ms. Povacz's answer to PECO's second request for medical records. In a nutshell, the answer was that, upon execution of a protective agreement by PECO, Ms. Povacz would forward to PECO a "signed release authorizing health care providers to make available to medical records" requested in the discovery. In other words, the answer was that Complainant would allow PECO to begin a third round of discovery – but this time

¹ The meter that PECO will install at the Povacz residence is referred to in the Amended Complaint and the Complainant's pre-filed testimony as a "smart meter." PECO's existing meter, known as an Automatic Meter Reader, or "AMR," also communicates using radio frequency transmissions, and may also from time-to-time be referred to as a "smart meter." PECO distinguishes between the two by referring to the existing meter as an "AMR," and the new meter as an "AMI."

against medical providers who are not parties to this proceeding, are not subject to the Commission's jurisdiction, and are under no compulsion to answer such questions in a timely fashion, or at all.

That approach virtually guarantees that PECO will not have access to medical records prior to the June 7-8 hearing in this matter – and that means that Your Honors and the Commission will not have access to the medical records or expert testimony from *both* sides based on the medical records when deciding this case.

As described in more detail below, this tactic should not be allowed. Complainant should be required to do one of three things: (1) if the Complainant has copies of the requested medical records, she should immediately provide them in discovery answers; (2) if the Complainant does not have copies of the requested medical records, she should immediately obtain them from her doctors and then provide them in discovery answers; (3) if no such medical records exist, then Complainant should be required to submit a verified discovery answer stating that no such records exist.

Timing is critical here. The hearing in this case in this case is one month away. PECO must file its rebuttal testimony in this matter on May 18 – which is twelve days from the filing of this Motion. If such records exist, and in order to protect its due process rights, PECO must have the opportunity for its experts to examine those records before submitting their written testimony, and it must have the records for cross-examination. PECO therefore requests that this Motion be resolved on an emergency basis, and that Complainant be required to provide full answers to this discovery no later than Wednesday, May 11, 2016.

This Motion is organized as follows. First, PECO briefly establishes, by reference to the Amended Complaint and testimony, that Ms. Povacz has put the health claim at the center of this proceeding. Second, PECO provides additional detail regarding its discovery requests and Complainant's objections to and answers to those requests. Third, PECO delves more deeply into the three possible factual scenarios – (1) the records exist and are in the possession of Complainant; (2) the records exist and are *not* in the possession of the Complainant; and (3) no such records exist – and demonstrates that regardless of which is the actual situation, Complainant should be required to immediately provide full answers to this discovery.

1. Complainant made her health claims and medical records the center of this proceeding

On April 8, 2016, Complainant filed an Amended Complaint in this proceeding in which her health claims take center stage. A few examples will suffice to demonstrate the Complainant put these health claims into play: Amended Complaint §10: "Complainant suffers from severe sensitivity to electromagnetic fields and experiences a number of serious symptoms when exposed to electromagnetic fields"; Amended Complaint § 12: "Complainant's severe electromagnetic sensitivity makes her uniquely susceptible to Electro Magnetic Field (EMF) and Radio Frequency (RF) radiation"; Amended Complaint §17: "Complainant believes, and therefore aver, that installation of a wireless smart meter at her home would create an unsafe and unhealthy condition at the premises."

On April 18, 2016, Complainant filed Statement No. 1, Direct Testimony of Dr. Martin Pall. On April 27, 2016, Complainant filed Statement No. 2, Direct Testimony of Maria Povacz and Statement No. 3, Direct Testimony of Dr. Hanoch Talmor. Ms. Povacz's health claims are

central to each piece of testimony. Again, a few examples will suffice to demonstrate the centrality of health claims to slate of witnesses.

Dr. Pall states (p. 22, lines 11-13) that:

In summary, then, the evidence presented here, provides for a very strong inference, in my opinion, that most, if not all, of Maria Povacz' symptoms were caused by smart meter installation in her neighbor's home and all around her.

For her part, Ms. Povacz states, variously, that on April 9, 2015, Dr. Talmor diagnosed with electromagnetic hypersensitivity (p. 23, lines 15-19). She also testified p. 23, line 20 to p. 24, line 19) that in April 2015 she was advised by a Dr. Bernstein that her thyroid gland was not functioning correctly and that: "The smart meter brought this on to me and burned my endocrinal system." (p. 24, line 19).

Dr. Talmor states (p. 2, lines 16-17) that he diagnosed Ms. Povacz with severe electromagnetic hypersensitivity.

In sum, there can be no doubt that Ms. Povacz's health claims are central to her entire case, and her testimony and the testimony of Dr. Pall and Dr. Talmor.

2. PECO diligently pursued discovery of Ms. Povacz's medical records

Although this case was originally filed in March 2015, Ms. Povacz's health claims were not clearly articulated at that time, and for quite some time it was not clear that this matter would proceed to hearing on health issues. Indeed, at the December 15, 2015 prehearing conference in this matter, then-presiding Administrative Law Judge Eranda Vero stated "I read the first complaint and I didn't see a personal health issue raised." Tr. 41. ALJ Vero also ruled that, under the original complaint, discovery on health issues was not allowed. Tr. 41.

Moreover, it was not until January 28, 2016, that the Commission issued its *Kreider Order* allowing health hearings for the first time. And it was not until April 7, 2016 that Ms. Povacz for the first time delineated her health claims in her Amended Complaint.

For its part, PECO first propounded discovery seeking medical records on February 24, 2016, when it served Set I, Q. 1, asking:

1. Please provide copies of all medical records including and since the diagnosis of the medical condition(s) which you claim have been or will be caused or exacerbated by PECO's AMI meter.

On February 29, 2016, Ms. Povacz objected to this interrogatory on the following multiple grounds:

Complainant has a significant number of medical providers that have treated her for a long period of time, and all the records requested would be voluminous. This discovery request is so broad and unlimited as to time and scope as to be an unwarranted annoyance, embarrassment, and is oppressive. To comply with the request would be an undue burden and expense on the Complainant. The request appears to be calculated to annoy and harass Complainant.

Complainant has sought treatment from a variety of medical providers for a host of conditions. This discovery request seeks to discover parts of Complainant's medical history and/or treatment which are completely unrelated to the issues in this proceeding in violation of Complainant's constitutionally protected right to privacy.

To require Complainant to delineate her entire medical history, as the interrogatory appears to do, is not reasonably calculated to lead to the discovery of admissible evidence, and is overbroad. The disclosure of medical history and medical records cannot be compelled even though they may, in some sense, be relevant to the substantive issues of this case. The medical records must be *directly relevant* to the issues in the proceeding. Complainant's right of privacy protects the disclosure of medical information not directly relevant to the case.

Complainant objects to this discovery request because it calls for the Complainant to produce documents and/or information which are not currently within the possession, custody, or control of Complainant.

This request is propounded for an improper purpose, to harass and to cause unnecessary and needless increase in the cost of litigation to Complainant. Therefore, Complainant objects to this discovery request unless the Respondent agrees to pay for the costs to obtain the answers and/or documents and the cost of the reproduction of the answers and/or documents prior to these being produced for the Respondent.

Counsel for PECO contacted counsel for Ms. Povacz to confer about and try to resolve her objections to the request for production. Based on that discussion, PECO withdrew Set I, Q 1 and, on April 14, 2016, PECO filed a second request for medical records. The second request, while longer and more detailed, was designed and intended to limit the request to medical records that actually discuss the relationship, if any, between radio frequency fields and any of Complainant's health outcomes. PECO Set II-3 requested:

Please provide all medical records that meet any of the following criteria:

(a) Any medical record that states that Complainant, or any resident In Complainant's household, has a medical or health condition that was caused by exposure to radiofrequency fields

(b) Any medical record that states that Complainant, or any resident In Complainant's household, has a medical or health condition that was exacerbated by exposure to radio frequency fields;

(c) Any medical record that states that exposure to radio frequency fields could cause Complainant, or any resident In Complainant's household, to develop a new medical or health condition;

(d) Any medical record that states that exposure to radio frequency fields could exacerbate any existing medical or health condition of Complainant, or any resident In Complainant's household;

(e) Any medical record that states that Complainant, or any resident In Complainant's household, has sensitivity or hypersensitivity to electromagnetic fields, radio frequency fields, or any similar diagnosis (a "Sensitivity Diagnosis").

(f) If there is no medical record setting forth the Sensitivity Diagnosis, please state the first date on which such Sensitivity Diagnosis was made by a medical

professional, and state the name and address of the medical professional who rendered that diagnosis.

(g) For each member of Complainant's household with a Sensitivity Diagnosis, please describe and provide a copy of the results of all diagnostic tests that support the Sensitivity Diagnosis.

(h) For each member of Complainant's household with a Sensitivity Diagnosis, please describe the symptoms experienced by that person, and state the date (by approximate month and year) that the Individual first began to experience those symptoms.

Complainant did not lodge any objection to PECO II-3.

At 9:00 a.m. on Tuesday, May 3 -- 19 days after the discovery was served² -- counsel for PECO contacted counsel for Ms. Povacz to request an update on the answers. At 4:00 p.m. that same day, Ms. Povacz provided the following response:

Complainant will provide a signed release authorizing health care providers to make available medical records meeting the above criteria upon PECO's execution of a Protective Agreement (attached).

On May 4, PECO executed the Protective Agreement (a copy of which is attached to this Motion). Later that day, Ms. Povacz provided a "signed release" authorizing PECO to approach two doctors – Dr. Talmor, who has filed testimony in this case, and Dr. Karl Maret. A copy of the signed release is attached to this Motion.

Notably, the release does not authorize PECO to seek medical records from Dr. Bernstein, who diagnosed Ms. Povacz's thyroid condition that she specifically claims was caused by exposure to her neighbor's AMI meter. The release also does not authorize PECO to seek any medical records provided to Dr. Martin Pall, who has submitted expert testimony in this

² This case has modified discovery procedures requiring responses to be served within 10 days.

proceeding. It is unclear whether that is an oversight, or it simply reflects that Dr. Pall prepared his testimony without examining any of Ms. Povacz's medical records.³

Later on May 4, PECO sent copies of the signed releases to Dr. Talmor and Dr. Maret, by overnight mail,⁴ requesting medical records be sent on an expedited basis. A copy of those requests is attached. As of the filing of this Motion, no reply has been received from either doctor.

PECO respectfully submits that this history demonstrates that it has diligently and timely pursued discovery of Ms. Povacz's medical records.

3. Complainant should be required to provide full answers to this discovery no later than Wednesday, May 11, 2016

As stated earlier, there are really only three possible factual scenarios with respect to the requested medical records: (1) the records exist and are in the possession of Complainant; (2) the records exist and are *not* in the possession of the Complainant; and (3) no such records exist.

If the records exist and are in the possession of the Complainant, then she has an obligation to provide them. If she has the records, then the tactic of requiring PECO to separately obtain medical records from medical service providers who are not parties to this proceeding, are not subject to the Commission's jurisdiction, and are under no compulsion to

³ After receipt of this answer, counsel for PECO verbally inquired whether Complainant's expert witnesses had medical records in their possession when writing their testimony. Counsel for Ms. Povacz replied: "You'll have to ask the doctors."

⁴ Complainant did not provide fax numbers or email addresses for her medical contacts.

answer such questions in a timely fashion, or at all is simply game-playing.⁵ If this is the case, then this tactic is intended to, and does, prejudice PECO's due process right to develop its case in a timely and measured way. And this means that the record that is presented to the Commission will not be complete. This tactic should simply not be allowed.

As an ancillary matter, PECO notes that if medical records exist and are in the possession of Ms. Povacz's testifying witnesses, Dr. Talmor and Dr. Pall, then she constructively possesses those records for purposes of this litigation. The proper procedure in that case is for Ms. Povacz to obtain those records from her testifying witnesses and forward them as a discovery response.

The second scenario is that there are medical records that state that Ms. Povacz's health conditions were caused by, or will be exacerbated by, exposure to RF transmissions – but that neither Ms. Povacz nor her testifying witnesses are in possession of those records. PECO doubts that this scenario could be real, and it is presented only for completeness. For one thing, Dr. Talmor, who is a testifying witness, is the doctor who diagnosed Ms. Povacz with electrical hypersensitivity. It is not credible that he has no medical records in his possession with respect to that diagnosis. As to Ms. Povacz, her testimony claims that she was healthy until 2014, and that since then she has been extremely focused on determining the cause of her illness. It is simply not credible that such records exist, but somehow Ms. Povacz did not get and retain a copy of them.

⁵ PECO notes that this identical tactic was used in *Murphy v. PECO*, C-2015-2475726. The Complainant in that case, Laura Sunstein Murphy, is a health law attorney. See Statement No. 2, Direct Testimony of Laura Murphy in the *Murphy* docket ,p. 20, line 16. She is thus well aware that medical providers will respond more readily to their patients than to a company litigating against their patient. Whether or not she shared that knowledge with Ms. Povacz, the tactic is still driven by that knowledge.

However, if Ms. Povacz's medical providers do have records that state her conditions were caused by or will be exacerbated by exposure to RF transmissions, and neither she nor her testifying witnesses have copies of them,⁶ then the question should be how those records can most easily be obtained – by Ms. Povacz, or by PECO. The answer is that Ms. Povacz's medical providers will be more responsive to requests from her, their patient, than to requests from PECO. In this case, Ms. Povacz has asked the Commission to conclude that she has health conditions that were caused by exposure to RF transmissions. If her doctors have medical records demonstrating that is the case, she should be required to provide them and PECO should be allowed to have its expert witnesses examine them.

The third scenario is that no such records exist. In that case, Ms. Povacz should be required to state, in a verified discovery response that can be used to develop PECO's testimony and on cross-examination, that no such records exist. In this case, Complainant's asking PECO – especially at this late date -- to seek records from third party medical providers is a tactic that will allow Complainant to make medical claims but avoid having to admit that there are no medical records to support that claim. This tactic not only unfairly deprives PECO of its due process opportunity to defend against the claims made in this docket, it also deprives Your Honors and the Commission of a record with expert testimony based on the medical records – or lack thereof -- from *both* sides when deciding this case.

⁶ Both expert witnesses testified that Ms. Povacz has conditions that were caused by exposure to RF transmission. If this is the true scenario – that they have never seen any medical records to support that conclusion -- this also raises the very troubling question of how they formed that opinion.

4. Conclusion

Despite PECO's timely and diligent efforts to obtain these key documents, Complainant has not answered this discovery in good faith. If she has the requested medical records, she should provide them. If she doesn't have them, she should get them from her doctors. If they don't exist, she should say so.

PECO has been requesting these documents since February 2016. It has met nothing but resistance and now, twelve days before it is required to file its expert testimony, it finds it necessary to resort to this Motion. Based on the information and timelines set forth above, PECO respectfully request that Your Honors order Ms. Povacz, by Wednesday, May 11, to either provide the requested medical records or state in a verified answer that no such records exist.

Respectfully submitted,



Ward Smith
Assistant General Counsel
PECO Energy Company
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May 6, 2016

Shawane Lee
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PECO Energy Company
215-841-6841
shawane.lee@exeloncorp.com

Tom Watson
Watson & Renner
202-258-6577
tw@w-r.com

**BEFORE THE PENNSYLVANIA
PUBLIC UTILITY COMMISSION**

Maria Povacz

v.

Docket No. C-2015-2475023

PECO Energy Company

STIPULATED PROTECTIVE AGREEMENT

This Agreement, is between and among Maria Povacz ("Povacz" or "Complainant"); and PECO Energy Company ("PECO") in connection to the above-captioned proceeding ("Proceeding"). This Agreement establishes procedures for the protection of certain confidential information involved in the Proceeding.

Intending to be legally bound, the parties hereby agree as follows:

1. That the information subject to this Stipulated Protective Agreement is all correspondence, documents, data, personal health information, studies, and other materials to be furnished by Complainant's medical providers pursuant to PECO's interrogatories to Complainant as to her health conditions, and which Complainant's medical providers may provide to PECO pursuant to a release signed by Complainant. Such materials will be referred to below as "Confidential Information." When a statement or exhibit is identified for the record, the portions thereof that constitute Confidential Information shall be so designated for the record.

2. All Confidential Information shall only be made available to counsel for PECO subject to the terms of this Stipulated Protective Agreement. PECO counsel shall use or disclose the Confidential Information only for purposes of preparing or presenting evidence, cross examination or argument in this Proceeding. To the extent required for participation in this

and PECO personnel
working on this matter ✓ VLS
CGL

proceeding, counsel for PECO may afford access to Confidential Information made available by Complainant, her witnesses and medical providers only to PECO's Experts, and only subject to the terms of this Stipulated Protective Agreement.

3. That, prior to making Confidential Information available to an expert as provided in paragraph 2, PECO shall deliver a copy of this Stipulated Protective Agreement to such expert and shall receive a written acknowledgment from the expert in the form attached as Appendix A to this Stipulated Protective Agreement or similar acknowledgment consistent with the terms of this Stipulated Protective Agreement. Complainant shall be notified promptly of the identity of all persons provided access to Confidential Information pursuant to this paragraph and paragraph 2 and shall be provided with a copy of each acknowledgment signed by each expert.

4. PECO shall use its best efforts to safeguard the Confidential Information and not disclose any Confidential Information except as provided herein. PECO agrees to give Complainant written notice within five (5) days of PECO's discovery of any unintentional disclosure of the Confidential Information and PECO shall cooperate with Complainant and her attorney to rectify to the extent possible, any damage to Complainant for unintentional disclosure of Confidential Information.

5. PECO acknowledges that all health information it receives from Complainant's healthcare providers pursuant to PECO's interrogatory requests is Confidential Information, and PECO shall mark each page of such documents "Confidential" and shall keep all Confidential Information segregated from its general litigation files in a secure location.

6. To the extent Confidential Information is provided electronically or by e-mail, or other electronic means, PECO and its experts will send such information encrypted, and will use such electronic files only for this Proceeding, will not copy the files onto any hard drive and will not make any additional copies.

7. Any public reference to Confidential Information by PECO or its experts shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Confidential Information to understand fully the reference, but not more. The Confidential Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review but shall remain in a segregated location and shall be prominently marked "CONFIDENTIAL".

8. That part of any record of this Proceeding containing Confidential Information, including but not limited to all exhibits, writings, direct testimony, cross examination, argument, and responses to discovery, and including reference thereto as mentioned in paragraph 7 above, shall be sealed for all purposes, including administrative and judicial review, unless such Confidential Information is released from the restrictions of this Stipulated Protective Agreement, either through the agreement of the parties to this Stipulated Protective Agreement or pursuant to an order of an Administrative Law Judge or the Commission.


9. That within thirty (30) days after a Commission decision is entered in the Proceedings, or in the event of appeals, within thirty (30) days after appeals are finally decided, PECO and PECO's experts, upon request, shall either destroy or return to Complainant all copies of all documents and other materials not entered into the record, including notes, electronic or e-mailed files, which contain any Confidential Information. In the event that PECO elects to destroy all copies of documents and other materials containing Confidential Information instead of returning the copies of documents and other materials containing Confidential Information to Complainant, PECO shall certify in writing to Complainant that all the Confidential Information has been destroyed.

Agreed:

Maria Povacz

PECO Energy Company

By: 
Edward G. Lanza, Esq.
Counsel for Complainant

By: 
Ward L. Smith, Esq.
Counsel for PECO

Date: May 3, 2016

Date: May 4, 2016

APPENDIX A

**BEFORE THE PENNSYLVANIA
PUBLIC UTILITY COMMISSION**

Maria Povacz

v.

Docket No. C-2015-2475023

PECO Energy Company

**ACKNOWLEDGMENT OF
STIPULATED PROTECTIVE AGREEMENT**

TO WHOM IT MAY CONCERN:

The undersigned is _____ for PECO, in the Proceeding as defined in the Stipulated Protective Agreement. The undersigned has read and understands the Stipulated Protective Agreement agreed to in the Proceeding, which Stipulated Protective Agreement deals with the treatment of Confidential Information. The undersigned agrees to be bound by, and comply with, the terms and conditions of said Stipulated Protective Agreement.

NAME

ADDRESS

EMPLOYER

DATE: _____

AUTHORIZATION TO RELEASE MEDICAL RECORDS

I, Maria Povacz ("Patient"), authorize the health care provider listed below to release medical records in its custody and control which relate to my care and treatment by the health care provider.

Patient Information:

Maria Povacz
533 Tori Court
New Hope, PA 18938
Date of Birth: 03 / 01 / 37

Information regarding health care provider authorized to disclose this information:

Hanoch Talmor, M.D.
Gainesville Holistic Center
4140-C NW 27th Lane
Gainesville, FL 32606
Tel: (352) 377-0015

Dr. Karl Maret
9099 Soquel Drive
Aptos, CA 95003
Tel: (831)662-8421

Information regarding person or entity who can receive and use this information:

Ward Smith, Esq.
PECO Energy Company
2301 Market Street, S-23
Philadelphia, PA 19103
215-841-6863
ward.smith@exeloncorp.com

Specific information to be disclosed:

Please provide all medical records that meet any of the following criteria:

- (a) Any medical record that states that Patient, or any resident in Patient's household, has a medical or health condition that was caused by exposure to radio frequency fields
- (b) Any medical record that states that Patient, or any resident in Patient's household, has a medical or health condition that was exacerbated by exposure to radio frequency fields;
- (c) Any medical record that states that exposure to radio frequency fields could cause Patient, or any resident in Patient's household, to develop a new medical or health condition;
- (d) Any medical record that states that exposure to radio frequency fields could exacerbate any existing medical or health condition of Patient, or any resident in Patient's household;
- (e) Any medical record that states that Patient, or any resident in Patient's household, has sensitivity or hypersensitivity to electromagnetic fields, radio frequency fields, or any similar diagnosis (a "Sensitivity Diagnosis").

(f) If there is no medical record setting forth the Sensitivity Diagnosis, please state the first date on which such Sensitivity Diagnosis was made by a medical professional, and state the name and address of the medical professional who rendered that diagnosis.

(g) For each member of Patient's household with a Sensitivity Diagnosis, please describe and provide a copy of the results of all diagnostic tests that support the Sensitivity Diagnosis.

(h) For each member of Patient's household with a Sensitivity Diagnosis, please describe the symptoms experienced by that person, and state the date (by approximate month and year) that the Individual first began to experience those symptoms.

Reason for release of information:

Legal Purposes – Patient is a complainant in a legal proceeding before the Pennsylvania Public Utility Commission. Her medical condition is an issue in the case and her medical records are needed for the proceeding.

The individual signing this form agrees and acknowledges as follows:

(i) Voluntary Authorization: This authorization is voluntary. Treatment, payment, enrollment or eligibility for benefits (as applicable) will not be conditioned upon my signing of this authorization form.

(ii) Effective Time Period: This authorization shall be in effect until the earlier of two (2) years after the death of the patient for whom this authorization is made or the following specified date: December 31, 2016.

(iii) Right to Revoke: I understand that I have the right to revoke this authorization at any time by writing to the health care provider or health care entity listed above. I understand that I may revoke this authorization except to the extent that action has already been taken based on this authorization.

(iv) Special Information: This authorization may include disclosure of information relating to DRUG, ALCOHOL and SUBSTANCE ABUSE, MENTAL HEALTH INFORMATION, except psychotherapy notes, CONFIDENTIAL HIV/AIDS-RELATED INFORMATION, and GENETIC INFORMATION only if I specifically authorize the release of such information. In the event the health information described above includes any of these types of information, and I have not objected to the release of such information, I specifically authorize release of such information to the person or entity indicated herein.

(v) Signature Authorization: I have read this form and agree to the uses and disclosure of the information as described. I understand that refusing to sign this form does not stop disclosure of health information that has occurred prior to revocation or that is otherwise permitted by law without my specific authorization or permission. I understand that information disclosed pursuant to this authorization may be subject to re-disclosure by the recipient pursuant to a Protective Agreement between Patient and recipient.

SIGNATURE:



Maria Povacz, Patient

Date: May 4, 2016

Legal Department
2301 Market Street / S23-1
P.O. Box 8699
Philadelphia, PA 19101-8699

Direct Dial: 215-841-6863

May 4, 2016

VIA FEDERAL EXPRES

Hanoch Talmor, M.D.
Gainesville Holistic Center
4140-C NW 27th Lane
Gainesville, FL 32606

RE: Request for Medical Records for Patient Maria Povacz

Dear Dr. Talmor:

As you know, your patient Maria Povacz has filed a formal complaint at the Pennsylvania Public Utility Commission against PECO Energy Company. In that complaint, Ms. Povacz has stated that a PECO smart meter made her ill or will make her ill. You submitted written pre-filed testimony in that proceeding.

Ms. Povacz has authorized you to release certain medical records to me. (See attachment). Please send these records at your earliest convenience, but in any event no later than May 9, 2016.

I would prefer to receive the records via email at ward.smith@exeloncorp.com. Alternatively, you may fax them to 215-568-3389. As a last resort, send them by overnight delivery to:

Ward Smith
Assistant General Counsel
PECO Energy Company
2301 Market Street
S23-1
Philadelphia, PA 19103

Please call me at 215-841-6863 if you have any questions. Thank you in advance for your prompt attention to this matter.



Ward L. Smith
Counsel for PECO Energy Company
WS/ab
Enclosure

AUTHORIZATION TO RELEASE MEDICAL RECORDS

I, Maria Povacz ("Patient"), authorize the health care provider listed below to release medical records in its custody and control which relate to my care and treatment by the health care provider.

Patient Information:

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533 Gori Court
New Hope, PA 18938
Date of Birth: 03 / 01 / 77

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Dr. Karl Maret
9099 Soquel Drive
Aptos, CA 95003
Tel: (831)662-8421

Information regarding person or entity who can receive and use this information:

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PECO Energy Company
2301 Market Street, S-23
Philadelphia, PA 19103
215-841-6863
ward.smith@exeloncorp.com

Specific information to be disclosed:

Please provide all medical records that meet any of the following criteria:

- (a) Any medical record that states that Patient, or any resident in Patient's household, has a medical or health condition that was caused by exposure to radio frequency fields
- (b) Any medical record that states that Patient, or any resident in Patient's household, has a medical or health condition that was exacerbated by exposure to radio frequency fields;
- (c) Any medical record that states that exposure to radio frequency fields could cause Patient, or any resident in Patient's household, to develop a new medical or health condition;
- (d) Any medical record that states that exposure to radio frequency fields could exacerbate any existing medical or health condition of Patient, or any resident in Patient's household;
- (e) Any medical record that states that Patient, or any resident in Patient's household, has sensitivity or hypersensitivity to electromagnetic fields, radio frequency fields, or any similar diagnosis (a "Sensitivity Diagnosis").

(f) If there is no medical record setting forth the Sensitivity Diagnosis, please state the first date on which such Sensitivity Diagnosis was made by a medical professional, and state the name and address of the medical professional who rendered that diagnosis.

(g) For each member of Patient's household with a Sensitivity Diagnosis, please describe and provide a copy of the results of all diagnostic tests that support the Sensitivity Diagnosis.

(h) For each member of Patient's household with a Sensitivity Diagnosis, please describe the symptoms experienced by that person, and state the date (by approximate month and year) that the Individual first began to experience those symptoms.

Reason for release of information:

Legal Purposes – Patient is a complainant in a legal proceeding before the Pennsylvania Public Utility Commission. Her medical condition is an issue in the case and her medical records are needed for the proceeding.

The individual signing this form agrees and acknowledges as follows:

(i) Voluntary Authorization: This authorization is voluntary. Treatment, payment, enrollment or eligibility for benefits (as applicable) will not be conditioned upon my signing of this authorization form.

(ii) Effective Time Period: This authorization shall be in effect until the earlier of two (2) years after the death of the patient for whom this authorization is made or the following specified date: December 31, 2016.

(iii) Right to Revoke: I understand that I have the right to revoke this authorization at any time by writing to the health care provider or health care entity listed above. I understand that I may revoke this authorization except to the extent that action has already been taken based on this authorization.

(iv) Special Information: This authorization may include disclosure of information relating to DRUG, ALCOHOL and SUBSTANCE ABUSE, MENTAL HEALTH INFORMATION, except psychotherapy notes, CONFIDENTIAL HIV/AIDS-RELATED INFORMATION, and GENETIC INFORMATION only if I specifically authorize the release of such information. In the event the health information described above includes any of these types of information, and I have not objected to the release of such information, I specifically authorize release of such information to the person or entity indicated herein.

(v) Signature Authorization: I have read this form and agree to the uses and disclosure of the information as described. I understand that refusing to sign this form does not stop disclosure of health information that has occurred prior to revocation or that is otherwise permitted by law without my specific authorization or permission. I understand that information disclosed pursuant to this authorization may be subject to re-disclosure by the recipient pursuant to a Protective Agreement between Patient and recipient.

SIGNATURE:



Maria Povacek Patient

Date: May 4, 2016

Legal Department
2301 Market Street / S23-1
P.O. Box 8699
Philadelphia, PA 19101-8699

Direct Dial: 215-841-6863

May 4, 2016

VIA FEDERAL EXPRES

Dr. Karl Maret
9099 Soquel Drive
Aptos, CA 95003

RE: Request for Medical Records for Patient Maria Povacz

Dear Dr. Maret:

As you may know, your patient Maria Povacz has filed a formal complaint at the Pennsylvania Public Utility Commission against PECO Energy Company. In that complaint, Ms. Povacz has stated that a PECO smart meter made her ill or will make her ill.

Ms. Povacz has authorized you to release certain medical records to me. (See attachment). Please send these records at your earliest convenience, but in any event no later than May 9, 2016.

I would prefer to receive the records via email at ward.smith@exeloncorp.com. Alternatively, you may fax them to 215-568-3389. As a last resort, send them by overnight delivery to:

Ward Smith
Assistant General Counsel
PECO Energy Company
2301 Market Street
S23-1
Philadelphia, PA 19103

Please call me at 215-841-6863 if you have any questions. Thank you in advance for your prompt attention to this matter.



Ward L. Smith
Counsel for PECO Energy Company
WS/ab
Enclosure

AUTHORIZATION TO RELEASE MEDICAL RECORDS

I, Maria Povacz ("Patient"), authorize the health care provider listed below to release medical records in its custody and control which relate to my care and treatment by the health care provider.

Patient Information:

Maria Povacz
533 Tori Court
New Hope, PA 18938
Date of Birth: 03 / 01 / 77

Information regarding health care provider authorized to disclose this information:

Hanoch Talmor, M.D.
Gainesville Holistic Center
4140-C NW 27th Lane
Gainesville, FL 32606
Tel: (352) 377-0015

Dr. Karl Maret
9099 Soquel Drive
Aptos, CA 95003
Tel: (831)662-8421

Information regarding person or entity who can receive and use this information:

Ward Smith, Esq.
PECO Energy Company
2301 Market Street, S-23
Philadelphia, PA 19103
215-841-6863
ward.smith@exeloncorp.com

Specific information to be disclosed:

Please provide all medical records that meet any of the following criteria:

- (a) Any medical record that states that Patient, or any resident in Patient's household, has a medical or health condition that was caused by exposure to radio frequency fields
- (b) Any medical record that states that Patient, or any resident in Patient's household, has a medical or health condition that was exacerbated by exposure to radio frequency fields;
- (c) Any medical record that states that exposure to radio frequency fields could cause Patient, or any resident in Patient's household, to develop a new medical or health condition;
- (d) Any medical record that states that exposure to radio frequency fields could exacerbate any existing medical or health condition of Patient, or any resident in Patient's household;
- (e) Any medical record that states that Patient, or any resident in Patient's household, has sensitivity or hypersensitivity to electromagnetic fields, radio frequency fields, or any similar diagnosis (a "Sensitivity Diagnosis").

(f) If there is no medical record setting forth the Sensitivity Diagnosis, please state the first date on which such Sensitivity Diagnosis was made by a medical professional, and state the name and address of the medical professional who rendered that diagnosis.

(g) For each member of Patient's household with a Sensitivity Diagnosis, please describe and provide a copy of the results of all diagnostic tests that support the Sensitivity Diagnosis.

(h) For each member of Patient's household with a Sensitivity Diagnosis, please describe the symptoms experienced by that person, and state the date (by approximate month and year) that the Individual first began to experience those symptoms.

Reason for release of information:

Legal Purposes – Patient is a complainant in a legal proceeding before the Pennsylvania Public Utility Commission. Her medical condition is an issue in the case and her medical records are needed for the proceeding.

The individual signing this form agrees and acknowledges as follows:

(i) **Voluntary Authorization:** This authorization is voluntary. Treatment, payment, enrollment or eligibility for benefits (as applicable) will not be conditioned upon my signing of this authorization form.

(ii) **Effective Time Period:** This authorization shall be in effect until the earlier of two (2) years after the death of the patient for whom this authorization is made or the following specified date: December 31, 2016.

(iii) **Right to Revoke:** I understand that I have the right to revoke this authorization at any time by writing to the health care provider or health care entity listed above. I understand that I may revoke this authorization except to the extent that action has already been taken based on this authorization.

(iv) **Special Information:** This authorization may include disclosure of information relating to DRUG, ALCOHOL and SUBSTANCE ABUSE, MENTAL HEALTH INFORMATION, except psychotherapy notes, CONFIDENTIAL HIV/AIDS-RELATED INFORMATION, and GENETIC INFORMATION only if I specifically authorize the release of such information. In the event the health information described above includes any of these types of information, and I have not objected to the release of such information, I specifically authorize release of such information to the person or entity indicated herein.

(v) **Signature Authorization:** I have read this form and agree to the uses and disclosure of the information as described. I understand that refusing to sign this form does not stop disclosure of health information that has occurred prior to revocation or that is otherwise permitted by law without my specific authorization or permission. I understand that information disclosed pursuant to this authorization may be subject to re-disclosure by the recipient pursuant to a Protective Agreement between Patient and recipient.

SIGNATURE:



Maria Povacz, Patient

Date: May 4, 2016

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Maria Povacz

v.

PECO Energy Company

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:
:
:
:

Docket No. C-2015-2475023

CERTIFICATE OF SERVICE

I, Ward L. Smith, hereby certify that I have this day served a copy of PECO's Emergency

Motion to Compel the Production of Medical Records via e-mail to:

Ed Lanza, Esquire
The Lanza Firm, LLC
P.O. Box 61336
Harrisburg, PA 17106

Dated at Philadelphia, Pennsylvania, May 6, 2016



Ward L. Smith
Counsel for PECO Energy Company
2301 Market Street, S23-1
Philadelphia, PA 19101-8699
(215) 841-6863
Fax: 215.568.3389
Ward.Smith@exeloncorp.com