



An Exelon Company

Legal Department
2301 Market Street / S23-1
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August 11, 2017

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

**RE: Simona Walsh v. PECO Energy Company
PUC Docket No. C-2016-2538015**

Dear Ms. Chiavetta:

Enclosed for filing with the Commission is the *Motion of PECO Energy Company to Compel Answers to Interrogatories and Requests for Production of Documents* with regard to the matter referenced above.

I have enclosed a Certificate of Service showing that a copy of the above document was served on the interested parties. Thank you for your time and attention on this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Shawane Lee", with a long horizontal flourish extending to the right.

Shawane Lee
Counsel for PECO Energy Company

SL/alb
Enclosure

cc: Honorable Darlene D. Heep, ALJ
Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

SIMONA WALSH	:	
Complainant	:	
v.	:	DOCKET NO. C-2016-2538015
	:	
PECO ENERGY COMPANY	:	
Respondent	:	

**MOTION OF PECO ENERGY COMPANY
TO COMPEL ANSWERS TO INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS**

Pursuant to 52 Pa. Code § 5.432(g), Respondent, PECO Energy Company (“PECO”) hereby requests that the Commission compel full and complete answers to Respondent’s Interrogatories and Requests for Production of Documents Set I (“Set I Interrogatories”), which were served on April 21, 2017. PECO’s Interrogatories are attached as Exhibit A.

I. BACKGROUND

On or about March 28, 2016, Complainant filed a Formal Complaint alleging that her husband has vertigo and her mother has a pacemaker so they may be sensitive to emissions from PECO’s AMI meter. The Complainant asked the Commission to prevent PECO from installing an electric AMI meter on her premises.

In the Answer, filed on or about April 18, 2016, PECO denies the substantive allegations in the Complaint and claims that under Act 129 and the Commission’s Orders there are no “opt-outs” to smart meter installation.

On June 7, 2017, Administrative Law Judge Darlene D. Heep issued a Prehearing Order, setting the exchange of all exhibits by September 18, 2017. A hearing is scheduled to take place on September 27 and September 28.

On April 21, 2017, PECO served upon Complainant its Set I Interrogatories and Requests for Production of Documents, which contained five (5) questions and/or document requests. To date, PECO has not received Complainant's responses to the company's discovery. PECO respectfully requests that the Commission issue an Order compelling Complainant to answer the questions in the Set I Interrogatories and produce the documents, including medical documentation, requested in discovery. In support of its Motion to Compel, PECO states the following:

II. LEGAL STANDARD

The Commonwealth Court of Pennsylvania has stated that “[d]iscovery itself is designed to promote free sharing of information so as to narrow the issues and limit unfair surprise. It is a tool which serves each litigant and promotes judicial economy.” *See Pittsburgh Bd. of Public Educ. V. M.J.N. by N.J.*, 105 Pa. Cmwlth. Ct. 397, 403, 524 A.2d 1385, 1388 (Pa. Commw. Ct. 1987).

Under the Commission's regulations, the scope of discovery is broad. Section 5.321 outlines the cope of discovery as follows:

- (c) **Scope.** Subject to this subchapter, a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of another party, including the existence, description, nature, content, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of a discoverable matter. It is not grounds for objection that the information sought will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

52 Pa. Code § 5.321(c).

III. THE INFORMATION PECO SEEKS IN IT'S DISCOVERY REQUESTS IS REQUIRED FOR THE COMPANY TO DEFEND AGAINST THE COMPLAINANT'S ALLEGATIONS

The Commission should issue an Order compelling Complainant to answer Set I Interrogatories fully and without reservation and to provide the documents, including the medical documents requested. In accordance with Section 5.321(c) of the Commission's regulations, parties may obtain discovery of any unprivileged matter which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of another party. 52 Pa. Code §5.321(c).

PECO seeks information regarding the devices, appliances and equipment in Complainant's home, including cell phones that produce –radio-frequency fields. PECO additionally seeks information regarding the cellphone usage in the Complainant's household and medical records relevant to the health conditions alleged. The information requested is relevant to this proceeding, as the Complainant alleges that her mother and husband are uniquely sensitive to environmental factors such as radio-frequency (“RF”); and the installation of the AMI electric meter would be harmful to them. For the reasons set forth below, the Presiding Officer should compel Complainant to answer PECO's interrogatories and requests for production of documents.

A. Information regarding Complainant's devices, appliances and equipment used in the home that produce radio-frequency fields; cell phone usage in the home and supporting medical records is relevant and should be provided in response to PECO discovery.

The interrogatories and document requests to which Complainant has failed to respond concern whether there are devices, appliances and equipment in the Complainant's home that produce RF and cell phone usage in the home and medical records of the alleged health conditions. Complainant alleges that her mother and husband are uniquely sensitive to RF and

will have health effects from PECO's AMI meter. PECO's interrogatories are designed to elicit whether there are other devices, appliances or equipment already in the home that emit radio-frequency, and whether there is cell phone usage in the home. This is critical information the company needs to know. If there have been symptoms experienced from EMF, this is directly related to the Complainant's case and PECO requires this information to properly defend against Complainant's claims. Any medical records documenting any health conditions the Complainant claims are germane to the key issues in this case. It is important that Complainant share this information in order for the Commission to make a judgment about the relative safety of the AMI meter and the effect it may have on the Complainant's mother and husband.

The Complainant has initiated this complaint against PECO and the company requires this information to defend against the Complainant's complaint. Without this information, PECO will be prejudiced in the company's defense against Complainant's claims that her mother and husband may have adverse health effects resulting from PECO's AMI meter.

IV. CONCLUSION

WHEREFORE, for the reasons set forth above, PECO respectfully requests the Presiding Officer and the Commission: (a) grant this Motion; (b) compel Complainant to answer PECO's Set I Interrogatories and Requests for Production of Documents in full; and (c) grant any other relief deemed just and proper under the circumstances.

Respectfully submitted,



**Ward Smith, Assistant General Counsel
Shawane Lee, Assistant General Counsel
2301 Market Street, S-23
Philadelphia, PA 19103
215-841-6863
215-568-3389 [fax]
shawane.lee@exeloncorp.com
Counsel for PECO Energy**

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

SIMONA WALSH	:	
Complainant	:	
v.	:	DOCKET NO. C-2016-2538015
	:	
PECO ENERGY COMPANY	:	
Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that on this day I served a copy of the Motion to Compel of PECO Energy upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via Email and/or First Class Mail

Dr. Simona Walsh
2278 Warner Road
Lansdale, PA 19446
Via First Class Mail
Via Email: simonawalsh@gmail.com

Hon. Darlene D. Heep
Administrative Law Judge
PA Public Utility Commission
801 Market Street, Suite 4063
Philadelphia, PA 19107
Via Email: dheep@pa.gov

Date: August 11, 2017



Shawane L. Lee
Counsel for PECO Energy Company
2301 Market Street, S23-1
Philadelphia, PA 19103
(215) 841-6841
Fax: 215.568.3389
Shawane.Lee@exeloncorp.com

EXHIBIT A



An Exelon Company

Legal Department
2301 Market Street / 323-1
P.O. Box 8899
Philadelphia, PA 19101-8899

Direct Dial: 215.841.6841

April 21, 2017

VIA FIRST CLASS MAIL

Simona Walsh
2278 Warner Road
Lansdale, PA 19446

**RE: Simona Walsh v. PECO Energy Company
FUC Docket No.: C-2016-2538015**

Dear Ms. Walsh:

Enclosed please find Respondent, PECO Energy Company's Interrogatories and Requests for Production of Documents, Set I.

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Shawane Lee".

Shawane Lee
Counsel for PECO Energy Company

SL/ab
Enclosure

PENNSYLVANIA PUBLIC UTILITY COMMISSION

SIMONA WALSH
Complainant
v.

DOCKET NO. C-2016-2530015

PECO ENERGY COMPANY
Respondent

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NOTICE TO FLEAD

To: Simona Walsh

Pursuant to 52 Pa. Code §5.342, you are hereby notified that you must object within 5 days or within 20 days from service of this notice. You must provide a full copy of any objection or answer to counsel for PECO. If you serve an objection or answers, you may not file the substance of such objection or answer with the Commission or the Administrative Law Judge; however, you must file a certificate of service with the Secretary of the Pennsylvania Public Utility Commission with the Administrative Law Judge, evidencing the service of such objection or answer on PECO.

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

Dated at Philadelphia, PA, April 21, 2017



Ward Smith
Shawano L. Lee
Assistant General Counsel
PECO Energy Company
2301 Market Street S23-1
Philadelphia, PA 19103
215-841-6863

PENNSYLVANIA PUBLIC UTILITY COMMISSION

SIMONA WALSH

Complainant

v.

PECO ENERGY COMPANY

Respondent

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DOCKET NO. C-2016-2538015

**Respondent, PECO Energy Company's Interrogatories and
Requests for Production of Documents, Set I
Directed to Complainant, Simona Walsh**

Respondent PECO Energy Company ("PECO") hereby submits the following Interrogatories and Requests for Production of Documents, Set 1, upon Complainant Simona Walsh, to be answered separately and fully in writing and under oath in accordance with 52 Pa. Code §§ 5.341 and 5.349 of the rules and regulations of the Pennsylvania Public Utility Commission.

These Interrogatories are addressed to you as a party to this action; your answers shall be based upon information known to you or in the possession, custody or control of you, your attorney or other representative acting on your behalf whether in preparation for litigation or otherwise. These Interrogatories must be answered completely and specifically by you in writing and must be verified. The fact that investigation is continuing or that discovery is not complete shall not be used as an excuse for failure to answer each interrogatory as completely as possible. The omission of any name, fact, or other item of information from the Answers shall be deemed a representation that such name, fact, or other item was not known to Respondent(s), their counsel, or other representatives at the time of service of the answers.

PECO Interrogatory 1-1:

Please identify the type (with make and model) of all devices, appliances and equipment used in Complainant's home that produce radio-frequency fields, including cell phones, microwave ovens, wireless internet access, and WiFi routers.

FECO Interrogatory 1-2:

Please identify whether the Complainant and any member of the Complainant's household uses a cell phone? If so, provide the make and model of each cell phone owned or used by any member of the household and, for each such phone identified, provide six months of phone bills or other usage records with sufficient detail to show actual usage for that period.

FECO Interrogatory 1-3:

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 FECCO's AMI meter.

FECO Interrogatory 1-4:

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 radiofrequency 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.

PECO Interrogatory 1-5:

In your formal complaint, you state that "a gas smart meter was already installed at [your] home." Please state whether you or any member of your household has experienced any symptoms from the gas smart meter, and state the date that you first began to experience those symptoms.



**Ward Smith
Shawnee L. Lee
Assistant General Counsel
PECO Energy Company
2301 Market Street S-23
Philadelphia, PA 19103
215-841-6863
Ward.Smith@peconcorp.com**

Dated: April 21, 2017



**PENNSYLVANIA
PUBLIC UTILITY COMMISSION**

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Your filing has been electronically received. Upon review of the filing for conformance with the Commission's filing requirements, a notice will be issued acknowledging such compliance and assigning a Docket Number. The matter will receive the attention of the Commission and you will be advised if any further action is required on your part.

Print this page for your records. The date filed on will be the current day if the filing occurs on a business day before or at 4:30 PM Harrisburg, PA time. It will be the next business day if the filing occurs after 4:30 PM Harrisburg, PA time or on weekends or holidays.

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eFiling Confirmation	
Docket Number:	C-2016-2538015
Description:	Simona Walsh v. FECO Energy Company Certificate of Service
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Simona Walsh - Cert of Service.pdf	Other Filing	Certificate of Service

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April 21, 2017

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

RE: Simmons Walsh v. PECO Energy Company
FUC Docket No.: C-2016-2538015

Dear Ms. Chiavetta:

Enclosed for filing with the Commission is the *Certificate of Service* for PECO Energy Company's Interrogatories and Requests for Production of Documents, Set I.

Very truly yours,



Shawna Lee
Counsel for PECO Energy Company

cc: Certificate of Service

SL/nb
Enclosure

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SIMONA WALSH
Complainant
v.

DOCKET NO. C-2016-2538015

PECO ENERGY COMPANY
Respondent

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CERTIFICATE OF SERVICE

Shawane L. Lee, Esquire, hereby certifies that the Interrogatories and Requests for Production of Documents Directed to the Complainant, Simona Walsh was served this date upon all counsel and parties listed below, by placing same in the United States first class mail, postage prepaid and via email.

Simona Walsh
2278 Warner Road
Lansdale, PA 19446
Via First Class Mail



Ward Smith
Shawane L. Lee
Assistant General Counsel
PECO Energy Company

Dated: April 21, 2017