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November 1, 2017

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

**RE: Thomas E. Doughty v. PECO Energy Company  
PUC Docket No. C-2017-2616245**

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,



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**

Thomas E. Doughty

v.

Docket No. C-2017-2616245

PECO Energy Company

**MOTION OF PECO ENERGY COMPANY  
TO DISMISS COMPLAINANT’S OBJECTIONS AND  
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 dismiss the Objections (“Objections”) by Complainant, Thomas Doughty (“Complainant”) and compel full and complete answers to Respondent’s Interrogatories and Requests for Production of Documents Set I (“Set I Interrogatories”), which were served on October 16, 2017. PECO’s Interrogatories are attached as Exhibit A. A copy of the Complainant’s Objections to Interrogatories is attached as Exhibit B.

**I. BACKGROUND**

On or about July 24, 2017, Complainant filed a Formal Complaint alleging, among other things, that his wife is a cancer survivor and “microwave radiation” from PECO’s AMI meter is a threat to his family’s health. The Complainant asked the Commission to prevent PECO from installing an electric AMI meter on his premises.

In the Answer filed on or about August 11, 2017, 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 August 31, 2017, Administrative Law Judge Darlene D. Heep issued a Prehearing Order, scheduling the case for hearing. A hearing is scheduled to take place in 2018 on February 13 and February 14.

On October 16, 2017, PECO served upon Complainant its Set I Interrogatories and Requests for Production of Documents, which contained three (3) questions and/or document requests. On October 30, 2017, PECO received correspondence from the Complainant, objecting to PECO's discovery requests. A copy of Complainant's correspondence is attached hereto as Exhibit "B. In his objection, Complainant states "I object to the questions listed in Respondent's discovery requests." To date, PECO has not received Complainant's responses to the company's discovery.

PECO respectfully submits that Complainant's Objections to PECO's Interrogatories and Requests have no basis and requests that the same be dismissed. 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. COMPLAINANT’S OBJECTIONS ARE BASELESS AND SHOULD BE DISMISSED.**

Complainant objects to PECO’s Interrogatories and Requests and states no grounds as to why he will not produce the documents requested by PECO. These objections should be rejected and 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 whether the Complainant or any household member has experienced symptoms from radio frequency. The information requested is relevant to this proceeding, as the Complainant alleges that his wife is a cancer survivor and she is uniquely sensitive to “microwave radiation”; and the

installation of the AMI electric meter would be harmful to his wife and family members. For the reasons set forth below, the Presiding Officer should dismiss Complainant's Objections and compel Complainant to answer PECO's interrogatories.

**A. Information regarding Complainant's devices, appliances and equipment used in the home that produce electromagnetic frequency fields; cell phone usage in the home and whether the Complainant or a household member has experienced symptoms from radiofrequency and supporting medical records is relevant and should be provided in response to PECO discovery.**

The interrogatories to which Complainant objects deals with whether there are devices, appliances and equipment in the Complainant's home that produce electromagnetic frequency; cell phone usage in the home, and whether the Complainant or a household member has experienced symptoms from electromagnetic frequency. Complainant alleges that his wife is uniquely sensitive as a cancer survivor 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 radiofrequency, and whether there is cell phone usage in the home. At this point, there is no information as to whether there are any devices, appliances or equipment or cell phone usage in the Complainant's home - perhaps the Complainant has no devices in his home that emit electromagnetic frequency. This is critical information the company needs to know. If there have been symptoms experienced from electromagnetic frequencies, this is directly related to the Complainant's case and PECO requires this information to properly defend against Complainant's claims. The Complainant's medical records documenting any health condition arising from sensitivity to electromagnetic frequencies; and records of the health conditions the Complainant claims is relevant and 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, his wife and family members.

Complainant objects to PECO's discovery without providing any basis for his objection. However, 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 he, his wife and family 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) overrule the Objections of Complainant; (c) compel Complainant to answer PECO's Set I Interrogatories and Requests for Production of Documents in full; and (d) grant any other relief deemed just and proper under the circumstances.

Respectfully submitted,



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PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Docket No. C-2017-2616245

PECO Energy Company

**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

Thomas E. Doughty  
872 Spring City Road  
Phoenixville, PA 19460

Hon. Darlene D. Heep  
Administrative Law Judges  
PA Public Utility Commission  
801 Market Street, Suite 4063  
Philadelphia, PA 19107

Date: November 1, 2017



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# EXHIBIT A

# EXHIBIT B