

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

Direct Dial: 215.841.6841

November 3, 2017

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

**RE: Eric and Susan Benedetti v. PECO Energy Company
PUC Docket No. C-2016-2572597**

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**

Eric and Susan Benedetti

v.

Docket No. C-2016-2572597

PECO Energy Company

**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 October 2, 2017. PECO’s Interrogatories are attached as Exhibit A.

I. BACKGROUND

On or about October 19, 2016, Complainants filed a Formal Complaint alleging, among other things, that PECO’s AMI meter causes cancer and other illnesses and asking the Commission to prevent PECO from installing an electric AMI meter on their premises.

In the Answer and Preliminary Objection, filed on or about November 14, 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 April 25, 2017, Administrative Law Judge Darlene D. Heep issued an Order, dismissing PECO’s Preliminary Objection stating “Complainants who cannot personally testify to as to the health and safety effects of smart meters could make out their claims through the testimony of others and through evidence that goes to that issue.” A hearing is scheduled to take place on December 7 and December 8.

On October 2, 2017, PECO served upon Complainants its Set I Interrogatories and Requests for Production of Documents, which contained eight (8) questions and/or document requests. To date, PECO has not received Complainants' responses to the company's discovery. On November 3, 2017, PECO reached out to the Benedettis by telephone and requested the status of the discovery. Mrs. Benedetti advised the discovery had been electronically filed with the Commission. PECO reviewed the docket and the docket does not reflect discovery electronically filed by the Benedettis and PECO was not served with a discovery response. To date, the Benedettis have not responded to the company's discovery requests. PECO respectfully requests that the Commission issue an Order compelling Complainants 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 COMPLAINANTS' ALLEGATIONS

The Commission should issue an Order compelling Complainants 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 Complainants' home, including cell phones that produce –radio-frequency fields. PECO additionally seeks information regarding the cellphone usage in the Complainants' household and medical records relevant to the health conditions alleged. The information requested is relevant to this proceeding, as the Complainants allege that the installation of the AMI electric meter would be harmful to their health. For the reasons set forth below, the Presiding Officer should compel Complainants to answer PECO's interrogatories and requests for production of documents.

- A. Information regarding Complainants' 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.**

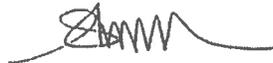
The interrogatories and document requests to which Complainants have failed to respond concern whether there are devices, appliances and equipment in the Complainants' home that produce RF and cell phone usage in the home and medical records of the alleged health condition. Complainants allege that they 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 Complainants' case and PECO requires this information to properly defend against Complainants' claims. Any medical records documenting any health conditions the Complainants claim are germane to the key issues in this case. It is important that Complainants 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 them.

The Complainants have initiated this complaint against PECO and the company requires this information to defend against the Complainants' complaint. Without this information, PECO will be prejudiced in the company's defense against Complainants' claims that they 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 Complainants 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**

Eric and Susan Benedetti

v.

Docket No. C-2016-2572597

PECO Energy Company

CERTIFICATE OF SERVICE

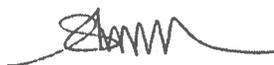
I hereby certify that on this day I served a copy of the Motion to Compel of PECO Energy upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via First Class Mail

Eric Benedetti
Susan Benedetti
3216 Skippack Pike
Worcester, PA 19490
Via First Class Mail

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: November 3, 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



PENNSYLVANIA PUBLIC UTILITY COMMISSION

CONSUMERINFO UTILITY&INDUSTRY FILING&RESOURCES ABOUTPUC CONTACTUS

[Log Off eFiling](#) | [Contact Us](#) | [Search](#)

- [My Filings](#)
- [New Filings](#)
- [Modify Account](#)
- [POR Search](#)
- [eService Directory](#)
- [Subscriptions](#)
- [Technical Assistance](#)
- [eFiling FAQs](#)
- [Log Off](#)

eFiling Successfully Transmitted

Your filing has been electronically received. Upon review of the filing for conformity with the Commission's filing requirements, a notice will be issued acknowledging acceptance or rejection (with reason) of the filing. The matter will receive the attention of the Commission and you will be advised if any further action is required on your part.

The date filed on will be the current day if the filing occurs on a business day before or at 4:30 p.m. (EST). It will be the next business day if the filing occurs after 4:30 p.m. (EST) or on weekends or holidays.

Print this page for your records.



eFiling Confirmation	
Docket Number:	C-2016-2572597
Description:	Eric and Susan Benedetti v. PECO Energy Company Certificate of Service - Interrogatories and Request for Production - Set I
Transmission Date:	10/2/2017 12:12:17 PM
Filed On:	10/2/2017 12:12:17 PM
eFiling Confirmation Number:	1694327

Uploaded File List

File Name	Document Class	Document Type
Benedetti_COS.pdf	Other Filing	Certificate of Service

For filings exceeding 250 pages, the PUC is requiring that filers submit one paper copy to the Secretary's Bureau within three business days of submitting the electronic filing online. Please mail the paper copy along with copy of this confirmation page to Secretary, Pennsylvania



An Exelon Company

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

Direct Dial: 215-841-6841

Email: Shawane.Lee@exeloncorp.com

October 2, 2017

VIA E-FILING

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

**RE: Eric and Susan Benedetti v. PECO Energy Company
Docket No. C-2016-2572597**

Dear Ms. Chiavetta:

Today PECO Energy Company served its Interrogatories and Requests for Production of Documents, Set I, Directed to Complainants in the above-referenced matter. A Certificate of Service evidencing that service is attached for filing.

Very truly yours,

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

Shawane L. Lee
Counsel for PECO Energy Company

SL/ab
Enclosure

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

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ERIC BENEDETTI	:	
SUSAN BENEDETTI	:	
Complainants	:	
v.	:	DOCKET NO. C-2016-2572597
	:	
PECO ENERGY COMPANY	:	
Respondent	:	

CERTIFICATE OF SERVICE

Shawane L. Lee, Esquire, hereby certifies that the Interrogatories and Requests for Production of Documents Directed to the Complainants, Eric and Susan Benedetti 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.

Eric Benedetti
Susan Benedetti
3216 Skippack Pike
Worcester, PA 19490
Via First Class Mail
Via Email: benedetti7@verizon.net
susanbenedetti@verizon.net



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

Dated: October 2, 2017

PENNSYLVANIA PUBLIC UTILITY COMMISSION

ERIC BENEDETTI :
SUSAN BENEDETTI :
 Complainants :
 v. : **DOCKET NO. C-2016-2572597**
 : :
PECO ENERGY COMPANY :
 Respondent :

NOTICE TO PLEAD

To: Eric and Susan Benedetti

Pursuant to 52 Pa. Code §5.342, you are hereby notified that if you have any objections to these questions you must serve those objections, within writing, within 10 days of receipt of this discovery. If you do not object, then you must answer these questions, in full and in writing, 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, October 2, 2017



Shawane L. Lee
Assistant General Counsel
PECO Energy Company
2301 Market Street S23-1
Philadelphia, PA 19103

PENNSYLVANIA PUBLIC UTILITY COMMISSION

ERIC BENEDETTI	:	
SUSAN BENEDETTI	:	
Complainants	:	
v.	:	DOCKET NO. C-2016-2572597
	:	
PECO ENERGY COMPANY	:	
Respondent	:	

**Respondent, PECO Energy Company's Interrogatories and
Requests for Production of Documents, Set I
Directed to Complainants, Eric and Susan Benedetti**

Respondent PECO Energy Company ("PECO") hereby submits the following Interrogatories and Requests for Production of Documents, Set 1, upon Complainants Eric and Susan Benedetti, 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 Complainants' home that produce radio-frequency fields, including cell phones, microwave ovens, wireless internet access, and WiFi routers.

PECO Interrogatory 1-2:

Please identify whether the Complainants and any member of the Complainants' 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.

PECO Interrogatory 1-3:

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

PECO Interrogatory 1-4:

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

- (a) Any medical record that states that Complainants, or any resident in Complainants' household, has a medical or health condition that was caused by exposure to radiofrequency fields;
- (b) Any medical record that states that Complainants, or any resident in Complainants' 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 Complainants, or any resident in Complainants' 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 Complainants, or any resident in Complainants' household;
- (e) Any medical record that states that Complainants, or any resident in Complainants' 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 Complainants' 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 Complainants' 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:

Please state the date the Complainants moved into the house at 3216 Skippack Pike, Worcester, PA.

PECO Interrogatory 1-6:

Please state the address of the Complainants' last house and the date you moved out of the residence?

PECO Interrogatory 1-7:

Please state the date of birth for:

- (a) Eric Benedetti**
- (b) Susan Benedetti**

PECO Interrogatory 1-8:

Please list the names and dates of birth of all individuals residing in the household.



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

Dated: October 2, 2017