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December 14, 2017

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

RE: Arthur Larson v. PECO Energy Company
Docket No. C-2017-2615206

Dear Ms. Chiavetta:

Enclosed for filing with the Commission is *PECO Energy Company's Answer to Motion to Compel*.

Very truly yours,



Ward L. Smith
Counsel for PECO Energy Company

WS/ab
Enclosure

cc: Darlene D. Heep, ALJ
Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Arthur Larson

v.

PECO Energy Company

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:
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Docket No. C-2017-2615206

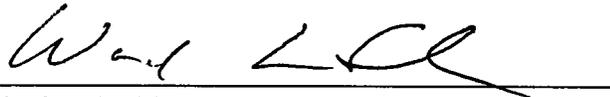
CERTIFICATE OF SERVICE

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

Answer to Motion to Compel via e-mail to:

Arthur L. Jenkins, Esquire
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Dated at Philadelphia, Pennsylvania, December 14, 2017



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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ARTHUR LARSON	:	
Complainant	:	
	:	
v.	:	DOCKET NO. C-2017-2615206
	:	
PECO ENERGY COMPANY	:	
Respondent	:	

**ANSWER OF PECO ENERGY COMPANY
TO MOTION TO COMPEL**

On December 11, 2017, PECO Energy Company ("PECO"), was served with a Motion to Compel answers to discovery. PECO hereby answers that Motion.

Complainant does not want an Advanced Meter Installation ("AMI") meter installed at his residence because, he claims, it may cause a fire. On November 13, 2017, PECO received seven Interrogatories and Requests for Production of Documents from Complainant.¹ (A copy of the discovery requests was attached to the Motion to Compel.) On November 14, 2017, PECO answered six of the seven interrogatory questions, and objected to one question (Q 4). The Motion to Compel goes to that single question and PECO's objection to it.

The question at issue is:

4. Attach any and all internal quality reports with respect to the meter or meters installed at 18 SteepleChase Drive, Doylestown, PA, 18901 and 3228 Bristol Road, Bensalem, PA 19020 both of which addresses were the site of fires after the installation of meters.

¹ The document was dated Tuesday, November 7, but was sent by U.S. Mail and was not received by PECO until the following Monday, November 13. Although the parties had previously communicated by email, Mr. Larson's counsel did not provide contemporaneous email service of the discovery requests.

PECO objected to this question on three grounds.

PECO's Relevance Objection

PECO's first objection is on relevance grounds. PECO stated that:

Objection 1: Relevance. PECO is installing an Aclara I-210 meter at the Larson residence. Neither of the noted properties ever had an Aclara I-210 meter. Therefore, no information regarding internal quality reports with respect to the meters installed at those locations, if any, could result in the discovery of information relevant to the Aclara I-210 meter that will be installed at the Larson residence.

The Motion to Compel responded to the relevance objection as follows:

3. The aforesaid discovery propounded by petitioner Arthur Larson is relevant
4. The standard of relevance with respect to discovery is whether or not the requested material, although not admissible itself, will lead to the discovery of admissible evidence.
5. The relevancy standard is clearly met in that petitioner has a reasonable basis for concluding that the proposed installation of a Chinese-manufactured meter at his home is capable of malfunctioning and therefore cause property damage or further consequential damages.

This argument does not overcome PECO's relevance objection. Of course Complainant has the right to seek information about the meter that will be installed at his residence – the Aclara meter. Indeed, PECO provided information on the Aclara meter, including the manufacturer's spec sheet, through the expert report of Mr. Glenn Pritchard, which was served on Mr. Larson on November 14, 2017. But information regarding meters that will not be installed at the Larson residence is not relevant to a determination of the safety of the Aclara meter.

At most, Complainant appears to be alleging that there is a relationship between the two meter types that rises to relevance because, he asserts, they all are "Chinese-manufactured."

Setting aside the question of why Mr. Larson appears to have an *idée fixe* that all Chinese-manufactured meters are faulty,² the simple fact is that none of PECO's AMI meters, either previous versions or the Aclara, were manufactured in China. And Mr. Larson and his counsel were aware of that fact when they wrote the above sentence, because they were so advised by PECO in a verified discovery answer from Mr. Glenn Pritchard on November 14, 2017.³

Moreover, Mr. Larson has not given any reason to believe that, even if faulty meters were manufactured by one entity (whether located in China or elsewhere), that this would mean that some other meter manufacturer (whether located in China or elsewhere) would make meters with the same faults. This provides an independent reason to conclude that Mr. Larson has shown no connection between analysis of PECO's prior meters and a determination of safety of the Aclara meter.

² This argument is scandalous and impertinent and has no place in a Commission proceeding. Mr. Larson's discovery questions repeatedly reference "Chinese-manufactured meters" as though that label alone is a damning sobriquet. PECO also notes that, in his Complaint, Mr. Larson asserts that there is a connection between alleged AMI meter issues and the "Bailout for the Banks," the "PA Natural Gas Development Issues," "Haliburton and Convicted Felon PA Treasurer Budd Dwyer," "Robert Ashe the Founder of the PENN Future Fund," numerous named Senators, "Gangster Joe Bannano," the "Vivendi Merger with Exelon/PECO," the grandson of one of Al Capone's bootleggers ("is this just a coincidence," Mr. Larson asks), and that "The obvious is that Exelon is a Chicago Based business. Need more be said?" PECO submits that such wild and farflung allegations, whether about 1930s-era Chicago gangsters or modern-day Chinese manufacturers, do not establish a relevance connection between different meters.

³ "Q6: List and attached each and every quality control report which resulted in rejection of the Chinese-manufactured meter shipped to respondent since 2013 to date."

"PECO Answer to Complainant Interrogatory 6: None of the AMI meters used by PECO were of Chinese manufacture. Responsible Witness: Glenn Pritchard."

In sum, Complainant has not successfully responded to PECO's relevance objection. PECO will install an Aclara meter at the Larson residence. Information regarding other meter types that will not be installed at the Larson residence is not relevant to that proposal.

PECO's Standing Objection

PECO's second objection relates to standing. PECO stated that:

Objection 2: Standing. Mr. Larson resides at 176 Hart Avenue, Doylestown, PA, not at either of the noted addresses. He therefore does not have standing to pursue a complaint based on events that occurred at either of those two addresses

The Motion to Compel does not address PECO's standing objection.

PECO's Customer Privacy Objection

PECO's third objection relates to customer privacy. PECO stated that:

Objection 3: Customer privacy. PECO cannot release information related to its utility service to individual customers in a manner that is identifiable to the specific customer service. Since Mr. Larson has identified specific locations, any information provided regarding those locations would, by definition, be personally-identifiable to the service to those locations.

The Motion to Compel responded to the customer privacy objection as follows:

3. The aforesaid discovery propounded by petitioner Arthur Larson is not in any way privileged by allegations of privacy
6. No right of privacy is infringed upon by your petitioner as a matter of law.
7. In the alternative this Honorable Court has the power to seal any record upon which a reasonable issue of privacy may exit.
8. In the information and documentation sought by your petitioner in the discovery there is no possible invasion of privacy in that news of the aforesaid

fires disclosed the time and situs of such fires as well as the names and addresses of the victims.

These arguments do not sufficiently answer PECO's customer privacy objection.

First, the right of privacy that is infringed upon by these questions is the right of all Pennsylvania utility customers to have personally-identifiable information regarding their utility service protected from release to third parties. This right is broadly applied and protected by the Commission, and PECO suggests that it is applicable in response to this request.

Second, seal of the record would not answer PECO's concerns because, notwithstanding such a seal, Mr. Larson and his counsel would still have copies of the private records of other individuals.

Third, the publication of names and addresses in the newspaper does not solve the privacy issue, it compounds it. Typically, when the Commission does order PECO to release customer information in litigation, the data are masked so that the underlying data substance is provided without any names, addresses, or other personally-identifiable information being provided – this approach breaks the tether between the person and the data, making it generic in nature. In the instant case, that is not possible – the names and addresses of the persons are in the possession of Complainant, so any data about those customers will be instantly attributable to them, no matter what masking PECO does.

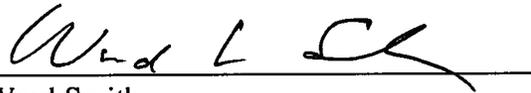
The argument about publication is also negated by noting that, by definition, the information being sought was not included in the newspaper articles. Complainant's suggested rule would mean that, whenever a utility customer's name and address was printed in the paper, other customers would be allowed to obtain information about that event from PECO on the

grounds that they read about it in the paper. That is not the state of privacy protection in Pennsylvania.

Conclusion

PECO therefore respectfully requests that Your Honor sustain its objection to Complainants' discovery request #4.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Ward L. Smith", is written over a horizontal line.

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