

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

Direct Dial: 215-841-6841

December 19, 2017

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

**RE: Teresa Gavin v. PECO Energy Company  
PUC Docket No.: C-2017-2616249**

Dear Ms. Chiavetta:

Enclosed for filing with the Commission is *Motion of PECO Energy Company to Dismiss Complainant's Objections and 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/ab

cc: Darlene D. Heep, ALJ  
Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Teresa Gavin

v.

Docket No. C-2017-2616249

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 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.

**I. BACKGROUND**

On or about July 24, 2017, Complainant filed a Formal Complaint alleging, among other things, that PECO's AMI meters cause health problems and fires in homes. The Complainant asked the Commission to prevent PECO from installing an electric AMI meter on her premises.

In the Answer filed on or about August 8, 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, setting the deadlines for the parties to exchange exhibits and reports. A hearing is scheduled to take place in 2018 on January 30 and January 31.

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. 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 ITS DISCOVERY REQUESTS IS REQUIRED FOR THE COMPANY TO DEFEND AGAINST THE COMPLAINANT'S ALLEGATIONS**

The Commission should issue an Order compelling Complainant's answer to 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 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 the installation of the AMI electric meter would be harmful to her health. For the reasons set forth below, the Presiding Officer should compel Complainant's 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 whether the Complainant or a household member has experienced symptoms from electromagnetic frequency and supporting medical records is relevant and should be provided in response to PECO discovery.**

The interrogatories elicits 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 she will have health effects from PECO's

AMI meter because the meter emits electromagnetic frequency. PECO's interrogatories are designed to elicit whether there are other devices, appliances or equipment already in the home that emit electromagnetic frequency, 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 her home that emit electromagnetic frequency. This is critical information the company needs to know. If there have been symptoms experienced from electromagnetic frequency, 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 electromagnetic frequency; 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.

The Complainant 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 she 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](mailto:shawane.lee@exeloncorp.com)  
Counsel for PECO Energy

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Teresa Gavin

v.

Docket No. C-2017-2616249

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**

Teresa Gavin  
8829 Winchester Avenue  
Philadelphia, PA 19115

***Via First Class Mail***

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

***Via Email: [dheep@pa.gov](mailto:dheep@pa.gov)***

Date: December 19, 2017



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

# EXHIBIT A



PENNSYLVANIA PUBLIC UTILITY COMMISSION

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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.

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Table with eFiling Confirmation header and rows for Docket Number, Description, Transmission Date, Filed On, and eFiling Confirmation Number.

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Table with columns File Name, Document Class, and Document Type, containing one row for Gavin-COS.pdf.

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 Public Utility Commission, P.O. Box 3285, Harrisburg, PA a copy of the filing confirmation page or reference the filing confirmation number on the first page of the paper copy.



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 16, 2017

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

**RE: Theresa Gavin v. PECO Energy Company  
Docket No. C-2017-2616249**

Dear Ms. Chiavetta:

Today PECO Energy Company served its Interrogatories and Requests for Production of Documents, Set I, in the above-referenced matter. A Certificate of Service evidencing 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**

**THERESA GAVIN**  
**Complainant**  
v.

**PECO ENERGY COMPANY**  
**Respondent**

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**DOCKET NO. C-2017-2616249**

**CERTIFICATE OF SERVICE**

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

Theresa Gavin  
8829 Winchester Avenue  
Philadelphia, PA 19115-5104  
Via First Class Mail



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

Dated: October 16, 2017

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**THERESA GAVIN** :  
**Complainant** :  
**v.** : **DOCKET NO. C-2017-2616249**  
: :  
**PECO ENERGY COMPANY** :  
**Respondent** :

**NOTICE TO PLEAD**

*To: Theresa Gavin*

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:  
Shawane L. Lee, Esq.  
PECO Energy Company  
2301 Market Street, S-23  
Philadelphia, PA 19103

Dated at Philadelphia, PA, October 16, 2017



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

PENNSYLVANIA PUBLIC UTILITY COMMISSION

**THERESA GAVIN** :  
Complainant :  
v. : DOCKET NO. C-2017-2616249  
PECO ENERGY COMPANY :  
Respondent :

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

Respondent PECO Energy Company ("PECO") hereby submits the following Interrogatories and Requests for Production of Documents, Set 1, upon Complainant Theresa Gavin, 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 (including appliances and equipment) used by complainant(s) anywhere, and the type (with make and model) of all devices used in complainant(s)' home, that produce radio-frequency fields (including cell phones, cordless phones connected to a landline, microwave ovens, wireless Internet access, Wi-Fi routers, remote TV controls, garage door openers, and other wireless-controlled devices).

**PECO 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.

**PECO Interrogatory 1-3:**

A. Please provide all medical records, including diagnostic and all other test results, of complainant(s) and any resident of complainant(s) household (i.e., records for each person):

1) that relate in any way to any of the medical or health-related conditions or symptoms identified in the complaint that it is claimed was or will be caused or made worse by a PECO AMI meter; and

2) that relate in any way to any of the medical or health-related conditions or symptoms identified in the complaint that it is claimed was or will be caused by or made worse by exposure to radiofrequency fields.

B. Please identify each symptom of each medical or health-related condition identified in the complaint that it is claimed was caused by exposure to a PECO AMI meter or radio frequency fields and identify by person each symptom, condition, exposure claimed to cause the symptom, and date (if the date is not known, the month or season) and year each person first began to experience the symptom.



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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](mailto:Ward.Smith@exeloncorp.com)

Dated: October 16, 2017