



An Exelon Company

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January 17, 2018

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

**RE: Mary Gillespie v. PECO Energy Company
Docket No. C-2017-2631461**

Dear Ms. Chiavetta:

Enclosed for filing with the Commission is *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, sweeping underline.

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**

Mary Gillespie

v.

Docket No. C-2017-2631461

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 December 19, 2017. PECO’s Interrogatories are attached as Exhibit A.

I. BACKGROUND

On or about October 24, 2017, Complainant filed a Formal Complaint alleging, among other things, that PECO’s AMI meters will be dangerous to her because she is severely handicapped. The Complainant asked the Commission to prevent PECO from installing an electric AMI meter on her premises.

In the Answer filed on or about November 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 January 9, 2018, 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 on February 23, 2018.

On December 19, 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 IT'S 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 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 the installation of the AMI electric meter would be dangerous to her. 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 PECO's AMI meter will be dangerous to

her because she is severely handicapped. 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 PECO's AMI meter is dangerous to her as a consequence of her handicapped condition.

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
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Philadelphia, PA 19103
215-841-6863
215-568-3389 [fax]
shawane.lee@exeloncorp.com
Counsel for PECO Energy**

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Mary Gillespie

v.

Docket No. C-2017-2631461

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 First Class Mail

Mary Gillespie
2350 Pheasant Hill Lane
Malvern, PA 19355

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

Date: January 17, 2018



Shawane L. Lee
Counsel for PECO Energy Company
2301 Market Street, S23-1
Philadelphia, PA 19103
(215) 841-6841
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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eFiling Confirmation	
Docket Number:	C-2017-2631461
Description:	Mary Gillespie v. PECO Energy Company Certificate of Service - Discovery Requests
Transmission Date:	12/19/2017 1:25:06 PM
Filed On:	12/19/2017 1:25:06 PM
eFiling Confirmation Number:	1702991

Uploaded File List

File Name	Document Class	Document Type
Mary Gillespie - 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 Public Utility Commission, P.O. Box 3206, Harrisburg, PA a copy of the filing confirmation page or reference the filing confirmation number on the first page of the paper copy.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MARY GILLESPIE
Complainant
v.

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DOCKET NO. C-2017-2631461

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 Complainant, Mary Gillespie 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.

Dr. Mary Gillespie
2350 Pheasant Hill Lane
Malvern, PA 19355
Via First Class Mail



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

Dated: December 19, 2017



An Exelon Company

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

Direct Dial: 215-841-6041

Email: shawana.lee@exeloncorp.com

December 19, 2017

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

**RE: Mary Gillespie v. PECO Energy Company
Docket No. C-2017-2631461**

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 "Shawana L. Lee".

**Shawana L. Lee
Counsel for PECO Energy Company**

**SL/sb
Enclosure**

cc: Certificate of Service

PENNSYLVANIA PUBLIC UTILITY COMMISSION

MARY GILLESPIE
Complainant
v.

DOCKET NO. C-2017-2631461

PECO ENERGY COMPANY
Respondent

NOTICE TO PLEAD

To: Mary Gillespie

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

With a copy to:
Shawana L. Lee, Esq.
PECO Energy Company
2301 Market Street, S-23
Philadelphia, PA 19103

Dated at Philadelphia, PA, December 19, 2017



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

PENNSYLVANIA PUBLIC UTILITY COMMISSION

MARY GILLESPIE
Complainant
v.

DOCKET NO. C-2017-2631461

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, Mary Gillespie**

Respondent PECO Energy Company ("PECO") hereby submits the following Interrogatories and Requests for Production of Documents, Set I, upon Complainant Mary Gillespie, 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.



**Ward Smith
Shawana L. Lee
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2301 Market Street S-23
Philadelphia, PA 19103
215-841-6863
Ward.Smith@exeloncorp.com**

Dated: December 19, 2017