

Legal Department  
2301 Market Street / S23-1  
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February 5, 2018

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

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

Dear Secretary Chiavetta:

A copy of PECO's Motion to Compel is attached for filing.

Very truly yours,



Ward L. Smith  
Counsel for PECO Energy Company

WS/adz  
Enclosures

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

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**NOTICE TO PLEAD**

*To: Arthur Larson*

Pursuant to 52 Pa. Code §5.342(g), you are hereby notified that if you have any Answer to this Motion to Compel, you must file and serve that Answer, in writing, within 5 days of receipt of this discovery. If you do not provide a timely Answer, then this Motion to Compel may be decided against you without further opportunity to be heard. You must provide a full copy of any Answer to counsel for PECO, to the Secretary of the Pennsylvania Public Utility Commission, and Administrative Law Judge Darlene Heep.

File with:  
Rosemarie Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, Second Floor  
Harrisburg, PA 17120

With a copy to:

Administrative Law Judge Darlene Heep  
Pennsylvania Public Utility Commission  
801 Market Street  
Philadelphia, PA 19107  
[dheep@pa.gov](mailto:dheep@pa.gov)

Ward L. Smith, Esq.  
PECO Energy Company  
2301 Market Street, S-23  
Philadelphia, PA 19103  
[ward.smith@exeloncorp.com](mailto:ward.smith@exeloncorp.com)

Dated at Philadelphia, PA, February 5, 2018.

A handwritten signature in black ink, appearing to read "Ward L. Smith", written in a cursive style.

---

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

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

CERTIFICATE OF SERVICE

I, Ward L. Smith hereby certify that on February 5, 2018, I served a copy of PECO Energy Company's Motion to Compel upon all interested parties via email and U.S. first class mail to:

Arthur L. Jenkins, Jr., Esquire  
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c.a.zurek@verizon.net  
Counsel for Art Larson

Dated: February 5, 2018

  
Ward L. Smith  
Counsel for PECO Energy Company  
2301 Market Street, S23-1  
Philadelphia, PA 19103  
Phone: (215) 841-6863  
Fax: 215.568.3389  
[Ward.Smith@exeloncorp.com](mailto:Ward.Smith@exeloncorp.com)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>ARTHUR LARSON</b>	:	
<b>Complainant</b>	:	
<b>v.</b>	:	<b>DOCKET NO. C-2017-2615171</b>
	:	
<b>PECO ENERGY COMPANY</b>	:	
<b>Respondent</b>	:	

**MOTION OF PECO ENERGY COMPANY  
TO COMPEL ANSWERS TO INTERROGATORIES AND REQUESTS FOR  
PRODUCTION OF DOCUMENTS**

Pursuant to 52 Pa. Code § 5.342(g), PECO Energy Company (“PECO”) hereby requests that Your Honor compel full and complete answers to PECO’s Interrogatories and Requests for Production of Documents Set II (“Set II Discovery”), which was served on January 23, 2018. PECO’s Set II Discovery is comprised of 18 questions, with subparts, that request further information regarding statements made by Mr. Larson in his Complaint, his Pre-Hearing Order Compliance, or in his own Interrogatories to PECO. (PECO’s Set II Discovery is attached as Exhibit A.)

On February 2, 2018, Complainant Arthur Larson (through his attorney) served omnibus boilerplate objections to PECO’s Set II Discovery, refusing to answer a single question posed in that discovery. (Mr. Larson’s objections are attached as Exhibit B.)

As demonstrated below, PECO’s questions are relevant and reasonable, and the objections should be overruled. PECO therefore requests that Your Honor issue a ruling that Mr. Larson is required provide full and complete answers to PECO’s Set II Discovery. The original return date for these answers was February 12, 2018. The hearing in this matter is set for February 20, 2018. In order to provide PECO with time to review the answers and integrate

them its hearing presentation, PECO requests that Your Honor establish a new return date of no later than Tuesday, February 13, 2018 – that is, one week before the scheduled hearing.

## **I. BACKGROUND**

On or about July 20, 2017, Mr. Larson filed a Formal Complaint alleging that PECO's AMI meter have caused fires and further alleging that PECO's installation of AMI meters has involved public corruption, "Pay to Play" activities, kickbacks and payoffs. An attachment to the Complaint also mentioned health concerns in passing.

On August 28, 2017, Your Honor issued a Prehearing Order that established an original hearing date of January 10, 2018. The Prehearing Order also established November 14, 2017, as the date to identify witnesses and stated that, for any fact witness (other than Complainant), the potential witness must be identified by name and address and that any party sponsoring a fact witness must provide "a written summary of the expected testimony of that person." As to expert witnesses, the Prehearing Order also established November 14, 2017 as the date to provide the name and address of experts and a written summary of the expected testimony of the experts. Finally, the Prehearing Order set January 3, 2018 as the date for exchange of hearing exhibits. As per normal practice in these AMI cases, the date for the exchange of hearing exhibits was set one week before the hearing itself.

On August 30, 2017, counsel for Mr. Larson requested a continuance. Your Honor granted that continuance, moving the hearing date to February 20, 2018. The dates for the exchange of witness reports and hearing exhibits were not changed.

As noted, in addition to Complainant's claims regarding fires and public corruption, some attachments to the Complaint also mentioned "health" in passing. On October 16, 2017, PECO therefore served its standard Set I Discovery, which contained standard questions related to the

health claim. On October 25, 2017, Mr. Larson's counsel objected to the health questions, stating that Mr. Larson "does not at present have any illness or diagnosis related to the installation of the dangerous meter promulgated by respondent." On November 3, 2017, PECO contacted Mr. Larson's counsel and, upon receiving more robust assurances that Mr. Larson is not pursuing a health claim (see Attachment C), PECO agreed not to file a Motion to Compel with respect to the health questions set forth in its Set I Discovery.

During those November discussions, PECO informed Mr. Larson's counsel that PECO could now make available an AMI meter with a Underwriters' Laboratory stamp, and further noted that Complainant had the option of relocating his meter board. PECO requested that Mr. Larson's counsel discuss those options with Mr. Larson as a possible alternative resolution. Mr. Larson's counsel agreed to do so. Consequently, PECO voluntarily abstained from sending additional discovery on Mr. Larson's claims of fires, public corruption, "Pay to Play" activities, kickbacks, and payoffs, until such time as Mr. Larson's counsel determined whether installation of a UL-stamped meter, or relocation of the meter board, would satisfy Mr. Larson's concerns.

On November 7, 2017, Complainant posed discovery questions to PECO in which the questions contained embedded assumptions, stated without proof, that fires had occurred at specified addresses and that such fires were caused by PECO AMI meters; that PECO's AMI meters are of Chinese manufacture; and that any meters manufactured in China are inherently dangerous.

Pursuant to the Prehearing Order, on November 13, 2017, the parties exchanged the names of witnesses, as well as witness summaries and expert reports. A copy of Complainant's document, which he designated as his "Pre-Hearing Compliance," is attached as Exhibit D. In his Pre-Hearing Compliance, Mr. Larson he stated that he would appear as both a fact witness

and as an expert witness “on the subject of the inherent danger of the proposed meter installation at his home. The proposed meter lacks appropriate internal safeguards with respect to heat generation or the posterior side unreasonably raising the potential of fire and/or property damage.” With respect to additional witnesses, Mr. Larson stated that he “intends to call as fact witnesses every victim of personal property damage caused by the dangerous meter installations” and “the fire marshal who investigated the property damage in each location.” The only description of the scope of the testimony of these additional witnesses was that “each witness will testify that the installation of an unreasonably dangerous meter by PECO caused the property damage.” As to the identity of those witnesses, Mr. Larson stated that “[t]he names and addresses of such parties will be supplied when obtained,” but that “These witnesses include but are not limited to Bensalem, PA Battalion Chief Robert Sponheimer; Colleen VanBaak, 569 Mill Road, Yardley, PA, 19067.”

Pursuant to the Prehearing Order, on January 3, 2018, PECO served its hearing exhibits on Mr. Larson’s counsel. PECO did not receive any hearing exhibits from Mr. Larson on the designated date for exchange of hearing exhibits and, to date, has received no hearing exhibits from Mr. Larson.

On January 22, 2018, counsel for Mr. Larson called PECO to discuss hearing logistics, seeking to confirm that PECO would be available for hearing on February 20 and would not be seeking a continuance. During that call, PECO inquired whether counsel had discussed with Mr. Larson the potential of resolving this case via installation of a UL-stamped meter or relocation of the meter board, and was informed for the first time that Mr. Larson was not willing to resolve the matter on that basis but instead wanted to proceed to hearing.

On January 23, 2018, PECO thus served its Set II Discovery going to Mr. Larson's fire and corruption claims. Specifically, PECO inquired regarding: (1) statements made in the formal complaint; (2) statements made in Mr. Larson's Pre-Hearing Compliance, and (3) assumptions embedded within Mr. Larson's discovery questions. The return date for the Set II Discovery is February 12, 2018 – eight days before the scheduled evidentiary hearing.

On February 2, 2018, Complainant served omnibus boilerplate objections, refusing to answer any of PECO's Set II Discovery questions.

## **II. AN IMPORTANT OVERVIEW OF THE PROCEDURAL POSTURE OF THIS CASE**

Complainant is not appearing *pro se* – he is represented by counsel. As to procedural deadlines, Mr. Larson should therefore be held to the normal standards of timeliness and responsiveness as required of represented parties.

As noted above, the deadline for identifying witnesses in this case was November 14, 2017 – almost 90 days ago. In his Pre-Hearing Compliance, Mr. Larson stated that he would supply the names and addresses of additional witnesses “when obtained.” Given that “I’ll tell you later” witness identification, it is arguable that Complainant violated the Prehearing Order by failing to identify witnesses by November 14, 2017 – and it is beyond argument that the promise made by Complainant in that document created an ongoing obligation to provide the names of additional witnesses “when obtained.” These obligations to name witnesses and provide a summary of their testimony were created by the Prehearing Order and the Complainant's promise, and they exist independently of any discovery questions asked by PECO. With less than three weeks before the scheduled hearing, each day that elapses without Complainant identifying his additional witnesses severely prejudices PECO's case preparation. Consequently, as things now

stand, Complainant is prohibited from identifying additional witnesses *regardless of the outcome of this discovery dispute.*<sup>1</sup>

Similarly, the deadline for exchanging hearing exhibits passed on January 3, 2018 – over a month ago -- and Mr. Larson did not provide any hearing exhibits. That deadline and obligation were created by the Prehearing Order, and exist independently of any PECO discovery.

.Consequently, as things now stand, Complainant is prohibited from presenting any hearing exhibits *regardless of the outcome of this discovery dispute.*

With that said, even though Mr. Larson missed the key exchange dates set forth in the Prehearing Order, PECO prefers that Mr. Larson have a full opportunity to present any admissible evidence or witnesses that he may have. That is why PECO – which was already in a position where it could have objected to the introduction of any witnesses or exhibits by Mr. Larson at trial – instead asked its Set II Discovery with a return date of one week before the hearing. (That is, on the date that hearing exhibits would normally be due for a non-continued hearing.) If Mr. Larson fully answers PECO’s Set II Discovery by February 13, 2018 – one week before hearing – it is PECO’s intention to waive objections regarding timeliness of the identification of new witnesses or the presentation of hearing exhibits (preserving all other objections, including hearsay and other objections). But if PECO does not receive full answers

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<sup>1</sup> PECO notes that, other than a named fire marshal, the only person that Mr. Larson identified as a potential additional witness is Colleen VanBaak. Ms. VanBaak filed a formal complaint at the Commission to press her claims, but did not appear at hearing. At the time and date set for that hearing, PECO appeared with counsel and eight witnesses. Consequently, Administrative Law Judge Fordham dismissed Ms. VanBaak’s complete *with prejudice* for failure to prosecute. *VanBaak v PECO*, C-2015-2476567, Initial Decision issued April 21, 2016; affirmed by Commission Final Order on June 24, 2016. If Ms. VanBaak is offered as a witness in the *Larson* proceeding, PECO will object to any testimony from her on the grounds that her testimony would be an impermissible collateral attack on the decision in her formal complaint proceeding. If Mr. Larson attempts to present written materials from Ms. Van Baak, or to testify regarding things that Ms. VanBaak told him, PECO will object on the same grounds and on hearsay grounds.

by February 13, 2018, then it is PECO's intention to object to the identification of any additional witnesses, or the presentation of any hearing exhibits, for failure to meet the timeline set forth in the Prehearing Order.

In other words, with Mr. Larson having missed his key deadlines for presenting his trial materials in proper accordance with the Prehearing Order, PECO asked its Set II Discovery in part to give Mr. Larson one last chance to present witness information and hearing exhibits prior to hearing. If Mr. Larson does not take advantage of this additional opportunity being afforded by PECO, then in PECO's view Mr. Larson can and should be prohibited from presenting that information *at* the hearing.

### **III. LEGAL STANDARD FOR DISCOVERY QUESTIONS**

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).

**IV. THE INFORMATION PECO SEEKS IN ITS DISCOVERY REQUESTS IS RELEVANT TO PECO'S DEFENSE OF THE CLAIMS MADE IN THE FORMAL COMPLAINT**

In PECO's Set II Discovery, each of Qs 1-13 recites a specific quote or claim from the formal complaint and inquires further into the basis of that quote or claim. For example, Q 1 inquires as follows:

PECO Discovery Set II, Q. 1:

In your formal complaint, ¶ 5, you state: "PECO is knowingly forcing customers to have a defective product installed onto the property that has caused fires and some have resulted in deaths." Please provide all documents or other information in your possession that demonstrates that:

- a. PECO's AMI meters are defective;
- b. PECO's AMI meters have caused fires;
- c. PECO's AMI meters have caused fires that resulted in deaths.

(Qs 2-4 similarly ask for any support Mr. Larson has for specific statements he made regarding fires.)

Questions 5, 7, and 13 ask for additional identifying information regarding documents that are quoted in the formal complaint, but not fully cited.

Questions 6 and 8 inquire into the role, and relative importance, that Mr. Larson assigns to Underwriters' Laboratory review and certification.

Questions 9-12 ask whether Mr. Larson has personal knowledge of his corruption claims. PECO notes that it could have asked quite broad questions regarding the corruption claims, but instead asked narrowly tailored questions – if Mr. Larson states that he does not have personal knowledge, then no further answer is required. But if he states that he does have personal knowledge, PECO seeks to know the basis of that personal knowledge.

The information requested in each of Questions 1-13 is tied directly to a claim or statement made by Mr. Larson in his Complaint, and thus clearly meets the standard of relating to “the claim or defense of another party . . . “

In PECO’s Set II Discovery, Qs 14-15 relate to Complainant’s November 13, 2017 Pre-Hearing Compliance. As noted previously, in the November 13 Pre-Hearing Compliance, Mr. Larson stated that he would appear as an expert to testify about specified matters; Q14 asks him to state the basis for his expertise – and that information is clearly relevant to the defense of his claim, which he states will be based on his expert testimony. Question 15 asks for the names of the “other” witnesses who Mr. Larson promised 90 days ago to identify, as well as copies of any official Fire Department report about which any fire marshal will testify. Again, these are clearly directly relevant to Mr. Larson’s claims – and they were in fact required to be provided to PECO, by Prehearing Order, as much as three months ago.

In his discovery questions to PECO, Complainant alleges that AMI-caused fires occurred at two specific identified addresses. Question 16 asks for documents regarding those alleged fires and, in one case, for the date of the fire. (PECO can find no record of a fire at that location.)

In his discovery questions to PECO, Complainant alleges that PECO’s AMI meters are of Chinese manufacture and implies that all Chinese-manufactured meters are inherently unsafe. PECO intends to put on testimony that its meters are not manufactured in China, but in Qs. 17 and 18 it inquires why Mr. Larson thinks that they were manufactured in China, and why he thinks Chinese meters are inherently unsafe.

In sum, each question asked by PECO is tied directly to a claim or statement made by Mr. Larson. The questions are therefore all permissible under the Commission’s regulations, and Mr. Larson should be required to answer them.

**V. COMPLAINANT’S OBJECTIONS SHOULD NOT BE SUSTAINED**

Complainant’s objections are comprised of eight numbered paragraphs that appear to state four objections.

**A. PECO’S SET II DISCOVERY IS NOT “STALE,” OR “TARDY,” AND WAS NOT PROPOUNDED “ON THE EVE OF TRIAL”**

Complainant’s first objection is that PECO’s Set II Discovery was not timely served. He states:

1. This case has been listed for a hearing on the merits on February 20, 2018.
2. The complaint of Arthur Larson was filed several months ago with discovery presumably completed pursuant to a scheduling order promulgated by the Administrative Law Judge with pretrial statements in accordance with the order.
3. On or about January 23, 2018 PECO served counsel for Arthur Larson with a second set of interrogatories involving allegations in eh original complaint and pretrial statement of complainant.
4. These detailed interrogatories are stale [and] tardy . . .
5. The detailed interrogatories [were] served on the eve of trial. . . .

PECO’s Set II Discovery was timely filed. The Commission’s regulations, 52 Pa. Code §5.331, state that the right to discovery commences upon the filing of a complaint, and that should discovery should be initiated early in the proceeding – which PECO did when it sent its Set I discovery on October 16, 2017. But when, as here, the parties are having settlement discussions, it is a common courtesy to suspend discovery during those settlement discussions – again, which PECO did here.

Moreover, the Commission’s regulations do not put an end date on the service of discovery. PECO served its Set II Discovery on January 23 – which is 28 days before hearing. That gives Mr. Larson the full statutory 20 days to respond, and still gives PECO eight days to review and

incorporate the information into its case presentation. There is nothing “stale” or “tardy” about that.

It should be noted that the Commission’s regulations on objections and motions to compel, 52 Pa. Code §5.342, anticipate that discovery may be served during the period just before hearing, and that a motion to compel (which normally must be answered in writing within five days), may need to be answered orally at the hearing “if a timely hearing has been scheduled within the same 5-day period.” In other words, the regulations contemplate that discovery will continue up to the time of hearing. In the instant case, PECO served its discovery nearly a month ahead of hearing, and the last minute oral answer is not required – but the fact that the regulations allow such an answer clearly implies that discovery continues to the hearing. PECO’s Set II discovery was served 28 days before hearing, and that is by no stretch of the imagination on the “eve of trial” – it’s barely in the “month of trial.” The Set II Discovery is thus not “stale” or “tardy.”

Mr. Larson also appears to be claiming that, because the Prehearing Order directed the exchange of prehearing statements on November 14, 2017, discovery must also have ended on that date. There is nothing in the Prehearing Order that makes any such suggestion. Moreover, the rule suggested by Mr. Larson’s counsel would mean that neither party would have the opportunity to ask discovery questions about the witness reports, once they were served. That is, of course, not a viable approach to discovery – a good deal of discovery has to do with determining the basis for statements made in witness reports, and they should thus be understood to be an early step in discovery, not an ending step. This is especially true where, as here, the Complainant’s entire witness summary disclosure is less than a page and speaks of identifying witnesses in the future.

**B. PECO’S SET II DISCOVERY IS NOT BURDENSOME, UNREASONABLY ANNOYING, EMBARRASING, OPPRESSIVE, OR EXPENSIVE**

Mr. Larson’s second objection is that PECO’s Set II Discovery is unreasonably burdensome.

He states:

4. These detailed interrogatories are . . . burdensome on the complainant.
5. The detailed interrogatories served on the eve of trial cause Art Larson unreasonable annoyance, embarrassment, oppression, and expense.

PECO’s Set II Discovery is not burdensome. Mr. Larson made a series of statements in his formal complaint and other documents served in this proceeding, and PECO’s Set II Discovery essentially asks “how do you know that?” There is nothing oppressive, etc., about asking that simple question as to each claim made by Mr. Larson.

PECO notes that it is within Mr. Larson’s power to decrease the oppression, etc., that he feels. When Mr. Larson withdrew his health claim, PECO withdrew its health-based discovery. Mr. Larson could have done the same thing, or effectively the same thing, in brief responses to Set II Discovery. For example, he could simply have said that he is withdrawing his claims of corruption and malfunctioning Chinese meters -- or that he has no personal knowledge related to those claims (which, in the absence of other witnesses, is effectively a withdrawal of the claim.)

But when PECO served its Set II Discovery regarding Mr. Larson’s claims of fires and corruption and Chinese meters, he did not withdraw any of those claims – and he thus presumably intends to present them *and attempt to prove them with evidence* at the February 20 hearing. Put most simply, PECO’s discovery cannot be seen as burdensome because, even if PECO had never sent this discovery, Mr. Larson would still need to decide which witnesses he is going to present at trial, meet with them and understand the scope of their testimony, and review his own documents and records to determine the basis for his opinions and whether he intends to

offer any hearing exhibits – and that is all that he would have to do to answer PECO’s Set II Discovery. Given the fact that Mr. Larson and his counsel will be doing those tasks between now and hearing in any event, PECO’s Set II Discovery – which does not inquire into subsidiary matters, but asks only about specific language and claims made by Mr. Larson that he presumably intends to pursue at hearing – does not add any unreasonable burden to Mr. Larson’s hearing preparation.

**C. COMPLAINANT’S TRAVEL PLANS DO NOT PROVIDE A VALID BASIS FOR OBJECTION TO PECO’S SET II DISCOVERY**

Mr. Larson’s third objection is that he cannot answer PECO’s Set II Discovery because he is too busy traveling. He states:

6. The complainant is required to travel in his work and is presently unable to access the documentation utilized at the time of filing his complaint several months ago.
8. The complainant cannot answer the complex, tardy interrogatories within the statutory time afforded him because of his travel commitments and the proximity of trial.

Being busy is not a valid objection to answering discovery. PECO also questions whether Mr. Larson is, in fact, traveling so extensively that he could not find time between January 23, when PECO served these interrogatories, and Feb. 12, when they were originally due, to “access the documentation utilized at the time of filing his complaint.” Surely he can access those documents, which formed the basis of his complaint, sometime during that 20-day window.

Moreover, Mr. Larson and his counsel have to prepare for hearing during this same window. (If they have already prepared for hearing, then this objection is a sham on its face, because in that preparation they would have answered materially all of the questions set forth in PECO’s Set II Discovery.) If they show up for hearing prepared (that is, with the witnesses, documents, and explanations inquired about in PECO’s Set II Discovery), then that will prove that Mr. Larson

was in fact able to access his background documents, notwithstanding his travel schedule – thus providing that this objection was spurious from the outset. If they show up for hearing unprepared (that is, without the witnesses, documents, and explanations inquired about in PECO’s Set II Discovery), then Mr. Larson will not be able to meet his burden of proof. That tension is inherent in Mr. Larson’s claim that he is traveling too much to attend to his litigation duties, and it ultimately demonstrates that the objection is not valid.

In any event, the fact that Mr. Larson is traveling does not relieve him of the responsibility to respond to discovery.

**D. THE INFORMATION REQUESTED IN THE INTERROGATORIES IS NOT ALREADY KNOWN TO PECO**

Mr. Larson’s fourth objection is that “7. The interrogatories request information that is already known to the defendant.”

PECO does not know who Mr. Larson intends to call as a witness, because Mr. Larson said in November that he has not yet obtained the names of those witnesses. PECO does not know whether Mr. Larson has personal knowledge of fires and/or corruption and/or the dangers of Chinese manufacturing, because he has never said one way or the other if he has such knowledge. PECO does not know what documents Mr. Larson intends to rely upon at hearing, because he missed the deadline for providing those documents a month ago. PECO does not know why Mr. Larson claims to be an expert, because his expert summary did not provide information on his expertise, and only a single sentence on the expected subject of his testimony. Etc. This boilerplate objection should be overruled.

## VI. CONCLUSION

WHEREFORE, for the reasons set forth above, PECO respectfully requests that Your Honor (a) grant this Motion; and (b) compel Complainant to answer PECO's Set II Discovery in full no later than February 13, 2018 – which is one day after the original return date, and one week prior to the scheduled evidentiary hearing.

Respectfully submitted,

Ward Smith, Assistant General Counsel  
Shawane Lee, Assistant General Counsel  
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215-841-6863  
[ward.smith@exeloncorp.com](mailto:ward.smith@exeloncorp.com)  
Counsel for PECO Energy

February 5, 2018

EXHIBIT A

PECO Discovery Set II



**PENNSYLVANIA**  
PUBLIC UTILITY COMMISSION

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An Exelon Company

Legal Department  
2301 Market Street / S23-1  
Philadelphia, PA 19103

Direct Dial: 215.841.6863

January 23, 2018

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

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

Dear Secretary Chiavetta:

Today, PECO served its Discovery, Set II, on Complainant Art Larson. A certificate of service evidencing that service is attached for filing.

Very truly yours,

A handwritten signature in black ink, appearing to read "Ward L. Smith".

Ward L. Smith  
Counsel for PECO Energy Company

WS/adz  
Enclosures

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

PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

NOTICE TO PLEAD

*To: Arthur Larson*

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. (In this case, by Friday, February 2, 2018.) If you do not object, then you must answer these questions, in full and in writing, within 20 days from service of this notice. (In this case, by Monday, February 12, 2018.) 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 L. Smith, Esq.  
PECO Energy Company  
2301 Market Street, S-23  
Philadelphia, PA 19103

Dated at Philadelphia, PA, January 23, 2018.



---

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

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

CERTIFICATE OF SERVICE

I, Ward L. Smith hereby certify that on January 23, 2018, I served a copy of PECO Energy Company's Discovery, Set II, in the above matter, upon all interested parties via email and U.S. first class mail to:

Arthur L. Jenkins, Jr., Esquire  
325 DeKalb Street  
P.O. Box 710  
Norristown, PA 19404  
c.a.zurek@verizon.net  
Counsel for Art Larson

Dated: January 23, 2018



Ward L. Smith  
Counsel for PECO Energy Company  
2301 Market Street, S23-1  
Philadelphia, PA 19103  
Phone: (215) 841-6863  
Fax: 215.568.3389  
Ward.Smith@exeloncorp.com

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Arthur Larson v PECO Energy Company  
C-2017-2615206  
PECO Energy Company's Discovery, Set II**

**Questions Related to the Formal Complaint**

PECO Discovery Set II, Q. 1:

In your formal complaint, ¶ 5, you state: "PECO is knowingly forcing customers to have a defective product installed onto the property that has caused fires and some have resulted in deaths." Please provide all documents or other information in your possession that demonstrates that:

- a. PECO's AMI meters are defective;
- b. PECO's AMI meters have caused fires;
- c. PECO's AMI meters have caused fires that resulted in deaths.

PECO Discovery Set II, Q. 2:

In your formal complaint, ¶ 5, you state: "PECO is knowingly forcing customers to have a defective product installed onto the property that has caused fires and some have resulted in deaths."

- a. Please provide identifying information, such as address, location, and date, for each fire that you claim was caused by a PECO AMI meter;
- b. Please provide identifying information, such as name, address, location, and date, for each death that you claim was caused by a fire caused by a PECO AMI meter.

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PECO Discovery Set II, Q. 3:

In your formal complaint, ¶ 5, you state: “The Landis+Gyr device killed a Larry Nikkel in a house fire. . . . Several Defective Landis+Gyr Meters had caused fires, killed people and exploded.” Please provide all documents or other information in your possession that supports these statements.

PECO Discovery Set II, Q. 4:

In your formal complaint, ¶ 5, you state: “As Per PUC Docket M-2000-2123944. Exelon/Peco Product evaluation of Smart Meters (Pages 6-7) has failed in both cases to properly evaluate the product safety of the device . . . “ The noted docket has over 200 entries, none of which are labelled “product evaluation.” Please provide a copy of the document referred to or, at a minimum, provide identifying information (date of filing, party of filing, formal name of document, working link to document) sufficient to identify and procure the document.

PECO Discovery Set II, Q. 5:

In your formal complaint, ¶ 5, you state: “In addition, I am providing here Testimony of Smart Meter Fires in Pennsylvania presented Meter Fires in Pennsylvania presented to PA State Reps Dave Reed and Kerry Benninghoff” in September 2014, and then quote at length from that testimony. Please identify the person who presented this testimony.

PECO Discovery Set II, Q. 6:

In your formal complaint, ¶ 5, you state: The devices are not certified by an independent evaluation facility like UL, (Underwriters Lab), with respect to public safety.” Is it your contention that certification by Underwriters Lab is necessary to demonstrate that PECO's AMI meters are not defective and will not adversely affect the public safety?

**BEFORE THE  
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PECO Discovery Set II, Q. 7:

In your formal complaint, ¶ 5, you state: "I found this not to be the case, In my neighborhood, in Doylestown PA a home was destroyed by a Exelon/Peco gas leak. They had to fight Exelon/PECO for over four to six years to recover damages." Please identify the home and homeowners referred to here, by name and address.

PECO Discovery Set II, Q. 8:

In your formal complaint, ¶ 5, you state: "I ask the PUC to require Exelon to provide full disclosure with respect to the product safety, the ability for PA Citizens to Opt Out as Per PA House Bill 902 and to delay further Smart Meter installments by Exelon until the product safety can be evaluated independently of Exelon."

- a. Please describe the independent evaluations of product safety that would satisfy this demand.
- b. Would Underwriters' Laboratory certification satisfy this demand?
- c. If not, why not?

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
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PECO Discovery Set II, Q. 9:

In your formal complaint, ¶ 5, you state: “An additional point, note the big rush to complete this effort for ACT-129. Do you remember the Bailouts for the Banks and the big rush here? Look at that situation. Also what about the PA Natural Gas Development issues? Did you see the big rush here again? Who made a lot of money? Haliburton and Convicted Felon, (PA Treasurer Budd Dwyer), Robert Asher the Founder of the PENN Future Fund. With respect to Act-129 the Penn Future Fund via Felon Asher is a major backer of the Act-129 issues and the big rush. Perhaps this is just the tip of the Iceberg of public corruption on this issue. In the past, I asked former PA Senator Conti of Doylestown about Asher. Conti said "Asher is a Man of Honor" I will not touch him. Conti made reference to the Mafia book "Man of Honor" by Gangster Joe Bonnano. Conti should know his father was known to have ties to the local rackets which allowed the Felon Asher to rise to power. See [www.noplaceforcorruption.com](http://www.noplaceforcorruption.com) Docs Section PDF download for more details on these issues.”

- a. Do you have any personal knowledge of corruption related to Act 129 or PECO's installation of AMI meters?
- b. If so, please state that personal knowledge and provide copies of any documents that demonstrate that personal knowledge.

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PENNSYLVANIA PUBLIC UTILITY COMMISSION  
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PECO Discovery Set II, Q. 10:

In your formal complaint, ¶ 5, you state: “This same group tied into [www.bucksgop.org](http://www.bucksgop.org) Placed PA Lt.Gov Cawley into power who worked under PA Senator Tomlinson while PA had casinos installed into PA Communities with subsequent ownership by organized crime figures. Perhaps here within potential "Pay to Play" issues are a reason for the rush to Smart Meters. Perhaps the PUC may ask are firms like Exelon involved with kickbacks and payoffs? That was certainly the case with Former PA Senator Fumo now a convicted felon. In this situation, Felon Fumo obtained \$17 Million from Exelon to allow the PECO merger. Could it be possible considerations are again at play in the Act 129 rush to force all PA citizens using Power to install smart meters? Exelon made a lot of money in the PECO merger. Why would they stop doing this and what role does this play in the Act 129 Smart Meter issue. The PUC has a responsibility to have integrity, a strictly enforce ethics policy. The PUC needs this to be in place to properly deal with "Pay to Play" public corruption issues within. Internal corruption can distort the PUC decisions to side with the special interest concerns.”

- a. Do you have any personal knowledge of “Pay to Play” activities, kickbacks, or payoffs related to Act 129 or PECO’s installation of AMI meters?
- b. If so, please state that personal knowledge and provide copies of any documents that demonstrate that personal knowledge.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
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PECO Discovery Set II, Q. 11:

In your formal complaint, ¶ 5, you state: “Another point was the issue of public corruption with Vivendi Merger with Exelon/PECO. Vivendi was owned by Edgar Bronfman Jr. The Grandson of Sam Bronfman who was Al Capone's bootleggers (Chicago Outfit). Is it just a coincidence? The Federal Organized Crime Squads investigated Vivendi after they attempted to gain ownership of the Philadelphia water system. Subsequently Bronfman Jr. Lost several Billions from the Vivendi operations.”

- a. Is it your contention that Exelon/PECO at some point in time merged with Vivendi?
- b. If so, please provide all documents that support your contention that Exelon/PECO merged with Vivendi.
- c. Do you have any personal knowledge of “public corruption” with respect to any business dealings between Exelon/PECO and Vivendi?
- d. If so, please state that personal knowledge and provide copies of any documents that demonstrate that personal knowledge.

PECO Discovery Set II, Q. 12:

In your formal complaint, ¶ 5, you state: “The obvious is Exelon is a Chicago Based business. Need more be said?” Please explain why you believe that the fact that Exelon is Chicago-based is relevant to the issues in this proceeding.

PECO Discovery Set II, Q. 13:

As an attachment to your formal complaint, you attached an online blog from “smartgridawareness” that is attributed to the anonymous author “SkyVision Solutions.” Please identify, by name, the person who wrote this blog post under the *nom de plume* of “SkyVision Solutions.”

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Arthur Larson v PECO Energy Company  
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PECO Energy Company's Discovery, Set II**

**Questions Related to November 13, 2017 "Pre-Hearing Order Compliance"**

PECO Discovery, Set II, Q. 14:

In your November 13, 2017 Pre-Hearing Order Compliance, you state that:  
"Complainant will testify as a fact witness and an expert witness on the subject of the inherent danger of the proposed meter installation at his home. The proposed meter lacks appropriate internal safeguard with respect to heat generation on the posterior side unreasonably raising the potential of fire and/or property damage.

- a. Please state all qualifications that you rely upon for the position that you are qualified to testify as an expert witness in this proceeding.
- b. Please provide a copy of your resume or curriculum vitae.
- c. Please state all facts, and provide all documents or other information, that support your contention that "The proposed meter lacks appropriate internal safeguard with respect to heat generation on the posterior side unreasonably raising the potential of fire and/or property damage."

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Arthur Larson v PECO Energy Company  
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PECO Energy Company's Discovery, Set II**

PECO Discovery, Set II, Q. 15:

In your November 13, 2017 Pre-Hearing Order Compliance, you state that:  
“Complainant intends to call as fact witnesses every victim of personal property damage caused by the dangerous meter installations; the fire marshal who investigated the property damage in each location; the lack of response by PECO to complaints of damage to its customers. The names and addresses of such parties will be supplied when obtained. Each witness will testify that the installation of an unreasonably dangerous meter by PECO caused the property damage. These witnesses include but are not limited to Bensalem, PA Battalion Chief Robert Sponheimer; Colleen VanBaak, 569 Mill Road, Yardley, PA, 19067.”

- a. Please identify, by name and address, each fact witness who will be called by Complainant;
- b. Please provide a summary of the factual testimony that will be provided by each such witness;
- c. Please identify, by address or other identifying location, and by date of the incident, each fire that the witnesses will testify was caused by an AMI meter;
- d. For each fire marshal who will appear, including Chief Sponheimer, please provide a copy of every official Fire Department report(s) on each fire about which the fire marshal will testify.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Arthur Larson v PECO Energy Company  
C-2017-2615206  
PECO Energy Company's Discovery, Set II**

**Questions Related to Complainant's Discovery**

PECO Discovery Set II, Q 16:

In your November 7, 2017 Interrogatories and Requests for Production of Documents, you asked: "4. Attach any and all internal quality reports with respect to the meter or meters installed at 16 SteepleChase Drive, Doylestown, PA, 18901 and 3228 Bristol Road, Bensalem, PA, 19020 both of which addresses were the site of fires after installation of meters."

- a. Provide the date on which the alleged fire occurred at 16 SteepleChase Drive, Doylestown, PA 18901.
- b. Provide all documents or other information in your possession that demonstrates that the alleged fire at 16 SteepleChase Drive, Doylestown, PA 18901, was caused by a PECO AMI meter.
- c. Provide all documents or other information in your possession that demonstrates that the fire at 3228 Bristol Road, Bensalem, PA, 19020, was caused by a PECO AMI meter.

PECO Discovery Set II, Q 17:

In your November 7, 2017 Interrogatories and Requests for Production of Documents, you asked: "6. List and attach each and every quality control report which resulted in a rejection of the Chinese-manufactured meter shipped to respondent since 2013 to date," and "7. Describe how respondent monitors the temperature controls on the rear side of the Chinese-manufactured meters through which the power connection flows."

- a. Is it your contention that Chinese-manufactured meters are inherently unsafe or unreasonable for use at your residence due to being manufactured in China?
- b. If so, please describe why you so contend.
- c. If so, please provide copies of all documents, exhibits, graphics, or other writings that you rely upon to support this contention.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Arthur Larson v PECO Energy Company  
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PECO Energy Company's Discovery, Set II**

PECO Discovery Set II, Q 18:

In your November 7, 2017 Interrogatories and Requests for Production of Documents, you asked: "6. List and attach each and every quality control report which resulted in a rejection of the Chinese-manufactured meter shipped to respondent since 2013 to date," and "7. Describe how respondent monitors the temperature controls on the rear side of the Chinese-manufactured meters through which the power connection flows."

- a. Is it your contention that the AMI meter that PECO intends to install at your residence is Chinese-manufactured?
- b. If so, please describe why you so contend.
- c. If so, please provide copies of all documents, exhibits, graphics, or other writings that you rely upon to support this contention.

**EXHIBIT B**

**Larson Objections to PECO's Set II Discovery**

LAW OFFICES  
ARTHUR L. JENKINS, JR.  
325 DEKALB STREET  
P.O. BOX 710  
NORRISTOWN, PA. 19404

ARTHUR L. JENKINS, JR.  
EILEEN M. CAIN

AREA CODE 610  
275-8222

February 2, 2018

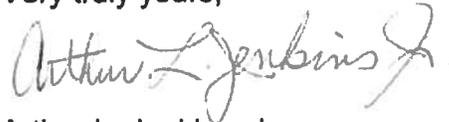
Ward L. Smith, Esquire  
Assistant General Counsel  
PECO Energy Company  
2301 Market Street, S23-1  
Philadelphia, PA 19103

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

Dear Mr. Smith:

I enclose objections to interrogatories served by this e-mail on February 2, 2018 together with a certificate of service also served on Judge Heep and the Secretary.

Very truly yours,



Arthur L. Jenkins, Jr.

ALJ/cz  
Enclosures

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

**OBJECTIONS TO INTERROGATORIES, SECOND SET  
TAKEN BY COMPLAINANT ARTHUR LARSON**

AND NOW comes Arthur Larson, also known as Art Larson, by his attorney Arthur L. Jenkins, Jr. and takes the following objections to the Interrogatories, Second Set Propounded by PECO as follows:

1. This case has been listed for a hearing on the merits on February 20, 2018.
2. The complaint of Arthur Larson was filed several months ago with discovery presumably completed pursuant to a scheduling order promulgated by the Administrative Law Judge with pretrial statements in accordance with the order.
3. On or about January 23, 2018 PECO served counsel for Arthur Larson with a second set of interrogatories involving allegations in the original complaint and pretrial statement of complainant.
4. These detailed interrogatories are stale, tardy and burdensome on the complainant.
5. The detailed interrogatories served on the eve of trial cause Art Larson unreasonable annoyance, embarrassment, oppression and expense.
6. The complainant is required to travel in his work and is presently unable to

access the documentation utilized at the time of filing his complaint several months ago.

7. The interrogatories request information already known to the defendant.

8. The complainant cannot answer the complex, tardy interrogatories within the statutory time afforded him because of his travel commitments and the proximity of trial.

WHEREFORE, complainant requests that this Court strike the tardy, burdensome interrogatories, second set, promulgated on the eve of trial.

Respectfully submitted,

LAW OFFICES OF ARTHUR L. JENKINS, JR.

By:   
Arthur L. Jenkins, Jr., Esquire  
Attorney for Arthur Larson

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

**CERTIFICATE OF SERVICE**

I, Arthur L. Jenkins, Jr., hereby certify that I have this day served a true and correct copy of Objections to Interrogatories, Second Set Taken by Complainant Arthur Larson in the above matter upon all interested parties via e-mail and United States First Class Mail, postage prepaid to:

Ward L. Smith, Esquire  
Assistant General Counsel  
PECO Energy Company  
2301 Market Street, S23-1  
Philadelphia, PA 19103

LAW OFFICES OF ARTHUR L. JENKINS, JR.

By:   
Arthur L. Jenkins, Jr., Esquire  
Attorney for Arthur Larson

Dated: February 2, 2018

EXHIBIT C

November 3, 2017 email confirming that Mr. Larson is not pursuing any health claims

## Smith, Ward L:(PECO)

---

**From:** Smith, Ward L:(PECO)  
**Sent:** Friday, November 03, 2017 4:18 PM  
**To:** c.a.zurek@verizon.net  
**Subject:** Larson v PECO, C-2017-2615206

Dear Mr. Jenkins:

This follows on and confirms our telephone conversation of this afternoon. Some of the attachments to Mr. Larson's formal complaint mention "health" issues in passing. PECO therefore sent discovery seeking additional information, such as medical records, regarding any claimed health issues. You objected to those questions on relevance grounds, stating that "Complainant does not at present have any illness or diagnosis related to the installation of" PECO's AMI meter, and that "Complainant does not yet suffer from a medical or health-related condition which is claimed to be caused by exposure to" a PECO AMI meter.

Both of these statements make clear that Mr. Larson is not claiming that he *has* an illness or health-related condition that he claims is related to a PECO AMI meter. In our call, I inquired whether his complaint also excludes any claim that is a PECO AMI meter *may or will in the future* cause, contribute to, or exacerbate an illness or health-related condition. You confirmed that, notwithstanding the passing references to "health" in the attachments to the Complaint, Mr. Larson's complaint does not encompass or include any such claim.

Expert and fact witness reports in this case are due on November 14, 2017. In our call, I informed you that, based on the discussion described above, PECO will not be filing any expert reports dealing with illness or health-related issues. You concurred that this is a proper understanding of the scope of Mr. Larson's claim.

If I have misunderstood or mischaracterized any portion of our discussion, please let me know at your earliest convenience. If I have correctly summarized our discussion, will you please confirm by reply email?

Thank you.

Ward Smith

EXHIBIT D

Mr. Larson's November 13, 2017 "Pre-Hearing Compliance"

LAW OFFICES  
ARTHUR L. JENKINS, JR.  
325 DEKALB STREET  
P.O. BOX 710  
NORRISTOWN, PA. 19404

ARTHUR L. JENKINS, JR.  
EILEEN M. CAIN

AREA CODE 610  
275-8222

November 13, 2017

Shawane L. Lee, Esquire  
Legal Department  
PECO Energy Company  
2301 Market Street / S23-1  
P.O. Box 8699  
Philadelphia, PA 19101-8699

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

Dear Ms. Lee:

I enclose a true and correct copy of the pre-trial order compliance in the above matter.

Very truly yours,

  
Arthur L. Jenkins, Jr.

ALJ/cz  
Enclosure

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ARTHUR LARSON  
Complainant

: DOCKET NO. C-2017-2615206

v.

PECO ENERGY COMPANY

**PRE-HEARING ORDER COMPLIANCE BY COMPLAINANT ARTHUR LARSON**

AND NOW comes complainant Arthur Larson by his attorney and sets forth as follows:

1a. Complainant will testify as a fact witness and an expert witness on the subject of the inherent danger of the proposed meter installation at his home. The proposed meter lacks appropriate internal safeguard with respect to heat generation on the posterior side unreasonably raising the potential of fire and/or property damage.

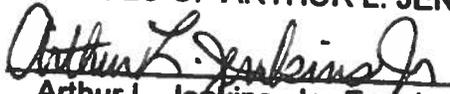
1b. Complainant intends to call as fact witnesses every victim of personal property damage caused by the dangerous meter installations; the fire marshall who investigated the property damage in each location; the lack of response by PECO to complaints of damage to its customers. The names and addresses of such parties will be supplied when obtained. Each witness will testify that the installation of an unreasonably dangerous meter by PECO caused the property damage.

These witnesses include but are not limited to Bensalem, PA Battalion Chief Robert Sponheimer; Colleen VanBaak, 569 Mill Road, Yardley, PA, 19067.

Respectfully submitted,

LAW OFFICES OF ARTHUR L. JENKINS, JR.

By:

  
Arthur L. Jenkins, Jr., Esquire  
Attorney for Arthur Larson