

331 Shady Ridge Drive
Monroeville, PA 15146

March 23, 2018

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Via Paper Filing

Judge Jeffrey Watson
PA PUC Pittsburgh Administrative Law Judge Office
301 Fifth Ave, Suite 220
Piatt Place
Pittsburgh, PA 15222

RE: **Michele Hriadil and Francis Hriadil v. Duquesne Light Company**
Docket No. C-2016-2571726

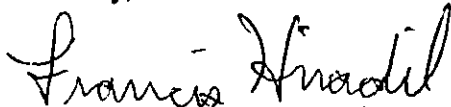
Dear Judge Watson:

Enclosed please find a copy of Complainants Response to Respondent's March 5, 2018 Answer in Opposition to Complainants Motion to Compel Discovery.

A copy of this document has been served upon the Respondent's Counsel, Jeremy V Farrell, Esquire, and PUC Secretary Chiavetta, in accordance with Commission regulations.

Please feel free to contact me if you have any questions.

Sincerely,



Francis Hriadil
Complainant
(412) 779-3314
hriadil@attglobal.net

Cc: Jeremy V Farrell, Esquire, Counsel for Duquesne Light Company

Cc: Rosemary Chiavetta, Secretary, Pennsylvania Public Utility Commission

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Michele Hriadil and
Francis Hriadil,

Complainant,

vs.

DUQUESNE LIGHT COMPANY,

Respondent.

No: C-2016-2571726

**RESPONSE TO
RESPONDENT'S ANSWER IN
OPPOSITION TO COMPLAINANT'S
MOTION TO COMPEL DISCOVERY**

Filed by Michele and Francis Hriadil

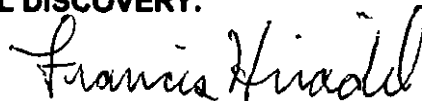
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Monroeville, PA 15146

**RESPONSE TO
RESPONDENT'S ANSWER IN OPPOSITION TO
COMPLAINANT'S MOTION TO COMPEL DISCOVERY**

TO: THE HONORABLE ALJ JEFFREY A. WATSON

TO: RESPONDENT'S GENERAL COUNSEL, JEREMY V FARRELL, ESQUIRE, AND PAUL SHANE
MILLER, ESQUIRE.

HERE IS THE FILING OF OUR WRITTEN RESPONSE TO RESPONDENT'S ANSWER IN
OPPOSITION TO COMPLAINANT'S MOTION TO COMPEL DISCOVERY.



Francis Hriadil
March 23, 2018

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Michele Hriadil and
Francis Hriadil,

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No: C-2016-2571726

**RESPONSE TO
RESPONDENT'S ANSWER IN OPPOSITION TO
COMPLAINANT'S MOTION TO COMPEL DISCOVERY**

TO THE HONORABLE ALJ Jeffrey A. Watson:

1. Overview:

a. The process of Discovery exists and was created is to establish the facts - not just some of the facts, not just many of the facts, but all of the facts.

Pa Code, 52. Pa. Code § 5.321(c) Scope, clearly and emphatically states

“a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, ... , 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 ground 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.”

There are only two sources available for this information regarding this matter:

- the public domain
- the Respondent

Complainants have gathered what information is available in the public domain. There is much

about the operation and operational capability of the Smart Meter in its Network Mesh that is and remains unclear, that has been and remains mischaracterized, and/or has been and remains unreported to the general public. As such, many questions needed to be asked and answered. The Complainants did not create this situation and occurrence; but, we are required to deal with it. And, as the Respondent is insisting that the public has no choice in the matter, and as the public is being prevented from carrying out and exercising its own independent due diligence and discretion, it is an inescapable truth of the situation that the Respondent, and only the Respondent, can supply those facts.

b. On February 5, 2018, Your Honor reviewed the initial Complainants Motion to Compel and made an Interim Ruling stating that,

“Complainants may file a more specific and concise Motion to Compel response to the discovery requests propounded by Complainants on October 5, 2017, identifying the specific interrogatories or requests for production that are incomplete, insufficient, or otherwise objectionable and the specific basis for each such claim, on or before February 20, 2018.”

In keeping with this ruling, Complainants filed a new Motion to Compel on February 20, 2018.

Unexpectedly, and unfortunately, there are forty (40) interrogatories from Complainants Set #1 of Discovery Requests in which the Respondent has provided responses that are insufficient, incomplete, or otherwise objectionable. This occurred in lieu of the fact that the Complainants granted the Respondent successive extensions to provide the Respondent with all of the time it requested to completely answer the Complainants Discovery Requests/Interrogatories.

In our new February 20, 2018 Motion to Compel, Complainants present each of those forty (40) specific Discovery Requests in turn.

For each of those Discovery Requests/Interrogatories, the following specifics are presented:

- the Complainant's specific Discovery request/interrogatory

- the specific area that the Discovery request/interrogatory pertains to
(Health - Exposure, Safety, Reliability, Privacy, and/or Security)
- the exact response provided by the Respondent
- the specific issue(s) with the Respondent's response
(why and how it is insufficient, incomplete, and/or objectionable;
and what information still needs to be provided to remedy the inadequacy
of the Respondent's response)

Every effort was made to be as concise as possible, yet also remain specific, accurate, and complete. To have provided anything less would simply compromise clarity, foster ambiguity, cloud the issue(s), and prevent the true facts from becoming known. Everything is explained in as clear a manner as possible so that there can be no misunderstanding as to what is lacking, and how the inadequacies can be remedied.

Most of the inadequacies in the Respondent's responses can be quickly and readily addressed, as is explained in our Motion to Compel. Most require simple answers or clarifications, or even just simple yes/no answers. This is no undue burden. In the time the Respondent has taken not to answer the submitted Discovery Requests/Interrogatories, the Complainants aver that all of the outstanding interrogatories and inadequate responses could have been answered and resolved, and the intent of Discovery would have been fulfilled. As stated before and multiple times, the Respondent is the only source available to provide those answers.

It is not, nor has it ever been, the intent of the Complainants to unduly, unjustly, or unfairly burden the Respondent. Complainants have adhered to the spirit and intent of 52. Pa. Code § 5.321(c). All of the Complainants Discovery Requests relate directly to health, safety, reliability, security, and privacy, all of which have been raised in Complainants Formal Complaint and subsequent submissions. Complainants have only submitted Discovery Requests that are germane to our complaint, and our appeal for accommodation and relief.

The length of the Motion to Compel document is a direct result of the complexity of the

matter and multitude of issues that are involved, the nature of the Respondent's previous responses, and the fact that both the Complainant's Discovery Requests/Interrogatories and the Respondent's responses are provided in full. That is not something that is a contrivance of the Complainants. It is simply an undeniable reality of the technology and circumstances that are involved.

c. Respondent filed its Answer in Opposition to Complainant's Motion to Compel Discovery on March 5, 2018. The Respondent's Answer in Opposition proffers three (3) arguments for denying the Motion to Compel:

- A. The Second Motion to Compel should be denied because Duquesne Light has already provided full and complete responses to the Discovery Requests.
- B. The Second Motion to Compel should be denied because it fails to comply with the Interim Order.
- C. The Second Motion to Compel should be denied because the additional discovery it purports to seek would cause unreasonable annoyance, expense, burden, or investigation if Duquesne Light were forced to respond.

The Complainants will address each one of these arguments in turn.

- d. On February 6, 2018, Your Honor issued the First Supplemental PreHearing Order
- "1.a. Any additional discovery requests shall be served not later than March 16, 2018. Responses shall be served within twenty (20) days, pursuant to the applicable regulations."

The Complainants had no additional discovery requests ready to submit by this deadline, as any possible follow on discovery requests that the Complainants might have found necessary and appropriate would have depended on the responses to the Discovery Requests/Interrogatories that the Respondent is refusing to answer. The Discovery Request/Interrogatories that comprise the Complainants Motion to Compel represent a comprehensive set of interrogatories that the Complainants believe would likely not lead to the need for additional Discovery Requests, unless there was something unclear or unexpected in the Respondent's responses. Recall that the Complainants raised the

concern in the December 14, 2017 PreHearing Conference Call that the back and forth between the Complainants and the Respondent related to Discovery could lead to the ending of discovery before all Discovery Requests could be fully and completely resolved to the satisfaction of the parties involved. Whether by intent or by circumstance that is exactly the situation that has occurred here, one that the Complainants had hoped with good faith cooperation would be avoided.

So, the remaining Discovery Requests/Interrogatories comprising the Complainants Motion to Compel represent the last Discovery Requests that can be filed. If the answers to those Discovery Requests/Interrogatories are not forthcoming and Discovery is ended, the answers will remain unprovided by the only source that can provide those answers, and that is the Respondent.

In a matter where the Complainants bear the burden of proof and must provide a preponderance of evidence, this occurrence, if allowed to happen, will severely limit the Complainants ability to do so.

2. Respondent Argument A:

The Second Motion to Compel should be denied because Duquesne Light has already provided full and complete responses to the Discovery Requests.

Respondent Argument A, first paragraph:

The Second Motion to Compel should be denied because Duquesne Light has already provided full and complete responses to the Discovery Requests, as required by 52 Pa. Code §5.342(4). The company has fully responded to each interrogatory, even though Complainants submitted more than 150 interrogatories and document requests about a plethora of technical information relating to many aspects of Duquesne Light's smart meter plan and technology. The company provided a thorough 32-page written response and produced more than 900 pages of documents to Complainants. See Exhibit B.

Complainant's Response:

Because of the complicated nature of the technology and its use, many questions needed to be asked and answered. This is the reality of the matter. It

is not something that is being manufactured or nor is it a matter of contrivance by the Complainants for some disingenuous purpose. It is a true reflection of the complexity of the issues that are involved.

Respondent avers that it has provided "full and complete responses" in its opinion. As part of Discovery, Complainants submitted many specific questions in its Set #1 of Discovery Requests in an effort to clarify all of the pertinent issues.

The Respondent makes much of the fact the Respondent "*provided a thorough 32-page written response and produced more than 900 pages of documents to Complainants.*" But, many questions were not fully addressed and not completely answered. The volume of material presented is immaterial if it does not provide the answers being sought in the various Discovery Requests/Interrogatories. As specifically explained in Complainants Motion to Compel, there were many responses that were vague, inconsistent, and/or incomplete. For example, there were missing documents (that have subsequently been provided) and a faulty link was provided to online material that directed the Complainant to a webpage that does not exist. Numbers were provided in one part of the Respondent's response that did not agree with numbers provided in a different part of the Respondent's response. The Respondent used terminology that was broad and undefined in various of its responses. In some instances, the Respondent appeared to use different terminology at different times to refer to the same personnel and/or subject matter. In some instances, the Respondent provided responses that did not address the question(s) that were asked. And, in some instances, where the Complainants provided the background and context of the Discovery Request being asked, the Respondent repeatedly declared said requests to be argumentative. Is this what a reasonable

person would expect would comprise a full and complete response? We think not. Whether intentional or not, the nature of the responses specifically indicated in Complainants Motion to Compel were and remain confusing and incomplete.

The Respondent is insisting that it has adequately "answered" Complainants Discovery Requests. Complainants respectfully submit that there is a big difference between a "response" to Complainants Discovery Requests and the "answering" of the Complainants Discovery Requests. And, Complainants follow with the question, is it the intent of Discovery for the Discovery Requests/Interrogatories to be answered to the satisfaction of the recipient of the interrogatory or the submitter of the interrogatory? My engineering career and my life would have been much easier, though much less professional and credible, if I only had to provide answers to questions posed to me, or required of me, to my own whim or satisfaction.

Respondent Argument A, second paragraph:

Complainants make much of the fact that Duquesne Light's responses at times were qualified in the sense that the company noted that some of Complainants' questions were vague or ambiguous or that the nature of Duquesne Light's actions may depend on "business processes." See, eq. , Motion to Compel Discovery 1117, 10, 11, 19, 22, 27, 29, 33. Such qualifications, however, do not render Duquesne Light's responses incomplete or insufficient under the Commission's rules. Duquesne Light readily admits that, at times, it had to point out that certain questions were vague or difficult to comprehend for the simple reason that those questions truly were vague and difficult to comprehend. These qualifications were necessary for Duquesne Light to provide accurate answers to Complainants' requests as Duquesne Light understood them. Moreover, Complainants repeatedly inquired about a wide variety of technical information relating to Duquesne Light's smart meter program and associated technology without defining almost all of those terms. This often made it difficult for Duquesne Light to determine precisely what information Complainants were seeking. If Complainants now feel that Duquesne Light failed to provide the exact responses that Complainants desired, the fault lies with Complainants' questions and not Duquesne Light's answers.

Complainant's Response:

There is a big difference between a response being qualified and a

response that is incomplete, inconsistent, and/or otherwise objectionable.

Complainants have no objection to the Respondent qualifying its responses to any degree it felt necessary. Any language promoting clarity is welcome as it avoids any misunderstanding or confusion. But, "qualification" cannot be used as a tool or mechanism to evade an interrogatory whether in whole or in part.

It is interesting to note that when the some of the Complainants Discovery Requests/Interrogatories were qualified in an effort to indicate our understanding of the specific issues in question and to provide the Respondent with the opportunity to respond and possibly correct that understanding if it was in error, the Respondent's standard reaction to those qualifications was critical and dismissive (being routinely characterized as argumentative). It was never the intention of the Complainants to be argumentative. If the Respondent could establish in their answer that a Complainants understanding was wrong or in error, then that aspect of the Complainants complaint would be resolved and would no longer need to be pursued in our complaint. And, if all of Complainants Discovery Requests could be adequately answered and its concerns resolved, then there would be no further need to continue with our complaint. It was the Respondents opportunity to reduce or resolve aspects of the Complainants complaint, but the Respondent chose to be critical, dismissive, and defensive.

Concerning the Respondent's assertion that "Complainants repeatedly inquired about a wide variety of technical information relating to Duquesne Light's smart meter program and associated technology without defining almost all of those terms" and that "the fault lies with Complainants' questions and not Duquesne Light's answers", Complainants have the following comments. All terms and terminology used in the Complainants Discovery Requests are derived from the Respondent's own documentation, other Smart Meter proceedings

before the PUC, and/or industry accepted and understood use. No new, foreign, or unique terms were introduced or utilized that are not well understood and did not come from some reputable and accepted source. That is not the case with some of the terms and terminology utilized by the Respondent in its responses. For example, “*business processes*” as one case in point, since the Respondent specifically mentions it, is simply vague and evasive. It can literally mean anything. And, it can vary from utility to utility, industry to industry, business to business. There is no standard accepted understanding as to what this exactly means. There are other cases in point specifically detailed in Complainants Motion to Compel. So, this new “excuse” that the Respondent offers here to validate the incomplete, insufficient, inconsistent, or otherwise objectionable nature of some of its responses strains credulity.

3. Respondent Argument B:

The Second Motion to Compel should be denied because it fails to comply with the Interim Order.

Respondent Argument:

*The Second Motion to Compel also should be denied because it fails to comply with the Interim Order. The scope of permissible discovery in Commission proceedings is governed by the Commission's rules at 52 Pa. Code § 5.321. The presiding officer in any proceeding has broad discretion regarding the scope of discovery. 52 Pa. Code § 5.321(b). Failure to comply with a presiding officer's order is not reasonable or excused. See Application of A-Merit Med. Transportation, Inc. for the Right to Begin to Transp., As A Common Carrier, by Motor Vehicle, Persons, in Paratransit Serv., in Wheelchair Vans & Sedans, Between Points in the Ctys. of Bucks, Chester, Delaware, Montgomery & Philadelphia, A-2015-2487881, 2016 WL 192078, at *4 (Pa. P.U.C. Jan. 4, 2016); Havana Banana Grp., Inc. v. PECO Energy Co., C-2013-2391061, 2014 WL 466628, at *5 (Pa. P.U.C. Jan. 13, 2014).*

Here, the Interim Order states that Complainants “may file a more specific and concise Motion to Compel responses to the discovery requests propounded by Complainants on October 5, 2017, identifying the specific interrogatories or requests for production that are incomplete, insufficient, or otherwise

objectionable and the specific basis for each such claim (emphasis added). Notably, the Interim Order did not state that Complainants could use the Second Motion to Compel to tack on new discovery questions. In fact, the Interim Order held that the First Motion to Compel was defective, in part, because it sought to compel Duquesne Light to respond to new discovery requests rather than simply seeking full responses to the original discovery questions. To avoid repeating that mistake, the Interim Order instructed Complainants to submit a concise motion that merely identified which discovery responses were objectionable and the specific basis for each objection.

Complainants have not complied with the Interim Order. Despite the Interim Order's explicit instructions, the Second Motion to Compel is not concise. It spans 48 pages (making it even longer than the Follow-up Set of Discovery Requests) and basically rearranges the content of the First Motion to Compel and Follow-up Discovery Requests.

Moreover, Complainants did not abide by the Interim Order's directive to limit the Second Motion to Compel to identifying which discovery responses were objectionable and the specific basis for each objection. Complainants went a step further and included more than 165 new questions, which is precisely what the ALJ rejected in the First Motion to Compel. In short, despite the Interim Order's clear instructions, Complainants essentially reshuffled their First Motion to Compel and Follow-up Discovery Requests and submitted them again in the Second Motion to Compel. The ALJ should exercise its broad discretion regarding the scope of discovery matters and deny the Second Motion to Compel.

Complainant's Response:

Complainants address the core of this argument in section 1. b. (pages 3 - 5) of this document, and aver that it has satisfied the Interim Ruling to be specific, provide the specific basis for each such claim, and be concise.

With regards to the Respondent's references to the Interim Order of February 5, 2018, Complainants provide the following:

- i. The Complainants did not provide the specific interrogatories or requests for production that are incomplete, insufficient, or otherwise objectionable and the specific basis for each such claim within the body of the Motion to Compel itself. Rather, this material was provided in a separate document that was provided as an attachment. The title of that attachment might have been misunderstood, and for that, the Complainants apologize. But, the content of that attachment was not a

new set of discovery interrogatories, it provided the details concerning the specific Discovery Requests/Interrogatories that are at issue. The Complainants corrected this in its new Motion to Compel.

- ii. The Respondent asserts that the Complainants are “tacking on new discovery questions.” This is a mischaracterization, and the Complainants aver that this is not the case. In order to be specific and provide the basis for the claim that a specific response is incomplete, insufficient, or otherwise objectionable, the Complainants provided the necessary explanation and details in as specific and concise of a manner as possible. Where it was deemed appropriate the interrogatory was either restated verbatim, reworded or rephrased (in an attempt to promote clarity without the interrogatory being fundamentally changed or modified), or even simplified to facilitate a quick and expedient response to resolve the inadequacy in the Respondent’s original response. In truth, this does not constitute the “tacking on of new discovery questions.” These do not constitute new interrogatories, they simply and plainly direct and focus the Respondent to fully answer the interrogatory that was served. The Respondent can either attempt to respond in a good faith manner to the Discovery Requests/Interrogatories that have been put forward or it can attempt to mischaracterize and obfuscate in order to avoid having to provide the requested answers. We cannot control how the Respondent will respond. We can only expect and hope that the Respondent will comply in a good faith and professional manner, and that Your Honor will rule in our favor in this matter. The Complainants

may be somewhat naïve about this adversarial process; but, we expect adherence to the purpose and intent of the Discovery process.

Anything less than this harms our ability to meet our obligation to provide a preponderance of evidence to substantiate our complaint, and our seeking of accommodation and relief.

In the Respondent's Discovery Requests/Interrogatories served on the Complainants, very comprehensive and detailed information was requested, and very broad and comprehensive requirements (See Exhibit A) were imposed, concerning our information, documentation, backgrounds, health records, etc. Whether these were deemed by us to be appropriate or germane to the issues at hand, Complainants did not complain and made every effort to supply the requested information to the satisfaction of the Respondent. The Complainants are only asking for the same consideration here.

- iii. Concerning Respondents comment about Complainants reshuffling their First Motion to Compel and Follow-up Discovery Requests, this is addressed in paragraph i. (page 11). The issues raised in Complainants First Motion to Compel remain the issues. There is no way of getting around this fact. As such, their forming the basis of Complainants new Motion to Compel is not inappropriate or untoward.

4. Respondent Argument C:

The Second Motion to Compel should be denied because the additional discovery it purports to seek would cause unreasonable annoyance, expense, burden, or investigation if Duquesne Light were forced to respond.

Respondent Argument C, first and second paragraph:

*Finally, the Second Motion to Compel should be denied because the additional discovery it purports to seek would cause unreasonable annoyance, expense, burden, or investigation if Duquesne Light were forced to respond. While parties to Commission proceedings are entitled to seek discovery (as Complainants already have), discovery does not allow fishing expeditions," and pro se parties have no greater discovery rights than represented parties. Johnson v. Lightcap, No. 467 C.D. 2008, 2008 WL 9405102, at *1 (Pa. Commw. Ct. July 11, 2008) ("Discovery is not intended to allow parties to embark upon "fishing expeditions," and the reasonableness of a given request. . . are matters for the trial court to determine in the exercise of its sound discretion."); Green v. Harmony House N. 15th St. Hous. Ass'n, Inc., 684 Aid 1112, 1114 (Pa. Commw. Ct. 1996) (the fact that the plaintiff decided to be her own lawyer does not excuse her from failing to follow the relevant rules of procedure and substantive law). The Commission's regulations thus prohibit discovery that, among other things, would cause unreasonable annoyance, burden, expense, or would require the making of an unreasonable investigation. 52 Pa. Code § 5.361.*

The Second Motion to Compel, if granted, would cause unreasonable annoyance, expense, burden, or investigation for Duquesne Light for a few reasons. First, it attempts to improperly expand the scope of this proceeding from one that questions whether Duquesne Light has violated the Public Utility Code, an associated regulation, or tariff⁶ into a wholesale attack on Duquesne Light's smart meter implementation plan (which has already been approved by the Commission)⁶ and/or a challenge to the scientific merit of Act 129's mandatory universal deployment of smart meters, which is already settled law.⁷ Complainants should not be permitted to expand the scope of this hearing through the discovery process. Furthermore, because Complainants' discovery requests exceed the scope of this proceeding, they are outside the scope of discovery permitted under 52. Pa. Code § 5.321(c) because they, by nature, are not "relevant to the subject matter involved in the pending action."

Complainant's Response:

i. Complainants address the core of this argument in section 1. a. and 1. b. (pages 2 - 5) of this document, and aver that our Discovery Requests/Interrogatories adhere to the purpose and intent of the Discovery process as set forth in 52. Pa. Code § 5.321(c). Complainants are not cavalierly submitting Discovery Requests and Interrogatories that are not germane to the matter at hand, the issues at question in their complaint, and their request for relief. All of the Complainants questions relate directly to health (radiation exposure), safety, reliability, security, and privacy, all of which have been raised in Complainants Formal Complaint and subsequent submissions.

ii. Complainants are not a party to this technology; the Respondent is. Complainants are not promoting and advocating this technology; the Respondent is. Complainants are not deploying this technology; the Respondent is. Complainants have no control of the use of this technology; the Respondent does. Complainants did not request or consent to this technology, and are being told that they have no choice in the matter, irrespective of their circumstances or preferences. Yet, the Respondent complains that it is an undue burden for it to address the Complainants Discovery Requests/Interrogatories, which are pertinent and many of which require a simple answer, or a simple yes or no answer to resolve. Where more detailed answers or numbers are required to address omissions, inconsistencies, or unsubstantiated and dismissive assertions, it is necessitated completely by the nature and complexity of the device, its network, and its operation. Where the Respondent makes a misstatement or makes an unsubstantiated assertion, it is not unreasonable to compel them to correct that statement or justify that assertion. To be fair, Complainants respectfully submit that we cannot be faulted for this circumstance, nor should we be faulted or penalized for seeking to discover those answers.

iii. It cannot be overemphasized that the requested information is available to the Respondent, and that the Respondent is the only source available for this information. As an upstanding and responsible business operating in southwestern Pennsylvania, and a conscientious steward operating in good faith with its customers, there should be no issue with addressing legitimate customer concerns and answering legitimate and pertinent interrogatories. This applies to any legitimate business, agency, organization, etc., including the PUC as well.

The Respondent cries foul asserting that it is being "saddled with"

unreasonable annoyance, expense, and burden with regards to the Complainants Discovery Requests/Interrogatories. Yet little recognition is given to the unreasonable annoyance, expense, risk, and burden being imposed on its utility homeowning customers in violation of PA Utility Code § 1501 as one example, which plainly states,

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. (emphasis added)

This point aside, what Respondent characterizes as a burden, the Complainants respectfully assert is a corporate responsibility that cannot be overlooked, or neglected, or avoided. If the Respondent is unprepared or ill-prepared to fulfill that basic responsibility to its customers and address the legitimate and pertinent Discovery Requests/Interrogatories submitted by the Complainants, then the Complainants cannot be faulted or penalized for their efforts to seek the answers through their interrogatories, nor can the Respondent mischaracterize that effort as an unreasonable annoyance, expense, and burden, at this late date in its Smart Meter deployment program. At this point in their program, the Respondent should have all of the answers, and those answers should be readily available.

iv. The Respondent does not want to answer the specified interrogatories as posed, and in full. And, it is a fact of human nature that something someone does not want to do is de facto considered to be a burden. The Respondent wishes to pick and choose in its responses what information it is willing to provide, and what information it wants to leave out. It is apparent from its responses that there are some significant details that the Respondent does not wish to acknowledge or produce. The Complainants respectfully submit that the

Respondent does not have the discretion to refuse those details, as this would defeat the very intention and purpose of the discovery process.

v. Respondent puts forth the accusation that the Complainants are attempting “to improperly expand the scope of this proceeding from one that questions whether Duquesne Light has violated the Public Utility Code, an associated regulation, or tariff”, when every Discovery Request/Interrogatory that has been submitted is germane to the required adherence to PA Utility Code § 1501 as one example, which Complainants repeat again for clarity,

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. (emphasis added)

In our Motion to Compel, Complainants specifically and concisely cite for each of the specified Discovery Requests/Interrogatories the specific area of health (exposure), safety, reliability, privacy, and/or security to which it applies. The Respondent has failed to demonstrate where this is not the case.

vi. The Respondent puts forward emotional and inflammatory rhetoric such as “wholesale attack” on its Smart Meter implementation plan, and “challenge to the scientific merit”. If, as the Complainants believe, we will be able to provide a preponderance of evidence demonstrating that, at a minimum, aspects of the program are in violation of relevant codes including but not limited to PA Utility Code §1501, and that substantiate its concerns, its complaint, and its request for accommodation and relief, then Complainants aver that it is well within the purview and the authority of the PUC to re-examine and re-evaluate whatever aspects of the program it deems appropriate in light of new scientific evidence, etc., as it carries out its stated mission to operate in the best interest, safety, and

benefit of the residents of Pennsylvania, who are under its charge. Complainants respectfully submit that this in no way justifies the Respondent's assertion that the Complainants complaint and its Discovery Requests/Interrogatories "exceed the scope of this proceeding" or are "irrelevant to the subject matter involved in the pending action." (Refer to Complainants section 4. i. (page 14 herein).

Respondent Argument C, remaining paragraphs:

There is a myriad of other problems with the Second Motion to Compel, the cumulative effect of which is to impose precisely the sort of unreasonable burden, annoyance, and investigation prohibited by 52 Pa. Code § 5.361. A representative sampling of those problems is set forth below:

a. Complainants include at least 165 discovery questions in the Second Motion to Compel, in addition to the more than 150 discovery questions that Duquesne Light has already answered.

Complainant Response

This is addressed in section 3. ii. and iii (pages 12 - 13 herein)

b. Some follow-up questions in the Second Motion to Compel amplify the original requests into areas outside the scope of the Complaint or the Presiding Officer's Interim Order. See, Paragraph 26 (pp. 28-29) (asking whether customers in general are advised "at any time" that their internal electrical circuitry is their responsibility and informed of "what additional upgrades/protections should be installed to ensure that his internal electrical circuitry and appliances are protected and compatible with the new Smart Meter being installed on his property"); Paragraph 30 (pp. 32-33) ("Is 'meter exchanger' a recognized profession?" and "Are the Smart Meter exchangers temporary or permanent employees?); Paragraph 31 (pp. 33-34) (asking about the bonus structure for meter exchangers); Paragraph 39 (pp. 40-41) (asking many questions through 12 separate bullet points about how customers with smart meters are billed based on the usage read by the meter, when no billing concerns were raised in the Complaint).

Complainant Response

The point of all of these questions pertains directly to safety, reliability, quality and adequacy. In its Set #1 of Discovery Request, Complainants submitted Discovery Requests/Interrogatories about the training, certification, and installation protocols of the Respondent's Smart

Meter installers (which were not completely answered), about the responsibilities and risks that are assumed by the homeowner having the Smart Meter installed on his/her residence and if and how they are informed of this and if any advice is provided (which were not completely answered), and about their Smart Meter reliability, safety, or quality and occurrences of incidents such as incorrect billing which is a fundamental aspect of reliability, quality, and adequacy of their Smart Meter (which were not answered). These are all specifically explained in Complainants Motion to Compel.

c. Other questions are argumentative and/or ask Duquesne Light to speculate as to a myriad of possibilities or unknown future events. See, Paragraph 41 (p. 42) (after Duquesne Light answered "[nb]" to whether it had "plans in the future to market" customer data for creating new income streams, Complainant stated Duquesne Light's answer requires clarification and asked, "Is the Respondent precluded from offering this personal customer data to any individual, company, or organization in the future?").

Complainant Response

Concerning the comment about being "argumentative", this is addressed in Section 2. Complainants Response to Respondent Argument A, second paragraph (pages 8 - 9 herein) and in Complainants Motion to Compel.

Concerning the comment about speculation, none of the Complainants Discovery interrogatories were/are hypothetical or speculative. They are all reasonable, specific, appropriate, relate directly to, and have a direct bearing on issues of health, safety, reliability, security, and privacy, at the present time and in the future, all of which have been raised in Complainants Formal Complaint and subsequent submissions. If the subject of an interrogatory is known,

planned, or predictable, it is not hypothetical, it is not conjecture, it is not speculative, and it is a valid area for Discovery.

d. Some repeat the same question Duquesne Light has already answered. See, , Paragraph 37 (p. 39) (after Duquesne Light answered "[n]o" and provided an explanation to the question of whether "personal data [will] only be used for billing purposes internal to Duquesne Light," Complainants asked again "Will this personal customer electric usage data be used only for billing purposes internal to Duquesne Light?").

Complainant Response

This completely mischaracterizes the Discovery Request and the confusing and somewhat contradictory nature of the Respondent's responses. In one part of Respondent's responses it says the answer to this question is yes and in another part of its responses the Respondent says the answer to this question is no and then starts discussing grid operations. This is specifically discussed in Complainants Motion to Compel in Para. 37 (p. 39) of that document.

e. Some criticize Duquesne Light for responding generally to a question that was broad or general in nature. See, , Paragraph 7 (pp. 10-11) (criticizing Duquesne Light's use of the term "business processes" in its responses); Paragraph 8 (pp. 11-12) (same). The questions contained in the Second Motion to Compel are replete with these sorts of broad and generic questions.

Complainant Response

As indicated in the Complainants Motion to Compel the Respondent's responses are replete with the use of the term "business processes". As stated earlier in this document, the term "business process" can literally mean anything. And, it can vary from utility to utility, industry to industry, business to business. There is no standard accepted understanding as to what this exactly means.

And, concerning the broad and generic reference to Complainants requests/interrogatories being "broad and generic," the Complainants can only say the following - we can't seem to win no matter how our interrogatories are structured. When Complainant submits successive questions that are detailed

and specific then Complainants interrogatories are criticized as being excessive and burdensome. However, when Complainants interrogatories are somewhat more generalized, they are criticized as being vague, broad, and generic. Many of the Respondents Discovery Requests/Interrogatories received by the Complainant are similarly vague, broad, and generic in some instances and detailed and specific in other instances. The Complainants did not complain or criticize, we simply went about answering those interrogatories completely to the best of our abilities and the satisfaction of the Respondent.

5. All told, a great deal of discussion has transpired and continues to transpire over the Complainants Discovery Requests/Interrogatories, and a great deal of time and effort has been expended by the Respondent to not provide the requested answers to those interrogatories. As stated earlier, it is the Complainants steadfast belief that in the time the Respondent has taken to not answer the submitted Discovery Requests/Interrogatories, all of the outstanding interrogatories and inadequate responses could have been answered and resolved, and Discovery could have ended successfully, as designed with its purpose and intent fully realized.

If a Respondent can be permitted to

- ignore whatever interrogatories that it wants
- ignore whatever aspects of interrogatories that it wants
- leave out any pertinent data or information that it chooses
- leave unresolved conflicting, contradictory, or inconsistent responses
- utilize critical terms that are ambiguous or undefined
- provide responses that don't answer the interrogatory being posed
- answer only those interrogatories that it wants, and only the way that it wants
- decide when an interrogatory has been fully answered, irrespective of the satisfaction of the submitter

then the purpose and intent of Discovery will have been circumvented.

Complainants have indicated that the Respondent has answered many of our Discovery Requests/Interrogatories appropriately, and we thank them for that; but, unfortunately, there are also a significant number of very important interrogatories in which its responses are and remain

incomplete, insufficient, or otherwise objectionable. The Respondent has objected to answering *and resolving these outstanding interrogatories and issues.*

6. The Complainants reluctantly appeal for Your Honor's assistance in addressing the resolution of these Discovery outstanding requests and issues. Complainants aver that we have adhered to the February 5, 2018 Interim Order by Your Honor. Every effort was made to be as specific and concise as possible, and provide the specific basis for each such claim for a production that we view as incomplete, insufficient, or otherwise objectionable, as stated in your ruling, and yet remain clear, accurate, and complete. Complainants have even taken the added step of trying to simplify as many of the required interrogatories as possible so that they require only a one word answer to facilitate the Respondent's responses and minimize any required time or effort. Complainants truthfully don't know what else we could have done.

7. Again, Complainants refer to 52. Pa. Code § 5.321(c) Scope,

a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, ... , 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 ground 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. (emphasis added)

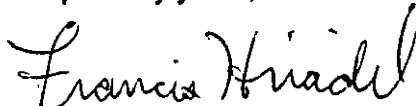
Complainants aver that we have adhered to the spirit and intent of 52. Pa. Code § 5.321(c). All of the Complainants Discovery Requests relate directly to health, safety, reliability, security, and privacy, all of which have been raised in Complainants Formal Complaint and subsequent submissions. Complainants have only submitted Discovery Requests that are germane to their complaint, and their appeal for accommodation and relief.

8. In closing, in our effort to substantiate that, at a minimum, aspects of the Respondent's Smart Meter program are in violation of relevant codes, including but not limited to PA Utility

Code §1501, and that its concerns, its complaint, and its request for accommodation and relief are all valid, Complainants are tasked with having to produce a preponderance of evidence to meet our burden of proof. Complainants ability to do this will be harmed if the answers to our outstanding Discovery Requests are not forthcoming and are subject to the discretion of the Respondent.

WHEREFORE, in light of these circumstances, Complainants Michele Hriadil and Francis Hriadil respectfully request that You Honor rule in favor of the Complainants Motion to Compel Discovery, and deny Respondent's Answer in Opposition to Complainant's Motion to Compel Discovery.

Respectfully yours,



Francis Hriadil
(412) 779-3314
331 Shady Ridge Drive
Monroeville, PA 15146
March 23, 2018

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

EXHIBIT A

INSTRUCTIONS

- A. You must provide all information that is available to You. This includes not only Your personal knowledge but also all information that is reasonably available to You.
- B. You are requested to produce all responsive Documents that are in Your possession, custody, or control. All Documents must be produced in the same order that they are normally maintained. For each Document, identify which specific discovery request it responds to.
- C. If You object to any discovery request, You must explain the reason(s) for Your objection.
- D. If You do not have any Documents in Your possession, custody, or control that are responsive to a discovery request, You must say so.
- E. In responding to these discovery requests, include all Documents that were obtained by You and anyone acting on Your behalf. If You state that any Document(s) are not within Your possession, custody, or control, describe what effort You made to locate each such Document.
- F. If You state that a Document is not under Your control, identify who has control of the Document and state the Document's location.
- G. You must produce each Document in its entirety even if only part of the Document is responsive to the document request.
- H. These discovery requests are continuing in nature. This means that if You receive or become aware of information that is responsive to any discovery request after You have served Your original answers, You must promptly supplement Your answer and provide that information.

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SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Michele Hriadil and
Francis Hriadil,

Complainant,

vs.

DUQUESNE LIGHT COMPANY,

Respondent.

No: C-2016-2571726

CERTIFICATE OF SERVICE

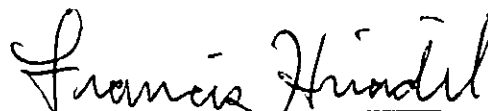
I hereby certify that I have this day served Complainants Response to Respondent's Answer in Opposition to Complainants Motion to Compel Discovery with ALJ Jeffrey Watson upon the participants listed below in accordance with the requirements of 52 PA. Code § 1.54 (relating to service by a participant):

Via Paper Filing
Judge Jeffrey Watson
PA PUC Pittsburgh Administrative Law Judge Office
301 Fifth Ave, Suite 220
Piatt Place
Pittsburgh, PA 15222

Via Paper Filing
Jeremy V Farrell, Esquire
Paul S Miller, Esquire
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(412) 594-5619 (Fax)

Counsels for Respondent, Duquesne Light Company

Dated this 23rd day of March, 2018



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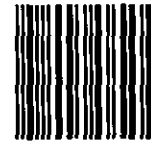
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