

331 Shady Ridge Drive  
Monroeville, PA 15146

June 6, 2018

*Via Paper Filing*

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, Pennsylvania 17120

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

Dear Secretary Chiavetta:

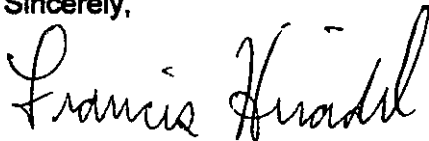
Attached please find a copy of Complainants

Response to Respondent's Answer to  
Motion for Continuance to Enable Complainants Expert Witness  
to Participate in Hearing  
and  
Request to Allow Complainants Expert Witness Testimony  
by Telephone

A copy of this document has been served upon Judge Jeffrey Watson, the presiding PA PUC ALJ, and the Respondent's Counsel, Jeremy V Farrell, Esquire, 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

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SECRETARY'S BUREAU

Enclosure

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 TO  
MOTION FOR CONTINUANCE TO  
ENABLE COMPLAINANTS EXPERT  
WITNESS TO PARTICIPATE IN HEARING  
AND REQUEST TO ALLOW  
COMPLAINANTS EXPERT WITNESS  
TESTIMONY BY TELEPHONE**

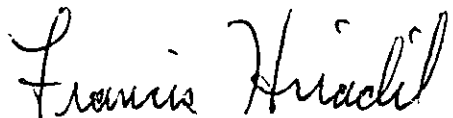
Filed by Michele and Francis Hriadil

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331 Shady Ridge Drive  
Monroeville, PA 15146

**RESPONSE TO RESPONDENT'S ANSWER TO  
MOTION FOR CONTINUANCE TO ENABLE COMPLAINANTS EXPERT WITNESS TO  
PARTICIPATE IN HEARING AND  
REQUEST TO ALLOW COMPLAINANTS EXPERT WITNESS TESTIMONY BY TELEPHONE**

TO: THE HONORABLE ALJ JEFFREY A. WATSON

ENCLOSED IS COMPLAINANTS RESPONSE to RESPONDENT'S ANSWER.



Francis Hriadil  
June 6, 2018

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MICHELE HRIADIL and  
FRANCIS HRIADIL,

Complainant,

vs.

DUQUESNE LIGHT COMPANY,

Respondent.

No: C-2016-2571726

**RESPONSE TO RESPONDENT'S ANSWER TO  
MOTION FOR CONTINUANCE TO ENABLE COMPLAINANTS EXPERT WITNESS TO  
PARTICIPATE IN HEARING  
AND  
REQUEST TO ALLOW  
COMPLAINANTS EXPERT WITNESS TESTIMONY BY TELEPHONE**

TO THE HONORABLE ALJ Jeffrey A. Watson:

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1. Pertinent Aspects of the Litigation Timeline to Date:

December 14, 2017 - A Pre-Hearing Conference call was held which included the Complainants, the Respondent, and Your Honor.

On this occasion, a Hearing was scheduled for April 26 - 27, 2018, and a Litigation Schedule was set.

Of note, on or before February 2, 2018, notification of participation by any expert witnesses, etc. for the Complainants was to be provided.

September 11, 2017 - Complainants received Respondent's First Set of Discovery Requests Directed to Complainants.

October 26, 2017 - After an agreed on an extension, Complainants served our Response 1 to Respondent's First Discovery Request, entitled Response to Respondent's First Set of Discovery

Requests Directed to Complainants, containing 56 potential Exhibit documents and 4 Curriculum Vitae documents regarding potential expert witnesses.

December 4, 2017 - Complainants served our Response 2 to Respondent's First Discovery Request, entitled Additional Documents in Response to Respondent's First Set of Discovery Requests Directed to Complainants, containing 67 additional potential Exhibit documents.

February 1, 2018 - Respondent was served with Complainants Expert and Factual Witness Testimony Notification to Respondent, per the Litigation Schedule, in which Respondent was informed that none of the experts that Complainants have been in contact with were available to participate and provide expert testimony in the scheduled April 26 - 27, 2018 Hearing.

February 6, 2018 - Due to issues related to Complainants dis-satisfaction with responses provided by the Respondent to a number of Complainants Discovery Interrogatories, Your Honor issued a ruling suspending the original Litigation Schedule. The unsatisfactory nature of many of the Respondent's Discovery responses necessitated a change in the Litigation Schedule.

Your Honor's First Supplemental Prehearing Order, you rescheduled the Hearing for July 18 - 19, 2018. A new Litigation Schedule was set at that time.

Of note, on or before April 30, 2018, notification of participation by any expert witnesses was to be provided by any party, to the opposing party.

And, on or before May 18, 2018, notification of rebuttal testimony by any person other than the Complainant or Respondent is to be provided, to the opposing party.

March 27, 2018 - Your Honor issued an Interim Order granting in part the Complainants Motion to Compel the Respondent to answer the Complainants Discovery Interrogatories.

April 30, 2018 - Respondent was served with Complainants Expert and Factual Witness Testimony Notification to Respondent, per the revised Litigation Schedule, in which Respondent was informed that none of the experts that Complainants have been in contact with are available to participate and provide expert testimony at the scheduled July 18-19, 2018 Hearing.

Furthermore, a letter was served to Your Honor, and copied to the Respondent, informing you that Dr. David O.

Carpenter MD had agreed to participate in any Hearing on the behalf of the Complainants as an expert witness; but, he could not do so at the scheduled July 18 - 19, 2018 Hearing due to a conflict with his schedule. Additionally, Dr. Carpenter agreed to participate by phone to testify, etc. to mitigate expenses that would be cost prohibitive for the Complainants. Complainants inquired about a schedule adjustment / continuance that would allow Dr. Carpenter's participation at our Hearing.

May 7, 2018 -

Complainants received a copy of Respondent's May 4, 2018 response served to Your Honor indicating their objection to Complainant's April 30, 2018 written request for an adjustment (i.e. continuance) in the Hearing schedule that would allow Dr David O Carpenter MD to participate in the Hearing on our behalf as an expert witness.

Complainants did not receive this notification until May 7, 2018.

May 11, 2018 -

A letter was served to Your Honor, and copied to the Respondent, with Complainants response to the Respondent's May 4, 2018 written objections.

May 14, 2018 -

Complainants received a copy of Your Honor's May 10, 2018 Interim Order Regarding Complainants Request to Modify Litigation Schedule.

In this Interim Order, Your Honor ruled that Complainants immediately confer with their witness and identify the dates the witness will be available to testify ... in July, August, and September of 2018, and file our motion to modify the litigation schedule and to reschedule the hearing, ..., not later than May 30, 2018.

Also, You Honor ruled that the Respondent shall file any response to Complainants motion, etc. not later than June 8, 2018.

May 18, 2018 -

Complainants served our Motion for Continuance to Enable Complainants Expert Witness to Participate in Our Hearing and Request to Allow Complainants Expert Witness Testimony by Telephone per You Honor's May 10, 2018 Interim Order.

June 4, 2018 -

Complainants received a copy of Respondent's June 1, 2018 Response to Motion for Continuance to Enable Complainants Expert Witness to Participate in Hearing and Request to Allow Complainants Expert Witness Testimony by Telephone.

June 5, 2018 - Complainants received a copy of Respondent's June 4, 2018 Motion for Summary Judgment.

2. In Section 2. (page 2) of Respondent's June 1 Answer, Respondent states  
*"Duquesne Light objects to a modification of the hearing schedule to the extent Complainants seek new dates for deadlines that have already passed."*

Complainants wish to make it clear that no request or motion has been filed by the Complainants, including our motion for continuance to allow the participation by Dr Carpenter as an expert witness in our Hearing, after a deadline has passed. No request by the Complainants has ever been filed by the Complainants to retroactively re-open deadlines in the Litigation Schedule that have already passed.

Complainants have proceeded in a conscientious and forthright manner to adhere to all deadlines set forth in Your Honor's February 6, 2018 Litigation Schedule.

Complainants waited as long as possible to make sure that Dr Carpenter would not be able to participate on the scheduled Hearing dates of July 18 - 19, 2018, before submitting its request to You Honor on April 30, 2018. At that time, Complainants made You Honor aware of the witness schedule conflict that could not be resolved and requested a continuance to allow Dr Carpenter's participation in our Hearing.

On May 14, 2018, You Honor issued Interim Order Regarding Complainants Request to Modify Litigation Schedule. In this Interim Order, Your Honor ruled that Complainants immediately confer with our witness and identify the dates our witness will be available to testify ... in July, August, and September of 2018, and file our motion to modify the litigation schedule and to reschedule the hearing, ..., not later than May 30, 2018. And, You Honor ruled that the Respondent shall file any response to Complainants motion, etc. not later than June 8, 2018.

At the time of Your Honor's May 14, 2018 Interim Ruling, the deadline dates remaining in the Litigation Schedule for a July 18 - 19, 2018 Initial Hearing were:

- May 18, 2018 - Rebuttal Witness Testimony Notification
- June 4, 2018 - Dispositive Motions Submissions
- June 29, 2018 - Hearing Exhibits and Statements Submissions
- July 9, 2018 - Any Agreed Stipulations
- July 18 - 19, 2018 - Initial Hearing Dates

Complainants complied with Your Honor's May 14, 2018 Interim Ruling, conferred again with Dr Carpenter, identified the dates in July, August, and September that Dr Carpenter is available, and filed our motion for continuance, etc. as quickly as possible. Complainants motion was filed only four (4) days later, on May 18, 2018, even though Your Honor's Interim Order granted Complainants until May 30, 2018 to do so. As has always been the case in this complaint process, Complainants have worked to address whatever issues that have arisen in as timely of a manner as possible.

Along with its request for a continuance, the Complainants simply requested that the Litigation Schedule be adjusted accordingly and appropriately to reflect a new Initial Hearing date, if the continuance is granted. This is what occurred when Your Honor issued your February 6, 2018 First Supplemental Pre-Hearing Order changing the prior Litigation Schedule at that time. It is noted that this prior Litigation Schedule change came about due to the unsatisfactory nature of many of the Respondent's Discovery responses. You Honor subsequently granted in part the Complainants Motion to Compel the Respondent to answer the Complainants Discovery Interrogatories.

Though the Complainants filed our motion and request as quickly as possible, within a few days of Your Honor's Order, the Respondent did not file their Answer until two (2) weeks later on June 1, 2018, a copy of which the Complainants did not see until June 4, 2018. And, the Respondent's Answer, which consisted of less than 5 pages, did not in any substantive way object to our motion for continuance, etc. For the record, any Litigation Schedule impact that results is not due to any excessive time taken on the part of the Complainants to respond to a ruling by Your Honor.

3. Specifically, the Respondent states in their June 1, 2018 Answer:

In Section 2 (page 2):

***“... Duquesne Light does not object to Complainant's witness testifying telephonically so long as the same opportunity is available for its witnesses.” [emphasis added]***

In Section 4 (page 3):

***“Duquesne Light does not object to Complainant's request to continue the hearing dates, so long as the new hearing dates do not conflict with the schedule of its witnesses and/or counsel, ...” [emphasis added]***

Respondent does not object in a substantive way to the Complainants motion. This said, the Respondent made of number of inaccurate statements in its Answer that the Complainants briefly wish to correct.

4. In Sections 6 and 7 (pages 3 and 4) of Respondent's June 1 Answer, Respondent repeatedly uses the term “expert report” and asserts requirements and restrictions regarding the production of “expert reports” per Your Honor's February 6, 2018 First Supplementary PreHearing Order. Complainants respectfully submit that this is a blatant overstatement and mis-statement of Your Honor's clear order.

Nowhere does the term “expert report” appear in Your Honor's order, nor is there any requirement or restriction related to the production of “expert reports”.

For the record, Your Honor's February 6, 2018 First Supplementary PreHearing Order specifically states,

***“On or before April 30, 2018, any Party wishing to present expert testimony (including but not limited to medical, technical, etc.) must provide to the toher party in writing, the name and business address of the expert and a written summary of the expected testimony of that expert.” [emphasis added]***

***“On or before May 18, 2018, any Party wishing to present rebuttal expert testimony (including but not limited to medical, technical, etc.) must provide to the toher party in writing, the name and business address of the expert and a written summary of the expected testimony of that expert.” [emphasis added]***

Complainants have provided all of this and more in our October 26, 2017 and

December 12, 2017 responses to the Respondent's Discovery request. With specific regard to Dr Carpenter, Complainants re-iterate that we have served multiple, complete, detailed, published expert reports by Dr Carpenter to the Respondent regarding the harm caused by exposure to RF radiation that is emitted by Smart Meters, including the Respondent's Smart Meter, along with an October 22, 2017 letter to the Commission written specifically on behalf of the Complainants by Dr Carpenter summarizing in writing his expert position. This was served to the Respondent as part of Discovery well before any required Litigation Schedule deadline. And, all of the provided documentation is listed in detail as part of the Exhibits that Complainants supplied with its motion for continuance.

Additionally, Your Honor's February 6, 2018 First Supplementary PreHearing Order also specifically states,

*"On or before June 29, 2018, Complainants and Counsel for Respondent are directed to provide one another with copies of all exhibits and statements which the parties intend to present at the hearing."*

And furthermore, Complainants wish to indicate, for the record, that the Respondent in its all of its Discovery Interrogatories to the Complainants, specifically stated the following:

**"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.*

.....

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."* **[emphasis added]**

So, for the Respondent to overstate and mis-state Your Honor's order, as it has, and in the process contradict its own instructions levied on the Complainants as part of Discovery, is puzzling, questionable, and somewhat hypocritical to say the least.

5. In Section 14 (page 5) of Respondent's June 1 Answer, Respondent makes the blatantly false assertion that

*“Complainants contend that Duquesne Light should be forced to incur that cost [the cost of bringing its expert witness in person] and they should not because Duquesne Light is a commercial enterprise.”*

Nowhere in Complainants motion do we make any such contention.

In Section 13 (page 8) of Complainants motion, regarding the December 14, 2017 Pre-Hearing Conference Call and all subsequent references related to the logistics of witness testimony, we clearly stated,

*“At no time was the participation of and testimony by witnesses raised, and the logistics thereof. There was no discussion or agreement that any and all witnesses must appear in-person. There was nothing stated or agreed that telephonic options would not be permitted and available for witness participation, should it be needed or requested. And, the PA PUC and the February 6, 2018 First Supplemental Prehearing Order does not preclude telephonic participation by witnesses.”*

It is the Respondent who is bent upon requiring all witnesses to appear in-person, being fully aware that the Complainants can in no way match the resources available to the Respondent to produce said witnesses in-person. Complainants have made no contention that the Respondent could not and should not be permitted to request telephonic participation of its witnesses. The Respondent chose not to make that request.

This is not the first time the Respondent has made flagrant misrepresentations such as this with regards to the Complainants and our complaint, in what Complainants can only regard as a concerted effort on the part of the Respondent to discredit the Complainants and stigmatize us in the view of Your Honor and the Commission as unreasonable, disingenuous, and without credibility or standing. Complainants filings have been measured and have tried to adhere to a high standard of professionalism and forthrightness at all times.

6. Finally, in Section 2 (page 2) of Respondent's June 1 Answer, Respondent requests that the issuance of any new litigation schedule be held in abeyance pending the resolution of a forthcoming dispositive motion that it plans to submit.

On June 5, 2018, as Complainants were in the process of formulating this response,

we were served a massive document by the Respondent dated June 4, 2018 and entitled Motion for Summary Judgment. Complainants have not counted the pages but estimate that it numbers well over 300 pages.

This is the largest filing made by the Respondent and the Respondent is expecting a full and complete written response in only seven (7) days per Your Honor's Prehearing Order. Complainants will do everything in our power to respond in as timely of a manner as possible but it is expected that we will require more time to fully address this massive document in detail.

The Pennsylvania Utility Commission Consumer Complainant Procedures Guide page 11 states the following,

*"If the company files either a Motion for Judgment on the Pleadings or a Motion for Summary Judgment, you usually have 20 days to respond in writing."*

With such a detailed filing comprising more than 300 pages, Complainants respectfully submit that it will take more than seven (7) days to fully respond in writing, and request until June 30 to provide our response.

With this new motion, the Respondent seeks to dismiss in its entirety the Complainants Formal Complaint, circumvent the Hearing process, and prevent the Complainants from presenting its case, its exhibits, and the testimony of its expert witness Dr. Carpenter. This in no way differs from the Respondent's previous effort to accomplish this same end with its filing of its Preliminary Objections, which Your Honor denied. As a general initial comment in response, Complainants respectfully submit that this new motion has no more merit, and should receive no more weight or consideration by Your Honor than given that previous filing.

Complainants respectfully submit that we have provided sufficient evidence that this is a matter of public interest and that Duquesne Light has no basis to ask for our complaint to be dismissed

However, what this request for abeyance of a decision on a new Litigation Schedule does do is cause delay and uncertainty, which jeopardizes the participation and expert testimony by Dr. Carpenter on behalf of the Complainants, and as such, is prejudicial against

the Complainants.

Complainants respectfully submit that these two (2) issues are separate, and should be treated as such. It is the Complainants view that there is no need to hold anything in abeyance with regard to Complainants motion for a continuance, etc. and the adjustment of the Litigation Schedule. A timely decision is respectfully requested by the Complainants irrespective of Respondent's Motion for Summary Judgment.

The Respondent has repeatedly cried foul asserting that it is being "saddled with" unreasonable annoyance, embarrassment, expense, and burden with regards to the Complainants and their Formal Complaint. Yet no recognition is given to the tactics of the Respondent and the unreasonable annoyance, embarrassment, expense, risk, and burden being imposed by the Respondent on the Complainants in this process, and by this technology in violation of PA Utility Code § 1501 as but one example.

Complainants respectfully submit that we have good cause for our requested continuance of the July 18-19, 2018 Hearing, as we are tasked with having to produce a burden of proof and must provide a preponderance of evidence. The participation of Dr. Carpenter as an expert witness in our behalf is an important element in the Complainants efforts to fulfill that requirement.

As stated in the Complainants motion, the Respondent possesses many distinct advantages in terms of experience, personnel, and resources in this process which the Complainants cannot hope to match. The Complainants are seeking to present the full truth in this matter in as conscientious and comprehensive of a manner as possible, and to the best of our ability under the circumstances as they exist. If the objective of the Hearing is to get to the truth of the matters in question based on the latest independent scientific, medical, health, and governmental information that is available, in order to be able to make a valid and proper judgment concerning any violation of PA Utility Code § 1501, etc., then Dr. Carpenter's participation is indispensable to fulfilling that objective.

WHEREFORE, in light of these circumstances, and as the Respondent has no substantive objection, Complainants Michele Hriadil and Francis Hriadil respectfully request:

1. that Your Honor rule to grant our requested continuance to enable Dr. Carpenter's participation, and that the Hearing dates and Litigation Schedule be adjusted accordingly.

2. if so granted, and as Dr. Carpenter is located out of state and it would be cost prohibitive for the Complainants to produce him in-person, Complainants request that we be permitted to utilize the telephonic options that the PUC offers to facilitate his participation and testimony.

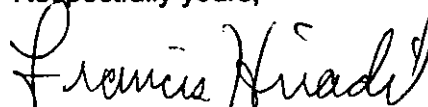
Neither of these requests is unreasonable and they have been granted in other PA PUC Hearings. Furthermore, in light of Respondent's Answer, Complainants Michele Hriadil and Francis Hriadil also respectfully request:

3. that Your Honor's decision in this matter not be held in abeyance, because of the Respondent's filing of a Motion for Summary Judgment, as it would put in jeopardy the participation and expert testimony by Dr Carpenter on behalf of the Complainants.

4. and recognizing the massive nature of the Respondent's Motion for Summary Judgment, comprising over 300 pages, that more than seven (7) days be granted for the Complainants to fully respond. Complainants are requesting a response due date of June 30.

Complainant's Certificate of Service has been filed with the Commission's Secretary, in accordance with Commission Regulations.

Respectfully yours,



Francis Hriadil  
(412) 779-3314  
331 Shady Ridge Drive  
Monroeville, PA 15146  
June 6, 2018

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Michele Hriadil and  
Francis Hriadil,

Complainant,

vs.

DUQUESNE LIGHT COMPANY,

Respondent.

No: C-2016-2571726

**CERTIFICATE OF SERVICE**

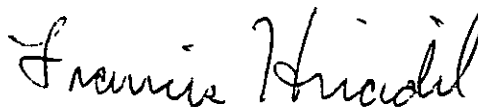
I hereby certify that I have this day served a true copy of the foregoing document upon the participant listed below in accordance with the requirements of 52 PA. Code § 1.54 (relating to service by a participant):

*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  
1500 One PPG Place  
Pittsburgh, PA 15222  
(412) 594-5619 (Fax)

Counsels for Respondent, Duquesne Light Company

Dated this 6<sup>th</sup> day of June 2018



Michele and Francis Hriadil  
331 Shady Ridge Drive  
Monroeville, PA 15146

(412) 779-3314  
hriadil@attglobal.net

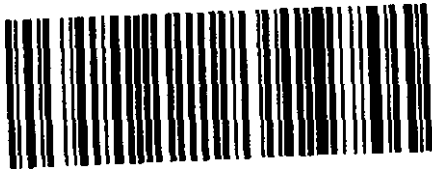
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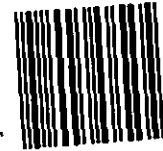
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Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, Pennsylvania 17120

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