

Legal Department
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August 6, 2018

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

RE: Ryan Ingham v. PECO Energy Company
Docket No. C-2016-2579564

Dear Secretary Chiavetta:

PECO's *Motion to Compel Answers to Interrogatories & Requests for Production of Documents* is attached for filing.

Very truly yours,



Ward L. Smith
Assistant General Counsel

WLS/adz
Attachment

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

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION


Ryan Ingham :
v. : Docket No. C-2016-2579564
PECO Energy Company :

CERTIFICATE OF SERVICE

I, Ward L. Smith hereby certify that on August 6, 2018, I served a copy of *PECO Energy Company's Motion to Compel Answers to Interrogatories and Requests for Production of Documents* upon all interested parties via email and overnight delivery via Federal Express:

Dana F. Ingham, Esquire
Malley Law
P.O. Box 698
15 East Second Street
Media, PA 19063
tracey@malleylawpa.com
Counsel for Ryan Ingham

Dated: August 6, 2018


Ward L. Smith
Counsel for PECO Energy Company
2301 Market Street, S23-1
Philadelphia, PA 19103
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PENNSYLVANIA PUBLIC UTILITY COMMISSION

RYAN INGHAM :
 Complainant :
 v. : **DOCKET NO. C-2016-2579564**
 : :
PECO ENERGY COMPANY :
 Respondent :

NOTICE TO PLEAD

To: Ryan Ingham

Pursuant to 52 Pa. Code § 5.61 you have 20 days – in this case, until August 27, 2018 -- to provide your answer, if any, to this Motion. If you do not provide an answer, the Motion may be decided without further input from you.

If you file an answer, you must file it with the Commission, provide a copy to the presiding officer, and formally serve counsel for 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:

Administrative Law Judge Darlene Heep
Pennsylvania Public Utility Commission
801 Market Street
Philadelphia, PA 19107
dheep@pa.gov

Service to:

Ward L. Smith, Esq.
PECO Energy Company
2301 Market Street, S-23
Philadelphia, PA 19103
ward.smith@exeloncorp.com

Dated at Philadelphia, PA, August 6, 2018.



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

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

RYAN INGHAM	:	
Complainant	:	
v.	:	DOCKET NO. C-2016-2579564
	:	
PECO ENERGY COMPANY	:	
Respondent	:	

**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 I (“Set I Discovery”), which was served on July 13, 2018. PECO’s Set I Discovery is comprised of nine questions, without subparts, that request further information regarding any medical conditions that Mr. Ingham claims were or will be caused, contributed to, or exacerbated by PECO’s AMI meters. (PECO’s Set II Discovery is attached as Exhibit A.)

Complainant’s counsel was served with PECO’s Set I Discovery by email on July 13, 2018, with an objection date of July 23, 2018 and a return date of August 2, 2018. No objections were lodged. No answers were provided.

On the morning of August 3, 2018, counsel for PECO sent Mr. Ingham’s counsel an email follow-up that inquired:

Ms. Ingham:

On July 13, 2018, PECO served you with its Set I discovery in this matter. I have re-attached the discovery to this email. The discovery had a 20-day return period, meaning that answers were due yesterday, August 2, 2018.

PECO has not received any answers. May I inquire when you expect to provide answers to these questions?

As of the date and time of filing this Motion to Compel, PECO has not received any answer to its follow-up inquiry.

As demonstrated below, PECO's questions are relevant and reasonable. PECO therefore requests that Your Honor issue a ruling that Mr. Ingham is required to provide full and complete answers to PECO's Set I Discovery. The original return date for these answers was August 2, 2018. Although this matter has not been set for hearing, PECO anticipates that, depending upon the answers it receives to this discovery, it may be able to file a dispositive motion. PECO therefore requests that Your Honor establish a new return date of no later 10 days after issuance of Your Honor's Order granting this Motion to Compel.

I. BACKGROUND

On December 9, 2016, Mr. Ingham filed a formal Complaint in which he requested an opt out from having an AMI meter installed at his residence. The 2016 Complaint did not raise any health claims.

Consequently, on December 15, 2016 PECO filed a Preliminary Objection in which it requested that the 2016 Complaint be dismissed for legal insufficiency.

No answer was received, and on June 12, 2017, Your Honor issued an Initial Decision dismissing the 2016 Complaint.

A series of filings ensued in which Mr. Ingham, now represented by counsel, stated that he had not been served with certain documents, and requesting an opportunity to further respond. By Opinion and Order entered on April 10, 2018, the Commission granted that request.

In lieu of answering PECO's Preliminary Objection, on July 23, 2018, Mr. Ingham perfected filing of an Amended Complaint, which PECO answered on July 30, 2018.

The Amended Complaint (¶ 12) contains the following material allegation regarding health:

Exposure to EMF and RF is known to exacerbate a number of medical conditions, and can also cause a number of serious, detrimental, and long term health effects.

PECO's Set I Discovery asks Mr. Ingham to identify with greater specificity these medical conditions, inquires whether Mr. Ingham has any of those medical conditions or claims that installation of a PECO AMI meter will cause him to have such medical conditions, and further inquires whether he has any documentary proof (medical records or otherwise) in support of such claims.

II. 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).

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

Each question in PECO's Set I Discovery is specifically tied to the health claim made in ¶12 of the Amended Complaint. The Set I Discovery thus clearly meets the standard of relating to "the claim or defense of another party . . . "

IV. 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 I Discovery in full no later than 10 days of the issuance of Your Honor's Order granting this Motion.

Respectfully submitted,



Ward Smith, Assistant General Counsel
Shawane Lee, Assistant General Counsel
2301 Market Street, S-23
Philadelphia, PA 19103
215-841-6863
ward.smith@exeloncorp.com
Counsel for PECO Energy

August 6, 2018

EXHIBIT A

PECO Discovery Set I



PENNSYLVANIA PUBLIC UTILITY COMMISSION

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eFiling Successfully Transmitted

Your filing has been electronically received. Upon review of the filing for conformity with the Commission's filing requirements, a notice will be issued acknowledging acceptance or rejection (with reason) of the filing. The matter will receive the attention of the Commission and you will be advised if any further action is required on your part.

The date filed on will be the current day if the filing occurs on a business day before or at 4:30 p.m. (EST). It will be the next business day if the filing occurs after 4:30 p.m. (EST) or on weekends or holidays.

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eFiling Confirmation	
Docket Number:	C-2016-2579564
Description:	Ryan Ingham v. PECO Energy Company
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eFiling Confirmation Number:	1731089

Uploaded File List

File Name	Document Class	Document Type
C2579564_Ingham Cert re discovery.pdf	Other Filing	Certificate of Service

For filings exceeding 250 pages, the PUC is requiring that filers submit one paper copy to the Secretary's Bureau within three business days of submitting the electronic filing online. Please mail the paper copy along with copy of this confirmation page to Secretary, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA a copy of the filing confirmation page or reference the filing confirmation number on the first page of the paper copy.

No paper submission is necessary for filings under 250 pages.

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Legal Department
2301 Market Street / S23-1
Philadelphia, PA 19103
Email: Ward.Smith@exeloncorp.com

Direct Dial: 215-841-6863

July 13, 2018

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

RE: Ryan Ingham v. PECO Energy Company
Docket No. C-2016-2579564

Dear Secretary Chiavetta:

Today PECO Energy Company served its Discovery, Set I (Qs 1-9). A certificate of service evidencing that service is attached for filing.

Very truly yours,



Ward L. Smith
Assistant General Counsel

WLS/adz
Attachment

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

PENNSYLVANIA PUBLIC UTILITY COMMISSION

RYAN INGHAM :
Complainant :
v. : DOCKET NO. C-2016-2579564
PECO ENERGY COMPANY :
Respondent :

NOTICE TO PLEAD

To: Ryan Ingham

Pursuant to 52 Pa. Code §5.342(g), you are hereby notified that if you have an objection to any or all of the questions in this Set I Discovery, you must serve such objection on PECO, in writing, within 10 days of service of this discovery. At that time, you must file a certificate of service (but not the objection itself) with the Commission and with Administrative Law Judge Darlene Heep. If you do not provide a timely Objection, then within 20 days of service of this discovery, must provide full Answers to each and every question to PECO. In that case, when you serve the Answers, you must file a certificate of service (but not the Answers themselves) with the 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

Service to:

Ward L. Smith, Esq.
PECO Energy Company
2301 Market Street, S-23
Philadelphia, PA 19103
ward.smith@exeloncorp.com

Dated at Philadelphia, PA, July 13, 2018.

A handwritten signature in black ink, appearing to read "Ward L. Smith", written over a horizontal line.

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

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION


Ryan Ingham :
v. : Docket No. C-2016-2579564
PECO Energy Company :

CERTIFICATE OF SERVICE

I, Ward L. Smith hereby certify that on July 13, 2018, I served a copy of *PECO Energy Company's Discovery, Set I* upon all interested parties via email and overnight delivery via Federal Express:

Dana F. Ingham, Esquire
Joseph F. Malley, III, Esquire, P.C.
15 East Second Street
Media, PA 19063
dana@malleylawpa.com
Counsel for Ryan Ingham

Dated: July 13, 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**

Ryan Ingham

v.

PECO Energy Company

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:
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:

Docket No. C-2016-2579564

**PECO ENERGY COMPANY'S
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS,
SET I**

PECO Energy Company, pursuant to 52 Pa. Code Subchapter D, hereby propounds the following Interrogatories and Requests for Production of Documents, Set I.

1. Reference the First Amended Complaint, ¶12, which states: "Exposure to EMF and RF is known to exacerbate a number of medical conditions, and can also cause a number of serious, detrimental, and long term health effects." Please *identify each medical condition and health effect* referenced in the above statement.
2. For each medical condition or health effect identified in response to Question 1, please *state whether Mr. Ingham currently has such medical condition or health effect.*
3. For each medical condition or health effect identified in response to Question 2 for which you affirmatively answered that Mr. Ingham currently has such medical condition or health effect, *please provide copies of all available medical records that demonstrate that Mr. Ingham has been diagnosed* with said medical condition or health effect.

4. Stated separately for each medical condition or health effect identified in response to Question 2 for which you affirmatively answered that Mr. Ingham currently has such medical condition, *is it Mr. Ingham's contention that installation of a PECO AMI meter will exacerbate* that existing medical condition or health effect?
5. For each medical condition or health effect for which you affirmed the contention in response to Question 4, provide *all medical records that you rely upon for that contention.*
6. For each medical condition or health effect for which you affirmed the contention in response to Question 4, provide all *documents other than medical records that you rely upon for that contention.*
7. For each medical condition or health effect identified in response to Question 1 that Mr. Ingham *does not currently claim to have*, please state whether it is your *contention that installation of a PECO AMI meter would cause or contribute to* such medical condition or health effect in Mr. Ingham.
8. For each medical condition or health effect for which you affirmed the contention in response to Question 7, provide *all medical records that you rely upon for that contention.*
9. For each medical condition or health effect for which you affirmed the contention in response to Question 8, provide all *documents other than medical records that you rely upon for that contention.*