

September 10, 2018

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
2nd Floor, Room-N201
Harrisburg, PA 17120

RE: Miranda Grace Edwards v. Duquesne Light Company
Docket No. C-2018-3002741

Dear Secretary Chiavetta:

Enclosed please find Duquesne Light Company's Response to Complainant's Objection To and Motion to Strike First Set of Discovery Requests.

A copy of this document has been served upon Complainant in accordance with Commission regulations. Please feel free to contact me if you have any questions.

Sincerely,



Paul Shane Miller
Attorney for Duquesne Light Company

Jeremy V. Farrell
Attorney for Duquesne Light Company

Enclosure

cc: Miranda Grace Edwards (with enclosure)
ALJ Jeffrey Watson (with enclosure)

TADMS:1004537-1 014657-158498

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MIRANDA GRACE EDWARDS,

Complainant,

vs.

DUQUESNE LIGHT COMPANY,

Respondent.

No: C-2018-3002741

**RESPONSE TO COMPLAINANT'S
OBJECTION TO AND MOTION TO
STRIKE FIRST SET OF DISCOVERY
REQUESTS**

Filed on behalf of Respondent
Duquesne Light Company

Counsel of Record for this Party:

Paul Shane Miller, Esquire
PA I.D. No. 319174
smiller@tuckerlaw.com

Jeremy V. Farrell, Esquire
PA I.D. No. 316258
jfarrell@tuckerlaw.com

1500 One PPG Place
Pittsburgh, PA 15222
(412) 566-1212
Counsel for Respondent

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MIRANDA GRACE EDWARDS,	:	
	:	
Complainant,	:	
	:	
vs.	:	No: C-2018-3002741
	:	
DUQUESNE LIGHT COMPANY,	:	
	:	
Respondent.	:	

**RESPONSE TO COMPLAINANT'S OBJECTION TO AND MOTION TO STRIKE
FIRST SET OF DISCOVERY REQUESTS**

Respondent, Duquesne Light Company ("Duquesne Light"), submits this Response to Complainant's Objection to and Motion to Strike First Set of Discovery Requests:

1. In the Formal Complaint filed on June 14, 2018, Complainant Miranda Grace Edwards ("Complainant") objects to Duquesne Light's attempts to install a "smart meter" at her property and requests "that the PUC order Duquesne Light Company to refrain from shutting off my electric service and to cease its attempts to install a Smart Meter on my property." See Complaint, ¶¶ 4-5.

2. Duquesne Light served its First Set of Discovery Requests Directed to Complainant ("First Set of Discovery Requests") on July 10, 2018, as permitted by 52 Pa. Code § 5.331(b) ("A party shall initiate discovery as early in the proceedings as reasonably possible. In a proceeding, the right to discovery commences when a complaint . . . is filed . . .").

3. The parties agreed to extend Complainant's deadline to respond to the First Set of Discovery Requests to August 20, 2018.

4. On August 20, 2018, Complainant filed Complainant's Objection to and Motion to Strike First Set of Discovery Requests ("Motion to Strike"). A copy of the Motion to Strike is attached as Exhibit A.

5. In the Motion to Strike, Complainant asserts, among other things, that the First Set of Discovery Requests are irrelevant and do not require a response because the Formal Complaint raises a purely legal issue. See Motion to Strike, ¶¶ 8, 12, 16, 17.

6. Complainant states in the Motion to Strike that the issue in this case is as follows: “The issue squarely before the court is this homeowner’s complaint that DLC is illegally forcing me to accept a smart meter, which the law says is an optional device for homeowners.” See Motion to Strike, ¶ 16.

7. Complainant further asserts in the Motion to Strike that she is “arguing an issue of statutory construction” and a “simple, honest, and legitimate reading of the statute will settle this issue”; she thus contends that fact discovery is unnecessary and irrelevant because “statutory interpretation is the relevant issue here.” See Motion to Strike, ¶¶ 8, 10, 17.

8. Based on Complainant’s assertions, Duquesne Light plans to file a motion for summary judgment.

9. Duquesne Light requests that the Motion to Strike be held in abeyance until after the Commission rules on its forthcoming motion for summary judgment because the Motion to Strike will be moot if Duquesne Light’s motion for summary judgment is granted. Alternatively, if the motion for summary judgment is denied, Duquesne Light can still respond to the Motion to Strike.

WHEREFORE, Duquesne Light requests that the Commission hold Complainant’s Objection to and Motion to Strike First Set of Discovery Requests in abeyance until after a decision is rendered on Duquesne Light’s forthcoming motion for summary judgment.

Respectfully submitted,

TUCKER ARENSBERG, P.C.

A handwritten signature in cursive script, reading "Paul Shane Miller", is written over a horizontal line.

Paul Shane Miller, Esquire

PA I.D. No. 319174

Jeremy V. Farrell, Esquire

PA I.D. No. 316258

1500 One PPG Place

Pittsburgh, PA 15222

(412) 566-1212

Counsel for Respondent,
Duquesne Light Company

3835 Acorn Street
Pittsburgh, PA 15207

August 20, 2018

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

Re: Miranda Grace Edwards v. Duquesne Light Company
Docket No. C-2018-3002741

Dear Secretary Chiavetta:

Attached please find the Complainant's (my) objection to and motion to strike Duquesne Light Company's First Set of Discovery Requests. It has been submitted in accordance with the agreed-upon deadline of August 20, 2018.

A copy of this document has been served upon the Respondent's Counsel, Shane Miller, Esq., in accordance with Commission regulations.

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

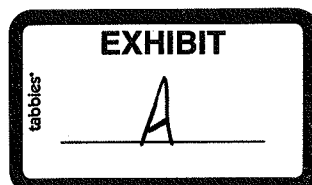
Sincerely,



M. Grace Edwards
Complainant
msea.mdew@gmail.com

Attachment

Cc: Shane Miller, Esquire, and Jeremy V Farrell, Esquire, Counsel for Duquesne Light Company (via email) (with attachment)



3835 Acorn Street
Pittsburgh, PA 15207

August 20, 2018

Shane Miller, Esquire
1500 One PPG Place
Pittsburgh, PA 15222

Re: Miranda Grace Edwards v. Duquesne Light Company
Docket No. C-2018-3002741

Dear Mr. Miller:

Attached please find the Complainant's (my) objection to and motion to strike your First Set of Discovery Requests. It has been submitted in accordance with the agreed-upon deadline of August 20, 2018.

A copy of this document has been filed with the Pennsylvania Public Utilities Commission.

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

Sincerely,



M. Grace Edwards
Complainant
mseamdw@gmail.com

Attachment

Cc: Jeremy V Farrell, Esquire, Counsel for Duquesne Light Company (via email) (with attachment)

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

MIRANDA GRACE EDWARDS,

Complainant,

vs.

DUQUESNE LIGHT COMPANY,

Respondent.

No. C-2018-3002741

**Objection to and Motion to Strike
Respondent's**

FIRST SET OF DISCOVERY REQUESTS

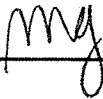
Filed by Miranda Grace Edwards

msea.mdew@gmail.com
3835 Acorn Street
Pittsburgh, PA 15207

**COMPLAINANT'S OBJECTION to and MOTION TO STRIKE FIRST SET OF DISCOVERY
REQUESTS**

**TO: RESPONDENT'S GENERAL COUNSEL, SHANE MILLER, ESQUIRE; AND JEREMY V
FARRELL, ESQUIRE**

**THESE PAGES CONSTITUTE THE FILING OF MY WRITTEN RESPONSE TO THE FIRST SET OF
DISCOVERY REQUESTS SERVED ON ME BY RESPONDENT DUQUESNE LIGHT COMPANY.
THESE HAVE BEEN SUBMITTED TO YOU PER THE AGREED-UPON DEADLINE OF AUGUST
20, 2018.**



Miranda Grace Edwards
August 20, 2018

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MIRANDA GRACE EDWARDS,

Complainant,

vs.

DUQUESNE LIGHT COMPANY,

Respondent.

No. C-2018-3002741

OBJECTION TO and MOTION TO STRIKE RESPONDENT'S DISCOVERY REQUESTS

AND NOW comes Complainant Miranda Grace Edwards and hereby files this, her Objection and Motion to Strike Respondent's Discovery Requests as untimely and irrelevant. Complainant avers the following:

1. Complainant Miranda Grace Edwards (hereafter "I") filed a Formal Complaint with the PA PUC regarding Respondent Duquesne Light Company's ("DLC") misrepresentation of whether I can be compelled by threat of utility shutoff to accept the installation of a smart meter on my Property under 66 Pa. C.S. §2807.
2. On July 5, 2018, Respondent's Counsel filed Preliminary Objections to my Formal Complaint and also raised similar issues in their Answer and New Matter.
3. On July 10, 2018, I emailed Respondent's Counsel to request an extension of time to respond to both filings. I did not receive a response that day.
4. On July 11, 2018, Respondent's Counsel replied to my email and granted an extension of no longer than 20 days to respond to the Preliminary Objections and the New Matter.
5. On July 12, 2018, I received by U.S. mail Respondent's First Set of Discovery Requests. The document was dated and served July 10, 2018—the same day I requested an extension of time and received no response.
6. According to the mutually agreed-upon time frame, I was to complete and file my response to the Preliminary Objections by August 6, 2018; and complete and file my response to the New Matter by August 15, 2018. The original due date for completing and filing my response to Respondent's First Set of Discovery Requests would have been July 30, 2018—a full week before my response to Respondent's Preliminary Objections was due.
7. I requested and was granted an extension of time by Respondent's Counsel. With the new due date, I had to complete and file my response to the First Set of Discovery Requests within five days of completing and filing my response to Respondent's New Matter.
8. I aver that before that I could respond to the service of New Matter, DLC Counsel served me with unnecessary and irrelevant discovery requests—unnecessary because any relevant information sought was contained in my responses to their Preliminary Objections and New Matter, and irrelevant because I am arguing an issue of statutory construction.

9. Although I am not an expert in legal proceedings, it seems to me that inundating a litigant with burdensome paperwork before pleadings are even closed is a bad-faith strategy intended to overwhelm the litigant and gain an advantage over the litigant in the proceedings.
10. Ultimately, my issues derive from DLC's and/or the PA PUC's misinterpretation of the governing statute, 66 Pa. C.S. §2807. The language of the statute is clear, concise, and explicit—that the installation of a smart meter shall take place “**upon request** from a customer that **agrees to pay the cost** of the smart meter at the time of the request.” (emphasis added) DLC misrepresents, innocently or otherwise, that the controlling statute makes installation of a smart meter compulsory. This representation is materially false. A simple, honest, and legitimate reading of the statute will settle this issue. Discovery is not necessary to determine the homeowner's rights; the opt-in nature of the law is stated plainly in the clear, concise, and controlling language of the governing statute.
11. I filed a complaint with the PA PUC when DLC threatened to terminate my electric service. DLC explicitly stated they were threatening to shut off this potentially lifesaving utility because I refused installation of a smart meter. But it is a matter of fact that I never requested a smart meter. I never agreed to pay the cost of a smart meter. The exercise of a lawful right cannot be converted into a crime or a civil penalty under the pretext of enforcing that right.
12. I have made it clear that my lawful choice (in compliance with the statute) is to decline the installation of a smart meter. The reasons for my decision are secondary and immaterial to the issue. For example, if I declined a smart meter because the device did not match the color scheme of my Property, my decision would still comply with the governing statute.
13. DLC's discovery requests, even if they were legitimate (which they are not) are untimely because the pleadings have not closed. According to the timetable DLC Counsel set forth with their initial service of the First Set of Discovery Requests, I would have been required to submit the information requested in 29 numbered sections even before submitting my response to the Preliminary Objections or New Matter.

Discovery is a litigation tool commonly used in anticipation of trials and in civil tort litigation which takes place in the Court of Common Pleas. See, e.g., *PECO Energy Co. v. Insurance Co. of North America*, 852 A.2d 1230, 1233 (Pa. Super., 2004).

Discovery is subject to information “*reasonably calculated to lead to the discovery of admissible evidence.*” 42 Pa. R. Civ. P., 4003.1(b).

Since there has been no civil litigation yet instituted by either party in this case, and no trial is anticipated, DLC's discovery requests are premature and unfounded.

14. Further, DLC's discovery requests are overly burdensome. As an example, DLC's Counsel requests “studies” relied upon by me to show that smart meters are unsafe and constitute a health risk. I did not personally conduct a laboratory study. The studies upon which I relied are freely available on the internet and accessible by anyone, including both parties in this case.

Moreover, to the extent DLC's discovery requests seek to recover information regarding safety, privacy, and health issues involving smart meters, that information is already available to DLC from the following public record sources:

- a. Previous lawsuits instituted by consumers against DLC;

- b. Previous actions instituted by consumers against other EDCs before the PA PUC;
- c. The internet (available by Google searches related to smart meter dangers);
- d. Insurance company records; and
- e. Smart meter manufacturers themselves.

15. The fact that Underwriters Laboratories and related scientific entities initially declined to certify smart meters due to documented problems with the devices is *prima facie* evidence that the devices are unsafe and a threat to the well-being of homeowners. This singular fact is sufficient to constitute a sound basis for my decision to decline installation of a smart meter at her home, per the option provided in the governing statute.

For example, Metlabs has stated on their website: "In the past, design flaws in smart meter units have been ***known to cause serious fire hazards*** and spotty performance. This has caused a lot of concern for utilities and manufacturers of smart meters. To prevent problems like this, a new voluntary safety standard – UL 2735 – has been created for electric utility meters." (emphasis added) (www.metlabs.com/meters/new-ul-2735-electric-utility-meter-standard-ensures-safety-and-performance)

It seems that UL created a new category just for electric utility smart meters because they do not meet UL's existing standards. This new standard is not the same as the UL mark seen on household appliances. UL 2735 is available for purchase at [www.shopulstandards.com/ProductDetail.aspx?productId=UL2735_1_B_20130530\(ULStandards2\)](http://www.shopulstandards.com/ProductDetail.aspx?productId=UL2735_1_B_20130530(ULStandards2)), but its price is cost-prohibitive for members of the public seeking full detail.

None of this information is reassuring to homeowners; regardless, the safety issue is immaterial to the opt-in provision plainly provided by the Pennsylvania legislature under 66 Pa. C.S. §2807.

16. The PA Rules of Civil Procedure require that the scope of discoverable information be restricted to that which is "relevant to the subject matter" of a "claim or defense" of a party. See **42 Pa. R. Civ. P. 4003.1(a)**.

I filed a Formal Complaint with the PA PUC when DLC threatened to terminate my electric service due to my refusal to accept installation of a smart meter device on my Property.

Since the governing statute mandates that a smart meter be supplied to customers *who request them*, without conditions nor subject to certain reasons, the basis for my refusal is immaterial and irrelevant and therefore beyond the scope of discovery. It is a matter of fact that I never requested a smart meter. I never agreed to pay the cost of a smart meter. Furthermore, existing legal protections ensure that no one can be forced to comply with an unrevealed contract between private corporations, to which they were never a party and had no knowledge of.

DLC's discovery requests will not lead to a new interpretation of the governing statute, nor alter or amend the clear and concise language of the governing statute. The statute is clear in its mandate that smart meters are to be offered on an opt-in basis. The *reason* for a homeowner's

decision to refuse the smart meter under the statute is immaterial and has no bearing on the optional provisions contained in the governing statute.

Discovery engaged in by DLC will not change the fact that the statute establishes the homeowner's choice as law. Although I listed my reasons for refusing a smart meter, such as health, privacy, and safety concerns, those reasons are immaterial to the clear and concise language of the governing statute that establishes the smart meter program as opt-in by nature.

The issue squarely before the court is this homeowner's complaint that DLC is illegally forcing me to accept a smart meter, which the law says is an optional device for homeowners.

The manner set forth in the law to settle disputes involving statutory interpretation is set forth by the Pennsylvania legislature at 1 Pa CS §1501, et seq., a.k.a. the "Statutory Construction Act".

On December 6, 1972, the Pennsylvania Legislature enacted Public Law 1339, No 290. This public law was codified at 1 Pa C. S. §1501, et seq., and became known as the "Statutory Construction Act" (Hereafter, "The Act"). At section 1901 of the Act, the PA legislature established the "Rules of interpretation" to be used to ascertain the legislative intent of any codified statute in Pennsylvania. The Act mandates that these rules must be observed:

"In the construction of the statutes of this Commonwealth, the rules set forth in this chapter shall be observed, unless the application of such rules would result in a construction inconsistent with the manifest intent of the General Assembly." **1 Pa. C. S. §1901.**

Also, at section 1903(a) the Pa legislature established the "General rule" that words and phrases shall be construed according to rules of grammar and according to their common and approved usage, and that General words shall be construed to take their meanings and be restricted by preceding particular words. See **1 Pa. C. S. §1903(a) and (b).**

Still further, the Act sets out particular rules that must be followed with regard to the application of statutes. For example, under section 1921 of the Act, the legislature has made it clear that Legislative intent controls:

"The object of all interpretation and construction of statutes is to ascertain and effectuate the intention of the General Assembly. Every statute shall be construed, if possible, to give effect to all its provisions." **1 Pa. C. S. §1921(a)**

Moreover, the PA legislature has made it clear that pretextual construction of the stated law is expressly prohibited:

"When the words of a statute are clear and free from all ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit." **1 Pa. C. S. §1921(b).**

Finally, the PA legislature has established a set of presumptions to be followed when ascertaining the intent of the General Assembly in enacting the statute:

- a. That the General Assembly does not intend a result that is absurd, impossible of execution or unreasonable.
- b. That the General Assembly intends the **entire statute** to be effective and certain.
- c. That the General Assembly does not intend to violate the Constitution of the United States or of this Commonwealth. (emphasis supplied)
- d. That the General Assembly intends to favor the public interest as against any private interest.

According to DLC pleadings, DLC is relying, inaccurately, on just such a pretextual revision of 66 Pa C. S. §2807, wherein an administrative law judge and/or the PA PUC had previously misconstrued the entire statute by taking one word ("shall") out of context. The interpretation proffered by the PA PUC and/or the administrative law judge contradicts the actual clear and concise language of the statute and therefore is null and void, as a matter of law, pursuant to 1 Pa. C.S. §1921(b). DLC is trying to proceed against homeowners based on that unlawful construction of the governing statute, and is using that distorted interpretation/revision to divest the statute of its true meaning.

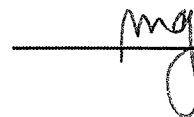
Regardless of the reason or basis for my refusal accept the smart meter from DLC, the statute controls and the statute provides the option to accept or refuse the device. I do not need a reason to refuse and so DLC discovery requests seeking medical and safety reasons for my choice not to opt in to the smart meter program are irrelevant and immaterial to my Complaint. DLC discovery requests seeking my medical records and curriculum vitae are also irrelevant and immaterial to my Complaint.

The issue is whether, given the clear, concise, and controlling language of the statute, DLC has the authority to terminate my essential, potentially lifesaving electric service based on my exercise of the statutory right described above.

17. Statutory interpretation is the relevant issue here. Respondent Counsel's First Set of Discovery Requests is beyond the scope of the issue.
18. Furthermore, even if the discovery requests were relevant, they were not "calculated to lead to the discovery of admissible evidence" because the short time allotted to produce all requested information was taken up by the preparation of previously-filed paperwork required by DLC Counsel.

WHEREFORE, for the reasons and law cited herein, Complainant Miranda Grace Edwards requests that the PA PUC sustain my objections to the First Set of Discovery Requests of Duquesne Light, and strike the same as untimely, burdensome, irrelevant, and unnecessary.

Respectfully submitted,



Miranda Grace Edwards

August 20, 2018

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MIRANDA GRACE EDWARDS,

Complainant,

vs.

DUQUESNE LIGHT COMPANY,

Respondent.

No. C-2018-3002741

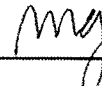
CERTIFICATE OF SERVICE

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):

Shane Miller, Esquire
Jeremy V Farrell, Esquire
1500 One PPG Place
Pittsburgh, PA 15222
Fax: 412-594-5619

Counsel for Respondent, Duquesne Light Company

Dated this 20th day of August, 2018



Miranda Grace Edwards
msea.mdew@gmail.com
3835 Acorn Street
Pittsburgh, PA 15207

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MIRANDA GRACE EDWARDS,

Complainant,

vs.

DUQUESNE LIGHT COMPANY,

Respondent.

No: C-2018-3002741

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of Response to Complainant's Objection to and Motion to Strike First Set of Discovery Requests upon the participant listed below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant):

Miranda Grace Edwards
35 Acorn Street
Pittsburgh, PA 15207

Administrative Law Judge Jeffrey Watson
Pennsylvania Public Utility Commission
Office of Administrative Law Judge
Piatt Place, Suite 220
301 Fifth Avenue
Pittsburgh, PA 15222
Via Fax - (412) 565-5692

Dated this 10th day of September, 2018



Paul Shane Miller, Esquire
PA I.D. No. 319174
smiller@tuckerlaw.com
Jeremy V. Farrell, Esquire
PA I.D. No. 316258
jfarrell@tuckerlaw.com
1500 One PPG Place
Pittsburgh, PA 15222
(412) 566-1212
(412) 594-5619 (fax)
Counsel for Respondent,
Duquesne Light Company