

September 15, 2018

**Via Electronic Filing
and
Via Certified Mail**

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Keystone Building, Second Floor W.
400 North Street
Harrisburg, PA 17120

RE: Pamela Scott v. Duquesne Light Company
Docket No. C-2018-3004042

Dear Secretary Chiavetta:

Enclosed please find Pamela Scott's Response to Duquesne Light's Preliminary Objections.

A copy of this document has been served via certified mail and via eFiling upon Paul Shane Miller and Jeremy V. Farrell of Tucker Arensberg, who are Respondents on behalf of Duquesne Light.

Sincerely,



Pamela Scott
134 Markham Drive
Pittsburgh, PA 15228-1008
(412) 998-8880

Encl: Response to Preliminary Objections
Certificate of Service
Verification

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PAMELA SCOTT

Complainant,

vs.

DUQUESNE LIGHT COMPANY

Respondent.

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Docket No. C-2018-3004042

**RESPONSE TO
RESPONDENT'S
PRELIMINARY
OBJECTIONS**

Filed by Complainant
Pamela Scott
134 Markham Drive
Pittsburgh, PA 15228-1008

RESPONSE TO RESPONDENT'S PRELIMINARY OBJECTIONS

I, Pamela Scott hereby respond to Duquesne Light Company's preliminary objections. I am unable to respond at this time to Respondent Tishekia Williams, Esq. of Duquesne Light's eFiling to C-2018-3004042 because it has not been served on me, which is a violation of applicable Commission rules at 52 Pa. Code Subsections 1.51-1.59.

Section 1 - Introduction

1. Denied. The legal and factual grounds cited are not relevant to my complaint. Duquesne Light cites an unspecified "Romeo decision", so it is not possible for me to discern what Duquesne Light is claiming from that as a reason for dismissing my formal complaint.

Regardless, Duquesne Light states that portions of my formal complaint seek relief that does not exist under the law, but this is not true. Act 129 created an opt-in provision, so legally there is nothing to opt-out from with respect to Act 129 [66 Pa. C.S. Section 2807(f)]. Act 129 in no way requires installation of advanced digital AMI smart meters as a condition of electric service for 100% of the customers who reside in electric distribution company (EDC) territories that serve over 100,000 residents. The PUC has both the right and the obligation to address my complaint that Act 129 has been misinterpreted by the PUC and DLC with regard to requiring installation of an advanced digital smart meter as a condition of service.

The PUC and Duquesne Light are violating the provisions of Act 129. Such forced installation is also a violation of Duquesne Light's legal obligation to provide safe service to its customers. With respect to advanced smart meter deployment, the PUC and Duquesne Light use their policies and misguided rules to bully customers into having advanced digital AMI smart meters installed, despite ample evidence of their harm to the health and well-being of customers, flora, and fauna. The PUC should reject Duquesne Light's attempt to dismiss any portion of my complaint.

Section II - Relevant Factual Background

2. Agreed.

3. Agreed. Duquesne Light plans to install an advanced digital AMI smart meter against my will, violating various rights that I have as a citizen of the United States and Pennsylvania, and as a Duquesne Light customer.

4. Agreed, in part. I filed the complaint because Duquesne Light and the PUC are implementing their own unlawful policies on 100% of the customers who reside in EDC territories that serve over 100,000 residents, with disregard or concern regarding the known and unknown negative health and environmental effects associated with smart meter deployment. As stated in Response 1 above, the only provision in the law (Act 129) is for customers to opt in [66 Pa. C.S. Section 2807(f)].

5. Agreed. While the radio frequency (RF) radiation emitted by smart meters 24/7 has adverse health effects on all living things, the adverse effects can be devastating for the percentage of the

population -- like me -- who suffer from electromagnetic hypersensitivity (EHS). I am entitled to have the opportunity to provide my succinct, convincing evidence as to the actual output of these devices as well as adverse health effects from smart meters. "This decision...finds that a smart meter attached to her home would exacerbate her health condition." [Povacz v. PECO Energy Co., Docket No. C-2015-2475023 (Pa. P.U.C. January 26, 2018) (Heep, ALJ)]

6. Denied, in part. While it is true that I have refused to allow Duquesne Light to install a smart meter at my property, my complaint asked for the PUC to not permit Duquesne Light to shut off my service until the dispute regarding the misinterpretation of state law by the PUC and Duquesne Light is resolved either by the PUC correcting course or the state legislature passing legislation forcing the PUC and EDCs to correct course. The Commission could also rectify the situation on its own. Act 129 of 2008 was enacted by the General Assembly "to develop energy efficiency and conservation (EE&C) plans and adopt other methods of reducing the amount of electricity consumed by consumers." [Energy Efficiency & Conservation Information for Your Home information sheet, Pennsylvania Public Utility Commission, April 2017]. As for the current misinterpretation of Act 129 by the PUC and affected EDCs adopting operating policies requiring 100% forced participation in EDC advanced digital smart meter installation, there is no basis or provision for such forced participation anywhere in Act 129.

7. Agreed. On August 10, 2018, Duquesne Light attempted to install a smart meter on my home in a heavy rainstorm, which would expose the socket to water. This appears to be in violation of applicable safety codes and/or recommended practices, raising further concerns about the wisdom of Duquesne Light's smart meter practices.

Section III - Argument

8. My case is sufficient because forced installation of an RF-emitting smart meter violates my rights as a Duquesne Light customer under 66 Pa. C.S. Section 1501: *Character of service and facilities*. "**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. Such service also shall be reasonably continuous and without unreasonable interruptions or delay.**" (emphasis added).

By not doing due diligence with respect to the health effects Duquesne Light also fails in its duty to "use reasonable effort to properly warn and protect the public from danger, and shall exercise reasonable care to reduce the hazards to which employees, customers, the public and others may be subjected to by reason of its provision of electric utility service and its associated equipment and facilities. [052 Pa. Code Section 57.28 (a)(1) *Electric safety standards.*] (emphasis added).

A quick survey of the jurisdictions outside of Pennsylvania should convince the PUC and the EDCs affected by Act 129 that they continue to be in error and out of step with current wisdom by forcing smart meters on customers with their skewed interpretation of Act 129. Act 129 was meant to reduce energy consumption; smart meters actually consume electricity in amounts that analog meters do not.

For their smart-meters-are-safe propaganda campaign, the PUC and Duquesne Light have failed to do due diligence and have ignored scientific evidence of harm from radio frequency (RF) electromagnetic fields, particularly from smart meters which the customer has no ability to turn off.

9. The opinion of the ALJ in Duquesne Light's citation from Campisi v. PECO Energy Co. regarding "factual dispute" is not applicable to my case. A hearing on my complaint is clearly in the public interest due to the fact that relief is sought from misinterpretation of state law by the PUC and EDCs' failure to do due diligence regarding items discussed above. 66 Pa. C.S. Section 703(b) states: "The commission shall fix the time and place of hearing, within or without this Commonwealth, if any is required, and shall serve notice thereof upon parties in interest. The commission may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest." A hearing on the issue of the interjection of hazardous devices onto the property of Pennsylvanians by Duquesne Light as a condition of electric service is very necessary in the public interest.

10. The legal and factual grounds cited are insufficient regarding an alleged requirement to require 100% forced participation in advanced digital smart meter programs. The word "deploy" in no way is synonymous with "100% deployment" "throughout" their service territories, and in fact the word "deploy" or "deployment" is never used anywhere in Act 129. Neither is the word

"throughout". There is no mandate from Act 129 requiring any EDC to forcibly deploy smart meters on all of their customers. Nowhere in Act 129 is there any provision for consumers having a lack of meter choice.

11. True.

12. The PUC and Duquesne Light fast tracked smart meter deployment without doing due diligence with respect to the best interests of Pennsylvania and the intent of Act 129. In addition to not doing due diligence with respect to the negative health and environmental effects associated with smart meters, there is the excessive expense burden placed on Pennsylvanians to pay for advanced smart meter deployment. Duquesne Light should have focused more on the goal of Act 129 "to develop energy efficiency and conservation (EE&C) plans and adopt other methods of reducing the amount of electricity consumed by customers" and less on the expensive deployment of smart meters. The PUC further states, "The General Assembly charged the [PUC] with ... guiding consumers and electric utilities toward achieving the legislations' overall goals of reducing energy consumption and peak electric demand." The assumption that smart meter technology automatically saves energy is false: Smart meters themselves actually consume electricity that analogue meters do not, and Duquesne Light should have protested any efforts to insist on 100% deployment. [Energy Efficiency & Conservation Information for Your Home information sheet, Pennsylvania Public Utility Commission, April 2017]

13. This is a statement referencing Docket No. P-2015-2497267. The Order Entered on April 7, 2017 includes "That the Petition for Approval to Modify the Smart Meter Procurement and Installation Plan filed on August 4, 2015 is denied, in part, in that Duquesne Light Company is not authorized to implement the Automated Distribution Management System because it is not cost effective as proposed." and "Duquesne states that the Commission's Order at *Petition of Duquesne Light Company for Approval of Its Final Smart Meter Procurement and Installation Plan*, Docket No. M-2009-2123948 (Order entered May 6, 2013) (*2013 Smart Meter Order*) at 15, required the Company to evaluate whether including enhanced outage communication, outage restoration and voltage monitoring in the Company's Smart Meter Plan was cost effective" [Docket No. P-2015-2497267, Petition of Duquesne Light Company for Approval to Modify its Smart Meter Procurement and Installation Plan, Public Meeting held March 2, 2017, pages 31 and 52] . See "expensive" smart meter deployment that Pennsylvanians must pay for in Response 12 above.

14. Any indication that the referenced Smart Meter Plan "requires Duquesne Light to finish installing residential smart meters, including at the Property, by the end of 2018" appears nowhere in the referenced Smart Meter Plan. Such a contention appears to be arbitrary and made up. Nothing can be found in the Smart Meter Plan that requires Duquesne Light to finish installing residential smart meters in all properties by the end of 2018.

15. As stated throughout my formal complaint and in these responses, Duquesne Light's statement that Duquesne Light is "complying with the law" by forcing smart meters on Pennsylvanians' properties is actually in violation of Act 129's intent and content. Duquesne Light appears to be interpreting its own policies and desires as law, an appearance that is supported by no citation of any law to be complied with.

16. This is a statement that lacks any citations.

17. I am asking Duquesne Light to not break the law (Act 129) by forcing meter installation on Pennsylvanians who chose not to opt in to EDC's advanced smart meter programs. The PUC and Duquesne Light have misinterpreted the law and created their own policies, rules, regulations, codes in defiance of the intent of Act 129 "to develop energy efficiency and conservation (EE&C) plans and adopt other methods of reducing the amount of electricity consumed by customers." [66 Pa. C.S. Section 2807(f)] [Energy Efficiency & Conservation Information for Your Home information sheet, Pennsylvania Public Utility Commission, April 2017]. I am entitled to question why the PUC and Duquesne Light are engaging in forced installations against state law, in addition to petitioning the PUC and Duquesne Light to allow smart meter opt outs.

18. The cited Initial Decision before Administrative Law Judge (ALJ) Mark A. Hoyer with respect to the complainants' contention that a smart meter attached to their home because of fire risk is simply the 2013 opinion statement of an ALJ and in no way any proof that "use of the word 'shall' in the statutes indicates the General Assembly's direction that all customers will receive a smart meter." The use of the word "shall" occurs more than 195 times in Act 129. Further, the sole use of the word "shall" in the vicinity of the term "smart meter" in Act 129 firmly states "shall furnish" not "shall require" and in no way can be logically interpreted to mean that 66 Pa. C.S. Section 2807(f) was meant to require any Pennsylvanian to be forced to

have a smart meter. There is no language in Act 129 allowing EDCs to shut off electric service for not having a smart meter on their home. Further, Duquesne Light bringing up this question of fire risk is pertinent to the fact that smart meters in fact do catch on fire in ways that analog meters do not, and that Duquesne Light apparently shows no concern about this in their one-size-fits-all forced deployment.

19. Commission stated belief is not a legal excuse for misapplying state law. Also, deploying smart meters "system-wide" is not the same as 100% forced deployment. Further, as explained in Response 10 above, Act 129 never uses the words "deploy" or "deployment." Act 129 actually uses the word "furnish" with respect to smart meter technology. [66 Pa. C.S. Section 2807(f)(2)] Newspaper articles and statements by General Assembly members during the time of Act 129's adoption clearly show that it was not the intent of the General Assembly to require all covered EDCs to deploy smart meters on all customers. I am entitled to present evidence at a hearing to prove this.

20. Simply put, this is not simply about misinterpretation of the Act 129 legislation. It is about the misleading information, bullying tactics, decisionmaking process, lack of transparency, and mechanisms that the PUC and Duquesne Light and other EDCs are employing with regard to furnishing advanced digital AMI smart meter technology in Pennsylvania. I am entitled to the opportunity to present this case before the Commission for the public good. Stating that "there is no provision in the Code, the Commission's Regulations, or Commission Orders that permits a customer to opt out of having a smart meter installed on his or her premises" overlooks the fact that there is no provision in state law that requires a customer to be forced to have a smart meter installed.

21. The legal and factual grounds cited are not relevant to my complaint. I am challenging the Commission's and Duquesne Light's misinterpretations of Act 129, as well as their not doing the necessary due diligence regarding the adverse health and safety issues associated with smart meter technology on behalf of Pennsylvanians.

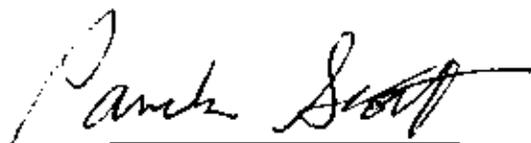
22. The legal and factual grounds cited are not relevant to my complaint. The Romeo decision did not relate to state law. By citing this, Duquesne Light continues to appear to be trying to prevent the PUC from possibly reviewing their current implementation of Act 129 with respect to forcing 100% participation in advanced digital smart meter programs. Such behavior on the part

of Duquesne Light is not in the public interest. Such forced participation does violate the Constitution of Pennsylvania, Article 1, Section 1, which guarantees the right of Pennsylvanians to "acquiring, possessing and protecting property".

23. Act 129 was passed "to adopt and implement cost-effective energy efficiency and conservation plans to reduce energy demand and consumption". [66 Pa. C.S. Section 2806.1(a)] I believe that I have established with my responses that Duquesne Light has violated the intention and law of Act 129, including with respect to its position of requiring an advanced digital AMI smart meter to be a condition for electric service. I believe that the PUC should hear my case and that my case should be able to move forward.

WHEREFORE, Pamela Scott respectfully requests that the Commission reject Duquesne Light's Preliminary Objections and that my case be allowed to move forward and that no portion of it be dismissed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Pamela Scott", written over a horizontal line.

Pamela Scott, Complainant
134 Markham Drive
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(412) 998-8880

**BEFORE THE
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PAMELA SCOTT

Complainant,

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DUQUESNE LIGHT COMPANY

Respondent.

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Docket No. C-2018-3004042

CERTIFICATE OF SERVICE

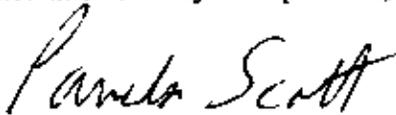
I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a party).

VIA ELECTRONIC FILING AND CERTIFIED MAIL:

Paul Shane Miller & Jeremy V. Farrell
Tucker Arensberg
1500 One PPG Place
Pittsburgh, PA 15222

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Keystone Bldg. 2nd Floor W
400 North Street
Harrisburg, PA 17120

Dated this 15th day of September, 2018



Pamela Scott
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