

November 20, 2018

Via Electronic Filing

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

RE: Geoff Day v. Duquesne Light Company
Docket No. C-2018-3003960

Dear Secretary Chiavetta:

Enclosed please find Duquesne Light Company's Motion to Compel Discovery Responses.

A copy of this document has been served upon Complainant in accordance with Commission regulations.

Sincerely,



Paul Shane Miller
Attorney for Duquesne Light Company

Jeremy V. Farrell
Attorney for Duquesne Light Company

Enclosure

cc: Geoff Day (with enclosure)
ALJ Jeffrey Watson (with enclosure)

TADMS:5060118-1 014657-158498

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

GEOFF DAY

Complainant,

vs.

DUQUESNE LIGHT COMPANY,

Respondent.

No: C-2018-3003960

**MOTION TO COMPEL DISCOVERY
RESPONSES**

Filed on behalf of Respondent
Duquesne Light Company

Counsel of Record for this Party:

Paul Shane Miller, Esquire
PA I.D. No. 319174
(412) 594-5503

Jeremy V. Farrell, Esquire
PA I.D. No. 316258
(412) 594-3938

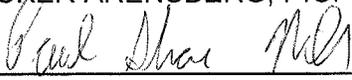
1500 One PPG Place
Pittsburgh, PA 15222
Counsel for Respondent

NOTICE TO PLEAD

TO COMPLAINANT GEOFF DAY:

YOU ARE NOTIFIED TO FILE A WRITTEN RESPONSE TO RESPONDENT'S MOTION TO COMPEL DISCOVERY RESPONSES WITHIN FIVE DAYS OF SERVICE PURSUANT TO 52 PA CODE § 5.342.

TUCKER ARENSBERG, P.C.



Paul Shane Miller, Esquire
Attorney for Duquesne Light Company

MOTION TO COMPEL DISCOVERY RESPONSES

Pursuant to 52 Pa. Code. § 5.342, Duquesne Light Company ("Duquesne Light") files this Motion to Compel Discovery Responses ("Motion to Compel"):

1. In this Motion to Compel, Duquesne Light seeks an order requiring Complainant Geoff Day ("Complainant") to respond to discovery requests that Duquesne Light served on him on October 25, 2018.

2. Complainant filed this action on or about August 10, 2018 to compel Duquesne Light to remove the "smart meter" that allegedly had been installed at his residence without his consent.

3. On September 4, 2018, Duquesne Light filed an Answer and New Matter and Preliminary Objections.

4. On October 3, 2018, Complainant filed a response to Duquesne Light's Preliminary Objections. In the response, Complainant claimed, among other things, that Duquesne Light's smart meters emit harmful radiofrequency radiation, pose a safety risk, invade customers' privacy, and violate his property rights.

5. On October 25, 2018, Duquesne Light served its First Set of Discovery Requests Directed to Complainant ("Duquesne Light's Discovery Requests"). A copy of Duquesne Light's Discovery Requests are attached as Exhibit A.

6. Complainant's responses to Duquesne Light's Discovery Requests were due on November 14, 2018.

7. On or about November 13, 2018, Complainant sent Duquesne Light a one-page document titled, "Response to discovery request." It stated, in relevant part: "The requested information has limited, or no relevance to the matter at hand. The requested information also represents a further invasion of my privacy. The requested information that has relevance to

the matter at hand has already been answered in my previous response, counsel is urged to refer to that document. I believe that this request is intended and designed with the purpose of causing confusion, undue delay, and harassment of the complainant.” A copy of Complainant's Response to discovery request is attached as Exhibit B.

8. Complainant did not provide any substantive responses to Duquesne Light's Discovery Requests.

9. Duquesne Light contends that the Presiding Administrative Law Judge should enter an order compelling Complainant to provide complete responses to Duquesne Light's Discovery Requests for several reasons.

10. First, Complainant did not restate the interrogatory or part thereof deemed objectionable, state the specific ground for the objection, or provide a description of the facts and circumstances purporting to justify the objection. See 52 Pa. Code § 5.342(c)(2)-(3). Instead, he merely raised a general objection to every discovery request and did not explain why the requests were irrelevant, an invasion of privacy, or intended to cause confusion, undue delay, or harassment.

11. Second, Complainant did not serve his objections within 10 days of service of Duquesne Light's Discovery Requests. See 52 Pa. Code § 5.342(e). Specifically, Duquesne Light served the Discovery Requests on October 25, 2018. Complainant, however, did not raise any objections until November 13, 2018, which is 19 days later.

12. Finally, Duquesne Light's Discovery Requests are relevant to this case and do not invade Complainant's privacy or cause confusion, undue delay, or harassment. In Complainant's response to Duquesne Light's Preliminary Objections, he claims that Duquesne Light's smart meters create health problems, pose a safety risk, and invade customers' privacy. Duquesne Light's Discovery Requests seek information about those topics, and Duquesne Light

is entitled to understand the basis for Complainant's claims and gather any evidence that he may use to support his allegations. Otherwise, Duquesne Light cannot mount a proper defense.

13. Duquesne Light, therefore, respectfully requests that the Commission order Complainant to respond to Duquesne Light's First Set of Discovery Requests within ten days from the date of the order.

WHEREFORE, Duquesne Light Company respectfully requests that the Commission grant its Motion to Compel Discovery Responses and require Complainant Geoff Day to provide complete answers to Duquesne Light's First Set of Discovery Requests Directed to Complainant within ten days from the date of the order.

Respectfully submitted,

TUCKER ARENSBERG, P.C.



Paul Shane Miller, Esquire
PA I.D. No. 319174
(412) 594-5503

Jeremy V. Farrell, Esquire
PA I.D. No. 316258
(412) 594-3938
1500 One PPG Place
Pittsburgh, PA 15222

Counsel for Respondent,
Duquesne Light Company

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

GEOFF DAY,

Complainant,

vs.

DUQUESNE LIGHT COMPANY,

Respondent.

No: C-2018-3003960

**FIRST SET OF DISCOVERY REQUESTS
DIRECTED TO COMPLAINANT**

Filed on behalf of Respondent
Duquesne Light Company

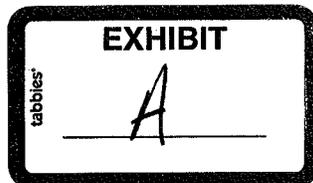
Counsel of Record for this Party:

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

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

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

TADMS:5029030-1 014657-158498



**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

GEOFF DAY,	:	
	:	
Complainant,	:	
	:	
vs.	:	No: C-2018-3003960
	:	
DUQUESNE LIGHT COMPANY,	:	
	:	
Respondent.	:	

FIRST SET OF DISCOVERY REQUESTS DIRECTED TO COMPLAINANT

Respondent Duquesne Light Company ("Duquesne Light"), by and through its undersigned counsel, Tucker Arensberg, P.C., serves the following First Set of Discovery Requests Directed to Complainant pursuant to 52 Pa. Code §§ 5.341 and 5.349. In accordance with 52 Pa. Code §§ 5.342 and 5.349(d), Complainant Geoff Day ("Complainant") must respond to each discovery request within 20 days after being served with these discovery requests. Complainant's responses must be verified in accordance with 52 Pa. Code § 1.36. Duquesne Light reserves the right to serve additional discovery requests.

DEFINITIONS

- A. The terms "You" and "Your" shall mean Complainant Geoff Day and any individual acting on his behalf.

- B. The term "Formal Complaint" shall mean the Formal Complaint You filed against Duquesne Light with the Pennsylvania Public Utility Commission at Docket No. C-2018-3003960.

- C. The term "Document" shall mean any written, typed, printed, graphic, or recorded material that is currently in Your possession, custody, or control or that was formerly in Your possession, custody, or control. A Document is in Your "control" if You have ownership,

possession, or custody of the Document or if You have the right to secure the Document or a copy from any person or entity that has possession of it. The term "Document" includes, but is not limited to, electronic mail or email, text messages, social media postings, comments, and messages, medical records, articles, studies, word processed documents, digital presentations, facsimiles, instant messages, calendars, diaries, appointment books, agendas, journals, drafts, voicemail messages, post cards, post-it notes, reports, logs, message slips, invoices, checks, paystubs, letters, memoranda, agreements, contracts, tax returns, bank statements, spreadsheets, video recordings, audio recordings, computer programs, printouts, and all other written, graphic, or electronic materials of any nature whatsoever.

D. "ESI" means all electronically stored information, including, but not limited to any Communications, notes, memoranda, internal or external emails, of any kind, in any form, and wherever located (and including private files and home computers), and shall include information maintained on a smart-phone, PDA, Blackberry or similar device.

E. The term "Property" shall mean Your residence at 1699 Suburban Avenue, Pittsburgh, PA 15216.

F. The term "Smart Meter" shall mean the digital electric meter that Duquesne Light is seeking to install at the Property pursuant to Pennsylvania Act 129 of 2008.

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 reasonable 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.

DISCOVERY REQUESTS

1. Do You contend that the installation of a Smart Meter at the Property will negatively affect Your health? If so, state all facts that support Your contention.

ANSWER:

2. Produce all Documents, including but not limited to hospital and/or medical records and studies, that relate to Your answer to Discovery Request No. 1.

ANSWER:

3. Identify all medical conditions that You contend make You vulnerable to, or that would be aggravated by, proximity to an Itron SK9AMI7 HW 3.1 OpenWay CENTRON Singlephase Smart Meter.

ANSWER:

4. Produce all Documents, including but not limited to hospital and/or medical records and studies, demonstrating that You suffer from the medical condition(s) identified in Your response to Discovery Request No. 3.

ANSWER:

5. Produce all Documents, including but not limited to hospital and/or medical records and studies, demonstrating the relationship between the medical condition(s) identified in Your response to Discovery Request No. 3 and Your proximity to an Itron SK9AMI7 HW 3.1 OpenWay CENTRON Singlephase Smart Meter.

ANSWER:

6. Identify all physicians and/or healthcare providers that You currently receive treatment from.

ANSWER:

7. To the extent not previously requested, produce all documents, including but not limited to hospital and/or medical records, from Your treating physicians and/or healthcare professionals that relate to any condition identified in Your response to Discovery Request No.

3.

ANSWER:

8. Is it Your contention that Duquesne Light is not permitted by law to install a Smart Meter at the Property? If so, identify the specific law and/or regulation that You contend supports Your position.

ANSWER:

9. Provide Your age and educational background, including but not limited to all colleges or universities that You attended and all degrees and/or certifications You have received.

ANSWER:

10. Produce a copy of Your current resume and/or curriculum vitae.

ANSWER:

11. Have You ever performed work or been employed in the scientific or medical fields?

ANSWER:

12. If the answer to the preceding request was in the affirmative, state:

- a. The name of each employer that You performed work for in the scientific or medical fields;
- b. Describe, in as much detail as possible, the specific duties that You performed for each employer; and
- c. State the dates on which You performed those duties.

ANSWER:

13. Identify the type (with make and model) of all devices, appliances, and equipment used in Your home or by You in Your daily life that produce radio frequency or low frequency fields, including, but not limited to, cell phones, microwave ovens, wireless internet, and WI-FI routers.

ANSWER:

14. For each cell phone identified in response to the preceding request, produce the last six months of bills or other usage records for the phone with sufficient detail to show Your actual usage for that period.

ANSWER:

15. Produce all Documents, including, but not limited to, user manuals and instructional materials, relating to each device identified in response to Discovery Request No. 13.

ANSWER:

16. Outside of the Documents and pleadings already produced in connection with Your Formal Complaint, produce any Document(s) that You have prepared in whole or in part that relates to the subject of radio frequency, Smart Meters, and/or Your Formal Complaint.

ANSWER:

17. Have You ever performed any job responsibilities or engaged in a course of study specifically relating to radio frequency or low frequency radiation? If so, describe each job responsibility and/or course of study in detail.

ANSWER:

18. Produce all Documents that relate to Your response to the preceding request.

ANSWER:

19. Are You a certified electrician? If so, state the date of certification.

ANSWER:

20. To the extent not previously requested or produced, produce all Documents that You intend to offer into evidence at any hearing in this matter.

ANSWER:

21. State the full name, address, and telephone number of each person who You expect to call to testify at any hearing of this matter.

ANSWER:

22. State the full name, address, and telephone number of each person who You expect to call to testify as an expert witness at any hearing of this matter and, for each expert witness, state:

- a. The subject matter on which the expert is expected to testify;
- b. The substance of the facts and opinions to which the expert is expected to testify; and

- c. A summary of the grounds for each expert opinion.

ANSWER:

23. Produce the report of any expert You intend to call to testify on Your behalf at trial.

ANSWER:

24. Produce the curriculum vitae of any expert that You intend to call to testify on Your behalf at trial.

ANSWER:

25. State all facts that support Your claim that Duquesne Light's installation of a Smart Meter at the Property will infringe upon Your privacy .

ANSWER:

26. Produce all Documents that relate to Your answer to Discovery Request No. 25.

ANSWER:

27. Do You claim that there has been a fire(s) caused by an Itron SK9AMI7 HW 3.1 OpenWay CENTRON Singlephase Smart Meter installed by Duquesne Light or its contractors?

If so, for each such fire, state:

- a. The date of the fire;
- b. The address of the location where the fire happened; and
- c. All facts that support Your contention or belief that the fire was caused by an Itron SK9AMI7 HW 3.1 OpenWay CENTRON Singlephase Smart Meter installed by Duquesne Light or its contractors.

ANSWER:

28. Produce all Documents that relate to Your response to the preceding request.

ANSWER:

29. Do You claim there has been a privacy, data, or security breach to Duquesne Light's customers caused by an Itron SK9AMI7 HW 3.1 OpenWay CENTRON Singlephase Smart Meter? If so, for each such breach, state:

- a. The date of each breach;
- b. The nature of information breached; and
- c. All facts that support Your contention or belief that the breach was caused by an Itron SK9AMI7 HW 3.1 OpenWay CENTRON Singlephase Smart Meter.

ANSWER:

30. Produce all Documents that relate to Your response to the preceding request.

ANSWER:

Respectfully submitted,

TUCKER ARENSBERG, P.C.



Paul Shane Miller, Esquire

PA I.D. No. 319174

(412) 594-5503

Jeremy V. Farrell, Esquire

PA I.D. No. 316258

(412) 594-3938

1500 One PPG Place

Pittsburgh, PA 15222

Counsel for Respondent, Duquesne Light
Company

TADMS:5029030-1 014657-158498

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

GEOFF DAY,	:	
	:	
Complainant,	:	
	:	
vs.	:	No: C-2018-3003960
	:	
DUQUESNE LIGHT COMPANY,	:	
	:	
Respondent.	:	

CERTIFICATE OF SERVICE

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

Geoff Day
1699 Suburban Avenue
Pittsburgh, PA 15216

Dated this 25th day of October 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

(412)-867-6081
1699 Suburban Ave.
Pittsburgh, Pennsylvania
15216

Via Registered Mail

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

RE: Geoff Day vs. Duquesne Light Company
Docket No. C-2018-3003960

Dear Secretary Chivetta,

Enclosed please find Geoff Day's response to the Discovery Request by the counsel of the Duquesne Light Company.

p.s. – I will be away attending to family matters out of state. As such, I will be unable to receive documents, answer documents or make appearances until after December 14, 2018. Necessary updates and notifications can be sent to my email: Ceros78@gmail.com during this absence. I apologize for any inconvenience this may cause.

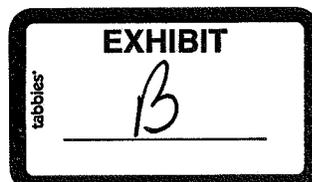
Sincerely,



Geoff Day
Complainant

2018-11-13

Cc: Tucker Arensberg Attorneys



BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

GEOFF DAY,

Complainant,

VS.

No: C-2018-3003960

DUQUESNE LIGHT COMPANY,

Respondent.

Response to discovery request

The requested information has limited, or no relevance to the matter at hand. The requested information also represents a further invasion of my privacy. The requested information that has relevance to the matter at hand has already been answered in my previous response, counsel is urged to refer to that document. I believe that this request is intended and designed with the purpose of causing confusion, undue delay, and harassment of the complainant.

Under rule 26, General Provisions Governing Discovery; Duty of Disclosure. Subdivision (f) provides a special meeting between the parties to organize their discovery process; this is a required step, which has not taken place.

Complainant reserves all rights with regard to person and property *nunc pro tunc* without prejudice.

Complainant reserves the right to make decisions regarding person and property at complainants sole discretion.



Geoffrey A. Day

Dated 2018/11/13 (YYYY/MM/DD)

Geoff Day

2018-11-13

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

GEOFF DAY

Complainant,

vs.

DUQUESNE LIGHT COMPANY,

Respondent.

No: C-2018-33003960

CERTIFICATE OF SERVICE

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

Geoff Day
1699 Suburban Avenue
Pittsburgh, PA 15216
Ceros78@gmail.com
Via Mail and Email

Administrative Law Judge Jeffrey Watson
Piatt Place - 301 Fifth Avenue
Suite 220
Pittsburgh, PA 15222
Via Mail

Dated this 20th day of November, 2018



Paul Shane Miller, Esquire
PA I.D. No. 319174
(412) 594-5503
smiller@tuckerlaw.com
Jeremy V. Farrell, Esquire
PA I.D. No. 316258
(412) 594-3938
jfarrell@tuckerlaw.com
1500 One PPG Place
Pittsburgh, PA 15222
(412) 594-5619 (fax)

Counsel for Respondent,
Duquesne Light Company