

331 Shady Ridge Drive
Monroeville, Pennsylvania

February 21, 2019

RECEIVED

FEB 21 2019

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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:

Enclosed please find a copy of Complainants'

Response to Respondent's
Motion in Limine
to Bar Complainants from Introducing or Relying Upon
Inadmissible Evidence

A copy of this document has been served upon the Judge Jeffrey Watson, Presiding PA PUC Pittsburgh Administrative Law Judge, 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

Enclosure

Cc: Judge Jeffrey Watson, Presiding PA PUC Pittsburgh Administrative Law Judge

Cc: Jeremy V Farrell, Esquire, Counsel for Duquesne Light Company

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED

FEB 21 2019

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
MOTION IN LIMINE TO BAR
COMPLAINANTS FROM
INTRODUCING OR RELYING UPON
INADMISSIBLE EVIDENCE**

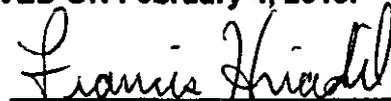
Filed by Michele and Francis Hriadil

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(412) 779-3314
331 Shady Ridge Drive
Monroeville, Pennsylvania

**RESPONSE TO RESPONDENT'S
MOTION IN LIMINE TO BAR COMPLAINANTS
FROM INTRODUCING OR RELYING UPON INADMISSIBLE EVIDENCE**

TO: THE HONORABLE ALJ JEFFREY A. WATSON

ENCLOSED IS COMPLAINANTS RESPONSE TO RESPONDENT'S MOTION IN
LIMINE TO BAR COMPLAINANTS FROM INTRODUCING OR RELYING UPON
INADMISSIBLE EVIDENCE, WHICH WAS RECEIVED ON February 4, 2019.



Francis Hriadil
February 21, 2019

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED

FEB 21 2019

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Michele Hriadil and
Francis Hriadil,

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No: C-2016-2571726

**RESPONSE TO RESPONDENT'S
MOTION IN LIMINE TO BAR COMPLAINANTS
FROM INTRODUCING OR RELYING UPON INADMISSIBLE EVIDENCE**

TO THE HONORABLE ALJ Jeffrey A. Watson:

1. The Respondent has submitted another nuisance motion attempting to impair the integrity of the Hearing process, and impede the legitimate efforts of the Complainants to present the full material facts of the matter, our complaint, and our request for relief. Here, the Respondent, attempts again to preclude the submission of Complainants' documents into evidence, asserting that this body of material fact, again, is "inadmissible." Furthermore, the Respondent asserts that the Complainants have failed to produce a formal Exhibit List in violation of Your Honor's Litigation Schedule Order. Both assertions of the Respondent's nuisance motion are disingenuous and without merit.

2. Complainants will first deal with the Respondent's assertion that Complainants have violated Your Honor's Litigation Schedule Order concerning the Exhibit List. Then, we will address the Respondent's assertion concerning evidence. Complainants will try to keep our response brief, concise, and to the point.

Concerning the Exhibit List and Our Purported Violation of Your Honor's Order

3. The Respondent is well aware of the Hearing schedule and the long continuation that was required, and ordered by Your Honor, as a result of its massive June 4, 2018 Motion for Summary Judgment. There is no ambiguity here.

To briefly review the history of that schedule, the Hearing was scheduled for July 18 - 19, 2018. This Hearing date had the following associated Litigation Schedule timeline:

- Evidentiary Hearing date - July 18 - 19, 2018
- Stipulations by - July 9 (1 week before the Hearing)
- Statements, Exhibits Exchange by - June 29 (2 ½ weeks before the Hearing)
- Dispositive Motions by - June 4 (~ 5 weeks before the Hearing)
- Rebuttal Expert Testimony Notification by - May 18 (~ 8 weeks before the Hearing)
- Factual Testimony Notification by - April 30 (~ 11 weeks before the Hearing)
- Expert Testimony Notification by - April 30 (~ 11 weeks before the Hearing)
- Discovery Requests by - March 16 (~ 17 weeks before the Hearing)

Recall,

- Complainants filed for a Continuance to allow Dr. Carpenter's participation as an expert witness on our behalf on April 30. Your Honor granted the Continuance in your May 10, 2018 Interim Order Regarding Complainants' Request to Modify Litigation Schedule to allow Dr. Carpenter's participation in July, August, or September of 2018.
- Complainants' received Your Honor's May 10 Interim Order on May 14, 2018, and filed our Motion containing Dr. Carpenter's availability schedule for July, August, or September of 2018, per Your Honor's order, on May 18, just 4 days later and well before Your Honor's deadline of May 30. The Respondent did not file their Answer until June 1. The Complainants' received it on June 4, and filed our Response on June 6.

- Respondent filed a huge Motion for Summary Judgment on June 4, which the Complainant's received on June 5.
- Your Honor officially cancelled the July Hearing and Litigation timeline on June 29, to properly review the Respondent's Motion for Summary Judgment and the Complainants' Response. In this ruling, Your Honor provided the Complainants until July 6, 2018 to review the Respondent's Motion and submit our response. Complainants complied with that ruling.
- Your Honor denied the Respondent's Motion for Summary Judgment on November 30, and subsequently ruled that both the Complainants and Respondent prepare for, and confer on, a new Hearing and timeline scheduled for some time in March or April 2019.
- The Complainants and Respondent conferred and were able to come to agreement on a new Hearing date of May 1 and 2, 2019, dates on which both parties' respective expert witnesses would be available to participate. Your Honor was informed of this on January 11, 2019, per Your Honor's December 3, 2018 Interim Order. The Complainants are awaiting Your Honor's confirmation of the proposed new Hearing date.

4. The Complainants, re-iterate as we have stated in our responses to the Respondent's prior nuisance motions, that we were intensively involved in preparing for the July 18 - 19, 2018 Hearing date, and fulfilling the Litigation Schedule requirements associated with that date, when the Respondent filed its massive and very detailed Motion for Summary Judgment, consisting of over 300 pages, on June 4, in which they motioned for a complete dismissal of our complaint and the suspension of our Hearing, due to their assertion of a lack of "admissible evidence", or a narrowing of our Hearing, and the disqualification of Dr. Carpenter and the Complainants as expert witnesses. This motion was ultimately and completely denied by Your Honor.

It is a statement of fact, that the Complainants have not been disobedient in any regard, and have met every obligation imposed on them by the prior and now continued Hearing schedule (having requested extensions only when necessary and with good reason, all of which

were granted). It is also a matter of fact that the Respondent inundated the Complainants with their massive June 4 Motion for Summary Judgment, which required a very detailed and comprehensive response according to a strict time table. As we are just two (2) elderly people, one retired and one still working full time, it took all of the time granted by Your Honor to produce Complainants' comprehensive and substantive response to that Motion.

5. Yet, the Respondent, here again, tries to make a specious argument that the previous Hearing Litigation schedule still applies. How are the Complainants reasonably expected to adhere to a Hearing Litigation Schedule that was put into serious doubt by the Respondent's Motion for Summary Judgment to suspend any Hearing, or potentially narrow the issues of the Hearing in unknown and potentially significant ways, or potentially preclude the participation of any of Complainants' identified expert witnesses? To be blunt, this is nonsense. The Complainants had to stop our Hearing preparations, which were in progress at that time, to address this new and daunting motion. Recall also, that at this time Your Honor had already issued your May 10 Interim Order requesting Dr Carpenter's availability for a new Hearing in July, August, or September.

6. So, this argument has no merit, and is simply another the blatant attempt by the Respondent to accuse the Complainants of not performing according to Your Honor's orders. The Complainants object to this nonsense and aver that we have complied with every order that Your Honor has issued.

Concerning Complainants' Evidence

7. The Respondent bases its objections on four (4) arguments: (1) relevancy; (2) confusing the issues, ...; (3) hearsay; and (4) testimony from proceedings to which Duquesne Light was not a party. Complainants will address each objection in turn.

(1) Relevancy

8. The Respondent asserts that Complainants' "documents add nothing to determining whether Duquesne Light has violated the Code, a regulation, or its tariff."

Further, the Respondent purports a violation of 52 Pa. Code § 5.401 and Pennsylvania Rules of Evidence 401 and 402, yet fails to demonstrate or establish where and how a violation has occurred.

9. First, concerning violations of the Code, a regulation, or its tariff, the Respondent apparently fails to acknowledge, or wishes to ignore, such codes as 66 Pa.C.S. § 701; 66 Pa.C.S. § 1501; 52 Pa. Code § 57.194. To refresh the memory of the Respondent,

66 Pa. C.S. § 1501

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, ... as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, ... (emphasis added)

52 Pa. Code § 57.194.

(a) An EDC shall furnish and maintain adequate, efficient, safe and reasonable service and facilities, and shall make repairs, changes, alterations, substitutions, extensions and improvements in or to the service and facilities necessary or proper for the accommodation, convenience and safety of its patrons, employees and the public. (emphasis added)

And, the Respondent also apparently fails to acknowledge, or wishes to ignore, such regulations and restrictions as the FCC Grants of Equipment Authorization for its SK9AMI7 900 MHz LAN and its 802.15.4 2.4 GHz ZigBee Module.

10. Codes, regulations, etc. such as these are pertinent to and form the basis for Complainants' Formal Complaint, and our request for relief, as Complainants have arranged for

the participation of various recognized, independent, and credentialed experts and witnesses, and accumulated a substantial amount of foundational and corroborating evidence to establish that the Respondent is in violation of these specified codes and regulations, at a minimum.

11. It is an inescapable material fact that the PA PUC has officially recognized that exposure to the emissions of a Smart Meter has caused and can cause harm,

(Reference: Maria Povacz v. PECO Energy Company, Docket No. C-2015-2475023; Susan Kreider v. PECO Energy Company, Docket No. C-2015-2469655; for example. These are established Conclusions of Law.)

and, that Francis Hriadil's doctor, Dr Martin Gallagher, has submitted a statement indicating his medical recommendation that Francis Hriadil has clinical conditions which will be exacerbated by continuous long term exposure to the Smart Meter emissions.

12. The Respondent has already made their argument purporting the irrelevance and inadmissibility of Complainants' evidence in its June 4, 2018 Motion for Summary Judgment, which You Honor denied *in toto* in Your November 30, 2018 Interim Order Denying Motion for Summary Judgment Filed by Duquesne Light Company. The Respondent is attempting to revisit that same issue here again in their Motion in Limine ..., making the same arguments that it made in its Motion for Summary Judgment, which again is forcing the Complainants to take time away from fully preparing for our Hearing.

13. To reiterate, the basis for Respondent's relevancy argument is that Respondent claims that the body of evidence filed by the Complainants "*do(es) not relate to Duquesne Light or its smart meter program.*" Complainants respectfully submit that this assertion is illogical and completely without merit. There is nothing patently unique or exclusive to the Respondent's Smart Meter program and how it is being operated.

14. The Respondent only makes this claim; but, has never established that its SK9AMI7 Smart Meter program in its Smart Mesh is in any way special or patently unique and

superior to other similar programs, nor has it provided any evidence, for example, that its privacy and security measures are superior to, or even measure up to, the extensive security measures incorporated by the government and private industry who have suffered significant, costly, and harmful breaches, which have been reported in the press and various industry journals and which the Respondent considers to be irrelevant. The Respondent has presented no analysis, testing, data, or statistics justifying or substantiating its claim.

15. The Respondent asserts great commonality with its current analog meters that it wants to replace, yet, disavows any commonality with other similar emitting smart meters and programs being implemented in other locations. Physics operates no differently in Pennsylvania than anywhere else in the country or the world. Pennsylvanians possess no greater immunity to the deleterious efforts of the RF and LF emissions caused by emitting Smart Meters, such as the Respondent's Smart Meter, etc., that are being increasingly studied, recognized, and reported by respected experts, agencies, and institutions, both private and governmental, throughout the country, and the world. Further, it has been established (which Complainants' body of evidence shows and to which our expert witnesses will attest) that long term exposure to these types of emissions is eventually detrimental to everyone, and that there exist many categories/classes of people such as children (such as those of Complainants' relatives and friends), pregnant women (such as those of Complainants' relatives and friends), the elderly (such as the Complainants, their relatives, and their friends), and those with various chronic clinical conditions (such as the Complainants, their relatives, and their friends) who are especially susceptible to harm from the on-going and unceasing exposure to such devices and systems. Per 66 Pa.C.S. § 1501; 52 Pa. Code § 57.194, these categories/classes of people cannot be ignored and must be accommodated by law. This evidence is not irrelevant, and these people are not irrelevant.

16. On the subject of commonality, as Complainants have established, in our filings, etc., there is substantial commonality between the Respondent's Smart Meter and its operation in its Smart Mesh, and other similar programs being implemented in other locations, many of which are being implemented on a voluntary basis. The Respondent utilizes an Itron/Centron OpenWay Smart Meter that is being utilized by other EDCs in a Smart Mesh. Where there are pertinent differences of note, the Complainants have made a conscientious effort to point those out.

Specifically, the material and foundational facts are:

- the Respondent's Itron/Centron OpenWay SK9AMI7 meter is a wireless, digital Smart Meter with co-located transceivers operating at 900 MHz and 2.4 GHz, respectively, in a Smart Mesh. Their Smart Meter draws power from the electric service line via a Switch Mode Power Supply (SMPS), and it is constructed primarily of electronic components and various plastic and polymer materials, etc. Though there may be some superficial differences between various Smart Meters currently in use in a Smart Mesh, they all operate fundamentally the same way and obey the same laws of physics.
- the specific Itron/Centron OpenWay SK9AMI7 Smart Meter being deployed by the Respondent in a Smart Mesh, is also being deployed in Smart Meshes by other Pennsylvania EDCs such as FirstEnergy in Pennsylvania, and by other EDCs elsewhere, such as FortisBC Energy Inc. in British Columbia, etc.
- the Respondent has stated in its Smart Meter Technology installation plan, the "Duquesne Light Company Final Smart Meter Technology Procurement and Installation Plan" Docket Nos. P-2012- M-2009-2123948, presented to the Commission that it has structured its SK9AMI7 Smart Meter deployment in the same manner as several EDCs in California, Nevada, and Illinois. (See Complainants' New Matter #3.)

17. Furthermore, the Complainants wish to remind the Respondent, and also Your Honor, that the Respondent has submitted as relevant evidence in its favor, various reports such as that by the California Council of Service and Technology (CCST), for example, (see Respondent's Answer and New Matter, etc.) purporting the safety of its Smart Meter in its Smart Mesh. Yet, this report did not specifically include the Respondent's Itron/Centron OpenWay SK9AMI7, operating in its Smart Mesh, in its analysis. The Respondent has no qualms about

submitting this type of evidentiary report asserting commonality with other Smart Meters, when it suits its purposes and appears to support its Smart Meter program. Actions such as this by the Respondent illustrate the disingenuous nature and hypocrisy of the Respondent when it comes to offering its opinion on the relevancy and admissibility of Complainants' documentary evidence. It is noted that Complainants assembled evidentiary documentation that this CCST report was flawed and has been discredited.

18. Complainants argued facts such as these, and others, in our July 6, 2018 Response to Motion for Summary Judgment, and after extensive review, Your Honor concurred with our arguments and our request, and denied the Respondent's entire Motion *in toto*. Complainants aver the relevance and admissibility of its evidentiary documents, and stand ready to justify that all of the evidentiary documents to be submitted into evidence, and have been submitted to the Respondent as part of Discovery, are relevant and material to the Complainants' Formal Complaint, and the matters at hand.

19. Concerning Pennsylvania Rules of Evidence 401 and 402,
Rule 401. Test for Relevant Evidence.

Evidence is relevant if:

- (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and
- (b) the fact is of consequence in determining the action.

Rule 402. General Admissibility of Relevant Evidence

Relevant evidence is admissible unless any of the following provides otherwise: the United States Constitution; a federal statute; these rules; or other rules prescribed by the Supreme Court.

The body of evidence which supports Complainants' Formal Complaint, and the testimony of its expert witnesses, make the facts to be presented more, not less, probable than would be the case without that evidence. And, those facts are relevant, admissible, and of primary consequence in determining the truth of the matter, and a fair and just outcome for the Complainants. Furthermore, this body of evidence does not violate the United States Constitution, ..., or other rules prescribed by the Supreme Court.

(2) Confusing the issues, wasting time, and needlessly presenting cumulative evidence

20. As stated in Your Honor's Prehearing Orders

"Complainants bear the burden of proof and must demonstrate by a preponderance of the evidence that Respondent violated its tariff, the Public Utility Code, or a commission order or regulation, and that they are entitled to the relief requested in the Complaint." (emphasis added)

The Complainants are obligated to meet this burden of proof. The Respondent's motion is clearly intended to preclude the submission of pertinent evidentiary documentation, which is relevant and admissible, to either prevent the occurrence of any Hearing for the Complainants, or to so critically hamper the Complainants' efforts that it guarantees we cannot meet our burden of proof. All of the documentation that has been submitted to the Respondent in Discovery and intended for submission into evidence has a direct bearing on the issues of our Formal Complaint. To endorse this on-going effort on the part of the Respondent to circumvent the truth would be extremely prejudicial against the Complainants and our complaint.

21. The Respondent complains of the Complainants' evidence as being "cumulative and repetitious". The evidentiary documentation that has been assembled comes from different and separate experts and sources, all of which have been carefully reviewed, referenced, and vetted for relevance, etc., and provides overwhelming correlation and corroboration of the facts being presented.

What the Respondent asserts is cumulative and repetitive, the Complainants' assert is correlative and corroborative, and represents the preponderance of evidence that Your Honor has stated is required.

22. The Respondent asserts that this is "wasting time." The Complainants ask, who's time is it wasting? The Respondent clearly feels that it is wasting its time because the Respondent does not want to have to face the facts, and deal with the consequences.

The Respondent's repetitious nuisance motions are clearly wasting the Complainants'

time, because we have to take time away from properly preparing for our Hearing to response to the Respondent's motions.

Is the court's or the Commonwealth's time being wasted? The Complainants assert that it is not. The PA PUC exists as a government agency, as a part of the state government of Pennsylvania which is sworn to protect the well-being of its people, and uphold the Constitutions of Pennsylvania and the United States. It exists, as its mission statement declares, to balance the needs of consumers and utilities (not rubber stamp the desires of the utilities); ensure safe and reliable utility service at reasonable rates (not the preferences of the utilities); to protect the public interest (not the interest of the private sector); to educate consumers to make independent, informed utility choices (which the Complainants are making great effort to try to accomplish here for their own health and well-being); and, to foster new technologies and competitive markets in an environmentally sound manner (not in a manner that worsens the natural living environment and well-being of the people of Pennsylvania).

23. If the Respondent is so concerned with wasting the time of the court and the Commonwealth of Pennsylvania, they can simply stipulate to the Complainants' ages, clinical conditions, and the public evidentiary documents that Complainants have supplied in Discovery. This would expedite this whole process, and allow the Complainants to receive a fair and just resolution of our Formal Complaint and request for relief. This is what the Complainants would reasonably expect from any conscientious corporate citizen of Pennsylvania who listens to, cares about, and responds to the needs of its customers. Instead, the Respondent continues with its repeated ongoing attempts to forestall the submission of all relevant evidence, substantially dragging out the Hearing process, etc. We guess it would be naïve for the Complainants to have expected the Respondent to appeal to the PA PUC, along with and in support of the Complainants, to address and accommodate our needs, and grant our legitimate request for relief.

24. The Respondent asserts that this is all a big inconvenience and a big waste of time, because “all the issues have been addressed” when the truth of the matter is that they have not been properly and fully addressed.

There are glaring problems that have come to light about this technology that have been overlooked, that have not been properly considered, and that remain unaddressed, all to the detriment of Pennsylvania and its people, including the Complainants. It is only a “waste of time” to the Respondent, as it wishes to evade that truth, and maximize its returns and profits. Anything that does not maximize its profits is a waste of time for the Respondent.

25. Finally, the Respondent asserts that the Complainants body of evidence confuses the issues at hand. There is nothing in the documentation supplied by the Complainants that is extraneous or irrelevant. On the contrary, everything that the Complainants have submitted brings all of the issues into sharp focus when considering Codes and regulations, such as 66 Pa.C.S. § 1501 and 52 Pa. Code § 57.194, etc. Complainants’ aver that this body of documentary evidence is correlative, corroborative, pertinent, and satisfies our obligation of preponderance. There is a great deal more supportive documentation available that the Complainants could have chosen to submit as well; but, we choose to limit our submissions for *practical* reasons. Everything that has been submitted is directly relevant to the specifics of the matters at hand in our Formal Complaint. The Complainants have taken great pains to eliminate extraneous material; have only submitted documentation that has been researched, referenced, and vetted for its relevance, that has been corroborated by multiple established sources, and has been supplied and referred to the Complainants by their authors. The great amount of relevant documentation that exists speaks volumes to its importance; it does not justify the Respondent’s assertion that its inclusion is needless or cumulative. It establishes a comprehensive body of corroborative material and foundational facts, as well as a pattern of evidence, that cannot simply be ignored or dismissed. And, it, along with the

testimony of the Complainants' independent expert witnesses, establishes the preponderance of evidence that Your Honor has stated is required.

(3) Hearsay

26. The Respondent has already made their argument purporting Hearsay in its June 4, 2018 Motion for Summary Judgment, which You Honor denied *in toto* in Your November 30, 2018 Interim Order Denying Motion for Summary Judgment Filed by Duquesne Light Company. The Respondent is attempting to revisit that same issue here again in their Motion in Limine ..., making much the same arguments that it made in its Motion for Summary Judgment, which again is forcing the Complainants to take time away from fully preparing for our Hearing.

27. As already explained in Complainants' response to Respondent's Motion for Summary Judgment, the Supreme Court of Pennsylvania Committee on Rules of Evidence has published that "the admissibility of evidence is conditioned upon the proof of foundational facts," which the Complainants' evidentiary documentation, along with its expert witnesses, provides.

28. In its Motion for Summary Judgment, the Respondent made the generic and dismissive reference that material served by the Complainants was obtained from the internet. Now, in its Motion in Limine..., the Respondent makes an opposite generic and dismissive reference to the material served by the Complainants as "not being written or created by the Complainants." Of course, the Complainants did not and could not have generated all of this evidentiary material on their own. To expect the Complainants to have done so is ridiculous.

29. In addition to the material that was created by the Complainants, this material has been produced by the Complainant's doctor, and by respected and recognized independent experts and world authorities, as well as by government and private agencies and institutions, throughout the country and the world. The material not created by the Complainants or our doctor, have all been published, and are public documents that are part of the public record.

The Complainants' had no influence or part in their making, the facts that they present, nor the conclusions that they reach.

30. The Respondent routinely refers to these simply and derogatorily as "internet articles", etc. and attempts in one broad stroke to denigrate, in their entirety, their accuracy, reliability, validity, and applicability. Complainants wish to reiterate the fact that many of the world's biomedical research, scientific, engineering, security, economic, governmental agency, law, etc. journals now publish online exclusively. They have abandoned hard copy entirely. All government agencies, including Public Utility Commission, have internet websites for the dissemination of information. The reasons for this are that publication online is less expensive and greatly enhances accessibility to the audiences for these publications, and for this information. Complainants respectfully submit that individual sources of information need to be judged solely by their quality and merit, and not simply by their method of delivery. Inaccuracies and misprints are possible no matter what medium is utilized. And, truth and accuracy is not automatically in question just because a source material may have been obtained from the internet. Unlike, hardcopy media, mistakes in source material on the internet are subject to much more substantive review, and are readily updatable and correctable.

31. In Discovery, and in previous filings with the Commission, Complainants have filed public documents composed of official public records; government, scientific, medical, and health reports and publications; investigative news and industry reports; expert reports and testimonies; various Utility Commission records; peer-reviewed scientific reports; medical records; doctor recommendations; Congressional, Legislative, Judicial, and Executive hearing records, EDC documents and public statements, industry reports, official institution and agency releases, etc., most in written format and some in video format, to substantiate our claims and Formal Complaint.

This written and video documentation was fully reviewed, sourced, and referenced. The

foundational facts presented in this material have been verified via multiple sources, providing corroboration. They have either been accepted into evidence in prior judicial court cases, public hearings, etc. by various commissions (including the PA PUC), legislatures, and or congressional committees, etc. or fall within the admissibility guidelines established by:

Title 66, Part I. Pa. Public Utility Code

66 Pa. Chapter 3, Subchapter B. Investigations and Hearings

66 Pa. C.S. § 332 (b) - Admissibility of evidence

66 Pa. C.S. § 332 (c) - Submission of evidence

Federal Rules of Evidence: 801-03, 901

Rule 803. Hearsay Exceptions; Availability of Declarant Immaterial

Rule 901. Requirement of Authentication or Identification

52 Pa. Chapter 5, Subsection E., Evidence and Witnesses

Section § 5.401 - Admissibility of evidence

Section § 5.406 - Public documents.

Section § 5.407 - Records of other proceedings.

1 Pa. Code § 35.167 - Records in Other Proceedings

and, Pa. Code Title 225 - Rules of Evidence.

32. The testimony of Complainants' expert witnesses, along with the correlative and corroborative body of evidence the Complainants' intend to submit into evidence, which have been fully and properly served to the Respondent in Discovery, possess substantial probative value and serve as a sound legal foundation for a finding of fact.

(4) Testimony from proceedings to which Duquesne Light was not a party

33. Throughout the course of this Formal Complaint process the Respondent has produced references, citations, rulings, etc in other proceedings before the Commission, before the judiciary, etc. to which neither the Respondent nor the Complainants were a party. Yet, they have submitted them as evidentiary documentation in support of their arguments.

This material is considered acceptable by the Respondent when it views that it is in its favor, and unacceptable, irrelevant, and inadmissible by the Respondent when it views that it is

not. The Complainants respectfully submit that Your Honor cannot embrace this type of double standard in Your considerations as it would be extremely prejudicial against the Complainants.

34. 52 Pa. Chapter 5, Subsection E., § 5.407. Records of other proceedings, states

- (a) When a portion of the record in another proceeding before the Commission is offered in evidence and shown to be relevant and material to the instant proceeding, a true copy of the record shall be presented in the form of an exhibit, together with additional copies as provided in § 5.409 (relating to copies and form of documentary evidence).
- (b) Subsection (a) is identical to 1 Pa. Code § 35.167 (relating to records in other proceedings).

No where in 52 Pa. Chapter 5, Subsection E., § 5.407 does it state or require that the records from another proceeding are restricted to only those in which the Respondent were a party.

Summary and Conclusion

35. The Respondent references 52 Pa. Chapter 5, Subsection E., Section § 5.401 - Admissibility of evidence, as part of its argument.

§ 5.401 states

- (a) Relevant and material evidence is admissible subject to objections on other grounds.
- (b) Evidence will be excluded if:
 - (1) It is repetitious or cumulative.
 - (2) Its probative value is outweighed by:
 - (i) The danger of unfair prejudice.
 - (ii) Confusion of the issues.
 - (iii) Considerations of undue delay or waste of time.

The body of evidence intended for submission by the Complainants, and served to the Respondent in Discovery, is relevant and material to the matter at hand. It is correlative and corroborative, not repetitious or cumulative, within itself. And, it is correlative and corroborative with and substantiates the testimony to be provided in support of and on behalf of the Complainants at our Hearing. Taken together with the planned testimony, it presents the preponderance of evidence that Your Honor has stated is required. It provides substantial probative value. It "represents" a danger of "unfair prejudice" only if the foundational facts and the truth also "represents" a danger of "unfair prejudice." It brings all of the pertinent issues into

sharp focus when considering Codes and regulations such as 66 Pa.C.S. § 1501 and 52 Pa. Code § 57.194, etc. And, it does not represent a waste of time on the part of the Commonwealth of Pennsylvania and the PA PUC, who exist to serve the people.

36. The Respondent has already raised the issues of relevancy, hearsay, and admissability in its exhaustive June 4, 2018 Motion for Summary Judgment, which Your Honor denied *in toto*. The arguments put forward in Respondents Motion in Limine... being refuted here, represent little that is new. Having lost once, it is a nuisance Motion that is an attempt to revisit issues already argued and decided. It serves only to impose on the time of the court and force the Complainants to take precious time away from fully and properly preparing for our Hearing.

37. Again, the Complainants wish to point out that the Respondent, Duquesne Light with revenues ~ \$806,100,000, net income ~ \$69,600,000, total assets ~ \$2,209,200,000, and being represented Tucker-Arensberg, Attorneys. In comparison, the Complainants are two (2) elderly fixed income individuals, one (1) working full-time and one (1) retired, representing themselves pro se, who do not possess even a fraction of one percent of the revenues, net income, total assets, and resources available to the Respondent. The disparity here is glaring. For the Respondent to attempt to leverage their unmatched resources in this way, with repetitious and cumulative nuisance motions such as these is unfair, unreasonable, and imposes an unfair burden, etc. on the Complainants in violation of PA Code § 5.361(a)(2).

To condone this activity would be prejudicial against the Complainants, our complaint, and our conscientious effort to present all of the relevant foundational facts to meet our burden of proof. And, it would prevent Your Honor and the Commission from getting the full and complete truth concerning the matters at issue.

38. The officially stated mission of the Public Utility Commission, as specified in its Mission Statement which is documented on the Commission's internet website, is to:

- **balance the needs of consumers and utilities;**
- **ensure safe and reliable utility service at reasonable rates;**
- **protect the public interest;**
- **educate consumers to make independent and informed utility choices;**
- **and, foster new technologies and competitive markets in an environmentally sound manner. (emphasis added)**

As such, it is the Commission's fundamental duty, as a public service governmental agency operating under the United States and Pennsylvania constitutions, and the Pennsylvania Utility Code, to seek the truth, treat all Complainants fairly, and safeguard the well-being of all people on Pennsylvania soil regardless of age, sex, race, religion, physical condition, and circumstance, in order to establish compliance with all statutes and regulations such as Section §1501 of the Public Utility Code, etc.

39. In summary, the body of evidentiary documentation to be submitted by the Complainants, simply listed but not detailed by the Respondent, consists of:

- evidentiary documentation specific to the Itron/Centron OpenWay SK9AMI7 Smart Meter being utilized by Duquesne Light Company in its Smart Mesh.
- evidentiary documentation germane to all Smart Meters operating in a Smart Mesh, and with which the Duquesne Light Company shares a high degree of commonality.
- evidentiary documentation from Francis Hriadil's doctor, Dr. Martin Gallagher, indicating his medical recommendation that Francis Hriadil has clinical conditions which will be exacerbated, at a minimum, by continuous long term exposure to the Smart Meter emissions.
- evidentiary expert reports by Complainants expert witnesses
- evidentiary public documents and records from recognized experts (along with their curriculum vitae), agencies, institutions, etc., both government and private.
- evidentiary peer-reviewed scientific studies and reports.
- evidentiary testimony and exhibits already accepted into evidence in other proceedings before the PA PUC, etc.

Complainants aver, and stand ready to justify, each and every evidentiary document to be submitted into evidence, which has been submitted to the Respondent as part of Discovery, that it and they are admissible, relevant, and material to the Complainants' Formal Complaint, and the matters at hand.

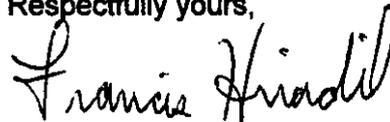
40. The testimonies to be provided by the Complainants and their independent expert witnesses, in conjunction with the listed evidentiary documentation Complainants intend to place into evidence, will definitively establish that this is a matter of direct and detrimental physical and personal consequence to the Complainants, and a matter that is in the public interest, and will definitively provide the preponderance of evidence that You Honor has stated is required.

WHEREFORE, in light of these circumstances, Complainants aver that the Respondent's claims and arguments are without merit, and have already been argued to large degree in Respondent's Motion for Summary Judgment and been denied.

Complainants Michele Hriadil and Francis Hriadil therefore respectfully request that the Respondent's Motion in Limine to Bar Complainants From Introducing or Relying Upon Inadmissible Evidence be denied.

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

Respectfully yours,



Francis Hriadil
(412) 779-3314
331 Shady Ridge Drive
Monroeville, Pennsylvania
January 21, 2019

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED

FEB 21 2019

Michele Hriadil and
Francis Hriadil,

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Complainant,

vs.

No: C-2016-2571726

DUQUESNE LIGHT COMPANY,

Respondent.

CERTIFICATE OF SERVICE

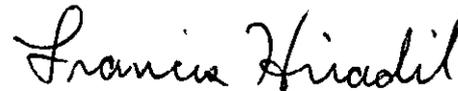
I hereby certify that I have this day served a true copy of Complainants' Response to Respondent's Motion in Limine to Bar Complainants from Introducing or Relying Upon Inadmissible Evidence upon the participants listed below in accordance with the requirements of 52 PA. Code § 1.54 (relating to service 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

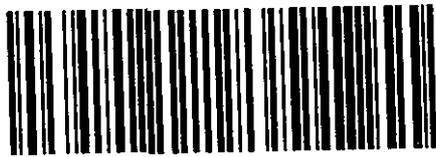
Via Paper Filing
Jeremy V Farrell, Esquire
Paul S Miller, Esquire
1500 One PPG Place
Pittsburgh, PA 15222
(412) 594-5619 (Fax)

Counsel for Respondent, Duquesne Light Company

Dated this 21st day of February, 2019



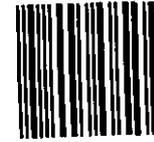
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