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March 5, 2019

VIA ELECTRONIC FILING

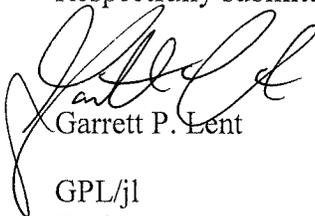
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Brian Colella v. PPL Electric Utilities Corporation
Docket No. C-2018-3003179

Dear Secretary Chiavetta:

Enclosed for filing is the Motion of PPL Electric Utilities Corporation to Compel Responses to Discovery Propounded on Brian Colella – Set I in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,



Garrett P. Lent

GPL/jl
Enclosures

cc: Honorable Elizabeth Barnes
Certificate of Service

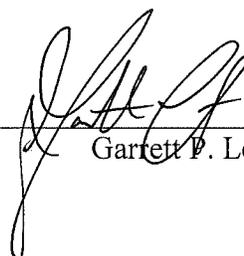
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA E-MAIL & FIRST CLASS MAIL

Brian Colella
5929 Noela Road
Stroudsburg, PA 18360
E-mail: BColella1@gmail.com

Date: March 5, 2019



Garrett P. Lent

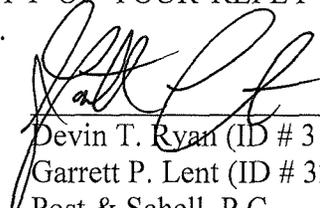
**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Brian Colella,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2018-3003179
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

NOTICE TO PLEAD

YOU ARE HEREBY ADVISED THAT, PURSUANT TO 52 PA. CODE § 5.342(g)(1), YOU MAY FILE A REPLY TO THE ENCLOSED MOTION TO COMPEL WITHIN FIVE (5) DAYS AFTER THE DATE OF SERVICE. YOUR REPLY SHOULD BE FILED WITH THE SECRETARY OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION, P.O. BOX 3265, HARRISBURG, PA 17105-3265. A COPY OF YOUR REPLY SHOULD ALSO BE SERVED ON THE UNDERSIGNED COUNSEL.

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Date: March 5, 2019

Attorneys for PPL Electric Utilities Corporation

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Brian Colella,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2018-3003179
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

**MOTION OF PPL ELECTRIC UTILITIES CORPORATION TO
COMPEL RESPONSES TO
DISCOVERY PROPOUNDED ON BRIAN COLELLA – SET I**

TO ADMINISTRATIVE LAW JUDGE ELIZABETH H. BARNES:

Pursuant to 52 Pa. Code §§ 5.342(g) and 5.349(d), PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) hereby files this Motion to Dismiss Objections and Compel Responses to Discovery Propounded on Brian Colella (“Complainant”) – Set I. In support of its Motion, PPL Electric states as follows:

I. INTRODUCTION

1. On January 18, 2019, PPL Electric served Interrogatories and Requests for Production of Documents on the Complainant – Set I (“PPL to Complainant Set I”) via email and first class mail. A true and correct copy of PPL to Complainant Set I is attached hereto and marked as **Appendix A**.

2. Pursuant to the Commission’s regulations, objections to PPL to Complainant Set I were due on or before January 28, 2019, and responses would be due on or before February 7, 2019.

3. Complainant did not serve any objections to PPL to Complainant Set I.

4. Mr. Colella untimely served a partial response to PPL to Complainant Set I, Question 1 by e-mail on February 8, 2019, and indicated he needed additional time to prepare his responses.

5. PPL Electric responded to Mr. Colella's February 8 e-mail on February 11, 2019. In subsequent discussion with Mr. Colella, PPL Electric indicated that it was not willing to provide Mr. Colella with additional time to respond to discovery because its testimony and exhibits were due on February 14, 2019, and because hearings in this proceeding were less than one month away.

6. Mr. Colella untimely served his responses to PPL to Complainant Set I on February 13, 2019. A true and correct copy of PPL to Complainant Set I is attached hereto and marked as **Appendix B**.

7. The Company filed its direct testimony in this case on February 14, 2019.

8. For the reasons explained below, PPL Electric respectfully requests that Administrative Law Judge Elizabeth H. Barnes (the "ALJ") compel full responses to PPL to Complainant Set I, Questions 3 and 4 discovery requests.

II. MOTION TO COMPEL

9. PPL Electric requests that the ALJ compel a response to PPL to Complainant Set I, Questions 3 and 4.

10. Under 52 Pa. Code § 5.321(c), a party is entitled to obtain discovery of any matter not privileged that is relevant to the pending proceeding, or any matter that is reasonably calculated to lead to the discovery of admissible evidence. Discovery is permitted regardless of

whether the information sought “relates to the claim or defense of the party seeking discovery or to the claim or defense of another party.” *Id.*

11. Objections to interrogatories and requests for production of documents must be served within 10 days of the date the discovery was served. 52 Pa. Code §§ 5.342(e), 5.349(d). Objecting parties remain under an obligation to provide timely answers to interrogatories or subparts of interrogatories to which they did not object. *Id.* § 5.342(f). Further, objections must be contained in a document separate from an answer. *Id.* §§ 5.342(c), 5.349(d).¹

12. Answers to written interrogatories must “[a]nswer each interrogatory fully and completely unless an objection is made.” *Id.* § 5.342(a)(4). Answers must be served within 20 days after service of the interrogatories. *Id.* § 5.342(d).

13. Similarly, a party shall serve a response to a request for documents within 20 days after the service of the request. *Id.* § 5.349(d). The requesting party may move to compel a response to a request for documents with respect to a failure to respond to the request. *See id.*

14. As explained herein, the Complainant has failed to comply with the Commission’s discovery rules by failing to provide full and complete responses to PPL to Complainants Set I, Questions 3 and 4 and produce the documents sought by these requests.

15. For the reasons stated in more detail below, the ALJ should direct the Complainant to answer fully PPL to Complainant Set I, Questions 3 and 4. Moreover, should the ALJ grant PPL Electric’s Motion to Compel and the Complainant fail to timely provide full and complete responses to Complainant Set I, Questions 3 and 4, PPL Electric intends to file a Motion for Sanctions pursuant to 52 Pa. Code §§ 5.371(a), 5.372(a)(1), 5.372(a)(2).

¹ As seen in Appendix B, the Complainant did not serve objections to discovery. Therefore, Complainant’s failure to provide full and complete responses to discovery requests operate, in effect, as untimely objections.

A. PPL TO COMPLAINANT SET I, QUESTION 3.

16. PPL to Complainant-I-3 provides:

Please state whether you or any member of your household uses a cell phone. If so, please provide the make and model of each cell phone and, for each phone identified, provide 12 months of phone bills or other records of actual cell phone usage.

17. The Complainant's response to the question states:

"My cell phone is a Samsung Galaxy S9."

The response does not provide any information about Complainant's amount of cell phone usage and does not provide the requested phone bills that would show the usage.

18. The Complainant's response to PPL to Complainant-I-3 is incomplete and, therefore, non-responsive. Importantly, the discovery request is reasonably narrow in its scope because it only asks for the cell phone usage, if any, by the members of the Complainant's household and documentation of their usage. Section 5.321(c) of the Commission's regulations specifically permits the discovery of "the existence, description, nature, content, custody, condition and location of any books, documents, or other tangible things" that are relevant to the proceeding. 52 Pa. Code § 5.321(c).

19. The information about Complainant's cell phone use is highly relevant to the issues raised in this case. Complainant claims that he has "numerous health concerns" about RF fields from AMI meters. However, as the testimony of PPL Electric's expert witness on RF exposures – Dr. Davis – makes clear, the RF exposure received from use of a cell phone (or even standing within 30 feet of another person using a cell phone) is far higher than from an AMI meter. The Complainant voluntarily uses his Samsung Galaxy S9 cell phone and experiences the RF exposure from his phone. PPL Electric is entitled to show how the RF exposures from that

phone use compare to those from the AMI meter, and is entitled to discover the billing records needed to quantify the amount of time that Complainant chooses to use his phone.

20. Furthermore, the request is narrowly tailored to issues relevant to Complainant's claims about exposure to RF fields and is not burdensome. The Complainant admits to owning a cell phone, so there is no reasonable basis to believe that he cannot readily access and print out the requested bills sought by this request.

21. By failing to provide "12 months of phone bills or other records of actual cell phone usage," let alone object to this request, the Complainant has deprived the Company of the opportunity to analyze the Complainant's exposure to RF fields by other devices in his possession, prior to the submission of the Company's written testimony in this case. Therefore, at a minimum, the Complainant should be compelled to provide the requested documents and records so that the Company may address the Complainant's existing exposure to RF transmission at the hearing scheduled in this matter.

22. For these reasons, the ALJ should direct the Complainant to answer fully PPL to Complainant Set I, Question 3.

B. PPL TO COMPLAINANT SET I, QUESTION 4.

23. PPL to Complainant-I-4 provides:

(a) Please state every health condition you claim was caused by a smart meter or will be caused or worsened by the installation of PPL Electric's new smart meter.

(b) Please provide the date that every health condition identified in subpart (a) began.

(c) Please provide copies of all your medical records of every health condition identified in subpart (a).

(d) For each alleged health conditions that you do not have medical records for in response to subpart (c), please state whether such condition was diagnosed by a medical professional. If so,

please provide the name, address, and telephone number of the medical professional and the date of the diagnosis.

(e) For each of the alleged health conditions identified in subpart (a), please state whether you have been prescribed any therapy or treatment for the condition by a medical professional. If so, please identify the therapy or treatment, provide the name, address, and telephone number of the prescribing medical professional, and provide the date the therapy or treatment was prescribed

24. The Complainant's response to the question states:

a- I cannot identify a health condition that was caused by a PPL Smart Meter at this time.

b- I cannot provide a date that every health condition identified in subpart (a) began at this time.

c- I cannot provide copies of all my medical records of every health condition identified in subpart (a) at this time.

d- I cannot provide medical records for in response to subpart (c) at this time.

e- I cannot provide alleged health conditions identified in subpart (a) at this time.

25. As explained above, Section 5.342(a)(4) requires a party to fully and completely answer an interrogatory. 52 Pa. Code § 5.342(a)(4). In addition, a party has a duty to amend its prior responses to discovery requests when the information contained therein is incomplete. *Id.* § 5.332(2).

26. The responses served by the Complainant were incomplete at the time of the response, because Complainant indicates that he "cannot provide" the information sought by each subpart "at this time." However, Complainant has not provided PPL Electric with updated or supplemental answers providing the information sought by this question as of the filing of this motion. Therefore, Complainant has failed to fully and completely answer PPL to Complainant-I-4.

27. By failing to provide fully and completely respond to this request and update the incomplete response, the Complainant has deprived the Company of the opportunity to analyze the Complainant's medical claims, prior to the submission of the Company's written testimony in this case. Therefore, at a minimum, the Complainant should be compelled to provide the requested documents and records so that the Company may address the Complainant's medical claims at the hearing scheduled in this matter.

28. For these reasons, the ALJ should direct the Complainant to answer fully PPL to Complainant Set I, Question 4.

III. NOTICE OF INTENT TO SEEK SANCTIONS

29. Upon the motion of a party, the presiding office may make an appropriate order for sanctions if a party fails to answer or otherwise respond to a discovery request, or refused to obey an order of the presiding office respecting discovery. *See* 52 Pa. Code § 5.371(a).

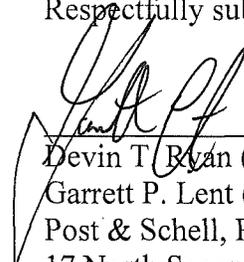
30. In ruling upon a motion for sanctions, the presiding office may issue “[a]n order that the matters regarding which the questions were asked...the contents of the paper...shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order.” *Id.* § 5.372(a)(1). Or the presiding office may issue “[a]n order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting the party from introducing in evidence designated documents, things or testimony.” *Id.* § 5.372(a)(2).

31. Therefore, to the extent that this Motion is granted and the Complainant fails to answer fully PPL to Complainant Set I, Questions 3 and/or 4, or otherwise comply with the ALJ's order, PPL Electric intends to file an appropriate Motion for Sanctions pursuant to 52 Pa. Code §§ 5.371(a), 5.372(a)(1), 5.372(a)(2).

IV. CONCLUSION

For the reasons set forth above, PPL Electric Utilities Corporation respectfully requests that Administrative Law Judge Elizabeth H. Barnes grant this Motion to Compel Responses to Discovery and direct Brian Colella to answer fully PPL to Complainant Set I, Questions 3 and 4, as described above within three (3) days from the date of the order.

Respectfully submitted,



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Michael J. Shafer (ID # 205681)
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Allentown, PA 18101
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Devin T. Ryan (ID # 316602)
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Date: March 5, 2019

Attorneys for PPL Electric Utilities Corporation

APPENDIX A

Interrogatories and Requests for Production of Documents Propounded by PPL Electric Utilities Corporation on Brian Colella – Set I



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Devin Ryan

dryan@postschell.com
717-612-6052 Direct
717-731-1981 Direct Fax
File #: 167945

January 18, 2019

VIA E-MAIL & REGULAR MAIL

Brian Colella
5929 Noela Road
Stroudsburg, PA 18360

**Re: Brian Colella v. PPL Electric Utilities Corporation
Docket No. C-2018-3003179**

Dear Mr. Colella:

Enclosed are the Interrogatories and Requests for Production of Documents Propounded by PPL Electric Utilities Corporation on Brian Colella – Set I in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Please provide answers to the enclosed discovery within twenty (20) days of the date of service, pursuant to 52 Pa. Code § 5.342.

Sincerely,

Devin Ryan

DTR/jl
Enclosures

cc: Rosemary Chiavetta, Secretary (*Letter & Certificate of Service Only*)
Certificate of Service

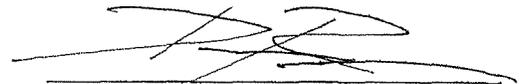
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA E-MAIL & FIRST CLASS MAIL

Brian Colella
5929 Noela Road
Stroudsburg, PA 18360
E-mail: BColella1@gmail.com

Date: January 18, 2019



Devin T. Ryan

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Brian Colella,	:	
	:	
Complainant	:	
	:	
v.	:	Docket No. C-2018-3003179
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent	:	

**INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS PROPOUNDED BY
PPL ELECTRIC UTILITIES CORPORATION ON
BRIAN COLELLA – SET I**

Pursuant to 66 Pa.C.S. § 333 and 52 Pa. Code §§ 5.341 *et seq.*, PPL Electric Utilities Corporation (“PPL Electric”) propounds the following Interrogatories and Requests for Production of Documents (hereinafter, “discovery requests”) on Brian Colella (“Complainant”) – Set I.

INSTRUCTIONS AND DEFINITIONS

1. The “Responding Party,” “you,” or “your” means the party to which these discovery requests are propounded and/or all attorneys, agents, affiliates, subsidiaries, employees, consultants, members, constituents, and representatives acting on behalf of the Responding Party.
2. “Commission” means the Pennsylvania Public Utility Commission.
3. To “identify” a natural person means to state that person’s full name, title or position, employer, last known address, and last known telephone number.

4. To "identify" a business entity means to state the full name of such business, the form of the business, and its location or address.

5. To "identify" a "document" means to provide all of the following information irrespective of whether the document is deemed privileged or subject to any claim of privilege:

- a. The title or other means of identification of each such document;
- b. The date of each such document;
- c. The author, preparer or signer of each such document; and
- d. A description of the subject matter of such document sufficient to permit an understanding of its contents and importance to the testimony or position being examined and the present or last known location of the document. The specific nature of the document should also be stated (*e.g.*, letter, business record, memorandum, computer print-out, etc.).

In lieu of "identifying" any document, it shall be deemed a sufficient compliance with these discovery requests to attach a copy of each such document to the answers hereto and reference said document in the particular interrogatory to which the document is responsive.

6. "Document" means the original and all drafts of all written and graphic matter, however produced or reproduced, of any kind or description, whether or not sent or received, and all copies thereof which are different in any way from the original (whether by interlineation, date-stamp, notarization, indication of copies sent or received, or otherwise), including without limitation, any paper, book, account, photograph, blueprint, drawing, sketch, schematic, agreement, contract, memorandum, press release, circular, advertising material, correspondence, letter, telegram, telex, object, report, opinion, investigation, record, transcript, hearing, meeting, study, notation, working paper, summary, intra-office communication, diary, chart, minutes, index sheet, computer software, computer-generated records or files, however stored, check, check stub, delivery ticket, bill of lading, invoice, record or recording or summary of any telephone or other conversation, or of any interview or of any conference, or

any other written, recorded, transcribed, punched, taped, filmed, or graphic matter of which the Responding Party has or has had possession, custody or control, or of which the Responding Party has knowledge.

7. "Communication" means any manner or form of information or message transmission, however produced or reproduced, whether as a document as herein defined, or orally or otherwise, which is made, distributed, or circulated between or among persons, or data storage or processing units.

8. "Date" means the exact day, month, and year, if ascertainable, or if not, the best approximation thereof.

9. Items referred to in the singular include those in the plural, and items referred to in the plural include those in the singular.

10. Items referred to in the masculine include those in the feminine, and items referred to in the feminine include those in the masculine.

11. The answers provided to these discovery requests should first restate the question asked and identify the person(s) supplying the information.

12. In answering these discovery requests, the Responding Party is requested to furnish all information that is available to the Responding Party, including information in the possession of the Responding Party's attorneys, agents, consultants, or investigators, and not merely such information of the Responding Party's own knowledge. If any of the discovery requests cannot be answered in full after exercising due diligence to secure the requested information, please so state and answer to the extent possible, specifying the Responding Party's inability to answer the remainder, and stating whatever information the Responding

Party has concerning the unanswered portions. If the Responding Party's answer is qualified in any particular, please set forth the details of such qualification.

13. If the Responding Party objects to providing any document requested on any ground, identify such document by describing it as set forth in Instruction 5 and state the basis of the objection.

14. If the Responding Party objects to part of a discovery request and refuses to answer that part, state the Responding Party's objection and answer the remaining portion of that discovery request. If the Responding Party objects to the scope or time period of a discovery request and refuses to answer for that scope or time period, state the Responding Party's objection and answer the discovery request for the scope or time period that the Responding Party believes is appropriate.

15. If, in connection with a discovery request, the Responding Party contends that any information, otherwise subject to discovery, is covered by either the attorney-client privilege, the so-called "attorneys' work product doctrine," or any other privilege or doctrine, then specify the general subject matter of the information and the basis to support each such objection.

16. If any information is withheld on grounds of privilege or other protection from disclosure, provide the following information: (a) every person to whom such information has been communicated and from whom such information was learned; (b) the nature and subject matter of the information; and (c) the basis on which the privilege or other protection from disclosure is claimed.

17. As set forth in 52 Pa. Code § 5.342(g), these discovery requests are continuing, and the Responding Party is obliged to change, supplement, and correct all answers given to conform to new or changing information.

18. "Formal Complaint" means the Formal Complaint filed by the Complainant at Docket No. C-2018-3003179.

**INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS PROPOUNDED ON
BRIAN COLELLA – SET I**

PPL to Complainant-I-1

Re: Formal Complaint.

- (a) Please explain in detail the reasons why you are challenging the Company's installation of the new smart meter.
- (b) Please describe in detail all health concerns, if any, raised by the Company's new smart meter, state the bases for such claims, and provide all documents relied upon by you in your response.
- (c) Please describe in detail all safety concerns, if any, raised by the Company's new smart meter, state the bases for such claims, and provide all documents relied upon by you in your response.
- (d) Please describe in detail all privacy concerns, if any, raised by the Company's new smart meter, state the bases for such claims, and provide all documents relied upon by you in your response.
- (e) Please describe in detail all reasons you believe the Company's new smart meter violates the law.

PPL to Complainant-I-2

Please identify all wireless phones, cellphones, microwaves, wireless routers, wifi networks, tablets, computers, Bluetooth speakers, wireless security systems, smart speakers (*e.g.*, Amazon Echo), garage door openers, baby monitors, and walkie talkies that are contained in or used in the house.

PPL to Complainant-I-3

Please state whether you or any member of your household uses a cell phone. If so, please provide the make and model of each cell phone and, for each phone identified, provide 12 months of phone bills or other records of actual cell phone usage.

PPL to Complainant-I-4

- (a) Please state every health condition you claim was caused by a smart meter or will be caused or worsened by the installation of PPL Electric's new smart meter.
- (b) Please provide the date that every health condition identified in subpart (a) began.

- (c) Please provide copies of all your medical records of every health condition identified in subpart (a).
- (d) For each alleged health condition that you do not have medical records for in response to subpart (c), please state whether such condition was diagnosed by a medical professional. If so, please provide the name, address, and telephone number of the medical professional and the date of the diagnosis.
- (e) For each of the alleged health conditions identified in subpart (a), please state whether you have been prescribed any therapy or treatment for the condition by a medical professional. If so, please identify the therapy or treatment, provide the name, address, and telephone number of the prescribing medical professional, and provide the date the therapy or treatment was prescribed.

PPL to Complainant-I-5

Please identify each person you plan to call as a fact witness in this proceeding. For each person, please:

- (a) Provide the person's name, home and business address, background, and qualifications;
- (b) Explain in detail the subject matter(s) on which the witness is expected to testify; and
- (c) Provide the source(s) of information relied upon or referenced by the witness.

PPL to Complainant-I-6

Please identify each person you plan to call as an expert witness in this proceeding. For each person, please:

- (a) Provide the person's name, home and business address, background, and qualifications;
- (b) Explain in detail the subject matter(s) on which the witness is expected to testify;
- (c) Provide the source(s) of information relied upon or referenced by the witness; and
- (d) Provide a copy of the expert witness's current curriculum vitae.

PPL to Complainant-I-7

Please provide copies of all exhibits you intend to present or utilize at the evidentiary hearing in this proceeding. For each exhibit to be used as part of your direct case, please identify the witness who will be sponsoring the exhibit.

APPENDIX B

Responses of Brian Colella to the Interrogatories and Requests for Production of Documents Propounded by PPL Electric Utilities Corporation – Set I

To: PPL Electric Utilities Corporation

Enclosed find my INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS PROPOUNDED ON BRIAN COLELLA – SET I

PPL to Complainant-I-1

Re: Formal Complaint.

(a) **REASONS I AM CHALLENGING SMART METER INSTALLATION**

- 1- PPL received by Certified Mail Return Receipt¹ from me unambiguous instructions to **not** install a so-called “smart-meter” on my property.
- 2- I placed “NO smart meter” notices on the wall next to my existing Electric Meter so the meter readers and/ or PPL contractors can clearly see that I do **not** consent to the installation of a “smart-meter” on my property. These “NO smart meter” notices are still there today.
- 3- I do not accept PPL’s “offer” that initiates a contract to install and maintain a smart meter on my private property.
- 4- Via Certified Mail Return Receipt PPL received and accepted my Notice of No Consent to Trespass and Surveillance, Notice of Liability.
- 5- My current electrical meter installed in 1991 works perfectly fine.
- 6- PA State Senator Fumo is on record in *PA Senate Journal* October 8, 2008 (pp. 2626-2631) stating, “***In addition we did not mandate smart meters, but we made them optional.***” Therefore, the PA PUC, PECO and **all** public utilities in Pennsylvania, (this includes PPL the Colella Electric provider), by law must adhere to and abide by the **optional** smart meter mandate enacted by the Pennsylvania State Legislature, as only the Pennsylvania State Legislature can make law, not the Pennsylvania Public Utility Commission, a state administrative agency.
- 7- Under Act 129 I am exercising my option by **not** requesting a smart meter and **not** agreeing to pay for cost of the smart meter.
- 8- Bill SB2200, as passed by the PA Legislature, is/was an “**opt IN bill**”. Refer to HB2200 §2807(f)7(2)(i)
- 9- Federal support for the development of smart meter systems began with the Energy Policy Act of 2005, Pub.L. 109-58, 119, Stat. 595, was supplemented with

¹ Please see my November 3, 2017 and December 22, 2017 and May 26, 2018 letters as examples.

passage of the Energy Independence and Security Act of 2007, Pub.L. 110-140, 121 Stat. 1492, and heavily funded by the American Recovery and Reinvestment Act of 2009, Pub.L. 111-5, 123 Stat. 115, which set aside \$11 billion for the creation of a smart grid. The Energy Policy Act of 2005 very clearly establishes an optional standard by which utilities are required to make a time-variable rate structure (often accomplished with wireless, digital smart meters, but also with analog meters and wired meters) available **“upon customer request.”**

10- I chose not to have trespassing technology in or on my home.

11- I choose not to have a residential surveillance platform installed in or on my home.

12- “Smart-meters” create an unacceptable degree of uncertainty about the actual utility usage and legally appropriate utility charges and in fact it is reported that customers electric bill has noticeably increased even though they barely changed their electrical habits.

(b)- **HEALTH CONCERNS**

- 1- It is no secret that the human body is conductive and susceptible to RF, Radio Frequencies.
- 2- It is no secret that the human body is affected by radiation. Radiation is cumulative and impedes natural healing.
- 3- “Smart-meters” produce Electro Magnetic Fields, (EMF’s), which are harmful to the human body.
- 4- According to scientific research, the adverse health effects of radio frequency radiation, similar to that transmitted by smart meters, may include a variety of physiological malfunctions, such as adverse nervous system effects, psychological disorders, behavioral changes, blood disorders, enzyme and other biochemical changes, metabolic disorders, gastro- 8 intestinal disorders, and genetic and chromosomal changes. Scientific writings describe several biological mechanisms that may cause these adverse health effects, including removal of, or changes to, calcium ions bound to cellular membranes, the leakage of calcium ions into neurons, fragmentation of DNA in cells, changes in the blood-brain barrier after microwave exposure, and others. Some people have become electrically hypersensitive and many are unable to use rooms located near a smart meter.
- 5- On May 31, 2011, the International Agency for Cancer Research/World Health Organization (IARC/WHO) issued a press release announcing it

had classified radio frequency electromagnetic fields a Group 2B carcinogenic to humans.

- 6- PPL's installation of smart meters in the program jeopardizes the health, safety, privacy and property rights of Pennsylvania residents.
- 7- AMI Smart Meters² operate on microwaves to send, receive and collect information to and from the meter(s) at customers' homes. Those messages can occur every 15 seconds, which can allow "dirty electricity³" (harmonics or sinusoidal waves) to travel over the copper wires inside the walls of customers' homes every 15 seconds every hour, every day of every month of every year, as customers cannot turn them off like you can your cell phone, microwave oven, etc.
- 8- PPL, as such, is attempting to inflict their unsafe meters upon Colella, against Colella's consent; against basic fundamental property rights; and in excess of PPL's regulatory authority granted by both federal and Pennsylvania law. Both those government authorities make the smart meter program **voluntary only**. Cf. *Pub. L. 109-58 the Energy Policy Act of 2005 §1252. Smart Metering; Pennsylvania HB2200 §2807(f)7(2) and PA P.L. 1592, No. 129.*

(c) **SAFETY CONCERNS**

- 1- These smart meters are known to explode and start fires on the structures they are attached to or the wires they are electrically connected to.
- 2- These smart meters are not UL, Underwriters Laboratory stamped or approved.
- 3- PPL's installation of smart meters in the program jeopardizes the health, safety, privacy and property rights of Pennsylvania residents.
- 4- Smart meters add to the radiation present in everyday life and, therefore, increase the total amount of radiation to which Colella would be exposed to. Arguing that radiation does not contribute to cancers of all types is sadly reminiscent of the argument that smoking does not cause cancer either. The extra smart meter EMF radiation becomes an added burden upon already overstressed everyday life. The Colella "Pursuit of Happiness⁴" and in my pursuit of "Virtue, Liberty and Independence⁵" Colella chooses Happiness, Liberty and Independence and to not be subjected to the tyranny or dictatorship the Pennsylvania Power and Light, (PPL), or the Pennsylvania

² <https://www.activistpost.com/2017/02/ami-smart-meters-illegally-forced-on-pennsylvania-consumers-act-129-states-not-mandatory.html>

³ <https://www.emfanalysis.com/what-is-dirty-electricity/>

⁴ Consistent with the Pennsylvania State Slogan

⁵ Consistent with the Pennsylvania State Motto.

Utility Commission, (PUC), is imposing/ forcing on. Any action inconsistent would be tantamount to stripping us and taking away our American birthrights as United States Citizens that the UNITED STATES CONSTITUTION and the PENNSYLVANIA CONSTITUTION unambiguously denounces!

- 5- Shortly after Pennsylvania Utility Companies to start retrofitting AMI SMs, numerous meters exploded and/or caught fire damaging homes, ***which homeowners' insurance policies did not and don't cover!***

(d) **PRIVACY CONCERN**

- 1- Alleged privacy and security concerns include identity theft, identifying and monitoring personal behavior patterns and appliance use, real-time surveillance, and targeted home invasions. Smart meters, with the capacity to record in real-time when specific appliances or pieces of electric equipment are being used, can reveal “whether a building is occupied or vacant, show residency patterns over time, and reflect intimate details of people’s lives and their habits and preferences.” This technology will be and has been susceptible to hacking and cyber attacks exposing private information to unauthorized third parties.
- 2- Property rights. PPL is trespassing by electronically entering the home via radiofrequency waves, changing and exceeding the terms and conditions of the authorized service.
- 3- PPL is also trespassing by using customer’s homes as a facility to store and move other customer’s data. PPL’s rights of access are limited essentially to providing, accessing and servicing their meters, and their choice of meter is within this context. PPL customers have not consented to the transmission of radio frequency waves into their homes to collect data or to the use of their homes to collect and transmit data from other PPL customers.
- 4- Also at stake are Complainants’ fundamental statutory and CONSTITUTIONAL RIGHTS – their rights to receive electricity in their homes through utility services and facilities that are safe, reasonable, adequate and non-discriminatory; and their rights to be free from unreasonable government-sanctioned searches within their homes and to receive just compensation when the government sanctions the use of their property by physical occupation without their consent.
- 5- “Smart-meters” invades the privacy of the residents. The FORTH AMENDMENT of the UNITED STATES CONSTITUTION protects and ensures, ***“the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not***

be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized”.

- 6- “Smart-meters” massively invade the privacy of every citizen who uses computers, televisions, washing machines, dishwashers and other “smart” appliances that can be tracked and controlled through “Smart-Meters”. In fact it is now widely know that certain appliances such a “Smart” televisions have the ability to listen in on and remotely view persons in their own homes within proximity of their smart television.
- 7- “Smart-meters” constitutes an unwarranted infringement upon the CONSTITUTIONAL, legal and property rights of the residents.
- 8- PPL does not have the right to install a “Smart-meters” that make people sick, or invades our privacy, or that violates other CONSTITUTIONAL and legal rights...

(e) **LAW VIOLATIONS**

- 1- PPL is acting as an agent of the government (the PUC or State) which endorsed and promoted the smart meter program, soliciting and awarding bids to implement it as part of a smart grid. Law enforcement can obtain access to utility records without a warrant. Smart meters will vastly increase law enforcement access to private information inside the home without a warrant or consent in violation of the right to be free from unreasonable search and seizure. Imposing either the installation of smart meters or a special fee is an unconstitutional taking.
- 2- Property rights. PPL is trespassing by electronically entering the home via radiofrequency waves, changing and exceeding the terms and conditions of the authorized service.
- 3- PPL is also trespassing by using customers homes as a facility to store and move other customers data. PPL’s rights of access are limited essentially to providing, accessing and servicing their meters, and their choice of meter is within this context. PPL customers have not consented to the transmission of radio frequency waves into their homes to collect data or to the use of their homes to collect and transmit data from other PPL customers.
- 4- Also at stake are Complainants’ fundamental statutory and CONSTITUTIONAL RIGHTS – their rights to receive electricity in their homes through utility services and facilities that are safe, reasonable, adequate and non-discriminatory; and their rights to be free from unreasonable government-sanctioned searches within their homes and to receive just compensation when the government sanctions the use of their property by physical occupation without their consent.

- 5- "Smart-meters" invades the privacy of the residents. The FORTH AMENDMENT of the UNITED STATES CONSTITUTION protects and ensures, *"the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized"*.
- 6- "Smart-meters" massively invade the privacy of every citizen who uses computers, televisions, washing machines, dishwashers and other "smart" appliances that can be tracked and controlled through "Smart-Meters". In fact it is now widely know that certain appliances such a "Smart" televisions have the ability to listen in on and remotely view persons in their own homes within proximity of their smart television.
- 7- "Smart-meters" constitutes an unwarranted infringement upon the CONSTITUTIONAL, legal and property rights of the residents.
- 8- PPL does not have the right to install a "Smart-meters" that make people sick, or invades our privacy, or that violates other CONSTITUTIONAL and legal rights...

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights that among these are **Life, Liberty and the pursuit of Happiness**. — That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, — That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their **Safety and Happiness**. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn that mankind are more disposed to suffer, while evils are sufferable than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute **Despotism**⁶, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security. — Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute **Tyranny**⁷ over these States.

- 9- Advanced Metering Infrastructure (AMI) utility Smart Meters for electric, natural gas and water are being forced onto Pennsylvania utility customers by utility companies backed up by the Pennsylvania Public Utility Commission's (PA PUC)

⁶ Dictatorship.

⁷ Dictatorship.

implementation rules and regulations, i.e., AMI SMs are “mandatory,” which are in total contradiction to **the Legislative History, intent, enactment, and what was published in official public state records declaring AMI Smart Meters are not mandated!** Basically, the bill SB2200, as passed by the PA Legislature, is/was an “opt IN bill”! Refer to HB2200 §2807(f)7(2)(i)!⁸

10- When the PA PUC wrote that agency’s rules and regulations for utility companies, *PUC based their regs upon what it claimed (incorrectly) the legislature passed, rather than what was voted upon. There is absolute proof for the above statement, which is found in the PA Senate and House Journals of the days when HB2200 was discussed and argued with numerous legislators stating “smart meters were not to be mandatory.”* Therefore, HB2200, aka Act 129 (2008), was an opt-in bill and the language stated so. See HB2200 §2807(f)7(2).⁹

11- Whereas, a preponderance of evidence exists that the PA PUC overreached its administrative powers when formulating implementation regulations for HB2200/Act 129 (2008)

12- Concerning the merits of the CONSTITUTIONAL claims. These issues are ripe for resolution on the merits by this Court. Requiring the installation of smart meters or the payment of a special fee to avoid the meter-associated risks, is a violation of the right to be free of 15 unreasonable searches under the FORTH AMENDMENT OF THE UNITED STATES CONSTITUTION and the PENNSYLVANIA CONSTITUTION, because the meters are capable of collecting detailed private data from inside customers’ homes without the customers’ consent or a warrant. *Kyllo v. United States*, 533 U.S. 27 (2001). And, requiring customers to allow PPL to attach its radio frequency antennae and transceivers to customers’ homes for PPL’s own purposes, without consent or compensation, is a violation of the takings clause in the FIFTH AMENDMENT of the UNITED STATES CONSTITUTION and of the PENNSYLVANIA CONSTITUTION.

PPL to Complainant-I-2

1- I cannot identify wireless phones, microwaves, wireless routers, Wi-Fi networks, tablets, Bluetooth Speakers, wireless security system, smart speakers, baby monitors or walkie talkies that are contained in or used in the house. My cell phone is a Samsung Galaxy S9, my computer is connected via Ethernet cable, and my Sears garage door opener was installed in 1991.

⁸ <https://fromthetrenchesworldreport.com/ami-smart-meters-illegally-forced-pennsylvania-consumers-act-129-states-not-mandatory/182873>

⁹ <https://www.activistpost.com/2018/09/a-pennsylvania-ami-smart-meter-survey-reports-horror-stories.html>

PPL to Complainant-I-3

- a. My cell phone is a Samsung Galaxy S9.

PPL to Complainant-I-4

- a- I cannot identify a health condition that was caused by a PPL Smart Meter at this time.
- b- I cannot provide a date that every health condition identified in subpart (a) began at this time.
- c- I cannot provide copies of all my medical records of every health condition identified in subpart (a) at this time.
- d- I cannot provide medical records for in response to subpart (c) at this time.
- e- I cannot provide alleged health conditions identified in subpart (a) at this time.

PPL to Complainant-I-5

- a- I cannot identify a person's name, home and business address, background and qualifications I plan to call as a fact witness at this time.
- b- I cannot identify the subject matter(s) on which the witness is expected to testify at this time.
- c- I cannot identify the source of information relied upon or referenced by the witness at this time.

PPL to Complainant-I-6

- a- I cannot identify a person's name, home and business address, background and qualifications I plan to call as an expert witness at this time.
- b- I cannot explain in detail the subject matter(s) on which the witness is expected to testify at this time.
- c- I cannot provide the source(s) of information relied upon or referenced by the witness at this time.
- d- I cannot provide a copy of the expert witness's current curriculum vitae at this time.

PPL to Complainant-I-7

I cannot provide copies of all exhibits I intend to present or utilize at the evidentiary hearing in this proceeding at this time.