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File #: 167945

March 20, 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 Heffner v. PPL Electric Utilities Corporation
Docket No. C-2018-3000471

Dear Secretary Chiavetta:

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

Respectfully submitted,

Devin Ryan

DTR/jl
Enclosures

cc: Honorable Elizabeth Barnes
Certificate of Service

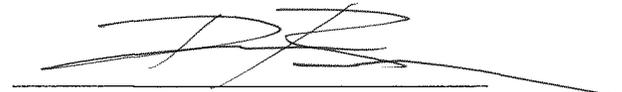
CERTIFICATE OF SERVICE

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 Heffner
170 Ash Lane
Kunkletown, PA 18058
E-mail: DRONE333@mail.com

Date: March 20, 2019



Devin T. Ryan

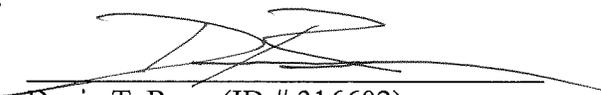
**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Brian Heffner,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2018-3000471
	:	
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.

Kimberly A. Klock (ID # 89716)
Michael J. Shafer (ID # 205681)
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Date: March 20, 2019

Attorneys for PPL Electric Utilities Corporation

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Brian Heffner,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2018-3000471
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

**MOTION OF PPL ELECTRIC UTILITIES CORPORATION TO
COMPEL RESPONSES TO
DISCOVERY PROPOUNDED ON BRIAN HEFFNER – 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 Compel Responses to Discovery Propounded on Brian Heffner (“Complainant”) – Set I. In support of its Motion, PPL Electric states as follows:

I. INTRODUCTION

1. On June 6, 2018, PPL Electric served Interrogatories and Requests for Production of Documents on the Complainant – Set I (“PPL to Complainant Set I”) via 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 June 19, 2018, and responses were due on or before June 29, 2018.¹

¹ Because the discovery was served via first-class mail by the United States Postal Service (“USPS”), three days were added to the prescribed period for response. See 52 Pa. Code § 1.56(b).

3. The Complainant never served any objections or answers to PPL to Complainant Set I.

4. The Complainant was required to serve any statements, reports, and direct testimony of any expert witness he intends to call on or before February 19, 2019.

5. By letter dated March 8, 2019, the Complainant served his proposed hearing exhibits. The Complainant served no statements, reports, or direct testimony for any expert witness.

6. The Company served its direct testimony and exhibits in this case on March 19, 2019.

7. Since serving its discovery, PPL Electric has made several attempts to obtain answers to the discovery without the need to file a Motion to Compel.

8. On July 10, 2018, counsel for PPL Electric and the Complainant spoke, and the Complainant indicated that he was having difficulty obtaining his medical records but was willing to have them produced in this proceeding.

9. On October 24, 2018, counsel for PPL Electric and the Complainant spoke again, and the Complainant stated that he still was having difficulty finding his medical records.

10. On March 18, 2019, counsel for PPL Electric called the Complainant and left a voicemail informing him that the Company would file a Motion to Compel if he did not provide answers to PPL to Complainant Set I by March 19, 2019. Counsel for PPL Electric and the Complainant subsequently spoke on March 18, 2019, and the Complainant indicated that he would not be providing written responses to the discovery.

11. On March 19, 2019, the Complainant sent via email what he characterized as “screenshots” of selected portions of his alleged cell phone bills for the past six months. These

single page summaries are not complete copies of the cell phone bills. As a result, it is not possible to determine if they accurately present the full cell phone usage for each month. The Complainant did not provide any other materials in response to the Company's discovery.

12. As of the filing of this Motion, no formal, complete responses to PPL to Complainant Set I have been received.

II. MOTION TO COMPEL

13. PPL Electric respectfully requests that the Administrative Law Judge Elizabeth H. Barnes (the "ALJ") direct the Complainant to answer fully all of the interrogatories set forth in PPL to Complainant Set I.

14. 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.*

15. Answers to interrogatories are due within 20 days of the service date. 52 Pa. Code § 5.342(d).

16. Here, PPL Electric served its first set of interrogatories on June 6, 2018. Consequently, answers to PPL to Complainant Set I were due on or before June 29, 2018.² Therefore, the responses are now well past due.

17. Further, the Complainant never objected to any of the questions in PPL to Complainant Set I.

² Under Section 1.56(b) of the Commission's regulations, three days were added to the response period. See 52 Pa. Code § 1.56(b).

18. Moreover, the in-person evidentiary hearing is scheduled for April 18, 2019, and all exhibits and testimony must be sent to the ALJ no later than April 12, 2019.

19. Therefore, PPL Electric is filing this Motion to Compel so that it can receive answers to the discovery in sufficient time before the evidentiary hearing.

20. In addition, on March 19, 2019, PPL Electric served the statements, reports, written testimony, and exhibits it intends to present at the April 18, 2019 hearing.

21. PPL Electric reserves the right to supplement or revise any of its exhibits, reports, and statements that it sent on March 19, 2019, to the extent that the Complainant serves any of these discovery responses.

22. In particular, the information requested about Complainant's cell phone use is highly relevant to the issues raised in this case. The Complainant claims that he has health concerns about RF fields from AMI meters. As the testimony of PPL Electric's expert witness on RF exposures – Dr. Davis – makes clear, however, 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. PPL Electric is entitled to show how the RF exposures from the Complainant's 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 the Complainant chooses to use his phone.

23. Moreover, although the Complainant informally sent selected portions of some of his alleged cell phone records for the past six months, the Company actually requested that he “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 use.” (PPL to Complainant-I-3) The single page “screenshot” summaries are not complete copies of the cell phone bills, and it is not

possible to determine if they accurately present the full cell phone usage for each month. The Complainant represented these records as “screenshots” from his computer. Therefore, he has access to his billing information online and can without undue burden download copies of his bills and email them to PPL Electric’s counsel.

24. Therefore, the Complainant’s informal provision of only selected portions of his cell phone records for the past six months does not adequately answer this discovery request.

25. For these reasons, PPL Electric respectfully requests that the ALJ grant its Motion to Compel Responses to Discovery.

III. NOTICE OF INTENT TO SEEK SANCTIONS

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

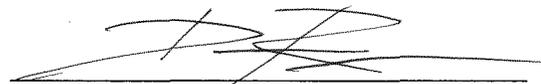
27. In ruling upon a motion for sanctions, the presiding officer may issue “[a]n order that the matters regarding which the questions were asked . . . the contents of the paper . . . shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order.” *Id.* § 5.372(a)(1). Or the presiding officer 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).

28. Therefore, to the extent that this Motion is granted and the Complainant fails to answer fully PPL to Complainant Set I, 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 Heffner to answer fully PPL to Complainant Set I, as described above within three (3) days from the date of the order.

Respectfully submitted,



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E-mail: kklock@pplweb.com
mjshafer@pplweb.com

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Curtis S. Renner (ID # 326488)
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1901 Pennsylvania Avenue, NW
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Washington, DC 20006
Phone: 202-737-6302
E-mail: crenner@w-r.com

Date: March 20, 2019

Attorneys for PPL Electric Utilities Corporation

APPENDIX A

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



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Devin Ryan

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717-612-6062 Direct
717-731-1985 Direct Fax
File #: 167945

June 6, 2018

VIA REGULAR MAIL

Brian Heffner
170 Ash Lane
Kunkletown, PA 18058

Re: Brian Heffner v. PPL Electric Utilities Corporation
Docket No. C-2018-3000471

Dear Mr. Heffner:

Enclosed are the Interrogatories and Requests for Production of Documents Propounded by PPL Electric Utilities Corporation on Brian Heffner – 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

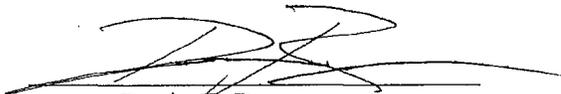
CERTIFICATE OF SERVICE

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 FIRST CLASS MAIL

Brian Heffner
170 Ash Lane
Kunkletown, PA 18058

Date: June 6, 2018



Devin T. Ryan

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Brian Heffner,	:	
	:	
Complainant	:	
	:	
v.	:	Docket No. C-2018-3000471
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent	:	

**INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS PROPOUNDED BY
PPL ELECTRIC UTILITIES CORPORATION ON
BRIAN HEFFNER – 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 Heffner (“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-2018-3000471.

**INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS PROPOUNDED ON
BRIAN HEFFNER – 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.

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA)
)
COUNTY OF DAUPHIN) ss:

DEVIN T. RYAN, being duly sworn according to law, deposes and states that he is Counsel to PPL Electric Utilities Corporation and that in this capacity, he is authorized to and does make this affidavit for them, and that the facts set forth in the foregoing Answer are true and correct to the best of his knowledge, information and belief.


Devin T. Ryan, Esquire

Signed and sworn to before me on
March 20, 2019, by
Devin T. Ryan making statement.



Notary Public

My commission expires 01/25/2022

(SEAL)

Commonwealth of Pennsylvania - Notary Seal
Jennifer Farr, Notary Public
York County
My commission expires January 25, 2022
Commission number 1322601
Member, Pennsylvania Association of Notaries