

March 22, 2019

*Via Electronic Filing*

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

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

Dear Secretary Chiavetta:

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

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

Sincerely,



Paul Shane Miller  
Jeremy V. Farrell  
Attorneys for Duquesne Light Company

Enclosure

c: Pamela Scott (with enclosure)  
ALJ Jeffrey Watson (with enclosure)

TADMS:5115847-1 014657-158498

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PAMELA SCOTT,

Complainant,

No: C-2018-3004042

v.

DUQUESNE LIGHT COMPANY,

Respondent.

**RESPONSE TO  
COMPLAINANT'S MOTION TO COMPEL  
DISCOVERY RESPONSES**

Filed on Behalf of:  
Duquesne Light Company

Counsel of Record for this Party:

Jeremy V. Farrell, Esquire  
PA I.D. No. 316258

Paul Shane Miller, Esquire  
PA I.D. No. 319174

Tucker Arensberg, P.C.  
1500 One PPG Place  
Pittsburgh PA 15222  
(412) 566-1212

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PAMELA SCOTT,

Complainant,

No. C-2018-3004042

vs.

DUQUESNE LIGHT COMPANY,

Respondent.

**RESPONSE TO COMPLAINANT'S MOTION TO COMPEL DISCOVERY RESPONSES**

Pursuant to 52 Pa. Code § 5.342(g)(1), Respondent Duquesne Light Company ("Duquesne Light" or "the Company") submits the following Response to Complainant's Motion to Compel Discovery Responses:

**I. BACKGROUND**

1. On February 16, 2019, Complainant served her First Set of Discovery Requests Directed to Respondent ("Complainant's Discovery Requests").

2. On March 4, 2019, Duquesne Light filed Objections to Complainant's First Set of Discovery Requests Directed to Respondent ("Duquesne Light's Discovery Objections"). The Company objected to the following questions: #4, #5, #6, #7, #9, #10, #12, #15, #16, #18, #19, #20, #21, and #24. On March 13, 2019, Duquesne Light served Responses to Complainant's First Set of Discovery Requests Directed to Respondent ("Duquesne Light's Discovery Responses"), which provided responses to the 10 questions in Complainant's Discovery Requests that Duquesne Light did not object to. As discussed herein, notwithstanding its objections, Duquesne Light also provided responses to questions #4 and #5 to the extent reasonably able.

3. Complainant filed a Motion to Compel Discovery Responses ("Motion to Compel") on March 14, 2019.

4. As described in greater detail below, Duquesne Light contends that the Motion to Compel should be denied. The questions that Duquesne Light objected to in Duquesne Light's Discovery Objections were improper for several reasons. In addition, the Motion to Compel ignores the responses that the Company has already provided in Duquesne Light's Discovery Responses, including for Discovery Requests Nos. 4 and 5 (which Duquesne Light answered directly) and Discovery Requests Nos. 12 and 15 (which were moot because Duquesne Light denied Complainant's underlying assumptions).

## II. ARGUMENT

### *Discovery Request #4*

5. The Motion to Compel is moot with respect to this Request. Duquesne Light has already responded to this Request by providing a document titled "ERT Technology Guide" as part of Duquesne Light's Discovery Responses. In addition, Duquesne Light responded to Complainant's question about "surge protection" in Duquesne Light's Discovery Responses No. 22. The Motion to Compel fails to mention that Duquesne Light has already provided this information. Duquesne Light should not be required to provide a further response because this request is overly broad and unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Producing "all documents" that "provide detailed information" regarding at least 12 different characteristics of the current meter at the Property (type, make, model, lifespan, operation, capabilities, output, nature and frequency of all emissions and transmissions, intensity of all emissions and transmissions, degree of surge protection, and UL certification status) is an extremely broad request that is not proportional to this needs of this proceeding. Collecting this information would impose a substantial and unnecessary burden on Duquesne Light, especially because some of the information is possessed by third parties. In addition, this request is vague and ambiguous because Complainant fails to define any of the

terms and phrases, and Duquesne Light thus does not know precisely what information she is seeking. Duquesne Light has already provided a substantive response to this Request, and should not be ordered to provide an additional response.

*Discovery Request #5*

6. The Motion to Compel is moot with respect to this Request because Duquesne Light has already provided a substantive response. Specifically, in Duquesne Light's Discovery Responses, the Company produced five different documents that respond to this Request:

- OpenWay CENTRON Meter
- OpenWay CENTRON Meter Technical Reference Guide
- AMI7 EMC Report
- OpenWay Wireless Transmissions 24 Hour Duty Cycle
- UL Online Certification Directory.

Notably, the Motion to Compel fails to mention that Duquesne Light has already provided this information. Because Duquesne Light has already provided a substantive response to this Request, it should not be ordered to provide an additional response.

*Request #6*

7. Duquesne Light objected to this Request because Complainant does not explain what she means by the phrase "does not consume and waste energy." Nonetheless, in Duquesne Light's Discovery Objections, the Company offered to provide a response. Duquesne Light will supplement its discovery responses accordingly.

*Request #7*

8. This Request is vague and ambiguous because it fails to define the relevant terms, including "dirty electricity," "voltage transients," "voltage harmonics," "transient voltage spikes," "RF harmonics," "line noise," and "over-current conditions." This Request also assumes and relies upon a flawed factual premise; namely, that Duquesne Light "interjects" harmful

emissions, transmissions, RF output, dirty electricity, voltage transients, voltage harmonics, transient voltage spikes, RF harmonics, line noise, and over-current conditions into the interior and wiring of Complainant's home. This Request also calls for a legal conclusion. The Request asks for Duquesne Light to provide legal authority – not facts – and so falls beyond the scope of discovery. By way of further response, Duquesne Light states that Act 129 of 2008 requires the Company to install a smart meter at the Property.

*Request #9*

9. Duquesne Light will withdraw its objection to this Request. The Company will supplement its discovery responses accordingly.

*Request #10*

10. This Request seeks information that is irrelevant to the subject matter of this Complaint and is not reasonably calculated to lead to the discovery of admissible evidence. The Formal Complaint does not raise any allegations relating to the meter that is currently installed at the Property. This request is beyond the scope of the Formal Complaint. Furthermore, regardless of the qualifications of the person who installed the current meter at Complainant's address, it does not make it any more or less likely that a newly-installed smart meter will negatively affect Complainant, which is the basis of her Formal Complaint.

*Request #12*

11. This Request is argumentative, calls for speculation, and improperly assumes facts that are contrary to Duquesne Light's knowledge and that lack an appropriate factual foundation. For example, the Request assumes that Duquesne Light attempted to install a smart meter at Complainant's property "during a heavy rainstorm into an exterior-wall meter box that is totally exposed to the elements." But as Duquesne Light stated in response to Discovery Request No. 13, the Company did not attempt to install a meter at her property on August 10, 2018, the date of the alleged incident at issue here. In addition, this Request is improper

because it asks Duquesne Light to provide a legal conclusion for an extremely specific hypothetical situation (whether Duquesne Light is permitted to install a smart meter “during a heavy rainstorm into an exterior-wall meter box that is totally exposed to the elements”). In her Motion to Compel, Complainant states that she intended this Request to seek information regarding Duquesne Light’s meter installation practices.<sup>1</sup> Duquesne Light interprets this to revise Request No. 12, and thus will supplement its response to this Request.

*Request #15*

12. This Request seeks information that is irrelevant to the subject matter of this Complaint and not reasonably calculated to lead to the discovery of admissible evidence. Complainant states that this Request would help uncover “what could possibly motivate an installer of Smart Meters . . . to attempt to install a Smart Meter on Complainant’s Property during a heavy rainstorm.” But as Duquesne Light stated in response to Discovery Request No. 13, the Company did not attempt to install a meter at the Property on August 10, 2018, the date of the alleged incident at issue here. In addition, this issue is irrelevant because a Duquesne Light employee, not a contractor, will install a smart meter at the Property.

*Request #16*

13. This Request asks Duquesne Light to provide a legal conclusion and to prove a negative (i.e., that a law permits Duquesne Light not to use certified electricians or professionals to install its smart meters). In her Motion to Compel, Complainant states that she intended to obtain information regarding Duquesne Light’s meter installation practices; specifically, whether Duquesne Light’s use of “nonprofessional installers” is a “new or longstanding policy.”<sup>2</sup> Duquesne Light interprets this to revise Request #16, and thus will supplement its response to

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<sup>1</sup> See Motion to Compel, ¶ 27 (“Complainant is attempting to discover if Duquesne Light allows its Smart Meter installers to install Smart Meters into outdoor meter boxes during heavy rainstorms. . . .”).

<sup>2</sup> See Motion to Compel, ¶ 29 (“Complainant is seeking to determine whether Duquesne Light’s current use of nonprofessional installers to install Duquesne Light’s Smart Meters constitutes a new or longstanding policy. . . .”).

this Request. Duquesne Light states that no law, rule, or regulation requires it to use “certified electricians or professionals” to install the Company’s smart meters. Duquesne Light also does not know, and Complainant has failed to identify, what “FCC regulations” she is referring to in this request.

*Requests #18, 19, 20, 21*

14. These Requests seek irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence. Even if the facts that the Requests assume are true, a power surge and monetary settlements 15-20 years ago have no relevance to Complainant’s present allegations about Duquesne Light’s smart meters. These Requests also seeks information about alleged settlement discussions and agreements, which likely would be confidential (if they even exist). These Requests also are argumentative and improperly assume facts that are contrary to Duquesne Light’s knowledge and that lack a factual foundation. For example, these Requests assume that Duquesne Light caused a “very large and damaging power surge” in Complainant’s neighborhood; that the weather that day was “clear and mild”; and that Duquesne Light offered “monetary settlement to many residents in 2001, 2002, and/or 2003.” In addition, these Requests are vague and ambiguous because they do not provide sufficient details about the alleged “power surge” incident. Duquesne Light does not know what Complainant is referring to.

*Request #24*

15. This Request is improper because it asks Duquesne Light to provide a legal conclusion. This Request also assumes facts that are contrary to Duquesne Light’s knowledge and that lack a factual foundation. For example, it assumes that Duquesne Light’s smart meter engages in “communication activity that exceeds the ‘bidirectional communication’ that Act 129

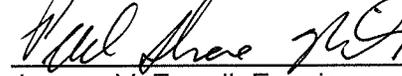
of 2008 permits only for the purpose of recording electricity usage.” By way of further response, Duquesne Light states that its smart meters comply with all applicable legal authority.

### III. CONCLUSION

16. The Motion to Compel should be denied.

Respectfully submitted,

TUCKER ARENSBERG, P.C.



Jeremy V. Farrell, Esquire

PA I.D. No. 316258

[jfarrell@tuckerlaw.com](mailto:jfarrell@tuckerlaw.com)

Paul Shane Miller, Esquire

PA I.D. No. 319174

[smiller@tuckerlaw.com](mailto:smiller@tuckerlaw.com)

1500 One PPG Place

Pittsburgh, PA 15222

(412) 566-1212

(412) 594-5619 (fax)

Counsel for Respondent,  
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**CERTIFICATE OF SERVICE**

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

Pamela Scott  
134 Markham Drive  
Pittsburgh, PA 15227

Administrative Law Judge Jeffrey Watson  
Pennsylvania Public Utility Commission  
Piatt Place - 301 Fifth Avenue  
Suite 220  
Pittsburgh, PA 15222

Dated this 22nd day of March, 2019



Jeremy V. Farrell, Esquire  
PA I.D. No. 316258  
[jfarrell@tuckerlaw.com](mailto:jfarrell@tuckerlaw.com)

Paul Shane Miller, Esquire  
PA I.D. No. 319174  
[smiller@tuckerlaw.com](mailto:smiller@tuckerlaw.com)

1500 One PPG Place  
Pittsburgh, PA 15222  
(412) 566-1212  
(412) 594-5619 (fax)

Counsel for Respondent,  
Duquesne Light Company