

March 25, 2019

Via Electronic Filing

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

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

Dear Secretary Chiavetta:

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

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

Sincerely,



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

Enclosure

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

TADMS:5116331-1 014657-158498

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

GEOFF DAY

Complainant,

vs.

DUQUESNE LIGHT COMPANY,

Respondent.

No: C-2018-3003960

**MOTION TO COMPEL DISCOVERY
RESPONSES**

Filed on behalf of Respondent
Duquesne Light Company

Counsel of Record for this Party:

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NOTICE TO PLEAD

TO COMPLAINANT GEOFF DAY:

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

TUCKER ARENSBERG, P.C.



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Jeremy V. Farrell, Esquire
Attorneys for Duquesne Light Company
TADMS:5116331-1 014657-158498

MOTION TO COMPEL DISCOVERY RESPONSES

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

I. Introduction

1. In this Motion to Compel, Duquesne Light seeks an order requiring Complainant Geoff Day (“Complainant”) to respond to 10 discovery requests previously submitted by Duquesne Light to which he has failed to provide complete responses.

II. Relevant Factual Background

2. Complainant is the owner of the properties located at 1699 Suburban Avenue, Pittsburgh, PA 15246 (“1699 Suburban Avenue”) and 1699 ½ Suburban Avenue Pittsburgh, PA 15246 (1699 ½ Suburban Avenue”), and is a Duquesne Light customer at 1699 Suburban Avenue. Complaint at ¶ 1; Amended Complaint at ¶ 1.

3. Duquesne Light installed a smart meter at 1699 ½ Suburban Avenue on January 9, 2018, as required by Act 129 of 2008. Answer and New Matter to Complaint, ¶ 18; Answer and New Matter to Amended Complaint, ¶ 20. Duquesne Light plans to install a smart meter at the 1699 Suburban Avenue. Answer and New Matter to Complaint, ¶ 18; Answer and New Matter to Amended Complaint, ¶ 20.

4. Complainant filed a Formal Complaint against Duquesne Light in an effort to prevent it from installing a smart meter at 1699 Suburban Avenue. Complaint at ¶ 5. Complainant also filed an Amended Complaint seeking to remove the smart meter installed at 1699 ½ Suburban Avenue. Amended Complaint at ¶ 5.

5. On October 25, 2018, Duquesne Light issued its First Set of Discovery Requests Directed to Complainant (the "Discovery Requests"). See Duquesne Light Company's Certificate of Service dated October 25, 2018.

6. On November 13, 2018, Complainant provided Duquesne Light with a one-page letter stating, in relevant part, that the Discovery Requests sought irrelevant information, invaded his privacy, and had already been answered. He refused to answer the Discovery Requests.

7. On November 20, 2018, Duquesne Light filed a Motion to Compel Discovery Responses, seeking an order requiring Complainant to respond to the Discovery Requests.

8. The Presiding Administrative Law Judge ("Presiding ALJ"), Jeffrey A. Watson, granted the Motion to Compel Discovery Responses on December 14, 2018 and ordered Complainant to provide "full and complete responses" to the Discovery Requests.

9. On January 2, 2019, Complainant served his Response to Discovery Request ("the Discovery Responses"). The Discovery Responses failed to provide "full and complete responses" to the Discovery Requests, as ordered by the Presiding ALJ on December 14, 2018. Instead, Complainant still refused to answer the following Discovery Requests: #9, #10, #11, #12, #13, #14, #15, #17, #18, and #19.

10. Discovery Request #9 contained the following question and answer:

Question: Provide your age and educational background, including but not limited to all colleges or universities that you attended and all degrees and/or certifications you have received.

Answer: This question has no relevance, as my rights to safety, liberty, equitable contracts and privacy are not subject to the level of my education, degrees or

certificates obtained, or my age. I will say only, that I am an adult, of legal age and of sound mind.

11. Discovery Request #10 contained the following question and answer:

Question: Produce a copy of your resume and/or curriculum vitae.

Answer: This request has no relevance, as my rights to safety, liberty, equitable contracts and privacy are not subject to my employment history, or employability.

12. Discovery Request #11 contained the following question and answer:

Question: Have you ever performed work or been employed in the scientific or medical fields?

Answer: This question has no relevance, as my rights to safety, liberty, equitable contracts and privacy are not subject to my employment history.

13. Discovery Request #12 contained the following question and answer:

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

- a. the name of each employer that you performed work for the scientific or medical fields;
- b. describe, in as much detail as possible, the specific duties that you performed for each employer; and
- c. state the dates on which you performed these duties.

Answer: These questions have no relevance, as my rights to safety, liberty, equitable contracts and privacy are not subject to my employment history. This request also represents an extremely burdensome and unnecessary amount of effort to compile.

14. Discovery Request #13 contained the following question and answer:

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

Answer: This request has no relevance as the devices in my home, or use in my daily life are by my choosing. It is alleged that the Smart Meters being forced upon me, are not subject to my choice, therefore these facts are not suitable to be compared.

15. Discovery Request #14 contained the following question and answer:

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

Answer: This request has no relevance, since the devices in my possession are by my choice. It is alleged that the Smart Meters being forced upon me, are not subject to my choice, therefore these are not suitable for comparison.

16. Discovery Request #15 contained the following question and answer:

Question: Produce all documents, including, but not limited to, user manuals and instruction materials, relating to each device identified in response to discovery request no. 13.

Answer: This request has no relevance, since the devices in my possession are by my choice. It is alleged that the Smart Meters being forced upon me, are not subject to my choice, therefore these are not suitable for comparison.

17. Discovery Request #17 contained the following question and answer:

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

Answer: This question has no relevance, as my rights to safety, liberty, equitable contracts and privacy are not subject to the level of my education or employment history.

18. Discovery Request #18 contained the following question and answer:

Question: Produce all documents that relate to your response to the preceding request.

Answer: This request has no relevance, as my rights to safety, liberty, equitable contracts and privacy are not subject to the level of my education or employment history.

19. Discovery Request #19 contained the following question and answer:

Question: Are you a certified electrician? If so, state the date of certification.

Answer: This question has no relevance, as my rights to safety, liberty, equitable contracts and privacy are not subject to the level of my education or employment history.

III. Argument

20. Duquesne Light contends that Complainant should be required to respond to Discovery Request Nos. 9, 10, 11, 12, 13, 14, 15, 17, 18, and 19 if he plans to testify as a witness in this matter.

21. Under 52 Pa. Code § 5.341(a), a party may serve upon another party written interrogatories to be answered by the party served.

22. Under 52 Pa. Code § 5.349, a party may serve on another party a request to produce documents.

23. A party may obtain discovery about any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of another party, including the existence, description, nature, content, custody, condition, and location of any documents. 52 Pa. Code § 5.321(d).

24. In this case, Discovery Requests Nos. 9, 10, 11, 12, 13, 14, 15, 17, 18, and 19 seek non-privileged information that is relevant to the subject matter at hand. Moreover, the Presiding ALJ has already ordered Complainant to provide “full and complete” responses to these Discovery Requests, yet he has still failed to do so.

25. In Discovery Request Nos. 9 and 10, Duquesne Light is trying to learn if Complainant has any educational training relating to smart meters, radiofrequency, or other subject matters raised in the Complaint or Amended Complaint. If Complainant plans to testify about these topics at the hearing, Duquesne Light has a right to know if he has any educational knowledge or training about those subjects that would affect the credibility of his testimony.

26. Similarly in Discovery Requests Nos. 11 and 12, Duquesne Light is trying to learn if Complainant has any scientific or medical work experience. This information is relevant because if Complainant plans to testify about scientific or medical issues at the hearing, Duquesne Light has a right to know if he has any professional experience relating to these subjects that would affect the credibility of his testimony.

27. In Discovery Requests Nos. 13, 14, and 15 Duquesne Light is trying to learn if Complainant uses any other devices, appliances, or equipment that produce radio frequency or low frequency fields. This information is relevant because Complainant alleges in the Amended Complaint that Duquesne Light's smart meter will emit "radiofrequency or microwave radiation." Duquesne Light has a right to know if Complainant uses other devices, appliances, or equipment that produce similar radiation.

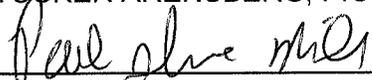
28. In Discovery Requests Nos. 17, 18, and 19 Duquesne Light is trying to learn whether Complainant has any professional qualifications or training about radio frequency or low frequency radiation. This information is relevant because if Complainant plans to testify about these issues, Duquesne Light has a right to know if he has any knowledge or training that would affect the credibility of his testimony.

29. Alternatively, if Complainant does not plan to testify at the hearing, Duquesne Light does not require answers to Discovery Requests Nos. 9, 10, 11, 12, 13, 14, 15, 17, 18, and 19.

WHEREFORE, Duquesne Light Company respectfully requests that the Presiding ALJ grant its Motion to Compel Discovery Responses and require Complainant Geoff Day to provide complete answers to Discovery Requests Nos. 9, 10, 11, 12, 13, 14, 15, 17, 18, and 19.

Respectfully submitted,

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