

Thursday, March 14, 2019

Via Regular Mail

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

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

Dear Judge Watson:

Enclosed please find Complainant's Motion to Compel Discovery Responses.

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

Sincerely,



Pamela Scott
134 Markham Drive
Pittsburgh, PA 15228-1008
(412) 998-8880

RECEIVED

APR - 5 2019

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Cc: Paul Shane Miller, Esq. and Jeremy V. Farrell, Esq. (Attorneys for Duquesne Light Company)

Encl: Complainant's Motion to Compel Discovery Responses
Certificate of Service

RECEIVED

MAR 18 2019

Pittsburgh Office of A.L.J.
Public Utility Commission

Directed to Respondent (the "Discovery Requests").

3. On March 5, 2019 Respondent served Respondent's Objections to Complainant's First Set of Discovery Requests Directed to Respondent ("Respondent's Objections to Discovery").

4. In Respondent's Objections to Discovery, Duquesne Light objected to the following fourteen of the twenty-four discovery requests by Complainant: #4, #5, #6, #7, #9, #10, #12, #15, #16, #18, #19, #20, #21, and #24.

5. Discovery Request #4 contained the following question and answer:

QUESTION #4: Produce all documents (including but not limited to FCC grant of equipment authorizations, user manuals, instructional materials, promotional materials, data sheets, brochures, specifications, installation guides, and testing information) that provide detailed information as to the 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 of the Current Meter that is installed at the Property.

ANSWER #4: Duquesne Light objects to this Request because it is overly broad, unduly burdensome, vague, and ambiguous. Notwithstanding these objections, Duquesne Light will produce all documents within its possession, custody, and control that reasonably respond to this Request.

6. Discovery Request #5 contained the following question and answer:

QUESTION #5: Produce all documents (including but not limited to FCC grant of equipment authorizations, user manuals, instructional materials, promotional materials, data sheets, brochures, specifications, installation guides, and testing information) that provide detailed information as to the 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 of the "Itron SK9AMI7 HW 3.1 OpenWay CENTRON Singlephase Smart Meter" and any other Smart Meter that You intend to install at the Property in place of the Current Meter.

ANSWER #5: Duquesne Light objects to this Request because it is overly broad, unduly burdensome, vague, and ambiguous. Notwithstanding these objections, Duquesne Light will produce all documents within its possession, custody, and control that reasonably respond to this Request.

7. Discovery Request #6 contained the following question and answer:

QUESTION #6: Provide any and all documents indicating that Your Smart Meter does not consume and waste energy when compared to the Current Meter and a traditional analog meter that has no electronic components.

ANSWER #6: Duquesne Light objects to this Request because it is vague and ambiguous. Duquesne Light does not know what Complainant means by the phrase "does not consume and waste energy." Notwithstanding this objection, Duquesne Light will provide a response to this Request explaining that power supplied to the Smart Meter to energize meter electronic circuits is drawn from the line-side terminals (utility side) of the meter.

8. Discovery Request #7 contained the following question and answer:

QUESTION #7: Identify any code, law, order, regulation, tariff, or authority that permits You to interject emissions, transmissions, RF output, dirty electricity, voltage transients, voltage harmonics, transient voltage spikes, RF harmonics, line noise, and/or over-current conditions into the interior and wiring of the residential structure on the Property.

ANSWER #7: Duquesne Light objects to this Request because it fails to define the relevant terms and thus is vague and ambiguous. Duquesne Light also objects to this Request because it is argumentative and assumes facts that may not be true. Duquesne Light further objects to this Request because it asks Duquesne Light to provide a legal opinion, and incorrectly assumes that Duquesne Light bears the burden of proof with respect to alleged violation(s) of law.

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

QUESTION #9: Identify the day, month, and year that the Current Meter was installed by You at the Property.

ANSWER #9: Duquesne Light objects to this Request because the date in which Duquesne Light installed the current meter at Complainant's property is irrelevant to the allegations set forth in the Complaint, and is not reasonably calculated to lead to the discovery of admissible evidence.

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

QUESTION #10: Identify the professional qualifications of the installer of the Current Meter.

ANSWER #10: Duquesne Lights objects to this Request because the qualifications of the individual who installed the meter currently at Complainant's property is irrelevant to the allegations set forth in the Complaint, and is not reasonably calculated to lead to the discovery of admissible evidence.

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

QUESTION #12: Identify the portions of any law, code, order, regulation, or tariff that permit You to install a Smart Meter during a heavy rainstorm into an exterior-wall meter box that is totally exposed to the elements.

ANSWER #12: Duquesne Light objects to this Request because it is argumentative and improperly assumes facts that may not be true. Duquesne Light further objects to this Request because it asks Duquesne Light to provide a legal opinion, and incorrectly assumes that Duquesne Light bears the burden of proof with respect to alleged violation(s) of law.

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

QUESTION #15: Provide copies of all of Your contracts and agreements with all entities that install Smart Meters on Your behalf, including identification of all incentives and/or bonuses You offer to installers of Your Smart Meters.

ANSWER #15: Duquesne Light objects to this Request because it seeks information that is irrelevant to the allegations set forth in the Complaint and is not reasonably calculated to lead

to the discovery of admissible evidence. Duquesne Light further objects to this Request because, as Duquesne Light has already informed Complainant, a Duquesne Light employee will install a Smart Meter at her property, not a contractor. This Request thus seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence.

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

QUESTION #16: Identify any law, code, order, regulation, or tariff that permits You not to use certified electricians or professionals to install Smart Meters on Your behalf, particularly with respect to FCC regulations that say "requires professional installation".

ANSWER #16: Duquesne Light objects to this Request because it asks Duquesne Light to provide a legal opinion, and incorrectly assumes that Duquesne Light bears the burden of proof with respect to alleged violation(s) of law. Duquesne Light further objects to this Request because it does not identify the "FCC regulations" mentioned in the Request.

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

QUESTION #18: Identify the day, month, and year of the very large and damaging power surge caused by You in the Property's neighborhood on a day of clear and mild weather which resulted in You offering monetary settlements to many residents in 2001, 2002, and/or 2003.

ANSWER #18: Duquesne Light objects to this Request because it is argumentative and improperly assumes facts that may not be true. Duquesne Light further objects to this Request because it is vague and ambiguous. Duquesne Light does not know what alleged incident

Complainant is referring to in this Request. Duquesne Light further objects to this Request because it seeks information that is irrelevant to the allegations set forth in the Complaint, and is not reasonably calculated to lead to the discovery of admissible evidence.

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

QUESTION #19: Produce all documents (including but not limited to call records and copies of mailed offers of settlement to Complainant) relating to damage at the Property resulting from the surge identified in Discovery Request No. 18.

ANSWER #19: Duquesne Light objects to this request because it is argumentative and improperly assumes facts that may not be true. Duquesne Light further objects to this Request because it is vague and ambiguous. Duquesne Light does not know what alleged incident Complainant is referring to in Request No. 18 or this Request. Duquesne Light further objects to this Request because it seeks information that is irrelevant to the allegations set forth in the Complaint, and is not reasonably calculated to lead to the discovery of admissible evidence.

16. Discovery Request #20 contained the following question and answer:

QUESTION #20: Please admit that You deliberately propagated false information and misrepresented facts when You described the event identified in Discovery Request No. 18 as being weather-related.

ANSWER #20: Duquesne Light objects to this request because it is argumentative and improperly assumes facts that may not be true. Duquesne Light further objects to this Request because it is vague and ambiguous. Duquesne Light does not know what alleged incident

Complainant is referring to in Request No. 18 or this Request. Duquesne Light further objects to this Request because it seeks information that is irrelevant to the allegations set forth in the Complaint, and is not reasonably calculated to lead to the discovery of admissible evidence.

17. Discovery Request #21 contained the following question and answer:

QUESTION #21: To the extent that Your response to Discovery Request No. 20 is other than an unqualified admission, list all facts on which You base any part of Your response that is not an unqualified admission, and identify and produce all documents memorializing each such fact.

ANSWER #21: Duquesne Light objects to this request because it is argumentative and improperly assumes facts that may not be true. Duquesne Light further objects to this Request because it is vague and ambiguous. Duquesne Light does not know what alleged incident Complainant is referring to in Request No. 20 or this Request. Duquesne Light further objects to this Request because it seeks information that is irrelevant to the allegations set forth in the Complaint, and is not reasonably calculated to lead to the discovery of admissible evidence.

18. Discovery Request #24 contained the following question and answer:

QUESTION #24: Identify the portions of any law, code, order, regulation, or tariff that grant You the right to install a Smart Meter at the Property that communicates or attempts to communicate via RF or any other means with appliances, devices, or any physical aspect within the residential structure that is on the Property, thereby performing two-way communication within the airspace/circuitry of the residential structure on the Property, and thereby engaging in

communication activity that exceeds the "bidirectional communication" that Act 129 of 2008 permits only for the purpose of recording electricity usage. [66 Pa. C.S. § 2807(g)].

ANSWER #24: Duquesne Light objects to this Request because it asks Duquesne Light to provide a legal opinion, and incorrectly assumes that Duquesne Light bears the burden of proof with respect to alleged violation(s) of law. Duquesne Light further objects to this Request because it assumes facts that may not be true.

III. Argument

19. Complainant contends that Respondent should be required to respond to Discovery Requests Nos. 4, 5, 6, 7, 9, 10, 12, 15, 16, 18, 19, 20, 21, and 24.

20. In this case, Discovery Requests Nos. 4, 5, 6, 7, 9, 10, 12, 15, 16, 18, 19, 20, 21, and 24 seek non-privileged information that is relevant to the subject matter at hand.

21. In Discovery Request No. 4, Complainant is attempting to discover information about the Current Meter that is installed at the Property. Complainant has a right to know details about the 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 of the Current Meter so as to be able to compare it to the Smart Meter that Duquesne Light claims it is obliged to install at the Property. It would not be unduly burdensome for Duquesne Light to provide FCC grant of equipment authorizations, user manuals, instructional materials, promotional materials, data sheets, brochures, specifications, installation guides, and/or testing information on the Current Meter.

22. In Discovery Request No. 5, Complainant is attempting to discover information about the properties of any Smart Meter that Duquesne Light wishes to install at the Property. Complainant has a right to know details about the 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 of any Smart Meter that Duquesne Light wishes to install at the Property so as to be able to evaluate Duquesne Light's claim that "The RF output of the new digital meters is consistent with the output of Duquesne Light's current analog meters, which have been measuring and transmitting customers' usage wirelessly for almost 20 years." [Exhibit B of Respondent's September 5, 2018 Answer and New Matter]. It would not be unduly burdensome for Duquesne Light to provide FCC grant of equipment authorizations, user manuals, instructional materials, promotional materials, data sheets, brochures, specifications, installation guides, and/or testing information for any Smart Meter that Duquesne Light intends to install at the Property.

23. In Discovery Request No. 6, Complainant is seeking to obtain information related to Duquesne Light's obligations under Act 129 to conserve electricity. The Request is not vague or ambiguous by asking for information contrasting the electrical consumption of Duquesne Light's smart meters versus a traditional analog meter.

24. In Discovery Request No. 7, Complainant is attempting to discover whether Duquesne Light is permitted by any code, law, order, regulation, tariff, or authority to interject dirty electricity into the interior and wiring of the Property. The Discovery Request does not ask for a legal opinion, nor does it assume that Duquesne Light bear any burden of proof with respect to any alleged violation(s) of law.

25. In Discovery Request No. 9, Complainant is seeking information reasonably calculated to lead to the discovery of admissible evidence regarding Duquesne Light's claim that "The RF output of the new digital meters is consistent with the output of Duquesne Light's current analog meters, which have been measuring and transmitting customers' usage wirelessly for almost 20 years." [Exhibit B of Respondent's September 5, 2018 Answer and New Matter]. This information is relevant to the health allegations set forth in the Complaint. Complainant has a right to know when the Current Meter was installed at her Property.

26. In Discovery Request No. 10, Complainant is seeking information reasonably calculated to lead to the discovery of admissible evidence regarding whether or not Duquesne Light's current use of non-professional installers represents longstanding policy or if it is a newer policy. This information is relevant to the health allegations set forth in the Complaint because Duquesne Light's attempt to install a Smart Meter at the property during a heavy rainstorm into Complainant's exterior-wall meter box that is totally exposed to the elements presents unsafe electrical issues that are also a health risk.

27. In Discovery Request No. 12, Complainant is attempting to discover if Duquesne Light allows its Smart Meter installers to install Smart Meters into outdoor meter boxes during heavy rainstorms. Complainant has a right to know if this is permitted by Duquesne Light or if it is not permitted by Duquesne Light.

28. In Discovery Request No. 15, Complainant is seeking to understand what could possibly motivate an installer of Smart Meters acting on Duquesne Light's behalf to attempt to install a Smart Meter on Complainant's Property during a heavy rainstorm. This information is relevant to the health allegations set forth in the Complaint because Duquesne Light's attempt to

install a Smart Meter at the property during a heavy rainstorm would present unsafe electrical issues that are also a health risk. Duquesne Light appears to be confusing Complainant's case with some other case(s), as Duquesne Light has not "already informed Complainant" that "a Duquesne Light employee will install a Smart Meter at her property, not a contractor."

29. In Discovery Request No 16, 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. The Request does not ask for a legal opinion, nor does it assume that Duquesne Light bear any burden of proof with respect to any alleged violation(s) of law. The Complainant has the right to ask why Duquesne Light does not use certified electricians or professionals, as required by FCC Grant of Equipment Authorizations that specify "Limited single module approval requires professional installation."

30. In Discovery Request No. 18, Complainant is seeking information that is relevant to the health allegations set forth in the Complaint. Complainant has the right to know the reasons Duquesne Light violates its obligation under the electric safety standards of 052 Pa. Code Section 57.28(a)(1) to use reasonable effort to protect the public from danger and exercise reasonable care to reduce the hazards to which customers may be subjected to, which includes lying to customers and offering monetary settlements to stop them from asking questions about unsafe voltage surge events that result in dangerous conditions and damage.

31. In Discovery Request No. 19, Complainant is seeking information that is relevant to the health allegations set forth in the Complaint. Complainant has the right to know the reasons Duquesne Light violates its obligation under the electric safety standards of 052 Pa. Code Section 57.28(a)(1) to use reasonable effort to protect the public from danger and exercise

reasonable care to reduce the hazards to which customers may be subjected to, which includes lying to customers.

32. In Discovery Request No. 20, Complainant is seeking information that is relevant to the health allegations set forth in the Complaint. Complainant has the right to know the reasons Duquesne Light violates its obligation under the electric safety standards of 052 Pa. Code Section 57.28(a)(1) to use reasonable effort to protect the public from danger and exercise reasonable care to reduce the hazards to which customers may be subjected to, which includes lying to customers.

33. In Discovery Request No. 21, Complainant is seeking information that is relevant to the health allegations set forth in the Complaint. Complainant has the right to know the reasons Duquesne Light violates its obligation under the electric safety standards of 052 Pa. Code Section 57.28(a)(1) to use reasonable effort to protect the public from danger and exercise reasonable care to reduce the hazards to which customers may be subjected to, which includes lying to customers.

34. Finally, in Discovery Request No. 24, Complainant is attempting to discover whether Duquesne Light is permitted by any code, law, order, regulation, or tariff to install a Smart Meter at the Property that communicates or attempts to communicate with appliances, devices, or any physical aspect within the Property, thereby engaging in communication activity exceeding the "bidirectional communication" that Act 129 of 2008 allows only for the purpose of recording electricity usage. [66 Pa. C.S. Section 2807(g)]. The Request does not ask Duquesne Light to provide a legal opinion, nor does it assume that Duquesne Light bear any burden of proof with respect to any alleged violation(s) of law.

WHEREFORE, Complainant respectfully requests that the Commission grant her Motion to Compel Discovery Responses and require Respondent Duquesne Light Company to provide complete answers to Discovery Requests Nos. 4, 5, 6, 7, 9, 10, 12, 15, 16, 18, 19, 20, 21, and 24.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Pamela Scott". The signature is written in a cursive style with a large initial "P" and "S".

Pamela Scott, Complainant
134 Markham Drive
Pittsburgh, PA 15228-1008
(412) 998-8880



Commonwealth of Pennsylvania
Office of Administrative Law Judge
301 Fifth Ave., Suite 220, Piatt Place
Pittsburgh, PA 15222

Return Service Requested

ROSEMARY CHIAVETTA SECRETARY
PA PUBLIC UTILITY COMMISSION
400 NORTH STREET
COMMONWEALTH KEYSTONE BLDG 2ND FLOOR
HARRISBURG PA 17105-3265

