

Tori L. Giesler, Esq.
(610) 921-6658
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April 18, 2019

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: Tiffany Counts v. Metropolitan Edison Company
Docket No. C-2017-2632880

Dear Secretary Chiavetta:

Enclosed please find the Motion to Compel of Metropolitan Edison Company with regard to the above-captioned matter. This document has been served on the Complainant as shown in the Certificate of Service.

Please contact me if you have any questions regarding this matter.

Very truly yours,



Tori L. Giesler

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Enclosures

c: As Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

TIFFANY COUNTS

v.

METROPOLITAN EDISON COMPANY

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Docket No. C-2017-2632880

NOTICE TO PLEAD

TO: Tiffany Counts

Pursuant to 52 Pa. Code § 5.102(b), you are hereby notified that, if you do not file a written response denying or correcting the enclosed Motion to Compel of Metropolitan Edison Company within **five (5) days** from the service of the Notice, the facts set forth by Metropolitan Edison Company in the Motion may be deemed to be true, thereby requirement no other proof. All pleading, such as a Reply to Motion, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy service to counsel for Metropolitan Edison Company, and where applicable, the Administrative Law Judge presiding over the case.

File with:


Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

With a copy to:

Administrative Law Judge Jeffrey A. Watson
Pennsylvania Public Utility Commission
Piatt Place, Suite 220
301 5th Avenue
Pittsburgh, PA 15222

Lauren M. Lepkoski
Tori L. Giesler
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, Pennsylvania 19612-6001

Date: April 18, 2019


Tori L. Giesler, Esquire

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

TIFFANY COUNTS

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v.

Docket No. C-2017-2632880

METROPOLITAN EDISON COMPANY

**MOTION OF METROPOLITAN EDISON COMPANY TO COMPEL RESPONSES TO
INTERROGATORIES AND DOCUMENT REQUESTS**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Metropolitan Edison Company (“Met-Ed” or the “Company”) by and through its attorneys, Lauren M. Lepkoski and Tori L. Giesler, and pursuant to 52 Pa. Code §§ 5.371-5.372, hereby files this Motion to compel Tiffany Counts (“Complainant”) to provide full and complete responses to interrogatories and document requests issued by the Company on January 25, 2019. In support thereof, the Company avers as follows:

I. BACKGROUND

1. On November 3, 2017, the Complainant filed a Formal Complaint with the Pennsylvania Public Utility Commission (“Commission”) regarding his electric service at 13734 Mount Airy Road, New Freedom, Pennsylvania 17349, which was electronically served on the Company on November 8, 2017.

2. On November 28, 2017, the Company filed its Answer and New Matter denying the material allegations in the Formal Complaint. On that same day, the Company also filed Preliminary Objections to the Formal Complaint.

3. On December 22, 2017, the Complainant filed a response to the Company’s Answer and New Matter.

4. On January 9, 2018, a Motion Judge Assignment Notice was issued assigning Administrative Law Judge (“ALJ”) Jeffrey A. Watson to this proceeding.
5. On November 15, 2018, ALJ Watson issued an Interim Order denying the Company’s Preliminary Objections.
6. On November 19, 2018, an Interim Order Establishing Initial Litigation Schedule was issued which set forth the schedule for discovery, the identification of witnesses, and filing of motions in this proceeding. Relevant to this Motion, ALJ Watson issued a witness notification deadline of January 24, 2019 and a discovery deadline of April 19, 2019.
7. On January 24, 2019, in accordance with the Interim Order Establishing a Litigation Schedule, the Company provided notice and summaries of testimony for its factual and expert witnesses.
8. On January 25, 2019, in accordance with 52 Pa. Code § 5.341, the Company forwarded to the Complainant interrogatories and document requests (“Discovery Requests”) via first class mail. In its Discovery Requests, the Company sought information and documents related to the Complainant’s allegations regarding the Company’s smart meters. A full copy of the Company’s Discovery Requests is attached as Exhibit A.
9. The Complainant did not file any objection to the Discovery Requests and has not provided any responses or the requested documents by the due date. To date, no response to the Discovery Requests or telephone call has been received from the Complainant.
10. Further, the Complainant has ignored ALJ Watson’s Interim Order Establishing Litigation Schedule requiring the exchange expert and factual witness information by January 24, 2019, as no witness information has been received from the Complainant as of the filing of this Motion.

II. MOTION TO COMPEL

11. The Commission's regulations permit the discovery of "any matter, not privileged, which is relevant to the subject matter involved in the pending action." 52 Pa. Code § 5.321(c).

12. Generally speaking, this Commission applies a standard of relevance which is less restrictive than that required by parties to present information into the evidentiary record. It is not grounds for objection that the information sought will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. 52 Pa. Code § 5.321(c).

13. Discovery may be obtained regarding any matter relevant to the subject matter. Relevant evidence is evidence that tends to make an act at issue more or less probable. Moreover, evidence is relevant if it advances the inquiry in some degree and, thus, has probative value. Although the law does not furnish an absolute test of relevancy, the Pennsylvania Supreme Court follows a two-part analysis for determining relevance. In *Commonwealth v. Stewart*, 461 Pa. 274, 336 A.2d 282 (1975), the Court held that "[i]t must be determined first if the inference sought to be raised by the evidence bears upon a matter at issue in this case and, second, whether the evidence renders the desired inference more probable than it would be without the evidence. *Id.* at 284.

14. The information sought here by the Company is relatively simple and straightforward. It is directly relevant and material to the issues raised by the Complainant in his Formal Complaint. The Company is entitled to the requested information to enable it to fully investigate what information the Complainant relied on to make the specific and detailed allegations he did in his Formal Complaint. If the Complainant needed more time to answer the Company's Discovery Requests, he could have contacted the Company to request an extension.

15. The Commission's Regulations at 52 Pa. Code § 5.371 address the consequences of a participant's failure to comply with the Commission's discovery regulations. Section 5.371 provides that:

(a) The Commission or the presiding officer may, on motion, make an appropriate order if one of the following occurs:

(1) A party fails to appear, answer, file sufficient answers, file objections, make a designation or otherwise respond to discovery requests, as required under this subchapter.

16. Further, 52 Pa. Code § 5.372 provides that the presiding officer may impose appropriate sanctions upon a party found to be found in violation of the obligations set forth in the Commission's Regulations.

17. As a result of the Complainant's failure to provide any response to the Company's Discovery Requests and failure to provide notification of any witnesses, which demonstrates her lack of cooperation and willingness to participate in this proceeding as required under the Commission's regulations, the Formal Complaint in this proceeding should be dismissed in its entirety.

18. The Company requests that the Complainant be directed to provide full and complete responses to the Discovery Requests to be received by the undersigned counsel for the Company within five business days after entry of an Order Granting the Motion to Compel.

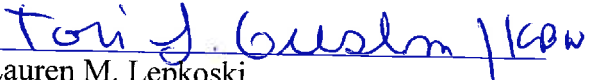
19. In the event the Complainant is directed by the Commission to respond to the Company's Discovery Requests, but fails to, the Company respectfully requests that the Complaint against the Company be dismissed in its entirety.

WHEREFORE, Metropolitan Edison Company respectfully requests that the Commission issue an Order compelling the Complainant to fully and completely respond to the Discovery Requests such that the responses are received by counsel for the Company no later than five

business days after entry of an Order on the Motion to Compel. Further, in the event the Complainant does not comply with the Order directed by the Commission and fails to respond to the Company's Discovery Requests, the Company respectfully requests that the Commission dismiss in its entirety the Formal Complaint of Tiffany Counts.

Respectfully submitted,

Dated: April 18, 2019


Lauren M. Lepkoski
Attorney No. 94800
Tori L. Giesler
Attorney No. 207742
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2800 Pottsville Pike
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Counsel for Metropolitan Edison Company



2800 Pottsville Pike
PO Box 16001
Reading, PA 19612-6001

Lauren M. Lepkoski, Esq.
(610) 921-6203
(330) 315-9263 (Fax)

January 25, 2019

VIA FIRST CLASS MAIL

Tiffany Counts
13734 Mount Airy Road
New Freedom, PA 17349

Re: Tiffany Counts v. Metropolitan Edison Company
Docket No. C-2017-2632880

Dear Ms. Counts:

Enclosed please find the Interrogatories and Requests for Production of Documents (Set I) to Tiffany Counts. Pursuant to 52 Pa. Code §§ 5.341 and 5.349, *et seq.*, your answers are due within twenty days of service of this letter (February 14, 2019). In addition, any objections are due within ten days of service of this letter (February 4, 2019). This document has been served as indicated within the Certificate of Service.

Very truly yours,

A handwritten signature in black ink, appearing to read "L. M. Lepkoski".

Lauren M. Lepkoski

Enclosures

- c: As Per Certificate of Service
The Honorable Jeffrey A. Watson, Public Utility Commission (Cover Letter and Certificate)
Rosemary Chiavetta, Esq., Public Utility Commission (Cover Letter and Certificate)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

TIFFANY COUNTS :
 :
 v. : **Docket No. C-2017-2632880**
 :
METROPOLITAN EDISON COMPANY :

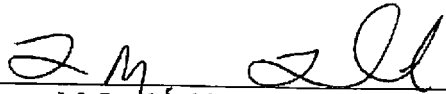
CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the Interrogatories and Requests for Production of Documents of Metropolitan Edison Company to Tiffany Counts upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Service by First Class Mail, postage prepaid, as follows:

Tiffany Counts
13734 Mount Airy Road
New Freedom, PA 17349

Dated: January 25, 2019



Lauren M. Lepkoski
Tori L. Giesler
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, Pennsylvania 19612-6001
(610) 921-6203
(610) 921-6658
llepkoski@firstenergycorp.com
tgiesler@firstenergycorp.com

Counsel for Metropolitan Edison Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

TIFFANY COUNTS :
: **Docket No. C-2017-2632880**
v. :
: **METROPOLITAN EDISON COMPANY** :
:

**INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS OF
METROPOLITAN EDISON COMPANY TO TIFFANY COUNTS, SET I**

Metropolitan Edison Company hereby propounds these Interrogatories and Requests for Production of Documents (Set I) to Tiffany Counts (the “Complainant”). Telephone or other contact concerning availability and timing of formal responses is encouraged. The answer to each interrogatory should be started on a new page. The answers should restate the question asked and indicate the person(s) supplying the information.

Pursuant to 52 Pa. Code § 5.342, you must send your answers to me within 20 days (February 14, 2019) and objections within 10 days (February 4, 2019). Your answers and objections should not be filed with the Pennsylvania Public Utility Commission. You should only file the cover letter and certificate of service, with the Commission’s Secretary Rosemary Chiavetta and send a copy to Administrative Law Judge Jeffrey A. Watson. If you have any objection to any of the interrogatories or the request for documents, please identify the interrogatory or request and state your objection in full as to why you should not have to answer/produce it. Any objection not raised within the 10-day period provided for by 52 Pa. Code § 5.342(c) will be deemed waived and you will not be permitted to raise the objection at a later time.

Dated: January 25, 2019

INSTRUCTIONS

A. In answering these Interrogatories and Requests for Production of Documents, please furnish all information available to you, including any such information possessed by others that you can obtain, and not merely such information known of your own personal knowledge. If you cannot answer the Interrogatories and Requests in full after exercising due diligence to secure the information to do so, so state and answer to the extent possible.

B. Other than for the reasons identified herein, you must provide an answer to all Interrogatories and Requests for Production of Documents. If the answer to the question is “none” or “unknown,” such statement must be written in the answer. If you consider the question to be inapplicable, “N/A” must be written in the answer. If an answer is omitted because of a claim of privilege, the basis of privilege is to be stated.

C. If the answer to any of the Interrogatories and Requests for Production of Documents is that you lack knowledge of some or all of the requested information, describe all efforts made by you to obtain the information necessary to answer that Interrogatory or Request.

D. These Interrogatories and Requests for Production of Documents are to be deemed continuing in nature, and you shall promptly supply, by way of supplemental response, any additional responsive information that may become known to you or anyone acting on your behalf after your answers have been prepared or served.

E. As used herein, the terms “Complainant” and “you” refer to Tiffany Counts and her attorneys, agents, or representatives.

F. As used herein, the terms “Company” or “Respondent” refer to Metropolitan Edison Company, and any agent, agency, or affiliate thereof.

G. As used herein, the term “proceeding” refers to the instant complaint proceeding at the Pennsylvania Public Utility Commission at Docket No. C-2017-2632880.

H. As used herein, the terms “service location,” “property,” or “home” refer to your service address of 13734 Mount Airy Road, New Freedom, PA 17349.

I. As used herein, the term “household” refers to you and all other individuals who reside at the service location.

J. As used herein, the terms “document” or “documentation” includes any written, printed, typed, recorded, or graphic matter, whether produced or reproduced or stored on paper, cards, tapes, film, electronic facsimile, computer storage devices or any other devices or media, including, but not limited to papers; books; letters; photographs; objects; tangible things; correspondence; e-mails; websites; webpages; telegrams; cables; telex messages; memoranda; medical records; notes; notations; records; work papers; transcripts; minutes; reports and recordings of telephone or other conversations, or of interviews, or of conferences, or of other meetings; affidavits; statements; opinions; proposals; reports; surveys; plans; studies; analyses; audits; evaluations; contracts; agreements; journals; statistical records; invoices; receipts; desk calendars; appointment books; diaries; lists; tabulations; summaries; sound recordings; computer printouts; data processing input and output; microfilms; all records kept by electronic, photographic, or mechanical means; and things similar to any of the foregoing, however denominated. When one or more of the foregoing documents is requested or referred to, the request or reference shall include, but is not limited to, the original and each and every copy and draft thereof having writings, notations, corrections, or markings unique to such copy or draft.

K. As used herein, all other words are to be given their ordinary and usual meanings, according to a current edition of Webster’s Dictionary.

**INTERROGATORIES OF METROPOLITAN EDISON COMPANY TO TIFFANY
COUNTS, SET I**

1. Are you claiming that the installation of a smart meter at your property would cause or contribute to an adverse health condition for any member of your household?
2. If the answer to question 1 is yes, please provide the following information for each household member whose health you claim will be affected:
 - a. Name;
 - b. Age;
 - c. The specific health condition that you believe would be caused by or contributed to as a result of the smart meter being installed;
 - d. Whether the household member is already experiencing the specific health condition and, if so, the date on which the condition was first experienced and the date on which the condition was first diagnosed by a medical doctor;
 - e. Whether the household member has experienced the specific health condition within the last four years;
 - f. Any medication prescribed to the household member; and
 - g. Whether the household member has visited a medical professional for the specific health condition, and if so, the name, address, and phone number of the medical professional and the date of the visit(s) to the medical professional.

7. If the answer to question 5 is yes, please provide the following information regarding your position that the installation of a smart meter would create safety concerns:
 - a. Please identify each document you rely on in support of the position.
 - b. Do you intend to rely on these documents at the time of the hearing in this proceeding?
 - c. Please describe in detail all information you have to support this position.
 - d. Do you have any relevant educational or work background that qualifies you to assert this position?
 - e. If yes, please identify the relevant educational or work background that qualifies you to assert this position.
8. Are there any cordless phones used in your home?
 - a. For each cordless phone in your home, please provide the name of the phone manufacturer and the model.
9. Do you use a cellular phone?
 - a. If yes, please provide the names of the cell phone manufacturer and model (for example, Apple i-Phone 7S).
 - b. Does anyone else in your home use a cellular phone?
 - c. How many cellular phones are in use at your home?

- d. For each cellular phone used by a member of your household, please provide the name of the cell phone manufacturer and the phone model.
10. Is there satellite television at your home?
 - a. If yes, please provide the name of the satellite television provider (for example, Direct TV).
 - b. If yes, where is your satellite disk located?
11. Is there a laptop computer at the service location?
 - a. If yes, where is it located?
12. Do you have a wifi network in your home?
 - a. If so, where is your wifi router located?
13. In your complaint, you state that the implementation of Act 129 of 2008 results in “discrimination for those us that do not have an option.” Please provide the following information related to this statement:
 - a. Is it your position that a customer has the right to request a smart meter not be installed at her service location?
 - b. Is it your position that a customer must request smart meter installation?
 - c. Is it your position that Act 129 of 2008 does not require the utility to install smart meters throughout its service territory?

14. Is it your position that you would like to opt out completely from smart meter installation?
15. Do you believe the installation of a smart meter at your property would violate the privacy or security of a member of your household?
16. If the answer to question 15 is yes, please specifically describe each of your concerns regarding your household's privacy or security after the installation of a smart meter.
17. If the answer to question 15 is yes, please provide the following information regarding your position that the installation of a smart meter would violate your household's privacy or security:
 - a. Please identify each document you rely on in support of the position.
 - b. Do you intend to rely on these documents at the time of the hearing in this proceeding?
 - c. Please describe in detail all information you have to support this position.
 - d. Do you have any relevant educational or work background that qualifies you to assert this position?
 - e. If yes, please identify the relevant educational or work background that qualifies you to assert this position.
18. To your knowledge, has a smart meter been installed by the Company at your property?

19. Please describe in detail how you believe a smart meter operates.
20. In your complaint, you state that “digital meter are designed to transmit using electromagnetic radiation known to cause cancer and many other diseases, illnesses and symptoms.” Please provide the following information related to this statement:
 - a. What documents do you rely on in support of this statement?
 - b. Do you intend to rely on these documents at the time of the hearing in this proceeding?
 - c. Please describe in detail the information you have to support this statement.
21. Please list the specific issues you intend to raise at the hearing in this proceeding.
22. Please identify the legal support, including specific citations, for each issue identified in question 21.
23. Please list the factual support for each issue identified in question 21.
24. Please provide the following information for all witnesses you intend to call to testify at the hearing in this proceeding.
 - a. Provide the full name of the witness.
 - b. Provide the address and telephone number of the witness.
 - c. Provide the title or position held by the witness.
 - d. Provide the educational background of the witness.

- e. Provide the employment background of the witness.
 - f. Provide the scope of the testimony for the witness.
25. Would any witness identified in question 24 be offered as an expert?
- a. If yes, provide the curriculum vitae of the witness and a summary of the testimony the expert witness is expected to provide.
26. Please describe in detail your educational background.
- a. Please list any relevant certificates, trainings, or degrees that you obtained.
 - b. Please provide a description of the certificate, training, or degree.
 - c. Please provide the date that any certificate, training, or degree was obtained.
 - d. Please provide the name and address of the institution which provided the certificate, training, or degree.
27. Please describe in detail your employment history.
- a. Please provide your employer name and address.
 - b. Please provide the title of your position.
 - c. Please provide the dates of your employment.
 - d. Please provide the duties performed in your position.

**REQUESTS FOR PRODUCTION OF DOCUMENTS OF METROPOLITAN EDISON
COMPANY TO TIFFANY COUNTS, SET I**

28. Please provide copies of all documentation supporting your position that the installation of a smart meter at your home would cause or contribute to an adverse health condition in any member of your household.
29. Please provide copies of all documentation associated with visits by members of your household to a medical professional related to the health conditions identified in question 2, including but not limited to any and all medical records, medical visit reports, and notes and letters from medical doctors or other health care professionals.
30. Please provide copies of all documentation you intend to refer to at the hearing in this proceeding related to smart meters and/or radio frequency fields and health.
31. Please provide copies of all documentation supporting your position that smart meters would create safety issues for you or members of your household.
32. Please provide copies of all documentation you intend to refer to at the hearing in this proceeding related to the safety concerns of smart meters.
33. For each cellular telephone used by a member of your household, please provide a complete copy of the bills you received from your cellular telephone provider for the past 12 months.

34. Please provide copies of all documentation supporting your position that smart meters would violate the privacy or security of your household.
35. Please provide copies of all documentation you intend to refer to at the hearing in this proceeding supporting your position that smart meters would violate the privacy or security of your household.
36. Please provide copies of all documentation supporting your position that your household may opt out of smart meter installation.
37. Please provide copies of all documentation you intend to refer to at the hearing in this proceeding supporting your position that a household may opt out of smart meter installation.
38. Please provide a copy of all proposed exhibits you intend to submit for the hearing in this proceeding.
39. Please provide copies of all documentation you are relying upon in support of your positions in this proceeding.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

TIFFANY COUNTS :
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 v. : **Docket No. C-2017-2632880**
 :
METROPOLITAN EDISON COMPANY :

CERTIFICATE OF SERVICE

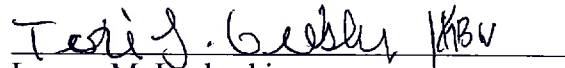
I hereby certify that I have this day served a true copy of the Motion to Compel of Metropolitan Edison Company upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Service by First Class Mail, postage prepaid, as follows:

Tiffany Counts
13734 Mount Airy Road
New Freedom, PA 17349

Administrative Law Judge Jeffrey A. Watson
Pennsylvania Public Utility Commission
Piatt Place, Suite 220
301 5th Avenue
Pittsburgh, PA 15222

Dated: April 18, 2019



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