

May 7, 2019

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
2nd Floor, Room-N201
Harrisburg, PA 17120

**RE: Michele Hriadil and Francis Hriadil v. Duquesne Light Company
Docket No. C-2016-2571726**

Dear Secretary Chiavetta:

Enclosed please find Duquesne Light Company's Answer To Complainants' Petition/Motion For Reconsideration Of Interim Order Denying Complainants' Petition/Motion To Compel Respondent To Supply Its Smart Meter For Examination.

A copy of this document has been served upon Complainants and Administrative Law Judge Jeffrey Watson in accordance with Commission regulations.

Please feel free to contact me if you have any questions.

Sincerely,



Paul Shane Miller
Attorney for Duquesne Light Company

Jeremy V. Farrell
Attorney for Duquesne Light Company

Enclosure

cc: Michele Hriadil and Francis Hriadil (with enclosure)
Administrative Law Judge Jeffrey Watson (with enclosures)

TADMS:5139960-1 014657-158498

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

MICHELE HRIADIL and
FRANCIS HRIADIL,

Complainants,

v.

DUQUESNE LIGHT COMPANY,

Respondent.

No: C-2016-2571726

**ANSWER TO COMPLAINANTS'
PETITION/MOTION FOR
RECONSIDERATION OF INTERIM
ORDER DENYING COMPLAINANTS'
PETITION/MOTION TO COMPEL
RESPONDENT TO SUPPLY ITS SMART
METER FOR EXAMINATION**

Filed on behalf of Respondent
Duquesne Light Company

Counsel of Record for this Party:

Jeremy V. Farrell, Esquire
PA I.D. No. 316258
jfarrell@tuckerlaw.com

Paul Shane Miller, Esquire
PA I.D. No. 319174
smiller@tuckerlaw.com

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

Duquesne Light to give them a free smart meter for “direct, independent, and definitive assessment...” Motion to Compel, ¶ 12. Complainants ostensibly planned to perform these assessments themselves, even though they have never studied or performed job duties relating to radio frequency or low frequency radiation. Complainants want to experiment on Duquesne Light’s smart meter because they want to show “there is substantial and relevant commonality between Respondent’s Smart Meter and . . . other similar RF emitting devices and Smart Meter Programs...” Id. at ¶ 4. By examining Duquesne Light’s smart meter, they plan to prove that it operates just like other smart meters, and thus, in Complainants’ view, that it is dangerous just like those other meters.

In response, Duquesne Light argued that the point Complainants sought to prove is irrelevant because (i) the Pennsylvania Public Utility Commission already approved Duquesne Light’s smart meter plan, including the decision to use the Itron meter in question, after a thorough public review process, (ii) Complainants have not examined other smart meters, making the purported comparison impossible even if Complainants were qualified to conduct such an examination, and (iii) Complainants’ request imposed an unfair burden on Duquesne Light because the Company must discard its meter after Complainants finished experimenting with it. See Answer in Opposition to Complainants’ Petition/Motion to Reopen Discovery and Revisit/Reconsider Complainants’ February 20, 2018 Motion to Compel Discovery, which Duquesne Light incorporates in its entirety.

The Presiding ALJ properly denied Complainants’ Motion to Compel for multiple reasons, including that (i) it was not reasonably calculated to lead to the discovery of admissible evidence, (ii) it did not adequately explain why an inspection was necessary, (iii) it did not adequately explain who would inspect the smart meter, and (iv) it was untimely. See Interim Order Denying Complainants’ Petition/Motion to Compel Respondent to Supply its Smart Meter for Examination, dated April 10, 2019.

On April 22, 2019, Complainant filed a Petition/Motion for Reconsideration of Interim Order Denying Complainants' Petition/Motion to Compel Respondent to Supply Its Smart Meter for Examination ("Motion for Reconsideration"). In the Motion for Reconsideration, Complainants largely repeated the same arguments from the Motion to Compel. They again stated they must examine Duquesne Light's smart meter to establish its similarity with other smart meters. Motion for Reconsideration, ¶¶ 25-29. They also claimed that the Presiding ALJ's order denying their Motion to Compel may lack "legal significance" because it was unsigned, and that the Presiding ALJ failed to list every single reason for denying the Motion to Compel. See Motion for Reconsideration, ¶ 6 ("First, as the Complainants have received just an unsigned order, whereas all prior orders from Your Honor have been signed, it is unclear (to us) what the specific legal significance of this is."); Motion for Reconsideration, ¶ 7 ("Next, Your Honor states, "...Complainants request is not proper for numerous reasons,..."; but, only lists three (3) reasons . . .") (italics in original).

III. Argument

The Presiding ALJ's decision denying Complainants' Motion to Compel should stand. Complainants present no new facts or legal arguments to support their request in the Motion for Reconsideration. They just repeat the same basic arguments from their Motion to Compel, with a few new frivolous arguments now included.

The facts remain the same. The similarity of Duquesne Light's smart meter to other smart meters is irrelevant because the Commission already approved it after a thorough public review process. Complainants also have not examined other smart meters and cannot make a valid comparison between Duquesne Light's smart meter and another company's smart meter, even if the comparison itself were a legitimate exercise. Further, Complainants are not qualified to examine the smart meter because they have never performed any job responsibilities or engaged in a course of study relating to radio frequency and low frequency radiation. Finally,

the Presiding ALJ's order was legally valid despite being unsigned, and Complainants' claim that the Presiding ALJ failed to list every reason for denying the Motion to Compel actually favors Duquesne Light, not Complainants.

At its core, Complainants' desire to examine Duquesne Light's smart meter is based on their flawed notion that the meter has never been closely inspected, and that they are qualified to perform this much-needed task to prove its similarity with other smart meters. These beliefs are incorrect. The Commission approved Duquesne Light's smart meter after a thorough public review process. Complainants could have participated in that process and raised their concerns to the Commission at that time. They chose not to do so. Now they are trying to use this individual complaint to collaterally attack Duquesne Light's smart meter plan. Complainants cannot be permitted to circumvent the public process that led to the approval of Duquesne Light's smart meter plan through this individual complaint. The Presiding ALJ made the correct decision when he denied the Motion to Compel. The decision should stand.

WHEREFORE, Duquesne Light respectfully requests that the Presiding Administrative Law Judge deny Complainants' Petition/Motion for Reconsideration of Interim Order Denying Complainants' Petition/Motion to Compel Respondent to Supply Its Smart Meter for Examination.

Respectfully submitted,

TUCKER ARENSBERG, P.C.



Paul Shane Miller, Esquire
PA I.D. No. 319174
(412) 594-5503

Jeremy V. Farrell, Esquire
PA I.D. No. 316258
(412) 594-3938

1500 One PPG Place
Pittsburgh, PA 15222

Counsel for Respondent,
Duquesne Light Company

TADMS:5139960-1 014657-158498

