

Tori L. Giesler, Esq.
(610) 921-6658
(330) 315-9263 (Fax)

May 14, 2019

VIA ELECTRONIC FILING

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

Re: Lynn Force v. West Penn Power Company
Docket No. C-2017-2634987

Dear Secretary Chiavetta:

Enclosed please find the response of West Penn Power Company to the Motion to Compel of Lynn Force with regard to the above-captioned matter.

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

Very truly yours,


Tori L. Giesler

kbw
Enclosures

c: As Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

LYNN FORCE

v.

WEST PENN POWER COMPANY

:
:
:
:
:

Docket No. C-2017-2634987

**ANSWER OF WEST PENN POWER COMPANY TO LYNN FORCE’S MOTION TO
COMPEL RESPONSES TO INTERROGATORIES AND DOCUMENT REQUESTS**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

West Penn Power Company (“West Penn” 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 response of West Penn Power Company to the Motion to Compel of Lynn Force (“Complainant”).

I. Background

1. On November 20, 2017, the Complainant filed a Formal Complaint with the Pennsylvania Public Utility Commission (“Commission”) regarding 1387 University Drive, State College, Pennsylvania 16801 (“Service Location”) under Account No. 100126419546 (“Account”) which was electronically served on the Company on November 22, 2017.

2. On December 12, 2017, the Company filed its Answer and New Matter denying the material allegations. On the same day, the Company also filed Preliminary Objections to the Formal Complaint.

3. On December 23, 2017, the Complainant filed a response to the Preliminary Objections as well as a reply to the Company’s Answer and New Matter.

4. On January 26, 2018, a Motion Judge Assignment Notice was issued where the parties were informed that Administrative Law Judge (“ALJ”) Jeffrey A. Watson was assigned to rule on the Company’s Preliminary Objections.

5. On August 8, 2018, ALJ Watson issued an Order, which denied the Company’s Preliminary Objections and ordered that the docket proceed to a hearing.

6. On August 9, 2018, ALJ Watson issued an Interim Order and an Initial Telephonic Prehearing Conference Notice scheduling a prehearing conference for August 24, 2018.

7. On August 20, 2018, in accordance with 52 Pa. Code § 5.341, the Company forwarded to the Complainant interrogatories and document requests (“Company’s Discovery Requests”) via first class mail. In the Company’s Discovery Requests, the Company sought information and documents related to the Complainant’s allegations regarding the Company’s smart meters.

8. On August 24, 2018, ALJ Watson convened the prehearing conference with the parties wherein a settlement was reached between the parties.

9. On August 27, 2018, the Company filed a Certificate of Satisfaction.

10. On August 30, 2018, the Company received a letter dated August 27, 2018 from the Complainant with objections to the Company’s Discovery Requests.

11. On September 1, 2018, the Complainant filed an objection to the Certificate of Satisfaction.

12. On September 6, 2018, the Company filed a letter advising that the Complainant informed counsel for the Company that she was no longer agreeable to the settlement reached on August 24, 2017. Further, the Company filed a Motion to Compel the Complainant to respond to the Company’s Discovery Requests.

13. On September 13, 2018, the Complainant filed reply to the Company's Motion to Compel.

14. The Complainant provided responses to the Company's Discovery Requests.

15. On December 13, 2018, the Company filed a letter withdrawing its Motion to Compel given that the Complainant provided her responses to the Company's Discovery Requests.

16. On January 7, 2019, 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.

17. By letter dated March 18, 2019, the Complainant issued Complainant's Set I Discovery Requests to the Company.

18. On April 1, 2019, the Company filed objections to Interrogatory Numbers 1 through 5 of Set I Discovery Requests, which objections are enclosed as Attachment A.

19. On April 10, 2019, the Company served its responses to all of the Set I Discovery Requests, with the exception of the Discovery Requests that the Company objected to (Interrogatory Nos. 1 through 5).

20. On April 19, 2019, the Company reserved its responses to the Set I Discovery Requests after the responses mailed on April 10, 2019, were returned to the Company due to being incorrectly addressed.

21. On April 25, 2019, the Company resent the filed objections to Interrogatory Numbers 1 through 5 of Set I Discovery Requests after receiving a phone call from the Complainant stating that she did not receive the Company's objections.

22. On May 8, 2019, the Company received a Motion to Compel dated May 6, 2019 filed by the Complainant. Specifically, the Complainant is requesting that the Company answer

Interrogatory Numbers 1 through 5 of Set I Discovery Requests. The Complainant is also not satisfied with the Company's responses to Set I Discovery Requests Interrogatory Numbers No. 7 and 8.

II. Answer

22. Interrogatory Nos. 1 through 5 of the Set I Discovery Requests are improper and objectionable to the extent that they seek information or documents that are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence and fall outside the scope of this proceeding.

23. West Penn specifically objected to these Discovery Requests on the basis that they are overly broad, irrelevant, outside the scope of this proceeding, and not reasonably calculated to lead to the discovery of admissible evidence. More directly, information related to the nature of the Company's insurance coverage is wholly irrelevant to the Complainant and the issues raised within the Formal Complaint, or expected to be addressed at any hearing in this matter.

25. Presumably, the only reason that the Complainant could have interest in the Company's insurance coverage would be to the extent she is seeking some form of damages. Even if the issues in the formal complaint were considered to extend to a cause of action for liability, it is well-established that it is outside the bounds of the Pennsylvania Public Utility Commission's jurisdiction to award damages.

26. Given that no damages could be awarded from this proceeding even if there were grounds for such (which there are none), the Company's solvency or any other ability to cover such theoretical damages is not in any way relevant to the matters at issue in this proceeding.

27. As such, the information is both not admissible and not discoverable.

28. With regard to the Complainant's dissatisfaction of the Company's responses to Interrogatory Nos. 7 and 8 of the Set I Discovery Requests, the Company's position is that the Company has responded to the questions as asked.

29. Specifically, that Interrogatory Nos. 7 and 8 of the Set I Discovery Requests seeks the following information:

Force Interrogatory Set I, No. 7

What biological testing has been done with regard to the safety of your smart meter?

Force Interrogatory Set I, No. 8

Provide copies of the documentation regarding the biological safety testing performed.

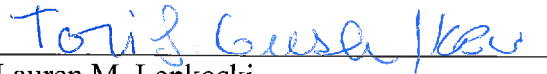
30. West Penn has not performed such testing and answered as such. Therefore, there is no further information that can be provided in response to these two questions.

III. Conclusion

WHEREFORE, for the foregoing reasons, the Complainant's Motion to Compel should be denied.

Respectfully submitted,

Dated: May 14, 2019



Lauren M. Lepkoski
Attorney No. 94800
Tori L. Giesler
Attorney No. 207742
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 West Penn Power Company



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

Tori L. Giesler, Esq.
(610) 921-6658
(330) 315-9263 (Fax)

April 1, 2019

VIA FIRST CLASS MAIL

Lynn Force
200 Brook Hollow Road
Mount Pleasant, PA 15666

Re: Lynn Force v. West Penn Power Company
Docket No. C-2017-2634987

Dear Ms. Force:

Attached please find the Objections of West Penn Power Company to the Interrogatories and Request for Production of Documents of Lynn Force to West Penn Power Company, Set I, Interrogatory Nos. 1 through 5 in the above-referenced matter. This document has been served as shown in the Certificate of Service.

Please contact me if you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Tori L. Giesler". The signature is fluid and cursive.

Tori L. Giesler

Enclosures

cc: As Per Certificate of Service
Administrative Law Judge Jeffrey Watson (Cover Letter and Certificate of service)
Rosemary Chiavetta, Esq., Public Utility Commission (Cover Letter and Certificate of service via electronic filing)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

LYNN FORCE

v.

WEST PENN POWER COMPANY

:
:
:
:
:

Docket No. C-2017-2634987

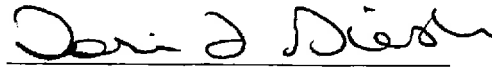
CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the Objections of West Penn Power Company to the Interrogatories and Request for Production of Documents of Lynn Force to West Penn Power Company, Set I, upon the individual 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:

Lynn Force
1387 University Drive
State College, PA 16801

Dated: April 1, 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 West Penn Power Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

LYNN FORCE :
 :
 v. : **Docket No. C-2017-2634987**
 :
WEST PENN POWER COMPANY :

**OBJECTIONS TO THE INTERROGATORIES AND REQUESTS FOR PRODUCTION
OF LYNN FORCE TO WEST PENN POWER COMPANY, SET I**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Pursuant to 52 Pa. Code § 5.342(c), West Penn Power Company (“West Penn” or the “Company”) objects to the Interrogatories and Request for Production of Documents propounded by Lynn Force (“Complainant”) via first class mail dated March 18, 2019 (“Complainant Set I Discovery Requests”). The Company avers as follows:

I. Background

1. On November 20, 2017, the Complainant filed a Formal Complaint with the Pennsylvania Public Utility Commission (“Commission”) regarding 1387 University Drive, State College, Pennsylvania 16801 (“Service Location”) under Account No. 100126419546 (“Account”) which was electronically served on the Company on November 22, 2017.

2. On December 12, 2017, the Company filed its Answer and New Matter denying the material allegations. On the same day, the Company also filed Preliminary Objections to the Formal Complaint.

3. On December 23, 2017, the Complainant filed a response to the Preliminary Objections as well as a reply to the Company’s Answer and New Matter.

4. On January 26, 2018, a Motion Judge Assignment Notice was issued where the parties were informed that Administrative Law Judge (“ALJ”) Jeffrey A. Watson was assigned to rule on the Company’s Preliminary Objections.
5. On August 8, 2018, ALJ Watson issued an Order, which denied the Company’s Preliminary Objections and ordered that the docket proceed to a hearing.
6. On August 9, 2018, ALJ Watson issued an Interim Order and an Initial Telephonic Prehearing Conference Notice scheduling a prehearing conference for August 24, 2018.
7. On August 20, 2018, in accordance with 52 Pa. Code § 5.341, the Company forwarded to the Complainant interrogatories and document requests (“Company’s Discovery Requests”) via first class mail. In the Company’s Discovery Requests, the Company sought information and documents related to the Complainant’s allegations regarding the Company’s smart meters.
8. On August 24, 2018, ALJ Watson convened the prehearing conference with the parties wherein a settlement was reached between the parties.
9. On August 27, 2018, the Company filed a Certificate of Satisfaction.
10. On August 30, 2018, the Company received a letter dated August 27, 2018 from the Complainant with objections to the Company’s Discovery Requests.
11. On September 1, 2018, the Complainant filed an objection to the Certificate of Satisfaction.
12. On September 6, 2018, the Company filed a letter advising that the Complainant informed counsel for the Company that she was no longer agreeable to the settlement reached on August 24, 2017. Further, the Company filed a Motion to Compel the Complainant to respond to the Company’s Discovery Requests.

13. On September 13, 2018, the Complainant filed reply to the Company's Motion to Compel.

14. The Complainant provided responses to the Company's Discovery Requests.

15. On December 13, 2018, the Company filed a letter withdrawing its Motion to Compel given that the Complainant provided her responses to the Company's Discovery Requests.

16. On January 7, 2019, 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.

17. By letter dated March 18, 2019, the Complainant issued Complainant's Set I Discovery Requests to the Company.

II. Objections

18. In responding to the Complainant's Discovery Requests, the Company does not waive any objections to the admissibility, relevancy, materiality, confidentiality, or privilege attached to any document, communication, or information.

19. Numerous of the Complainant's Discovery Requests seek information or documents that is wholly objectionable, and the Company objects to it in its entirety. Specifically, the Company objects to Lynn Force Interrogatories and Request for Production of Documents Set I, Nos. 1 through 5 as follows:

West Penn Power Company's Objections to
Force Interrogatories Set I, No. 1

LYNN FORCE

v.

WEST PENN POWER COMPANY

Docket No. C-2017-2634987

Force Interrogatory Set I, No. 1

Do you have an insurer that would be responsible for paying customer claims for health complaints that arise from your wireless smart meters?

OBJECTION:

This Discovery Request is vague, ambiguous, overly broad, irrelevant, unduly burdensome, outside the scope of this proceeding, and not reasonably calculated to lead to the discovery of admissible evidence, as it seeks information beyond that which relates to smart meters. Information related to the nature of the Company's insurance coverage is wholly irrelevant to the Complainant and the issues raised within the Formal Complaint or expected to be addressed at any hearing in this matter and is therefore not discoverable.

West Penn Power Company's Objections to
Force Interrogatories Set I, No. 2

LYNN FORCE
v.
WEST PENN POWER COMPANY
Docket No. C-2017-2634987

Force Interrogatory Set I, No. 2

Does your policy contain an exemption from such claims?

OBJECTION:

This Discovery Request is vague, ambiguous, overly broad, irrelevant, unduly burdensome, outside the scope of this proceeding, and not reasonably calculated to lead to the discovery of admissible evidence, as it seeks information beyond that which relates to smart meters. Information related to the nature of the Company's insurance coverage is wholly irrelevant to the Complainant and the issues raised within the Formal Complaint or expected to be addressed at any hearing in this matter and is therefore not discoverable.

West Penn Power Company's Objections to
Force Interrogatories Set I, No. 3

LYNN FORCE
v.
WEST PENN POWER COMPANY
Docket No. C-2017-2634987

Force Interrogatory Set I, No. 3

State the insurer's full name, address, and phone number.

OBJECTION:

This Discovery Request is vague, ambiguous, overly broad, irrelevant, unduly burdensome, outside the scope of this proceeding, and not reasonably calculated to lead to the discovery of admissible evidence, as it seeks information beyond that which relates to smart meters. Information related to the nature of the Company's insurance coverage is wholly irrelevant to the Complainant and the issues raised within the Formal Complaint or expected to be addressed at any hearing in this matter and is therefore not discoverable.

West Penn Power Company's Objections to
Force Interrogatories Set I, No. 4

LYNN FORCE
v.
WEST PENN POWER COMPANY
Docket No. C-2017-2634987

Force Interrogatory Set I, No. 4

If you do not have an insurer that would be responsible for claims involving effects of radiofrequency radiation upon customers from your smart meters, why don't you? Explain in detail and also provide a copy of the relevant policy exemption clause.

OBJECTION:

This Discovery Request is vague, ambiguous, overly broad, irrelevant, unduly burdensome, outside the scope of this proceeding, and not reasonably calculated to lead to the discovery of admissible evidence, as it seeks information beyond that which relates to smart meters. Information related to the nature of the Company's insurance coverage is wholly irrelevant to the Complainant and the issues raised within the Formal Complaint or expected to be addressed at any hearing in this matter and is therefore not discoverable.

West Penn Power Company's Objections to
Force Interrogatories Set I, No. 5

LYNN FORCE
v.
WEST PENN POWER COMPANY
Docket No. C-2017-2634987

Force Interrogatory Set I, No. 5

Are you exempt by law from responsibility for such claims?

OBJECTION:


This Discovery Request is vague, ambiguous, overly broad, irrelevant, unduly burdensome, outside the scope of this proceeding, and not reasonably calculated to lead to the discovery of admissible evidence, as it seeks information beyond that which relates to smart meters. Information related to the nature of the Company's tort liability is wholly irrelevant to the Complainant and the issues raised within the Formal Complaint or expected to be addressed at any hearing in this matter and is therefore not discoverable.

III. Conclusion

WHEREFORE, for the foregoing reasons, West Penn Power Company objects to Complainant's Discovery Requests, Set I, Interrogatory Nos. 1 through 5.

Respectfully submitted,

Dated: April 1, 2019



Lauren M. Lepkoski
Attorney No. 94800
Tori L. Giesler
Attorney No. 207742
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 West Penn Power Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

LYNN FORCE

v.

WEST PENN POWER COMPANY

:
:
: **Docket No. C-2017-2634987**
:
:


CERTIFICATE OF SERVICE

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

Service by UPS Overnight delivery
Lynn Force
1387 University Drive
State College, PA 16801

Service by electronic and First Class Mail
delivery
Administrative Law Judge Jeffrey A. Watson
Pennsylvania Public Utility Commission
301 5th Avenue, Suite 220
Pittsburgh, PA 15222
jeffwatson@pa.gov

Dated: May 14, 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