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Monroeville, Pennsylvania

May 24, 2019

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Via Paper Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, Pennsylvania 17120

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

Dear Secretary Chiavetta:

Enclosed please find a copy of Complainants'

Response to Respondent's Answer in Opposition to
Complainants' Petition / Motion to Reopen Discovery and
Revisit/Reconsider Complainants' February 20, 2018
Motion to Compel Discovery

A copy of this document has been served upon the Judge Jeffrey Watson, Presiding PA PUC Pittsburgh Administrative Law Judge, and the Respondent's Counsel, Jeremy V Farrell, Esquire, in accordance with Commission regulations.

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

Sincerely,



Francis Hriadil
Complainant
(412) 779-3314
hriadil@attglobal.net

Enclosure

Cc: Judge Jeffrey Watson, Presiding PA PUC Pittsburgh Administrative Law Judge

Cc: Jeremy V Farrell, Esquire, Counsel for Duquesne Light Company

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED

Michele Hriadil and
Francis Hriadil,

MAY 24 2019

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Complainant,

vs.

No: C-2016-2571726

DUQUESNE LIGHT COMPANY,

Respondent.

**RESPONSE TO
ANSWER IN OPPOSITION TO
COMPLAINANTS' PETITION / MOTION
TO REOPEN DISCOVERY AND
REVISIT/RECONSIDER
COMPLAINANTS' FEBRUARY 20, 2018
MOTION TO COMPEL DISCOVERY**

Filed by Michele and Francis Hriadil

hriadil@attglobal.net
(412) 779-3314
331 Shady Ridge Drive
Monroeville, Pennsylvania

**RESPONSE TO
ANSWER IN OPPOSITION TO COMPLAINANTS' PETITION / MOTION
TO REOPEN DISCOVERY AND REVISIT/RECONSIDER
COMPLAINANTS' FEBRUARY 20, 2018
MOTION TO COMPEL DISCOVERY**

TO: THE HONORABLE ALJ JEFFREY A. WATSON

ENCLOSED IS COMPLAINANTS' RESPONSE to the RESPONDENT'S ANSWER IN
OPPOSITION TO OUR PETITION / MOTION TO REOPEN DISCOVERY AND
REVISIT/RECONSIDER COMPLAINANTS' FEBRUARY 20, 2018 MOTION TO
COMPEL DISCOVERY.



Francis Hriadil
May 24, 2019

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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PA PUBLIC UTILITY COMMISSION
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Michele Hriadil and
Francis Hriadil,

Complainant,

vs.

DUQUESNE LIGHT COMPANY,

Respondent.

No: C-2016-2571726

**RESPONSE TO
ANSWER IN OPPOSITION TO COMPLAINANTS' PETITION / MOTION
TO REOPEN DISCOVERY AND REVISIT/RECONSIDER
COMPLAINANTS' FEBRUARY 20, 2018
MOTION TO COMPEL DISCOVERY**

TO THE HONORABLE ALJ Jeffrey A. Watson:

1. Complainants'

- February 20, 2018 Motion to Compel Discovery
- March 23, 2018 Response to Respondent's Answer in Opposition to Complainants' Motion to Compel Discovery
- April 3, 2019 Petition/Motion To Reopen Discovery and Revisit/Reconsider Complainants' February 20, 2018 Motion to Compel Discovery
- other filed documents, supporting documents, and exhibits,

are all incorporated here-in by reference as if fully restated.

2. In its Answer in Opposition..., the Respondent stated its opposition, basing its opposition on three (3) arguments. The Complainants reviewed the Respondent's arguments and will concisely address each one in succession.

1. ... Although a party may obtain discovery regarding any non-privileged matter which is relevant to the subject matter in the pending action and reasonably calculated to lead to the discovery of admissible evidence (52 Pa. Code § 5.321(c)), discovery does not allow "fishing expeditions" and may be denied if it would cause unreasonable annoyance, expense, burden, or investigation by the opposing party. ... When the Presiding ALJ considered Complainants' Second Motion to Compel, Duquesne Light had already provided Complainants with responses to more than 150 discovery requests. ... Despite Duquesne Light's voluminous responses, Complainants sought an order through the Second Motion to Compel requiring responses to another 165 discovery requests. In this context, the Presiding AL's decision to requiring Duquesne Light to respond to an additional 22 discovery questions was reasonable and squarely within the boundaries of the Presiding AL's discretion and the discovery rules. And Complainants apparently did not disagree with the Presiding AL's decision, given that they waited more than a year to request reconsideration.

3. The Respondent mischaracterizes the Complainants' Discovery Interrogatories as nothing other than a "fishing expedition." Complainants take exception to this attempt to malign and discredit our relevant and legitimate interrogatories in the eyes of Your Honor and the Commission. In our Motion to Compel Discovery and our Response to Respondent's Answer in Opposition to Complainants' Motion to Compel Discovery, the Complainants provided specific and detailed justifications as to why each of our interrogatories is relevant, appropriate, and important.

4. The process of Discovery exists and was created is to establish the facts - not just some of the facts, not just many of the facts, but all of the facts.

Pa Code, 52. Pa. Code § 5.321(c) Scope, clearly and emphatically states

"a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, ... , including the existence, description, nature, content, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of a discoverable matter. It is not ground 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." (emphasis added)

There are only two sources available for this information regarding this matter:

- the public domain
- the Respondent

Complainants have gathered what information is available in the public domain. There is much about the operation and operational capability of the Smart Meter in its Network Mesh that is and remains unclear, that has been and remains mischaracterized, and/or has been and remains unreported to the Complainants and the general public. As such, many questions needed to be asked and answered. The Complainants did not create this situation and occurrence; but, we are required to deal with it. The interrogatories submitted by the Complainants are relevant, appropriate, and reasonably calculated to lead to the discovery of admissible evidence. This is in keeping with Pa Code, 52. Pa. Code § 5.321(c), and the Complainants' Discovery Interrogatories can in no way be credibly construed as a "fishing expedition." It is an inescapable truth that the Respondent, and only the Respondent, can supply these answers and facts.

5. The Respondent proclaims and laments that it has provided "voluminous responses" to the Complainants' interrogatories. This characterization by the Respondent is disingenuous and is simply an attempt by the Respondent to confuse the issue. Complainants averred at the time, and we continue to aver, that many of the Respondent's "voluminous responses" either did not answer, fully answer, or consistently answer the interrogatories that were submitted. Complainants provided the specific details of how and why the indicated Respondent's responses were inadequate in both our Motion to Compel Discovery and, additionally, in our Response to Respondent's Answer in Opposition to Complainants' Motion to Compel Discovery (which Your Honor failed to consider in your prior ruling). Furthermore, the Respondent systematically characterized Complainants' interrogatories which were reframed or reworded to address confusion or inconsistencies in its responses as wholly new interrogatories, which they were/are not.

6. The Respondent proclaims and laments that the Complainants' interrogatories constitute an unreasonable and undue burden on it. Yet, the Complainants' interrogatories

were framed, and some reframed, to facilitate its answers and minimize any expense or burden on the Respondent. Most require simple answers or clarifications, or even just simple yes/no answers. This was/is explained in Complainants' Motion to Compel and, additionally, in Complainants' Response to Respondent's Answer in Opposition to Complainants' Motion to Compel Discovery. No credible case can be made that this represents an undue burden or expense for the Respondent, considering the circumstances and the matters at issue.

7. Without viewing or considering the Complainants' Response to Respondent's Answer in Opposition to Complainants' Motion to Compel Discovery, Your Honor issued your March 27, 2018 Interim Order... curtailing much of the Complainants' Motion to Compel Discovery, and effectively ending Discovery. At that point, the Complainants, two (2) elderly people representing ourselves, understood that all matters related to Discovery were closed.

The Complainants have never stated or agreed that the responses provided by the Respondent to many of the Complainants' interrogatories were/are adequate or satisfactory. And, the Complainants have continued to raise this issue in our subsequent filings, including but not limited to Complainants'

- July 6, 2018 Response to Motion for Summary Judgment,
- January 24, 2019 New Matter #5 - Duquesne Light Company / Centron / Itron OpenWay SK9AMI7 Smart Meter,
- February 27, 2019 Answer to Respondent's Letter Concerning Complainants' New Matter #5 and Petition/Motion to Compel Respondent to Supply Its Smart Meter for Examination,

which are all incorporated here-in by reference as if fully restated.

8. In Your Honor's March 13, 2019 Interim Order, and March 14, 2019 Interim Order Scheduling Prehearing Conference and Extending the Deadline to Complete Discovery, you temporarily re-opened and extended Discovery. Complainants aver that this provided an appropriate point, at which it is permitted, to revisit/reconsider the issue of our Discovery Interrogatories and how our February 20, 2018 Motion to Compel Discovery was treated, reviewed, and addressed.

II. ... Parties have no right to submit reply briefs, and Complainants' reply brief simply restates the main points from Complainants' 48-page Second Motion to Compel. See 52 Pa. Code 5.502(c) (stating that parties may file initial briefs and response briefs in non-rate cases, but making no mention of reply briefs).

9. Contrary to the Respondent's assertion, the Complainants' Response to Respondent's Answer in Opposition to Complainants' Motion to Compel Discovery does more than simply "restate" the main points from our Motion to Compel Discovery. It addresses the objections and arguments raised by the Respondent in its Answer in Opposition..., and further establishes the relevance and importance of each interrogatory in question.

10. 52 Pa. Code 5.502(c) simply indicates that it does not require reply briefs. It does not preclude or prevent reply briefs. When the Respondent makes mis-statements and mis-characterizations regarding the Complainants' valid, relevant, and pertinent interrogatories and our intentions, the Complainants have a right to respond and correct what we view as incorrect, inaccurate, or inappropriate.

11. The only restriction that 52 Pa. Code 5.502 imposes is that briefs that have not been properly served need not be accepted or considered, and even those may still be considered at the discretion of the Commission or the presiding officer. All of the Complainants' briefs, including our March 23, 2018 Response to Respondent's Answer in Opposition to Complainants' Motion to Compel Discovery, were properly filed and served.

12. Furthermore, Your Honor's Interim Order specifically states
"...Respondent filed and an Answer in Opposition to Motion to Compel Discovery. No Response was filed by Complainants. Therefore, the Motion to Compel Discovery filed by Complainant, Francis Hriadil, is ripe for a decision.",
indicating that the PA PUC recognizes that Complainants have a right to file a response, and that any such response will be considered. If no response is filed, a decision will be rendered solely on the basis of the Complainant's original motion and the Respondent's answer in opposition. It is a material fact that the Complainants properly filed a detailed 23 page Response... that Your Honor neither reviewed or considered in the rendering of your decision.

III. ... Just last month, the Presiding AU reopened discovery until April 17, 2019. Complainants filed this Petition to Reopen asking for discovery to be reopened while discovery was already reopened. Complainants served no new discovery requests during the reopened discovery period.

13. The Complainants' Discovery Interrogatories that remain either deficiently answered or completely unanswered by the Respondent are and remain pertinent, relevant, and important to determining the complete truth of the matters at issue. As the Respondent is insisting that the public has no choice or accommodation regarding the installation of its Smart Meters (even though the language of Act 129 and the legislative record specifically documents that participation is voluntary and Opt-In, and 66 Pa. C.S. § 701; 66 Pa. C.S. § 1501; 52 Pa. Code § 57.194 specifically provides for the accommodation, convenience, and safety of the Respondent's patrons by statute), and as the public and the Complainants are being prevented from carrying out and exercising our own independent due diligence and discretion, the only available source for this information, that can be verified per 52 Pa. Code S 1.36, is the Respondent itself.

14. Your Honor reopened Discovery for a short period of time. It would have been pointless to resubmit the Complainants' Interrogatories, or some variation thereof, as the Respondent has already refused to answer them. In light of this circumstance, and as Your Honor has stated that Complainants' March 23, 2018 23 page Response To Respondent's Answer in Opposition To Complainant's Motion To Compel Discovery was not considered before making your ruling, Complainants aver that there is a legitimate issue with how our Motion to Compel Discovery was resolved and how Discovery was concluded. Complainants aver, in all fairness, that our unanswered Interrogatories must be answered.

15. Complainants submitted our April 3, 2019 motion to revisit this Discovery issue, well before Your Honor's April 17, 2019 deadline. And, recognizing that this issue would likely not be resolved before Discovery closed again on April 17, the Complainants additionally requested that Discovery be re-opened, or remain open, beyond that date.

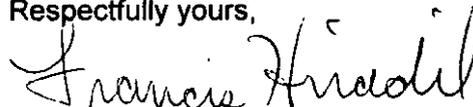
CONCLUSION

16. Complainants respectfully submit that our motion/petition is proper, appropriate, justified, and of important consequence to the Complainants in our pursuit of our Formal Complaint; is in the public interest and the interest of the PA PUC; and that the Respondent has provided no legitimate argument that refutes this or justifies a denial.

WHEREFORE, in light of these circumstances, Complainants Michele Hriadil and Francis Hriadil respectfully request that Your Honor rule in favor of our Petition / Motion to Reopen Discovery and Revisit / Reconsider Complainants' February 20, 2018 Motion to Compel Discovery, especially in light of the fact that Your Honor never saw or fully considered Complainants' March 23, 2018 Response to Respondent's Answer in Opposition to Complainants' Motion to Compel Discovery,

Complainant's Certificate of Service has been filed with the Commission's Secretary, in accordance with Commission Regulations.

Respectfully yours,



Francis Hriadil
(412) 779-3314
331 Shady Ridge Drive
Monroeville, Pennsylvania
May 24, 2019

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED

MAY 24 2019

Michele Hriadil and
Francis Hriadil,

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Complainant,

vs.

No: C-2016-2571726

DUQUESNE LIGHT COMPANY,

Respondent.

CERTIFICATE OF SERVICE

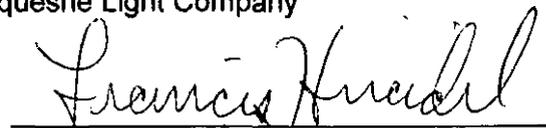
I hereby certify that I have this day served a true copy of Complainants' Response to Answer in Opposition to Complainants' Petition / Motion to Reopen Discovery and Revisit/Reconsider Complainants' February 20, 2018, Motion to Compel Discovery upon the participants listed below in accordance with the requirements of 52 PA. Code § 1.54 (relating to service by a participant):

Via Paper Filing
Judge Jeffrey Watson
PA PUC Pittsburgh Administrative Law Judge Office
301 Fifth Ave, Suite 220
Piatt Place
Pittsburgh, PA 15222

Via Paper Filing
Jeremy V Farrell, Esquire
Paul S Miller, Esquire
One PPG Place - 1500
Pittsburgh, PA 15222
(412) 594-5619 (Fax)

Counsel for Respondent, Duquesne Light Company

Dated this 24th day of May, 2019



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CERTIFIED MAIL



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