

331 Shady Ridge Drive
Monroeville, Pennsylvania

May 30, 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
Keystone Building, 2nd Floor
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'

Answer to Respondent's Reply to
Complainants' Response to
Respondent's Motion in Limine to Preclude Complainants'
Purported Expert Testimony for Failure to
Produce Required Expert Reports

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

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Michele Hriadil and
Francis Hriadil,

Complainant,

vs.

DUQUESNE LIGHT COMPANY,

Respondent.

No: C-2016-2571726

**ANSWER TO
RESPONDENT'S REPLY TO
COMPLAINANTS' RESPONSE TO
MOTION IN LIMINE TO PRECLUDE
COMPLAINANTS' PURPORTED EXPERT
TESTIMONY FOR FAILURE TO
PRODUCE REQUIRED EXPERT REPORTS**

Filed by Michele and Francis Hriadil

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

**ANSWER TO RESPONDENT'S REPLY TO
COMPLAINANTS' RESPONSE TO MOTION IN LIMINE
TO PRECLUDE COMPLAINANTS' PURPORTED EXPERT TESTIMONY
FOR FAILURE TO PRODUCE REQUIRED EXPERT REPORTS**

TO: THE HONORABLE ALJ JEFFREY A. WATSON, and the COMMISSION

ENCLOSED IS COMPLAINANTS' ANSWER TO RESPONDENT'S REPLY.



Francis Hriadil
May 30, 2019

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Michele Hriadil and
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No: C-2016-2571726

DUQUESNE LIGHT COMPANY,

Respondent.

**ANSWER TO RESPONDENT'S REPLY TO
COMPLAINANTS' RESPONSE TO MOTION IN LIMINE
TO PRECLUDE COMPLAINANTS' PURPORTED EXPERT TESTIMONY
FOR FAILURE TO PRODUCE REQUIRED EXPERT REPORTS**

TO THE HONORABLE ALJ Jeffrey A. Watson, and the COMMISSION:

1. Pertinent filings and notable timeline occurrences:
 - April 18, 2019 Respondent's new Motion in Limine to Preclude Complainants' Purported Expert Testimony for Failure to Produce Required Expert Reports, which Complainants received on April 20, 2019.
 - April 24, 2019 Prehearing Conference Call.
 - April 25, 2019 Respondent refiled two (2) of its previous motions:
 - 1 - Its new April 18, 2019 Motion in Limine to Preclude Complainants' Purported Expert Testimony for Failure to Produce Required Expert Reports
 - 2 - Its previous February 1, 2019 Motion in Limine to Bar Complainants From Introducing or Relying Upon Inadmissible Evidence,which Complainants received on April 29, 2019.
 - April 30, 2019 Complainants' Status Report After the April 24, 2019 Prehearing Conference Call.
 - May 8, 2019 Complainant's Response to Respondent's Motion in Limine to Preclude Complainants' Purported Expert Testimony for Failure to Produce Required Expert Reports.

All of the Complainants' filings, including but not limited to those listed here, along with their supporting documents and exhibits are incorporated here-in by reference as if fully restated.

2. The Respondent revised its original December 31, 2018 Motion in Limine... to preclude Complainants' experts' testimonies and refiled it on April 18, 2019 as Motion in Limine to Preclude Complainants' Purported Expert Testimony for Failure to Produce Required Expert Reports. Along with another motion, the Respondent refiled this motion again on April 25, 2019, after the April 24, 2019 Prehearing Conference Call. The April 25, 2019 version of the Respondent's Motion was unchanged from its April 18, 2019 version. In our May 8, 2019 Response..., Complainants responded to the Respondent's April 18 / April 25 Motion in Limine... concerning our expert witnesses, and the specifics of the content and arguments that the Respondent presented therein.

3. In its May 16, 2019 Reply... to Complainants' May 8, 2019 Response..., the Respondent argues two (2) issues. The Complainants will address these two (2) issues in succession.

I. ISSUE 1

The first issue raised by Complainants – whether Drs. Carpenter and Michrowski produced sufficient expert reports – is now moot. During a prehearing conference before the Presiding Administrative Law Judge ("Presiding ALJ") on April 24, 2019, the parties disagreed about whether Complainants had provided the information required by 52 Pa. Code § 5.324 in response to Duquesne Light's discovery requests. To resolve the dispute, the Presiding AU ordered the parties to provide written direct expert testimony, ... Complainants' Response never mentions this order; instead, they continue to argue that they produced sufficient expert reports.

The sufficiency of Complainants' expert reports is a moot point, however, given that the Presiding ALJ ordered written direct expert testimony.

4. The Respondent's refiled April 18, 2019 Motion in Limine... challenging the Complainants' expert witnesses, and the adequacy of the information that was provided in Discovery, remains unchanged after the Prehearing Conference Call of April 24, 2019. All of the Complainants expert witnesses continue to remain challenged by the Respondent. The Complainants in our May 8, 2019 Response... responded specifically and in detail to the content and arguments presented by the Respondent in its April 18/25, 2019 Motion in Limine... concerning our expert witnesses.

5. The Complainants made reference to the April 24, 2019 Prehearing Conference Call, and the valid issues and problems that were created therein, in our Status Report, which we were tasked to file before Your Honor issued your written decision. After consulting with our expert witnesses, we filed our Status Report on May 30, 2019. Our Status Report summarized the discussion that occurred therein, the significant change concerning testimony suggested by Your Honor which Complainant Francis Hriadil indicated the Complainants could not accept without first consulting with our expert witnesses, the preliminary decision made by Your Honor, and the tasks that Your Honor levied on the Complainants to be completed regarding our expert witnesses' possible in-person appearance, costs, telephonic participation, and written testimony (to be reported back to Your Honor before issuing your written decision).

The Complainants contacted our expert witnesses in this regard and, in our May 30, 2019 Status Report, reported to Your Honor that suddenly introducing a new and significant requirement mid-stream that eliminated direct verbal expert testimony by telephonic means, only accepting written expert testimony, is excessive; is inconsistent with the standards and protocols followed in other similar Formal Complainants held before the PA PUC; and would introduce an unfair burden (both financially and otherwise) on the Complainants, who are elderly people representing ourselves; which would effectively preclude the participation of our expert witnesses, Dr. Carpenter and Dr. Michrowski, on our behalf. The Complainants indicated that we object to this as it is inconsistent with PA PUC practices in other similar complaints, extremely prejudicial against the Complainants and in favor of the Respondent, and would substantially harm our ability to pursue our complaint.

6. The adequacy / sufficiency of the Complainants' already supplied expert witness notifications, contact information, curriculum vitae, analyses, reports, and summaries is not a "moot point" as the Respondent contends. It remains a valid, open issue; and one that the Complainants continue to argue. The Complainants have averred, and continue to strongly

aver, that we have fulfilled our obligation, and more than met the minimum requirements, concerning Discovery, expert witnesses, etc. as specified in PA Code; as applied and accepted in other similar Formal Complaints before the PA PUC; and as specifically ruled and instructed in Your Honor's February 6, 2018 Prehearing Order to which both parties agreed, your June 29, 2018 Interim Order Granting Complainants' Request for an Additional Extension of Time to File Response to Respondent's Motion for Summary Judgment and Continuing the Evidentiary Hearing Scheduled for July 19-19, 2018, etc. And, any new requirement imposing additional demands on the Complainants beyond these accepted norms are inconsistent with the standards applied and accepted in other similar Formal Complaints before the PA PUC and places an excessive and undue burden on the Complainants.

The Complainants objected and await a final ruling on this matter, and like the Respondent, request a complete transcript of the April 24, 2019 Prehearing Conference Call.

7. The arguments, supporting information and exhibits, and supporting citations submitted by the Complainants in our May 8, 2019 Response to Respondent's Motion in Limine to Preclude Complainants' Purported Expert Testimony for Failure to Produce Required Expert Reports remain valid and relevant to the proper adjudication of our Formal Complainant.

II. ISSUE 2

As to the second issue raised in Complainants' Response, Duquesne Light also maintains the position set forth in its Motion in Limine regarding Complainants' desire to testify as experts; namely, they lack the required qualifications. See Motion in Limine, pp. 7-9. Nothing in Complainants' Response undermines the core points raised by Duquesne Light's motion in limine on this issue.

8. As presented in our May 8, 2019 Response to Respondent's Motion in Limine to Preclude Complainants' Purported Expert Testimony for Failure to Produce Required Expert Reports, the Complainants continue to aver that, with our extensive technical, scientific, and engineering backgrounds, we are more than minimally qualified to speak with expertise

concerning a number of aspects regarding the Respondent's Smart Meter form, fit, function, and operation.

CONCLUDING REMARKS

9. Your Honor cannot justifiably treat Complainants, who are representing ourselves, as professional attorneys representing a multi-billion company. To do so would be in violation of the US Supreme Court ruling in *Haines v. Kerner*, 404 U.S. 520 (1971)), that

plaintiffs representing themselves should not be treated the same as professional attorney and pleadings from plaintiffs pleading as themselves should be held to "less stringent standards" than those drafted by attorneys. (emphasis added)

nor can Your Honor justifiably apply excessive requirements on the Complainants well beyond the standard accepted in other Smart Meter Formal Complaints that have been held before the PA PUC. There must be appropriate accommodation, consistency, and fairness in how Complainants are treated.

10. The officially stated mission of the Public Utility Commission, as specified in its Mission Statement which is documented on the Commission's internet website, is to:

- **balance the needs of consumers** and utilities;
- **ensure safe and reliable utility service** at reasonable rates;
- **protect the public interest;**
- **educate consumers to make independent and informed utility choices;**
and, foster new technologies and competitive markets in an **environmentally sound manner. (emphasis added)**

As such, it is the Commission's fundamental duty, as a public service government agency operating under the United States and Pennsylvania constitutions, and the PA Utility Code, to seek the truth, treat all Complainants fairly, and safeguard the well-being of all people on Pennsylvania soil regardless of age, sex, race, religion, condition, and circumstance, in order to establish compliance with such statutes as Section §1501 of the PA Public Utility Code,

"Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, ... as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, ..."
(emphasis added)

The testimonies to be provided by the Complainants and their independent expert witnesses, along with the documentation Complainants intend to place into evidence, will definitively establish that this is a matter of direct and detrimental physical and personal consequence to the Complainants, and is a matter that is in the public interest.

WHEREFORE, in light of these circumstances, Complainants aver

that the Respondent's claims and arguments are without merit;

that the Complainants have fulfilled, and continue to fulfill, our obligation concerning Discovery, expert witnesses, etc. as defined in PA Code; as applied and accepted in other similar Formal Complaints before the PA PUC; and as specifically ruled and instructed in Your Honor's:

- February 6, 2018 Prehearing Order to which both parties agreed,
- June 29, 2018 Interim Order Granting Complainants' Request for an Additional Extension of Time to File Response to Respondent's Motion for Summary Judgment and Continuing the Evidentiary Hearing Scheduled for July 19-19, 2018,
- etc.

and that any further new requirements imposing additional demands on the Complainants beyond the PA PUC's accepted norms and what has already been supplied by the Complainants are inconsistent with the standards applied and accepted in other similar Formal Complaints before the PA PUC and places an excessive and undue burden on the Complainants.

Complainants Michele Hriadil and Francis Hriadil respectfully request that Your Honor rule to this affect, rule to accept the Complainants expert witnesses and the documentation that has already been supplied, and rule that the Respondent's Motion in Limine to Preclude Complainants' Purported Expert Testimony for Failure to Produce Required Expert Reports be denied.

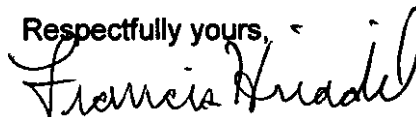
Complainant's response and Certificate of Service have been filed with the Commission's Secretary, in accordance with Commission Regulations.

RECEIVED

MAY 30 2019

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Respectfully yours,



Francis Hriadil
(412) 779-3314
331 Shady Ridge Drive
Monroeville, Pennsylvania
May 30, 2019

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Michele Hriadil and
Francis Hriadil,

Complainant,

vs.

DUQUESNE LIGHT COMPANY,

Respondent.

No: C-2016-2571726

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of Complainants' Answer to Respondent's Reply to Complainants' Response to Respondent's Motion in Limine to Preclude Complainants Purported Expert Testimony for Failure to Produce Required Expert Reports 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 30th day of May, 2019

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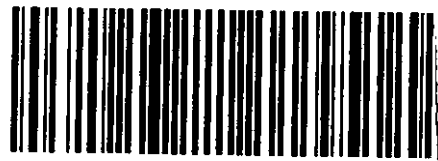
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU



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CERTIFIED MAIL

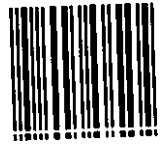
F. Hriadil
331 Shady Ridge Drive
Monroeville, PA 15146



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**RETURN RECEIPT
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Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street
Keystone Building, 2nd Floor
Harrisburg, Pennsylvania 17120

05/31

