

Tori L. Giesler, Esq.  
(610) 921-6203  
(330) 315-9263 (Fax)

June 21, 2019

**VIA ELECTRONIC FILING**

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

**Re: Diana Sabatine v. West Penn Power Company**  
**Docket No. C-2018-3002804**

Dear Secretary Chiavetta:

Enclosed please find the Motion to Dismiss of West Penn Power 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

kbw  
Enclosures

c: As Per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**DIANA SABATINE**

v.

**WEST PENN POWER COMPANY**

:  
:  
: **Docket No. C-2018-3002804**  
:  
:

---

**NOTICE TO PLEAD**

---

TO: Diana Sabatine

Pursuant to 52 Pa. Code § 5.371(b), you are hereby notified that, if you do not file a written response denying or correcting the enclosed Motion to Dismiss of West Penn Power Company within **five (5) days** from the service of the Notice, the facts set forth by West Penn Power Company in the Motion may be deemed to be true, thereby requiring no other proof. All pleadings, 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 West Penn Power 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  
Office of Administrative Law Judge  
Piatt Place, Suite 220  
301 5th Avenue  
Pittsburgh, PA 15222

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

Date: June 21, 2019



Lauren M. Lepkoski, Esquire  
Tori L. Giesler, Esquire

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**DIANA SABATINE**

**v.**

**WEST PENN POWER COMPANY**

:  
:  
:  
:  
:

**: Docket No. C-2018-3002804**

**MOTION OF WEST PENN POWER COMPANY TO DISMISS COMPLAINT OF  
DIANA SABATINE FOR FAILURE TO COMPLY WITH ORDER**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

West Penn Power Company (“West Penn Power” or the “Company”) by and through its attorneys, Lauren M. Lepkoski and Tori L. Giesler, and pursuant to 52 Pa. Code §§ 5.245, 5.371-5.372, hereby files this Motion to Dismiss the complaint of Diana Sabatine (“Complainant”) for her failure to comply with Administrative Law Judge (“ALJ”) Jeffrey A. Watson’s Orders. In support thereof, the Company avers as follows:

**I. BACKGROUND**

1. The Complainant filed a Formal Complaint with the Pennsylvania Public Utility Commission (“Commission”) regarding 315 Possum Hollow Road, Latrobe, Pennsylvania 15650 (“Service Location”) which was served on the Company on June 18, 2018.

2. On July 9, 2018, 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 July 16, 2018, the Complainant filed a petition for extension of time for 120 days to file a reply to the Preliminary Objections and Answer and New Matter.

4. On July 24, 2018, a Motion Judge Assignment Notice was issued and Administrative Law Judge (“ALJ”) Jeffrey A. Watson was assigned as the Presiding Officer in the above-captioned proceeding.

5. On July 25, 2018, the Company opposed the Complainant’s request for a 120-day extension to file a reply to the Preliminary Objections and Answer and New Matter.

6. The Complainant filed an Amended Formal Complaint which was dated July 27, 2018 and served on the Company on August 2, 2018.

7. On August 1, 2018, the Complainant filed a letter in response to the Company’s opposition of the Complainant’s request for a 120-day extension of time to file a reply to the Preliminary Objections and Answer and New Matter.

8. On August 7, 2018, ALJ Watson issued an Interim Order which granted in part the Complainant’s request for an extension of time to file a reply to the Preliminary Objections and Answer and New Matter. ALJ Watson found that: (1) the Complainant’s request for an extension of time to file a reply to the Preliminary Objections and Answer and New Matter was rendered moot by the filing of the Amended Formal Complaint on July 27, 2018; (2) the Company’s preliminary objections filed on July 9, 2018 were rendered moot by the filing of the Amended Formal Complaint on July 27, 2018; (3) the Company may file a responsive pleading, to include preliminary objections, answer and new matter to the amended formal complaint not later than August 24, 2018; and (4) in the event the Company files a responsive pleading(s) to the Amended Formal Complaint, the Complainant shall be permitted to file a response to the pleadings filed by Respondent not later than September 21, 2018 and provide copies to counsel for the Company, ALJ Watson, contemporaneously with the filing of the responsive pleadings with the Commission’s Secretary.

9. On August 22, 2018, the Company filed its Answer and New Matter to the Amended Formal Complaint denying the material allegations. On the same day, the Company also filed Preliminary Objections to the Amended Formal Complaint.

10. On August 30, 2018, the Complainant filed a request for an extension of time to file a response to the Preliminary Objections and Answer and New Matter to the Amended Formal Complaint.

11. On September 17, 2018, the Complainant filed a renewed request for an extension of time to file a response to the Preliminary Objections and Answer and New Matter to the Amended Formal Complaint.

12. On September 21, 2018, the Complainant filed a response to the Company's Preliminary Objections to the Amended Formal Complaint as well as a response to the Company's Answer and New Matter to the Amended Formal Complaint.

13. On October 12, 2018, the Complainant filed a Notice and Petition for Judicial Determination of Jurisdiction.

14. On October 17, 2018, On October 15, 2018, ALJ Watson issued an Interim Order which denied the Company's Preliminary Objections. That same day, ALJ Watson issued an Interim Order which established a litigation schedule.

15. On October 25, 2018, the Complainant filed a Petition for Interim Review of Law by Pennsylvania Commonwealth Court to Determine Jurisdiction. That same day, the Complainant filed a "settlement offer" which was directed to the Company and valid for twenty days.

16. On November 9, 2018, in accordance with 52 Pa. Code § 5.341, the Company issued 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. The Discovery Requests are attached here to as Exhibit A.

17. By letter dated November 19, 2018, the Complainant objected to all of the Company's Discovery Requests. The Complainant objected on the grounds that: (a) the Interim Order issued by ALJ Watson on October 28, 2018<sup>1</sup> states that the "Complainant bears the burden of proof and must demonstrate by a preponderance of the evidence that the Respondent violated its tariff, the Public Utility Code or a Commission order or regulation, and that he is entitled to the relief requested in the Complaint; (b) the Complainant filed a Notice and Petition for Judicial Determination of Jurisdiction which remains pending; (c) Act 129 of 2008 is being misinterpreted by the Commission and the Company; (d) the "vagueness" of the Discovery Requests; (e) that it is "impossible" for the Complainant to obtain relief from the Commission and therefore must appeal to a higher court of law.

18. On November 30, 2018, in response to the Complainant's objections to the Company's Discovery Requests, the Company filed with the Commission a Motion to Compel Responses to Interrogatories and Document Requests.

19. By letter dated November 29, 2018, the Complainant filed a Motion for Stay wherein the Complainant requested, *inter alia*, a 90 day stay of all proceeding while she pursued "moving" the "civil complaint to an Article III Court of Record as described by the Constitution for these united states of America."

20. By letter dated December 1, 2018, the Complainant provided responses to the Company's Discovery Requests.

---

<sup>1</sup> The Interim Order Establishing Initial Litigation Schedule was issued on October 17, 2018.

21. By letter dated December 8, 2018, the Complainant filed an Objection to Respondent's Request for Motion to Compel.

22. On December 27, 2018, ALJ Watson issued an Interim Order Denying Petition for Review of Law by Pennsylvania Commonwealth Court to Determine Jurisdiction.

23. On December 27, 2018, ALJ Watson issued an Interim Order Denying "Notice and Petition for Judicial Determination of Jurisdiction" Filed by Complainant on October 11, 2018.

24. On December 27, 2018, ALJ Watson issued an Interim Order which denied the Complainant's Motion to Stay.

25. On December 27, 2018, an Interim Order Granting Respondent's Motion to Compel the Complainant to provide responses to the Company's Discovery Requests propounded by the Company was issued. The Order denied the Complainant's objections and directed the Complainant to serve upon the Company full and complete responses to all of the Company's Discovery Requests no later than January 31, 2019.

26. On January 9, 2018, the Complainant submitted a First Amended Notice and Petition for Judicial Determination of Jurisdiction, a Second Amended Notice and Petition for Judicial Determination of Jurisdiction and a Third Amended Notice and Petition for Judicial Determination of Jurisdiction.

27. On January 10, 2019, the Company submitted its witness notification to the ALJ and Complainant as directed by the ALJ in his October 17, 2018 Interim Order, which established a litigation schedule. That same day, the Complainant submitted a request to ALJ Watson for a 60 day extension of time to submit her factual and expert testimony, which the Company objected to.

28. On January 29, 2019, the ALJ issued three separate Interim Orders denying the Complainant's First Amended Notice And Petition For Judicial Determination Of Jurisdiction, the

Complainant's Second Amended Notice And Petition For Judicial Determination Of Jurisdiction; and the Complainant's Third Amended Notice And Petition For Judicial Determination Of Jurisdiction.

29. On January 30, 2019, the ALJ issued an Interim Order, which revised the initial litigation schedule and provided the Complainant until February 19, 2019 to submit her factual and expert witnesses.

30. On January 31, 2019, the Complainant served responses to the Company's Discovery Requests to the Company.

31. On February 5, 2019, the Complainant filed a "Fourth Amended Notice and Petition to Challenge Jurisdiction."

32. Also, on February 5, 2019, the Complainant propounded Interrogatories and Request for Production of Documents (Set 2) upon the Company ("Complainant's Set 1 Discovery Requests").

33. On February 8, 2019, the Complainant provided supplemental responses to the Company's Discovery Requests.

34. On February 26, 2019, the Complainant propounded Interrogatories and Request for Production of Documents (Set 2) upon the Company ("Complainant's Set 2 Discovery Requests").

35. On February 27, 2019, the Company responded to Complainant's Set 1 Discovery Requests.

36. On March 7, 2019, the Company submitted an objection to one question in Complainant's Set 2 Discovery Requests.

37. On March 18, 2019, the Company responded to Complainant's Set 2 Discovery Requests.

38. On April 12, 2019, the Complainant filed what was labeled as a "Status Report"; however, the letter did not provide a Status Report. Instead, the letter questioned the need of a Status Report until ALJ Watson ruled on the Complainant's "Fourth Amended Notice and Petition to Challenge to Jurisdiction." That same day, the Company provided a Status Report to the ALJ and the Complainant.

39. On April 30, 2019, ALJ Watson issued an Interim Order denying the Complainant's "Fourth Amended Notice and Petition to Challenge Jurisdiction." On the same day, ALJ Watson issued an Prehearing Conference Order and the Commission issued a Hearing Notice, which scheduled a prehearing conference on June 4, 2019 at 9:00 a.m.

40. On June 4, 2019, a prehearing conference was held. The Complainant did not attend the prehearing conference.

41. On June 5, 2019, ALJ Watson issued an Interim Order revising the initial litigation schedule, based on the prehearing conference that was held on June 4, 2019.

42. The Company now files this Motion to dismiss the Formal Complaint of the Complainant due to her failure to abide by the Interim Orders of ALJ Watson including her failure to appear at the prehearing conference scheduled on June 4, 2019.

## **II. MOTION TO DISMISS**

43. As discussed in the timeline above, the Complainant never abided the ALJ's Interim Orders, which established a litigation schedule. Specifically, on October 17, 2018, ALJ Watson issued an Interim Order, which established a litigation schedule. As part of the litigation schedule, the ALJ established a deadline of January 10, 2019 for the parties to provide its factual

and expert witnesses to each other. The Company complied with the ALJ's Interim Order; however, the Complainant did not and instead requested an extension of time the very day she was required to submit her witness notification. On January 30, 2019, the ALJ issued another Interim Order, which revised the initial litigation schedule and provided the Complainant until February 19, 2019 to submit her factual and expert witnesses. Even with the extension of time granted by the ALJ, the Complainant still failed to comply with his Interim Order.

44. In addition, to failing to comply with the Interim Orders, which established certain deadlines for the litigation schedule, the Complainant failed to attend a prehearing conference.

45. Administrative agencies, such as the Commission, are required to provide due process to the parties appearing before them. *Schneider v. Pa. Pub. Util. Comm'n.*, 479 A.2d 10 (Pa. Cmwlth. 1984). This due process requirement is satisfied, however, when the administrative agency provides the parties notice and the opportunity to be heard.

46. The Commission sent notice of the prehearing conference in this case to the Complainant on April 30, 2019. The prehearing notice stated the following:

**At the above date and time, you must call into the hearing. If you fail to do so, your case will be dismissed. You will not be called by the Administrative Law Judge.**

**To participate in the hearing,**

- **You must dial the toll-free number listed below**
- **You must enter a PIN number when instructed to do so, also listed below**
- **You must speak your name when prompted**
- **The telephone system will connect you to the hearing**

47. In addition, ALJ Watson issued a prehearing order dated on April 30, 2019, which, *inter alia*, warned both parties of potentially serious consequences if they failed to obtain a continuance and failed to attend the hearing. Specifically, the Order stated the following:

**Complainant's failure to attend and fully participate in the prehearing conference will result in the Complaint being dismissed with prejudice, meaning you will lose your case and you will not be allowed to refile your Complaint in the future. Respondent's failure to attend and fully participate in the prehearing conference will result in Respondent being barred from raising the defenses and issues it raised in its Answer.**

48. The Complainant did not appear for the hearing. Under these circumstances, the Complainant has had ample opportunity to appear and be heard in this proceeding. Therefore, the due process rights of the Complainant have been fully protected. *Sentner v. Bell Telephone Co. of Pa.*, Docket No. F-00161106 (Opinion and Order entered October 25, 1993); 52 Pa. Code § 5.245(a).

49. Section 332(a) of the Public Utility Code, 66 Pa.C.S. § 332(a), places the burden of proof upon the proponent of any request for relief. As the party bringing this Complaint, the Complainant bears the burden of proving by a preponderance of the evidence that she is entitled to relief. By failing to appear and proffer any evidence to support her Complaint, the Complainant has failed to meet this burden.

50. Based on the reasons stated within this Motion, the Complaint should be dismissed with prejudice. *Jefferson v. UGI Utilities, Inc.*, Docket No. Z-00269892 (Opinion and Order entered December 26, 1995); *El-Ayazra v. West Penn Power Company*, Docket No. F-2015-2509292 (Opinion and Order entered June 30, 2016); 52 Pa.Code § 5.245.

WHEREFORE, West Penn Power Company respectfully requests that the Commission dismiss, with prejudice, the Complaint of Diana Sabatine.

Respectfully submitted,

Dated: June 21, 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](mailto:llepkoski@firstenergycorp.com)  
[tgiesler@firstenergycorp.com](mailto:tgiesler@firstenergycorp.com)

Counsel for West Penn Power Company



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

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

November 9, 2018

**VIA FIRST CLASS MAIL**

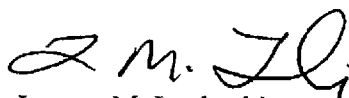
Diana Sabatine  
315 Possum Hollow Road  
Latrobe, PA 15650

**Re: Diana Sabatine v. West Penn Power Company**  
**Docket No. C-2018-3002804**

Dear Ms. Sabatine:

Enclosed please find the Interrogatories and Requests for Production of Documents (Set I) to Diana Sabatine. Pursuant to 52 Pa. Code §§ 5.341 and 5.349, *et seq.*, your answers are due within twenty days of service of this letter (November 29, 2018). In addition, any objections are due within ten days of service of this letter (November 19, 2018). This document has been served as indicated within the Certificate of Service.

Very truly yours,



Lauren M. Lepkoski

Enclosures

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

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>DIANA SABATINE</b>	:	
	:	
<b>v.</b>	:	<b>Docket No. C-2018-3002804</b>
	:	
<b>WEST PENN POWER COMPANY</b>	:	
	:	

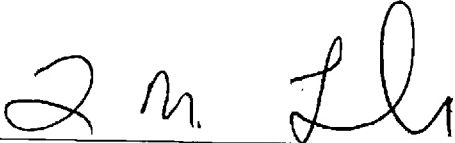
**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the Interrogatories and Requests for Production of Documents of West Penn Power Company to Diana Sabatine 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:

Diana Sabatine  
315 Possum Hollow Road  
Latrobe, PA 15650

Dated: November 9, 2018



Lauren M. Lepkoski  
FirstEnergy Service Company  
2800 Pottsville Pike  
P.O. Box 16001  
Reading, Pennsylvania 19612-6001  
(610) 921-6203  
[llepkoski@firstenergycorp.com](mailto:llepkoski@firstenergycorp.com)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**DIANA SABATINE**

v.

**WEST PENN POWER COMPANY**

:  
:  
:  
:  
:  
:

**Docket No. C-2018-3002804**

**INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS OF  
WEST PENN POWER COMPANY TO DIANA SABATINE, SET I**

West Penn Power Company hereby propounds these Interrogatories and Requests for Production of Documents (Set I) to Diana Sabatine (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 (November 29, 2018) and objections within 10 days (November 19, 2018). 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: November 9, 2018

### 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 Diana Sabatine and her attorneys, agents, or representatives.
- F. As used herein, the terms “Company” or “Respondent” refer to West Penn Power 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-2018-3002804.

H. As used herein, the terms “service location,” “property,” or “home” refer to your service address of 315 Possum Hollow Road, Latrobe, Pennsylvania 15650.

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 WEST PENN POWER COMPANY TO DIANA SABATINE,**  
**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.



- 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 dish 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 “Act 129 is an ‘opt-in’”. 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 his 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 yes to question 15, please specifically describe each of your concerns regarding your household's privacy or security after the installation of a smart meter.
17. 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. Is 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 the standards used to determine the “Electro Magnetic Field (EMF) safety” of smart meters are “woefully outdated.” 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.
- d. Please describe in detail the standards used to determine EMF safety as referenced in this statement.

21. In your complaint, you state that the standards to determine EMF safety of smart meters “allow exposure hundreds and even thousands of times that suspected to cause cancer and known to disrupt multiple biological functions in humans, pets, and wild animals.” 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 a hearing in this proceeding?
- c. Please describe in detail the information you have to support this statement.

22. In your complaint, you state that smart meters “when fully deployed, will interface with electric appliances in homes to control their use in my home.” 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.
23. Please list the specific issues you intend to raise at the hearing in this proceeding.
24. Please identify the legal support, including specific citations, for each issue identified in question 23.
25. Please list the factual support for each issue identified in question 23.
26. 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.
27. Would any witness identified in question 26 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.
28. 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.
29. 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 WEST PENN POWER  
COMPANY COMPANY TO DIANA SABATINE, SET I**

30. 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.
31. 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.
32. 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.
33. Please provide copies of all documentation supporting your position that smart meters would create safety issues for you or members of your household.
34. 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.
35. 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.

36. Please provide copies of all documentation supporting your position that smart meters would violate the privacy or security of your household.
37. 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.
38. Please provide copies of all documentation supporting your position that your household may opt out of smart meter installation.
39. 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.
40. Please provide a copy of all proposed exhibits you intend to submit for the hearing in this proceeding.
41. Please provide copies of all documentation you are relying upon in support of your positions in this proceeding.
42. Please provide copies of all documentation you referenced, referred to, or otherwise relied upon in preparing your responses to these discovery requests.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**DIANA SABATINE**

**v.**

**WEST PENN POWER COMPANY**

:  
:  
:  
:  
:

**Docket No. C-2018-3002804**

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the Motion to Dismiss of West Penn Power 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 electronic and First Class Mail, postage prepaid, as follows:

Diana Sabatine  
315 Possum Hollow Road  
Latrobe, PA 15650  
djsabatine@hotmail.com

Administrative Law Judge Jeffrey A. Watson  
Pennsylvania Public Utility Commission  
Office of Administrative Law Judge  
Piatt Place, Suite 220  
301 5th Avenue  
Pittsburgh, PA 15222  
jeffwatson@pa.gov

Dated: June 21, 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](mailto:llepkoski@firstenergycorp.com)  
[tgiesler@firstenergycorp.com](mailto:tgiesler@firstenergycorp.com)