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Devin Ryan

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File #: 167945

July 12, 2019

***VIA ELECTRONIC FILING***

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor North  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**Re: Rafael and Kimberly Rodriguez v. PPL Electric Utilities Corporation**  
**Docket No. C-2018-3006412**

Dear Secretary Chiavetta:

Enclosed for filing is the Motion of PPL Electric Utilities Corporation to Compel Responses to Discovery Propounded on Rafael and Kimberly Rodriguez – Set I in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,

Devin Ryan

DTR/dmc  
Enclosure

cc: Honorable Elizabeth Barnes (*w/enclosure*)  
Rafael & Kimberly Rodriguez (*w/enclosure*)  
Certificate of Service

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

**VIA E-MAIL & REGULAR MAIL**

Rafael Rodriguez III  
Kimberly S. Rodriguez  
550 White Haven Road  
PO Box 42  
Bear Creek, PA 18602  
E-mail: Rayrod6@gmail.com

Date: July 12, 2019



Devin T. Ryan

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Rafael and Kimberly Rodriguez,	:	
	:	
Complainants,	:	
	:	
v.	:	Docket No. C-2018-3006412
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

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**NOTICE TO PLEAD**

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YOU ARE HEREBY ADVISED THAT, PURSUANT TO 52 PA. CODE § 5.342(g)(1), YOU MAY FILE A REPLY TO THE ENCLOSED MOTION TO COMPEL WITHIN FIVE (5) DAYS AFTER THE DATE OF SERVICE. YOUR REPLY SHOULD BE FILED WITH THE SECRETARY OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION, P.O. BOX 3265, HARRISBURG, PA 17105-3265. A COPY OF YOUR REPLY SHOULD ALSO BE SERVED ON THE UNDERSIGNED COUNSEL.

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Date: July 12, 2019

Attorneys for PPL Electric Utilities Corporation

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Rafael and Kimberly Rodriguez,	:	
	:	
Complainants,	:	
	:	
v.	:	Docket No. C-2018-3006412
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

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**MOTION OF PPL ELECTRIC UTILITIES CORPORATION TO  
COMPEL RESPONSES TO  
DISCOVERY PROPOUNDED ON RAFAEL AND KIMBERLY RODRIGUEZ – SET I**

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TO ADMINISTRATIVE LAW JUDGE ELIZABETH H. BARNES:

Pursuant to 52 Pa. Code §§ 5.342(g) and 5.349(d), PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) hereby files this Motion to Compel Responses to Discovery Propounded on Rafael and Kimberly Rodriguez (“Complainants”) – Set I. In support of its Motion, PPL Electric states as follows:

**I. INTRODUCTION**

1. On May 1, 2019, PPL Electric served Interrogatories and Requests for Production of Documents on the Complainants – Set I (“PPL to Complainant Set I”) via email and first class mail. A true and correct copy of PPL to Complainant Set I is attached hereto and marked as **Appendix A.**

2. Pursuant to the Commission’s regulations, objections to PPL to Complainant Set I were due on or before May 13, 2019, and responses were due on or before May 21, 2019.

3. The Complainants never served any objections or answers to PPL to Complainant Set I.

4. Pursuant to the Prehearing Order dated January 17, 2019, the Complainants were required to serve any statements, reports, and direct testimony of any expert witness they intend to call on or before May 24, 2019.

5. The Complainants have not served any statements, reports, and direct testimony of any expert witness on PPL Electric to date.

6. The Company served its direct testimony and exhibits in this case on June 24, 2019, as required by the Prehearing Order.

7. On July 11, 2019, counsel for PPL Electric sent an email to the Complainants about, among other things, the status of the overdue discovery responses and trying to resolve the discovery dispute informally.

8. On July 12, 2019, the Complainants responded to the email and indicated that they allegedly need more time to prepare for the hearing and, presumably, provide the discovery responses.

9. Counsel for PPL Electric responded to the Complainants' email and stated that it would proceed with filing the Motion but remained willing to try to resolve the discovery dispute informally.

10. As of the filing of this Motion, no formal, complete responses to PPL to Complainant Set I have been received.

## II. MOTION TO COMPEL

11. PPL Electric respectfully requests that the Administrative Law Judge Elizabeth H. Barnes (the “ALJ”) direct the Complainants to answer fully all of the interrogatories set forth in PPL to Complainant Set I.

12. Under 52 Pa. Code § 5.321(c), a party is entitled to obtain discovery of any matter not privileged that is relevant to the pending proceeding, or any matter that is reasonably calculated to lead to the discovery of admissible evidence. Discovery is permitted regardless of whether the information sought “relates to the claim or defense of the party seeking discovery or to the claim or defense of another party.” *Id.*

13. Answers to interrogatories are due within 20 days of the service date. 52 Pa. Code § 5.342(d).

14. Here, PPL Electric served its first set of interrogatories on May 1, 2019. Consequently, answers to PPL to Complainant Set I were due on or before May 21, 2019. Therefore, the responses are now well past due.

15. Further, the Complainants never objected to any of the questions in PPL to Complainant Set I.

16. In addition, the interrogatories propounded by PPL Electric are highly relevant to the issues to be decided in this case, including the Complainants’ claim that the new automated meter infrastructure (“AMI”) meter will cause, contribute to, or exacerbate adverse health effects.

17. Indeed, in their Amended Complaint, the Complainants aver that the new AMI meter “is harmful” and “would exacerbate [their] medical conditions.” (Amended Complaint ¶ 34.)

18. Therefore, requesting the Complainant's medical records of these alleged "medical conditions" is highly relevant to the issues in this case.

19. Additionally, the Complainants provided a cell phone number in their original Formal Complaint. (*See* Original Complaint ¶ 1.)<sup>1</sup>

20. In its interrogatories, PPL Electric requests information about the Complainants' cell phone usage as well as information about any devices that emit radio frequency ("RF") fields that are contained in or used in the Complainants' house.

21. As the testimony of PPL Electric's expert witness on RF exposures – Dr. Christopher Davis – will demonstrate, however, the RF exposures received from use of a cell phone (or even standing within 30 feet of another person using a cell phone) and other devices are far higher than from an AMI meter.

22. Moreover, the evidentiary hearing is scheduled for July 30, 2019, and all exhibits and testimony must be sent to the ALJ no later than July 25, 2019.

23. Therefore, PPL Electric is filing this Motion to Compel to try to receive answers to the discovery in sufficient time before the evidentiary hearing.

24. In addition, on June 24, 2019, PPL Electric served the statements, reports, written testimony, and exhibits it intends to present at the hearing.

25. PPL Electric reserves the right to supplement or revise any of its exhibits, reports, and statements, to the extent that the Complainants serve any of these discovery responses.

26. For these reasons, PPL Electric respectfully requests that the ALJ grant its Motion to Compel Responses to Discovery.

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<sup>1</sup> The Complainants' Complaint was subsequently amended in January 2019. The Amended Complaint added Rafael Rodriguez as a complainant.

### **III. NOTICE OF INTENT TO SEEK SANCTIONS**

27. Upon the motion of a party, the presiding officer may make an appropriate order for sanctions if a party fails to answer or otherwise respond to a discovery request or refuses to obey an order of the presiding officer respecting discovery. *See* 52 Pa. Code § 5.371(a).

28. In ruling upon a motion for sanctions, the presiding officer may, among other things, issue: (1) “[a]n order that the matters regarding which the questions were asked, the character or description of the thing or land, the contents of the paper, or other designated fact shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order”; (2) [a]n order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting the party from introducing in evidence designated documents, things or testimony”; and (3) “[a]n order striking out pleadings or parts thereof, staying further proceedings until the order is obeyed, or entering a judgment against the disobedient party or individual advising the disobedience.” *Id.* § 5.372(a)(1)-(3).

29. Therefore, to the extent that this Motion is granted and the Complainants fail to answer fully PPL to Complainant Set I, or otherwise comply with the ALJ’s order, PPL Electric intends to file an appropriate Motion for Sanctions pursuant to 52 Pa. Code §§ 5.371(a) and 5.372(a).

**IV. CONCLUSION**

For the reasons set forth above, PPL Electric Utilities Corporation respectfully requests that Administrative Law Judge Elizabeth H. Barnes grant this Motion to Compel Responses to Discovery and direct Rafael and Kimberly Rodriguez to answer fully PPL to Complainant Set I, as described above within three (3) days from the date of the order.

Respectfully submitted,



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Michael J. Shafer (ID # 205681)  
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Devin T. Ryan (ID # 316602)  
Garrett P. Lent (ID # 321566)  
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Date: July 12, 2019

Attorneys for PPL Electric Utilities Corporation

# **APPENDIX A**

## **Interrogatories and Requests for Production of Documents Propounded by PPL Electric Utilities Corporation on Rafael and Kimberly Rodriguez – Set I**



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File #: 167945

May 1, 2019

**VIA CERTIFIED MAIL (7017 1450 0002 3778 1083)**  
**VIA E-MAIL**

Rafael Rodriguez III  
Kimberly S. Rodriguez  
550 White Haven Road  
PO Box 42  
Bear Creek, PA 18602

**Re: Rafael and Kimberly Rodriguez v. PPL Electric Utilities Corporation**  
**Docket No. C-2018-3006412**

Dear Mr. & Mrs. Rodriguez:

Enclosed are the Interrogatories and Requests for Production of Documents Propounded by PPL Electric Utilities Corporation on Rafael & Kimberly Rodriguez – Set I in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Please provide answers to the enclosed discovery within twenty (20) days of the date of service, pursuant to 52 Pa. Code § 5.342.

Sincerely,



Devin Ryan

DTR/jpf  
Enclosures

cc: Rosemary Chiavetta, Secretary (*Letter & Certificate of Service Only*)  
Certificate of Service

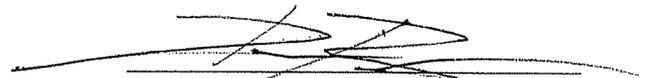
## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

### VIA E-MAIL & CERTIFIED MAIL

Rafael Rodriguez III  
Kimberly S. Rodriguez  
550 White Haven Road  
PO Box 42  
Bear Creek, PA 18602  
E-mail: [Rayrod6@gmail.com](mailto:Rayrod6@gmail.com)

Date: May 1, 2019



Devin T. Ryan

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Rafael and Kimberly Rodriguez,	:	
	:	
Complainant	:	
	:	
v.	:	Docket No. C-2018-3006412
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent	:	

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**INTERROGATORIES AND REQUESTS FOR  
PRODUCTION OF DOCUMENTS PROPOUNDED BY  
PPL ELECTRIC UTILITIES CORPORATION ON  
RAFAEL & KIMBERLY RODRIGUEZ – SET I**

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Pursuant to 66 Pa.C.S. § 333 and 52 Pa. Code §§ 5.341 *et seq.*, PPL Electric Utilities Corporation (“PPL Electric”) propounds the following Interrogatories and Requests for Production of Documents (hereinafter, “discovery requests”) on Rafael & Kimberly Rodriguez (“Complainant”) – Set I.

**INSTRUCTIONS AND DEFINITIONS**

1. The “Responding Party,” “you,” or “your” means the party to which these discovery requests are propounded and/or all attorneys, agents, affiliates, subsidiaries, employees, consultants, members, constituents, and representatives acting on behalf of the Responding Party.
2. “Commission” means the Pennsylvania Public Utility Commission.
3. To “identify” a natural person means to state that person’s full name, title or position, employer, last known address, and last known telephone number.

4. To "identify" a business entity means to state the full name of such business, the form of the business, and its location or address.

5. To "identify" a "document" means to provide all of the following information irrespective of whether the document is deemed privileged or subject to any claim of privilege:

- a. The title or other means of identification of each such document;
- b. The date of each such document;
- c. The author, preparer or signer of each such document; and
- d. A description of the subject matter of such document sufficient to permit an understanding of its contents and importance to the testimony or position being examined and the present or last known location of the document. The specific nature of the document should also be stated (*e.g.*, letter, business record, memorandum, computer print-out, etc.).

In lieu of "identifying" any document, it shall be deemed a sufficient compliance with these discovery requests to attach a copy of each such document to the answers hereto and reference said document in the particular interrogatory to which the document is responsive.

6. "Document" means the original and all drafts of all written and graphic matter, however produced or reproduced, of any kind or description, whether or not sent or received, and all copies thereof which are different in any way from the original (whether by interlineation, date-stamp, notarization, indication of copies sent or received, or otherwise), including without limitation, any paper, book, account, photograph, blueprint, drawing, sketch, schematic, agreement, contract, memorandum, press release, circular, advertising material, correspondence, letter, telegram, telex, object, report, opinion, investigation, record, transcript, hearing, meeting, study, notation, working paper, summary, intra-office communication, diary, chart, minutes, index sheet, computer software, computer-generated records or files, however stored, check, check stub, delivery ticket, bill of lading, invoice, record or recording or summary of any telephone or other conversation, or of any interview or of any conference, or

any other written, recorded, transcribed, punched, taped, filmed, or graphic matter of which the Responding Party has or has had possession, custody or control, or of which the Responding Party has knowledge.

7. "Communication" means any manner or form of information or message transmission, however produced or reproduced, whether as a document as herein defined, or orally or otherwise, which is made, distributed, or circulated between or among persons, or data storage or processing units.

8. "Date" means the exact day, month, and year, if ascertainable, or if not, the best approximation thereof.

9. Items referred to in the singular include those in the plural, and items referred to in the plural include those in the singular.

10. Items referred to in the masculine include those in the feminine, and items referred to in the feminine include those in the masculine.

11. The answers provided to these discovery requests should first restate the question asked and identify the person(s) supplying the information.

12. In answering these discovery requests, the Responding Party is requested to furnish all information that is available to the Responding Party, including information in the possession of the Responding Party's attorneys, agents, consultants, or investigators, and not merely such information of the Responding Party's own knowledge. If any of the discovery requests cannot be answered in full after exercising due diligence to secure the requested information, please so state and answer to the extent possible, specifying the Responding Party's inability to answer the remainder, and stating whatever information the Responding

Party has concerning the unanswered portions. If the Responding Party's answer is qualified in any particular, please set forth the details of such qualification.

13. If the Responding Party objects to providing any document requested on any ground, identify such document by describing it as set forth in Instruction 5 and state the basis of the objection.

14. If the Responding Party objects to part of a discovery request and refuses to answer that part, state the Responding Party's objection and answer the remaining portion of that discovery request. If the Responding Party objects to the scope or time period of a discovery request and refuses to answer for that scope or time period, state the Responding Party's objection and answer the discovery request for the scope or time period that the Responding Party believes is appropriate.

15. If, in connection with a discovery request, the Responding Party contends that any information, otherwise subject to discovery, is covered by either the attorney-client privilege, the so-called "attorneys' work product doctrine," or any other privilege or doctrine, then specify the general subject matter of the information and the basis to support each such objection.

16. If any information is withheld on grounds of privilege or other protection from disclosure, provide the following information: (a) every person to whom such information has been communicated and from whom such information was learned; (b) the nature and subject matter of the information; and (c) the basis on which the privilege or other protection from disclosure is claimed.

17. As set forth in 52 Pa. Code § 5.342(g), these discovery requests are continuing, and the Responding Party is obliged to change, supplement, and correct all answers given to conform to new or changing information.

18. "Formal Complaint" means the Formal Complaint filed by the Complainant at Docket No. C-2018-3006412.

**INTERROGATORIES AND REQUESTS FOR  
PRODUCTION OF DOCUMENTS PROPOUNDED ON  
RAFAEL & KIMBERLY RODRIGUEZ – SET I**

PPL to Complainant-I-1

Re: Formal Complaint.

- (a) Please explain in detail the reasons why you are challenging the Company's installation of the new smart meter.
- (b) Please describe in detail all health concerns, if any, raised by the Company's new smart meter, state the bases for such claims, and provide all documents relied upon by you in your response.
- (c) Please describe in detail all safety concerns, if any, raised by the Company's new smart meter, state the bases for such claims, and provide all documents relied upon by you in your response.
- (d) Please describe in detail all privacy concerns, if any, raised by the Company's new smart meter, state the bases for such claims, and provide all documents relied upon by you in your response.
- (e) Please describe in detail all reasons you believe the Company's new smart meter violates the law.

PPL to Complainant-I-2

Please identify all wireless phones, cellphones, microwaves, wireless routers, wifi networks, tablets, computers, Bluetooth speakers, wireless security systems, smart speakers (*e.g.*, Amazon Echo), garage door openers, baby monitors, and walkie talkies that are contained in or used in the house.

PPL to Complainant-I-3

Please state whether you or any member of your household uses a cell phone. If so, please provide the make and model of each cell phone and, for each phone identified, provide 12 months of phone bills or other records of actual cell phone usage.

PPL to Complainant-I-4

- (a) Please state every health condition you claim was caused by a smart meter or will be caused or worsened by the installation of PPL Electric's new smart meter.
- (b) Please provide the date that every health condition identified in subpart (a) began.

- (c) Please provide copies of all your medical records of every health condition identified in subpart (a).
- (d) For each alleged health condition that you do not have medical records for in response to subpart (c), please state whether such condition was diagnosed by a medical professional. If so, please provide the name, address, and telephone number of the medical professional and the date of the diagnosis.
- (e) For each of the alleged health conditions identified in subpart (a), please state whether you have been prescribed any therapy or treatment for the condition by a medical professional. If so, please identify the therapy or treatment, provide the name, address, and telephone number of the prescribing medical professional, and provide the date the therapy or treatment was prescribed.

PPL to Complainant-I-5

Please identify each person you plan to call as a fact witness in this proceeding. For each person, please:

- (a) Provide the person's name, home and business address, background, and qualifications;
- (b) Explain in detail the subject matter(s) on which the witness is expected to testify; and
- (c) Provide the source(s) of information relied upon or referenced by the witness.

PPL to Complainant-I-6

Please identify each person you plan to call as an expert witness in this proceeding. For each person, please:

- (a) Provide the person's name, home and business address, background, and qualifications;
- (b) Explain in detail the subject matter(s) on which the witness is expected to testify;
- (c) Provide the source(s) of information relied upon or referenced by the witness; and
- (d) Provide a copy of the expert witness's current curriculum vitae.

PPL to Complainant-I-7

Please provide copies of all exhibits you intend to present or utilize at the evidentiary hearing in this proceeding. For each exhibit to be used as part of your direct case, please identify the witness who will be sponsoring the exhibit.