

Tori L. Giesler, Esq.
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July 19, 2019

VIA ELECTRONIC FILING

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

Re: James Wolfgang v. Pennsylvania Electric Company
Docket No. C-2017-2613989

Dear Secretary Chiavetta:

Enclosed please find the Motion to Compel of Pennsylvania Electric 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

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Enclosures

c: As Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JAMES WOLFGANG

v.

PENNSYLVANIA ELECTRIC COMPANY

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Docket No. C-2017-2613989

NOTICE TO PLEAD

TO: James Wolfgang

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 Compel of Pennsylvania Electric Company within **five (5) days** from the service of the Notice, the facts set forth by Pennsylvania Electric Company in the Motion may be deemed to be true, thereby requirement no other proof. All pleading, 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 Pennsylvania Electric 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
Piatt Place
Suite 220
301 5th Avenue
Pittsburgh, PA 15222

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

Date: July 12, 2019



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

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JAMES WOLFGANG

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v.

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Docket No. C-2017-2613989

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PENNSYLVANIA ELECTRIC COMPANY

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**MOTION OF PENNSYLVANIA ELECTRIC COMPANY TO COMPEL RESPONSES
TO INTERROGATORIES AND DOCUMENT REQUESTS**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Pennsylvania Electric Company (“Penelec” or the “Company”) by and through its attorneys, Lauren M. Lepkoski and Tori L. Giesler, and pursuant to 52 Pa. Code §§ 5.371-5.372, hereby files this Motion to compel James Wolfgang (“Complainant”) to provide full and complete responses to interrogatories and document requests re-issued by the Company on May 15, 2019.

In support thereof, the Company avers as follows:

I. BACKGROUND

1. On or about July 6, 2017, the Complainant filed a Formal Complaint with the Pennsylvania Public Utility Commission (“Commission”) regarding 10208 Dunn Avenue, Lake City, Pennsylvania 16423 (“Service Location”) under Account No. 100086970025 (“Account”) which was electronically served on the Company on July 13, 2017.

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

3. On September 6, 2017, Administrative Law Judge (“ALJ”) Jeffrey A. Watson was assigned as the Presiding Officer in the above-captioned proceeding.

4. On September 14, 2017, ALJ Watson issued an Interim Order, which denied the Company's Preliminary Objections.

5. On March 23, 2018, a Prehearing Order Establishing Initial Litigation Schedule was issued which set forth the schedule for discovery, the identification of witnesses, and filing of motions in this proceeding. Relevant to this Motion, ALJ Watson issued a witness notification deadline of May 28, 2018 and a discovery deadline of July 31, 2018.

6. On March 30, 2018, in accordance with 52 Pa. Code § 5.341, the Company forwarded 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.

7. The Complainant did not file any objection to the Discovery Requests and did not provided any responses or the requested documents by the due date.

8. On April 26, 2018, the Company filed a Motion to compel responses to the Discovery Requests.

9. On May 25, 2019, in accordance with the Interim Order Establishing a Litigation Schedule, the Company provided notice and summaries of testimony for its factual and expert witnesses. No witness list was provided by the Complainant.

10. On June 29, 2018, ALJ Watson issued an Interim Order granting the Company's Motion to Compel and ordered the Complainant to provide full and complete responses to the Discovery Requests to the Company not later than August 6, 2018.

11. The Complainant did not file any objection to the Discovery Requests and did not provided any responses or the requested documents by the due date of August 6, 2018.

12. On August 24, 2018, the Company filed a Motion to Dismiss the Formal Complaint due to the Complainant's failure to adhere to ALJ Watson's orders.

13. On November 9, 2018, ALJ Watson issued an Interim Order which held in abeyance the Company's Motion to Dismiss, permitted the Complainant to object to the Company's Discovery Requests no later than November 20, 2019 and required the Complainant to comply with prior interim orders issued regarding responses to the Company's Discovery Requests no later than November 26, 2018.

14. The Complainant did not file any objection to the Company's Discovery Requests by the due date of November 20, 2018.

15. On November 21, 2018, an Interim Order was entered closing the record.

16. On November 27, 2018, an Interim Order reopening the record was entered and ordered Complainant to serve upon counsel for the Company, all information and documentation as previously ordered on June 29, 2018, including full and complete responses to the Discovery Requests not specifically objected to, as well as a certificate of service with the Commission on or before December 7, 2018.

17. The Complainant still had provided no response to the Company's Discovery Requests by the due date of November 26, 2018.

18. On December 19, 2018, an Initial Decision was issued which dismissed the Formal Complaint.

19. The Complainant submitted correspondence dated December 5, 2019, in response to the Initial Decision wherein he stated that he submitted a request in June 2018 seeking information on how to submit confidential information.

20. By Motion dated February 28, 2019, Chairman Gladys M. Brown moved that the Initial Decision be reversed consistent with the Motion, that the Formal Complaint be remanded to the Office of Administrative Law Judge, and that the Office of Special Assistants draft an Opinion and Order consistent with the Motion. Chairman Brown, in her motion, suggested the potential use of a protective order as a type of protection available for transmitting information. Further, Chairman Brown specifically stated that “Mr. Wolfgang is cautioned that he is expected to respond to motions and order in this matter, and that failure to do so again will result in dismissal of his complaint.”

21. On April 10, 2019, an Opinion and Order was entered which vacated the Initial Decision and remanded the Formal Complaint to the Office of Administrative Law Judge for further proceedings as may be necessary and for the issuance of an Initial Decision on Remand.

22. On March 23, 2018, a Second Prehearing Order Establishing Initial Litigation Schedule was issued which set forth the schedule for discovery, the identification of witnesses, and filing of motions in this proceeding. Relevant to this Motion, ALJ Watson issued a witness notification deadline of July 10, 2019 for factual witnesses, June 10, 2019 for expert witnesses, and a discovery deadline of July 31, 2018.

23. On May 15, 2019, in accordance with 52 Pa. Code § 5.341, the Company forwarded for a second time to the Complainant Discovery Requests via first class mail along with a proposed Stipulated Protective Agreement (“SPA”) signed by counsel for the Company in an attempt to address the Complainant’s concerns regarding confidential information. In its Discovery Requests, the Company sought information and documents related to the Complainant’s allegations regarding the Company’s smart meters. A complete copy of the proposed SPA and the Company’s Discovery Requests are attached as Exhibit A.

24. The Complainant did not submit any objections to the Company's Discovery Requests by the deadline of May 25, 2019 and failed to submit responses by June 4, 2019. Further, the Complainant made no attempts to contact counsel for the Company regarding the Company's Discovery Requests or the proposed SPA.

25. On June 10, 2019, in accordance with the Second Prehearing Order Establishing a Litigation Schedule, the Company provided notice and summaries of testimony for its factual and expert witnesses. No witness list was provided by the Complainant.

26. On June 13, 2019, the Company received the SPA from the Complainant; however instead of signing the SPA, the Complainant simply wrote "N/A" on the signature line. A copy of the incomplete SPA is attached as Exhibit B.

27. In addition to the unsigned SPA, the Company received untimely and incomplete responses to the Company's Discovery Requests. The Complainant stated that responses to 2d-h would be submitted "when, and only when our medical records can be sent without compromise." In response to nearly all of the Company's Discovery Requests, the Complainant simply wrote "yes" which was non-responsive to the question and provided no detail nor documentation as requested. A copy of the Complainant's responses to the Discovery Requests is attached as Exhibit C.

28. On July 10, 2019, in accordance with the Second Prehearing Order Establishing a Litigation Schedule, the Company provided notice and summaries of testimony for its factual and expert witnesses. No witness list was provided by the Complainant.

29. The Complainant has failed to provide full and complete responses to the Company's Discovery Requests, failed to sign or suggest modifications to the proposed SPA, and

failed to contact counsel for the Company regarding any questions or concerns related to the Company's Discovery Requests or the SPA.

30. Further, The Complainant has ignored ALJ Watson's Second Order Establishing Litigation Schedule requiring the exchange expert and factual witness information by June 10 and July 10, 2019, as no witness information has been received from the Complainant as of the filing of this Motion.

II. MOTION TO COMPEL

31. The Commission's regulations permit the discovery of "any matter, not privileged, which is relevant to the subject matter involved in the pending action." 52 Pa. Code § 5.321(c).

32. Generally speaking, this Commission applies a standard of relevance which is less restrictive than that required by parties to present information into the evidentiary record. It is not grounds 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. 52 Pa. Code § 5.321(c).

33. Discovery may be obtained regarding any matter relevant to the subject matter. Relevant evidence is evidence that tends to make an act at issue more or less probable. Moreover, evidence is relevant if it advances the inquiry in some degree and, thus, has probative value. Although the law does not furnish an absolute test of relevancy, the Pennsylvania Supreme Court follows a two-part analysis for determining relevance. In *Commonwealth v. Stewart*, 461 Pa. 274, 336 A.2d 282 (1975), the Court held that "[i]t must be determined first if the inference sought to be raised by the evidence bears upon a matter at issue in this case and, second, whether the evidence renders the desired inference more probable than it would be without the evidence. *Id.* at 284.

34. The information sought here by the Company is relatively simple and straightforward. It is directly relevant and material to the issues raised by the Complainant in both her Formal Complaint as well as her responsive pleading. The Company is entitled to the requested information to enable it to fully investigate what information the Complainant relied on to make the specific and detailed allegations he did in his Formal Complaint. If the Complainant needed more time to answer the Company's Discovery Requests, he could have contacted the Company to request an extension.

35. The Commission's Regulations at 52 Pa. Code § 5.371 address the consequences of a participant's failure to comply with the Commission's discovery regulations. Section 5.371 provides that:

- (a) The Commission or the presiding officer may, on motion, make an appropriate order if one of the following occurs:
 - (1) A party fails to appear, answer, file sufficient answers, file objections, make a designation or otherwise respond to discovery requests, as required under this subchapter.

36. Further, 52 Pa. Code § 5.372 provides that the presiding officer may impose appropriate sanctions upon a party found to be found in violation of the obligations set forth in the Commission's Regulations.

37. As a result of the Complainant's failure to provide full and complete responses to the Company's Discovery Requests, which demonstrates his lack of cooperation and willingness to participate in this proceeding as required under the Commission's regulations, the Formal Complaint in this proceeding should be dismissed in its entirety.

38. The Company requests that the Complainant be directed to provide full and complete responses to the Discovery Requests to be received by the undersigned counsel for the Company within five business days after entry of an Order Granting the Motion to Compel.

39. In the event the Complainant are directed by the Commission, but fail to respond to the Company's Discovery Requests, the Company respectfully requests that the Complaint against the Company be dismissed in its entirety.

WHEREFORE, Pennsylvania Electric Company respectfully requests that the Commission issue an Order compelling the Complainant to fully and completely respond to the Discovery Requests such that the responses are received by counsel for the Company no later than five business days after entry of an Order on the Motion to Compel. Further, in the event the Complainant does not comply with the Order directed by the Commission and fails to respond to the Company's Discovery Requests, the Company respectfully requests that the Commission dismiss in its entirety the Complaint of James Wolfgang.

Respectfully submitted,

Dated: July 19, 2019



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Counsel for Pennsylvania Electric Company



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

May 15, 2019

VIA FIRST CLASS MAIL

James Wolfgang
10208 Dunn Avenue
Lake City, PA 16423

Re: James Wolfgang v. Pennsylvania Electric Company
Docket No. C-2017-2613989

Dear Mr. Wolfgang:

Enclosed please find the Interrogatories and Requests for Production of Documents (Set I) to James Wolfgang. Pursuant to 52 Pa. Code §§ 5.341 and 5.349, *et seq.*, your answers are due within twenty days of service of this letter (June 4, 2019). In addition, any objections are due within ten days of service of this letter (May 25, 2019). This document has been served as indicated within the Certificate of Service.

In addition to this material, I have enclosed a proposed protected agreement for your consideration. Please review this at your earliest convenience. If you have any questions, please feel free to reach out. If you have no questions, please sign and sent it back to me.

Very truly yours,

Tori L. Giesler

Enclosures

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

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JAMES WOLFGANG

v.

PENNSYLVANIA ELECTRIC COMPANY

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Docket No. C-2017-2613989

**INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS OF
PENNSYLVANIA ELECTRIC COMPANY TO JAMES WOLFGANG, SET I**

Pennsylvania Electric Company hereby propounds these Interrogatories and Requests for Production of Documents (Set I) to James Wolfgang (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 (June 4, 2019) and objections within 10 days (May 25, 2019). 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: May 15, 2019

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 James Wolfgang and his attorneys, agents, or representatives.

F. As used herein, the terms “Company” or “Respondent” refer to Pennsylvania Electric 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-2017-2613989.

H. As used herein, the terms “service location,” “property,” or “home” refer to your service address of 10208 Dunn Avenue, Lake City, Pennsylvania 16423.

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 PENNSYLVANIA ELECTRIC COMPANY TO
JAMES WOLFGANG, SET I

1. Do you believe the installation of a smart meter at your property would create or worsen health issues for a member of your household?
2. If the answer to question 1 is yes, please provide the following information for each household member:
 - a. Name;
 - b. Age;
 - c. The specific health issues that you believe would be experienced after the smart meter is installed;
 - d. Whether the household member is already experiencing the specific health issues;
 - e. Whether the household member has experienced the specific health issues 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 issue, and if so, the name, address, and phone number of the medical professional and the date of the visit(s) to the medical professional.
 - h. Whether a medical professional has determined that the installation of a smart meter would create or worsen the specific health issue.

3. Please explain how the installation of a smart meter would create or worsen health issues for your household members. Be as specific as possible.
4. Please provide the following information in support of your position that health issues at your household would be created or worsened by the installation of a smart meter.
 - a. Please identify each document you rely on in support of your 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.
5. Would you consider yourself a medical professional?
 - a. If yes, please identify your medical professional title, relevant educational experience, and relevant work experience.
6. Do you believe the installation of a smart meter at your property would create safety concerns for a member of your household?

7. If the answer to question 6 is yes, please specifically identify each of your safety concerns related to smart meters.
8. Please provide the following information regarding your position that the installation of a smart meter would create safety concerns:
 - 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.
9. In your complaint, you request that the complaint be resolved by giving you “[a]n opt out option.” 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?
10. Is it your position that you would like to opt out completely from smart meter installation?
11. To your knowledge, has a smart meter been installed by the Company at your property?
12. Please describe in detail how you believe a smart meter operates.
13. In your complaint, you state that smart meters “emit dirty electric every five minutes to once every hour.” 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. Do you have any relevant educational or work background that qualifies you to make this statement?
 - e. Is yes, please identify the relevant educational or work background that qualifies you to make this statement.

14. In your complaint, you state that you “oppose the implementation of the smart meter on the basis that it is not healthy, not safe, not green, and will contribute to ongoing health concerns regarding my family.” Please provide the following information related to this statement:
- a. What documents do you rely on in support of your assertion that smart meters are “not green?”
 - 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. Do you have any relevant educational or work background that qualifies you to make this statement?
 - e. If yes, please identify the relevant educational or work background that qualifies you to make this statement.
15. In your complaint you state that you “would agree to terms such as paying more or a green option.” Please provide the following information related to this statement.
- a. Please define what you mean by “a green option” in the context of this statement.
 - b. Please list any “green option[s]” that you believe are available to the Company.
 - c. What documents do you rely on in support of your assertion that the options listed above are “green option[s]” available to the Company?

- d. Do you intend to rely on these documents at the time of the hearing in this proceeding?
 - e. Please describe in detail the information you have to support that these are “green option[s]” available to the Company.
 - f. Do you have any relevant educational or work background that qualifies you to make this statement?
 - g. If yes, please identify the relevant educational or work background that qualifies you to make this statement.
16. Please list the specific issues you intend to raise at the hearing in this proceeding.
17. Please identify the legal support, including specific citations, for each issue identified in question 16.
18. Please list the factual support for each issue identified in question 16.
19. 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 contact information 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.
20. Would any witness identified in question 19 be offered as an expert?
- a. If yes, provide the curriculum vitae of the witness and state the scope of the testimony of the expert witness.
21. 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.
22. 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 PENNSYLVANIA ELECTRIC
COMPANY TO JAMES WOLFGANG, SET I**

23. Please provide copies of all documentation supporting your position that the health issues of your household would be created or worsened by the installation of a smart meter.
24. Please provide copies of all documentation associated with visits by members of your household to a medical professional related to the health issues identified in question 1.
25. Please provide copies of all documentation you intend to refer to at the hearing in this proceeding related to the impact of smart meters on a person's health.
26. Please provide copies of all documentation supporting your position that smart meters would create safety issues for you or members of your household.
27. 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.
28. Please provide a copy of all proposed exhibits you intend to submit for the hearing in this proceeding.
29. Please provide copies of all documentation you are relying upon in support of your positions in this proceeding.
30. Please provide a copy of all documentation you referred to, referenced, or otherwise relied upon in any way in responding to these discovery requests.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JAMES WOLFGANG :
 :
 v. : **Docket No. C-2017-2613989**
 :
PENNSYLVANIA ELECTRIC COMPANY :

STIPULATED PROTECTIVE AGREEMENT

This Agreement is between and among James Wolfgang (“Wolfgang”); Pennsylvania Electric Company (“Penelec”), by and through Penelec’s attorneys Lauren M. Lepkoski, Esquire, Tori L. Giesler, Esquire; and Penelec’s expert(s) and any and all other experts whom Penelec may hire or whom Penelec may consult within regards to the above-captioned proceeding (“Proceeding”). This Agreement establishes procedures for the protection of certain confidential information involved in the Proceeding.

Intending to be legally bound, the parties hereby agree as follows:

1. That the information subject to this Stipulated Protective Agreement is all correspondence, documents, data, personal health information, studies, and other materials to be furnished by Wolfgang’s medical providers pursuant to Penelec’s interrogatories to Wolfgang as to their health conditions, and which Wolfgang’s medical providers may provide to Penelec pursuant to a release signed by Wolfgang. Such materials will be referred to below as “Confidential Information.” When a statement or exhibit is identified for the record, the portions thereof that constitute Confidential Information shall be so designated for the record.

2. All Confidential Information shall only be made available to Penelec subject to the terms of this Stipulated Protective Agreement. Counsel for Penelec shall use or

disclose the Confidential Information only for purposes of preparing or presenting evidence, cross examination or argument in the Proceeding. Penelec may afford access to Confidential Information made available by Wolfgang's experts and health care providers (1) only to Penelec's experts, and (2) only subject to the terms of this Stipulated Protective Agreement.

3. Before Penelec discloses any Confidential Information to anyone, (1) Penelec shall secure written assurance from each of such potential person to whom disclosure may be made that he or she will maintain the confidentiality of the Confidential Information and not disclose the Confidential Information further except in preparation for the above mentioned Proceeding; (2) Penelec shall provide Wolfgang with a list of Penelec experts to whom Penelec intends to disclose the Confidential Information; and (3) signatures of such experts, that they agree to the terms of this Agreement, shall be furnished to Wolfgang before Penelec discloses any Confidential Information to any Penelec expert.

4. Penelec shall use its best efforts to safeguard the Confidential Information and not disclose any Confidential Information except as provided herein. Penelec agrees to give Wolfgang written notice within five days of Penelec's discovery of any unintentional disclosure of the Confidential Information and Penelec shall cooperate with Wolfgang to rectify to the extent possible, any damage to Wolfgang for unintentional disclosure of Confidential Information.

5. Wolfgang retains the right to challenge the adequacy of Penelec's written assurances that Confidential Information will not be jeopardized. No other persons may have access to the Confidential Information except as authorized by order of the Commission or of the presiding Administrative Law Judge.

6. Prior to making Confidential Information available to an expert, Penelec shall deliver a copy of this Stipulated Protective Agreement to such expert and shall receive a

written acknowledgment from the expert in the form attached as Appendix A to this Stipulated Protective Agreement or similar acknowledgment consistent with the terms of this Stipulated Protective Agreement. Wolfgang shall be notified promptly of the identity of all persons provided access to Confidential Information pursuant to this paragraph and paragraph 3 above and shall be provided with a copy of each acknowledgment signed by each expert.

7. Penelec acknowledges that all health information it receives from Wolfgang's healthcare providers pursuant to Penelec's interrogatory requests is Confidential Information and Penelec shall immediately stamp each page of such documents "Confidential" and shall keep all Confidential Information segregated from its general litigation files in a secure location.

8. Penelec will consider and treat the Confidential Information as within the exemptions from disclosure provided in the Pennsylvania Right-to-Know Act as set forth at 65 P.S. § 67.708(b). To the extent Confidential Information is provided electronically or by mail, or other electronic means, Penelec and its experts will send such information encrypted, and will use such electronic files only for this Proceeding, will not copy the files onto any hard drive and will not make any additional copies.

9. Any public reference to Confidential Information by Penelec or its experts shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Confidential Information to understand fully the reference, but not more. The Confidential Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review but shall remain in a segregated location and shall be prominently marked "CONFIDENTIAL."

10. That part of any record of this Proceeding containing Confidential

Information, including but not limited to all exhibits, writings, direct testimony, cross examination, argument, and responses to discovery, and including reference thereto as mentioned in paragraph 6 above, shall be sealed for all purposes, including administrative and judicial review, unless such Confidential Information is released from the restrictions of this Stipulated Protective Agreement, either through the agreement of the parties to this Stipulated Protective Agreement or pursuant to an order of an Administrative Law Judge or the Commission.

11. Wolfgang shall retain the right to question or challenge the admissibility of Confidential Information; to refuse to produce or object to the production of Confidential Information on any proper ground; and to seek additional measures of protection of Confidential Information beyond those provided in this Stipulated Protective Agreement.

12. That within thirty (30) days after a Commission decision is entered in the Proceedings, or in the event of appeals, within thirty (30) days after appeals are finally decided, Penelec and Penelec's experts, upon request, shall either destroy or return to Wolfgang all copies of all documents and other materials not entered into the record, including notes, electronic or e-mailed files, which contain any Confidential Information. In the event that Penelec elects to destroy all copies of documents and other materials containing Confidential Information instead of returning the copies of documents and other materials containing Confidential information to Wolfgang, Penelec shall immediately certify in writing to Wolfgang that all the Confidential Information has been destroyed.

Agreed:

James Wolfgang

Date

PENNSYLVANIA ELECTRIC COMPANY

Lauren M. Lepkoski

Lauren M. Lepkoski, Esquire

5/15/19

Date

-- PENNSYLVANIA ELECTRIC COMPANY

Tori L. Giesler

Tori L. Giesler, Esquire

5/15/19

Date

APPENDIX A

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JAMES WOLFGANG :
 :
 v. : Docket No. C-2017-2613989
 :
 PENNSYLVANIA ELECTRIC COMPANY :

ACKNOWLEDGMENT OF
STIPULATED PROTECTIVE AGREEMENT

TO WHOM IT MAY CONCERN:

The undersigned is Lawyer for Pennsylvania Electric Company, in the Proceeding as defined in the Stipulated Protective Agreement. The undersigned has read and understands the Stipulated Protective Agreement agreed to in the Proceeding, which Stipulated Protective Agreement deals with the treatment of Confidential Information. The undersigned agrees to be bound by, and comply with, the terms and conditions of said Stipulated Protective Agreement.

Tori L Giestek
NAME

2800 Pottsville Plce
Reading PA 19605
ADDRESS

First Energy Service Company
EMPLOYER

DATE: 5/15/19

APPENDIX A

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JAMES WOLFGANG :
 :
 v. : Docket No. C-2017-2613989
 :
 PENNSYLVANIA ELECTRIC COMPANY :

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Lauren M. Lepakaski
NAME

2500 Pottsville Pike
Reading PA 19605
ADDRESS

First Energy Service Company
EMPLOYER

DATE: 5/15/2019

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JAMES WOLFGANG :
: :
v. : **Docket No. C-2017-2613989**
: :
PENNSYLVANIA ELECTRIC COMPANY :

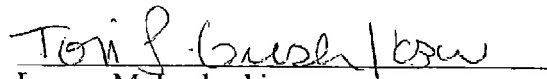
CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the Interrogatories and Requests for Production of Documents of Pennsylvania Electric Company to James Wolfgang 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:

James Wolfgang
10208 Dunn Avenue
Lake City, PA 16423

Dated: May 15, 2019



Lauren M. Lepkoski
Tori L. Giesler
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, Pennsylvania 19612-6001
(610) 921-6203
(610) 921-6658
llepkoski@firstenergycorp.com
tgiesler@firstenergycorp.com

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JAMES WOLFGANG

v.

PENNSYLVANIA ELECTRIC COMPANY

:
:
:
:
:

Docket No. C-2017-2613989

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the Motion to Compel of Pennsylvania Electric Company upon the individual listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Service by First Class Mail, postage prepaid, as follows:

James Wolfgang
10208 Dunn Avenue
Lake City, PA 16423

Dated: July 19, 2019



Lauren M. Lepkoski
Tori L. Giesler
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