

Tori L. Giesler, Esq.
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August 8, 2019

VIA ELECTRONIC FILING

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


Re: Patricia and Michael Rowley v. Pennsylvania Electric Company
Docket No. C-2019-3008815

Dear Secretary Chiavetta:

Enclosed please find the Motion to Dismiss of Pennsylvania Electric Company with regard to the above-captioned matter. This document has been served on the Complainants as shown in the Certificate of Service.

Please contact me if you have any questions regarding this matter.

Very truly yours,


Tori L. Giesler

krak
Enclosures

c: As Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PATRICIA AND MICHAEL ROWLEY :
 :
 V. : **Docket No. C-2019-3008815**
 :
PENNSYLVANIA ELECTRIC COMPANY :

NOTICE TO PLEAD

TO: Patricia and Michael Rowley

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 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 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 Pennsylvania Electric Company, and where applicable, the Administrative Law Judge presiding over the case.

File with:

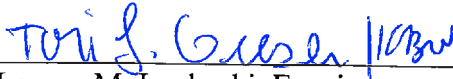
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

With a copy to:

Administrative Law Judge Emily I. DeVoe
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
Pennsylvania Electric Company
2800 Pottsville Pike
P.O. Box 16001
Reading, Pennsylvania 19612-6001

Date: August 8, 2019



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

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PATRICIA AND MICHAEL ROWLEY :
 :
 V. : **Docket No. C-2019-3008815**
 :
PENNSYLVANIA ELECTRIC COMPANY :

**MOTION OF PENNSYLVANIA ELECTRIC COMPANY TO DISMISS COMPLAINT
OF PATRICIA AND MICHAEL ROWLEY FOR FAILURE TO COMPLY WITH
ORDERS**

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 §§ 5.245, 5.371-5.372, hereby files this Motion to Dismiss the complaint of Patricia and Michael Rowley (“Complainants”) for their failures to comply with Administrative Law Judge (“ALJ”) Emily I. DeVoe’s Orders or respond to discovery propounded by Penelec. In support thereof, the Company avers as follows:

I. BACKGROUND

1. On March 21, 2019, the Complainants filed a Formal Complaint with the Pennsylvania Public Utility Commission (“Commission”) regarding 1305 East 41st Street, Erie, Pennsylvania 16504 (“Service Location”) which was electronically served on the Company on March 27, 2019.

2. On April 16, 2019, 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 May 16, 2019, a Motion Judge Assignment Notice was issued which assigned ALJ DeVoe to this proceeding.

4. On June 5, 2019, ALJ DeVoe issued an Interim Order which denied the Company's Preliminary Objections.

5. Also on June 5, 2019, an Initial Call-In Telephonic Prehearing Conference Notice was issued which scheduled a prehearing conference for July 30, 2019.

6. On June 6, 2019, an Interim 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 DeVoe issued a deadline for notification of witnesses of July 24, 2019 and a discovery deadline of September 18, 2019.

7. Further, on June 6, 2019, ALJ DeVoe issued an Interim Order Scheduling Prehearing Conference ordering the parties to fully participate in the prehearing conference and be fully prepared for the prehearing conference, consistent with the terms set forth in the Interim Order. Specifically, Page 1 of the Interim Order Scheduling Prehearing Conference states:

Only I have the authority to cancel the prehearing conference. The parties **must** appear for and participate in the prehearing conference, unless I issue a written order cancelling the conference. Requests to reschedule the conference must be made in writing, and must be received in my office no later than five calendar days prior to the hearing.

Complainants' 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. [Emphasis in original.]

8. On July 12, 2019, in accordance with 52 Pa. Code § 5.341, the Company issued to the Complainants interrogatories and document requests ("Discovery Requests") via first class mail. In its Discovery Requests, the Company sought information and documents related to the Complainants' allegations regarding the Company's smart meters. Responses to the Discovery

Requests were due on or before August 1, 2019. A full copy of the Company's Discovery Requests is attached as Exhibit A.

9. On July 24, 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 such notice was provided by the Complainants.

10. On July 30, 2019, the prehearing conference was convened as scheduled. Counsel for the Company participated in the conference. Complainants did not participate. The legal assistant for ALJ DeVoe called the telephone number listed for Complainants on the Formal Complaint and spoke with Mrs. Rowley. ALJ DeVoe's legal assistant advised that "Mrs. Rowley stated that their attorney advised them not to speak to us," including ALJ DeVoe, and promptly terminated the telephone call. The Prehearing Conference was reconvened at approximately 10:10 a.m. and proceeded until concluded. Complainants did not participate in the conference. Counsel for the Company moved to dismiss the Formal Complaint with prejudice for failure of Complainants to participate at the prehearing conference. ALJ DeVoe requested that the Company's motion be reduced to writing.

11. The Company is not aware of communication from the Complainants regarding their absence at the Prehearing Conference and at no point did the Complainants contact the Company regarding the Formal Complaint.

12. In addition, at no point did the Complainants contact the Company to discuss the Discovery Requests or to seek an extension of time to respond to the Discovery Requests. The Complainants offered no objections or responses to the Discovery Requests.

13. To date, the Complainants have ignored ALJ DeVoe's Interim Order Establishing Litigation Schedule issued on June 6, 2019, requiring the exchange expert and factual witness

information by July 17, 2019, as no witness information has been received from the Complainants as of the filing of this Motion.

14. The Company now files this Motion to dismiss the Formal Complaint of the Complainants due to their failure to abide by the Interim Orders of ALJ DeVoe, for their failure to appear at the Initial Telephonic Prehearing Conference and prosecute the Formal Complaint, failure to exchange expert and factual witness information, and for their failure to even acknowledge receipt of the Company's Discovery Requests.

II. MOTION TO DISMISS

15. 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).

16. 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).

17. 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.

18. 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. The Company is entitled to the requested information to enable it to fully investigate and defend against the Complainants' allegations.

19. 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 and provides that the Commission or the presiding officer may, on motion, make an appropriate order if a party fails to appear, answer, file sufficient answers, file objections, make a designation or otherwise respond to discovery requests.

20. 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.

21. The Initial Call-In Telephonic Prehearing Conference Notice issued on June 5, 2019, specifically stated: "[a]t 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."

22. The Interim Order Scheduling Initial Telephonic Prehearing Conference issued on June 6, 2019, specifically ordered: "[y]ou must call into the hearing on the scheduled day and time. If you fail to do so, your case will be dismissed. You will not be called by the Administrative Law Judge."

23. Despite the warnings that the Complainants would not be called by the ALJ, attempts were made by the ALJ's office to reach the Complainants during the prehearing conference.

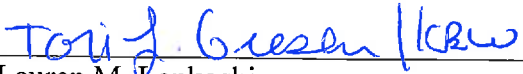
24. The Complainants have failed to provide any responses to the Company's Discovery Requests, failed to provide notification of any potential witnesses in contradiction to the Interim Order issued by ALJ DeVoe, and failed to appear at Initial Telephonic Prehearing Conference as directed by the Initial Call-In Prehearing Telephonic Hearing Notice and the Interim Order Scheduling Initial Telephonic Prehearing Conference.

25. The Complainants' actions demonstrate a consistent lack of cooperation and willingness to participate in this proceeding as required under the Commission's regulations. As a result, the Formal Complaint in this proceeding should be dismissed in its entirety.

WHEREFORE, Pennsylvania Electric Company respectfully requests that the Commission dismiss, with prejudice, the Complaint of Patricia and Michael Rowley.

Respectfully submitted,

Dated: August 8, 2019



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(330) 315-9263 (Fax)

July 12, 2019

VIA FIRST CLASS MAIL

Patricia and Michael Rowley
1305 East 41st Street
Erie, PA 16504

Re: Patricia and Michael Rowley v. Pennsylvania Electric Company
Docket No. C-2019-3008815

Dear Patricia and Michael Rowley:

Enclosed please find the Interrogatories and Requests for Production of Documents (Set I) to Patricia and Michael Rowley. Pursuant to 52 Pa. Code §§ 5.341 and 5.349, *et seq.*, your answers are due within twenty days of service of this letter (August 1, 2019). In addition, any objections are due within ten days of service of this letter (July 22, 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 Watson, Public Utility Commission (Cover Letter and Certificate of Service)
Rosemary Chiavetta, Esq., Public Utility Commission (Cover Letter and Certificate of Service)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PATRICIA AND MICHAEL ROWLEY :
 :
 : **v.** : **Docket No. C-2019-3008815**
 :
 :
PENNSYLVANIA ELECTRIC COMPANY :

**INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS OF
PENNSYLVANIA ELECTRIC COMPANY TO PATRICIA AND MICHAEL ROWLEY,
SET I**

Pennsylvania Electric Company hereby propounds these Interrogatories and Requests for Production of Documents (Set I) to Patricia and Michael Rowley (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 (August 1, 2019) and objections within 10 days (July 22, 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: July 12, 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 Patricia and Michael Rowley and their 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-2019-3008815.

H. As used herein, the terms “service location,” “property,” or “home” refer to your service address of 1305 East 41st Street, Erie, Pennsylvania 16504.

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 PATRICIA
AND MICHAEL ROWLEY, 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 disk 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. Do you believe the installation of a smart meter at your property would violate the privacy or security of a member of your household?
14. If yes to question 13, please specifically describe each of your concerns regarding your household's privacy or security after the installation of a smart meter.
15. 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.
16. To your knowledge, has a smart meter been installed by the Company at your property?
17. Please describe in detail how you believe a smart meter operates.
18. In your complaint, you state that “[t]here have been widespread of smart meter billing overcharges.” Please provide the following information related to this statement:
- a. What documents do you rely on in support of your contention that smart meters have resulted in over billing?
 - 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.
19. In your complaint, you state that “utility companies admitted they are providing smart meter data to the government and third parties too.” 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.
- 20. In your complaint, you state that “smart meters are also a cybersecurity threat smart meters can be easily hacked.” 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.
- 21. In your complaint, you state that “Electromagnetic hypersensitivity (EHS) or the medical diagnosis known as IEI (Idiopathic Environmental Illness), which is increasing exponentially due to all the microwave emissions from smart meters.” 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 information.

22. In your complaint, you state that “[m]ilitary studies here show pulsed radiation can cause serious health problems, sleeping problems, headaches, nausea, anxiety, heart palpitations, tinnitus, memory loss, seizures, concentration problems, dizziness, immune problems, cancer too.” 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. In your complaint, you state that “[s]mart meter health problems include thousands of studies link biological effects to RF radiation, exposure, including cancer risk, damage to the nervous system, adverse reproductive effects, DNA damage, and more.” 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.
24. In your complaint, you state that groups that are vulnerable to what you allege are the harmful side effects of smart meters include “people with EMP sensitivities, medical implants, compromised immune systems, children, pets, pregnant women,

seniors, and the environment.” 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. Is there a reason that you or members of your household are particularly vulnerable to what you allege are the harmful side effects of smart meters? If yes, please list the reasons you believe yourself or members of your household to be particularly vulnerable to what you allege are the harmful side effects of smart meters.
25. In your complaint, you state that “[i]f you have a pacemaker PG&E warns you to stay 6 inches away from a smart meter because the heart and pacemaker is being disruption from the electric meter waves.” 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.
26. Please list the specific issues you intend to raise at the hearing in this proceeding.

27. Please identify the legal support, including specific citations, for each issue identified in question 26.
28. Please list the factual support for each issue identified in question 26.
29. 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.
30. Would any witness identified in question 29 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.
31. 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.
32. 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 PATRICIA AND MICHAEL ROWLEY, SET I**

33. 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.
34. 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.
35. 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.
36. Please provide copies of all documentation supporting your position that smart meters would create safety issues for you or members of your household.
37. 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.
38. 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.

39. Please provide copies of all documentation supporting your position that smart meters would violate the privacy or security of your household.
40. 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.
41. Please provide a copy of all proposed exhibits you intend to submit for the hearing in this proceeding.
42. Please provide copies of all documentation you are relying upon in support of your positions in this proceeding.
43. Please provide copies of all documentation you referenced, referred to, or otherwise relied on in preparing your responses to these interrogatories and requests for production of documents.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PATRICIA AND MICHAEL ROWLEY :
 :
 v. : **Docket No. C-2019-3008815**
 :
PENNSYLVANIA ELECTRIC COMPANY :

STIPULATED PROTECTIVE AGREEMENT

This Agreement is between and among Patricia and Michael Rowley (“Rowley”); 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 Rowley’s medical providers pursuant to Penelec’s interrogatories to Rowley as to their health conditions, and which Rowley’s medical providers may provide to Penelec pursuant to a release signed by Rowley. 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 Rowley'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 Rowley 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 Rowley 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 Rowley written notice within five days of Penelec's discovery of any unintentional disclosure of the Confidential Information and Penelec shall cooperate with Rowley to rectify to the extent possible, any damage to Rowley for unintentional disclosure of Confidential Information.

5. Rowley 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. Rowley 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 Rowley'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. Rowley 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 Rowley 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 Rowley, Penelec shall immediately certify in writing to Rowley that all the Confidential Information has been destroyed.

Agreed:

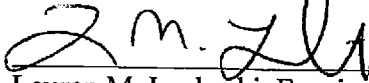
Patricia Rowley

Date

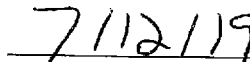
Michael Rowley

Date

PENNSYLVANIA ELECTRIC COMPANY

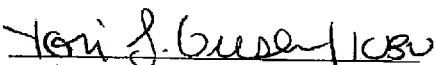


Lauren M. Lepkoski, Esquire

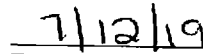


Date

PENNSYLVANIA ELECTRIC COMPANY



Tori L. Giesler, Esquire



Date

APPENDIX A

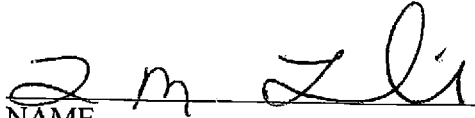
BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PATRICIA AND MICHAEL ROWLEY :
 :
 v. : Docket No. C-2019-3008815
 :
 PENNSYLVANIA ELECTRIC COMPANY :

ACKNOWLEDGMENT OF
STIPULATED PROTECTIVE AGREEMENT

TO WHOM IT MAY CONCERN:

The undersigned, Lauren M. Lepkoski, is counsel 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.


NAME

2800 Pottsville Pike

Reading, PA 19605
ADDRESS

FirstEnergy Service Company
EMPLOYER

DATE: 7-12-2019

APPENDIX A

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PATRICIA AND MICHAEL ROWLEY	:	
	:	
v.	:	Docket No. C-2019-3008815
	:	
PENNSYLVANIA ELECTRIC COMPANY	:	

ACKNOWLEDGMENT OF
STIPULATED PROTECTIVE AGREEMENT

TO WHOM IT MAY CONCERN:

The undersigned, Tori L. Giesler, is counsel 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. Giesler KBW
NAME

2800 Pottsville Pike

Reading, PA 19605
ADDRESS

FirstEnergy Service Company
EMPLOYER

DATE: July 12, 2019

APPENDIX A

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PATRICIA AND MICHAEL ROWLEY :
 :
 v. : Docket No. C-2019-3008815
 :
 PENNSYLVANIA ELECTRIC COMPANY :

ACKNOWLEDGMENT OF
STIPULATED PROTECTIVE AGREEMENT

TO WHOM IT MAY CONCERN:

The undersigned, _____(NAME) is _____(TITLE),
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.

NAME

ADDRESS

EMPLOYER

DATE: _____

APPENDIX A

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PATRICIA AND MICHAEL ROWLEY :
 :
 v. : Docket No. C-2019-3008815
 :
 PENNSYLVANIA ELECTRIC COMPANY :

ACKNOWLEDGMENT OF
STIPULATED PROTECTIVE AGREEMENT

TO WHOM IT MAY CONCERN:

The undersigned, _____(NAME) is _____(TITLE),
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.

NAME

ADDRESS

EMPLOYER

DATE: _____

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PATRICIA AND MICHAEL ROWLEY :
 :
 v. : **Docket No. C-2019-3008815**
 :
PENNSYLVANIA ELECTRIC COMPANY :

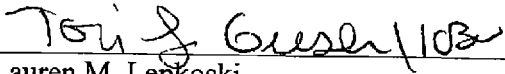
CERTIFICATE OF SERVICE

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 Patricia and Michael Rowley 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:

Patricia and Michael Rowley
1305 East 41st Street
Erie, PA 16504

Dated: July 12, 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**

PATRICIA AND MICHAEL ROWLEY :
 :
 V. : **Docket No. C-2019-3008815**
 :
PENNSYLVANIA ELECTRIC COMPANY :

CERTIFICATE OF SERVICE

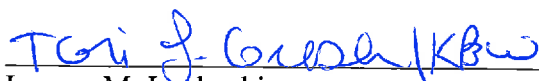
I hereby certify that I have this day served a true copy of the Motion to Dismiss of Pennsylvania Electric Company upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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

Patricia and Michael Rowley
1305 East 41st Street
Erie, PA 16504

Administrative Law Judge Emily I. DeVoe
Pennsylvania Public Utility Commission
Office of Administrative Law Judge
Piatt Place, Suite 220
301 5th Avenue
Pittsburgh, PA 15222

Dated: August 8, 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