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August 30, 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: Lawrence and Debra Esposito v. PPL Electric Utilities Corporation
Docket No. C-2019-3007334

Dear Secretary Chiavetta:

Enclosed for filing is the Motion of PPL Electric Utilities Corporation to Dismiss the Formal Complaint of Lawrence and Debra Esposito in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,



Devin Ryan

DTR/dmc
Enclosures

cc: Honorable Elizabeth Barnes
Certificate of Service


**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Lawrence and Debra Esposito,	:	
	:	
Complainants,	:	
	:	
v.	:	Docket No. C-2019-3007334
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

NOTICE TO PLEAD

YOU ARE HEREBY ADVISED THAT, PURSUANT TO 52 PA. CODE § 5.371(b), YOU MAY FILE A REPLY TO THE ENCLOSED MOTION TO DISMISS 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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Michael J. Shafer (ID # 205681)
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Date: August 30, 2019

Attorneys for PPL Electric Utilities Corporation

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Lawrence and Debra Esposito,	:	
	:	
Complainants,	:	
	:	
v.	:	Docket No. C-2019-3007334
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

**MOTION OF PPL ELECTRIC UTILITIES CORPORATION TO
DISMISS THE FORMAL COMPLAINT OF LAWRENCE AND DEBRA ESPOSITO**

TO ADMINISTRATIVE LAW JUDGE ELIZABETH H. BARNES:

Pursuant to 52 Pa. Code §§ 5.371-5.372, PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) hereby files this Motion to Dismiss the Formal Complaint filed by Lawrence and Debra Esposito (“Complainants”) in the above-captioned proceeding, due to their failure to comply with the Order Granting Motion to Compel (“Order”) issued by Administrative Law Judge Elizabeth H. Barnes (“ALJ”) on August 2, 2019. In support of its Motion, PPL Electric states as follows:

I. INTRODUCTION

1. On January 22, 2019, PPL Electric was served with the Formal Complaint filed by the Complainants against the Company, which challenged the planned installation of the Company’s new automated metering infrastructure (“AMI”) meter at the service address.
2. On February 11, 2019, PPL Electric timely filed its Answer to the Complaint.
3. On February 19, 2019, a Notice was issued scheduling the telephonic evidentiary hearing for September 9, 2019 before the ALJ.

4. On March 7, 2019, a Prehearing Order was issued establishing certain procedural rules as well as the deadlines for the parties' exchange of written testimony and exhibits.

5. On June 11, 2019, PPL Electric served Interrogatories and Requests for Production of Documents on the Complainants – Set I (“PPL to Complainants Set I”) via email and certified mail. A true and correct copy of PPL to Complainants Set I is attached hereto and marked as **Appendix A**.

6. Pursuant to the Commission's regulations, objections to PPL to Complainants Set I were due on or before June 21, 2019, and responses were due on or before July 1, 2019.

7. The Complainants never served any objections to PPL to Complainants Set I by June 21, 2019.

8. On July 8, 2019, the Complainants served their responses to PPL to Complainants Set I. However, the Complainants refused to provide or did not provide the information and materials requested in PPL to Complainants Set I, Questions 2, 3, and 4. A true and correct copy of the Complainants' responses PPL to Complainants Set I is attached hereto and marked as **Appendix B**.

9. On July 17, 2019, PPL Electric filed a Motion to Compel responses to PPL to Complainants Set I, Questions 2, 3, and 4. The Company also filed a Motion for Protective Order.

10. On July 22, 2019, the Complainants filed an Answer to PPL Electric's Motion to Compel.

11. On August 2, 2019, the ALJ issued an Order granting PPL Electric's Motion to Compel. The Order specifically directed the Complainants to provide responses Questions 2, 3,

and 4 to PPL Electric “no later than August 15, 2019.” A true and correct copy of the Order Granting Motion to Compel is attached hereto as **Appendix C**.

12. On August 5, 2019, PPL Electric served its written testimony and exhibits, in accordance with the procedural schedule set forth in the March 7, 2019 Prehearing Order.

13. On August 14, 2019, the Complainants filed a Petition for Interlocutory Review of the ALJ’s Order Granting Motion to Compel.

14. On August 21, 2019, PPL Electric filed a Brief in Opposition to the Complainants’ Petition for Interlocutory Review.

15. On August 23, 2019, the ALJ issued an Order denying the Complainants’ Petition for Interlocutory Review.

16. As of the filing of this Motion, no complete responses to PPL to Complainants Set I, Questions 2, 3, and 4 have been received.

17. For the reasons explained herein, PPL Electric respectfully requests that the ALJ grant the instant Motion and dismiss the Complainants’ Formal Complaint with prejudice, due to their failure to comply with the ALJ’s August 2, 2019 Order Granting Motion to Compel and the Commission’s regulations.

II. LEGAL STANDARDS

18. 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.*

19. Answers to written interrogatories must “[a]nswer each interrogatory fully and completely unless an objection is made.” *Id.* § 5.342(a)(4).

20. 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 refused to obey an order of the presiding officer respecting discovery. *See* 52 Pa. Code § 5.371(a).

21. Among the potential sanctions, the ALJ may enter:

(1) An 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) An 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.

(3) An 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.

(4) An order with regard to the failure to make discovery as is just.

52 Pa. Code § 5.372(a)(1)-(4) (emphasis added).

III. MOTION TO DISMISS FOR FAILURE TO COMPLY WITH THE ORDER GRANTING MOTION TO COMPEL

22. PPL Electric respectfully requests that the ALJ grant the instant Motion and dismiss the Complainants’ Formal Complaint with prejudice, due to their failure to comply with the ALJ’s August 2, 2019 Order Granting Motion to Compel.

23. Here, PPL Electric has propounded straightforward requests for the Complainants to provide information that is very relevant to the issues in this proceeding.

24. In Question 2, PPL Electric has asked that the Complainants 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 talks that are contained in or used in the house. This inquiry is relevant to whether the Complainants expose themselves to technology that emits higher levels of radio frequency (“RF”) fields than the new AMI meter.

25. Relatedly, in Question 3, the Company has requested information regarding the Complainants’ cell phone usage and records of such usage. Using this information, PPL Electric could calculate the amount of the Complainants’ RF exposure from any cell phones and compare it to the lower amount of RF exposure from the new AMI meter.

26. In Question 4, PPL Electric has asked the Complainants to identify health conditions they allege will be caused or worsened by the installation of the AMI meter and to provide any medical records of those alleged conditions. This is especially relevant because the Complainants have alleged that the AMI meter will cause adverse health effects, but they have provided absolutely no medical records.

27. By refusing to answer these interrogatories fully, even after being directed to do so by the ALJ, the Complainants are denying PPL Electric due process and preventing the full and complete development of the evidentiary record.

28. The Complainants’ actions demonstrate their disregard of the ALJ’s Order Granting Motion to Compel and the Commission’s regulations.

29. Importantly, the Commission has regularly dismissed AMI meter complaints with prejudice due to the complainants’ failure to answer discovery in compliance with the presiding administrative law judge’s orders granting motions to compel. *See, e.g., Carol Sojda and Carol*

Lutzkanin v. Metropolitan Edison Co., Docket No. C-2017-2638350, pp. 7-8 (Jan. 9, 2019), *adopted*, Docket No. C-2017-2638350 (Order entered Mar. 28, 2019); *Kimberly Beckmann v. Metropolitan Edison Co.*, Docket No. C-2017-2613702, pp. 7-10 (Jan. 31, 2019), *adopted*, Docket No. C-2017-2613702 (Order entered Apr. 11, 2019); *Darlene Stanton v. Pennsylvania Electric Co.*, Docket No. C-2018-3001144, pp. 6-11 (May 10, 2019), *adopted*, Docket No. C-2018-3001144 (Order entered July 11, 2019); *Diana Cook v. West Penn Power Co.*, Docket No. C-2018-3003051, pp. 6-10 (May 1, 2019), *adopted*, Docket No. C-2018-3003051 (Order entered July 11, 2019).

30. Thus, consistent with the Commission's regulations and precedent, PPL Electric respectfully requests that the ALJ grant the instant Motion and dismiss the Complainants' Formal Complaint with prejudice.

IV. CONCLUSION

For the reasons set forth above, PPL Electric Utilities Corporation respectfully requests that Administrative Law Judge Elizabeth H. Barnes grant this Motion and dismiss the Formal Complaint filed by Lawrence and Debra Esposito with prejudice.

Respectfully submitted,



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Date: August 30, 2019

Attorneys for PPL Electric Utilities Corporation

APPENDIX A

Interrogatories and Requests for Production of Documents Propounded by PPL Electric Utilities Corporation on Lawrence and Debra Esposito – Set I



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June 11, 2019

VIA CERTIFIED MAIL (7017 1450 0002 3778 1144)
VIA E-MAIL

Lawrence & Debra Esposito
4239 High Road
Cresco, PA 18326

Re: Lawrence and Debra Esposito v. PPL Electric Utilities Corporation
Docket No. C-2019-3007334

Dear Mr. & Mrs. Esposito:

Enclosed are the Interrogatories and Requests for Production of Documents Propounded by PPL Electric Utilities Corporation on Lawrence & Debra Esposito – 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/jl
Enclosures

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

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Lawrence and Debra Esposito,	:	
	:	
Complainant	:	
	:	
v.	:	Docket No. C-2019-3007334
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent	:	

**INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS PROPOUNDED BY
PPL ELECTRIC UTILITIES CORPORATION ON
LAWRENCE & DEBRA ESPOSITO – SET I**

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 Lawrence & Debra Esposito (“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-2019-3007334.

**INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS PROPOUNDED ON
LAWRENCE & DEBRA ESPOSITO – 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.

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 AND CERTIFIED MAIL

Lawrence and Debra Esposito
4239 High Road
Cresco, PA 18326
E-mail:choochcavone@verizon.net

Date: June 11, 2019



Devin T. Ryan

APPENDIX B

Lawrence and Debra Esposito's Answers to PPL Electric Utilities Corporation's Interrogatories and Requests for Production of Documents – Set I

**RESPONSE TO PPL INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS PROPOUNDED ON
LAWRENCE & DEBRA ESPOSITO – SET I**

Responses to 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.

RESPONSE:

- 1. We do not want a smart meter installed on our house.**
 - a. The long term health effects of the type of radiation emitted by smart meters is, at best UNKNOWN with many studies pointing to definite deleterious health effects, despite the claims of parties with a vested interest in their installation. Uncertainty about the health safety of smart meters leads us to conclude that we do not want to risk our family's health on a device without scientific proof that it is, in fact, safe. (Historical references: the Tobacco Industry, the Asbestos industry)**
 - b. Each member of our family has health conditions that may be exacerbated by the presence of such a microwave device.**
 - c. 41 states with smart meter laws also allow constituents to "opt-out". The original PA law included an opt-out provision that was later removed by a subsequent act. New bills to restore the opt-out provision that have been passed by the PA State House of Representatives have been continuously blocked for over a decade by one person – the Chairman of the House "Consumer Affairs Committee."**
- 2. New "opt-out" bills are being proposed in the Pennsylvania State Senate and House of Representatives. Example:**
 - a. PA House Bill No. 311, Session of 2019:**
 - (iii) In accordance with a depreciation schedule not to exceed 15 years.] Customers may opt out of receiving smart meter technology under this paragraph by notifying, in writing, the electric distribution company.**
- 3. Forty-one states now have smart meter opt-out for consumers. (List attached)**
- 4. There is no material benefit for our household from installation of a smart meter. There are no reasonable justifications for installing smart meters as an issue of "Homeland Security", "National Defense", safety, or reduction of energy consumption.**
- 5. We do not need a smart meter to tell us how to reduce our energy consumption. Every month we receive in the mail two items: 1. a "Home Energy Report" describing our energy use and suggesting possible ways to save energy and 2. a "Bill" from PPL which is always an incentive to reduce consumption.**

6. As citizens of the United States of America and the Commonwealth of Pennsylvania we are protected from and wish to affirm our desire to be protected from laws that violate our basic human rights as stated in the:

A. Constitution of Pennsylvania: Article I, Section 27 – Natural resources and the public estate - The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and aesthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.

B. United States Constitution: Amendment IV -

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated.

C. United States Constitution: Amendment XIV - Section 1: All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

D. Carpenter v United States: U.S. Supreme Court decision, June, 2018. “As Justice Brandeis explained in his famous dissent, the Court is obligated—as “subtler and more far-reaching means of invading privacy have become available to the Government”—to ensure that the “progress of science” does not erode Fourth Amendment protections. *Olmstead v. United States*, 277 U. S. 438, 473–474 (1928). Here the progress of science has afforded law enforcement a powerful new tool to carry out its important responsibilities. At the same time, this tool risks Government encroachment of the sort the Framers, “after consulting the lessons of history,” drafted the Fourth Amendment to prevent. *Di Re*, 332 U. S., at 595.

We decline to grant the state unrestricted access to a wireless carrier’s database of physical location information. In light of the deeply revealing nature of CSLI, its depth, breadth, and comprehensive reach, and the inescapable and automatic nature of its collection, the fact that such information is gathered by a third party does not make it any less deserving of Fourth Amendment protection. The Government’s acquisition of the cell-site records here was a search under that Amendment.

The judgment of the Court of Appeals is reversed, and the case is remanded for further proceedings consistent with this opinion. **It is so ordered.**

(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.

RESPONSE:

- 1. Cancer (Leukemia, Breast Cancer, Brain Cancer)**
- 2. Alzheimer's Disease, Parkinson's Disease**
- 3. Genotoxicity (Genetic Damage)**
- 4. Autism Spectrum Conditions**
- 5. Reproductive Damage (sperm damage, fetal damage)**
- 6. Damage to the blood/brain barrier**

The basis for the preceding claims is

A. "The Bioinitiative 2012 Report, Updated 2014-2019: A Rationale for Biologically-based Exposure Standards for Low-Intensity Electromagnetic Radiation",

Authors: Biolnitiative Working Group 2012

Jitendra Behari, PhD, India
Paulraj Rajamani, PhD, India
Carlo V. Bellieni, MD, Italy
Igor Belyaev, Dr.Sc., Slovak Republic
Carl F. Blackman, PhD, USA
Martin Blank, PhD, USA
Michael Carlberg, MSc, Sweden
David O Carpenter, MD, USA
Zoreh Davanipour, DVM, PhD USA
Adamantia F. Fragopoulou, PhD, Greece
David Gee, Denmark
Yuri Grigoriev, MD, Russia
Kjell Hansson Mild, PhD, Sweden
Lennart Hardell, MD, PhD, Sweden
Martha Herbert, PhD, MD, USA
Paul Heroux, PhD, Canada
Michael Kundi, PhD, Austria
Henry Lai, PhD, USA
Ying Li, PhD, Canada
Abraham R. Liboff, PhD, USA
Lukas H. Margaritis, PhD, Greece
Henrietta Nittby, MD, PhD, Sweden
Gerd Oberfeld, MD, Austria
Bertil R. Persson, PhD, MD, Sweden
Iole Pinto, PhD, Italy
Cindy Sage, MA, USA
Leif Salford, MD, PhD, Sweden
Eugene Sobel, PhD, USA

Amy Thomsen, MPH, MSPAS, USA

The referenced pages from the study document are attached: **“The Bioinitiative 2012 Report, Updated 2014-2019: A Rationale for Biologically-based Exposure Standards for Low-Intensity Electromagnetic Radiation – Summary for the Public (pages 16-104)”**

Cindy Sage, MA, Sage Associates, USA

Prepared for the BioInitiative Working Group

August 2007, Revised 2014-2019

B. Written evidence submitted by Dr Andrew Goldsworthy (SMR46) to the House of Commons Select Committee on Energy and Climate Change, United Kingdom, Regarding Smart Meters (Attached)

(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.

RESPONSE: NOT A PART OF THE ORIGINAL COMPLAINT

(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.

RESPONSE:

The installation of smart meters will increase the possibility of the following invasions of privacy:

1. **Identity Theft**
2. **Determine Personal Behavior Patterns**
3. **Determine Specific Appliances Used**
4. **Perform Real-Time Surveillance**
5. **Reveal Activities Through Residual Data**
6. **Targeted Home Invasions (latch key children, elderly, etc.)**
7. **Provide Accidental Invasions**
8. **Activity Censorship**
9. **Decisions and Actions Based Upon Inaccurate Data**
10. **Profiling**
11. **Unwanted Publicity and Embarrassment**
12. **Tracking Behavior Of Renters/Leasers**
13. **Behavior Tracking (possible combination with Personal Behavior Patterns)**
14. **Public Aggregated Searches Revealing Individual Behavior**

A. SUPPORTING DOCUMENT: New Jersey Senate Bill A2994

Introduced Session: 2018-2019 Regular Session

An Act concerning the installation of smart meters, and supplementing Title 48 of the Revised Statutes

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

1. a. An electric public utility shall not install an advanced or smart energy meter unless the electric public utility has obtained the customer's written consent, as determined by the board, and has provided the customer with a written disclosure detailing the type of data that will be transmitted from a customer's advanced or smart energy meter to the electric public utility, how the data will be used, and any potential disclosure of the data to a third-party.

b. As used in this section: "Advanced or smart energy meter" means an electrical meter that identifies a customer's electric power consumption in greater detail than a conventional meter in order to provide a customer with real-time usage information and pricing data on at least an hourly basis, to record and store hourly usage data, to report the status of the electric power supply to an electric public utility for the customer's premises, and to turn the electric power to the customer's premises on or off through remote disconnection or connection of service.

"Board" and "electric public utility" shall have the same meaning as prescribed for those terms under section 3 of P.L.1999, c.23 (C.48:3-51).

2. This act shall take effect on the 90th day after the date of enactment.

Bill Summary:

This bill prohibits an electric public utility (utility) from installing a smart meter unless the utility obtains the customer's written consent and provides the customer with a written disclosure detailing the type of data that will be transmitted from the customer's smart meter to the utility, how the data will be used, and any potential disclosure of the data to a third-party. Under the bill, a smart meter means an electrical meter that identifies a customer's electric power consumption in greater detail than a conventional meter. A smart meter provides a customer with real-time usage information and pricing data on at least an hourly basis, records, and stores hourly usage data, reports the status of the electric power supply for a customer's premises to a utility, and turns electric power to a customer's premises on or off through remote disconnection or connection of service. Across the country, utilities are installing smart meter technology. This technology has raised privacy concerns because the information gathered from smart meters includes unencrypted data that can reveal when a homeowner is away from their residence for long periods of time. The information gathered from smart meters can also

decipher what type of activities a customer is engaged in, such as watching television, using a computer, or how long someone spends cooking. In response to privacy concerns, Oklahoma has enacted legislation concerning smart meters and customer privacy which limits the sharing of smart meter data. In addition, the Vermont affiliate of the American Civil Liberties Union has proposed certain guidelines regarding smart meters, including requiring law enforcement to obtain a warrant prior to accessing smart meter data. The purpose of this bill is for customers to be informed of the privacy issues that may arise from smart meter technology. Since the use of smart meters raises a number of privacy concerns, electric utilities should inform customers of privacy issues prior to installing a smart meter.

Bill Subjects:
Telecommunications and Utilities
Sponsors (1): Ron Dancer, R

B. Supporting Document: *Carpenter v United States*: U.S. Supreme Court decision, June, 2018.

“As Justice Brandeis explained in his famous dissent, the Court is obligated—as “[s]ubtler and more far-reaching means of invading privacy have become available to the Government”—to ensure that the “progress of science” does not erode Fourth Amendment protections. *Olmstead v. United States*, 277 U. S. 438, 473–474 (1928). Here the progress of science has afforded law enforcement a powerful new tool to carry out its important responsibilities. At the same time, this tool risks Government encroachment of the sort the Framers, “after consulting the lessons of history,” drafted the Fourth Amendment to prevent. *Di Re*, 332 U. S., at 595.

We decline to grant the state unrestricted access to a wireless carrier’s database of physical location information. In light of the deeply revealing nature of CSLI, its depth, breadth, and comprehensive reach, and the inescapable and automatic nature of its collection, the fact that such information is gathered by a third party does not make it any less deserving of Fourth Amendment protection. The Government’s acquisition of the cell-site records here was a search under that Amendment.

The judgment of the Court of Appeals is reversed, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.

(e) Please describe in detail all reasons you believe the Company’s new smart meter violates the law.

RESPONSE:

1. PPL's Smart meter violates our rights under the United States Constitution and the Constitution of the Commonwealth of Pennsylvania. As citizens of the United States of America and the Commonwealth of Pennsylvania we are protected from laws that violate our basic human rights as stated in the:

A. Constitution of Pennsylvania: Article I, Section 27 – Natural resources and the public estate - The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and aesthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.

B. United States Constitution: Amendment IV -

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated.

C. United States Constitution: Amendment XIV - Section 1: All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

2. The type of data collected by smart meters is a violation of our privacy.

A. Carpenter vs The United States: United States Supreme Court, June 22, 2018 (ATTACHED)

Summary conclusion: The government's warrantless acquisition of Carpenter's cell-site records violated his Fourth Amendment right against unreasonable searches and seizures. Chief Justice John Roberts authored the opinion for the 5-4 majority. The majority first acknowledged that the Fourth Amendment protects not only property interests, but also reasonable expectations of privacy. Expectations of privacy in this age of digital data do not fit neatly into existing precedents, but tracking person's movements and location through extensive cell-site records is far more intrusive than the precedents might have anticipated. The Court declined to extend the "third-party doctrine"—a doctrine where information disclosed to a third party carries no reasonable expectation of privacy—to cell-site location information, which implicates even greater privacy concerns than GPS tracking does. One consideration in the development of the third-party doctrine was the "nature of the particular documents sought," and the level of intrusiveness of extensive cell-site data weighs against application of the doctrine to this type of information.

Additionally, the third-party doctrine applies to voluntary exposure, and while a user might be abstractly aware that his cell phone provider keeps logs, it happens without any affirmative act on the user's part. Thus, the Court held narrowly that the government generally will need a warrant to access cell-site location information.

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.

RESPONSE:

1. Listed below are all such devices which we are being forced by law to have in our home against our will, and against our rights as U.S. citizens. The devices listed below are all the devices listed in your request that you have the right to know about without a warrant.

a. SUCH DEVICES: NONE

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.

RESPONSE:

1. Listed below are all such devices which we are being forced by law to have in our home against our will, and against our rights as U.S. citizens. The devices listed below are all the devices listed in your request that you have the right to know about without a warrant.

a. SUCH DEVICES: NONE

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 sub part (a) began.

(c) Please provide copies of all your medical records of every health condition identified in sub part (a).

(d) For each alleged health condition that you do not have medical records for in response to sub part (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 sub part (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.

RESPONSE:

1. We choose not to disclose any Personal Health Information.

a. PA Code Title 28, Health and Safety. Chapter 115, Medical Record Services.

Section 115.27, Confidentiality of Medical Records. - "All records shall be treated as confidential. Only authorized personnel shall have access to the records. The written authorization of the patient shall be presented and then maintained in the original record as authority for release of medical information outside the hospital."

b. PA Code Title 28, Health and Safety, Chapter 563. Medical Records, section 563.9, Confidentiality of Medical Records - "Records shall be treated as confidential.

Only authorized personnel shall have access to the records. The written authorization of the patient shall be presented and then maintained in the original record as authority for release of medical information outside the ASF."

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.

RESPONSE:

1. No fact or expert witnesses at this time.

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.

RESPONSE: ATTACHMENTS

1. The Constitution of Pennsylvania – Exhibit Sponsor: Complainants (source: <https://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=00&div=0&chpt=1>)
2. Amendments to the Constitution of the United States of America – Exhibit Sponsor: Complainants (source: U.S. Government Printing Office - <https://www.congress.gov/content/conan/pdf/GPO-CONAN-2017-7.pdf>)
3. “The Bioinitiative 2012 Report, Updated 2014-2019: A Rationale for Biologically-based Exposure Standards for Low-Intensity Electromagnetic Radiation – Summary for the Public (pages 16-104)”
Cindy Sage, MA, Sage Associates, USA – Exhibit Sponsor: Complainants (source: https://bioinitiative.org/wp-content/uploads/pdfs/sec01_2007_summary_for_public.pdf)
4. “The Bioinitiative 2012 Report, Updated 2014-2019: A Rationale for Biologically-based Exposure Standards for Low-Intensity Electromagnetic Radiation” full report. – Exhibit Sponsor: Complainants (source: <https://bioinitiative.org>)
5. “Written evidence submitted by Dr Andrew Goldsworthy (SMR46) to the House of Commons Select Committee on Energy and Climate Change, United Kingdom, Regarding Smart Meters”, – Exhibit Sponsor: Complainants (source: <https://publications.parliament.uk/pa/cm201314/cmselect/cmenergy/161/161vw44.htm>)

6. "CARPENTER v. UNITED STATES" – Exhibit Sponsor: Complainants (source: https://www.supremecourt.gov/opinions/17pdf/16-402_new_o75q.pdf)

7. Trans Atlantic Consumer Dialogue DOC No. INFOSOC 44-11: "Resolution on Privacy and Security Related to Smart Meters" Exhibit Sponsor: Complainants (source: https://epic.org/privacy/smartgrid/Smart_Meter_TACD_Resolution_FINAL.pdf)

8. 028 Pa. Code § 115.27. Confidentiality of Medical Records. Exhibit Sponsor: Complainants

9. 028 Pa. Code § 569.9. Confidentiality of Medical Records. Exhibit Sponsor: Complainants

10. PA House Bill No. 311, Session of 2019

11. 50 State Smart Meter Opt-Out Chart

APPENDIX C

August 2, 2019 Order Granting Motion to Compel

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Lawrence and Debra Esposito	:	
	:	
v.	:	C-2019-3007334
	:	
PPL Electric Utilities Corporation	:	

ORDER GRANTING MOTION TO COMPEL

The hearing in the above-captioned matter has been scheduled for September 9, 2019. PPL served its Set I Interrogatories and Requests for Production of Documents (Set I) upon the Complainant on June 11, 2019. Objections were due June 21, 2019 and responses were due on July 1, 2019. Complainant never served any objections to PPL by June 21, 2019. On July 8, 2019, Complainants served their responses to PPL. However, PPL claims in its Motion to Compel filed on July 17, 2019, that they failed to provide information requested in Questions 2, 3, and 4. To date Complainant have not sent complete responses to Questions 2, 3 and 4. Complainants did file a Response to the Motion to Compel on July 22, 2019. The Motion to Compel is ripe for a decision.

In its Motion to Compel, PPL seeks an order compelling full responses to Set I, Questions 2, 3 and 4. Specifically, PPL seeks the identification of all wireless phones, cellphones, microwave ovens, wireless routers, wi-fi networks, tablets, computers, Bluetooth speakers, wireless security systems, smart speakers, garage door openers, baby monitors, and walkie talkies in the service property. PPL requests the make, model and amount of cell phone usage and 12 months of phone bills showing usage for any cell phones used in the household.

Complainant objects on the grounds that these questions are in violation of the Fourth and Fourteenth Amendments to the United States Constitution as they constitute an unreasonable search into their privacy.

I find information requested in PPL Interrogatories 2-3 may be admissible or lead to discovery of admissible evidence at the hearing and is discoverable under the broad terms of 52 Pa. Code Section 5.321. Whether there are devices emitting radio frequency fields in the service property and the frequency and duration of the usage of these devices, including cell phones, may be admissible and relevant at the hearing. Additionally, I find information requested in Question 4 to be likely to lead to admissible evidence as it requests information pertaining to health conditions claimed to be caused by or worsened by an AMI meter.

For there to be a deprivation of constitutional rights, the deprivation must be caused by the exercise of some right or privilege created by the state and the party charged with deprivation must be a person who may fairly said to be a state actor. *Commonwealth v. Corley*, 491 A.2d 829 (Pa. 1985). PPL is a regulated utility, but not a state actor and there is no evidence it is providing information sought to law enforcement. *Jackson v. Metropolitan Edison Co.*, 419 U.S. 345, 351-53 (1974). Thus, PPL is not violating Complainant's Fourth or Fourteenth Amendment rights to be free from unreasonable searches and seizures.

Complainants argue 28 Pa.Code § 115.27 applies as a defense to producing confidential medical records. Complainants' medical records are relevant to this proceeding as they allege health conditions caused by or exacerbated by an AMI meter. A protective order will be issued concurrent with this Order such that any medical records may be kept confidential if they are marked as such.

THEREFORE,

IT IS ORDERED:

1. That PPL Utilities Corporation's Motion to Compel is granted.

2. That Complainants are directed to provide PPL Utilities Corporation with full responses to PPL Set I Interrogatories and Requests for Production of Documents Questions 2, 3 and 4 consistent with the body of this Order **no later than August 15, 2019.**

Date: August 1, 2019

/s/
Elizabeth H. Barnes
Administrative Law Judge

C-2019-3007334 - LAWRENCE AND DEBRA ESPOSITO v. PPL ELECTRIC UTILITIES CORPORATION

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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 AND REGULAR MAIL

Lawrence and Debra Esposito
4239 High Road
Cresco, PA 18326
E-mail:choochcavone@verizon.net

Date: August 30, 2019



Devin T. Ryan