



17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
717-731-1970 Main
717-731-1985 Main Fax
www.postschell.com

Devin Ryan

dryan@postschell.com
717-612-6052 Direct
717-731-1981 Direct Fax
File #: 167945

September 3, 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: Alan Andrews v. PPL Electric Utilities Corporation
Docket No. C-2019-3008770

Dear Secretary Chiavetta:

Enclosed for filing is PPL Electric Utilities Corporation's Motion to Compel 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 (*w/enclosures*)
Certificate of Service

CERTIFICATE OF SERVICE

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

VIA E-MAIL & FIRST CLASS MAIL

Alan Andrews
P.O. Box 123
Lehighton, PA 18235
E-mail: health111@hotmail.com

Date: September 3, 2019



Devin T. Ryan

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Alan Andrews,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2019-3008770
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

NOTICE TO PLEAD

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

Kimberly A. Klock (ID # 89716)
Michael J. Shafer (ID # 205681)
PPL Services Corporation
Two North Ninth Street
Allentown, PA 18101
Phone: 610-774-2599
Fax: 610-774-4102
E-mail: kklock@pplweb.com
mjshafer@pplweb.com



Devin T. Ryan (ID # 316602)
Garrett P. Lent (ID # 321566)
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601
Phone: 717-731-1970
Fax: 717-731-1985
E-mail: dryan@postschell.com
glent@postschell.com

Curtis S. Renner (ID # 326488)
Watson & Renner
1901 Pennsylvania Avenue, NW
Suite 1005 - ENS
Washington, DC 20006
Phone: 202-737-6302
E-mail: crenner@w-r.com

Date: September 3, 2019

Attorneys for PPL Electric Utilities Corporation

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Alan Andrews,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2019-3008770
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

**MOTION OF PPL ELECTRIC UTILITIES CORPORATION TO
COMPEL RESPONSES TO
DISCOVERY PROPOUNDED ON ALAN ANDREWS – SET I**

TO ADMINISTRATIVE LAW JUDGE ELIZABETH H. BARNES:

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

I. INTRODUCTION

1. On July 18, 2019, PPL Electric served Interrogatories and Requests for Production of Documents on the Complainant – Set I (“PPL to Complainant Set I”) via email and first class mail. A true and correct copy of PPL to Complainant Set I is attached hereto and marked as **Appendix A**.

2. Pursuant to the Commission’s regulations, objections to PPL to Complainant Set I were due on or before July 29, 2019, and responses were due on or before August 7, 2019.

3. The Complainant never served any objections to PPL to Complainant Set I by July 29, 2019.

4. On August 9, 2019, the Complainant served his responses to PPL to Complainant Set I. A true and correct copy of the Complainant's responses PPL to Complainant Set I is attached hereto and marked as **Appendix B**.

5. The Complainant failed to provide a response to PPL to Complainant Set I, Question 7, which requested copies of the Complainant's hearing exhibits and identification of the witness(es) sponsoring those exhibits.

6. On August 16, 2019, counsel for PPL Electric sent the Complainant an email about, among other things, the status of the Complainant's response to PPL to Complainant Set I, Question 7.

7. On August 31, 2019, the Complainant sent an email in response, which stated, among other things, that he has "an HF35C RF Meter" and "intend[s] to Prove PPLs [sic] frequency is Spiking at higher values than they will admit." However, the Complainant did not provide an actual response to PPL to Complainant Set I, Question 7.

8. To date, the Complainant has never sent a response to PPL to Complainant Set I, Question 7.

II. MOTION TO COMPEL

9. PPL Electric requests that Administrative Law Judge Elizabeth H. Barnes ("ALJ") compel a response to PPL to Complainant Set I, Question 7.

10. 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.*

11. Objections to interrogatories and requests for production of documents must be served within 10 days of the date the discovery was served. 52 Pa. Code §§ 5.342(e), 5.349(d). Objecting parties remain under an obligation to provide timely answers to interrogatories or subparts of interrogatories to which they did not object. *Id.* § 5.342(f). Further, objections must be contained in a document separate from an answer. *Id.* §§ 5.342(c), 5.349(d).¹

12. Answers to written interrogatories must “[a]nswer each interrogatory fully and completely unless an objection is made.” *Id.* § 5.342(a)(4). Answers must be served within 20 days after service of the interrogatories. *Id.* § 5.342(d).

13. Similarly, a party shall serve a response to a request for documents within 20 days after the service of the request. *Id.* § 5.349(d). The requesting party may move to compel a response to a request for documents with respect to a failure to respond to the request. *See id.*

14. As explained herein, the Complainant has failed to comply with the Commission’s discovery rules by failing to provide a full and complete response to PPL to Complainant Set I, Question 7 and produce the documents sought by this request.

15. For the reasons stated in more detail below, the ALJ should direct the Complainant to answer fully PPL to Complainant Set I, Question 7. Moreover, should the ALJ grant PPL Electric’s Motion to Compel and the Complainant fail to timely provide a full and complete response to Complainant Set I, Question 7, PPL Electric intends to file a Motion for Sanctions pursuant to 52 Pa. Code §§ 5.371(a) and 5.372(a).

A. PPL TO COMPLAINANT SET I, QUESTION 7

16. PPL to Complainant-I-7 requests the following:

Please provide copies of all exhibits you intend to present or utilize at the evidentiary hearing in this proceeding. For each exhibit to

¹ The Complainant did not serve objections to discovery. Therefore, Complainant’s failure to provide full and complete responses to discovery requests operate, in effect, as untimely objections.

be used as part of your direct case, please identify the witness who will be sponsoring the exhibit.

17. As explained above, Section 5.342(a)(4) requires a party to fully and completely answer an interrogatory. 52 Pa. Code § 5.342(a)(4). In addition, a party has a duty to amend its prior responses to discovery requests when the information contained therein is incomplete. *Id.* § 5.332(2).

18. The Complainant has never provided a response to this interrogatory.

19. In addition, under the Prehearing Order issued in this proceeding on April 19, 2019, the Complainant was required to serve copies of his statements, reports, and any written expert testimony by August 6, 2019.

20. To date, the Complainant has never served any such statements, reports, or written expert testimony.

21. Therefore, at present, the Company has no idea what exhibits, if any, the Complainant intends to present and rely on at the evidentiary hearing.

22. For these reasons, the ALJ should direct the Complainant to answer fully PPL to Complainant Set I, Question 7.

III. SANCTIONS

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

24. In ruling upon a motion for sanctions, the presiding officer may, among other things, issue: (1) “[a]n order that the matters regarding which the questions were asked, the character or description of the thing or land, the contents of the paper, or other designated fact shall be taken to be established for the purposes of the action in accordance with the claim of the

party obtaining the order”; (2) [a]n order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting the party from introducing in evidence designated documents, things or testimony”; and (3) “[a]n order striking out pleadings or parts thereof, staying further proceedings until the order is obeyed, or entering a judgment against the disobedient party or individual advising the disobedience.” *Id.* § 5.372(a)(1)-(3).

25. To the extent that this Motion is granted and the Complainant fails to answer fully PPL to Complainant Set I, or otherwise comply with the ALJ’s order, PPL Electric intends to file an appropriate motion pursuant to 52 Pa. Code §§ 5.371(a) and 5.372(a) to dismiss the Complaint with prejudice.

26. 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 & 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).

IV. CONCLUSION

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

Respectfully submitted,



Kimberly A. Klock (ID # 89716)
Michael J. Shafer (ID # 205681)
PPL Services Corporation
Two North Ninth Street
Allentown, PA 18101
Phone: 610-774-2599
Fax: 610-774-4102
E-mail: kklock@pplweb.com
mjshafer@pplweb.com

Devin T. Ryan (ID # 316602)
Garrett P. Lent (ID # 321566)
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601
Phone: 717-731-1970
Fax: 717-731-1985
E-mail: dryan@postschell.com
glent@postschell.com

Curtis S. Renner (ID # 326488)
Watson & Renner
1901 Pennsylvania Avenue, NW
Suite 1005 - ENS
Washington, DC 20006
Phone: 202-737-6302
E-mail: crenner@w-r.com

Date: September 3, 2019

Attorneys for PPL Electric Utilities Corporation

APPENDIX A

Interrogatories and Requests for Production of Documents Propounded by PPL Electric Utilities Corporation on Alan Andrews – Set I



17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
717-731-1970 Main
717-731-1985 Main Fax
www.postschell.com

Devin Ryan

dryan@postschell.com
717-612-6052 Direct
717-731-1981 Direct Fax
File #: 167945

July 18, 2019

VIA E-MAIL (HEALTH111@HOTMAIL.COM) & FIRST CLASS MAIL

Alan Andrews
P.O. Box 123
Lehighton, PA 18235

**Re: Alan Andrews v. PPL Electric Utilities Corporation
Docket No. C-2019-3008770**

Dear Mr. Andrews:

Enclosed are the Interrogatories and Requests for Production of Documents Propounded by PPL Electric Utilities Corporation on Alan Andrews – 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/dmc
Enclosures

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

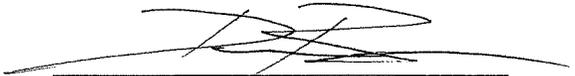
CERTIFICATE OF SERVICE

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

VIA E-MAIL & FIRST CLASS MAIL

Alan Andrews
P.O. Box 123
Lehighon, PA 18235
E-mail: health111@hotmail.com

Date: July 18, 2019



Devin T. Ryan

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Alan Andrews,	:	
	:	
Complainant	:	
	:	
v.	:	Docket No. C-2019-3008770
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent	:	

**INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS PROPOUNDED BY
PPL ELECTRIC UTILITIES CORPORATION ON
ALAN ANDREWS – 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 Alan Andrews (“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-2019-3008770.

**INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS PROPOUNDED ON
ALAN ANDREWS – 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.

APPENDIX B

Alan Andrews's Answers to PPL Electric Utilities Corporation's Interrogatories and Requests for Production of Documents – Set I

AUG 12 2019

Complainant to PPL

Docket No.C-2019-3008770

(a) Because I live in America where we have choices and it is not my choice to have a so called smart meter. Make it known that any device emitting radio frequency on my property will be installed against my own free will and accord. I have an RF detector meter and can prove your so called smart meters are emitting RF at high dangerous levels.

(b) I have an african grey parrot in my home. Birds are very sensitive to R.F. I have no health conditions at this time and intend to keep it that way. I have friends who BOTH husband and wife initiated heart problems at the same time their RF meter was installed.

(c) I only have safety concerns if you PPL refuse to accept responsibility for any safety issues that may appear down the road. If you can not accept this then your admitting by refusing responsibility that your meters are not safe.

(d) I do have privacy concerns because YOU ARE PLANNING ON MINDING MY BUSINESS WITH RF into my private home. OTHERWISE you would not be planing on sending RF into my home thru the electric wires.

(e) Your violating my constitutional rights. The law of the land supercedes state laws.

1-2 I have one of the above in this particular home. I never owned a microwave oven because I was made aware from an exchange student from Ukraine many years ago that the russians were not even allowed to own one because they Govt paid for health care. Microwaves were created for use in war times. I have one garage door opener which is FAR from your So Called Smart Meter Frequency. By the way it is used about 10 times a year. My garage door is hardwired and is mostly always opened with the button on the wall. Your so called smartmeter emits frequency constantly, all day long , not 10 times a year. No Comparison.

1-3 Not Applicable as stated in 1-2

1-4 I make no such claim at this time.

1-5 N. A.

1-6 N. A.