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September 23, 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: Donna and John Bengen v. PPL Electric Utilities Corporation
Docket No. C-2019-3009735

Dear Secretary Chiavetta:

Enclosed for filing is the Answer of PPL Electric Utilities Corporation to the Motion of Donna and John Bengen to Dismiss Objections and Compel Answers to Interrogatories and Requests For Production Of Documents (Set II), Requests For Production Of Documents 1 Through 5 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 AND REGULAR MAIL

Donna & John Bengen
11235 W. Rte. 973 HWY
Jersey Shore, PA 17740
jbengen@hotmail.com

Date: September 23, 2019



Devin Ryan

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Donna and John Bengen,	:	
	:	
Complainants,	:	
	:	
v.	:	Docket No. C-2019-3009735
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

**ANSWER OF PPL ELECTRIC UTILITIES CORPORATION TO THE
MOTION OF DONNA AND JOHN BENGEN TO
DISMISS OBJECTIONS AND COMPEL ANSWERS TO INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF DOCUMENTS (SET II), REQUESTS FOR
PRODUCTION OF DOCUMENTS 1 THROUGH 5**

TO ADMINISTRATIVE LAW JUDGE ELIZABETH H. BARNES:

Pursuant to 52 Pa. Code § 5.342(g)(1), PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) hereby files this Answer to Donna and John Bengen’s (“Complainants”) Motion to Dismiss PPL Electric’s Objections and Compel Answers to Interrogatories and Requests for Production of Documents (Set II), Requests for Production of Documents 1 through 5 (“Motion to Compel” or “Motion”). As explained herein, Administrative Law Judge Elizabeth H. Barnes (the “ALJ”) should deny the Complainants’ latest Motion. PPL Electric properly objected to Requests for Production of Documents 1 through 5 of the second set of discovery (“Complainants Set II”). However, the Company served answers to these discovery requests. On August 30, 2019, the Complainants filed a Motion to Compel responses to Complainants Set II and questioned whether PPL Electric would be serving responses to Requests for Production of Documents 1 through 5. PPL Electric filed an Answer stating that it had already done so. Now, the Complainants have filed another Motion to Compel responses to the discovery requests.

As seen in the Company's responses, PPL Electric responded fully to the discovery requests. Therefore, like their previous Motion to Compel involving Complainants Set II, the Motion is moot and should be denied.

In support of its Answer, PPL Electric states as follows:

I. INTRODUCTION

1. On August 2, 2019, the Complainants served Complainants Set II on PPL Electric via email and first class mail. A true and correct copy of Complainants Set II is attached as **Appendix A**.

2. On August 12, 2019, PPL Electric timely served its Objections to Complainants Set II. Specifically, PPL Electric objected to Interrogatories 2, 3, and 4 and Requests for Production of Documents 1, 2, 3, 4, 5, and 6. A true and correct copy of PPL Electric's Objections is attached as **Appendix B**.

3. On August 22, 2019, PPL Electric timely served its Answers to Interrogatories 1, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14 and Request for Production of Documents 7, which were the discovery requests in Complainants Set II to which the Company did not object.

4. On August 27, 2019, PPL Electric served its Answers to Requests for Production of Documents 1, 2, 3, 4, and 5, without waiver of and subject to its objections, in the interest of compromise and administrative efficiency. A true and correct copy of PPL Electric's Answers to Requests for Production of Documents 1 through 5 is attached as **Appendix C**.

5. On August 30, 2019, the Complainants served via email at 8:47 AM their "Reply and objections to PPL Electric Utilities responses (8/12/019) Interrogatories #2 and request for production of documents." A copy was also sent via regular mail on August 30, 2019. As explained previously, PPL Electric treated this filing as a Motion to Compel.

6. On September 4, 2019, PPL Electric timely filed an Answer to the Complainants' first Motion to Compel responses to Complainants Set II. As stated in that Answer, PPL Electric served its Answers to Requests for Production of Documents 1 through 5 on August 27, 2019. Therefore, that portion of the Motion was rendered moot.

7. The Complainants' August 30, 2019 Motion to Compel remains pending.

8. On September 16, 2019, the Complainants served a second Motion to Compel responses to Complainants Set II, arguing that the Company failed to respond fully to Requests for Production of Documents 1 through 5.

9. 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. *Id.*

10. As noted by the Superior Court of Pennsylvania, "While discovery should be liberally allowed, 'fishing expeditions' are not to be countenanced under the guise of discovery." *Land v. State Farm Mutual Ins. Co.*, 600 A.2d 605, 608 (Pa. Super. 1991) (emphasis added).

11. "[T]he standard for discovery is relevance, not curiosity." *Pa. PUC v. Pennsylvania-American Water Co.*, Docket Nos. R-2011-2232243, *et al.*, at 22 (July 21, 2011) (Order on Motion to Compel).

12. For the reasons stated in more detail below, PPL Electric respectfully requests that the ALJ deny Complainants' Motion to Compel as moot.

II. COMPLAINANTS' LATEST MOTION TO COMPEL RESPONSES TO INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS (SET II) SHOULD BE DENIED

A. OBJECTIONS TO REQUESTS FOR PRODUCTION OF DOCUMENTS 1 THROUGH 5

13. Complainants Set II, Requests for Production of Documents 1 through 5 request the following:

1. ALL documents you will use at the hearing to show the safety of Landis & Gyr meters?

2. All documents you will present at the hearing to show the tabulations of cases Landis & Gyr smart meters, catching fire, exploding, causing power surges, overheating. Etc

3. All documents you will present at the hearing to prove the surge protection of Landis & Gyr meters?

4. All documents that will be presented at the hearing to prove the surge protection of Landis & Gyr smart meters, is equal to, or the same as analog meters.

5. ALL copies of ALL documents to prove how PPL electric utilities will assure us of the safety of the Landis & Gyr meters including the health effects of radio frequency radiation emitted by the Landis & Gyr meters.

14. The Company objected to Complainants Set II, Requests for Production of Documents 1 through 5 to the extent that they attempt to improperly shift the burden of proof to PPL Electric.

15. Notwithstanding, on August 27, 2019, PPL Electric served its Answers to Requests for Production of Documents 1 through 5.

16. PPL Electric's Answers to Complainants Set II, Requests for Production of Documents 1 through 5 state the following:

1. PPL Electric objected to this interrogatory on August 12, 2019, to the extent that it improperly attempts to shift the burden of proof to PPL Electric.

Without waiver of that objection, and subject thereto, PPL Electric responds as follows:

Please see the direct testimony and exhibits of Dr. Christopher Davis (PPL Electric Statement No. 1), Dr. Mark Israel (PPL Electric Statement No. 2), and Donald Vinciguerra (PPL Electric Statement No. 4), which will be served on October 14, 2019, in accordance with the established litigation schedule.

2. PPL Electric objected to this interrogatory on August 12, 2019, to the extent that it improperly attempts to shift the burden of proof to PPL Electric.

Without waiver of that objection, and subject thereto, PPL Electric responds as follows:

Issues related to allegations of fire safety will be addressed in the direct testimony and exhibits of Donald Vinciguerra (PPL Electric Statement No. 4), which will be served on October 14, 2019, in accordance with the established litigation schedule. Further, as stated in response to Interrogatory Bengen-II-1, no fires in PPL Electric's service territory have been caused by the Landis + Gyr Focus AXR-SD meter, which is being deployed for every residential customer in the Company's service territory and would be installed on the Complainant's property. There was one incident involving an industrial, 3-phase bolt-in Class 480 meter on August 9, 2017 in Manheim, Pennsylvania. This meter and meter base are categorically different than the AMI meters being deployed for residential customers and the residential customers' meter bases, and the actual cause of the incident was unable to be determined. There were some potential causes identified, including the customer's unique meter base configuration, improper torquing of the bolts at installation, and neutral stab length of the meter itself not meshing with the base connection. Moreover, as explained in response to Interrogatory Bengen-II-5, PPL Electric does not specifically track the number of surges on the distribution system in relation to where its AMI meters have been deployed.

3. PPL Electric objected to this interrogatory on August 12, 2019, to the extent that it improperly attempts to shift the burden of proof to PPL Electric.

Without waiver of that objection, and subject thereto, PPL Electric responds as follows:

Issues related to allegations of fire safety will be addressed in the direct testimony and exhibits of Donald Vinciguerra (PPL Electric Statement No. 4), which will be served on October 14, 2019, in accordance with the established litigation schedule. Further, the new AMI meter is not designed as a surge protection device.

4. PPL Electric objected to this interrogatory on August 12, 2019, to the extent that it improperly attempts to shift the burden of proof to PPL Electric.

Without waiver of that objection, and subject thereto, PPL Electric responds as follows:

Issues related to allegations of fire safety will be addressed in the direct testimony and exhibits of Donald Vinciguerra (PPL Electric Statement No. 4), which will be served on October 14, 2019, in accordance with the established litigation schedule. Further, neither the existing PLC meters nor the new AMI meters are designed as surge protection devices.

5. Please see the response to Request for Production of Documents Bengen-II-1.

17. In general, the Complainants take issue with PPL Electric responding without waiver and subject to its objections because they are concerned that the Company may be withholding certain information or providing incomplete responses as a result. (Motion to Compel, pp. 1-3.)

18. PPL Electric affirms that their concerns are unfounded, as the Company provided full and complete responses to Requests for Production of Documents 1 through 5.

19. Moreover, it is general practice to provide discovery responses without waiver of and subject to objections, so that parties can serve those answers without having to continue engaging in the discovery dispute. This reduces the burden on the parties and on the ALJ. Any objections can then be resolved if and when the discovery responses are attempted to be introduced and relied on at the evidentiary hearing.

20. In addition, the Complainants erroneously contend that the Company has not responded fully to these discovery requests.

21. For Request for Production of Documents 1, the Complainants allege that “[i]f there are no independent studies then we request PPL provide us with all documents to show the safety data of their Landis & Gyr Focus meters, and their Landis & Gyr PLC meters.” (Motion to Compel, p. 4.)

22. As PPL Electric stated in response to this discovery request for “ALL documents you will use at the hearing to show the safety of Landis & Gyr meters,” the Company will be presenting “the direct testimony and exhibits of Dr. Christopher Davis (PPL Electric Statement No. 1), Dr. Mark Israel (PPL Electric Statement No. 2), and Donald Vinciguerra (PPL Electric Statement No. 4), which will be served on October 14, 2019, in accordance with the established litigation schedule.”

23. Therefore, PPL Electric fully responded to Complainants Set II, Request for Production of Documents 1.

24. For Request for Production of Documents 2, the Complainants claim that PPL Electric “partially answered this question” but alleges that PPL Electric “did not answer anything directly about residential AMI meters fires, exploding, overheating” and “did not identify the type and manufacturer of the meter used” in the Manheim Township incident.” (Motion to Compel, pp. 4-5.)

25. The Complainants also question in their Motion whether the Company “track[s] the number of surges when a customer complains about surge damage.” (Motion to Compel, p. 5.)

26. As stated in PPL Electric's response, the allegations of fire safety will be addressed in Mr. Vinciguerra's direct testimony. *See* Appendix C.

27. Moreover, the Complainants completely overlook that the response states "no fires in PPL Electric's service territory have been caused by the Landis + Gyr Focus AXR-SD meter, which is being deployed for every residential customer in the Company's service territory and would be installed on the Complainant's property." Appendix C. Thus, the Complainants' argument that the Company "did not answer anything directly about residential AMI meters fires, exploding, overheating" is entirely without merit.

28. Furthermore, PPL Electric can only be expected to answer the question that is asked. Nothing in the discovery request asked about whether the Company "track[s] the number of surges when a customer complains about surge damage" or about what the "type and manufacturer of the meter used" in the Manheim Township incident were.

29. Thus, PPL Electric fully responded to Complainants Set II, Request for Production of Documents 2.

30. As for Request for Production of Documents 3, the Complainants do not allege anything in support of their claim that this response is incomplete. They simply ask another question: "Do Landis and Gyr meters of any type have surge protection?" (Motion to Compel, p. 5.)

31. Again, PPL Electric can only be expected to answer the question that is asked. PPL Electric responded that issues related to fire safety would be addressed in Mr. Vinciguerra's direct testimony and that "the new AMI meter is not designed as a surge protection device." Appendix C.

32. Nothing in the discovery request asked about the surge protection of all Landis + Gyr meters. Rather, the discovery request was limited to the Landis + Gyr AMI meter that PPL Electric intends to install on the Complainants' property. Indeed, in the introductory section of their discovery requests, the Complainants stated that "when [they] refer to Landis & Gyr meter, or smart meter [they] are referring to the one the EDC wants to install on [their] home. Landis & Gyr E350 Focus AXR-SD meter." Appendix B, p. 3.

33. Even if the discovery request did seek information about the surge protection of all Landis + Gyr meters, it would be completely irrelevant because the issues in this case are limited to the AMI meter to be installed on the Complainants' property.

34. Therefore, PPL Electric fully responded to Complainants Set II, Request for Production of Documents 3.

35. Finally, for the Company's Answers to Requests for Production of Documents 4 and 5, the Complainants never explain what they believe are incomplete in those responses. (Motion to Compel, p. 5.)

36. Nevertheless, as seen above, the Company fully responded to those discovery requests.

37. Based on the foregoing, PPL Electric fully responded to Complainants Set II, Requests for Production of Documents 1 through 5. As a result, the Complainants' latest Motion to Compel is moot and should be denied.

III. CONCLUSION

For the reasons set forth above, PPL Electric Utilities Corporation respectfully requests that Administrative Law Judge Elizabeth H. Barnes deny Donna and John Bengen's Motion to Dismiss Objections and Compel Answers to Interrogatories and Requests for Production of Documents (Set II), Requests for Production of Documents 1 through 5 as set forth above.

Respectfully submitted,



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Date: September 23, 2019

Attorneys for PPL Electric Utilities Corporation

APPENDIX “A”

AUG 05 2019

July 30, 2019

Via electronic transmission and first class mail

Devin T. Ryan (ID #316602)
Garrett P. Lent (ID #321566)
Post and Schell, P.C
17 North Second St. 12th floor
Harrisburg, Pa. 17101

RE: Donna and John Bengen v. PPL Electric Utilities Corporation

Docket No. C-2019-3009735

Dear Attorney Ryan,

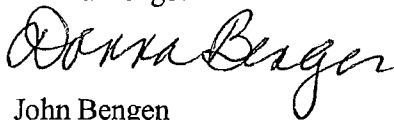
We are attaching Interrogatories #2 from Donna and John Bengen

Please respond in 20 days or otherwise notify us

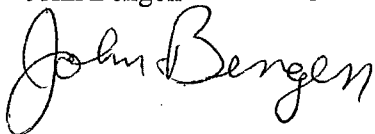
We object to the conclusion in our answer to interrogatories #1 that PPL reserves the right to object to future interrogatories, requests for admissions, and requests for the production of documents, including any definitions contained therein.

We are pro se and asking and requesting documents that are pertinent to our case. We deserve our due process and if PPL does not provide the responses and/or documents requested they are putting an undue burden and tying our hands in this case.

Sincerely,
Donna Bengen



John Bengen



cc: Attorney Ryan via first class mail
Attorney Michael J. Shafer via electronic transmission
Rosemary Chiavetta, secretary Pa PUC via certified mail
Hon. Elizabeth Barnes via certified mail

CERTIFICATE OF SERVICE

We 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 electronic transmission and first class mail

Devin T. Ryan (ID#316602)

Garrett P. Lent (ID#321566)

Post & Schell, P.C.

Via electronic transmission

Michael J. Shafer (ID#205681)

PPL Services Corporation

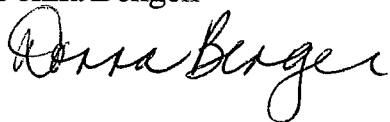
Via certified mail

Rosemary Chiavetta, secretary Pa PUC

Hon. Elizabeth Barnes, ALJ

Date: August 1; 2019

Donna Bengen



John Bengen



**INTERROGATORIES # 2 and request for production of documents
of Donna and John Bengen to PPL Electric utilities**

Docket No C-2019-3009735

We have concerns for our own personal safety and loss of property and possessions.

For the purposes of these interrogatories when we refer to the Landis & Gyr meter, or smart meter we are referring to the one the EDC wants to install on our home. Landis & Gyr E350 Focus AXR-SD meter.

For the purposes of these interrogatories PPL Electric Utilities will be referred to as PPL.

Questions

1. What are the numbers in each case of the Landis & Gyr meters catching fire, exploding, causing power surges, overheating etc. as reported by customers or employees of PPL called to the scene of any of these incidents in the PPL service area?

2. What are the numbers of customers citing EHS or other health effects or ailments customers attribute to smart meters?

3. How would you describe and compare the surge protection capabilities of the Landis & Gyr meters with other meters previously used including PLC and analog?

4. In the event of damage to our residence, contents, and persons attributable to a Landis & Gyr meter malfunction through fire, pass through surges or other mechanisms what is PPL's corporate policy regarding liability?

5. Provide a tabulation comparing the number of reported power surges by customers of PPL before and after the installation of Landis & Gyr meters. .

6. What is the number of smart meters PPL electric utilities has replaced with another smart meter since first installment?

7. Has PPL conducted any studies on its own, or commissioned any studies by independent laboratories or individuals examining the health effects of radio frequency radiation emitted by Landis & Gyr meters?

8. Please explain how the Landis & Gyr meter works?

9. What studies has PPL done and what data has PPL collected on conducted emissions (aka dirty electricity) from the Landis & Gyr meters?

10. What frequency does the Landis & Gyr meter operate?
11. What frequency does the Landis & Gyr meter transmit data?
12. How often does the Landis & Gyr meter transmit data?
13. How far does the data transmitted by the Landis & Gyr meter travel?
14. How does the smart meter mesh system work?

Request for production of documents

1. ALL documents you will use at the hearing to show the safety of Landis & Gyr meters?
2. All documents you will present at the hearing to show the tabulations of cases Landis & Gyr smart meters, catching fire, exploding, causing power surges, overheating. etc
3. All documents you will present at the hearing to prove the surge protection of Landis & Gyr meters?
4. All documents that will be presented at the hearing to prove the surge protection of Landis & Gyr smart meters, is equal to, or the same as analog meters.

5. ALL copies of ALL documents to prove how PPL electric utilities will assure us of the safety of the Landis & Gyr meters including the health effects of radio frequency radiation emitted by the Landis & Gyr meters.
6. Documents confirming PPL electric utilities corporate policy regarding liability.
7. Copies of all exhibits and documents in support of your position in this preceding.

We reserve the right to ask further questions and request additional documents

APPENDIX “B”



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Devin Ryan

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File #: 167945

August 12, 2019


VIA E-MAIL (JBENGEN@HOTMAIL.COM) & REGULAR MAIL

Donna & John Bengen
11235 W. Rte. 973 HWY
Jersey Shore, PA 17740

Re: Donna & John Bengen v. PPL Electric Utilities Corporation
Docket No. C-2019-3009735

Enclosed are the Objections of PPL Electric Utilities Corporation to the Interrogatories and Requests for Production of Documents of Donna and John Bengen – Set II, Interrogatories Nos. 2, 3, and 4 and Requests for Production of Documents 1, 2, 3, 4, 5, and 6 in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Sincerely,



Devin Ryan

DTR/dmc
Enclosures

cc: Rosemary Chiavetta, Secretary (*Letter and 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 AND FIRST CLASS MAIL

Donna & John Bengen
11235 W. Rte. 973 HWY
Jersey Shore, PA 17740
jbengen@hotmail.com

Date: August 12, 2019



Devin Ryan

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Donna and John Bengen,	:	
	:	
Complainants,	:	
	:	
v.	:	Docket No. C-2019-3009735
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

**OBJECTIONS OF PPL ELECTRIC UTILITIES CORPORATION TO THE
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS OF
DONNA AND JOHN BENGEN (SET II)**

Pursuant to 52 Pa. Code § 5.342(c), PPL Electric Utilities Corporation (“PPL Electric” or the “Company”), by and through its attorneys, hereby serves these objections to Interrogatories 2, 3, and 4 and Requests for Production of Documents 1, 2, 3, 4, 5, and 6 of the second set of discovery of Donna and John Bengen (“Complainants”) served on August 2, 2019, via email and first class mail (“Complainants Set II”).

As explained below, PPL Electric objects to these discovery requests on the grounds that they are vague, speculative, irrelevant, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence as well as improperly attempt to shift the burden of proof to PPL Electric.

In support, PPL Electric states as follows:

I. SPECIFIC OBJECTIONS

A. OBJECTIONS TO INTERROGATORY 2

1. Complainants Set II, Interrogatory 2 requests the following:
 2. What are the numbers of customers citing EHS or other health effects or ailments customers attribute to smart meters?

2. The Company objects to Complainants Set II, Interrogatory 2 on the grounds that it is vague, irrelevant, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

3. First, the discovery request is vague in its reference to “other health effects or ailments” that customers allegedly “attribute to smart meters.” Without clarification as the meaning and scope of these terms, PPL Electric cannot reasonably and accurately answer this interrogatory.

4. Second, the interrogatory is overly broad and unduly burdensome. Although the Complainants clarify that their reference to “smart meters” mean the Landis + Gyr E350 Focus AXR-SD meters, this interrogatory generally asks the Company to provide “the numbers of customers citing EHS or other health effects or ailments customers attribute” to those meters. Effectively, the Complainants are asking PPL Electric to provide information for any customer, including those of all other electric utilities, who has alleged “health effects or ailments” related to the Landis + Gyr E350 Focus AXR-SD meter. Indeed, as written, the interrogatory would require PPL Electric to gather substantial information that is not in its possession, specifically the allegations customers of other utilities have made about the meters. Thus, because the scope of the interrogatory is not limited to PPL Electric’s customers, the discovery request is overly broad and unduly burdensome.

5. Third, the discovery request is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. The hearsay allegations of other customers, including those of other electric utilities, are irrelevant to the issues in this proceeding. In fact, such hearsay evidence would not be admissible at the evidentiary hearing.¹ Moreover, simply

¹ Under Pennsylvania’s “Walker Rule,” it is well-established that “[h]earsay evidence, properly objected to, is not competent evidence to support a finding.” *Walker v. Unemployment Comp. Bd. of Review*, 367 A.2d 366, 370

providing the number of customers who have made these hearsay allegations is not reasonably calculated to lead to the discovery of admissible evidence.

6. Based on the foregoing, this discovery request is vague, irrelevant, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

B. OBJECTIONS TO INTERROGATORY 3

7. Complainants Set II, Interrogatory 3 requests the following:

3. How would you describe and compare the surge protection capabilities of the Landis & Gyr meters with other meters previously used including PLC and analog?

8. The Company objects to Complainants Set II, Interrogatory 3 on the grounds that it is vague, irrelevant, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

9. The discovery request is unclear as to whether the “other meters previously used including PLC and analog” is specific to the meters used by PPL Electric. Therefore, the interrogatory is vague.

10. In addition, if the interrogatory is not limited to the meters previously used by PPL Electric, the interrogatory is irrelevant, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. As noted previously, the Company cannot be required PPL Electric to gather substantial information that is not in its possession, such as information about the “surge protection capabilities” of other electric utilities’ meters. Moreover, the issues in this proceeding are limited to whether the installation

(Pa. Cmwlth. 1976) (citations omitted). Even if hearsay evidence is “admitted without objection,” the ALJ must give the evidence “its natural probative effect and may only support a finding . . . if it is corroborated by any competent evidence in the record;” as “a finding of fact based solely on hearsay will not stand.” *Id.* at 370 (citations omitted). The “Walker Rule” has been affirmed by the Pennsylvania Supreme Court. *Rox Coal Co. v. Workers' Comp. Appeal Bd. (Snizaski)*, 570 Pa. 60, 807 A.2d 906 (2002).

of PPL Electric's new automated metering infrastructure ("AMI") is required by Act 129 of 2008 ("Act") and whether the installation of that meter would violate 66 Pa. C.S. § 1501. The "surge protection capabilities" of other electric utilities' meters has nothing to do with resolving these issues. Thus, if the scope of the interrogatory is not limited to PPL Electric's customers, the discovery request is irrelevant, overly broad, unduly burdensome, and not reasonably calculated to lead to the discover of admissible evidence.

11. For these reasons, this discovery request is vague, irrelevant, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

C. OBJECTIONS TO INTERROGATORY 4 AND REQUEST FOR PRODUCTION OF DOCUMENTS 6

12. Complainants Set II, Interrogatory 4 requests the following:

4. In the event of damage to our residence, contents, and persons attributable to a Landis & Gyr meter malfunction through fire, pass through surges or other mechanisms what is PPL's corporate policy regarding liability?

13. Complainants Set II, Request for Production of Documents 6 asks for the following:

6. Documents confirming PPL electric utilities corporate policy regarding liability.

14. The Company objects to Complainants Set II, Interrogatory 4 and Request for Production of Documents 6 on the grounds that they are vague, speculative, irrelevant, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence.

15. The discovery requests are vague about PPL Electric's "corporate policy regarding liability." To the extent that they seek information that is unrelated to the Company's AMI meters, then the requests are irrelevant, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, it is completely unclear what the

Complainants mean by “damage” to their “residence, contents, and persons” due to the AMI meter’s “pass through surges or other mechanisms.” In the absence of such clarification, PPL Electric cannot reasonably and accurately answer the request.

16. Moreover, as explained previously, the issues in this formal complaint proceeding are limited to whether the Company is legally required to install the new AMI meter and whether such installation would violate Section 1501 of the Public Utility Code, 66 Pa. C.S. § 1501, which requires the Company to provide safe, reliable, and reasonable service to its customers. The Company’s “corporate policy regarding liability,” under vague, hypothetical circumstances has nothing to do with the resolution of these issues. Further, PPL Electric’s decision whether or not to accept liability in the future should not and cannot be construed as an admission of the new AMI meters presenting safety or health concerns.

17. Additionally, it is impossible for the Company to know, at this point, what evidence it would or would not present if an AMI meter were to cause unspecified “damage” to the Complainants’ “residence, contents, and persons” due to the AMI meter’s “malfunction through fire, pass through surges or other mechanisms.” Therefore, the Company cannot be forced to speculate as to the parties’ liability under the completely undetailed and unsubstantiated circumstances proffered by the Complainants.

18. Based on the foregoing, these discovery requests are vague, speculative, irrelevant, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence.

D. OBJECTIONS TO REQUESTS FOR PRODUCTION OF DOCUMENTS 1 THROUGH 5

19. Complainants Set II, Requests for Production of Documents 1 through 5 request the following:

1. ALL documents you will use at the hearing to show the safety of Landis & Gyr meters?

2. All documents you will present at the hearing to show the tabulations of cases Landis & Gyr smart meters, catching fire, exploding, causing power surges, overheating, Etc

3. All documents you will present at the hearing to prove the surge protection of Landis & Gyr meters?

4. All documents that will be presented at the hearing to prove the surge protection of Landis & Gyr smart meters, is equal to, or the same as analog meters.

5. ALL copies of ALL documents to prove how PPL electric utilities will assure us of the safety of the Landis & Gyr meters including the health effects of radio frequency radiation emitted by the Landis & Gyr meters.

20. The Company objects to Complainants Set II, Requests for Production of Documents 1 through 5 to the extent that they attempt to improperly shift the burden of proof to PPL Electric.

21. As the proponent of a rule or order in this proceeding, the Complainants have the burden of proof under Section 332(a) of the Public Utility Code. *See* 66 Pa. C.S. § 332(a). Therefore, as the respondent, PPL Electric is not tasked with proving that the installation of the new AMI meter would not violate 66 Pa. C.S. § 1501. Rather, the Complainants must prove that the installation of the new AMI meter would violate 66 Pa. C.S. § 1501. Indeed, the Commission has found that “[p]roof of causation is required in order to prevail under Section 1501.” *Hoffman-Lorah v. PPL Elec. Utils. Corp.*, Docket No. C-2018-2644957, p. 37 (Order

entered May 23, 2019). “It is not sufficient” for the Complainants “to simply show a potential for harm from the RF exposure from a PPL smart meter.” *Id.*

22. Thus, the Company objects to these discovery requests to the extent that the Complainants attempt to improperly shift the burden of proof to PPL Electric. Notwithstanding, and without waiver of this objection, PPL Electric plans on responding to these discovery requests.

II. CONCLUSION

WHEREFORE, PPL Electric Utilities Corporation objects to Complainants Set II, Interrogatories 2, 3, and 4 and Requests for Production of Documents 1, 2, 3, 4, 5, and 6 on the grounds that they are vague, speculative, irrelevant, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence as well as improperly attempt to shift the burden of proof to PPL Electric. Moreover, PPL Electric reserves the right to object to future interrogatories, requests for admissions, and requests for production of documents, including any instructions and definitions contained therein.

Respectfully submitted,



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Date: August 12, 2019

Attorneys for PPL Electric Utilities Corporation

APPENDIX “C”



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File #: 167945

August 27, 2019

VIA E-MAIL & REGULAR MAIL

Donna & John Bengen
11235 W. Rte. 973 HWY
Jersey Shore, PA 17740

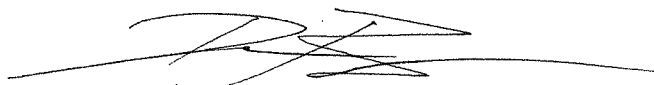
Re: Donna and John Bengen v. PPL Electric Utilities Corporation
Docket No. C-2019-3009735

Dear Sir/Madam:

Enclosed are the Responses of PPL Electric Utilities Corporation to the Interrogatories and Requests for Production of Documents propounded by Donna and John Bengen – Set II, Requests for Production of Documents Nos. 1 through 5 in the above-referenced proceeding.

Copies will be provided as indicated on the Certificate of Service.

Sincerely,



Devin Ryan

DTR/dmc
Enclosures

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

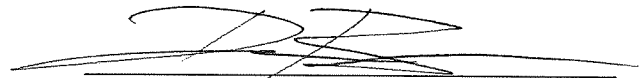
CERTIFICATE OF SERVICE

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 AND REGULAR MAIL

Donna & John Bengen
11235 W. Rte. 973 HWY
Jersey Shore, PA 17740
jbengen@hotmail.com

Date: August 27, 2019



Devin Ryan

PPL Electric Utilities Corporation
Responses to Requests for Production of Documents of
Donna and John Bengen, Set II
Dated July 30, 2019
Docket No. C-2019-3009735

Bengen-II-1: ALL documents you will use at the hearing to show the safety of Landis & Gyr meters?

PPL Electric's Response: PPL Electric objected to this interrogatory on August 12, 2019, to the extent that it improperly attempts to shift the burden of proof to PPL Electric.

Without waiver of that objection, and subject thereto, PPL Electric responds as follows:

Please see the direct testimony and exhibits of Dr. Christopher Davis (PPL Electric Statement No. 1), Dr. Mark Israel (PPL Electric Statement No. 2), and Donald Vinciguerra (PPL Electric Statement No. 4), which will be served on October 14, 2019, in accordance with the established litigation schedule.

Witness: Kevin Durkin
Dated: August 27, 2019

PPL Electric Utilities Corporation
Responses to Requests for Production of Documents of
Donna and John Bengen, Set II
Dated July 30, 2019
Docket No. C-2019-3009735

Bengen-II-2: All documents you will present at the hearing to show the tabulations of cases Landis & Gyr smart meters, catching fire, exploding, causing power surges, overheating. Etc

PPL Electric's Response: PPL Electric objected to this interrogatory on August 12, 2019, to the extent that it improperly attempts to shift the burden of proof to PPL Electric.

Without waiver of that objection, and subject thereto, PPL Electric responds as follows:

Issues related to allegations of fire safety will be addressed in the direct testimony and exhibits of Donald Vinciguerra (PPL Electric Statement No. 4), which will be served on October 14, 2019, in accordance with the established litigation schedule. Further, as stated in response to Interrogatory Bengen-II-1, no fires in PPL Electric's service territory have been caused by the Landis + Gyr Focus AXR-SD meter, which is being deployed for every residential customer in the Company's service territory and would be installed on the Complainant's property. There was one incident involving an industrial, 3-phase bolt-in Class 480 meter on August 9, 2017 in Manheim, Pennsylvania. This meter and meter base are categorically different than the AMI meters being deployed for residential customers and the residential customers' meter bases, and the actual cause of the incident was unable to be determined. There were some potential causes identified, including the customer's unique meter base configuration, improper torqueing of the bolts at installation, and neutral stab length of the meter itself not meshing with the base connection. Moreover, as explained in response to Interrogatory Bengen-II-5, PPL Electric does not specifically track the number of surges on the distribution system in relation to where its AMI meters have been deployed.

Witness: Donald Vinciguerra
Dated: August 27, 2019

PPL Electric Utilities Corporation
Responses to Requests for Production of Documents of
Donna and John Bengen, Set II
Dated July 30, 2019
Docket No. C-2019-3009735

Bengen-II-3: All documents you will present at the hearing to prove the surge protection of Landis & Gyr meters?

PPL Electric's Response: PPL Electric objected to this interrogatory on August 12, 2019, to the extent that it improperly attempts to shift the burden of proof to PPL Electric.

Without waiver of that objection, and subject thereto, PPL Electric responds as follows:

Issues related to allegations of fire safety will be addressed in the direct testimony and exhibits of Donald Vinciguerra (PPL Electric Statement No. 4), which will be served on October 14, 2019, in accordance with the established litigation schedule. Further, the new AMI meter is not designed as a surge protection device.

Witness: Donald Vinciguerra
Dated: August 27, 2019

PPL Electric Utilities Corporation
Responses to Requests for Production of Documents of
Donna and John Bengen, Set II
Dated July 30, 2019
Docket No. C-2019-3009735

Bengen-II-4: All documents that will be presented at the hearing to prove the surge protection of Landis & Gyr smart meters, is equal to, or the same as analog meters.

PPL Electric's Response: PPL Electric objected to this interrogatory on August 12, 2019, to the extent that it improperly attempts to shift the burden of proof to PPL Electric.

Without waiver of that objection, and subject thereto, PPL Electric responds as follows:

Issues related to allegations of fire safety will be addressed in the direct testimony and exhibits of Donald Vinciguerra (PPL Electric Statement No. 4), which will be served on October 14, 2019, in accordance with the established litigation schedule. Further, neither the existing PLC meters nor the new AMI meters are designed as surge protection devices.

Witness: Donald Vinciguerra
Dated: August 27, 2019

**PPL Electric Utilities Corporation
Responses to Requests for Production of Documents of
Donna and John Bengen, Set II
Dated July 30, 2019
Docket No. C-2019-3009735**

Bengen-II-5: ALL copies of ALL documents to prove how PPL electric utilities will assure us of the safety of the Landis & Gyr meters including the health effects of radio frequency radiation emitted by the Landis & Gyr meters.

PPL Electric's Response: Please see the response to Request for Production of Documents Bengen-II-1.

Witness: Kevin Durkin
Dated: August 27, 2019

VERIFICATION

I, KEVIN DURKIN, being the Project Manager on the Meter Replacement Project at PPL Electric Utilities Corporation, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect PPL Electric Utilities Corporation to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 8/27/2019

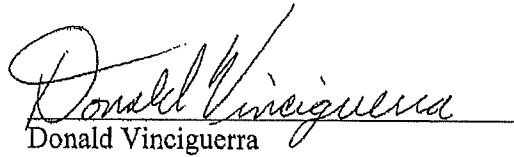


Kevin Durkin

VERIFICATION

I, DONALD VINCIGUERRA, being the Project Manager Network Deployment for the Meter Vision project at PPL Electric Utilities Corporation, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect PPL Electric Utilities Corporation to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 8/27/19


Donald Vinciguerra