

Donna and John Bengen
11235 W. Rte. 973
Jersey Shore, Pa. 17740
Docket C-2019-3009735

September 24, 2019

Secretary Rosemary Chiavetta
P.O. Box 3265
Harrisburg, Pa. 17105-3265

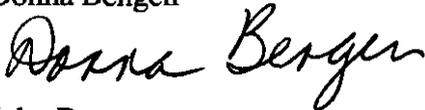
Good day,

Enclosed please find Donna and John Bengen's **RESPONSE TO PPL ELECTRIC FILING OF SEPTEMBER 4, 2019 AND TO PPL ELECTRIC UTILITIES REQUEST TO DENY COMPLAINANTS MOTION TO COMPEL AND REQUEST PPL ELECTRIC UTILITIES TO ANSWER INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS (SET II) IN FULL.**

Please contact us if there are any questions.

Respectfully,

Donna Bengen



John Bengen



cc: Attorney Devin Ryan via electronic transmission and first class mail
Attorney Michael J Shafer via electronic transmission
Hon. Elizabeth Barnes ALJ Pa PUC via certified mail

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SEP 24 2019

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

CERTIFICATE OF SERVICE

Docket No C-2019-3009735

Date *September 24, 2019*

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).

Donna Bengen



John Bengen



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SEP 24 2019

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**RESPONSE FROM DONNA and JOHN BENGEN TO PPL
ELECTRIC FILING OF SEPTEMBER 4, 2019 AND TO PPL
ELECTRIC UTILITIES REQUEST TO DENY COMPLAINANTS
MOTION TO COMPEL AND REQUEST PPL ELECTRIC
UTILITIES TO ANSWER INTERROGATORIES AND REQUESTS
FOR PRODUCTION OF DOCUMENTS (SET II) IN FULL**

TO ADMINISTRATIVE LAW JUDGE ELIZABETH H. BARNES:

Donna and John Bengen complainants with this file our answer to PPL Electric Utilities. PPL Electric is requesting that our motion to compel and objections be denied. **We object to this on the grounds that these interrogatory questions are reasonably calculated and we are not improperly attempting to shift the burden of proof to PPL Electric.**

We are looking for information related to our formal complaint.

These interrogatory questions are directly related to our remedy on our amended formal complaint and are relevant. PPL objected to Interrogatories 2, 3 and 4 and the request for production of documents 1, 2, 3, 4, 5 and 6 of the second set of discovery (complainants set II). PPL Electric Utilities objections are always the same, on the grounds 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.

Our interrogatories are looking for answers to relevant questions related to our complaint.

We are self represented complainants. In PPL's Answer we are unable to respond to the paragraph at the top of page 2. This is not clear to us what this paragraph means " Notwithstanding, in the interest of compromise and administrative efficiency, PPL Electric served responses to request for production of documents 1, 2, 3, 4, and 5 on August 27,2019. Moreover, as explained herein, PPL Electric has agreed to complainants set II **without waiver of its objections and subject to the proposed limitations** to interrogatories 2, 3, and 4 and request for production of documents 6. Therefore the company maintains that the complainants motion will be rendered moot after the company serves these responses in the near future."

This paragraph is confusing and as not to reply in a way that will not be correct we cannot fully answer. Please ask PPL Electric to clarify the meaning of this.

PPL Electric has used the terms “ **without waiver of its objections and subject to**”... As an answer to quite a few of our interrogatory questions.

These are considered conditional responses and /or only partial answers.

*Courts have identified three main issues with conditional discovery responses:

1. They can be confusing.What does it mean to produce documents "subject to and not waiving" various objections? It is not always clear. Perhaps the party is producing some documents and withholding others based on its objections. Or, perhaps the party is producing all responsive documents, but simply noting that the discovery request is objectionable as stated.

In the words of one court, the requesting party is "left guessing as to whether [the producing party] has produced all documents, or only produced some documents and withheld others." *See Pro Fit Mgmt., Inc. v. Lady of Am. Franchise Corp.*, No. 08–CV–2662, 2011 WL 939226, at *9 (D. Kan. Feb. 25, 2011) *objections overruled*, 2011 WL 1434626 (D. Kan. Apr. 14, 2011). (Though less common, courts have also criticized the use of conditional discovery responses to interrogatories. *See Mann v. Island Resorts Dev., Inc.*, No. 3:08CV297, 2009 WL 6409113, at *3–4 (N.D. Fla. Feb. 27, 2009)).

2. They may render discovery unmanageable.Another concern is that conditional discovery responses may lead to increased motion practice during discovery. "Absent an indication of what, exactly, the responding party was objecting to. . . courts would be flooded with motions to compel by litigants seeking to confirm that undisclosed responsive documents did not exist. And courts would then be forced to ask counsel, over and over again, 'Do other documents exist?'" *Haeger v. Goodyear Tire and Rubber Co.*, 906 F. Supp. 2d 938, 977 (D. Ariz. 2012).

3. They may be inconsistent with the Federal Rules of Civil Procedure. "The plain language of Rule 34 requires a partial response be identified as such." *Id.* See Fed. R. Civ. P. 34(b)(2)(C) ("An objection to part of a request must specify the part and permit inspection of the rest."); see also Fed. R. Civ. P. 33(b)(3) ("Each interrogatory must, to the extent it is not objected to, be answered separately and fully in writing under oath.").

But conditional discovery responses sometimes obscure whether the party is only providing a partial response (i.e., withholding documents). See *Sprint Commc'ns Co., L.P. v. Comcast Cable Commc'ns, LLC*, No. 11-2684, 2014 WL 1569963, at *2 (D. Kan. Apr. 18, 2014) ("[T]he practice of responding to discovery requests by asserting objections and then answering 'subject to' or 'without waiving' the objections is confusing, unproductive, and in violation of federal discovery rules. ").

For these reasons, several courts have disapproved of conditional discovery responses, with some courts even holding that the use of such responses will result in *waiver* of discovery objections. See, e.g., *id.* at *3 ("[W]hen a party objects to discovery but nonetheless answers 'subject to' the objection, the objection will be deemed waived."); *Mann*, 2009 WL 6409113, at *3 ("In this court, however, no objections are 'reserved' under the rules; they are either raised or they are waived."); *Westlake v. BMO Harris Bank N.A.*, No. 13-2300, 2014 WL 1012669, at *3 (D. Kan. Mar. 17, 2014) (the court "strongly disapproves" of conditional discovery responses); *Pepperwood of Naples Condo. Ass'n, Inc. v. Nationwide Mut. Fire Ins. Co.*, No. 2:10-CV-753, 2011 WL 4382104, at *4-5 (M.D. Fla. Sept. 20, 2011) (cautioning parties about the use of conditional discovery responses).

However, while these opinions criticized conditional discovery responses, the issue was not just the "subject to and not waiving" language itself. Rather, the problem was that the discovery responses at issue failed to indicate whether the responses were full and complete. Therefore, the key takeaway is that all discovery responses should specify whether the response is complete or partial, and whether the party is withholding documents based on its objections.

On our amended formal complaint requested relief:

- c. We take preventative measures in our home and have been removing high EMF producing appliances in our home.
- d. We do not consent to have a radiation emitting smart meter on our

home.

d.(2) We would like to be protected from damage to our **property** and **health** as people by the deployment of a smart meter.

e.(2) We are concerned about our rights to **privacy** that data collected by PPL electric can be sold.

f. We are concerned about the RF smart meter being **hacked** by anyone and what information they will be able to obtain. There have been many intrusions by outside actors on government facilities etc. We can't imagine that a private companies can have better protection of **identity theft** than the federal government.

g. We are concerned someone can use our information to **steal our identity**.

f. We would like PPL to admit or prove otherwise that these smart meters are not a **surveillance device** otherwise known as wiretapping in the USC title 18, part 1, chapter 119, section 2511 and other state and federal laws.

In Pennsylvania it is illegal to record a phone conversation without the permission of the other party.

h. We would like to see the **safety data on all smart meters, both RF and PLC**. This data would need to come from an unbiased, independent company. These companies must have no connection to the electric distribution companies and prove to have done independent safety testing and protocols to prove the safety for humans, animals and plants.

j. We would like to have full disclosure from PPL electric of any **damage to property, health, violations, and over billing** that smart meters are capable of.

In PPL Electric's;

I. INTRODUCTION they give a timeline of the complainants Interrogatories dates served and their response either answers or objections to the interrogatories in the motion to compel.

We are also attaching our set II interrogatories set II in APPENDIX A, and PPL Electric objections is attached as APPENDIX B.

PPL number

6. “ Under Pa. Code §5.32 (c), a party is entitled to discovery of any matter not privileged that is **RELEVANT** to the pending proceeding, or any other matter that is reasonably calculated to lead to the discovery of admissible evidence. *Id.*

7. 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 Ind. Co.* , 600 A.2d 605,608 (Pa. Super. 1991) (emphasis added)

Response and objection from complainants:

We object. These interrogatories are not ‘fishing expeditions ‘ they are questions related to our formal complaint and **relevant**. If we ask a

question about *health, safety, privacy or hacking concerns they are all written in our requested relief of our formal complaint.* They should be answered. [(confidential statement , these should be answered fully as PPL Electric **HAS** Requested medical records prior to installation of the Landis and Gyr RF smart meter, if not willing to answer these questions related to health and safety why are medical records needed?] If PPL Electric is not willing to answer interrogatories about the issues we put in our requested relief, how are we to find out the answers since it is not available anywhere else?

In 1947 the U.S. Supreme Court held in *Hickman v. Taylor* that courts are to accord discovery rules broad and liberal treatment. Citing the U.S. Supreme Court, the 12th Court of Appeals in Tyler held in 2004 in *Hill and Griffith Co. v. Bryant* that “[n]o longer can the time-honored cry of ‘fishing expedition’ serve to preclude a party from inquiring into the facts underlying his opponent’s case. Discovery is permitted of any matter, not privileged, that is relevant to the subject matter and is reasonably calculated to lead to discovery of admissible evidence.

PPL Electrics response:

II. Complainants’ Motion to compel responses to interrogatories and requests for production of documents (SET II) should be denied.

Our response to this is PPL Electric should be ordered to answer our interrogatories and requests for production of documents should be **ALLOWED.** Again these are part of our formal complaint as shown above.

A. PPL Electrics objections to interrogatory 2

10. 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?

11. **PPL objects** on the grounds the question is vague, irrelevant, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

12. **PPL objects**; 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 can not reasonably and accurately answer this interrogatory.

13. **PPL ELECTRIC second objection**; Second, the interrogatory is overly broad and and unduly burdensome. Although the complainants clarify their reference to “ smart meters “ means 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 Focus AXR-SD meter. Indeed, as written the interrogatory would require PPL Electric to gather substantial info that is not in its possession,

specifically the allegations customers of other utilities have made about the meters. Thus, because of the scope of the interrogatory is not limited to PPL Electric's customers, the discovery request is overly broad and unduly burdensome.

14. PPL Electric response.

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 the proceeding. In fact, such hearsay would not be admissible at the evidentiary hearing. Moreover, simply providing the number of customers who have made these hearsay allegations is not reasonably calculated to lead to the discovery of admissible evidence.

15. PPL Electric's response; 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.

16. PPL Electric's response; Notwithstanding, and without waiver of these objections PPL Electric will answer this interrogatory in the interest of compromise and efficiency.

17. PPL Electric's response; Furthermore, the complainants clarify in their Motion to Compel that this interrogatory is limited in scope to PPL Electric only, not any other electric distribution companies ("EDCs"). See Motion to Compel, p.4. Therefore PPL Electric will answer the

interrogatory subject to that limitation as well.

Donna and John Bengen's responses and objections to PPL Electric's objections to interrogatories Set II. A. 11 through 17.

A. 11. We object. We don't believe this question is vague, irrelevant, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

If PPL feels the question is what they state, *we will provide clarification of the questions below.*

[Confidential statements, Since PPL Electric is requesting medical records we are requesting ALL questions below are answered, due to the fact PPL Electric is asking for medical records prior to the installation of the Landis & Gyr E-350 Focus AXR-SD.]

1. How many of PPL Electric customers have cited heart arrhythmias since the installation of Landis & Gyr E-350 Focus AXR-SD meters?
2. How many of PPL Electric customers have cited insomnia since the installation of Landis & Gyr E-350 Focus AXR-SD meters?
3. How many of PPL Electric customers have cited EHS (electromagnetic hypersensitivity) since the installation of Landis & Gyr E-350 Focus AXR-SD meters?
4. How many of PPL Electric customers have cited tinnitus, acoustic neuromas or brain tumors since the installation of Landis & Gyr E-350 Focus AXR-SD meters?

5. How many of PPL Electric customers have cited anxiety, depression since the installation of Landis & Gyr E-350 Focus AXR-SD meters?
6. How many of PPL Electric customers have cited brain fog, behavioral issues since the installation of Landis & Gyr E-350 Focus AXR-SD meters?
7. How many of PPL Electric customers have cited dizziness since the installation of Landis & Gyr E-350 Focus AXR-SD meters?
8. How many of PPL Electric customers have cited headaches since the installation of Landis & Gyr E-350 Focus AXR-SD meters?
9. How many of PPL Electric customers have cited concentration problems since the installation of Landis & Gyr E-350 Focus AXR-SD meters?
10. How many of PPL Electric customers have cited fatigue, memory loss since the installation of Landis & Gyr E-350 Focus AXR-SD meters?
11. How many of PPL Electric customers have cited cancer since the installation of Landis & Gyr E-350 Focus AXR-SD meters?

RF radiation is classified by the International Agency for Research on Cancer (IARC), as “possibly carcinogenic to humans.” This is based on the finding of a possible link in at least one study between cell phone use and a specific type of brain tumor. Because RF radiation is a possible carcinogen, and smart meters give off RF radiation, it is possible that smart meters could increase cancer risk.

12. Bengen’s answer to this is is under our responses to A. 11. Questions

are clarified numbers 1-16.

13. We are not asking for personal customer information, only numbers of people who have cited health problems as stated in the above questions.

14. These questions are completely **RELEVANT and stated in the requested relief of our formal complaint.** This data is not available anywhere else.

15. Again, we state this is **RELEVANT** to our formal complaint.

16. ***Courts have identified three main issues with conditional discovery responses:** see page 3 and 4.

17. We object. PPL Electric's response in the last sentence. "Therefore, PPL Electric will answer the interrogatory subject to that limitation as well. What does this mean? A partial answer? What limitation? Please have this explained and answer in full.

B. PPL Electric objections to interrogatory 3

18. Complainants Set II, interrogatory 3 requests the following.

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

19. The company objected to the 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.

20. 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.

20. 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.

21. 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 “ surge protection capabilities “ of other electric utilities ‘ meters. Moreover, the issues in this proceeding are limited to whether the installation 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’ have 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 discovery of admissible evidence.

22. 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.

23. Notwithstanding and without waiver of these objections PPL Electric will answer this interrogatory in the interest of compromise and efficiency.

24. Furthermore, the complainants clarify in their motion to compel that this interrogatory is limited in scope to PPL Electric only , not any other EDC's. *See Motion to Compel, p.5.* Therefore, PPL Electric will answer the interrogatory subject to that limitation as well.

Bengen's response and objections :

We object. Our interrogatory is clearly asking a question **RELEVANT** to safety in our formal complaint. We request PPL Electric is ordered to answer the interrogatory.

PPL's response. C. Objections to interrogatory 4 and request for

production of documents 6

25. 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, passthrough surges or other mechanisms what is PPL's corporate liability regarding liability?

26. Complainants Set II, requests for production of documents 6 asks for the following:

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

27. The company objected to Complainants Set II, interrogatory 4 on the grounds they are vague, speculative, irrelevant, overly broad, and not reasonably calculated to lead to the discovery of admissible evidence.

28. 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.

29. 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 an admission of the new AMI meters presenting safety and health concerns.

30. 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 meters' 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.

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

32. Notwithstanding, and without waiver of these objections, PPL Electric

would be willing to answer Interrogatory 4 and request for production of documents 6 as limited to the following: "Does PPL Electric maintain general corporate liability insurance?"

Bengen's response and objections :

We object. Our interrogatory 4 and request for production of documents is asking questions regarding safety. We are adding clarification of the interrogatory questions.

Clarification of the questions.

1. If our residence is damaged by fire what is PPLs' corporate policy regarding liability? Does PPL Electric assume responsibility for damages due to? Does PPL carry liability insurance to protect the customer in the event of a failure? See below questions ;

a. Fire, damage to our home, interior and exterior including contents?
death due to fire?

b. Surges that damage items in our home? (wiring, electronics, appliances)

c. Other mechanisms, explosions of meters?

Again since this IS on our formal complaint we should have this interrogatory answered as it is **RELEVANT** to our formal complaint.

PPLs response D. Objections to requests for production of documents

1 through 5

33. Complainants Set I, request 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, including the health effects of radio frequency radiation emitted by the Landis & Gyr meters.

34. The company objected to 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.

35. Notwithstanding, on August 27, 2019, PPL Electric served its answers

to Requests for production of documents 1 through 5. A true and correct copy of the letter and certificate of service evidencing the service of those Answers is attached hereto as **APPENDIX C**.

36. Thus this portion of the complainants motion to compel is moot.

Bengen's response and objections :

PPL Electric, on August 27, 2019 did respond to these interrogatory questions. However, their responses were objections.

See **APPENDIX C, PPL Electric Utilities Corporation Responses to Requests for Production of Documents Set II**

Dated July 30, 2019

Bengen's response and objection:

II -1 We object. PPL objected to this interrogatory on August 13, 2019. They also used *the conditional response* " without waiver of that objection, and subject thereto, PPL Electric responds as following.

Their response states:

" 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.

" Please see the direct testimony and exhibits of Dr. Christopher Davis (PPL statement No. 1) and 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.

So this is not an answer to our interrogatory and gives us NO safety information about the safety of Landis & Gyr meters.

We are NOT attempting to shift the burdening proofed PPL Electric. We are looking for information only related to our formal complaint. Again we are asking PPL is ordered to answer according to our formal complaint which clearly requests answers to the safety of these meters and is **RELEVANT**.

II-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.”

Bengen’s response and objections :

We object. Again PPL Electric also used *the conditional response* “ without waiver of that objection, and subject thereto, PPL Electric responds as following.

Although PPL Electric did give a partial response to this about this stating “no fires in PPL Electric’s service territory has been caused by the Landis & Gyr Focus AXR-SD meter, which is being deployed for every residential customer in PPL Electric service.

We ask that PPL Electric be **ORDERED** to answer the interrogatory questions and production of documents above and their request to **DENY** **this motion to compel be dismissed.**

APPENDIX "A"

RECEIVED

SEP 24 2019

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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,

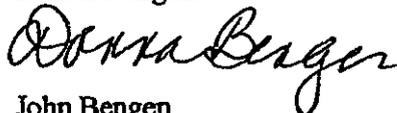
We are attaching Interrogatories #2 from Donna and John Bengen

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 we 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

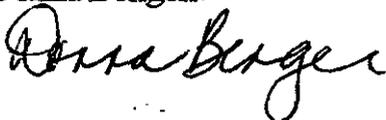
Via certified mail

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"

RECEIVED

SEP 24 2019

PA PUBLIC UTILITY COM.
SECRETARY'S OFFICE



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

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

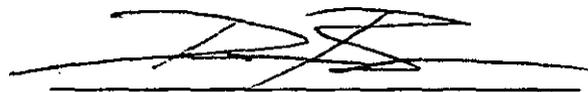
CERTIFICATE OF SERVICE

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

A handwritten signature in black ink, appearing to read "Devin Ryan", written over a horizontal line.

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?

APPENDIX "C"

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU



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717-731-1970 Main
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Devin Ryan

dryan@postschell.com
717-612-6052 Direct
717-731-1985 Direct Fax
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

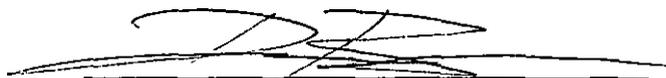
CERTIFICATE OF SERVICE

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

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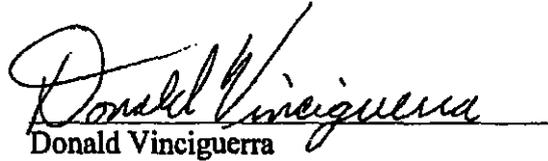
SEP 24 2019

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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.

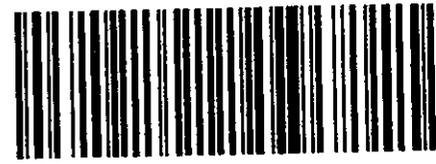
Date: 8/27/19


Donald Vinciguerra

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SEP 24 2019
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

 Ms Donna Bengen
11235 W Route 973 Hwy
Jersey Shore, PA 17740

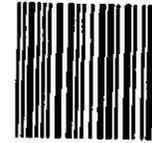
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Rosemary Chiavetta, Secretary
Pa. Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

8/27/19

