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October 21, 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: Anthony Venini v. PPL Electric Utilities Corporation
Docket No. C-2018-3006469

Dear Secretary Chiavetta:

Enclosed for filing is the Motion of PPL Electric Utilities Corporation to Dismiss the Formal Complaint of Anthony Venini 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 FIRST CLASS MAIL

Anthony Venini
1094 Graber Road
Red Hill, PA 18076

Date: October 21, 2019



Devin T. Ryan

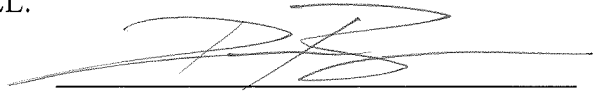
**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Anthony Venini,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2018-3006469
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

NOTICE TO PLEAD

YOU ARE HEREBY ADVISED THAT, PURSUANT TO 52 PA. CODE § 5.371(b), YOU MAY FILE A REPLY TO THE ENCLOSED MOTION TO DISMISS WITHIN FIVE (5) DAYS AFTER THE DATE OF SERVICE. YOUR REPLY SHOULD BE FILED WITH THE SECRETARY OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION, P.O. BOX 3265, HARRISBURG, PA 17105-3265. A COPY OF YOUR REPLY SHOULD ALSO BE SERVED ON THE UNDERSIGNED COUNSEL.

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Michael J. Shafer (ID # 205681)
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Date: October 21, 2019

Attorneys for PPL Electric Utilities Corporation

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Anthony Venini,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2018-3006469
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

**MOTION OF PPL ELECTRIC UTILITIES CORPORATION TO
DISMISS THE FORMAL COMPLAINT OF ANTHONY VENINI**

TO ADMINISTRATIVE LAW JUDGE ELIZABETH H. BARNES:

Pursuant to 52 Pa. Code §§ 5.371-5.372, PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) hereby files this Motion to Dismiss the Formal Complaint filed by Anthony Venini (“Complainant”) in the above-captioned proceeding, due to his failure to comply with the Order Granting Motion to Compel (“Order”) issued by Administrative Law Judge Elizabeth H. Barnes (“ALJ”) on September 30, 2019. In support of its Motion, PPL Electric states as follows:

I. INTRODUCTION

1. On December 11, 2018, PPL Electric was served with the Formal Complaint filed by the Complainant against the Company, which challenged the planned installation of the Company’s new automated metering infrastructure (“AMI”) meter at the service address.
2. On December 28, 2018, PPL Electric timely filed its Answer to the Complaint.
3. On April 2, 2019, PPL Electric served Interrogatories and Requests for Production of Documents on the Complainant – Set I (“PPL to Complainant Set I”) via regular

mail. A true and correct copy of PPL to Complainant Set I is attached hereto and marked as **Appendix A.**

4. Pursuant to the Commission's regulations, objections to PPL to Complainant Set I were due on or before April 15, 2019, and responses were due on or before April 25, 2019.¹

5. The Complainant never served any objections or answers to PPL to Complainant Set I.

6. On August 16, 2019, counsel for PPL Electric left the Complainant a detailed voicemail about, among other things, the status of the overdue discovery responses and trying to resolve the discovery dispute informally.

7. On September 12, 2019, PPL Electric filed a Motion to Compel responses to PPL to Complainant Set I.

8. The Complainant never filed an Answer to the Motion to Compel.

9. On September 30, 2019, the ALJ issued an Order granting PPL Electric's Motion to Compel. The Order specifically directed the Complainant to provide responses to PPL Electric "no later than October 20, 2019." A true and correct copy of the Order Granting Motion to Compel is attached hereto as **Appendix B.**

10. As of the filing of this Motion, no responses to PPL to Complainant Set I have been received.

11. In addition, pursuant to the Second Prehearing Order dated August 2, 2019, the Complainant was required to serve any statements, reports, and direct testimony of any expert witness he intends to call on or before September 16 2019.

¹ Because the discovery was served via certified mail by the United States Postal Service ("USPS"), three days were added to the prescribed period for response. *See* 52 Pa. Code § 1.56(b).

12. The Complainant has not served any statements, reports, and direct testimony of any expert witness on PPL Electric to date.

13. In contrast, the Company served its direct testimony and exhibits in this case on October 15, 2019, as required by the Second Prehearing Order.

14. For the reasons explained herein, PPL Electric respectfully requests that the ALJ grant the instant Motion and dismiss the Complainant's Formal Complaint with prejudice, due to his failure to comply with the ALJ's September 30, 2019 Order Granting Motion to Compel and the Commission's regulations.

II. LEGAL STANDARDS

15. 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.*

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

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

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

(1) An order that the matters regarding which the questions were asked, the character or description of the thing or land, the contents of the paper, or other designated fact shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order.

(2) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting the party from introducing in evidence designated documents, things or testimony.

(3) An order striking out pleadings or parts thereof, staying further proceedings until the order is obeyed, or entering a judgment against the disobedient party or individual advising the disobedience.

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

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

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

19. PPL Electric respectfully requests that the ALJ grant the instant Motion and dismiss the Complainant's Formal Complaint with prejudice, due to his failure to comply with the ALJ's September 30, 2019 Order Granting Motion to Compel.

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

21. Question 1 simply asks the Complainant to detail the reasons why he is challenging the AMI meter's installation and to identify, among other things, all health, safety, and privacy concerns he has with the new AMI meter.

22. In Question 2, PPL Electric has asked that the Complainant identify all wireless phones, cellphones, microwaves, wireless routers, wifi networks, tablets, computers, Bluetooth speakers, wireless security systems, smart speakers (*e.g.*, Amazon Echo), garage door openers, baby monitors, and walkie talks that are contained in or used in the house. This inquiry is relevant to whether the Complainant exposes himself to technology that emits higher levels of radio frequency ("RF") fields than the new AMI meter.

23. Relatedly, in Question 3, the Company has requested information regarding the Complainant's cell phone usage and records of such usage. Using this information, PPL Electric could calculate the amount of the Complainant's RF exposure from his cell phone and compare it to the lower amount of RF exposure from the new AMI meter.

24. In fact, the Company notes that the Complainant provided a cell phone number in his Formal Complaint. (*See* Complaint ¶ 1.)

25. In Question 4, PPL Electric has asked the Complainant to identify health conditions he alleges will be caused or worsened by the installation of the AMI meter and to provide any medical records of those alleged conditions.

26. In Questions 5 through 7, PPL Electric has asked for basic information about his case, including that he identify any lay witnesses and expert witnesses he plans to call to testify and that he provide copies of their proposed exhibits.

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

28. The Complainant's actions demonstrate his complete disregard of the ALJ's Order Granting Motion to Compel and the Commission's regulations.

29. Importantly, the Commission has regularly dismissed AMI meter complaints with prejudice due to the complainants' failure to answer discovery in compliance with the presiding administrative law judge's orders granting motions to compel. *See, e.g., Carol Sojda & 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); *Kyle M. Denlinger v. PPL Electric Utilities Corp.*, Docket No. C-2018-3005721, pp. 4-11 (Aug. 16, 2019), *adopted*, Docket No. C-2018-3005721 (Order entered Sept. 26, 2019).

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

IV. CONCLUSION

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

Respectfully submitted,



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Michael J. Shafer (ID # 205681)
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Date: October 21, 2019

Attorneys for PPL Electric Utilities Corporation

APPENDIX A

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



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File #: 167945

April 2, 2019

VIA REGULAR MAIL

Anthony Venini
1094 Graber Road
Red Hill, PA 18076

Re: Anthony Venini v. PPL Electric Utilities Corporation
Docket No. C-2018-3006469

Dear Mr. Venini:

Enclosed are the Interrogatories and Requests for Production of Documents Propounded by PPL Electric Utilities Corporation on Anthony Venini – Set I in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Please provide answers to the enclosed discovery within twenty (20) days of the date of service, pursuant to 52 Pa. Code § 5.342.

Sincerely,

Devin Ryan

DTR/jl
Enclosures

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

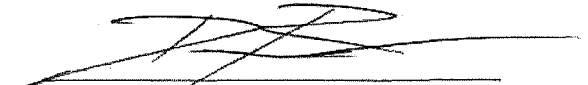
CERTIFICATE OF SERVICE

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 FIRST CLASS MAIL

Anthony Venini
1094 Graber Road
Red Hill, PA 18076

Date: April 2, 2019



Devin T. Ryan

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Anthony Venini,	:	
	:	
Complainant	:	
	:	
v.	:	Docket No. C-2018-3006469
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent	:	

**INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS PROPOUNDED BY
PPL ELECTRIC UTILITIES CORPORATION ON
ANTHONY VENINI – 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 Anthony Venini (“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-2018-3006469.

**INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS PROPOUNDED ON
ANTHONY VENINI – 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

September 30, 2019 Order Granting Motion to Compel

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Anthony Venini

v.

PPL Electric Utilities Corporation

:
:
:
:
:

C-2018-3006469

ORDER GRANTING MOTION TO COMPEL

A hearing in the above-captioned matter has been scheduled for November 19, 2019. PPL Electric Utilities Corporation (PPL or Respondent) served its Set I Interrogatories and Requests for Production of Documents (Set I) upon Anthony Venini (Complainant) on April 2, 2019. Responses were due on or before April 25, 2019. Complainant never served objections or responses to PPL. On September 12, 2019, PPL filed a Motion to Compel. Complainant has not filed a response to the Motion. Complainant has not served any statements, reports or direct testimony of any expert witness to PPL Electric to date.

In its Motion to Compel, PPL seeks an order compelling full responses to Set I, Question Nos. 1-7.

52 Pa. Code § 5.342(a)(4) provides that a party must answer fully and completely unless an objection is made. This includes the production of documents and information sought through Set I. *See* § 5.341(c). Objections must be served within ten days of service of the interrogatories. § 5.342(e). Complainant did not file objections to Set I.

I find information requested in PPL Interrogatories Question Nos. 1-7 may be admissible or lead to discovery of admissible evidence at the hearing and is discoverable under the broad terms of 52 Pa. Code Section 5.321.

THEREFORE,

IT IS ORDERED:

1. That PPL Utilities Corporation's Motion to Compel is granted.
2. That Complainant is directed to provide PPL Utilities Corporation with full responses to PPL Set I Interrogatories and Requests for Production of Documents Question Nos. 1-7 consistent with the body of this Order **no later than October 20, 2019.**

Date: September 30, 2019

/s/
Elizabeth H. Barnes
Administrative Law Judge

C-2018-3006469 - ANTHONY VENINI v. PPL ELECTRIC UTILITIES CORPORATION

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