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November 1, 2019

VIA HAND DELIVERY

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

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PA PUC
SECRETARY'S BUREAU
FRONT DESK

Re: Linda E. and Hubert P. Beck v. PPL Electric Utilities Corporation
Docket No. C-2018-3002924

Dear Secretary Chiavetta:

Enclosed for filing is the Motion in Limine of PPL Electric Utilities Corporation ("PPL Electric" or the "Company") to Prohibit the Complainants from Presenting any Testimony and Exhibits Related to the Americans with Disabilities Act in the above-referenced proceeding.

PPL Electric is filing both PROPRIETARY and NON-PROPRIETARY versions of the enclosed Motion because a portion of the Motion concerns material that the Complainants have marked as CONFIDENTIAL. Therefore, the portion of the Motion regarding such CONFIDENTIAL material is redacted in the NON-PROPRIETARY version. The PROPRIETARY version is only being provided in a sealed enveloped conspicuously stamped CONFIDENTIAL.

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

Respectfully submitted,

Devin Ryan

DTR/dmc
Enclosures

Rosemary Chiavetta, Secretary
November 1, 2019
Page 2

cc: Honorable Elizabeth Barnes
Certificate of Service

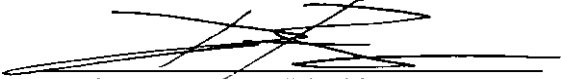
**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Linda E. and Hubert P. Beck, :
 :
Complainants, :
 :
v. : Docket No. C-2018-3002924
 :
PPL Electric Utilities Corporation. :
 :
Respondent. :

NOTICE TO PLEAD

YOU ARE HEREBY ADVISED THAT, PURSUANT TO 52 PA. CODE § 5.103(c), YOU MAY FILE A REPLY TO THE ENCLOSED MOTION WITHIN TWENTY (20) 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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Date: November 1, 2019

Attorneys for PPL Electric Utilities Corporation

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

NOV 1 2019

Linda E. and Hubert P. Beck,	:	
	:	
Complainants,	:	
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v.	:	Docket No. C-2018-3002924
	:	
PPL Electric Utilities Corporation,	:	
	:	
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**MOTION IN LIMINE OF
PPL ELECTRIC UTILITIES CORPORATION TO
PROHIBIT THE COMPLAINANTS FROM PRESENTING
TESTIMONY AND EXHIBITS CONTAINING RELATED TO THE
AMERICANS WITH DISABILITY ACT**

NON-PROPRIETARY VERSION

TO ADMINISTRATIVE LAW JUDGE ELIZABETH H. BARNES:

PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) hereby files this Motion in Limine pursuant to the Pennsylvania Public Utility Commission’s (“Commission”) regulations at 52 Pa. Code § 5.103 and requests that Administrative Law Judge Elizabeth H. Barnes (the “ALJ”) prohibit Linda E. and Huber P. Beck (“Complainants”) from presenting any testimony and exhibits related to the Americans with Disabilities Act, 42 U.S.C. §§ 12132, *et seq.* (“ADA”), because the Commission lacks jurisdiction to interpret and enforce the ADA.

In this proceeding, the Complainants generally have alleged that the installation of the new automated metering infrastructure (“AMI”) meter poses health, safety, and privacy

concerns. In the Complainants' pre-served exhibits,¹ there are allegations that electromagnetic hypersensitivity ("EHS") is a disability under the ADA and that the Complainants should be granted a reasonable accommodation under the ADA. However, it is well-established that the Commission completely lacks subject matter jurisdiction to interpret and enforce the ADA, including a determination as to whether EHS is a disability as defined by the ADA. Thus, any statements contained in the Complainants' testimony and exhibits related to the ADA should be excluded from the evidentiary record.

In support thereof, the Company states as follows:

I. BACKGROUND

1. PPL Electric is a public utility that provides electric distribution and provider of last resort services in Pennsylvania subject to the regulatory jurisdiction of the Commission. PPL Electric furnishes electric distribution, transmission, and provider of last resort electric supply services to approximately 1.4 million customers throughout its certificated service territory, which includes all or portions of 29 counties and encompasses approximately 10,000 square miles in eastern and central Pennsylvania.

2. On June 22, 2018, PPL Electric was served with the Formal Complaint filed by the Complainants.

3. On July 12, 2018, PPL Electric filed its Answer to the Complaint.

4. On February 4, 2019, PPL Electric was served with the Amended Formal Complaint filed by the Complainants.

¹ One of these exhibits, *i.e.*, Exhibit A, was marked as CONFIDENTIAL by the Complainants in the hard copy version. The emailed version of Exhibit A was not marked as CONFIDENTIAL. However, out of an abundance of caution, PPL Electric is treating the contents of Exhibit A as CONFIDENTIAL. Therefore, the Company is filing both Proprietary and Non-Proprietary versions of this Motion in Limine.

5. On February 19, 2019, PPL Electric filed its Answer to the Amended Formal Complaint.

6. On September 16, 2019, the Company received the Complainants' answers to its first set of discovery requests. However, the response to Question 4 regarding the Complainants' medical claims was incomplete.

7. On October 10, 2019, PPL Electric filed a Motion to Compel requesting a complete response to Question 4.

8. On October 15, 2019, the Complainants served a series of hearing exhibits pre-marked as Exhibits 1 through 4.

9. On October 19, 2019, the Complainants served a series of hearing exhibits pre-marked as Exhibits 1 through 7.

10. On October 21, 2019, the Complainants served a letter from Dr. Stacey Kuhns dated October 20, 2019.

11. On October 23, 2019, the Complainants served a "Primary Exhibit" and additional exhibits pre-marked as Exhibits A through K. In the emailed version, Exhibit A was a copy of the letter from Dr. Stacey Kuhns dated October 20, 2019. However, in the version received via hard copy in the mail, the Complainants hand-marked that Exhibit A as CONFIDENTIAL.

II. MOTION IN LIMINE

12. PPL Electric respectfully requests that the ALJ grant the instant Motion in Limine and prohibit the Complainants from presenting any testimony and exhibits related to the ADA.

13. It is well-established that the Commission has no jurisdiction to interpret or enforce the provisions of the ADA. *See Frompovich v. PECO Energy Co.*, 2018 Pa. PUC LEXIS 160, at *69 (Order entered May 3, 2018).

14. As a creature of statute, the PUC “has only those powers which are expressly conferred upon it by the Legislature and those powers which arise by necessary implication.” *Feingold v. Bell*, 383 A.2d 791, 794 (Pa. 1977) (citations omitted).

15. Nothing in the Public Utility Code or any other statute grants the Commission the authority to interpret and enforce the ADA.

16. Indeed, as the Commission held in *Frompovich*:

[I]t is beyond the jurisdiction of Commission to determine whether the Complainant has a disability or a cause of action under the American with Disabilities Act. See I.D. at 18. If Ms. Frompovich believes that she has a valid ADA claim against PECO, she must work through the federal courts or one of the federal enforcement agencies, which include the Department of Labor, the Equal Employment Opportunity Commission, the Department of Transportation, the Federal Communications Commission or the Department of Justice, but not this Commission.

Frompovich, 2018 Pa. PUC LEXIS at *69.

17. Here, the Complainants intend to present testimony and exhibits related to the ADA.

18. For example, in Paragraph 11 of their “Primary Exhibit,” the Complainants allege that PPL Electric and the Commission are violating the ADA by not granting their “requested reasonable accommodation under threat of termination of [their] electric supply.” (Complainants’ Primary Exhibit ¶ 11.)

19. Exhibit 7 is a letter from the Complainants to the ALJ and PPL Electric’s counsel requesting that the AMI meter be moved “under the Americans with Disabilities Act (ADA).” (Complainants’ Exhibit 7.)

20. **[BEGIN CONFIDENTIAL]** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] **[END CONFIDENTIAL]**

21. However, consistent with the Commission's finding in *Frompovich*, none of these allegations and issues related to the ADA are within the Commission's jurisdiction.

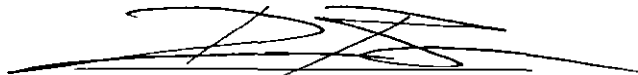
22. Thus, any testimony and exhibits related to the ADA are irrelevant to the issues to be decided in this proceeding.

23. Based on the foregoing, all of the Complainants' testimony and exhibits related to the ADA should be excluded from the evidentiary record.

III. CONCLUSION

WHEREFORE, PPL Electric Utilities Corporation respectfully requests that Administrative Law Judge Elizabeth H. Barnes grant this Motion in Limine and prohibit the Complainants from presenting any testimony and exhibits related to the Americans with Disabilities Act.

Respectfully submitted,



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Date: November 1, 2019

Attorneys for PPL Electric Utilities Corporation

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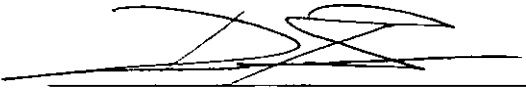
CERTIFICATE OF SERVICE

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

VIA E-MAIL & OVERNIGHT DELIVERY

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Date: November 1, 2019



Devin T. Ryan

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