



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
400 North Street, Harrisburg, Pennsylvania 17120

IN REPLY PLEASE
REFER TO OUR FILE

November 20, 2019

VIA FIRST CLASS MAIL

Eugene J. Bazan, Secretary
Pennsylvania Smart Meter Work Group
Post Office Box 24
Lemont, Pennsylvania 16851

RE: Michelle and Francis Hriadil
v.
Duquesne Light Company
Docket Number C-2016-2571726

Dear Mr. Bazan:

The Commission received your faxed correspondence regarding the above docketed complaint case currently pending before the Office of Administrative Law Judge.

First, since this contested matter is still pending before the Commission, and due to the statutory prohibition on ex-parte communications at 66 Pa. C.S. Section 334(c), please be advised that I am serving a copy of your comments to all of the parties of record to this case, and placing your letter on the record at the above docket number to cure this statutory violation. Please refrain from sending any further communications about contested proceedings pending before the Commission to the Chairman or members of the Commission.

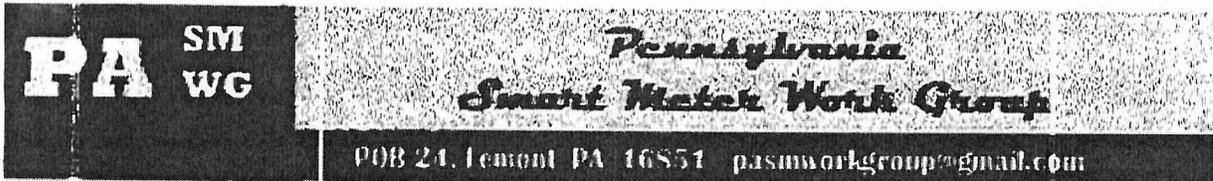
Second, if the Pennsylvania Smart Meter Work Group (Group) wishes to intervene in this pending complaint case, it would have to do so according to the Commission's Rules on Practice and Procedure in 52 Pa. Code at Sections 5.71 through 5.76. Additionally, the Group would also have to prove standing to intervene in this complaint case in accordance with the regulations.

Finally, any concerns raised by the Group regarding the law implementing the deployment of smart meters in Pennsylvania must be raised with the Pennsylvania General Assembly. The Commission does not have the authority to amend Act 129 mandating the implementation of smart meters in Pennsylvania.

Sincerely,

Rosemary Chiavetta
Secretary of the Commission

CC: All Parties of Record to Docket C-2016-2571726
Office of Administrative Law Judge



PA PUC TO: SEC

November 14, 2019

Chairman Gladys Brown (Dutrieuille)
PA Public Utilities Commission

Fax: 717-783-0698

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AIRMAN'S OFFICE

Dear Chairman Dutrieuille and Fellow Commissioners:

As Secretary for our PA Smart Meter Work Group, I am writing to protest the improper treatment of pro se Complainant Francis Hriadil (PUC docket # C-2016-2571726), a retired aerospace engineer – highly qualified – who has taken seriously the charge of producing a “preponderance of evidence” in his smart meter case.

Presently he is scheduled to have his hearing on Nov. 20-21, 2019 before Judge Watson, having been granted a reprieve when he was seriously ill several months ago. From our viewpoint, Mr. Hriadil has been harassed by Duquesne Light attorneys throughout his entire litigation process as they sought to disqualify him and all the evidence he submitted while also preventing him from obtaining evidence he required. Now, in the eleventh hour, they socked him again with Motions in Limine to try to disqualify some 80% of his 248 exhibits and his expert witnesses – the timing of which is robbing him of the precious time he requires to prepare for his hearing. “This is a misuse of Motions in Limine that is Improper and prejudicial.”¹

Please note that Duquesne Light has had Mr. Hriadil’s expert witness reports since July 10, 2019 and yet waited until now to file their Motion in Limine against all of them to which Mr. Hriadil, not being an attorney, has to respond – on the heels of having to defend his 248 “preponderance of evidence” exhibits... *again!* Mr. Hriadil successfully retained his documentary evidence in the aftermath of Duquesne Light’s June 4, 2018 motion for summary judgment against him. In response to their February 1, 2019 Motion in Limine against all 211 documents at that time, Mr. Hriadil filed his extensive response on February 21, 2019 and another response on March 16, 2019.

The FUC docket shows that Duquesne Light refiled their Motions in Limine on April 25, 2019 as per Judge Watson’s earlier ruling that their earlier filings were “premature”, but there was no further ruling on them and no revised litigation schedule was provided citing a deadline for dispositive motions and Motions in Limine when the November 20-21 hearing dates for Mr. Hriadil were set. Thus it is Dusquene Light’s position that they must be given due process to have their Motions in Limine ruled on in advance of the hearing, which places Mr. Hriadil in an extremely unfavorable position.

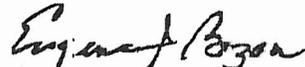
¹ Ritzi, Solange E, “Motions In Limine Misused and Abused” (2011) Plaintiff Magazine (<https://www.plaintiffmagazine.com/recent-issues/item/motions-in-limine-misused-and-abused>)

It would appear to be oversight of the court that has placed Mr. Hriadil in this unfavorable position of having to both prepare for his hearing and also defend against two Motions In Limine which cannot be ruled on in any degree of fairness prior to his hearing. Thus he would have to enter his hearing not knowing what evidence he is permitted to present nor whether his expert witnesses are permitted to testify!

Mr. Hriadil is elderly and in frail health, and we are concerned for his health and well-being to survive the enormous stress from what he is being subjected to with the misuse of Motions In Limine filed so late and just prior to his hearing. In the Kreider case (PUC docket # C-2015-2469655), Ms. Kreider, who was also in frail health, passed away before her case could be resolved.

I urge that immediate appropriate action to be taken on behalf of Mr. Hriadil: a continuance should be granted. The seemingly abusive tactics of Duquesne Light should be noted and prevented from being repeated against other pro se complainants by ensuring clear and sufficiently early deadlines for dispositive motions and Motions in Limine. No pro se complainant should be put through this inappropriate and untimely harassment with such late submissions of Motions In Limine. It is disrespectful of the judge and the court to derail parties from proper time to prepare for their hearings; the judge and court must take measures to prevent such situations as these from occurring.

Respectfully,


Eugene J. Bazan,
Secretary

Copied:

Vice Chairman David W. Sweet Fax: 717-783-7986
Commissioner Andrew G. Place Fax: 717-783-9845
Commissioner Ralph V. Yanora Fax: 717-783-8698
Commissioner John F. Coleman Fax: 717-787-5620