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December 26, 2019

VIA ELECTRONIC FILING

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

Re: Jeanene Denlinger v. PPL Electric Utilities Corporation
Docket No. C-2019-3014786

Dear Secretary Chiavetta:

Enclosed for filing are the Preliminary Objections of PPL Electric Utilities Corporation to the Complaint of Jeanene Denlinger 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

Jeanene Denlinger
14 Susquaw Place
Lancaster, PA 17601

Date: December 26, 2019



Devin T. Ryan


**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Jeanene Denlinger, :
 :
 Complainant, :
 :
 v. : Docket No. C-2019-3014786
 :
 PPL Electric Utilities Corporation, :
 :
 Respondent. :

NOTICE TO PLEAD

YOU ARE HEREBY ADVISED THAT, PURSUANT TO 52 PA. CODE § 5.101, YOU MAY ANSWER THE ENCLOSED PRELIMINARY OBJECTION WITHIN TEN (10) DAYS OF THE DATE OF SERVICE HEREOF. YOUR ANSWER TO THE PRELIMINARY OBJECTION MUST BE FILED WITH THE SECRETARY OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION, P.O. BOX 3265, HARRISBURG, PA 17105-3265. A COPY SHOULD ALSO BE SERVED ON THE UNDERSIGNED COUNSEL FOR PPL ELECTRIC UTILITIES CORPORATION.

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Date: December 26, 2019

Attorneys for PPL Electric Utilities Corporation

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Jeanene Denlinger,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2019-3014786
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

**PRELIMINARY OBJECTION OF
PPL ELECTRIC UTILITIES CORPORATION TO THE
COMPLAINT OF JEANENE DENLINGER**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

AND NOW, comes PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) and hereby files this Preliminary Objection, pursuant to the regulations of the Pennsylvania Public Utility Commission (“Commission”) at 52 Pa. Code § 5.101, and respectfully requests that the Commission dismiss the above-captioned Formal Complaint (“Complaint”) filed by Jeanene Denlinger (“Complainant”) in its entirety and with prejudice.

The instant Complaint challenges PPL Electric’s planned installation of a new automated metering infrastructure (“AMI”) meter at 14 Susquaw Place, Lancaster, Pennsylvania 17601, due to allegations that the new AMI meter: (1) is not mandatory; (2) will cause, contribute to, or exacerbate adverse health effects; and (3) raises privacy, safety, and financial concerns. (Complaint ¶¶ 4-5.)

As explained herein, the Commission should summarily dismiss the Complaint because the issues regarding the installation of the AMI meter at this property, as well as the alleged concerns of the Complainant, are barred by the Commission’s prior order in *Kyle M. Denlinger*

v. *PPL Electric Utilities Corporation*, Docket No. C-2018-3005721 (Order entered September 26, 2019) (“*Kyle Denlinger Order*”), pursuant to 66 Pa. C.S. § 316. In addition, or in the alternative, the Commission should strike the Complainant’s claims regarding her water service, as these claims constitute impertinent matter under 52 Pa. Code § 5.101(a)(2).

In support thereof, PPL Electric states as follows:

I. BACKGROUND

1. PPL Electric is a “public utility” and an “electric distribution company” as those terms are defined under the Public Utility Code, 66 Pa. C.S. §§ 102 and 2803, subject to the regulatory jurisdiction of the Commission.

2. 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 twenty-nine counties and encompasses approximately 10,000 square miles in eastern and central Pennsylvania.

3. On December 5, 2019, PPL Electric was served with the above-captioned Complaint, which challenges the Company’s planned installation of a new AMI meter at 14 Susquaw Place, Lancaster, Pennsylvania 17601 due to allegations that the new AMI meter: (1) is not mandatory; (2) will cause, contribute to, or exacerbate adverse health effects; and (3) raises privacy, safety, and financial concerns. In addition, the Complaint appears to include information related to the Complainant’s water utility service; however, when identifying the respondents in the Complaint, the Complainant has crossed out the name of the water service provider. A true and correct copy of the Complaint is attached hereto as **Appendix A.**¹

4. PPL Electric herein files these Preliminary Objections to the Complaint. For the reasons explained below, PPL Electric respectfully requests that: (1) the Commission summarily

¹ Due to customer privacy concerns, any account numbers in the Complaint have been redacted.

dismiss the Complaint because the issues regarding the installation of the AMI meter at this property, as well as the concerns already alleged therein, are barred by the Commission's *Kyle Denlinger Order* pursuant to 66 Pa. C.S. § 316; and (2) the allegations regarding Complainant's water service constitute impertinent matter, given that the Complainant explicitly crossed out her water service provider's name when identifying the respondents to this Complaint.

II. STANDARD OF REVIEW

5. Pursuant to the Commission's regulations, preliminary objections in response to a pleading may be filed on several grounds, including:

- (1) Lack of Commission jurisdiction or improper service of the pleading initiating the proceeding.
- (2) Failure of a pleading to conform to this chapter or the inclusion of scandalous or impertinent matter.
- (3) Insufficient specificity of a pleading.
- (4) Legal insufficiency of a pleading.
- (5) Lack of capacity to sue, nonjoinder of a necessary party or misjoinder of a cause of action.
- (6) Pendency of a prior proceeding or agreement for alternative dispute resolution.
- (7) Standing of a party to participate in the proceeding.

52 Pa. Code § 5.101(a) (emphasis added).

6. In ruling on preliminary objections, the Presiding Officer must accept as true all well-pled allegations of material facts as well as all inferences reasonably deducible therefrom. *Stilp v. Cmwlth.*, 910 A.2d 775, 781 (Pa. Cmwlth. 2006) (citing *Dep't of Gen. Servs. v. Bd. of Claims*, 881 A.2d 14 (Pa. Cmwlth. 2005)). However, the Presiding Officer need not accept as true conclusions of law, unwarranted inferences from facts, argumentative allegations, or expressions of opinion. *Stanton-Negley Drug Co. v. Dep't of Pub. Welfare*, 927 A.2d 671, 673

(Pa. Cmwlth. 2007). Notwithstanding, any doubt must be resolved in favor of the non-moving party. *Stilp*, at 781.

7. In addition, the Presiding Officer must determine whether, based on the factual pleadings, if recovery is possible. *See Rok v. Flaherty*, 527 A.2d 211, 214 (Pa. Cmwlth. 1987). Indeed, for preliminary objections to be sustained, it must appear with certainty that the law will permit no recovery. *See Stilp*, at 781; *Milliner v. Enck*, 709 A.2d 417, 418 (Pa. Super. 1998).

III. PRELIMINARY OBJECTIONS

A. PRELIMINARY OBJECTION NO. 1 – THE COMPLAINT SHOULD BE DISMISSED BECAUSE IT IS BARRED BY SECTION 316 OF THE PUBLIC UTILITY CODE AND, THEREFORE, LEGALLY INSUFFICIENT

8. PPL Electric incorporates by reference Paragraphs 1 through 7 as if fully set forth herein.

9. The Complaint should be dismissed in its entirety because it is barred by Section 316 of the Public Utility Code, 66 Pa. C.S. § 316, and, therefore, legally insufficient. *See* 52 Pa. Code § 5.101(a)(4).

10. As explained previously, the Complainant challenges PPL Electric’s planned installation of a new AMI meter at 14 Susquaw Place, Lancaster, Pennsylvania 17601 due to allegations that the installation of the new AMI meter: (1) is not mandatory; (2) will cause, contribute to, or exacerbate adverse health effects; and (3) raises privacy, safety, and financial concerns. (Complaint ¶¶ 4-5.)

11. On October 31, 2018, PPL Electric was served with the Complaint of Kyle M. Denlinger (“Kyle Denlinger Complaint”). The Kyle Denlinger Complaint was docketed at

Docket No. C-2018-3005721. A true and correct copy of the Kyle Denlinger Complaint is attached hereto as **Appendix B**.²

12. Importantly, in the Kyle Denlinger Complaint, Mr. Kyle M. Denlinger stated that the installation of the new AMI meter is “unauthorized by Kyle + Jeanene Denlinger.” Appendix B ¶ 4 (emphasis added).

13. Therefore, Mr. Kyle M. Denlinger was explicitly raising concerns on behalf of both him and his wife, Ms. Jeanene Denlinger, who is the Complainant in the instant action.

14. By Secretarial Letter dated August 16, 2019, the Commission issued Administrative Law Judge Elizabeth H. Barnes’s (the “ALJ”) Initial Decision at Docket No. C-2018-3005721, which dismissed the Kyle Denlinger Complaint with prejudice, for failure to comply with the ALJ’s prior July 1, 2019 Order Granting Motion to Compel and the February 1, 2019 Prehearing Order (“*Kyle Denlinger Initial Decision*”). A true and correct copy of the *Kyle Denlinger Initial Decision* is attached hereto as **Appendix C**.

15. No exceptions to the *Kyle Denlinger Initial Decision* were filed.

16. On September 26, 2019, the Kyle Denlinger Initial Decision became final by operation of law. *See Kyle M. Denlinger v. PPL Electric Utilities Corporation*, Docket No. C-2018-3005721 (Order entered September 26, 2019) (“*Kyle Denlinger Order*”). A true and correct copy of the *Kyle Denlinger Order* is attached hereto as **Appendix D**.

17. No appeal of the *Kyle Denlinger Order* was filed.

18. The Complainant resides at 14 Susquaw Place, Lancaster, PA 17601, the same service address as Mr. Kyle M. Denlinger, and receives electric service under the same utility account number.³ *See Appendix A* ¶ 1; *see also Appendix B*, ¶ 1.

² Due to customer privacy concerns, any account numbers in the Complaint have been redacted.

19. The Complainant is Mr. Kyle M. Denlinger's wife.

20. In both the instant Complaint and the Kyle Denlinger Complaint, the complainants allege that the new AMI meter to be installed at 14 Susquaw Place, Lancaster, Pennsylvania 17601: (1) is not mandatory; (2) will cause, contribute to, or exacerbate adverse health effects; and (3) raises privacy, safety, and financial concerns.

21. Under Section 5.101(a)(4) of the Commission's regulations, a party may file a preliminary objection for "legal insufficiency." 52 Pa. Code § 5.101(a)(4).

22. Pursuant to 66 Pa. C.S. § 316, the instant Complaint is barred by the *Kyle Denlinger Order*. Section 316 states, in relevant part:

Whenever the commission shall make any rule, regulation, finding, determination or order, the same shall be prima facie evidence of the facts found and shall remain conclusive upon all parties affected thereby, unless set aside, annulled or modified on judicial review.

66 Pa. C.S. § 316.⁴

23. Under Section 316 of the Public Utility Code, a complainant is prohibited from raising issues that were previously decided. *See Moore, Jr. v. PECO Energy Company*, Docket No. C-2012-2309932, 2012 Pa. PUC LEXIS 1251, at *12 (Initial Decision dated July 18, 2012), *adopted without modification*, Docket No. C-2012-2309932 (Order entered Oct. 24, 2012). Section 316 precludes a collateral attack upon a Commission order that has not been reversed upon appeal.

³ Although the account numbers in **Appendix A** and **Appendix B** have been redacted due to customer privacy concerns, it is indisputable that the electric account numbers are the same. The presiding officer can validate this fact by reviewing the un-redacted versions of the formal complaints on file with the Commission at Docket Nos. C-2018-3005721 and C-2019-3014786.

⁴ To the extent that this argument is found to be more appropriately addressed in a motion for judgment on the pleadings, PPL Electric has raised this affirmative defense in its New Matter to the Complaint and respectfully requests that its Preliminary Objections be treated as a Motion for Judgment on the Pleadings in the interest of administrative and judicial efficiency. *See Raintree Farm Solar v. PPL Electric Utilities Corporation*, Docket No. C-2017-2621826 (Initial Decision dated Nov. 9, 2017), *adopted*, Docket No. C-2017-2621826 (Order entered Jan. 16, 2018).

24. The *Kyle Denlinger Order* dismissed, with prejudice, a complaint regarding the installation of an AMI meter at 14 Susquaw Place, Lancaster, Pennsylvania 17601. The service address and the account number listed in the instant Complaint are identical to those at issue in the Kyle Denlinger Complaint.

25. The *Kyle Denlinger Order* was not set aside, annulled, or modified by judicial review. In fact, the *Kyle Denlinger Order* was not appealed and so remains conclusive upon all parties affected thereby.

26. The Complainant in the instant action is the same or is in privity with Mr. Kyle M. Denlinger because the Complainant is his wife, resides at the same address, receives electric service at that same address, and receives electric service pursuant to the same utility account as her husband.

27. “Privity is broadly defined as ‘mutual or successive relationships to the same right of property, or such an identification of interest of one person with another as to represent the same legal right.’” *Hillgartner v. Port Auth.*, 936 A.2d 131, 140 (Pa. Cmwlth. 2007) (quoting *Montella v. Berkheimer Assocs.*, 690 A.2d 802, 804 (Pa. Cmwlth. 1997)).

28. “Typically, the same loss, the same measure of damages, and the same or nearly identical issues of fact and law are involved.” *Id.* (internal quotation marks omitted).

29. Thus, the Complainant’s claims and issues are barred by Section 316 of the Code, 66 Pa. C.S. § 316.

30. As noted above, the service address and the account number listed in the instant Complaint are identical to those at issue in the Kyle Denlinger Complaint. Moreover, to the extent that her issues were any different than her husband’s, the Complainant could have and should have raised her concerns regarding the installation of an AMI meter at 14 Susquaw Place,

Lancaster, Pennsylvania 17601 during her husband's formal complaint proceeding at Docket No. C-2018-3005721. Through the instant Complaint, the Complainant is seeking to litigate the same factual and legal issues, related to the same service address and service account, which were raised or could have been raised in the Kyle Denlinger Complaint.

31. For these reasons, the instant Complaint should be dismissed because the claims and issues raised therein are already subject to a prior Commission order that remains conclusive and binding upon the Complainant.

WHEREFORE, PPL Electric respectfully requests that the above-captioned Complaint be summarily dismissed pursuant to 52 Pa. Code § 5.101(a)(4).

B. PRELIMINARY OBJECTION NO. 2 – THE ALLEGATIONS CONTAINED IN THE COMPLAINT REGARDING THE COMPLAINANT'S WATER SERVICE SHOULD BE STRICKEN AS IMPERTINENT MATTER

32. PPL Electric incorporates by reference Paragraphs 1 through 31 as if fully set forth herein.

33. The allegations regarding the Complainant's water service, contained in Paragraph 1 through 3 and Paragraph 5 of the above-captioned Complaint, should be stricken pursuant to 52 Pa. Code § 5.101(a)(2) because issues related to the Complainant's water service constitute impertinent matter with respect to her electric service.

34. While the Commission's regulations do not define "impertinent," the Commission has previously relied upon Pennsylvania case law for guidance. *See, e.g., Wei Qing Zhou v. Philadelphia Gas Works*, Docket No. C-2011-2226292, 2011 Pa. PUC LEXIS 1988, at *3 (Initial Decision dated April 5, 2011) (citing *Jefferies v. Hoffman*, 417 Pa. 1, 207 A.2d 774 (Pa. 1965)), *adopted*, Docket No. C-2011-2226292 (Order entered July 7, 2011). "Statements in a pleading that are legally irrelevant to the cause of action or that could not have influence in leading to a

result are impertinent and subject to being stricken.” *Zhou*, 2011 Pa. PUC LEXIS 1988, at *3 n.3.

35. Black’s Law Dictionary similarly defines “impertinent” as:

That which does not belong to a pleading, interrogatory, or other proceeding; out of place; superfluous; irrelevant. A term applied to matter not necessary to constitute the cause of action or ground of defense. Such matter may be ordered stricken from the pleading. Fed.R.Civil P. 12(f).

Black's Law Dictionary 679 (rev. 5th ed. 1979).

36. Here, the Complaint contains several allegations and items of information regarding the Complainant’s water service, including: (1) the Complainant’s water service account number (**Appendix A ¶ 1**); (2) the name of the Complainant’s water service provider, although this information has been crossed out by the Complainant (**Appendix A ¶ 2**); (3) the type of utility service related to the Complaint (**Appendix A ¶ 3**); and (4) allegations regarding alleged shut-off of the Complainant’s water service (**Appendix A ¶ 5**).

37. However, the instant Complaint has been filed against PPL Electric, who is the Complainant’s electric utility service provider, regarding PPL Electric’s planned installation of a new AMI meter at the Complainant’s residence to measure the Complainant’s electric usage.

38. The Complainant explicitly crossed out the name of her water service provider in Paragraph 2 of the Complaint, where she identifies the respondents in this Complaint proceeding. *See Appendix A ¶ 2*.

39. Therefore, any allegations regarding the Complainant’s water service are impertinent matter as to PPL Electric. PPL Electric is not the Complainant’s water service provider and does not maintain or operate a meter measuring water usage at the Complainant’s residence.

40. Furthermore, any allegations or concerns concerning whether her water service provider has violated the Code “could not have an influence in leading to a result” in this matter against PPL Electric. *See, e.g., Zhou, 2011 Pa. PUC LEXIS 1988, at *3 n.3.* PPL Electric and the Complainant’s water service provider are separate and distinct entities providing separate and distinct services. Therefore, Complainant’s allegations regarding her water service are irrelevant to her Complaint against PPL Electric.

41. For these reasons, the allegations regarding the Complainant’s water service should be stricken because these allegations are irrelevant to the installation of an AMI meter by PPL Electric and, therefore, are impertinent matter.

WHEREFORE, PPL Electric respectfully requests that the allegations, regarding the Complainant’s water service, contained in Paragraphs 1, 2, 3, and 5 of the above-captioned Complaint be stricken pursuant to 52 Pa. Code § 5.101(a)(2).

IV. CONCLUSION

WHEREFORE, PPL Electric Utilities Corporation respectfully requests that (a) the above-captioned Formal Complaint filed by Jeanene Denlinger at Docket No. C-2019-3014786 be dismissed in its entirety pursuant 52 Pa. Code § 5.101(a)(4); and/or (b) the allegations, regarding the Complainant's water service, contained in Paragraphs 1, 2, 3, and 5 of the above-captioned Complaint, be stricken pursuant to 52 Pa. Code § 5.101(a)(2).

Respectfully submitted,



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Date: December 26, 2019

Attorneys for PPL Electric Utilities Corporation

APPENDIX A

FORMAL COMPLAINT FILED BY JEANENE DENLINGER AGAINST PPL ELECTRIC UTILITIES CORPORATION

November 27, 2019

water (hac) ? [redacted]
electric [redacted]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Formal Complaint

Filing this form begins a legal proceeding and you will be a party to the case.
If you do not wish to be a party to the case, consider filing an informal complaint.

To complete this form, please type or print legibly in ink.

1. Customer (Complainant) Information

Provide your name, mailing address, county, telephone number(s), e-mail address and utility account number. It is your responsibility to update the Commission with any changes to your address and to where you want documents mailed to you.

Name Jeanene Denlinger

Street/P.O. Box 14 Susquaw Place Apt # —

City Lancaster State PA Zip 17601

County Lancaster

Telephone Number(s) Where We Can Contact You During the Day:

(717) 560-2101 (home) () () (mobile)

E-mail Address (optional): [redacted] (JMD)

Utility Account Number (from your bill) water electric [redacted] (JMD) (BND)

If your complaint involves utility service provided to a different address or in a different name than your mailing address, please list this information below.

Name N/A

Street/P.O. Box —

City — State — Zip —

RECEIVED

NOV 29 2019

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

2. Name of Utility or Company (Respondent)

Provide the full name of the utility or company about which you are complaining. The name of your utility or company is on your bill.

Pennsylvania Power and Light, and Lancaster Area Sewer Authority
(JMD)
(bureau of Public Works)
Bureau of Water
City of Lancaster

3. **Type of Utility Service**

Check the box listing the type of utility service that is the subject of your complaint (check only one):

- ELECTRIC / WASTEWATER/SEWER
 GAS TELEPHONE/TELECOMMUNICATIONS (local, long distance)
 WATER MOTOR CARRIER (e.g. taxi, moving company, limousine)
 STEAM HEAT

4. **Reason for Complaint**

What kind of problem are you having with the utility or company? Check all boxes below that apply and state the reason for your complaint. Explain specifically what you believe the utility or company has done wrong. Provide relevant details including dates, times and places and any other information that may be important. If the complaint is about billing, tell us the amount you believe is not correct. Use additional paper if you need more space. Your complaint may be dismissed without a hearing if you do not provide specific information.

- The utility is threatening to shut off my service or has already shut off my service.
due to my legal right to retain analog meters. We do not want RFM (radio frequency meters)
- I would like a payment agreement.
- Incorrect charges are on my bill. Provide dates that are important and an explanation about any amounts or charges that you believe are not correct. Attach a copy of the bill(s) in question if you have it/them.
- I am having a reliability, safety or quality problem with my utility service. Explain the problem, including dates, times or places and any other relevant details that may be important.
- Other (explain).

Note: If your complaint is only about removing or modifying a municipal lien filed by the City of Philadelphia, the Public Utility Commission (PUC) cannot address it. Only local courts in Philadelphia County can address this type of complaint. The PUC can address a complaint about service or incorrect billing even if that amount is subject to a lien.

In addition, the PUC generally does not handle complaints about cell phone or Internet service, but may be able to resolve a dispute regarding voice communications over the Internet (including the inability to make voice 911/E911 emergency calls) or concerns about high-speed access to Internet service.

5. Requested Relief

How do you want your complaint to be resolved? Explain what you want the PUC to order the utility or company to do. Use additional paper if you need more space.

I wish relief from power and water shut off and from being forced to accept a RFM (radio frequency meter).

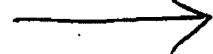
I wish to retain my current analog meter.

"Smart meters" or RFM invade privacy, catch fire, give off EMF's/radiation, shorten the life span of appliances and report inaccurate usage readings.

The law is that we must opt in if we want an RFM. we do not consent and we do not opt in for a water or electric meter replacement (HB2200 §2807(f)(2)(i) Bill SB2200

The PUC is guilty of administrative overreach in creating regulations contradictory to legislation passed by the only law making entity - The State Legislature. PA Legislature introduced numerous opt out bills only to be hindered from becoming law by Chairman Robert Gudshall whose son Gray works for Exelon, parent company of PECO. The act of forcing consumers to switch out gas, electric and water meters as administered by PA-PUC is not enforceable. We seek our US + Pennsylvania constitutional rights. The PUC is an administrative agency and as such, are creatures of statute and may not establish regulations outside of the boundaries established by the legislature.

Please turn this page over



Note: The PUC can decide that a customer was not billed correctly and can order billing refunds. The PUC can also fine a utility or company for not following rules and can order a utility or company to correct a problem with your service. Under state law, the PUC cannot decide whether a utility or company should pay customers for loss or damages. Damage claims may be sought in an appropriate civil court.

we do not wish to the forced upgrade of our electric or water meter
The program is voluntary only and has been thus far conducted without informed
consent to the customers/consumers.

Cf. Pub.L. 109-58 The Energy Policy Act of 2005 § 1252 Smart metering
Pennsylvania HB2200 § 2807(f)(2) AND
P.A.L. 1592, No. 129

6. Protection From Abuse (PFA)

Has a court granted a "Protection From Abuse" order that is currently in effect for your personal safety or welfare? The PUC needs this information to properly process your complaint so that your identity is not made public.

Note: You must answer this question if your complaint is against a natural gas distribution utility, an electric distribution utility or a water distribution utility AND your complaint is about a problem involving billing, a request to receive service, a security deposit request, termination of service or a request for a payment agreement.

Has a court granted a "Protection From Abuse" order for your personal safety or welfare?

- YES
- NO

If your answer to the above question is "yes," attach a copy of the current Protection From Abuse order to this Formal Complaint form.

7. Prior Utility Contact

a. Is this an appeal from a decision of the PUC's Bureau of Consumer Services (BCS)?

- YES
- NO

Note: If you answered yes, move to Section 8. No further contact with the utility or company is required. If you answered no, answer the question in Section 7 b. and answer the question in Section 7 c. if relevant.

b. If this is not an appeal from a BCS decision, have you spoken to a utility or company representative about this complaint?

- YES
- NO

Note: You must contact the utility first if (1) you are a residential customer, (2) your complaint is against a natural gas distribution utility, an electric distribution utility or a water utility AND (3) your complaint is about a billing problem, a service problem, a termination of service problem, or a request for a payment agreement.

c. If you tried to speak to a utility company representative about your complaint but were not able to do so, please explain why.

Not applicable

Note: Even if you are not required to contact the utility or company, you should always try to speak to a utility or company representative about your problem before you file a Formal Complaint with the PUC.

8. Legal Representation

If you are filing a Formal Complaint as an individual on your own behalf, you are not required to have a lawyer. You may represent yourself at the hearing.

If you are already represented by a lawyer in this matter, provide your lawyer's name, address, telephone number, and e-mail address, if known. Please make sure your lawyer is aware of your complaint. If represented by a lawyer, both you and your lawyer must be present at your hearing.

Lawyer's Name Not Applicable (Pro-se)
Street/P.O. Box _____
City _____ State _____ Zip _____
Area Code/Phone Number _____
E-mail Address (if known) _____

Note: Corporations, associations, partnerships, limited liability companies and political subdivisions are required to have a lawyer represent them at a hearing and to file any motions, answers, briefs or other legal pleadings.

9. Verification and Signature

You must sign your complaint. Individuals filing a Formal Complaint **must** print or type their name on the line provided in the verification paragraph below and **must** sign and date this form in **ink**. If you do not sign the Formal Complaint, the PUC **will not accept it**.

Verification:

I Jeanene M. Denlinger, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect 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).

Jeanene M. Denlinger _____ 11-25-19 _____
(Signature of Complainant) (Date)

not applicable

Title of authorized employee or officer (only applicable to corporations, associations, partnerships, limited liability companies or political subdivisions)

Note: If the Complainant is a corporation, association, partnership, limited liability company or political subdivision, the verification **must** be signed by an authorized officer or authorized employee. If the Formal Complaint is **not signed** by one of these individuals, the PUC **will not accept it**.

10. Two Ways to File Your Formal Complaint

Electronically. You must create an account on the PUC's eFiling system, which may be accessed at <http://www.puc.pa.gov/efiling/default.aspx>.

Note: If you are appealing your Bureau of Consumer Services (BCS) decision, you must file your formal complaint by mail.

Mail. Mail the completed form with your original signature and any attachments, by certified mail, first class mail, or overnight delivery to this address:

**Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, Pennsylvania 17120**

Note: Formal Complaints sent by fax or e-mail will **not** be accepted.

If you have any questions about filling out this form, please contact the Secretary's Bureau at 717-772-7777.

Keep a copy of your Formal Complaint for your records.

41 Sesquaw Place
Lancaster, PA 17601-6220

CERTIFIED MAIL



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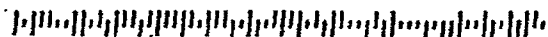
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R2304E108274-14

Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, Pennsylvania 17120

**RETURN RECEIPT
REQUESTED**

17120-007999



APPENDIX B

FORMAL COMPLAINT FILED BY KYLE M. DENLINGER AGAINST PPL ELECTRIC UTILITIES CORPORATION

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Formal Complaint

*Filing this form begins a legal proceeding and you will be a party to the case.
If you do not wish to be a party to the case, consider filing an informal complaint.*

To complete this form, please type or print legibly in ink.

1. Customer (Complainant) Information

Provide your name, mailing address, county, telephone number(s), e-mail address and utility account number. It is your responsibility to update the Commission with any changes to your address and to where you want documents mailed to you.

Name Kyle M. Denlinger
Street/P.O. Box 14 Susquaw Place Apt # _____
City Lancaster State PA Zip 17601-6220
County Lancaster

Telephone Number(s) Where We Can Contact You During the Day:

(717) 520-2101 (home) ~~(717) 229-1500~~ ^{XMD} (mobile)

E-mail Address (optional): _____

Utility Account Number (from your bill) [REDACTED]

If your complaint involves utility service provided to a different address or in a different name than your mailing address, please list this information below.

Name _____
Street/P.O. Box _____
City _____ State _____ Zip _____
RECEIVED
OCT 27 2018
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

2. Name of Utility or Company (Respondent)

Provide the full name of the utility or company about which you are complaining. The name of your utility or company is on your bill.

PPL Electric Utilities

3. Type of Utility Service

Check the box listing the type of utility service that is the subject of your complaint (check only one):

- ELECTRIC
- GAS
- WATER
- STEAM HEAT
- WASTEWATER/SEWER
- TELEPHONE/TELECOMMUNICATIONS (local, long distance)
- MOTOR CARRIER (e.g. taxi, moving company, limousine)

4. Reason for Complaint

What kind of problem are you having with the utility or company? Check all boxes below that apply and state the reason for your complaint. Explain specifically what you believe the utility or company has done wrong. Provide relevant details including dates, times and places and any other information that may be important. If the complaint is about billing, tell us the amount you believe is not correct. Use additional paper if you need more space. Your complaint may be dismissed without a hearing if you do not provide specific information.

- The utility is threatening to shut off my service or has already shut off my service.
(on or after November 5, 2018)
We did not opt in for a digital (Smart meter) and do not want one. Our analog meter works great. I am concerned about the fire hazard that smart →
- I would like a payment agreement.
- Incorrect charges are on my bill. Provide dates that are important and an explanation about any amounts or charges that you believe are not correct. Attach a copy of the bill(s) in question if you have it/them.
- I am having a reliability, safety or quality problem with my utility service. Explain the problem, including dates, times or places and any other relevant details that may be important.
- Other (explain).

#4 (cont)

pose to homes + businesses. I am also concerned about the switched mode power supply putting dirty electricity into the wiring of our home, which is a health hazard and has been shown to reduce the longevity of household appliances. I am concerned that the increased costs of the whole system that have to be passed onto us - the consumer. I am also concerned about the privacy issues and the ability of P&L to have access to the private information of the members of our household, which is unauthorized by Kyle + Jeanene Denlinger. I consider smart meters a health hazard as well. Thank you for taking the time to read my valid concerns.

Note: If your complaint is only about removing or modifying a municipal lien filed by the City of Philadelphia, the Public Utility Commission (PUC) cannot address it. Only local courts in Philadelphia County can address this type of complaint. The PUC can address a complaint about service or incorrect billing even if that amount is subject to a lien.

In addition, the PUC generally does not handle complaints about cell phone or Internet service, but may be able to resolve a dispute regarding voice communications over the Internet (including the inability to make voice 911/E911 emergency calls) or concerns about high-speed access to Internet service.

5. Requested Relief

How do you want your complaint to be resolved? Explain what you want the PUC to order the utility or company to do. Use additional paper if you need more space.

I wish to keep my current analog meter. We did not opt in to get a smart meter (digital meter) because we do not want one. I wish for PPL to stop showing up at my house + discussing this with my children. I want PPL to stop threatening to shut off our electric and keep our electric service going uninterrupted as we are paid up and we always pay our bill on time.

Note: The PUC can decide that a customer was not billed correctly and can order billing refunds. The PUC can also fine a utility or company for not following rules and can order a utility or company to correct a problem with your service. Under state law, the PUC cannot decide whether a utility or company should pay customers for loss or damages. Damage claims may be sought in an appropriate civil court.

6. **Protection From Abuse (PFA)**

Has a court granted a "Protection From Abuse" order that is currently in effect for your personal safety or welfare? The PUC needs this information to properly process your complaint so that your identity is not made public.

Note: You must answer this question if your complaint is against a natural gas distribution utility, an electric distribution utility or a water distribution utility AND your complaint is about a problem involving billing, a request to receive service, a security deposit request, termination of service or a request for a payment agreement.

Has a court granted a "Protection From Abuse" order for your personal safety or welfare?

YES
NO

If your answer to the above question is "yes," attach a copy of the current Protection From Abuse order to this Formal Complaint form.

7. **Prior Utility Contact**

a. Is this an appeal from a decision of the PUC's Bureau of Consumer Services (BCS)?

YES
NO

Note: If you answered yes, move to Section 8. No further contact with the utility or company is required. If you answered no, answer the question in Section 7 b. and answer the question in Section 7 c. if relevant.

b. If this is not an appeal from a BCS decision, have you spoken to a utility or company representative about this complaint?

YES I called on October 26, 2018 Lasherika and PPHL Service on October 29, 2018
NO

Note: You must contact the utility first if (1) you are a residential customer, (2) your complaint is against a natural gas distribution utility, an electric distribution utility or a water utility AND (3) your complaint is about a billing problem, a service problem, a termination of service problem, or a request for a payment agreement.

threat of termination

- c. If you tried to speak to a utility company representative about your complaint but were not able to do so, please explain why.

N/A

Note: Even if you are not required to contact the utility or company, you should always try to speak to a utility or company representative about your problem before you file a Formal Complaint with the PUC.

8. Legal Representation

If you are filing a Formal Complaint as an individual on your own behalf, you are not required to have a lawyer. You may represent yourself at the hearing.

If you are already represented by a lawyer in this matter, provide your lawyer's name, address, telephone number, and e-mail address, if known. Please make sure your lawyer is aware of your complaint. If represented by a lawyer, both you and your lawyer must be present at your hearing.

Lawyer's Name _____

Street/P.O. Box _____

City _____ State _____ Zip _____

Area Code/Phone Number _____

E-mail Address (if known) _____

Note: Corporations, associations, partnerships, limited liability companies and political subdivisions are required to have a lawyer represent them at a hearing and to file any motions, answers, briefs or other legal pleadings.

9. **Verification and Signature**

You must sign your complaint. Individuals filing a Formal Complaint **must** print or type their name on the line provided in the verification paragraph below and **must** sign and date this form in **ink**. If you do not sign the Formal Complaint, the PUC **will not accept it**.

Verification:

I Kyle M. Denlinger, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect 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).

Kyle Denlinger (Signature of Complainant) 10-26-18 (Date)

N/A

Title of authorized employee or officer (only applicable to corporations, associations, partnerships, limited liability companies or political subdivisions)

Note: If the Complainant is a corporation, association, partnership, limited liability company or political subdivision, the verification **must** be signed by an authorized officer or authorized employee. If the Formal Complaint is **not signed** by one of these individuals, the PUC **will not accept it**.

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Electronically. You must create an account on the PUC's eFiling system, which may be accessed at <http://www.puc.pa.gov/efiling/default.aspx>.

Note: If you are appealing your Bureau of Consumer Services (BCS) decision, you must file your formal complaint by mail.

Mail. Mail the completed form with your original signature and any attachments, by certified mail, first class mail, or overnight delivery to this address:

Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, Pennsylvania 17120

RECEIVED

OCT 27 2018

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Note: Formal Complaints sent by fax or e-mail will **not** be accepted.

If you have any questions about filling out this form, please contact the Secretary's Bureau at 717-772-7777.

Keep a copy of your Formal Complaint for your records.

14 Susquehanna Pave
Lancaster, PA 17601-6200



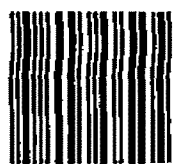
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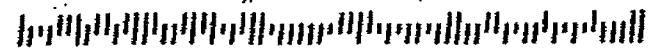
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**Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, Pennsylvania 17120**

17120-007999



APPENDIX C

THE AUGUST 16, 2019 *KYLE DENLINGER INITIAL DECISION* DISMISSING THE COMPLAINT FILED BY KYLE M. DENLINGER AGAINST PPL ELECTRIC UTILITIES CORPORATION



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
400 NORTH STREET, HARRISBURG, PA 17120

IN REPLY PLEASE
REFER TO OUR FILE

August 16, 2019

C-2018-3005721

Kyle M. Denlinger

v.

PPL Electric Utilities Corporation

TO ALL PARTIES:

Enclosed is a copy of the Initial Decision of the Office of Administrative Law Judge.

If you do not agree with any part of this decision, you may send written comments (called Exceptions) to the Commission. Your signed Exceptions to the decision, if any, must be: 1) **filed** with the Secretary of the Commission, **and** 2) mailed or hand-delivered to each party of record, **within twenty (20) days** of the date of this letter.

To file Exceptions with the Secretary of the Commission, you must mail or hand-deliver them as follows:

If using U.S. Postal Service:

Secretary
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

If using Overnight or Hand Delivery Service:

Secretary
Pa. Public Utility Commission
400 North Street
Commonwealth Keystone Building, 2nd Floor
Harrisburg, PA 17120

Or, instead of mailing or hand-delivering your Exceptions, you may electronically file them with the Secretary of the Commission. To do so, you need to establish an account on the Commission's eFiling system, which may be accessed at <http://www.puc.state.pa.us/efiling/default.aspx>. Please note that Exceptions sent to the Commission by fax or e-mail will **not** be accepted for filing.

In addition to filing your Exceptions with the Secretary of the Commission, a courtesy copy of your Exceptions should be e-mailed to the Commission's Office of Special Assistants (OSA) at ra-OSA@pa.gov. If the document is too large to e-mail, please mail or hand-deliver a copy on CD-ROM or DVD (or other data storage media), in Microsoft Word 2010 format or other compatible format to either address noted above.

Replies to Exceptions, if any, must be **filed** with the Secretary of the Commission and **served** on each party of record and the Commission's OSA, in the manner described above. **They are due within ten (10) days of the date when Exceptions are due.**

It is your responsibility to serve all the parties with your Exceptions and Replies to Exceptions. Failure to do so may render your filing unacceptable. A certificate of service (see format in 52 Pa. Code §1.58) shall be attached to the filed Exceptions or Replies to Exceptions.

Exceptions and Replies to Exceptions shall follow 52 Pa. Code §§5.533 and 5.535 particularly the 40-page limit for Exceptions and the 25-page limit for Replies to Exceptions. Exceptions should clearly be labeled as "EXCEPTIONS OF (name of party) - (protestant, complainant, staff, etc.)". Any reference to specific sections of the Administrative Law Judge's Initial Decision shall include the page number(s) of the cited section of the decision.

If no Exceptions are received, the decision of the Administrative Law Judge could become final without further Commission action. You will receive written notification if this occurs. However, even if no exceptions are received, the Commission may review and change the decision pursuant to Section 332(h) of the Public Utility Code, 66 Pa. C.S. § 332(h).

Very truly yours,

Rosemary Chiavetta
Secretary

NW
Enclosures
Certified Mail
Receipt Requested

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Kyle M. Denlinger	:	
	:	
v.	:	C-2018-3005721
	:	
PPL Electric Utilities Corporation	:	

INITIAL DECISION

Before
Elizabeth H. Barnes
Administrative Law Judge

INTRODUCTION

This Initial Decision dismisses the Formal Complaint filed by Kyle M. Denlinger for his failure to comply with an Order Granting Motion to Compel issued July 1, 2019, compelling Complainant to serve full and complete responses to Respondent's discovery requests upon Respondent with full responses to PPL Set I Interrogatories and Requests for Production of Documents Questions 1-7 no later than July 15, 2019. The Complaint is also being dismissed for Complainant's failure to comply with a Prehearing Order issued on February 1, 2019, as he did not provide a list of witnesses, any proposed expert witness' written testimony or exhibits by March 29, 2019.

HISTORY OF THE PROCEEDING

On October 27, 2018, Kyle M. Denlinger (Complainant) filed a Formal Complaint against PPL Electric Utilities Corporation (PPL or Respondent) seeking to prevent installation of a smart meter, at his home in Lancaster County. Complainant alleges: 1) that radiofrequency fields from smart meters have adverse health effects; 2) that the meters are a fire hazard; 3) that

the meters reduce the longevity of household appliances; 4) that the meters increase costs to consumers; and 5) that there are data privacy issues with the meters.

On October 31, 2018, PPL was served with the Complaint. On November 20, 2018, PPL filed a timely Answer admitting it had attempted to install a new AMI meter at Complainant's property and had sent Complainant a termination notice for failure to provide access to the premises to replace the meter. However, PPL denied the termination notice was unlawful and denied the AMI meter is a health hazard. PPL responded that it is legally required to install AMI meters. On November 21, 2018, a Notice was issued scheduling a telephonic evidentiary hearing for June 4, 2019. On February 1, 2019, a Prehearing Order was issued establishing procedural rules as well as a deadline for Complainant to serve PPL his expert witness' written testimony and exhibits by March 29, 2019.

PPL served its Set I Interrogatories and Requests for Production of Documents (Set I) upon the Complainant on March 7, 2019. Responses were due on or before April 1, 2019. Complainant never served responses or objections to PPL. On May 23, 2019, PPL filed a Motion to Compel. Complainant did not respond to the Motion.

On May 30, 2019, PPL filed a letter requesting that the June 4, 2019 hearing be continued because one of its witnesses could no longer attend the hearing on that date. Complainant did not oppose the request and the hearing was cancelled on May 31, 2019 by the issuance of a Notice of Cancellation. The hearing was not rescheduled.

On July 1, 2019, I issued an Order Granting Motion to Compel finding that information requested in PPL Interrogatories 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 § 5.321.

In the event no response was filed on or before July 15, 2019, Respondent PPL Electric Utilities Corporation was invited to file a motion for sanctions pursuant to 52 Pa. Code § 5.371.

On July 16, 2019, Respondent filed a Motion to Dismiss the Formal Complaint of Kyle M. Denlinger with a notice to plead instructing Complainant to reply within five days from the date of service of the motion pursuant to 52 Pa. Code § 5.371(b)(relating to sanctions – general). As of the date of this Initial Decision, Complainant has not filed a certificate of service regarding his service of discovery responses upon Respondent. Complainant has not filed a response to the Motion to Dismiss. The record closed on July 22, 2019, the day a response was due to the Motion to Dismiss. The Motion to Dismiss is ripe for a decision.

FINDINGS OF FACT

1. Complainant is Kyle M. Denlinger.
2. Respondent is PPL Electric Corporation, a jurisdictional electric distribution company.
3. The service location is 14 Susquaw Place, Lancaster, Pennsylvania.
4. On October 27, 2018, Complainant filed a Complaint against Respondent, challenging the planned installation of PPL's new automated metering infrastructure (AMI) meter at the service location.
5. On October 31, 2018, the Complaint was served upon Respondent.
6. On November 21, 2018, PPL timely filed its Answer and New Matter to the Complaint responding that Respondent was required to install an AMI meter.
7. PPL served its Set I Interrogatories and Requests for Production of Documents (Set I) upon the Complainant on March 7, 2019.
8. Answers to Interrogatories were due on or before April 1, 2019.

9. Complainant never served responses or objections to PPL.
10. On May 23, 2019, PPL filed a Motion to Compel.
11. Complainant did not respond to the Motion to Compel.
12. On May 30, 2019, PPL filed a letter requesting that the June 4, 2019 hearing be continued because one of its witnesses could no longer attend the hearing on that date.
13. The unopposed request for continuance was granted and the hearing was cancelled on May 31, 2019 by the issuance of a Notice of Cancellation.
14. On July 1, 2019, an Order Granting Motion to Compel was issued compelling full discovery responses on or before July 15, 2019.
15. On July 16, 2019, Respondent filed a Motion to Dismiss Complainant's Complaint due to Complainant's failure to comply with the Order issued on July 1, 2019.
16. Complainant did not file a response to the Motion to Dismiss.
17. Complainant did not file a certificate of service showing any service of discovery responses upon Respondent.

DISCUSSION

To date, Complainant has not complied with Ordering Paragraph No. 9 of the Prehearing Order dated February 1, 2019, which stated: "On or before March 29, 2019, Complainant is directed to serve copies of statements, reports, and any direct written testimony of any expert witnesses he intends to call at the hearing upon Respondent pursuant to 52 Pa. Code § 5.412(a)."

In its Motion to Dismiss, Respondent argues that the Complaint should be dismissed in its entirety as a sanction pursuant to 52 Pa. Code § 5.371(a)(3) due to Complainant's failure to comply with the Order Granting Motion to Compel issued on July 1, 2019, requiring Complainant to serve full and complete responses to the discovery requests upon Respondent's counsel no later than July 15, 2019.

The Commission's regulations permit the discovery of "any matter, not privileged, which is relevant to the subject matter involved in the pending action." 52 Pa.Code § 5.321(c). Generally speaking, the Commission applies a standard of relevance which is less restrictive than that required by parties to present information into the evidentiary record. As long as the information sought in a discovery request appears reasonably calculated to lead to the discovery of admissible evidence, a party may not object to the discovery request on the basis that the information sought will be inadmissible at a hearing. 52 Pa.Code § 5.321(c).

In this proceeding, Respondent is entitled to engage in discovery in order to obtain information that is relevant and material to the issues raised by Complainant, and it filed a certificate of service showing its service of discovery requests upon Complainant on March 7, 2019.

The Commission's regulations at 52 Pa.Code §§ 5.342(d) and (e) provide that a party must serve answers to interrogatories within twenty days of service and objections within ten days of service. The Commission's regulations at 52 Pa.Code §§ 5.371 and 5.372 authorize the presiding officer to make an appropriate order if a party fails to respond to discovery requests and impose appropriate sanctions on a party found to be in violation of the obligations set forth in the Commission's regulations. In this case, Complainant failed to file a certificate of service showing his service of responses to the discovery requests, in violation of the Commission's regulations.

The Commission's regulations at 52 Pa.Code § 5.371 address the consequences of a participant's failure to comply with the Commission's discovery regulations and provide that the Commission or the presiding officer may, on motion, make an appropriate order if a party

fails to appear, answer, file sufficient answers, file objections, make a designation, or otherwise respond to discovery requests.

Further, 52 Pa.Code § 5.372 provides that the presiding officer may impose appropriate sanctions upon a party found to be in violation of the obligations set forth in the Commission's regulations.

In its Motion to Compel, PPL sought an order compelling full responses to Set I, Questions 1-7. Specifically, PPL requested information about Complainant's above-mentioned allegations. PPL sought the identification of all wireless phones, cellphones, microwave ovens, wireless routers, wi-fi networks, tablets, computers, Bluetooth speakers, wireless security systems, smart speakers, garage door openers, baby monitors, and walkie talkies in the service property. PPL requested the amount of cell phone usage and 12 months of phone bills showing usage. PPL requested medical records, medical diagnoses and/or prescribed treatment of therapy associated with the medical conditions Complainant alleges result from exposure to meters. PPL requested the identification of every witness Complainant intended to call at the hearing, the curriculum vitae of the witness, subject matter and sources of information relied upon or referenced in the witness' testimony. Finally, PPL requested copies of all exhibits Complainant intended to present at the evidentiary hearing.

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).

Respondent filed a Motion to Compel on May 23, 2019, which was granted by Order dated July 1, 2019, which directed Complainant to serve full and complete responses to the discovery requests upon Respondent's counsel no later than July 15, 2019. As of the date of this Initial Decision, Complainant has not filed a certificate of service showing his service of discovery responses upon Respondent in violation of the July 1, 2019 Order.

On July 1, 2019, I issued an Order Granting Motion to Compel finding that information requested in PPL Interrogatories 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.

In the event no response was filed on or before July 15, 2019, Respondent PPL Electric Utilities Corporation was invited to file a motion for sanctions pursuant to 52 Pa. Code §5.371. Complainant was notified that failure to comply with an Order issued by an Administrative Law Judge [ALJ] constitutes grounds for dismissal of a case.

The Commission has held that parties must comply with the orders of an ALJ, and a complainant's failure to do so is a sufficient basis to support dismissal of the matter. *Snyderville Community Development Corporation v. Philadelphia Gas Works*, Docket No. C-20055032 (Opinion and Order entered July 31, 2006); motion for sanctions pursuant to 52 Pa. Code §5.371. Complainant was notified that failure to comply with an Order issued by an ALJ constitutes grounds for dismissal of a case.

The Commission has been dismissing complaints similar to the instant one as a sanction for failure of a Complainant to comply with similar prehearing orders compelling service of witness lists and discovery responses to an electric distribution company (EDC) regarding the identification of medical records, witnesses, electronic devices in the service location emitting radio frequency fields, etc. See *B. Susanne Spohn v. Metropolitan Edison Company*, C-2018-3001725 (Final Order entered August 8, 2019); *Kimberly Beckmann v. Metropolitan Edison Company*, C-2017-2613702 (Final Order entered April 11, 2019); *Carol Sojda and Carol Lutzkanin v. Metropolitan Edison Company*, C-2017-2638350 (Final Order entered March 28, 2019); *Darlene Stanton v. Pennsylvania Electric Co.*, C-2018-3001144 (Final Order entered July 11, 2019); *Diana Cook v. West Penn Power Company*, C-2018-3003051 (Final Order entered July 11, 2019); and *Ann H. Swartz v. Metropolitan Edison Company*, C-2017-2626756 (Initial Decision issued June 28, 2019).

The Complainants in these aforementioned cases also requested to opt out of an AMI meter installation for health, safety, and data privacy reasons. These Complainants did not comply with orders compelling the production of witness lists and other discovery responses either. Motions to dismiss the complaints as sanctions were granted by the ALJ through Initial Decisions because these Complainants failed to comply with an ALJ's order compelling discovery responses. Those decisions were allowed to become final by operation of law by the Commission. 66 Pa. C.S. § 332(h). These complaints were dismissed for additional reasons including failure to appear at a prehearing conference and/or failure to provide a status report.

The instant case is similar to caselaw precedent in that the Complainant was warned that failure to comply with an order compelling discovery responses could result in the filing of a motion for sanctions and possible dismissal of his case. Additionally, the Complainant in the instant case violated two interim orders by not only failing to provide discovery responses, but also because he failed to serve any witness list, statements of expert witnesses or exhibits by the March 29, 2019 deadline in the Prehearing Order. In consideration of the prior cases noted above, under the principle of *stare decisis*, I am following this policy for consistency as the facts are more similar than distinguishable. *George Crawford v. National Fuel Gas Distribution Corporation*, C-20066348 (Opinion and Order entered December 6, 2017) at 3-4.

In the instant case, if Complainant was unable or unwilling to provide responses to the discovery requests, Complainant could have filed objections or asked for additional time to respond. Complainant did neither and, in fact, filed no response at all. Additionally, Complainant did not serve any written expert testimony, statements or pre-marked exhibits intended for the June 4 hearing by the deadline provided in a Prehearing Order. Whereas Respondent complied with the Prehearing Order in meeting its deadline. I did not hold any prehearing conferences or require status reports.

Respondent has due process rights that must be protected. Complainant did not file a certificate of service showing his responses to the discovery requests upon Respondent. Complainant's actions have denied Respondent the opportunity to prepare a defense to

Complainant's claims and have demonstrated a lack of intent to prosecute his claims. To proceed with this matter would result in the denial of Respondent's due process rights.

Furthermore, Complainant's failure to provide responses to the discovery requests is a violation of the July 1, 2019 Order. A hearing in this matter is not necessary or appropriate and is not in the public interest. Accordingly, the Complaint will be dismissed with prejudice.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter of this Complaint. 66 Pa.C.S. § 701.
2. The Commission's regulations permit the discovery of "any matter, not privileged, which is relevant to the subject matter involved in the pending action." 52 Pa.Code § 5.321(c).
3. The Commission's regulations at 52 Pa.Code § 5.371 address the consequences of a party's failure to comply with the Commission's discovery regulations and provides that the Commission or the presiding officer may, on motion, make an appropriate order if a party fails to appear, answer, file sufficient answers, file objections, make a designation, or otherwise respond to discovery requests. 52 Pa.Code § 5.371.
4. The Commission's regulations at 52 Pa.Code § 5.372 provide that the presiding officer may impose appropriate sanctions upon a party found to be found in violation of the obligations set forth in the Commission's regulations. 52 Pa.Code § 5.372.
5. The Commission has held that parties must comply with the orders of an administrative law judge, and a complainant's failure to do so is a sufficient basis to support dismissal of the matter. *Snyderville Community Development Corporation v. Philadelphia Gas Works*, Docket No. C-20055032 (Opinion and Order entered July 31, 2006).

6. The Commission has dismissed similar complaints to the instant one for failure of a Complainant to comply with prehearing orders and provide discovery responses to an EDC regarding medical records, witness lists, types of equipment in the service location emitting radio frequency fields, etc. See *Kimberly Beckmann v. Metropolitan Edison Company*, C-2017-2613702 (Final Order entered April 11, 2019); *Carol Sojda and Carol Lutzkanin v. Metropolitan Edison Company*, C-2017-2638350 (Final Order entered March 28, 2019); *Darlene Stanton v. Pennsylvania Electric Co.*, C-2018-3001144 (Final Order entered July 11, 2019); *Diana Cook v. West Penn Power Company*, C-2018-3003051 (Final Order entered July 11, 2019); *Ann H. Swartz v. Metropolitan Edison Company*, C-2017-2626756 (Initial Decision issued June 28, 2019).

7. The Commission's regulations specify certain sanctions that are available when a party fails to comply with an order of the Commission "as is just." 52 Pa.Code § 5.372(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Motion of PPL Electric Utilities Corporation to Dismiss the Complaint of Kyle Denlinger, filed on July 16, 2019 at Docket No. C-2018-3005721, is granted.

2. That the Complaint filed by Kyle M. Denlinger is hereby dismissed with prejudice due to Complainant's failure to comply with the Order Granting Motion to Compel issued on July 1, 2019, compelling Complainant to serve full and complete responses to the discovery requests upon Respondent no later than July 15, 2019 and for failure to comply with a Prehearing Order issued on February 1, 2019.

APPENDIX D

**THE SEPTEMBER 26, 2019 *KYLE DENLINGER*
ORDER DISMISSING THE COMPLAINT FILED
BY KYLE M. DENLINGER AGAINST PPL
ELECTRIC UTILITIES CORPORATION**

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Kyle M. Denlinger	:	
	:	
v.	:	C-2018-3005721
	:	
PPL Electric Utilities Corporation	:	

FINAL ORDER

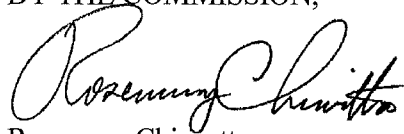
In accordance with the provisions of Section 332(h) of the Public Utility Code, 66 Pa. C.S. §332(h), the decision of Administrative Law Judge Elizabeth H. Barnes dated August 14, 2019, has become final without further Commission action;

THEREFORE,

IT IS ORDERED:

1. That the Motion of PPL Electric Utilities Corporation to Dismiss the Complaint of Kyle Denlinger, filed on July 16, 2019 at Docket No. C-2018-3005721, is granted.
2. That the Complaint filed by Kyle M. Denlinger is hereby dismissed with prejudice due to Complainant's failure to comply with the Order Granting Motion to Compel issued on July 1, 2019, compelling Complainant to serve full and complete responses to the discovery requests upon Respondent no later than July 15, 2019 and for failure to comply with a Prehearing Order issued on February 1, 2019.
3. That the Secretary's Bureau shall mark Docket No. C-2018-3005721 as closed.

BY THE COMMISSION,



Rosemary Chiavetta
Secretary

(SEAL)

ORDER ENTERED: September 26, 2019

VERIFICATION

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF LEHIGH

I, Philip J. Walnock, 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 to be able to prove the same at a hearing held in this matter. I understand that the statements herein made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).



PHILIP J. WALNOCK