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File #: 167945

January 21, 2020

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: Donna and John Bengen v. PPL Electric Utilities Corporation
Docket No. C-2019-3009735

Dear Secretary Chiavetta:

Enclosed for filing is the Motion of PPL Electric Utilities Corporation to Compel Responses to Discovery Propounded on Donna and John Bengen – Set I in the above-referenced proceeding.

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

Very truly yours,

A handwritten signature in black ink, appearing to read 'Garrett P. Lent', is written over the typed name.

Garrett P. Lent

GPL/dmc
Enclosure

cc: Honorable Elizabeth Barnes (*w/enclosure*)
Certificate of Service

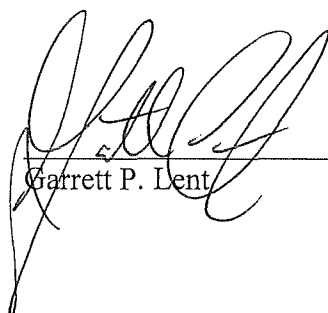
CERTIFICATE OF SERVICE

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

VIA E-MAIL AND FIRST CLASS MAIL

Donna & John Bengen
11235 W. Rte. 973 HWY
Jersey Shore, PA 17740
jbengen@hotmail.com

Date: January 21, 2020



Garrett P. Dent

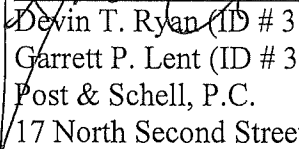
**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

NOTICE TO PLEAD

YOU ARE HEREBY ADVISED THAT, PURSUANT TO 52 PA. CODE § 5.342(g)(1), YOU MAY FILE A REPLY TO THE ENCLOSED MOTION TO COMPEL 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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Date: January 21, 2020

Attorneys for PPL Electric Utilities Corporation

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**MOTION OF PPL ELECTRIC UTILITIES CORPORATION TO
COMPEL RESPONSES TO
DISCOVERY PROPOUNDED ON DONNA AND JOHN BENGEN – SET I**

TO ADMINISTRATIVE LAW JUDGE ELIZABETH H. BARNES:

Pursuant to 52 Pa. Code §§ 5.342(g) and 5.349(d), PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) hereby files this Motion to Compel Responses to Discovery Propounded on Donna and John Bengen (“Complainants”) – Set I. In support of its Motion, PPL Electric states as follows:

I. INTRODUCTION

1. On October 9, 2019, PPL Electric served Interrogatories and Requests for Production of Documents on the Complainant – Set I, Questions 1 through 7 (“PPL to Complainant Set I”) via email and overnight delivery. A true and correct copy of PPL to Complainant Set I is attached hereto and marked as **Appendix A**.

2. Pursuant to the Commission’s regulations, objections to PPL to Complainant Set I were due on or before October 21, 2019, and responses were due on or before October 29, 2019.

3. The Complainant never served any objections to PPL to Complainant Set I by October 21, 2019, and never served any answers to PPL to Complainant Set I by October 29, 2019.

4. On December 10, 2019, Ms. Bengen sent an email to counsel for PPL Electric requesting an extension of time to serve answers to PPL to Complainant Set I.

5. On December 19, 2019, counsel for PPL Electric sent an email to the Complainants stating, among other things, that the Company agreed to an extension of the answers to the interrogatories until January 13, 2020.

6. On January 13, 2020, the Complainants served PPL Electric with their responses to PPL to Complainant Set I. However, the Complainants refused to provide responses and documents pertaining PPL to Complainant Set I, Nos. 2-4 and 7, and “objected” to these requests. In addition, Complainants indicated they “are currently evaluating this and will provide a response as soon as it becomes known” in response to PPL to Complainant Set I, Nos. 5-6. A true and correct copy of the Complainants’ responses is attached hereto and marked as **Appendix B**.

7. To date, Complainants have only provided a formal, complete response to PPL to Complainant Set I, No. 1.

II. MOTION TO COMPEL

8. PPL Electric respectfully requests that the Administrative Law Judge Elizabeth H. Barnes (the “ALJ”) direct the Complainants to answer fully all of the interrogatories set forth in PPL to Complainant Set I.

9. 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.*

10. Objections to interrogatories are due within 10 days of the service date. 52 Pa. Code § 5.342(e).

11. Here, PPL Electric served its first set of interrogatories on October 9, 2019, via email and overnight delivery. Consequently, any objections to PPL to Complainant Set I were due on or before October 21, 2019.

12. The Complainants did not object to any question in PPL to Complainant Set I on or before October 21, 2019.

13. Therefore, the Complainants have waived the right to object to these interrogatories and must provide answers to them. *See* 52 Pa. Code §§ 5.342(a)(4) (stating that a party must “[a]nswer each interrogatory fully and completely unless an objection is made”).

14. In addition, the interrogatories propounded by PPL Electric are highly relevant to the issues to be decided in this case, including the Complainants’ claim that the new automated meter infrastructure (“AMI”) meter will cause, contribute to, or exacerbate adverse health effects.

A. PPL TO COMPLAINANT-I-2

15. In Question 2, PPL Electric has asked that the Complainants 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.

16. The Complainants have refused to provide any information responsive to this question.

17. The Complainants' response states that they "object" to this interrogatory because information about their use other devices that emit radio frequency ("RF") fields is "irrelevant" and "has nothing to do with the litigation." Appendix B, p. 6.

18. However, this inquiry is relevant to whether the Complainants expose themselves to technology that emits higher levels of RF fields than the new AMI meter.

19. PPL Electric is entitled to show how the RF exposures from the Complainants' devices and appliances, compare to those from the AMI meter.

20. Therefore, the Complainants should be compelled to provide a formal, complete response that identifies all of these devices as requested.

B. PPL TO COMPLAINANT-I-3

21. In Question 3, the Company has requested information regarding the Complainants' cell phone usage and records of such usage.

22. The Complainants again refused to provide any information responsive to this question, stating that they "object to this" interrogatory "as irrelevant." Appendix B, p. 6.

23. In actuality, information about the Complainants' cell phone usage and the records of such usage are highly relevant to this proceeding.

24. Using this information, PPL Electric could calculate the amount of the Complainants' RF exposure from their cell phone(s) and compare it to the lower amount of RF exposure from the new AMI meter. The level of RF exposure that Complainants already are getting from their cell phones can be calculated based on the minutes of Complainants cell phone use, which typically are provided on each month's cell phone bill.

25. In fact, as the testimony of PPL Electric's expert witness on RF exposures – Dr. Christopher Davis – will demonstrate, the RF exposures received from use of a cell phone (or

even standing within 30 feet of another person using a cell phone) and other devices are far higher than from an AMI meter.

26. PPL Electric is entitled to show how the RF exposures from the Complainants' devices and appliances, including any cell phones, compare to those from the AMI meter.

27. Thus, the Complainants should be compelled to provide the cell phone bills as requested.

C. PPL TO COMPLAINANT-I-4

28. In Question 4, PPL Electric has asked the Complainants to identify the health conditions they allege will be caused or worsened by the installation of the AMI meter and to provide any medical records of those alleged conditions.

29. Despite the fact that the ALJ has entered a Protective Order in this proceeding, according to which PPL Electric has executed appropriate Non-Disclosure Certificates, the Complainants claim they are entitled withhold this information from PPL Electric and its witnesses.

30. According to the Complainants, they "object to these questions" because health allegations have allegedly not been properly considered in other smart meter complaint proceedings, protections against the public disclosure of their health information are not in place such information and records are protected by the Health Insurance Portability and Accountability Act ("HIPAA"), and it would be "unduly burdensome" to produce the medical information and records. Appendix B, pp. 6-7.

31. The Complainants' contentions completely lack merit.

32. First, this interrogatory is especially relevant because the Complainants have alleged that the AMI meter will cause, contribute to, or exacerbate adverse health effects. (See Complaint ¶ 4.)

33. PPL Electric is entitled to investigate the Complainants' health-related allegations so that it can be prepared to respond to those allegations at the evidentiary hearing.

34. Without a complete answer to this interrogatory, PPL Electric's medical expert cannot review the medical records and fully respond to the Complainants' allegations.

35. Second, the ALJ has entered a Protective Order in this proceeding, according to which PPL Electric has executed appropriate Non-Disclosure Certificates. Therefore, the proper protections against public disclosure of the requested information and materials are in place. Consequently, the Complainants cannot refuse to produce the medical information and records.

36. Third, HIPAA does not prohibit the disclosure of medical records in response to a discovery request. Indeed, the U.S. Department of Health and Human Services' HIPAA regulations provide an express exception permitting any "covered entity"¹ to "disclose protected health information in the course of any judicial or administrative proceeding," such as in "response to an order of a court or administrative tribunal" or in "response to a subpoena, discovery request, or other lawful process." 45 C.F.R. § 164.512(e)(1) (emphasis added).²

37. Fourth, the interrogatory is not unduly burdensome. The Company is only requesting the medical records related to the health conditions the Complainants claim will be caused by, contributed to, or exacerbated by the new AMI meter.

38. Any other medical records that are not within the scope of that request can be omitted.

39. As a result, the Complainants should be compelled to provide a full and complete response to this interrogatory.

¹ "Covered entity" means a "health plan," a "health care clearinghouse," or a "health care provider who transmits any health information in electronic form in connection with a transaction covered by this subchapter." 45 C.F.R. § 160.103. PPL Electric is not a covered entity.

² Certain conditions apply when there is and is not a protective order in place. *See id.*

D. PPL TO COMPLAINANT-I-5 THROUGH 7

40. In Questions 5 through 7, PPL Electric has asked for basic information about the Complainants' case, including that they identify any lay witnesses and expert witnesses they plan to call to testify and that they provide copies of their proposed exhibits.

41. PPL Electric must know in advance of the hearing who will be testifying on behalf of the Complainants, if anyone, and the subject areas of their testimony.

42. Otherwise, PPL Electric would be denied due process. *See Schneider v. Pa. PUC*, 479 A.2d 10, 15 (Pa. Cmwlth. 1984) (citation omitted) (stating that due process is satisfied when a party is "afforded notice and the opportunity to appear and be heard"); 66 Pa. C.S. § 332(c) (providing that "[e]very party is entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts").

43. To date, the Complainants have not identified any witness(es) or served any exhibits or expert testimony.

44. Therefore, with the hearing soon approaching in March 2020, PPL Electric has severely limited information about the Complainants' issues, exhibits, and witnesses, if any, that they intend to present.

45. Thus, the Company is entitled to discovery of such basic and relevant information and documents, and the Complainants should be compelled to respond.

E. RESERVATION OF RIGHT TO SUPPLEMENT TESTIMONY AND EXHIBITS

46. The evidentiary hearing is currently scheduled for March 27, 2020, and all exhibits and testimony must be received by the ALJ no later than March 20, 2020.

47. Therefore, PPL Electric is filing this Motion to Compel to try to receive answers to the discovery in sufficient time before the evidentiary hearing.

48. In addition, on October 14, 2019, PPL Electric served the statements, reports, written testimony, and exhibits it intends to present at the hearing.

49. PPL Electric reserves the right to supplement or revise any of its exhibits, reports, and statements, to the extent that the Complainants serve any of these discovery responses.

50. For these reasons, PPL Electric respectfully requests that the ALJ grant its Motion to Compel Responses to Discovery.

III. SANCTIONS

51. 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 refuses to obey an order of the presiding officer respecting discovery. *See* 52 Pa. Code § 5.371(a).

52. In ruling upon a motion for sanctions, the presiding officer may, among other things, issue: (1) “[a]n 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) [a]n 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”; and (3) “[a]n 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.” *Id.* § 5.372(a)(1)-(3).

53. If the Complainants fail to provide full and complete responses to PPL Electric’s discovery requests in sufficient time before the March 27, 2020 hearing, PPL Electric will be

deprived of a reasonable opportunity to prepare for the hearing and respond to the Complainants' claims.

54. Accordingly, the Company respectfully requests that if the Complainants fail to produce the information and documents responsive to PPL to Complainant Set I, Nos. 2-7 on or before March 6, 2020, then the Complainants should be barred from litigating the corresponding claim(s).

55. For example, if the Complainants fail to produce the medical records to verify the existence of any claimed medical conditions or issues, then the Complainants would be precluded from litigating claims that the installation of PPL Electric's AMI meter would cause, contribute to, or exacerbate adverse health effects.

56. Similarly, if the Complainants fail to produce complete information about the current exposure to RF fields as requested in Questions 2 and 3, including but not limited to bills showing the extent of their cell phone use, then the Complainants would be precluded from litigating claims that PPL Electric's AMI meter would expose them to unreasonable levels of RF fields.

57. Finally, to the extent that this Motion is granted and the Complainants fail to answer fully PPL to Complainant Set I, or otherwise comply with the ALJ's order, PPL Electric intends to file an appropriate motion pursuant to 52 Pa. Code §§ 5.371(a) and 5.372(a) to dismiss the Complaint with prejudice.

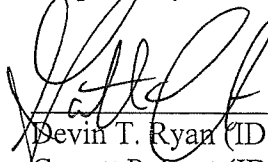
58. The Commission has regularly dismissed AMI meter complaints with prejudice due to the complainants' failure to answer discovery in compliance with the presiding administrative law judge's orders granting motions to compel. *See, e.g., Carol Sojda & Carol Lutzkanin v. Metropolitan Edison Co.*, Docket 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); *Robert B. Poole v. PPL Electric Utilities Corp.*, Docket No. C-2018-3005848, pp. 5-11 (Sept. 12, 2019) (Initial Decision), *adopted*, Docket No. C-2018-3005848 (Order entered Oct. 23, 2019); *Mary Toleno v. PPL Electric Utilities Corp.*, Docket No. C-2019-3007821, pp. 4-10 (Sept. 23, 2019) (Initial Decision), *adopted*, Docket No. C-2019-3007821 (Order entered Nov. 7, 2019); *Kyle A. Toffey v. PPL Electric Utilities Corp.*, Docket No. C-2019-3006931, pp. 4-11 (Oct. 7, 2019) (Initial Decision), *adopted*, Docket No. C-2019-3006931 (Order entered Nov. 21, 2019); *Patrick & Sharon Malcolm v. PPL Electric Utilities Corp.*, Docket No. C-2018-3005902, pp. 5-11 (Nov. 6, 2019) (Initial Decision), *adopted*, Docket No. C-2018-3005902 (Order entered Dec. 27, 2019); *Frances Demianczyk v. PPL Electric Utilities Corp.*, Docket No. F-2019-3008596, pp. 5-11 (Oct. 22, 2019), *adopted*, Docket No. F-2019-3008596 (Order entered Dec. 13, 2019); *Janet Fitz v. PPL Electric Utilities Corp.*, Docket No. C-2018-3006048, pp. 5-11 (Nov. 19, 2019) (Initial Decision), *adopted*, Docket No. C-2018-3006048 (Order entered Dec. 30, 2019); *Mark Pauli Kleeman v. PPL Electric Utilities Corp.*, Docket No. C-2019-3010235, pp. 5-9 (Nov. 20, 2019) (Initial Decision), *adopted*, Docket No. C-2019-3010235 (Order entered Dec. 31, 2019).

IV. CONCLUSION

For the reasons set forth above, PPL Electric Utilities Corporation respectfully requests that Administrative Law Judge Elizabeth H. Barnes grant this Motion to Compel Responses to Discovery and direct Donna and John Bengen to answer fully PPL to Complainant Set I, as described above within three (3) days from the date of the order.

Respectfully submitted,



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Garrett P. Lent (ID # 321566)
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Michael J. Shafer (ID # 205681)
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Date: January 21, 2020

Attorneys for PPL Electric Utilities Corporation

APPENDIX A

Interrogatories and Requests for Production of Documents Propounded by PPL Electric Utilities Corporation on Donna and John Bengen – Set I



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Devin Ryan

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File #: 167945

October 9, 2019

**VIA E-MAIL (JBENGEN@HOTMAIL.COM)
VIA OVERNIGHT DELIVERY**

Donna & John Bengen
11235 W. Rte. 973 HWY
Jersey Shore, PA 17740

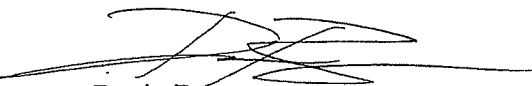
**Re: Donna and John Bengen v. PPL Utilities Corporation
Docket No. C-2019-3009735**

Dear Sir or Madam:

Enclosed are the Interrogatories and Requests for Production of Documents Propounded by PPL Electric Utilities Corporation on John and Donna Bengen – 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/dmc
Enclosures

cc: Rosemary Chiavetta, Secretary (*Cover Letter and COS only*)
Certificate of Service

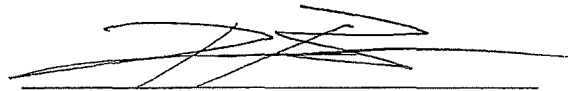
CERTIFICATE OF SERVICE

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

VIA E-MAIL AND OVERNIGHT MAIL

Donna & John Bengen
11235 W. Rte. 973 HWY
Jersey Shore, PA 17740
jbengen@hotmail.com

Date: October 9, 2019



Devin Ryan

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Donna and John Bengen,	:	
	:	
Complainant	:	
	:	
v.	:	Docket No. C-2019-3009735
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent	:	

**INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS PROPOUNDED BY
PPL ELECTRIC UTILITIES CORPORATION ON
DONNA AND JOHN BENGEN – 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 Donna and John Bengen (“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-2019-3009735.

**INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS PROPOUNDED ON
DONNA AND JOHN BENGEN – 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

Donna and John Bengen's January 13, 2020 Responses and Objections to PPL to Complainant Set I

Donna and John Bengen :

v. : Docket No. C-2019-3009735

PPL Electric Utilities

Answers and objections to PPL Electrics Interrogatories and request for production of documents

I-1. We are challenging the installation of the companies smart meter for several reasons.

A. Legality of Act 129.

Act 129 was not written as a mandatory law. The original legislation as passed stated customers could get a smart meter IF they requested it and agreed to pay. We have done neither. The Pa. PUC changed the original **intent and language** of the legislation by making it mandatory. This was a clear change to the original wording of SB2807 as passed.

B. Safety

We don't feel smart meters are safe in many ways. Section 1501 gives consumers the assurance of safe and reasonable service.

Our meter is in the sun all day and exposed to high heat in the summer. The components of the new meter can be affected by heat and cause problems such as fires or malfunction. Even the dome is no longer glass.

There are some documented cases of the Landis and Gyr focus smart meters catching fire.

The other concern is the old 100 amp service here at the house. Research has found that this can be a problem with fires.

This meter base is old.

When the PLC meter was installed the contractor had problems and had to use our landline (we have NO cell service here at our house) to call a certified electrician to come install it. It was forced on because it was late in the day and the electrician complained about being here. It was not professionally installed. Just forced on. This could bend connections and cause a problem.

On the Landis Gyr meters, in addition to its RF transmitter, each wireless digital meter also has a component called the 'switching-mode power supply' (SMPS) – switching power supply for short. Its function is to 'step down' the 240v alternating current (AC) coming in from the utility pole power lines to the 2 to 10 volts of direct current (DC) required to run the meter's digital electronics which record the electricity usage data.

The SMPS function emits sharp spikes of millisecond bursts constantly, 24/7. The SMPS on the OWS 514 NIC model, for instance, which is the smart meter model widely installed by PG&E throughout its territory, has been measured to emit spikes of up to 50,000 hz and higher. This constant pulsing of high frequencies, in addition to the RF function, is causing not only interference with other electric and electronic equipment in many homes with smart meters installed, but also is causing havoc with biological systems in its field of exposure. This is a big cause of dirty electricity.

Dirty Electricity

When current flows through the wiring of a building it generates a surrounding electro-magnetic field that radiates outward all around the wires at right angles to the direction of the current's flow and reaches out into the room.

It is well known that switching power supplies can generate spikes of so-called electromagnetic interference (EMI), or high frequency transients, which then travel along the wiring in the walls, radiating outward in the wiring's electromagnetic field.

Such spikes are known as 'dirty electricity' and can be conducted to a human body that is within the range of the radiating field. This function is on all smart meters used by all utilities and is on constantly, 24/7.

Doing research on this one of the engineers explains it this way:

"Extensive measurements have demonstrated that all of the meters measured so far, including ABB, GE, and Landis Gyr, emit noise on the customer's electric wiring in the form of high frequency voltage spikes, typically with an amplitude of 2 volts, but a frequency anywhere from 4,000 Hertz, up to 60,000 Hz. The actual frequency of the phenomena is influenced by the devices that are plugged into the customer's power. Some houses are much worse than others, and this observation has been confirmed by PG&E installers that have talked to us."

Wikipedia agrees that SMPSs have this drawback:

"Disadvantages include greater complexity, the generation of high-amplitude, high-frequency energy that the low-pass filter must block to avoid electromagnetic interference (EMI), and a ripple voltage at the switching frequency and the harmonic frequencies thereof.

Very low cost SMPSs may couple electrical switching noise back onto the mains power line, causing interference with A/V equipment connected to the same phase. Non-power-factor-corrected SMPSs also cause harmonic distortion.' "

ZIGBEE radio (HAN). Although we have been told this is not going to be turned on unless the customer request it.

1. We have no way to know if it's on or off.
2. If it's off why is it even there if it's not going to be used?
3. If it's turned on in the future we will not have any way of knowing.

C. Identity theft

Although PPL denies that their system for keeping customers personal information safe this can not reasonably be done. Anyone with some tech knowledge can hack into any system. We have provided documents as such. We have been personally affected by data breeches. This information has previously been sent to PPL's attorneys so we will not send it again.

D. Electricity theft

In the same way our identity can be stolen, electricity can be stolen. There is really nothing that will keep us safe from this.

E. Billing issues

Many who have had smart meters installed have seen an increase in their bill by a large percentage. Overbilling has become a huge problem. There are many news stories documenting this. We have just received a bill for the smart meter on our barn. Although the usage has not changed the bill was up by \$10.00. Now on the bill it looks like more was used, however John has not been doing anything more than he usually does so we are truly frustrated by this and feel this is an error caused by the smart meter 'reading' more electricity than was actually used. This can not be contributed to cold weather either since the barn is not heated.

D. Health

The EDC has previously admitted in our interrogatories to them they have done NO safety studies. There are no safety studies we can find done by ANY EDC in Pennsylvania or across the country.

We do not want to be exposed to microwave radiation, EMFs, or RF's.

There are **tens of thousands** of peer reviewed, government and scientific studies that prove smart meters are a danger to people and can cause a host of problems from tinnitus and brain fog, to cancer.

Subchapter Heading. The heading of Subchapter A was added November 26, 1978, P.L.1245, No.297, effective in 60 days.
§ 1501. Character of service and facilities.

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. Such service also shall be reasonably continuous and without unreasonable interruptions or delay. Such service and facilities shall be in conformity with the regulations and orders of the commission. Subject to the provisions of this part and the regulations or orders of the commission, every public utility may have reasonable rules and regulations governing the conditions under which it shall be required to render service. Any public utility service being furnished or rendered by a municipal corporation beyond its corporate limits shall be subject to regulation and control by the commission as to service and extensions, with the same force and in like manner as if such service were rendered by a public utility. The commission shall have sole and exclusive jurisdiction to promulgate rules and regulations for the allocation of natural or artificial gas supply by a public utility.

F. This is a violation of the FOURTH AMENDMENT.

The **Fourth Amendment (Amendment IV)** to the United States Constitution is part of the Bill of Rights. It prohibits unreasonable searches and seizures. In addition, it sets requirements for issuing warrants: warrants must be issued by a

judge or magistrate, justified by probable cause, supported by oath or affirmation, and must particularly describe the place to be searched and the persons or things to be seized.

Fourth Amendment case law deals with three main issues: what government activities are "searches" and "seizures", what constitutes probable cause to conduct

G. Invasion of privacy

We do not believe in today's technology our personal data can be kept safe. We have been involved personally in several data breaches.

I-2 We the complainants object to this. This is irrelevant, inapplicable and not reasonably calculated to lead to the discovery of admissible evidence in this case. What we have in our home has nothing to do with the litigation. We can use anything or chose not to use anything at a given time, unlike the smart meter which is active 24/7 and can not be turned off. We can not shut it off or avoid its use.

I-3 We the complainants object to this as irrelevant. N/A to our complaint This is irrelevant, inapplicable and not reasonably calculated to lead to the discovery of admissible evidence in this case. Again if we use a cell phone or not it is a choice and not forced use or exposure, and it's not 24/7 exposure as a smart meter is.

I-4. We the complainants object to these questions.

Health has not been a consideration in ANY of the prior litigations regarding

smart meters by the Pa. PUC.

Donna requested the respondents sign a stipulated protective agreement which the EDC refused.

A confidential letter sent to Judge Barnes was missing and not in the confidential file when Donna called and spoke to Alphonso Arnold after the cancellation of the October 29, 2019 pre-hearing. This shows us that this information can not be protected, secured and kept safe. Due to these reasons and the fact that health has not been a consideration in any of the prior Pa. PUC hearings and decisions we will not submit this information.

a This is privileged and personal information protected by HIPAA. It is also unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence.

b.This is privileged and personal information protected by HIPAA. It is also unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence.

c. This is privileged and personal information protected by HIPAA. It is also unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence.

d. This is privileged and personal information protected by HIPAA. It is also unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence.

e. This is privileged and personal information protected by HIPAA. It is also unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence.

I-5 Complainants are currently evaluating this and will provide a response as soon as it becomes known to the complainants.

1-6 Complainants are currently evaluating this and will provide a response as soon as it becomes known to the complainants.

1-7. We object to this. We do not plan on providing exhibits until 5 days before the hearing according to the litigation schedule provided to the complainants.

This states: " If you have any hearing exhibits to which you will refer during the hearing, three (3) copies must be sent to the Administrative Law Judge and one (1) copy each must be sent to every other party. All copies **must be received** at least five (5) business days **before** the hearing."