

331 Shady Ridge Drive
Monroeville, Pennsylvania

February 13, 2020

Via Paper Filing

Judge Jeffrey Watson
PA PUC Pittsburgh Administrative Law Judge Office
301 Fifth Ave, Suite 220
Piatt Place
Pittsburgh, PA 15222

RE: Michele Hriadil and Francis Hriadil v. Duquesne Light Company
Docket No. C-2016-2571726

Cc: Jeremy V Farrell, Esquire, Counsel for Duquesne Light Company
Rosemary Chiavetta, Secretary, Pennsylvania Public Utility Commission

Dear ALJ Watson:

We have had a death in the family this past week, and have both been ill, otherwise we would have filed this document sooner.

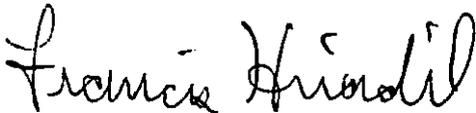
Enclosed please find a copy of Complainants'

Reply to Respondent's Answer to Complainants' Response to
Respondent's Objections to Complainants' Discovery Interrogatories
for Respondent's New Exhibit F-8
and
Motion to Compel Discovery

A copy of this document along with its certificate of service has been served upon the Respondent's Counsel, Jeremy V Farrell, Esquire, and provided to PUC Secretary Chiavetta, in accordance with Commission regulations.

Please feel free to contact me if you have any questions.

Sincerely,



Francis Hriadil
Complainant
(412) 779-3314
hriadil@attglobal.net

Enclosure

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Michele Hriadil and
Francis Hriadil,

Complainant,

vs.

DUQUESNE LIGHT COMPANY,

Respondent.

No: C-2016-2571726

REPLY TO RESPONDENT'S ANSWER TO
COMPLAINANTS' RESPONSE TO
RESPONDENT'S OBJECTIONS TO
COMPLAINANTS' DISCOVERY
INTERROGATORIES FOR
RESPONDENT'S NEW EXHIBIT F-8
AND MOTION TO COMPEL DISCOVERY

Filed by Michele and Francis Hriadil

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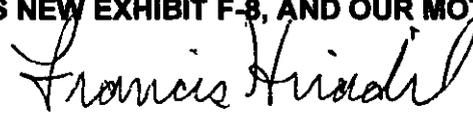
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

REPLY TO RESPONDENT'S ANSWER TO
COMPLAINANTS' RESPONSE TO
RESPONDENT'S OBJECTIONS TO
COMPLAINANTS' DISCOVERY INTERROGATORIES FOR
RESPONDENT'S NEW EXHIBIT F-8
AND MOTION TO COMPEL DISCOVERY

TO: ALJ JEFFREY A. WATSON

TO: RESPONDENT'S GENERAL COUNSEL, JEREMY V FARRELL, ESQUIRE, AND PAUL SHANE MILLER, ESQUIRE.

HERE IS THE FILING OF OUR WRITTEN REPLY TO RESPONDENT'S ANSWER TO COMPLAINANTS' RESPONSE TO RESPONDENT'S OBJECTIONS TO COMPLAINANTS' DISCOVERY INTERROGATORIES FOR RESPONDENT'S NEW EXHIBIT F-8, AND OUR MOTION TO COMPEL DISCOVERY.



Francis Hriadil
February 13, 2020

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Michele Hriadil and
Francis Hriadil,

Complainant,

vs.

No: C-2016-2571726

DUQUESNE LIGHT COMPANY,

Respondent.

**REPLY TO RESPONDENT'S ANSWER TO
COMPLAINANTS' RESPONSE TO
RESPONDENT'S OBJECTIONS TO
COMPLAINANTS' DISCOVERY INTERROGATORIES FOR
RESPONDENT'S NEW EXHIBIT F-8
AND MOTION TO COMPEL DISCOVERY**

TO ALJ Jeffrey A. Watson:

1. Overview:

a. The process of Discovery exists and was created is to establish the facts - not just some of the facts, not just many of the facts, but all of the facts.

Pa Code, 52. Pa. Code § 5.321(c) Scope, clearly and emphatically states

“a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, ... , including the existence, description, nature, content, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of a discoverable matter. It is not ground for objection that the information sought will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.”

There are only two (2) sources available for this information regarding this matter:

- the public domain
- the Respondent

Complainants have gathered what information is available in the public domain. There is much about the operation and operational capability of the Smart Meter in its Network Mesh that is and remains unclear, that has been and remains mischaracterized, and/or has been and remains unreported to the general public. As such, many relevant questions remain unanswered. The Complainants did not create this situation and occurrence; but, we are required to deal with it. And, as the Respondent is insisting that the public has no choice in the matter, and as the public is being prevented from carrying out and exercising its own independent due diligence and discretion, it is an inescapable truth of the situation that the Respondent, and only the Respondent, can supply these facts.

b. In its November 18, 2019 last minute notification served to the Complainants and the court, the Respondent stated:

- Duquesne Light intends to introduce a new "supplemental exhibit (F-8)" into evidence
- "Duquesne Light is deploying new IPv6 routers in your neighborhood. I've been told that these routers may alter the duty cycle for the smart meters being deployed in your neighborhood. The attached supplemental exhibit contains information about the meter's duty cycle."
- the Respondent would be "following up with supplemental calculations from Dr. Cotts as soon as we receive them."

As such, the Respondent indicated that it is

- introducing new evidence,
- this new evidence pertains to a change in its equipment (its hardware, etc) in the Complainants' neighborhood and elsewhere,
- and that Dr Cotts would be carrying out new Exhibit F-8 calculations and analysis based on this new evidence, which would be provided to the Complainants in a timely manner.

c. As a result of this, on November 19, 2019, the court issued Second Interim Order Granting Complainants' Request for Continuance to provide the Complainants with sufficient time to properly review and assess this new material.

d. On December 26, 2019, the Interim Order Granting Complainants' Request for Extension of Time to File Status Report was issued in which it stated (on pages 4-5)

"1. That the Parties may engage in Discovery related to Respondent's proposed Respondent's Proposed Supplemental Exhibit F-8 provided to the undersigned Presiding Officer and Complainants on or about November 18, 2019, and any expert opinions or changes to expert opinions of either Party related to the substance of Respondent's Proposed Supplemental Exhibit F-8. The Discovery shall be completed on or before January 13, 2020."

e. The Complainants waited over 1 1/2 months for this new information from the Respondent and Dr Cotts (consisting of the remainder of November, all of December, and the beginning of the new year in January), and received nothing from the Respondent. With Discovery closing on January 13 per your order, which the Respondent was well aware of, the Complainants submitted our Discovery Interrogatories for Respondent's New Exhibit F-8, with 10 relevant interrogatories pertaining to the Respondent's Exhibit F-8 and Dr Cotts' purported new Exhibit F-8 calculations. This was served on January 6, 2020. The court was notified of this submission.

f. On January 16, 2020, three (3) days after "Discovery shall be completed", the Complainants received notification from the Respondent that it had filed Respondent's Objections to Complainants' Discovery Interrogatories for Respondent's New Exhibit F-8.

In this document, the Respondent

- completely ignored and did not respond to Complainants Interrogatories 6, 7, and 10. 6., 7., and 10. are not complicated questions, and are simple and straightforward to answer.
- essentially filed its standard blanket objection to every other interrogatory that was asked, claiming its pat "undue burden" objection which the Complainants finds dubious and unconvincing considering the Respondent's vast resources.

2. On January 25, 2020, Complainants served our Response to Respondent's Objections to Complainants' Discovery Interrogatories for Respondent's New Exhibit F-8 and Motion to Compel Discovery, in which we informed Your Honor and the Respondent of the incompleteness and inadequacy of the Respondent's responses to our interrogatories and filed a motion to compel full and complete answers.

3. On January 27, 2020, the Respondent filed the additional document, Responses to Complainants' Discovery Interrogatories for Respondent's New Exhibit F-8 in which it addressed the Complainants' Discovery Interrogatories 6, 7, and 10. that it completely ignored and failed to answer in its January 16, 2020 filing. The Complainants received notification of this additional filing on January 27 and a hard copy document on January 30.

4. On February 3, 2020, the Complainants received notification from the Respondent that it was also filing two (2) further documents:

- a. Technical Memorandum - DLC Smart Meter Exposure after IPv6 Network Rollout by Dr Benjamin Cotts of Exponent, dated January 31, 2020.
- b. Respondent's Answer to Complainants' Response to Repondent's Objections to Complainants' Discovery Interrogatories for Respondent's New Exhibit F-8 and Motion to Compel Discovery.

The Complainants received the hard copy documents on February 6, 2020.

TECHNICAL MEMORANDUM
DLC SMART METER EXPOSURE AFTER IPv6 NETWORK ROLLOUT
by Dr Benjamin Cotts of Exponent, dated January 31, 2020

5. The Respondent did not provide Dr Cotts' new calculations in the timely manner that it had stated that it would in its November 18, 2019 notification, thus depriving the Complainants of any opportunity to apply Discovery to this new material. The Complainants did not receive this new material, consisting of only 5 pages, until the Respondent's latest filing dated February 3, a full 11 weeks later. And, the Respondent did not provide these calculations, etc. as part of an amended Expert Report by Dr Cotts, as it stated it would in its written excuse for not supplying this new material in a timely matter.

Instead, the Complainants have now been informed that this new material by Dr Cotts will be submitted by the Respondent as another new exhibit, Exhibit H-4.

6. The Complainants

- **reserve our right to have sufficient time to fully and properly review this new material and exhibit, Exhibit H-4,**
- **reserve our right to file additional exhibits in response to the Respondent's new exhibits F-8 and H-4,**
- **and, we request that Discovery be re-opened with regard to this new Exhibit H-4, so that we are not unfairly deprived of due process.**

**RESPONDENT'S ANSWER TO COMPLAINANTS' RESPONSE TO
RESPONDENT'S OBJECTIONS TO COMPLAINANTS' DISCOVERY INTERROGATORIES
FOR RESPONDENT'S NEW EXHIBIT F-8
AND MOTION TO COMPEL DISCOVERY**

7. In its January 27, 2020 filing, after receiving notification of the Complainants' January 25 Motion to Compel Discovery, the Respondent addressed the Complainants' Discovery Interrogatories 6, 7, and 10. that it ignored and failed to address in its January 16, 2020 filing.

8. In its February 3, 2020 Answer...., the Respondent simply reiterates the objections it filed in its January 16, 2020, Respondent's Objections to Complainants' Discovery Interrogatories for Respondent's New Exhibit F-8. Nothing new or substantive is provided.

9. The Complainants addressed the irrelevancy of the Respondent's objections in detail, provided the relevancy and justification of each of our Discovery Interrogatories, and established the compliance of all of our Discovery Interrogatories with 52. Pa. Code § 5.321(c) in our January 25, 2020, Response to Respondent's Objections to Complainants' Discovery Interrogatories for Respondent's New Exhibit F-8 and Motion to Compel Discovery. As the Respondent simply re-iterates its previous objections, **the Complainants will not burden the court with repetitious and redundant material which re-iterates our already stated position and arguments, and will simply refer the court to our January 25, 2020 Response to Respondent's Objections to Complainants' Discovery Interrogatories for Respondent's New Exhibit F-8 and Motion to Compel Discovery document.**

10. The Complainants maintain that the Respondent has provided responses that are insufficient, incomplete, or otherwise objectionable. The Complainants have provided the specific issue(s) with the Respondent's responses (why and how each is insufficient, incomplete, and/or objectionable). This information still needs to be provided to remedy the inadequacy of the Respondent's responses, and to uphold the integrity of the Discovery process and due process for the Complainants.

Every effort was made to be as concise as possible, yet also remain specific, accurate, and complete. Everything is explained in as clear a manner as possible so that there can be no misunderstanding as to what is lacking, and how and why the inadequacies can and must be remedied. Many require simple answers or clarifications. This is no undue burden.

It is not, nor has it ever been, the intent of the Complainants to unduly, unjustly, or unfairly burden the Respondent. Complainants have adhered to the spirit and intent of 52 Pa. Code § 5.321(c). All of the Complainants Discovery Requests relate directly to the matter at hand. Complainants have only submitted Discovery Requests that are germane to our complaint, and our appeal for accommodation and relief.

11. If the answers to the Complainants reasonable and relevant Discovery Interrogatories are not forthcoming, the answers will remain unprovided by the only source that can provide those answers, and that is the Respondent. In a matter where the Complainants bear the burden of proof and must provide a preponderance of evidence, this occurrence, if allowed to happen, will severely compromise the Complainants' right to due process.

If a Respondent can be permitted to

- ignore whatever interrogatories that it wants
- ignore whatever aspects of interrogatories that it wants
- leave out any pertinent data or information that it chooses
- provide responses that don't answer the interrogatory being posed
- answer only those interrogatories that it wants, and only in the way that it wants
- decide when an interrogatory has been fully answered,
irrespective of the satisfaction of the submitter

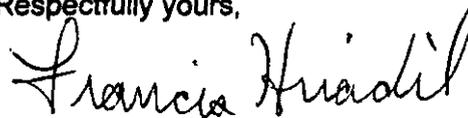
then the purpose and intent of Discovery will have been circumvented.

12. In closing, in our effort to substantiate that, at a minimum, aspects of the Respondent's Smart Meter program are in violation of relevant codes, including but not limited to PA Utility Code §1501, and that our concerns, our complaint, and our request for accommodation and relief are all valid, Complainants are tasked with having to produce a preponderance of evidence to meet our burden of proof. Complainants ability to do this will be harmed if the answers to our outstanding Discovery Requests are not forthcoming and are subject to the discretion of the Respondent.

WHEREFORE, in light of these circumstances, Complainants Michele Hriadil and Francis Hriadil respectfully request

- that Your Honor overrule the Respondent's objections, and rule to compel the Respondent to fully and completely answer the Complainants' Discovery Interrogatories for Respondent's New Exhibit F-8
- and as the Respondent has now produced another new exhibit, Exhibit H-4, and has been slow in providing this new material in a timely manner, that Your Honor open Discovery with regards to the Respondent's new exhibit, Exhibit H-4.

Respectfully yours,



Francis Hriadil
(412) 779-3314
331 Shady Ridge Drive
Monroeville, Pennsylvania
February 13, 2020

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Michele Hriadil and
Francis Hriadil,

Complainant,

vs.

DUQUESNE LIGHT COMPANY,

Respondent.

No: C-2016-2571726

CERTIFICATE OF SERVICE

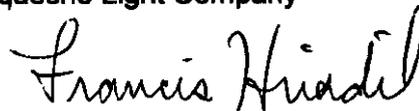
I hereby certify that I have this day served a true copy of Complainants' Reply to Respondent's Answer to Complainants' Response to Respondent's Objections to Complainants' Discovery Interrogatories for Respondent's New Exhibit F-8 and Motion to Compel Discovery upon the participants listed below in accordance with the requirements of 52 PA. Code § 1.54 (relating to service by a participant):

Via Paper Filing
Judge Jeffrey Watson
PA PUC Pittsburgh Administrative Law Judge Office
301 Fifth Ave, Suite 220
Piatt Place
Pittsburgh, PA 15222

Via Paper Filing
Jeremy V Farrell, Esquire
Paul S Miller, Esquire
One PPG Place - 1500
Pittsburgh, PA 15222
(412) 594-5619 (Fax)

Counsel for Respondent, Duquesne Light Company

Dated this 13th day of February, 2020



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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

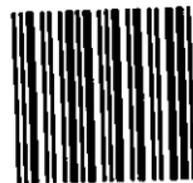
F. Hriadil
331 Shady Ridge Drive
Monroeville, PA 15146

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Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
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Keystone Building, 2nd Floor
Harrisburg, Pennsylvania 17120

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