

June 30, 2020

VIA ELECTRONIC FILING

Office of the Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

RE: **Docket Nos. F-2019-3008809 and F-2019-3008832**

Enclosed for filing is the Certificate of Service for Complainants' *Motion to Compel Full and Complete Answers to Interrogatories and Requests for Production of Documents, Set III (2nd Amended)* in the above-referenced proceeding. Note: This is a re-filing of document with E-file Confirmation No. 1917158. It contains corrections of two (2) minor typographical errors.

Respectfully submitted,



Handwritten signatures of John Holder and Janet Holder in blue ink, positioned above a horizontal line.

John Holder, Janet Holder

**CERTIFICATE OF SERVICE**

We hereby certify that true and correct copies of Complainants' *Motion to Compel Full and Complete Answers to Interrogatories and Requests for Production of Documents, Set III (2nd Amended)* have 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):

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Date: June 30, 2020

  
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## Motion to Compel Full and Complete Answers to Interrogatories and Request for Production of Documents, Set III (2nd Amended)

Pursuant to 52 Pa. Code § 5.342(g), Complainants hereby file this motion to dismiss Respondent PPL Electric Utilities Corporation's objections, and to compel full and complete answers, to *Complainants' Interrogatories and Request for Production of Documents, Set III*.

### Preliminary Notes:

PN-1. Complainants' Interrogatories numbered I-118 through I-120 are duplicates of the Interrogatories numbered I-115 through I-117 respectively. The inclusion of Interrogatories I-118 through I-120 was inadvertent and in error. Accordingly, Interrogatories I-118 through I-120 are hereby stricken from Complainants' Interrogatories, Set III.

PN-2. Complainants' Interrogatories numbered I-157 through I-159 are duplicates of the Interrogatories numbered I-154 through I-156 respectively. The inclusion of Interrogatories I-157 through I-159 was inadvertent and in error. Accordingly, Interrogatories I-157 through I-159 are hereby stricken from Complainants' Interrogatories, Set III.

PN-3. As Mr. Curtis Renner had been serving pro hac vice as legal counsel to Respondent, PPL Electric Utilities, as late as December, 2018, Complainants were not aware that Mr. Renner had since been admitted to the Pennsylvania Bar. Complainants' Interrogatories numbered I-180 through I-185 therefore were irrelevant and errantly presumptuous, and accordingly, they are hereby stricken from Complainants' Interrogatories, Set III.

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1. On March 13, 2020, Complainants filed *Interrogatories and Requests for Production of Documents Propounded by Complainants On PPL Electric Utilities Corporation — Set III*.

2. Respondent was requested to "provide direct, concise, full and complete answers to this discovery request within twenty (20) days of the date of service," pursuant to 52 Pa. Code § 5.342.

3. On March 24, 2020, Respondent requested, and was granted, a "thirty (30) day extension to the deadlines for serving objections **and answers** to the Interrogatories and Requests for Production of Documents" propounded by the Complainants. (Underling and emphasis added.)

4. A reason given by the Respondent for requesting such an extension was that more time was needed by PPL Electric's expert witnesses to "**gather information and documents**" for their response to Complainants' discovery requests. Accordingly, the Respondents stated that "the Company will need more time to serve the Complainants with objections **and answers.**" (Underlining and emphasis added.)

5. To date, the Respondent has failed to respond with an answer to even a single Interrogatory request or request for documents. Respondent has instead objected to every one of the Complainants' interrogatories and requests for documents propounded in Set III.

6. It is clear that the 30-day extension of time requested by the Respondent to "**gather information and documents**" was not necessary. Respondent likely could have completed its blanket, boilerplate objections virtually in an afternoon.

7. In Paragraphs 10 and 11 of Respondent's Objections to Complainants' Interrogatories, Set III, the Respondent stated:

PPL Electric responded to Complainants' Set II, Question Nos. 1 through 5 on October 15, 2019, and explained that **its position is that there is no reliable medical or scientific basis upon which to conclude that the installation of the automated metering infrastructure ("AMI") meters would cause, contribute to, or exacerbate adverse health effects.** In support of that position, the Company pointed to the expert opinions of Dr. Christopher Davis and Dr. Mark Israel, whose written testimony would be served in this proceeding on or before March 1, 2020, in accordance with the established litigation schedule. Ultimately, PPL Electric served the Complainant with the testimony of Dr. Davis and Dr. Israel on February 28, 2020." (Underlining and emphasis added.)

The Complainants' Set III Discovery requests essentially seek this very same information. For example, Complainants' Set III, Question Nos. 1 through 3<sup>3</sup> request:

**I-1.** In support of PPL's position in the instant case, do PPL and/or the company's expert witnesses assert or make the claim **that there is a reliable medical and scientific basis upon which to conclude that exposure to radiofrequency (RF) radiation produced as a result of the installation of PPL's automated metering infrastructure ("AMP") (sic) meters would not and will not cause biological or adverse health effects?** (Underlining and emphasis added.)

**I-2.** If PPL's answer to I-1 is in the affirmative, please identify specifically all empirical evidence in the form of actual medical and scientific research studies upon which PPL and the company's expert witnesses rely and will rely in support of such a claim.

**I-3.** If PPL's answer to I-1 is in the affirmative, please produce and provide Complainants with copies of all empirical medical and scientific documentation which PPL and the company's expert witnesses rely and will rely upon as evidence in support of such a claim. claim.

8. In Paragraph 11 of Respondent's Objections to Complainants' Interrogatories, Set III, the Respondent has stated that the Complainants' Set III Discovery requests essentially seek "the very same information" as that referenced by the Respondent in PPL Electric's Objections to Complainants' Interrogatories, Set II, Question Nos. 1 through 5 (see ¶ 7, supra). Whether or not some of the requests in Complainants' Interrogatories Set III essentially seek the same information that was requested in their Interrogatories Set II, the **Respondent nonetheless has failed to answer any of the Complainants' discovery requests in either set** that pertain to those questions concerning the existence of a reliable medical or scientific basis for conclusions regarding smart meter safety.

9. In PPL Electric's Objections to Complainants' Interrogatories Set II, the Respondent objected to the Complainants' Question Nos. 1 through 5 of that Set "on the grounds that the requests are vague, incomprehensible, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence." The Respondent also complained that "[t]he interrogatories use a number of vague and undefined terms, such as 'power densities', ..." and that "these lengthy interrogatories weave a series of incomprehensible compound phrases and sentences, which make responding to the discovery requests unreasonably difficult."

In their Interrogatories Set III, the Complainants therefore have taken great pains to obviate these criticisms by the Respondent concerning comprehensibility of terminology and phraseology. Accordingly, the Complainants have spelled out in parsed language each and every interrogatory request in Set III such that each request has a clear, distinct and readily understood meaning.

10. The Respondent's position on smart meter safety that was re-stated under ¶ 7, supra, that "there **is no** reliable medical or scientific basis upon which to conclude that the installation of the automated metering infrastructure ("AMI") meters would cause, contribute to, or exacerbate adverse health effects," absolutely does NOT in any way assert and cannot establish the diametrically opposite claim that "there **is** a reliable medical or scientific basis upon which to conclude that the installation of the automated metering infrastructure ("AMI") meters would cause, contribute to, or exacerbate adverse health effects."

The Respondent's stated position on smart meter safety therefore absolutely does NOT provide the information specifically sought by the Complainants in their Interrogatories (Set III and Set II), and it does NOT constitute a dispositive answer to any request made in either Set II or Set III of the Complainants' Interrogatories.

11. In Respondent's Objections to Complainants' Interrogatories, Set III, the Respondent once again repeatedly states that the Complainants' "requests are repetitive of prior requests, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence" and that "these interrogatories are based upon a series of complicated compound phrases and sentences, which make responding to the discovery requests unreasonably difficult."

12. The Respondent also repeatedly has objected that Complainants' Interrogatories in Set III are "vague" and "incomprehensible" because they use such terms and phrases as "chronic," "long-term exposure," "frequent," "below," "exposed," "causal mechanisms of interaction," "biological systems," "biological effects," "adverse health effects," and "without risk."

**13.** Respondent PPL is playing a 'splitting-hairs' game of semantics to the point of pathetic absurdity, particularly when the meanings of the terms appearing in ¶ 12, supra, are sufficiently clear from their context. A reasonable mind familiar with the issues brought forth in this and numerous other cases before the Pennsylvania Public Utility Commission would readily understand these terms. Moreover, Respondent, PPL, has ready access to the company's expert witnesses who most certainly would understand the meanings of these terms as used. It certainly is not necessary that the Complainants supply the Respondent with a lexicon or a textbook of English grammar to explain the meanings and usage of these terms. The Respondent's objections on these grounds therefore are utterly without merit.

**14.** The Complainants' Interrogatories in Set III most certainly are NOT overly broad. Nor are they unduly burdensome. And they most certainly are reasonably calculated to lead to the discovery of admissible evidence or to the finding of fact that there is a complete lack of a reliable medical and scientific basis upon which to conclude that exposure to radiofrequency radiation and RF fields produced by PPL's AMI wireless smart meters would not, will not, could not and cannot cause, exacerbate, or contribute to biological or adverse health effects. The Respondent's objections on the grounds specified in ¶ 11, supra, therefore are utterly without merit.

**15.** As this Court readily can ascertain, all of the Complainants' Interrogatory and document requests were absolutely **straightforward, direct, clear and unambiguous.**

**16.** One-third (1/3) of Complainants' Interrogatories numbered I-1 through I-162 required a simple, '**yes-or-no**' answer, that is, an answer which is either a simple affirmative, or a simple negative.

**17.** Most of the Interrogatories of the type referenced in ¶ 16, supra, are some combination of the following basic form:

Do PPL and/or the company's expert witnesses assert or claim that there is a reliable medical and scientific basis upon which to conclude that exposure to **A** produced as a result of the installation of PPL's "AMI" meters **B** **C** biological or adverse health effects?

**A:** Substitute **(1)** "radiofrequency (RF) radiation" OR **(2)** "RF fields" in the preceding question.

**B:** Substitute **(1)** "would not and will not" OR **(2)** "could not and cannot" in the preceding question.

**C:** Substitute **(1)** "cause" OR **(2)** "exacerbate" OR **(3)** "contribute to" in the preceding question.

**18.** Complainants will not belabor the point by stating each and every other variation of the above form in the Interrogatories. Suffice it to say that the terminology and phraseology in all of the variations is absolutely concise, clear and unambiguous and could be readily understood by a reasonably well-educated school student.

**19.** The remaining two-thirds (2/3) of Complainants' Interrogatories among those numbered I-1 through I-162 simply requested the identification of empirical research and production of evidentiary documents that might have supported whatever affirmative answers the Respondent may have given to interrogatory requests among that group.

**20.** Complainants' Interrogatories. Set III, I-164 state:

"Please provide Complainants with a copies of any and all documentation in PPL's possession which details the terms of the company's rights of easement specifically with regard to Complainants' properties at 2424 Lafayette Avenue and 1823 Butztown Road, both in Bethlehem, PA."

**21.** Respondent has objected to I-164 stating:

"PPL Electric's existing easements and/or property rights at either of the Complainants' properties are not at issue. Moreover, this information is not relevant to any claim that is within the Commission's jurisdiction to consider; the Commission has repeatedly held that it lacks jurisdiction to interpret easements or otherwise resolve disputes regarding property rights."

**22.** The instant case does not concern only Section 1501 of the Public Utility Code. The Complainants have set forth, under Cause of Action II of their Amended Complaint, that the Commission's policy of mandating the installation of smart meters would force the Complainants' properties to be used by PPL with its AMI meters for purposes other than the collection of the Complainants' electricity usage data. That is, the Commission's policy would forcibly allow PPL to use Complainants' homes as "relay points to transmit data" that does not originate from the Complainants' properties. The Commission's policy pursuant to Act 129 thus violates the Complainants' rights under the Fifth Amendment to the Constitution of the United States. Therefore this is not a simple property rights dispute between the Complainants and PPL Electric Utilities. It is not about who owns the properties in question or where the boundaries lie. On the contrary, it is about whether PPL Electric Utilities, **acting with the Imprimatur of the State**, can take usage of the Complainants' properties without such usage having been granted either by the existing easement or by the Complainants' informed consent.

**23.** Complainants' Interrogatories. Set III, I-165 through I-168 state:

**I-165.** Please cite any law, statute, official rule, or right of easement which would permit PPL to install radiofrequency transmission antennas on Complainants' homes without their consent.

**I-166.** Please cite any law, statute, official rule, or right of easement which would permit PPL to install computer devices on Complainants' homes without their consent.

**I-167.** Please cite any law, statute, official rule, or right of easement which would permit PPL to install any device other than a meter, only a meter, and nothing but a meter on Complainants' homes without their consent.

**I-168.** Please cite any law, statute, official rule, or right of easement which would permit PPL to use Complainants' homes for the company's AMI meters to function as "relay points to transmit data."

**24.** Respondent has objected to I-165 through I-168 stating:

"The Company objects to Complainants-III-165 through 168 on the grounds that these requests improperly seek legal opinions."

Both the Pennsylvania Public Utility Commission and PPL Electric Utilities Corporation are bound by the laws and statutes of the Commonwealth of Pennsylvania and by the laws and Constitution of the United States, and as such, the Commission and PPL Electric Utilities are prohibited from abridging or violating the rights, including property rights, of citizens of the United States. Complainants have requested a simple citation of any statute, law or rule that would permit Respondent PPL to act **as an agent of the State** in a way that would encroach upon the Complainants' rights protected under the Constitution of the United States.

**25.** Complainants Set III, Question I-76 requests:

**I-176.** In reference to PPL's Customer Privacy Policy (PPL Electric Exhibit KD-4), please clarify and explain the following in detail:

- (1) In the bullet item "Providing necessary information to authorized EGSs and/or third party representatives," what is "necessary information"?
- (2) the bullet item "Aggregating data by retail electricity provider to settle the wholesale market"
- (3) In the statement: "PPL Electric does not share AMI Data, except as required or permitted by law, regulatory agencies, or governmental authorities," specifically what exceptions are required or permitted by law, regulatory agencies or governmental authorities?
- (4) According to PPL's privacy policy, does not the burden of responsibility fall upon the customer to do the necessary event log monitoring of the web portal in order to discover whether a user has gained unauthorized access to the customer's data?
- (5) Concerning the statement, "PPL Electric may share AMI Data in an aggregated and anonymized form": Specifically what data is aggregated, and how is it anonymized? How can PPL ensure that third parties with whom the company shares such data are not able to disaggregate and de-anonymize the data? How would third parties use the data if they were to not be able to identify the customers associated with the data?

26. Respondent has objected to I-176 stating:

"The Company objects to Complainants-III-176 on the grounds that the request improperly seeks legal opinions, is vague, and seeks information not within PPL Electric's possession."

In Interrogatory I-176, the Complainants simply have requested the Respondent to "explain and clarify" information contained in PPL's *Customer Privacy Policy* (PPL Electric Exhibit KD-4), **which is the Company's own document**. PPL's blanket objection to Interrogatory I-176 is therefore blatantly false, unwarranted and without merit.

27. Complainants are entitled to full and complete answers to their discovery requests. Because the Respondent has failed to properly answer any requests put forth in the Complainants' Interrogatories and Requests for Production of Documents, Set III, and instead has proceeded to stonewall, the Respondent is obstructing and impeding the discovery process and is thereby denying Complainants their due process right to full and complete discovery.

28. Given the Respondent's complete failure to provide answers and to identify or produce any supportive documents requested by Complainants' Interrogatories I-1 through I-162, the propositions clearly and unambiguously stated in those Interrogatories remain, by the Respondent's choice, unasserted and thus un-affirmed.

29. Respondent's refusal to answer, that is, to either affirm or deny the propositions stated in Complainants' Interrogatories Set III, numbers I-1 through I-162, **establishes as FACT** that the Respondent has NOT asserted or claimed, and does NOT assert or claim, that there **is** a reliable medical and scientific basis upon which to conclude that exposure to radiofrequency radiation and RF fields, as a result of PPL Electric's installation of AMI wireless smart meters, would not, will not, could not and cannot cause, exacerbate, or contribute to biological or adverse health effects.

## **WHEREFORE,**

The Complainants hereby respectfully request that this Court duly compel the Respondent, PPL Electric Utilities Corporation, to provide full and complete answers to Complainants' discovery requests, Set III.

Alternatively,

Because the Respondent has not provided answers to Interrogatories I-1 through I-162 (Set III), and because the Respondent has failed thereby to affirm with answers and documentation that there **is** a reliable medical and scientific basis upon which to conclude that exposure to radiofrequency radiation and RF fields, as a result of PPL Electric's installation of AMI wireless smart meters, would not, will not, could not and cannot cause, exacerbate or contribute to biological or adverse health effects, the Complainants request a finding by this Court that, insofar as concerns the proceedings of the instant case, there is **no** reliable medical and scientific basis upon which to conclude that exposure to radiofrequency radiation and RF fields, as a result of PPL Electric's installation of AMI wireless smart meters, would not, will not, could not and cannot cause, exacerbate or contribute to biological or adverse health effects.

The Complainants concomitantly request that this Court duly compel the Respondent, PPL Electric Utilities Corporation, to provide full and complete answers to the remainder of the Complainants' discovery requests, Set III.

Respectfully submitted,

Dated: June 30, 2020

Handwritten signatures of John and Janet Holder in blue ink.

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John and Janet Holder, Complainants