

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MICHELE HRIADIL and	:	
FRANCIS HRIADIL,	:	
	:	
Complainants,	:	
	:	
v.	:	No: C-2016-2571726
	:	
DUQUESNE LIGHT COMPANY,	:	
	:	
Respondent.	:	

**RESPONDENT’S LIMITED RESPONSE TO COMPLAINANTS’ MOTION FOR SUMMARY
JUDGMENT AND RESPONDENT’S REQUEST FOR BRIEFING SCHEDULE ONCE STAY IS
LIFTED**

Respondent Duquesne Light Company (“Duquesne Light”) submits this Limited Response to Complainants’ Motion for Summary Judgment and Respondent’s Request for Briefing Schedule Once Stay is Lifted:

1. On October 8, 2020, the Commonwealth Court of Pennsylvania issued an Opinion in three consolidated cases involving smart meter technology: *Povacz v. Pa. Public Utility Comm’n* (Docket No. 492 C.D. 2019); *Murphy v. Pa. Public Utility Comm’n* (Docket No. 606 C.D. 2019); and *Albrecht v. Pa. Public Utility Comm’n* (Docket No. 607 C.D. 2019).¹

2. On October 23, 2020, Complainants filed a Motion for Summary Judgment.

3. In the Motion for Summary Judgment, Complainants contend that the Povacz Opinion was a “definitive ruling” that “settled in law” the “issue of the legality of the Public Utility Commission’s 2009 Implementation Order mandating the universal deployment of Smart Meters

¹ Duquesne Light will refer to the Commonwealth Court’s Opinion as the “Povacz Opinion.”

... and has been ruled as incorrect and in violation of Act 129.” Motion for Summary Judgment, ¶¶ 1-2.

4. In light of the Povacz Opinion, Complainants claim that summary judgment should be entered in their favor.

5. An answer to a motion for summary judgment may be filed within 20 days of the date of service of the motion. 52 Pa. Code § 5.102(b).

6. Given that Complainants served their Motion for Summary Judgment on October 23, 2020, Duquesne Light normally would be entitled to file an answer on or before November 12, 2020.

7. However, on November 4, 2020, the Commission entered an Order at Docket No. M-2009-2092655 (“Order”) that, in relevant part, stayed “all active formal complaint proceedings before the Commission challenging an electric distribution company’s deployment of smart meter technology as being in violation of Section 1501 of the Public Utility Code ... in which an ALJ has not issued an initial decision ... as of the date of this Order until the Commission takes further action to lift the stay.”

8. That same day, under authority provided by the Order, the Commission’s Secretary issued a Notice of Stay of Proceedings (“Notice of Stay”) that identified each case pending before the Commission that is affected by the Order.

9. The Notice of Stay listed this matter. Accordingly, the Commission stayed this matter on November 4, 2020.

10. Duquesne Light intends to oppose Complainants’ Motion for Summary Judgment on both legal and factual grounds. From a legal perspective, Complainants misconstrue the Povacz Opinion, which does not create a universal opt-out for smart meter objectors. Instead,

the Povacz Decision creates a limited accommodation process, which -- notably -- Duquesne Light has already complied with by virtue of the meter relocation provision in Rule 9B of Duquesne Light's tariff, which is *prima facie* reasonable. These two issues undermine Complainants' Motion for Summary Judgment.

11. However, given that the Commission stayed this matter on November 4, 2020, Duquesne Light will not file a substantive answer to Complainants' Motion for Summary Judgment until the stay is lifted.

12. To facilitate an orderly process and remove any unnecessary uncertainty, Duquesne Light requests that the Presiding ALJ enter an order that sets a timeline (such as 20 days) for Duquesne Light to file an answer to Complainants' Motion for Summary Judgment once the Commission lifts the stay in this matter.

WHEREFORE, Duquesne Light respectfully requests that the Presiding ALJ enter an order that sets a timeline for Duquesne Light to file an answer to Complainants' Motion for Summary Judgment once the Commission lifts the stay in this matter.

Respectfully submitted,
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