

April 5, 2021

Via Electronic Filing

Rosemary Chiavetta, Esquire
Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

**Re: Docket No. C-2021-3024007
James E. Elliott, Jr. v. Pennsylvania Electric Company
Motion of Penelec to Compel Discovery Responses**

Dear Secretary Chiavetta:

Attached for filing is the Motion of Respondent, Pennsylvania Electric Company to Compel Discovery responses of Complainant, James E. Elliott, Jr., in the above referenced matter.

A copy of the attached Motion to Compel has been provided to the Complainant in the manner indicated on the attached Certificate of Service.

If there are any questions, please do not hesitate to contact me.

Very truly yours,

Reger Rizzo & Darnall LLP



Margaret A. Morris

MAM/co
Enclosures

cc: The Hon. Conrad Johnson, PA PUC, OALJ [w/encl.]
Tori Giesler, FirstEnergy Service Company [w/encl.]
James E. Elliott, Jr. [w/encl.]

Re: Docket No. C-2021-3024007
James E. Elliott, Jr. v. Pennsylvania Electric Company
Motion of Penelec to Compel Discovery Responses

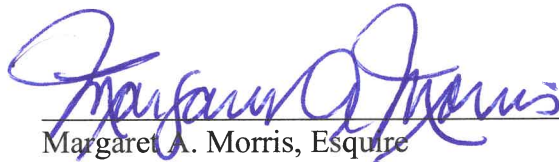
CERTIFICATE OF SERVICE

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

Via Electronic Mail

James E. Elliott, Jr.
msstephanie5690@gmail.com

Dated: April 5, 2021



Margaret A. Morris, Esquire

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JAMES E. ELLIOTT, JR. :
v. : Docket No. C-2021-3024007
PENNSYLVANIA ELECTRIC COMPANY :

NOTICE TO PLEAD

Pursuant to 52 Pa. Code § 5.342, you are hereby notified that if you do not file a written response to the enclosed Motion to Compel of Pennsylvania Electric Company, **within five (5) days** from service of this Notice, the facts set forth by Pennsylvania Electric Company in the New Matter may be deemed to be true, whereby requiring no other proof. All pleadings, such as an Answer to Motion to Compel, must be efiled with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for Pennsylvania Electric Company, Margaret A. Morris, Esq., and the Honorable Conrad Johnson presiding over this proceeding.

File with:

Rosemary Chiavetta, Esquire
Secretary
Pennsylvania Public Utility Commission
rchiavetta@pa.gov

With a copy to:

Margaret A. Morris, Esquire
Reger Rizzo & Darnall LLP
mmorris@regerlaw.com

The Hon. Conrad Johnson
cojohnson@pa.gov

Date: April 5, 2021



Margaret A. Morris, Esquire
Attorney ID No. 75048
Reger Rizzo & Darnall LLP
Cira Centre, 13th Floor
2929 Arch Street
Philadelphia, PA 19104
(215) 495-6524 (tel.)
mmorris@regerlaw.com

Counsel for Pennsylvania Electric Company

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

| | | |
|-------------------------------|---|---------------------------|
| JAMES E. ELLIOTT, JR. | : | |
| | : | |
| v. | : | Docket No. C-2021-3024007 |
| | : | |
| PENNSYLVANIA ELECTRIC COMPANY | : | |

**MOTION OF PENNSYLVANIA ELECTRIC COMPANY
TO COMPEL RESPONSES TO DISCOVERY REQUEST**

Pennsylvania Electric Company (Penelec or Company) by and through its attorneys, Reger Rizzo & Darnall LLP, and pursuant to 52 Pa. Code §§5.371-5.372, hereby files this Motion to Compel James E. Elliott, Jr. (Complainant) to provide full and complete responses to Interrogatories and Request for Documents (Document Request) propounded by Penelec on March 5, 2021. In support thereof, Penelec avers as follows:

PROCEDURAL HISTORY

1. On January 28, 2021, the Complainant filed a Formal Complaint with the Pennsylvania Public Utility Commission (Commission) regarding service in the Complainant's name to 15 4th Street, Lucernemines, Pennsylvania (Service Location) under Account No. 100113119695.
2. On February 24, 2021, Penelec filed its Answer and New Matter which denied the material allegations.
3. On March 5, 2021, pursuant to 52 Pa. Code §5.341, Penelec propounded the Discovery Request *via* Electronic and First-Class Mail. A copy of the Discovery Request is provided as Attachment 1.
4. In its Discovery Request, Penelec sought clarification/information regarding the vague allegations and statements made in the Formal Complaint.

5. Objections to the Discovery Request were due on or before March 15, 2021 and responses to the Discovery Request were due on or before March 25, 2021.

6. The Complainant did not timely file any objection to the Discovery Request and has not provided any responses or the requested documents. Accordingly, and prior to filing this Motion to Compel, counsel for Penelec contacted the Complainant, *via* email, on March 21, 2021, reminding him of the due date for responses. By letter, dated March 31, 2021, the undersigned counsel notified the Complainant, *via* email that the responses to the Discovery Request were now overdue. A copy of the letter, dated March 31, 2021, is provided as Attachment 2.

7. By Notice, dated March 16, 2021, a hearing is scheduled for April 28, 2021 before the Honorable Conrad Johnson (Judge Johnson).

MOTION TO COMPEL

8. 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).

9. Generally speaking, this Commission applies a standard of relevance which is less restrictive than that required by parties to present information into the evidentiary record. It is not grounds 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. 52 Pa. Code §5.321(c).

10. Discovery may be obtained regarding any matter relevant to the subject matter. Relevant evidence is evidence that tends to make an act at issue more or less probable. Moreover, evidence is relevant if it advances the inquiry in some degree and, thus, has probative value. Although the law does not furnish an absolute test of relevancy, the Pennsylvania Supreme Court follows a two–part analysis for determining relevance. In *Commonwealth v. Stewart*, 461 Pa. 274, 336 A.2d 282 (1975), the Court held that “[i]t must be determined first if

the inference sought to be raised by the evidence bears upon a matter at issue in this case and, second, whether the evidence renders the desired inference more probable than it would be without the evidence. *Id.* at 284.

11. The information/documents sought by Penelec is relatively simple and straightforward. The Discovery Request is directly relevant and material to the vague allegations raised in the Formal Complaint.

12. Due process requires that Penelec be advised of the allegations so that it can prepare and defend its actions at hearing. *Schneider v. Pa. P.U.C.*, 479 A.2d 10 (Pa. Cmwlth. 1984).

13. Penelec is entitled to the requested information to enable it to fully prepare for the Scheduled hearing on April 28, 2021. The Complainant is preventing Penelec from preparing for the hearing and presenting a proper defense.

14. Commission Regulations at 52 Pa. Code §5.371 address the consequences of a participant's failure to comply with the Commission's discovery regulations. Section 5.371 provides that:

(a) The Commission or the presiding officer may, on motion, make an appropriate order if one of the following occurs:

(1) A party fails to appear, answer, file sufficient answers, file objections, make a designation or otherwise respond to discovery requests, as required under this subchapter.

15. Commission Regulations at 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.

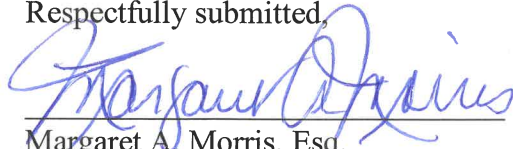
16. Penelec requests that the Complainant be directed to provide full and complete responses to the Discovery Request so that they are received by the undersigned counsel within five (5) days after entry of an order granting this Motion to Compel.

17. In the event the Complainant fails to comply with the issued order, Penelec requests that the Formal Complaint be dismissed in its entirety.

WHEREFORE, Penelec respectfully requests that Judge Johnson grant the Motion to Compel and (a) issue an order compelling the Complainant to fully and completely respond to the Discovery Request; (b) direct that the responses and documents must be received by counsel for Penelec no later than five (5) calendar days after entry of said order; and (3) dismiss the Formal Complaint of James E. Elliott, Jr., in its entirety, in the event the Complainant fails to timely and fully comply with said order.

Date: April 5, 2021

Respectfully submitted,



Margaret A. Morris, Esq.

Attorney ID No. 75048

Reger Rizzo & Darnall LLP

Cira Centre, 13th Floor

2929 Arch Street

Philadelphia, PA 19104

(215) 495-6524 tel.

(215) 495-6600 fax

mmorris@regerlaw.com

Counsel for Pennsylvania Electric Company

Docket No. C-2021-3024007
James E. Elliot, Jr. v. Pennsylvania Electric Company

Attachment 1

Interrogatories and Requests for Documents of Penelec
Dated: March 5, 2021

March 5, 2021

Via Electronic and First-Class Mail

James E. Elliott, Jr.
P.O. Box 263
15 4th Street
Lucernemines, PA 15748
msstephanie5690@gmail.com

**Re: Docket No. C-2021-3024007
James E. Elliott, Jr. v. Pennsylvania Electric Company
Interrogatories and Requests for Documents of Penelec**

Dear Mr. Elliott:

Enclosed are the Interrogatories and Requests for Production of Documents of Pennsylvania Electric Company in the above referenced proceeding. Pursuant to 52 Pa. Code §§ 5.321 and 5.349 et seq. any Objections are due within **ten (10) days** of service of this letter or March 15, 2021; your Answers are due within **twenty (20) days** of service of this letter or March 25, 2021.

Please note that you must send a cover letter and Certificate of Service for your responses to Rosemary Chiavetta, Esquire, Secretary of the PA Public Utility Commission (PUC). **You do not file your responses with the PUC.**

Very truly yours,

Reger Rizzo & Darnall LLP



Margaret A. Morris

MAM/co
Enclosures

cc: Rosemary Chiavetta, Esquire, PA Public Utility Commission [Cert. of Service only]
Tori Giesler, Esquire, FirstEnergy Service Company [w/encl.]



Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
Harrisburg, PA 17105-3265
EFILING - FILING DETAIL

| Date Created | Filing Number |
|--------------|---------------|
| 3/5/2021 | 2043254 |

Your filing has been electronically received. Upon review of the filing for conformity with the Commission's filing requirements, a notice will be issued acknowledging acceptance or rejection (with reason) of the filing. The matter will receive the attention of the Commission and you will be advised if any further action is required on your part.

The date filed on will be the current day if the filing occurs on a business day before or at 4:30 p.m. (EST). It will be the next business day if the filing occurs after 4:30 p.m. (EST) or on weekends or holidays.

Docket Number: C-2021-3024007

Case Description: James E. Elliott, Jr. v. Pennsylvania Electric Company

Transmission Date: 3/5/2021 12:49 PM

Filed On: 3/5/2021 12:49 PM

eFiling Confirmation Number: 2043254

| File Name | Document Type | Upload Date |
|----------------|------------------------|----------------------|
| ElliottCoS.pdf | Certificate of Service | 3/5/2021 12:47:56 PM |

For filings exceeding 250 pages, the PUC is requiring that filers submit one paper copy to the Secretary's Bureau within three business days of submitting the electronic filing online. Please mail the paper copy along with copy of this confirmation page to Secretary, Pennsylvania Public Utility Commission, 400 North Street, Harrisburg PA 17120 a copy of the filing confirmation page or reference the filing confirmation number on the first page of the paper copy.

No paper submission is necessary for filings under 250 pages.

You can view a record of this filing and previous filings you have submitted to the PUC by using the links in the Filings menu at the top of the page. Filings that have been submitted within the last 30 days can be viewed by using the Recent Filings link. Older filings can be viewed by using the search options available in the Filing History link.

**Re: Docket No. C-2021-3024007
James E. Elliott, Jr. v. Pennsylvania Electric Company
Interrogatories and Requests for Documents of Penelec**

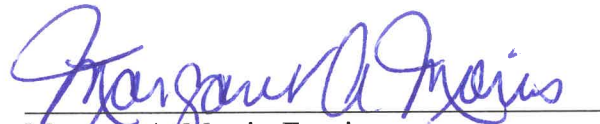
CERTIFICATE OF SERVICE

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

Via Electronic and First-Class Mail

James E. Elliott, Jr.
P.O. Box 263
15 4th Street
Lucernemines, PA 15748
msstephanie5690@gmail.com

Dated: March 5, 2021


Margaret A. Morris, Esquire

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JAMES E. ELLIOTT, JR. :
 :
 v. : Docket No. C-2021-3024007
 :
 PENNSYLVANIA ELECTRIC COMPANY :

**PENNSYLVANIA ELECTRIC COMPANY’S INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF DOCUMENTS
TO COMPLAINANT, JAMES E. ELLIOT, JR.**

Now comes Pennsylvania Electric Company (Penelec), by and through its undersigned attorneys, and hereby requests that James E. Elliot, Jr. answer fully, in writing and under oath, the following Interrogatories (questions) and Requests for Documents pursuant to the 52 Pa. Code §§ 5.321 and 5.349 *et seq.*

Pursuant to 52 Pa. Code § 5.342, you must send your objections to me within ten (10) days (**March 15, 2021**) and answers within twenty (20) days (**March 25, 2021**). Your answers and objections should **not** be filed with the Pennsylvania Public Utility Commission. **You should file the cover letter and Certificate of Service with the Commission’s Secretary and forward a copy to the Administrative Law Judge presiding over the issue.** If you have any objection to any of the Interrogatories or the Requests for Documents, please identify the Interrogatory or Request stating your objection in full as to why you should not have to answer/produce it. Any objection not raised within the ten (10) day period provided for by 52 Pa. Code § 5.342(c) will be deemed waived and you will not be permitted to raise the objection at a later time.

INSTRUCTIONS¹

Unless stated otherwise, the following instructions are to be considered to be applicable to all interrogatories:

- (a) Whenever a date, amount or other computation or figure is requested, the exact date, amount or other computation or figure is to be given unless it is not known; and then, the approximate date, amount or other computation or figure should be given or the best estimate thereof; and the answer shall state that the date, amount or other computation or figure is an estimate or approximation.
- (b) No answer is to be left blank. If the answer to an interrogatory or subparagraph of an interrogatory is “none” or “unknown,” such statement must be written in the answer. If the question is inapplicable, “N/A” must be written in the answer. If an answer is omitted because of the claim of privilege, the basis of privilege is to be stated.
- (c) If additional space is required for an answer, attach supplemental answer sheets which clearly identify the interrogatory number being answered.
- (d) These interrogatories are continuing, and any information secured subsequent to the filing of your answers which would have been includable in the answers had it been known or available, are to be supplied by supplemental answers.

INTERROGATORIES

1. In your Complaint you checked the box indicating incorrect charges.
 - a. What specific charges listed on the monthly bill are you disputing?
 - b. Please provide specific reason for disputing each charge listed.

2. In your Complaint you state that “*nobody is here 18 hrs [sic] a day*”.
 - a. Please provide the name and age of all occupants of 15 4th Street, Lucernemines, Pennsylvania (Service Location).

¹ Complainant is not represented by counsel. Therefore, these instructions have been simplified. A good faith effort to completely answer the questions is expected.

- b. Please provide employment status and work schedule for every occupant.
3. In your Complaint you state: *“Proven over and over agin [sic] Penelec and the P.U.C. have lied, discriminated against me multiple times.”*
 - a. When did Penelec lie to you (date)?
 - b. How did Penelec lie to you (phone, letter)?
 - c. Please provide specific details regarding the lie Penelec told you.
 - d. When did Penelec discriminate against you (date)?
 - e. How did Penelec discriminate against you (phone, letter)?
 - f. Please provide specific details how Penelec discriminated against you.
4. What is your marital status?
5. In your Complaint you state: *“My rates are higher than A [sic] my mothers [sic] A mile down the road.”*
 - a. What is your mother’s address?
 - b. What specific Penelec rate(s) do you allege is higher than what your mother is charged (i.e. customer charge, distribution charge etc.)?
 - c. Provide the specific time period that you were charged higher rates than those rates charged to your mother.
6. In your Complaint you checked the box indicating you would like a payment agreement.
 - a. What is the gross monthly income for each occupant of the Service Location?
7. In your Complaint you stated *“Penelec won’t fix ground problem”*.
 - a. Please explain in detail what Company equipment is not grounded.
 - b. Is the ground problem you allege the same as raised in your prior 2018 formal complaint (Docket No. F-2018-3003502)?

8. Please provide specific date that you contacted Penelec to discuss the allegations raised in your Formal Complaint?

9. Please explain why no payment has posted to your Account since August 18, 2020.

REQUEST FOR DOCUMENTS

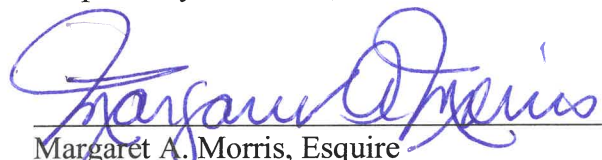
1. Please provide a copy of any written communication exchanged with the Company or its representatives regarding termination of service.

2. Please provide a copy of any written communication exchanged with the Company or its representatives about this Complaint.

3. Please provide a list of any witness and the scope of their testimony.

4. Please provide a copy of the proposed exhibits you intend to use at the hearing.
a. Identify which witness will sponsor each exhibit.
b. Please provide purpose of each proposed exhibit.

Respectfully submitted,



Margaret A. Morris, Esquire
Attorney ID # 75048
Reger Rizzo & Darnall, LLP
Cira Centre, 13th Floor
2929 Arch Street
Philadelphia, PA 19104-2899
(215) 495-6524 (voice)
mmorris@regerlaw.com

Dated: March 5, 2021

Counsel for Pennsylvania Electric Company

Docket No. C-2021-3024007
James E. Elliot, Jr. v. Pennsylvania Electric Company

Attachment 2

Delinquent Discovery Response Notice
Dated: March 31, 2021

March 31, 2021

Via Electronic Mail

James E. Elliott, Jr.
msstephanie5690@gmail.com

**Re: Docket No. C-2021-3024007
James E. Elliott, Jr. v. Pennsylvania Electric Company
Delinquent Discovery Response Notice**

Dear Mr. Elliott:

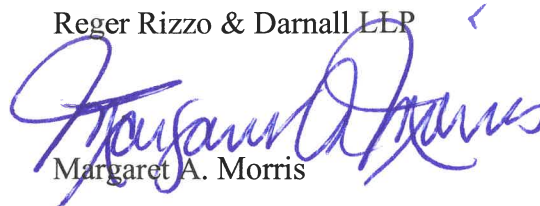
On March 5, 2021, *via* electronic and First-Class Mail, you were served with the Interrogatories and Requests for Documents (Discovery) on behalf of Pennsylvania Electric Company (Penelec). The due date for your responses to this Discovery was March 25, 2021. An email, dated March 21, 2021, was sent reminding you of the due date and providing a courtesy copy of the Discovery. I have not received your responses.

Please be advised that if your responses are not received by 4 PM on Friday, April 2, 2021, I will file a Motion to Compel on April 5, 2021, so that Penelec can prepare its defense to the allegations raised in your Formal Complaint.

Your prompt attention to this matter is greatly appreciated. If there are questions, please contact me.

Very truly yours,

Reger Rizzo & Darnall LLP



Margaret A. Morris

MAM/co

cc: Tori Giesler, FirstEnergy Service Company