

Outcome of Accommodation Process,

specifying 20 days from the date of service of 1/17/2024, which would be 2/6/2024, for the Complainants to review it and respond.

- Respondent's Motion Requesting Pre-Hearing Ruling on Respondent's Pending Motions in Limine,

Complainants state that we require those 20 days to fully review and understand the Respondent's new Motions, and to prepare a proper response.

JANUARY 8 INTERIM ORDER: OUTSTANDING RESPONDENT MOTIONS

3. In its 1/17/2024 Status Report the Respondent listed the following outstanding Motions, which were put in abeyance, either before or as a result of the November 4, 2020 Stay:

- Respondent's Motion in Limine to Preclude Complainants' Purported Expert Testimony, dated October 30, 2019.
- Respondent's Motion in Limine to Bar Complainants From Introducing or Replying Upon Inadmissible Evidence, dated October 28, 2019.
- Complainant's Motion for Summary Judgment, dated October 23, 2020.
- Complainant's Response to Respondent's Responses to Complainants' Discovery Interrogatories for Respondent's New Exhibit F-8 and Motion to Compel Discovery, dated January 25, 2020.

Complainants will respond to each one, in turn.

- RESPONDENT'S MOTION IN LIMINE TO PRECLUDE COMPLAINANTS' PURPORTED EXPERT TESTIMONY, dated October 30, 2019.

4. Expert Reports and Curriculum Vitae have been served for all 3 of the Complainants Expert Witnesses:

- Francis Hriadil, BS Univ of Pgh, MS M.I.T
- Dr David Carpenter, BA, MD, Harvard
- Dr Andrew Michrowski, Ph'D

These documents were served again with Complainants' 1/17/2024 Status Report and Motions,

and are incorporated from our 1/17/2024 Status Report as part of this response. They are:

Exhibit B-01 EXPERT REPORT and STATEMENT - Francis Hriadil - Final Draft

Exhibit B-02 Francis Hriadil MS CV

Exhibit C-01 EXPERT REPORT and STATEMENT - Dr David Carpenter - Final Draft

Exhibit C-02 David Carpenter MD CV

Exhibit D-01 EXPERT REPORT and STATEMENT - Dr Michrowski - Final Draft

Exhibit D-02 Michrowski Andrew PHD CV

5. Furthermore, Complainants filed our

**RESPONSE TO RESPONDENT'S MOTION IN LIMINE TO PRECLUDE
COMPLAINANTS' PURPORTED EXPERT TESTIMONY**, dated Nov 19, 2019.

This response remains valid and relevant, and is included herein as **EXHIBIT F-01**.

6. Complainants stand on this, and aver that all of our Expert Witnesses are more than qualified to stand as Expert Witnesses in this Formal Complaint proceeding.

- **RESPONDENT'S MOTION IN LIMINE TO BAR
COMPLAINANTS FROM INTRODUCING OR RELYING
UPON INADMISSABLE EVIDENCE**,
dated October 28, 2019.

7. The Respondent has repeatedly attempted to exclude relevant evidence from this proceeding. This Motion is the Respondent's fourth (4th) filing by the Respondent in its repeated efforts to preclude the introduction of pertinent and relevant evidence by the Complainants in support of our complaint, the issues we have raised and are raising, and our request for relief. The three (3) prior efforts failed.

8. Complainants filed our
**RESPONSE TO RESPONDENT'S MOTION IN LIMINE TO BAR COMPLAINANTS
FROM INTRODUCING OR RELYING UPON INADMISSIBLE EVIDENCE**,
dated February 21, 2019

and

**ANSWER TO RESPONDENT'S MOTION IN LIMINE TO BAR COMPLAINANTS
FROM INTRODUCING OR RELYING UPON INADMISSIBLE EVIDENCE**,
dated November 6, 2019.

to this fourth (4th) attempt. These remain valid and relevant, and are included herein as **EXHIBITS G-01 and G-02**, respectively.

9. Complainants stand on this, and aver that our evidentiary documentation being submitted into evidence, all of which has been properly served to the Respondent and the PUC, is admissible, relevant, and material to the Complainants' Formal Complaint, and the matter at hand.

- **COMPLAINANTS' MOTION FOR SUMMARY JUDGMENT**,
dated October 23, 2020.

10. This Motion remains valid. It should have been granted at the time; and still can be granted and should be granted. It was placed in abeyance due to the Stay of proceedings which was ordered on November 4, 2020. This is included herein as **EXHIBIT H-01**.

- **COMPLAINANT'S' RESPONSE TO RESPONDENT'S
RESPONSES TO COMPLAINANTS' DISCOVERY
INTERROGATORIES FOR RESPONDENT'S NEW
EXHIBIT F-8 AND MOTION TO COMPEL DISCOVERY**,
dated January 25, 2020.

11. On November 18, 2019, the Respondent served a last minute notification to the Complainants and the court. In its notification, 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."

12. In response, 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.

13. 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.

14. As a result, Complainants filed this January 25, 2020 Response (and Motion) for the Court to 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, in order for the Complainants to receive proper Due Process.

This is included herein as **EXHIBIT I-01**.

15. Instead of properly answering the outstanding valid discovery interrogatories, the Respondent simply filed an Answer re-iterating and repeating its objections. Furthermore, during this time period, the Respondent also introduced another new exhibit, Exhibit H-4. In response to this, and the Respondent’s ongoing effort of evasion, the Complainants filed Complainant’s 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, dated February 13, 2020.

This is included herein as **EXHIBIT I-02**.

16. Complainants’ January 25, 2020 Response (and Motion) and February 13, 2020 Reply (and Motions) remain valid and relevant, and our unanswered Discovery interrogatories cannot simply be ignored, and must be fully and properly answered for Due Process to occur.

JANUARY 8 INTERIM ORDER: RESPONSES, ANSWERS, AND REPLIES,
AND RESULTING MOTIONS

Complainants still believe that the PUC has the authority to amend and correct its Implementation Order.

WHEREFORE, in light of these circumstances, Complainants Michele Hriadil and Francis Hriadil respectfully submit that the Honorable ALJ DeVoe,

1. with regards to Respondent's two (2) new Motions dated 1/17/2024,

- Motion for Summary Judgment and to Stay Hearing Pending Outcome of Accommodation Process
- Motion Requesting Pre-Hearing Ruling on Respondent's Pending Motions in Limine

grant the 20 days from the date of service of 1/17/2024, which would be 2/6/2024, for the Complainants to properly review and understand them, and formulate a response.

2. with regards to Respondent's October 30, 2019

- Motion in Limine to Preclude Complainants' Purported Expert Pending Testimony

grant that all of the Complainants' expert witnesses be accepted and allowed to testify, and that Respondent's Motion in Limine to Preclude Complainants' Purported Expert Testimony be denied.

3. with regards to Respondent's October 28, 2019

- Motion in Limine to Bar Complainants From Introducing or Replying Upon Inadmissible Evidence

grant that our evidentiary documentation is relevant and admissible; that the Respondent's claims and arguments are without merit, and have already been argued to large degree in Respondent's June 4, 2018 Motion for Summary Judgment (which also argued to disregard / discard / narrow our evidentiary documentation and our complaint) and been denied; and that this third (3rd) filing of this same Motion in Limine, be denied.

4. with regards to Complainant's October 23, 2020,

▪ Motion for Summary Judgment

grant an immediate Summary Judgment in favor of the Complainants,
our Complaint, and our request for relief,
and against the Respondent.

5. with regards to Complainant's January 25, 2020,

▪ Response to Respondent's Responses to Complainants'
Discovery Interrogatories for Respondent's New Exhibit F-8
and Motion to Compel Discovery

deny the Respondent's objections,
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 produced another new exhibit,
Exhibit H-4, open Discovery with regards to the Respondent's
new exhibit, Exhibit H-4.

Complainant's Certificate of Service has been filed with the Commission's Secretary, in
accordance with Commission Regulations.

Respectfully yours,



Francis Hriadil
(412) 779-3314
331 Shady Ridge Drive
Monroeville, PA 15146
January 26, 2024

All rights endowed by our Creator reserved.
All civil rights reserved.
UCC 1-308 invoked.

2. Again, it must be restated, that Complainants are not a multi-billion dollar company represented by a professional law firm, and do not have anywhere near their staff and resources at our disposal. We are simply two (2) elderly people representing ourselves (with Francis Hriadil bearing virtually all of the load for preparation and Francis Hriadil having a number of chronic medical conditions and disability). This process has been made particularly egregious with regards to the treatment of the Complainants, imposing great hardship and harm, in **direct violation of PA Code § 5.361(a)(2) and contrary to the Americans with Disabilities Act (ADA).**

3. The Respondent has not withdrawn its Motions in Limine, and the court has not issued any direction after placing them in abeyance. So, the Complainants are proactively submitting this written response in defense of our Expert Witnesses to remove any question of their qualifications and acceptability, on the record.

Briefly, in its motion, the Respondent attempts to dismiss the intelligence, education, technical and/or medical backgrounds, and professional experience of all of our expert witnesses: Dr David Carpenter MD, Dr Andrew Michrowski PhD, and Francis Hriadil MS. The Respondent argues that none of that matters, effectively implying that the only people “qualified” to discuss and assess their device and system are themselves and their “paid industry experts.”

4. This is illogical and complete nonsense. The principles upon which their Smart Meter device functions and operates are physics, mathematics, and engineering. It is simply not that complicated. Anyone with a proficient background in physics, mathematics, and/or engineering possesses more than enough specialized knowledge to accurately assess the function and operation of the Respondent’s Smart Meter, especially if they also possess a professional background in analysis, as both Dr Michrowski PhD and Francis Hriadil, MS have.

5. As for an assessment of the medical and health effects of exposure to the emissions being produced as a result of the operation of the Respondent's Smart Meter in its Smart Mesh, Dr David Carpenter MD is a recognized, world-authority and researcher in this area, and his reputation is beyond repute. And, Dr Andrew Michrowski PhD has been accepted as an authority on these matters in his professional capacity with the Secretary of the State of Canada, as the President of PACE, and as an expert witness in a number of legal actions.

6. The Complainants will address each of our expert witnesses briefly, yet sufficiently, in succession.

Dr David Carpenter MD

7. David O Carpenter, MD Harvard Medical School, Director, Institute for Health and the Environment, and Professor, Environmental Health Sciences School of Public Health, University at Albany; author/co-author of over 349 major peer-reviewed publications, etc., has become a strong and consistent voice of reason from the health community warning against the unrestrained proliferation of wireless RF emitting devices and technology, such as Smart Meters in a Smart Mesh, based on his lifetime of expertise in this area in combination with the assessments of other experts around the world. He is co-editor of the internationally recognized and acclaimed BioInitiative Report: A Rationale for a Biologically based Public Exposure Standard for Electromagnetic Radiation, composed of contributions by numerous recognized experts from around the world who are thoroughly credentialed and documented as recognized EMF experts in Appendix 1 of that document.

(As a matter of note, four of the members of the BioInitiative Report organizing committee all are members of the Bioelectromagnetics Society (BEMS); three have PhDs; one is the Founder of BEMS and two are past presidents of BEMS. BEMS is responsible for organizing international meetings/conferences and for publishing the journal Bioelectromagnetics, which is a well-respected journal in this field.)

As for the legitimacy of the BioInitiative Report, a number of its prominent chapters have been published in the **peer-reviewed** Pathophysiology journal.

(See Pathophysiology, Issues 2 and 3 of Volume 16, pp 67–250, which is dedicated to Electromagnetic Fields (EMF) Special Issue and the BioInitiative Report and is edited by Martin Blank, a professor (now retired) at Columbia University and one of the organizers of the BioInitiative Report [[http://www.pathophysiologyjournal.com/issue/S0928-4680\(09\)X0003-9](http://www.pathophysiologyjournal.com/issue/S0928-4680(09)X0003-9)].)

So, the authority and reputation of Dr Carpenter and the BioInitiative Report cannot reasonably be questioned.

8. Yet, in a petty attempt to try to discredit Dr Carpenter, the Respondent labels him as an “advocate.” Are not the Respondent’s paid industry expert witnesses and employees advocates for their views? Of course, they are. But, they are paid industry advocates, which Dr Carpenter is not. Dr Carpenter is an authoritative and independent expert in this area. Dr Carpenter is independent of any industry affiliation. He has no vested interest in the success or failure of the Respondent’s smart meter program. And, he is offering his expert testimony free of compensation because of his utmost concern for the well-being of the Complainants, and the well-being of the general public.

9. This weak effort to impugn Dr Carpenter’s expertise, character, intentions, and credibility is not worth the paper it is printed on. The remarks of the Respondent in its motion in no way discredits or impairs the reputation and expertise of Dr Carpenter, as is evidenced by his extensive curriculum vitae which has been supplied to the Respondent and the Commission, which includes but is not limited to: the many National and International Committees he has served on, the many Honors, Awards and Fellowships he has received, the many Federal Grants Held as Principal Investigator, the over 458 major Peer-Reviewed Publications he has authored or co-authored, etc. in his illustrious career which began in the 1960s.

10. The PA Public Utility Commission has recognized Dr Carpenter’s expertise in the past, and has accepted his expert testimony in a case specifically related to Smart Meters in PA, as recently as Docket No, C-2017-2620710, Richard N. Myers v PPL Electric Utilities Corporation.

11. In another recent case, in the matter of the petition of Jersey Central Power and Light Company to NJSA 40: 550-19 for the determination that the Monmouth County reliability project is reasonably necessary for the service convenience or welfare of the public - BPM Docket No. E0160807501; OAL Docket No. 12098-16. Dr. Carpenter was accepted as an expert witness and testified. A decision was filed on June 22, 2018. Dr Carpenter's views and testimony were accepted and not dismissed as being extreme.

12. In another recent case, in United States District Court, D. Massachusetts, Case No. 15-CV-40116-TSH, entitled "G, a 12-year old minor suing by a fictitious name for privacy reasons, Mother and Father, suing under fictitious names to protect the identity and privacy of G, their minor child, plaintiffs, vs. The Fay school.", Dr. Carpenter was accepted as an expert witness and testified with regard to the health effects of electromagnetic (EM) fields. A decision was filed on September 29, 2017. Again, Dr Carpenter's views and testimony were accepted and not dismissed as being extreme.

13. Any disparaging criticism or comments by the Respondent implying that Dr. Carpenter, his reputation and standing in the biomedical community, and his expertise in this area is questionable, unreliable, not objective, and not a reflection of the current state of scientific knowledge is completely and categorically without merit.

Dr Andrew Michrowski PhD

14. Dr. Michrowski possesses considerable expertise in the technology, operation, and analysis of electromagnetic devices in the workplace, home, and living environments, and of Smart Meters in a Smart Mesh. It is noted that the Itron OpenWay Smart Meter is one of the smart meters being utilized in areas of Canada.

15. Dr. Michrowski studied at the prestigious Politecnico di Milano, where he received his PhD with honors. He was a senior staff member to the Secretary of State of Canada, employed as a forecaster, analyst and program evaluator on issues such as Electromagnetic Radiation (EMF/RF). He headed a team, employed by the Canada Mortgage and Housing Corporation (CMHC) to assess electromagnetic fields (EMF) in Canadian homes. And, he has Special Consultative status with the Economic and Social Council of the United Nations (ECOSOC).

16. In his professional capacity with the Secretary of State Canada, Dr Michrowski was tasked with assessing health effects implications, in addition to safety, security, reliability, etc. He was involved in “national forecasting and policy development, which included interdepartmental relations with Health Canada, especially with regards to health as well as related statistics - and also human rights issues”.

17. He is currently the President of the Planetary Association for Clean Energy (PACE), which was founded by Senator Chesley W. Carter, while Chair of the Canadian Senate's Standing Committee on Health, Welfare and Science, as well as member of the Senate Special Committee on Science Policy. Senator Carter and his colleagues considered electromagnetic field issues to be among the top 3 current scientific and technological priority issues of national concern.

18. Dr Michrowski has authored papers and edited/co-edited books on energy technology, emerging energy science, and electromagnetic (EM/RF) issues. He has presented scientific briefs at the United Nations and the Royal Society of Canada. And has served as Scientific Advisor/Consultant for the world-renowned NOVA television program and Consumers Reports.

19. Since 1991, Dr. Michrowski has been teaching extended professional training workshops for health practitioners, engineers, and electricians on EMFs, in the home and at work, and EMF technology, including the impact of EMF technology on health and safety.

20. Dr. Michrowski has surveyed many smart meter installations, and has been able to discern a variety of transceiver situations, and actual theoretical and empirical evidence of their characteristics, in addition to be able to definitively co-relate actual and medically-monitored health and well-being outcomes associated with such installations. As a result, he is able to appraise and estimate the possible combinatory affectation associated with Duquesne Light Company's Itron OpenWay Smart Meter as it relates to the Complainants and their premises.

21. Furthermore, Dr. Michrowski has been legally recognized as an EMF expert, and has been accepted as an expert witness and testified in a number of legal cases. He has testified on health implications, safety, security, reliability, human rights, and other issues in a number of court cases, including:

- Marcel Durand and Evelyn and Myles Mahon v. Attorney General of Quebec et al., No. 500-06-000760-153 (Superior Court of Quebec).
(It is noted that this was a case in which the Respondent's Expert Witness Benjamin Cotts was involved.)
- Hydro-Québec c. Les Entreprises Tenlec Inc. No. SAI-Q-094504-0407 (TAQ - Administrative Tribunal of Quebec)

22. As such, Dr Michrowski's expertise cannot be questioned. Both, Dr Carpenter's and Dr Michrowski's backgrounds and credentials are impeccable, and their credibility and expertise are beyond reproach. Again, both are independent of any industry affiliation. They have no vested interest in the success or failure of the Respondent's smart meter program. They are offering their expert testimony free of compensation because of their utmost concern for the well-being of the Complainants, and the well-being of the general public.

Francis Hriadil, MS

23. Finally, the Respondent continues to attempt to present and frame a picture and representation of the Complainant, Francis Hriadil with his advanced degree, and extensive technical background and experience, as essentially ignorant of this technology; the specific form, fit, and function of Duquesne Light's Smart Meter in its Smart Mesh; its specific operating parameters and characteristics; and the inherent and increased risks that this technology poses to the Complainants in particular, who are elderly, etc. The Respondent attempts to minimize in the extreme, Francis Hriadil's educational and professional background and his technical competence, acumen, and experience. This representation is patently without merit.

24. Complainant Francis Hriadil

- has an advanced degree from M.I.T, and has had a long career performing work as a recognized engineering professional and inventor, on classified and unclassified programs, requiring expertise in engineering, analysis, advanced technology, mathematics, and physics.
- has worked in the Defense sector on both advanced strategic and tactical missile programs.
- has designed, invented, and received a patent on advanced technical equipment incorporating technology, materials, and electrical components, etc. more involved than that used in a smart meter.
- and as the owner of 2 technologically based businesses, had access to various industry publications not available to the general public.

25. Complainant, Francis Hriadil's extensive technical and scientific education, professional background, and experience and expertise were challenged in the Respondent's Motion for Summary Judgment, and the Respondent's entire Motion was denied by Your Honor in your Interim Order of November 30, 2018.

26. Francis Hriadil has not published in academic, or professional, etc. literature because much of his work was and remains classified. The Respondent is well-aware of these circumstances. Formally published papers/reports are not a mandatory requirement under Pennsylvania law for the acceptance of the expertise of the Complainant, Francis Hriadil. So,

the lack of published papers is immaterial in this regard. Nevertheless, Francis Hriadil has generated and filed his own direct technical analyses, assessments, summaries, expert views, and expert report concerning the Respondent's Smart Meter in its Smart Mesh, as part of our signed written complainant filings. These are on record with Your Honor and the Commission, and, in lieu of submitting all of this material all over again, are all incorporated here-in by reference as if fully restated. These have provided the Respondent and the Commission with the subject matter and substance of the intended expert testimony by Francis Hriadil.

27. A Smart Meter "expert" clearly lacks the necessary background and expertise to speak intelligently on the advanced strategic and tactical missile technology that Complainant Francis Hriadil has worked on, or on the advanced equipment he has invented and patented. Smart Meter technology can by no means be classified as "rocket science." Complainants respectfully submit that Francis Hriadil, as a retired engineer, understands and can intelligently and authoritatively discuss all of the technical details that have been released on Smart Meters and their operation in a Smart Mesh.

28. Complainants respectfully submit that Francis Hriadil possesses more than the minimum requirements necessary to satisfy reasonable pretension to specialized knowledge on the matters at issue.

29. As one example, Complainant Francis Hriadil, took the Duty Cycle and Transmission Times data published by Itron for their SK9AMI7 OpenWay Smart Meter, the one being deployed by the Respondent, and calculated the corresponding numbers of pulse transmissions occurring within a 24 hr period.

	Duty Cycle	Time in 24 hr	Number of Pulse Transmissions in 24 hr
Minimum	0.02%	18.31 sec	423 (once every 3.40 min)
Mean	0.06%	53.14 sec	1,268 (once every 1.14 min)
Maximum	0.58%	497.80 sec	12,257 (once every 7.0 sec)
Abs Max	5.0%	~ 4,291 sec	105,667 (once every 0.82 sec)
"Expected" Max	1.0%	~ 858 sec	21,133 (once every 4.1 sec)

Francis Hriadil is the originator of these calculations and this analysis, and subsequent updates, which were not available before Francis Hriadil made this analysis. It represents specialized knowledge on his part. And, it is noted that the results of this analysis remain uncontested by the Respondent, and were actually confirmed by the Respondents in its responses to Complainants Discovery Interrogatories.

30. Where Complainant, Francis Hriadil, lacks direct credentialed professional expertise in a certain specific area of relevance, such as health, medicine, etc, Complainants are submitting the independent expert testimony, views, and statements provided by recognized experts in those specific areas, which can be corroborated by our other expert witnesses, Dr Carpenter MD and Dr Michrowski PhD.

Summary

31. The Complainants researched and contacted many independent experts throughout the nation, such as Ronald M Powell, PHD (retired); Samuel P Milham, MD, MPH (retired); Martin L. Pall, PHD; Andrew A Marino, MD, JD (who has testified before the PA PUC, C-2015-2475726); David O Carpenter, MD (who has testified before the PA PUC, C-2017-2620710); Andrew Michrowski PHD; William S Bathgate EE ME; Sharon Goldberg, MD; Henry Lai, PHD; Federica Lamech MBBS; Cindy Sage, Sage Associates; Liz Barris - documented Electro-Hypersensitivity (EHS) victim; Patrick Colbeck - Michigan State Senator; Angie Colbeck, MD Epidemiology; and Richard H. Conrad, Ph.D; to name but a few. Complainants have been in direct contact with most if not all of these experts. They were informed of the specific

circumstances of the Complainants, our ages, physical conditions, and living environment, and they were asked for their recommendations concerning the deployment of the Respondent's Smart Meter in a Smart Mesh on our residence, etc.

To a person, these experts urged Complainant's to seek to prevent such installation and/or provided documentation, testimonies, studies, analyses, etc. all substantiating the detrimental effects that long-term exposure to the RF radiation and induced LF radiation created by Smart Meters, such as those being deployed by the Respondent.

32. If the Complainants had the financial resources available to us that the Respondent has, we could have arranged to have every one of these experts appear in person in our Hearing. But, in reality, this is simply not practical.

33. Complainants cannot afford to bring all of these experts from across the country to our Hearing; but, they granted the Complainants permission to submit their documented testimonies, etc. to the PA PUC in support of our complaint, and both Dr. Carpenter and Dr Michrowski have agreed to participate on our behalf by phone. Dr. Carpenter MD, Dr Michrowski PhD, and Francis Hriadil MS provide a credible and relevant sample of the extensive research, expert views, and official warnings that have been published by these experts. Extensive expert reports have been submitted by all three of the Complainants' expert witnesses.

34. With its prior filings and motions, and with its current motion, the Respondent has carried out, and continues to carry out, a relentless effort to try to preclude the participation of any person with expertise in support of the Complainants at every turn, in every way, and according to any pretext that they can contrive. It is obvious that the Respondent is doing this to prevent the occurrence of any opposing expert testimony, and to prevent the Complainants from presenting the full truth of the serious matters at issue in our complaint. All of these prior efforts

on the part of the Respondent have failed. Yet, the Respondent continues with this course and this tactic, and the Complainants continue to answer these challenges with facts, clarify, and reason.

35. The Complainants re-iterate that Francis Hriadil and Michele Hriadil, and our expert witnesses, Dr David Carpenter, Dr. Andrew Michrowski, and Francis Hriadil, are independent of any industry affiliation and have no vested interest in the success or failure of the Respondent's Smart Meter, Smart Mesh program. We have filed our Formal Complainant and request for relief, and our independent expert witnesses have agreed to testify free of compensation, because of their concern for the well-being of the Complainants and their circumstances in particular, and the people of Pennsylvania in general.

36. Both of the Respondent's purported "experts" are hired agents and paid advocates for the utility industry, and have testified in previous cases in its behalf. They have a vested interest here in the utility industry succeeding in the implementation of their smart meter program which has tremendous profit potential for the utility, even though it is detrimental to the well-being of the Complainants and the people of Pennsylvania. No one can characterize the Respondent's paid experts' opinions as being independent or unbiased.

37. To preclude the participation of any of the Complainants' expert witnesses based on the weak arguments made by the Respondent would be overtly prejudicial against the Complainants, our complaint, and our effort to present the strongest case possible to meet our burden of proof. And, it would prevent the Commission from getting the full and complete truth concerning the matters at issue. Participation by experts such as Dr. Carpenter, Dr Michrowski, and Francis Hriadil are essential to that end, as is the admission and consideration of the latest information that is available.

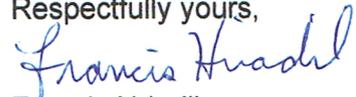
38. The officially stated mission of the Public Utility Commission, as specified in its Mission Statement which is documented on the Commission's internet website, is to ensure safe and reliable utility service; protect the public interest; educate consumers to make independent and informed utility choices; and foster new technologies in an environmentally sound manner. As such, it is the Commission's fundamental duty, as a public service governmental agency operating under the United States and Pennsylvania constitutions, and the Pennsylvania Utility Code, to seek the truth, treat all Complainants fairly, and safeguard the well-being of all people on Pennsylvania soil regardless of age, sex, race, religion, condition, and circumstance, in order to establish compliance with statutes such as Section §1501 of the Public Utility Code,

39. The testimonies to be provided by the Complainants and their independent expert witnesses, along with the documentation the Complainants intend to place into evidence, will definitively establish that the Respondent's deployment of its Smart Meter in its Smart Mesh is a matter of direct and detrimental physical and personal consequence to the Complainants, and is a matter that is in the public interest.

WHEREFORE, in light of these circumstances, Complainants aver that the Respondent's arguments are without merit, and we respectfully request that all of the Complainants' expert witnesses be allowed to testify, and that Respondent's Motion in Limine to Preclude Complainants' Purported Expert Testimony be denied.

Complainant's response and Certificate of Service have been filed with the Commission's Secretary, in accordance with Commission Regulations.

Respectfully yours,



Francis Hriadil
(412) 779-3314
331 Shady Ridge Drive
Monroeville, Pennsylvania
November 19, 2019

Concerning the Exhibit List and Our Purported Violation of Your Honor's Order

3. The Respondent is well aware of the Hearing schedule and the long continuation that was required, and ordered by Your Honor, as a result of its massive June 4, 2018 Motion for Summary Judgment. There is no ambiguity here.

To briefly review the history of that schedule, the Hearing was scheduled for July 18 - 19, 2018. This Hearing date had the following associated Litigation Schedule timeline:

- Evidentiary Hearing date - July 18 - 19, 2018
- Stipulations by - July 9 (1 week before the Hearing)
- Statements, Exhibits Exchange by - June 29 (2 ½ weeks before the Hearing)
- Dispositive Motions by - June 4 (~ 5 weeks before the Hearing)
- Rebuttal Expert Testimony Notification by - May 18 (~ 8 weeks before the Hearing)
- Factual Testimony Notification by - April 30 (~ 11 weeks before the Hearing)
- Expert Testimony Notification by - April 30 (~ 11 weeks before the Hearing)
- Discovery Requests by - March 16 (~ 17 weeks before the Hearing)

Recall,

- Complainants filed for a Continuance to allow Dr. Carpenter's participation as an expert witness on our behalf on April 30. Your Honor granted the Continuance in your May 10, 2018 Interim Order Regarding Complainants' Request to Modify Litigation Schedule to allow Dr. Carpenter's participation in July, August, or September of 2018.
- Complainants' received Your Honor's May 10 Interim Order on May 14, 2018, and filed our Motion containing Dr. Carpenter's availability schedule for July, August, or September of 2018, per Your Honor's order, on May 18, just 4 days later and well before Your Honor's deadline of May 30. The Respondent did not file their Answer until June 1. The Complainants' received it on June 4, and filed our Response on June 6.

- Respondent filed a huge Motion for Summary Judgment on June 4, which the Complainant's received on June 5.
- Your Honor officially cancelled the July Hearing and Litigation timeline on June 29, to properly review the Respondent's Motion for Summary Judgment and the Complainants' Response. In this ruling, Your Honor provided the Complainants until July 6, 2018 to review the Respondent's Motion and submit our response. Complainants complied with that ruling.
- Your Honor denied the Respondent's Motion for Summary Judgment on November 30, and subsequently ruled that both the Complainants and Respondent prepare for, and confer on, a new Hearing and timeline scheduled for some time in March or April 2019.
- The Complainants and Respondent conferred and were able to come to agreement on a new Hearing date of May 1 and 2, 2019, dates on which both parties' respective expert witnesses would be available to participate. Your Honor was informed of this on January 11, 2019, per Your Honor's December 3, 2018 Interim Order. The Complainants are awaiting Your Honor's confirmation of the proposed new Hearing date.

4. The Complainants, re-iterate as we have stated in our responses to the Respondent's prior nuisance motions, that we were intensively involved in preparing for the July 18 - 19, 2018 Hearing date, and fulfilling the Litigation Schedule requirements associated with that date, when the Respondent filed its massive and very detailed Motion for Summary Judgment, consisting of over 300 pages, on June 4, in which they motioned for a complete dismissal of our complaint and the suspension of our Hearing, due to their assertion of a lack of "admissible evidence", or a narrowing of our Hearing, and the disqualification of Dr. Carpenter and the Complainants as expert witnesses. This motion was ultimately and completely denied by Your Honor.

It is a statement of fact, that the Complainants have not been disobedient in any regard, and have met every obligation imposed on them by the prior and now continued Hearing schedule (having requested extensions only when necessary and with good reason, all of which

were granted). It is also a matter of fact that the Respondent inundated the Complainants with their massive June 4 Motion for Summary Judgment, which required a very detailed and comprehensive response according to a strict time table. As we are just two (2) elderly people, one retired and one still working full time, it took all of the time granted by Your Honor to produce Complainants' comprehensive and substantive response to that Motion.

5. Yet, the Respondent, here again, tries to make a specious argument that the previous Hearing Litigation schedule still applies. How are the Complainants reasonably expected to adhere to a Hearing Litigation Schedule that was put into serious doubt by the Respondent's Motion for Summary Judgment to suspend any Hearing, or potentially narrow the issues of the Hearing in unknown and potentially significant ways, or potentially preclude the participation of any of Complainants' identified expert witnesses? To be blunt, this is nonsense. The Complainants had to stop our Hearing preparations, which were in progress at that time, to address this new and daunting motion. Recall also, that at this time Your Honor had already issued your May 10 Interim Order requesting Dr Carpenter's availability for a new Hearing in July, August, or September.

6. So, this argument has no merit, and is simply another the blatant attempt by the Respondent to accuse the Complainants of not performing according to Your Honor's orders. The Complainants object to this nonsense and aver that we have complied with every order that Your Honor has issued.

Concerning Complainants' Evidence

7. The Respondent bases its objections on four (4) arguments: (1) relevancy; (2) confusing the issues, ...; (3) hearsay; and (4) testimony from proceedings to which Duquesne Light was not a party. Complainants will address each objection in turn.

(1) Relevancy

8. The Respondent asserts that Complainants' "documents add nothing to determining whether Duquesne Light has violated the Code, a regulation, or its tariff."

Further, the Respondent purports a violation of 52 Pa. Code § 5.401 and Pennsylvania Rules of Evidence 401 and 402, yet fails to demonstrate or establish where and how a violation has occurred.

9. First, concerning violations of the Code, a regulation, or its tariff, the Respondent apparently fails to acknowledge, or wishes to ignore, such codes as 66 Pa.C.S. § 701; 66 Pa.C.S. § 1501; 52 Pa. Code § 57.194. To refresh the memory of the Respondent,

66 Pa. C.S. § 1501

Every public utility **shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, ... as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, ... (emphasis added)**

52 Pa. Code § 57.194.

(a) An EDC **shall furnish and maintain adequate, efficient, safe and reasonable service and facilities**, and shall make repairs, changes, alterations, substitutions, extensions and improvements in or to the service and facilities necessary or proper **for the accommodation, convenience and safety of its patrons, employees and the public. (emphasis added)**

And, the Respondent also apparently fails to acknowledge, or wishes to ignore, such regulations and restrictions as the FCC Grants of Equipment Authorization for its SK9AMI7 900 MHz LAN and its 802.15.4 2.4 GHz ZigBee Module.

10. Codes, regulations, etc. such as these are pertinent to and form the basis for Complainants' Formal Complaint, and our request for relief, as Complainants have arranged for

the participation of various recognized, independent, and credentialed experts and witnesses, and accumulated a substantial amount of foundational and corroborating evidence to establish that the Respondent is in violation of these specified codes and regulations, at a minimum.

11. It is an inescapable material fact that the PA PUC has officially recognized that exposure to the emissions of a Smart Meter has caused and can cause harm,

(Reference: Maria Povacz v. PECO Energy Company, Docket No. C-2015-2475023; Susan Kreider v. PECO Energy Company, Docket No. C-2015-2469655; for example. These are established Conclusions of Law.)

and, that Francis Hriadil's doctor, Dr Martin Gallagher, has submitted a statement indicating his medical recommendation that Francis Hriadil has clinical conditions which will be exacerbated by continuous long term exposure to the Smart Meter emissions.

12. The Respondent has already made their argument purporting the irrelevance and inadmissibility of Complainants' evidence in its June 4, 2018 Motion for Summary Judgment, which You Honor denied *in toto* in Your November 30, 2018 Interim Order Denying Motion for Summary Judgment Filed by Duquesne Light Company. The Respondent is attempting to revisit that same issue here again in their Motion in Limine ..., making the same arguments that it made in its Motion for Summary Judgment, which again is forcing the Complainants to take time away from fully preparing for our Hearing.

13. To reiterate, the basis for Respondent's relevancy argument is that Respondent claims that the body of evidence filed by the Complainants "*do(es) not relate to Duquesne Light or its smart meter program.*" Complainants respectfully submit that this assertion is illogical and completely without merit. There is nothing patently unique or exclusive to the Respondent's Smart Meter program and how it is being operated.

14. The Respondent only makes this claim; but, has never established that its SK9AMI7 Smart Meter program in its Smart Mesh is in any way special or patently unique and

superior to other similar programs, nor has it provided any evidence, for example, that its privacy and security measures are superior to, or even measure up to, the extensive security measures incorporated by the government and private industry who have suffered significant, costly, and harmful breaches, which have been reported in the press and various industry journals and which the Respondent considers to be irrelevant. The Respondent has presented no analysis, testing, data, or statistics justifying or substantiating its claim.

15. The Respondent asserts great commonality with its current analog meters that it wants to replace, yet, disavows any commonality with other similar emitting smart meters and programs being implemented in other locations. Physics operates no differently in Pennsylvania than anywhere else in the country or the world. Pennsylvanians possess no greater immunity to the deleterious effects of the RF and LF emissions caused by emitting Smart Meters, such as the Respondent's Smart Meter, etc., that are being increasingly studied, recognized, and reported by respected experts, agencies, and institutions, both private and governmental, throughout the country, and the world. Further, it has been established (which Complainants' body of evidence shows and to which our expert witnesses will attest) that long term exposure to these types of emissions is eventually detrimental to everyone, and that there exist many categories/classes of people such as children (such as those of Complainants' relatives and friends), pregnant women (such as those of Complainants' relatives and friends), the elderly (such as the Complainants, their relatives, and their friends), and those with various chronic clinical conditions (such as the Complainants, their relatives, and their friends) who are especially susceptible to harm from the on-going and unceasing exposure to such devices and systems. Per 66 Pa.C.S. § 1501; 52 Pa. Code § 57.194, these categories/classes of people cannot be ignored and must be accommodated by law. This evidence is not irrelevant, and these people are not irrelevant.

16. On the subject of commonality, as Complainants have established, in our filings, etc., there is substantial commonality between the Respondent's Smart Meter and its operation in its Smart Mesh, and other similar programs being implemented in other locations, many of which are being implemented on a voluntary basis. The Respondent utilizes an Itron/Centron OpenWay Smart Meter that is being utilized by other EDCs in a Smart Mesh. Where there are pertinent differences of note, the Complainants have made a conscientious effort to point those out.

Specifically, the material and foundational facts are:

- the Respondent's Itron/Centron OpenWay SK9AMI7 meter is a wireless, digital Smart Meter with co-located transceivers operating at 900 MHz and 2.4 GHz, respectively, in a Smart Mesh. Their Smart Meter draws power from the electric service line via a Switch Mode Power Supply (SMPS), and it is constructed primarily of electronic components and various plastic and polymer materials, etc. Though there may be some superficial differences between various Smart Meters currently in use in a Smart Mesh, they all operate fundamentally the same way and obey the same laws of physics.
- the specific Itron/Centron OpenWay SK9AMI7 Smart Meter being deployed by the Respondent in a Smart Mesh, is also being deployed in Smart Meshes by other Pennsylvania EDCs such as FirstEnergy in Pennsylvania, and by other EDCs elsewhere, such as FortisBC Energy Inc. in British Columbia, etc.
- the Respondent has stated in its Smart Meter Technology installation plan, the "Duquesne Light Company Final Smart Meter Technology Procurement and Installation Plan" Docket Nos. P-2012- M-2009-2123948, presented to the Commission that it has structured its SK9AMI7 Smart Meter deployment in the same manner as several EDCs in California, Nevada, and Illinois. (See Complainants' New Matter #3.)

17. Furthermore, the Complainants wish to remind the Respondent, and also Your Honor, that the Respondent has submitted as relevant evidence in its favor, various reports such as that by the California Council of Service and Technology (CCST), for example, (see Respondent's Answer and New Matter, etc.) purporting the safety of its Smart Meter in its Smart Mesh. Yet, this report did not specifically include the Respondent's Itron/Centron OpenWay SK9AMI7, operating in its Smart Mesh, in its analysis. The Respondent has no qualms about

submitting this type of evidentiary report asserting commonality with other Smart Meters, when it suits its purposes and appears to support its Smart Meter program. Actions such as this by the Respondent illustrate the disingenuous nature and hypocrisy of the Respondent when it comes to offering its opinion on the relevancy and admissibility of Complainants' documentary evidence. It is noted that Complainants assembled evidentiary documentation that this CCST report was flawed and has been discredited.

18. Complainants argued facts such as these, and others, in our July 6, 2018 Response to Motion for Summary Judgment, and after extensive review, Your Honor concurred with our arguments and our request, and denied the Respondent's entire Motion *in toto*. Complainants aver the relevance and admissibility of its evidentiary documents, and stand ready to justify that all of the evidentiary documents to be submitted into evidence, and have been submitted to the Respondent as part of Discovery, are relevant and material to the Complainants' Formal Complaint, and the matters at hand.

19. Concerning Pennsylvania Rules of Evidence 401 and 402,
Rule 401. Test for Relevant Evidence.

Evidence is relevant if:

- (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and
- (b) the fact is of consequence in determining the action.

Rule 402. General Admissibility of Relevant Evidence

Relevant evidence is admissible unless any of the following provides otherwise: the United States Constitution; a federal statute; these rules; or other rules prescribed by the Supreme Court.

The body of evidence which supports Complainants' Formal Complaint, and the testimony of its expert witnesses, make the facts to be presented more, not less, probable than would be the case without that evidence. And, those facts are relevant, admissible, and of primary consequence in determining the truth of the matter, and a fair and just outcome for the Complainants. Furthermore, this body of evidence does not violate the United States Constitution, ..., or other rules prescribed by the Supreme Court.

(2) Confusing the issues, wasting time, and needlessly presenting cumulative evidence

20. As stated in You Honor's Prehearing Orders

"Complainants bear the burden of proof and must demonstrate by a **preponderance of the evidence** that Respondent violated its tariff, the Public Utility Code, or a commission order or regulation, and that they are entitled to the relief requested in the Complaint." (**emphasis added**)

The Complainants are obligated to meet this burden of proof. The Respondent's motion is clearly intended to preclude the submission of pertinent evidentiary documentation, which is relevant and admissible, to either prevent the occurrence of any Hearing for the Complainants, or to so critically hamper the Complainants' efforts that it guarantees we cannot meet our burden of proof. All of the documentation that has been submitted to the Respondent in Discovery and intended for submission into evidence has a direct bearing on the issues of our Formal Complaint. To endorse this on-going effort on the part of the Respondent to circumvent the truth would be extremely prejudicial against the Complainants and our complaint.

21. The Respondent complains of the Complainants' evidence as being "cumulative and repetitious". The evidentiary documentation that has been assembled comes from different and separate experts and sources, all of which have been carefully reviewed, referenced, and vetted for relevance, etc., and provides overwhelming correlation and corroboration of the facts being presented.

What the Respondent asserts is cumulative and repetitive, the Complainants' assert is correlative and corroborative, and represents the preponderance of evidence that Your Honor has stated is required.

22. The Respondent asserts that this is "wasting time." The Complainants ask, who's time is it wasting? The Respondent clearly feels that it is wasting its time because the Respondent does not want to have to face the facts, and deal with the consequences.

The Respondent's repetitious nuisance motions are clearly wasting the Complainants'

time, because we have to take time away from properly preparing for our Hearing to respond to the Respondent's motions.

Is the court's or the Commonwealth's time being wasted? The Complainants assert that it is not. The PA PUC exists as a government agency, as a part of the state government of Pennsylvania which is sworn to protect the well-being of its people, and uphold the Constitutions of Pennsylvania and the United States. It exists, as its mission statement declares, to balance the needs of consumers and utilities (not rubber stamp the desires of the utilities); ensure safe and reliable utility service at reasonable rates (not the preferences of the utilities); to protect the public interest (not the interest of the private sector); to educate consumers to make independent, informed utility choices (which the Complainants are making great effort to try to accomplish here for their own health and well-being); and, to foster new technologies and competitive markets in an environmentally sound manner (not in a manner that worsens the natural living environment and well-being of the people of Pennsylvania).

23. If the Respondent is so concerned with wasting the time of the court and the Commonwealth of Pennsylvania, they can simply stipulate to the Complainants' ages, clinical conditions, and the public evidentiary documents that Complainants have supplied in Discovery. This would expedite this whole process, and allow the Complainants to receive a fair and just resolution of our Formal Complaint and request for relief. This is what the Complainants would reasonably expect from any conscientious corporate citizen of Pennsylvania who listens to, cares about, and responds to the needs of its customers. Instead, the Respondent continues with its repeated ongoing attempts to forestall the submission of all relevant evidence, substantially dragging out the Hearing process, etc. We guess it would be naïve for the Complainants to have expected the Respondent to appeal to the PA PUC, along with and in support of the Complainants, to address and accommodate our needs, and grant our legitimate request for relief.

24. The Respondent asserts that this is all a big inconvenience and a big waste of time, because “all the issues have been addressed” when the truth of the matter is that they have not been properly and fully addressed.

There are glaring problems that have come to light about this technology that have been overlooked, that have not been properly considered, and that remain unaddressed, all to the detriment of Pennsylvania and its people, including the Complainants. It is only a “waste of time” to the Respondent, as it wishes to evade that truth, and maximize its returns and profits. Anything that does not maximize its profits is a waste of time for the Respondent.

25. Finally, the Respondent asserts that the Complainants body of evidence confuses the issues at hand. There is nothing in the documentation supplied by the Complainants that is extraneous or irrelevant. On the contrary, everything that the Complainants have submitted brings all of the issues into sharp focus when considering Codes and regulations, such as 66 Pa.C.S. § 1501 and 52 Pa. Code § 57.194, etc. Complainants’ aver that this body of documentary evidence is correlative, corroborative, pertinent, and satisfies our obligation of preponderance. There is a great deal more supportive documentation available that the Complainants could have chosen to submit as well; but, we choose to limit our submissions for *practical* reasons. Everything that has been submitted is directly relevant to the specifics of the matters at hand in our Formal Complaint. The Complainants have taken great pains to eliminate extraneous material; have only submitted documentation that has been researched, referenced, and vetted for its relevance, that has been corroborated by multiple established sources, and has been supplied and referred to the Complainants by their authors. The great amount of relevant documentation that exists speaks volumes to its importance; it does not justify the Respondent’s assertion that its inclusion is needless or cumulative. It establishes a comprehensive body of corroborative material and foundational facts, as well as a pattern of evidence, that cannot simply be ignored or dismissed. And, it, along with the

testimony of the Complainants' independent expert witnesses, establishes the preponderance of evidence that Your Honor has stated is required.

(3) Hearsay

26. The Respondent has already made their argument purporting Hearsay in its June 4, 2018 Motion for Summary Judgment, which You Honor denied *in toto* in Your November 30, 2018 Interim Order Denying Motion for Summary Judgment Filed by Duquesne Light Company. The Respondent is attempting to revisit that same issue here again in their Motion in Limine ..., making much the same arguments that it made in its Motion for Summary Judgment, which again is forcing the Complainants to take time away from fully preparing for our Hearing.

27. As already explained in Complainants' response to Respondent's Motion for Summary Judgment, the Supreme Court of Pennsylvania Committee on Rules of Evidence has published that "the admissibility of evidence is conditioned upon the proof of foundational facts," which the Complainants' evidentiary documentation, along with its expert witnesses, provides.

28. In its Motion for Summary Judgment, the Respondent made the generic and dismissive reference that material served by the Complainants was obtained from the internet. Now, in its Motion in Limine..., the Respondent makes an opposite generic and dismissive reference to the material served by the Complainants as "not being written or created by the Complainants." Of course, the Complainants did not and could not have generated all of this evidentiary material on their own. To expect the Complainants to have done so is ridiculous.

29. In addition to the material that was created by the Complainants, this material has been produced by the Complainant's doctor, and by respected and recognized independent experts and world authorities, as well as by government and private agencies and institutions, throughout the country and the world. The material not created by the Complainants or our doctor, have all been published, and are public documents that are part of the public record.

The Complainants' had no influence or part in their making, the facts that they present, nor the conclusions that they reach.

30. The Respondent routinely refers to these simply and derogatorily as "internet articles", etc. and attempts in one broad stroke to denigrate, in their entirety, their accuracy, reliability, validity, and applicability. Complainants wish to reiterate the fact that many of the world's biomedical research, scientific, engineering, security, economic, governmental agency, law, etc. journals now publish online exclusively. They have abandoned hard copy entirely. All government agencies, including Public Utility Commission, have internet websites for the dissemination of information. The reasons for this are that publication online is less expensive and greatly enhances accessibility to the audiences for these publications, and for this information. Complainants respectfully submit that individual sources of information need to be judged solely by their quality and merit, and not simply by their method of delivery. Inaccuracies and misprints are possible no matter what medium is utilized. And, truth and accuracy is not automatically in question just because a source material may have been obtained from the internet. Unlike, hardcopy media, mistakes in source material on the internet are subject to much more substantive review, and are readily updatable and correctable.

31. In Discovery, and in previous filings with the Commission, Complainants have filed public documents composed of official public records; government, scientific, medical, and health reports and publications; investigative news and industry reports; expert reports and testimonies; various Utility Commission records; peer-reviewed scientific reports; medical records; doctor recommendations; Congressional, Legislative, Judicial, and Executive hearing records, EDC documents and public statements, industry reports, official institution and agency releases, etc., most in written format and some in video format, to substantiate our claims and Formal Complaint.

This written and video documentation was fully reviewed, sourced, and referenced. The

foundational facts presented in this material have been verified via multiple sources, providing corroboration. They have either been accepted into evidence in prior judicial court cases, public hearings, etc. by various commissions (including the PA PUC), legislatures, and or congressional committees, etc. or fall within the admissibility guidelines established by:

Title 66, Part I. Pa. Public Utility Code

66 Pa. Chapter 3, Subchapter B. Investigations and Hearings

66 Pa. C.S. § 332 (b) - Admissibility of evidence

66 Pa. C.S. § 332 (c) - Submission of evidence

Federal Rules of Evidence: 801-03, 901

Rule 803. Hearsay Exceptions; Availability of Declarant Immaterial

Rule 901. Requirement of Authentication or Identification

52 Pa. Chapter 5, Subsection E., Evidence and Witnesses

Section § 5.401 - Admissibility of evidence

Section § 5.406 - Public documents.

Section § 5.407 - Records of other proceedings.

1 Pa. Code § 35.167 - Records in Other Proceedings

and, Pa. Code Title 225 - Rules of Evidence.

32. The testimony of Complainants' expert witnesses, along with the correlative and corroborative body of evidence the Complainants' intend to submit into evidence, which have been fully and properly served to the Respondent in Discovery, possess substantial probative value and serve as a sound legal foundation for a finding of fact.

(4) Testimony from proceedings to which Duquesne Light was not a party

33. Throughout the course of this Formal Complaint process the Respondent has produced references, citations, rulings, etc in other proceedings before the Commission, before the judiciary, etc. to which neither the Respondent nor the Complainants were a party. Yet, they have submitted them as evidentiary documentation in support of their arguments.

This material is considered acceptable by the Respondent when it views that it is in its favor, and unacceptable, irrelevant, and inadmissible by the Respondent when it views that it is

not. The Complainants respectfully submit that Your Honor cannot embrace this type of double standard in Your considerations as it would be extremely prejudicial against the Complainants.

34. 52 Pa. Chapter 5, Subsection E., § 5.407. Records of other proceedings, states
- (a) When a portion of the record in another proceeding before the Commission is offered in evidence and shown to be relevant and material to the instant proceeding, a true copy of the record shall be presented in the form of an exhibit, together with additional copies as provided in § 5.409 (relating to copies and form of documentary evidence).
 - (b) Subsection (a) is identical to 1 Pa. Code § 35.167 (relating to records in other proceedings).

No where in 52 Pa. Chapter 5, Subsection E., § 5.407 does it state or require that the records from another proceeding are restricted to only those in which the Respondent were a party.

Summary and Conclusion

35. The Respondent references 52 Pa. Chapter 5, Subsection E., Section § 5.401 - Admissibility of evidence, as part of its argument.

§ 5.401 states

- (a) Relevant and material evidence is admissible subject to objections on other grounds.
- (b) Evidence will be excluded if:
 - (1) It is repetitious or cumulative.
 - (2) Its probative value is outweighed by:
 - (i) The danger of unfair prejudice.
 - (ii) Confusion of the issues.
 - (iii) Considerations of undue delay or waste of time.

The body of evidence intended for submission by the Complainants, and served to the Respondent in Discovery, is relevant and material to the matter at hand. It is correlative and corroborative, not repetitious or cumulative, within itself. And, it is correlative and corroborative with and substantiates the testimony to be provided in support of and on behalf of the Complainants at our Hearing. Taken together with the planned testimony, it presents the preponderance of evidence that Your Honor has stated is required. It provides substantial probative value. It “represents” a danger of “unfair prejudice” only if the foundational facts and the truth also “represents” a danger of “unfair prejudice.” It brings all of the pertinent issues into

sharp focus when considering Codes and regulations such as 66 Pa.C.S. § 1501 and 52 Pa. Code § 57.194, etc. And, it does not represent a waste of time on the part of the Commonwealth of Pennsylvania and the PA PUC, who exist to serve the people.

36. The Respondent has already raised the issues of relevancy, hearsay, and admissability in its exhaustive June 4, 2018 Motion for Summary Judgment, which Your Honor denied *in toto*. The arguments put forward in Respondents Motion in Limine... being refuted here, represent little that is new. Having lost once, it is a nuisance Motion that is an attempt to revisit issues already argued and decided. It serves only to impose on the time of the court and force the Complainants to take precious time away from fully and properly preparing for our Hearing.

37. Again, the Complainants wish to point out that the Respondent, Duquesne Light with revenues ~ \$806,100,000, net income ~ \$69,600,000, total assets ~ \$2,209,200,000, and being represented Tucker-Arensberg, Attorneys. In comparison, the Complainants are two (2) elderly fixed income individuals, one (1) working full-time and one (1) retired, representing themselves pro se, who do not possess even a fraction of one percent of the revenues, net income, total assets, and resources available to the Respondent. The disparity here is glaring. For the Respondent to attempt to leverage their unmatched resources in this way, with repetitious and cumulative nuisance motions such as these is unfair, unreasonable, and imposes an unfair burden, etc. on the Complainants in violation of PA Code § 5.361(a)(2).

To condone this activity would be prejudicial against the Complainants, our complaint, and our conscientious effort to present all of the relevant foundational facts to meet our burden of proof. And, it would prevent Your Honor and the Commission from getting the full and complete truth concerning the matters at issue.

38. The officially stated mission of the Public Utility Commission, as specified in its Mission Statement which is documented on the Commission's internet website, is to:

- **balance the needs of consumers and utilities;**
- **ensure safe and reliable utility service** at reasonable rates;
- **protect the public interest;**
- **educate consumers to make independent and informed utility choices;**
- and, foster new technologies and competitive markets in an **environmentally sound manner. (emphasis added)**

As such, it is the Commission's fundamental duty, as a public service governmental agency operating under the United States and Pennsylvania constitutions, and the Pennsylvania Utility Code, to seek the truth, treat all Complainants fairly, and safeguard the well-being of all people on Pennsylvania soil regardless of age, sex, race, religion, physical condition, and circumstance, in order to establish compliance with all statutes and regulations such as Section §1501 of the Public Utility Code, etc.

39. In summary, the body of evidentiary documentation to be submitted by the Complainants, simply listed but not detailed by the Respondent, consists of:

- evidentiary documentation specific to the Itron/Centron OpenWay SK9AMI7 Smart Meter being utilized by Duquesne Light Company in its Smart Mesh.
- evidentiary documentation germane to all Smart Meters operating in a Smart Mesh, and with which the Duquesne Light Company shares a high degree of commonality.
- evidentiary documentation from Francis Hriadil's doctor, Dr. Martin Gallagher, indicating his medical recommendation that Francis Hriadil has clinical conditions which will be exacerbated. at a minimum, by continuous long term exposure to the Smart Meter emissions.
- evidentiary expert reports by Complainants expert witnesses
- evidentiary public documents and records from recognized experts (along with their curriculum vitae), agencies, institutions, etc., both government and private.
- evidentiary peer-reviewed scientific studies and reports.
- evidentiary testimony and exhibits already accepted into evidence in other proceedings before the PA PUC, etc.

Complainants aver, and stand ready to justify, each and every evidentiary document to be submitted into evidence, which has been submitted to the Respondent as part of Discovery, that it and they are admissible, relevant, and material to the Complainants' Formal Complaint, and the matters at hand.

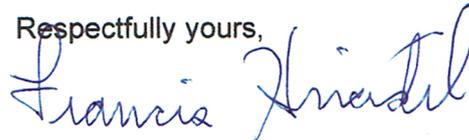
40. The testimonies to be provided by the Complainants and their independent expert witnesses, in conjunction with the listed evidentiary documentation Complainants intend to place into evidence, will definitively establish that this is a matter of direct and detrimental physical and personal consequence to the Complainants, and a matter that is in the public interest, and will definitively provide the preponderance of evidence that You Honor has stated is required.

WHEREFORE, in light of these circumstances, Complainants aver that the Respondent's claims and arguments are without merit, and have already been argued to large degree in Respondent's Motion for Summary Judgment and been denied.

Complainants Michele Hriadil and Francis Hriadil therefore respectfully request that the Respondent's Motion in Limine to Bar Complainants From Introducing or Relying Upon Inadmissable Evidence be denied.

Complainant's response and Certificate of Service have been filed with the Commission's Secretary, in accordance with Commission Regulations.

Respectfully yours,



Francis Hriadil
(412) 779-3314
331 Shady Ridge Drive
Monroeville, Pennsylvania
January 21, 2019

pertinent and relevant evidence by the Complainants in support of our complaint, the issues we have raised and are raising, and our request for relief. It amounts to nothing but legal gamesmanship on the part of the Respondent, whose purpose is to impair the integrity of this Hearing process, impede the legitimate efforts of the Complainants to present the full scope and material, foundational facts of the matter, our complaint, and our request for relief.

Briefly, the record shows:

- On June 4, 2018, the Respondent filed its Motion for Summary Judgment, wherein it made its arguments purporting the irrelevance and inadmissibility of the Complainants' evidentiary documentation provided in Discovery, and verified per 52 Pa. Code § 1.36. The Complainants responded to this in our July 6, 2019 Response to Motion for Summary Judgment. Though not listed in the title of its motion, in addition to requesting a summary judgment in its favor, the Respondent extensively argued and specifically requested to disregard / discard / narrow the Complainants' Formal Complaint, New Matters (1, 2, 3, 4), and evidentiary documentation provided in Discovery, and verified per 52 Pa. Code § 1.36.

The motion that was made in the substance of Respondent's motion was more than just a request for summary judgment. The substance of this motion was two-fold: to either dismiss or narrow the Complainants' Formal Complaint and our evidentiary documentation. Both requests were denied, as the Respondent's motion was denied *in toto*.

- On February 1, 2019, the Respondent filed its Motion in Limine to Bar Complainants From Introducing or Relying Upon Inadmissible Evidence. The Complainants responded to this in our February 21, 2019 Response to Respondent's Motion in Limine to Bar Complainants From Introducing or Relying Upon Inadmissible Evidence refuting the Respondent's arguments. Here, the Respondent simply and essentially made and restated the arguments it presented in its Motion for Summary Judgment.

On March 4, 2019, the Respondent filed a Reply... to Complainants' Response... And, on March 16, 2019, the Complainants' filed our Answer... to the Respondent's Reply... Here, the Respondent offered no new or compelling argument in support of its February 1, 2019 Motion in Limine... The Complainants argued that this Motion in Limine... nothing other than a second attempt to narrow the Complainants' Formal Complaint and evidentiary documentation, making the exact same arguments again about irrelevancy, inadmissibility, and hearsay that were made in the Respondent's Motion for Summary Judgment. Complainants averred, and still aver, that the Respondent's arguments had already been made and denied, and to allow the Respondent to revisit these arguments through a second "Same Motion Intent by Another Name" was unfair and prejudicial against the Complainants.

The Respondent's motion was denied.

- On April 25, 2019, after our April 24 Prehearing Conference Call, the Respondent refiled its February 1, 2019 Motion in Limine to Bar Complainants From Introducing or Relying Upon Inadmissible Evidence. No ruling was made granting the Respondent's refiled motion.
- Now, on October 28, 2019, six (6) months later and a mere few weeks before our scheduled Hearing, the Respondent, again, files a Motion for Limine to Bar Complainants From Introducing or Relying Upon Inadmissible Evidence.

This is the record of the repeated effort by the Respondent to stifle relevant, pertinent, and admissible evidence. The Complainants' prior Responses... and Answers..., along with their supporting documents and exhibits, are still valid, and are incorporated here-in by reference as if fully restated.

4. In addition to this fourth (4th) attempt at suppressing the Complainants significant and substantial relevant and admissible evidence, the Respondent also filed a Motion in Limine to Preclude Complainants' Purported Expert Testimony, dated October 30, 2019 and received by the Complainants at the end of the day on November 1, 2019. This is forcing the Complainants to devote critical time away from our Hearing preparations to address these multiple nuisance filings. Again, we are two (2) elderly people representing ourselves, who are simply trying to safeguard our health and well-being, and preserve our rights. We have nothing close to the staff and resources of the Respondent. Michele Hriadil, who I, Francis Hriadil, now live with because of my clinical conditions, has full time work commitments and responsibilities, so the burden of preparing all responses, answers, filings, and paperwork falls predominantly on me. This filing of multiple Motions shortly before our Hearing is intentionally designed to overwhelm the Complainants at a critical time in our preparations. It is an ongoing nuisance tactic that has been employed by the Respondent throughout this proceeding, which continues to impose an unfair and undue burden on the Complainants.

5. In its argument, the Respondent “purports” that the substantial evidentiary documentation that the Complainants intend to introduce is

“irrelevant, confusing and cumulative, hearsay, improperly seek to advance legal arguments, or otherwise violate the Pennsylvania Public Utility Code or the Pennsylvania Rules.”

and that

“This action is not a collateral attack on Duquesne Light's smart meter implementation plan, ... nor is it a challenge to the scientific merit of Act 129's mandatory universal deployment of smart meters, which is settled law and binding precedent.”

This is absolute nonsense and is a completely disingenuous characterization of the Complainants' evidence, our complaint, the issues we have raised and are raising, and our request for relief.

6. First, the material truth of the matter is that the scientific merit of smart meters and the PA PUC's initial Implementation Order concerning the mandatory universal deployment of smart meters are not settled issues or settled law, especially not in the manner that the Respondent purports.

- It is material fact that there is now overwhelming scientific evidence concerning the harm of continuous, long term exposure to pulsed radiofrequency (RF) transmitting SMPS (Switch Mode Power Supply) devices such as Smart Meters in their Smart Meshes. And, that there are classes of people who are especially susceptible to harm from these devices, such as children, the elderly (which both Complainants, Michele Hriadil and Francis Hriadil, are), pregnant women, and the chronically ill (which Complainant Francis Hriadil is). Consumers, government officials, industry experts, scientists, doctors, engineers, scientific institutions, etc, have raised alarms about the health, safety, privacy, security, and legal issues associated with this program and these devices. The PA PUC has received expert testimony to these facts by such recognized experts as Dr Andrew Marino Phd JD (C-2015-2475726), Dr Martin Pall Phd (C-2015-2475726), and Dr David Carpenter MD (C-2017-2620710), to name but a few. The Complainants evidentiary documentation, supported by our expert witnesses, including Dr David Carpenter MD and Dr Andrew Michrowski PhD, will attest to this.
- It is a material fact that there are numerous ongoing Formal Complaints with the PA PUC against forced Smart Meter deployment, including the Complainants, concerning violation of Pennsylvania law and PA Codes, including but not limited to 66 Pa.C.S. § 701; 66 Pa.C.S. § 1501; 52 Pa. Code § 57.194.

- It is a material fact that the PA PUC has now officially ruled that Smart Meters can cause, and have caused, HARM.

In a recent complaint before the Commission, Maria Povacz, (ref. Maria Povacz v. PECO Energy Company, Docket No. C-2015-2475023), refused the installation of a smart meter on her residence because of health and safety concerns.

On January 26, 2018, PA PUC ALJ Heep issued a Decision in which she stated the following Conclusion of Law, “The Complainant has established that installation of a smart meter attached to her home would exacerbate ill health effects. 66 Pa.C.S. § 701; 66 Pa.C.S. § 1501; 52 Pa. Code § 57.194.” and issued the following Order, “That Maria Povacz’s claim that her health would be adversely affected by the installation of a smart meter attached to her home is granted.”

- It is a material fact that, currently, based on the same issues that the Complainants are raising in our Complaint, there are numerous lawsuits that have been filed against the PA PUC and Pennsylvania electric utilities in Commonwealth Court challenging the forced universal deployment of Smart Meters on their domiciles and properties brought by:
 - Antonio Romeo (489 CD 2016)
in which a decision by the PA PUC to dismiss Antonio Romeo’s complaint was reversed by the Commonwealth Court
 - Mary Paul (460 CD 2019)
 - Maria Povacz (492 CD 2019)
 - Laura Sustain Murphy (606 CD 2019)
 - Cynthia Randall - Paul Albrecht (607 CD 2019)
 - Evangeline Hoffman-Lorah (712 CD 2019)
 - Alan Schukler (1102 CD 2019)
 - Alexia and Lawrence McKnight (1253 CD 2019)
 - Richard Myers (1337 CD 2019)
 - Willard Sunstein (to be assigned)
has filed a Notice of Appeal with Commonwealth Court
- It is a material fact that, as of August 1, 2018, there were at least 38 states in which state agencies and/or public utilities that have officially provided either opt-ins or opt-outs to smart meter installation due to health, safety, privacy, security, performance, and legal issues including: Arizona, Alabama, California, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nevada, New Hampshire, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming. So, to this significant degree in the country, the legal right to choice, safety, privacy, security, and well-being has been settled.

The Complainants request that Judicial Notice be taken of these material facts.

7. In your March 14, 2019 Interim Order, for one, Your Honor recognized and accepted the issues being raised by the Complainants in our Formal Complaint and our five (5) New Matters [which elaborate on DLC Itron Smart Meter Operation and Concerns {New Matter [#1] - January 24, 2017}, PA PUC error in interpreting and implementing Act 129 {New Matter #2 - January 27, 2017}, Health and Safety Issues {New Matter #3 - February 3, 2018}, Constitutional Violations {New Matter #4 - February 14, 2018}, and Commonality of DLC Itron Meter with other Meters and Meshes {New Matter #5 - January 24, 2019}, and our Response to Respondent's Motion for Summary Judgment - July 6, 2018), along with their included exhibits, stating:

- Michele Hriadil and Francis Hriadil (Complainants) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Duquesne Light Company (Respondent or Company) on October 3, 2016, alleging, inter alia, the existence of reliability, safety or quality problems with their electric service and objecting to the, the existence of reliability, safety or quality problems with their electric service and objecting to the installation of a smart meter in their home. Complainants essentially aver that smart meters are unsafe, present privacy concerns, are vulnerable to cyber threats, are inferior in quality to analog meters and present serious health concerns. Complainants further aver that there is a correlation to radio frequency (RF) exposure to neurological, cardiac, and pulmonary disease, as well as reproductive and developmental disorders , immune dysfunction, cancer and other health conditions. Complainants aver that the young and elderly populations, are particularly susceptible to these harmful effects and that Complainants are elderly and suffer from chronic conditions. Complainants aver that the smart meters are not certified by underwriters laboratories, there is a potential for the meters to explode, are the meters are not always installed by certified electricians and that fires have been caused by the quality of meter construction and the lack of evaluations and inspections. Complainants also object to the cost of implementing and installing the meters. As relief, Complainants request that the Commission order Respondent to forego installation of a smart meter at their residence.”
- “On January 24, 2017, Complainants filed a document entitled "New Matter and a separate document entitled "Correction to Pulse Table in Complainants Response to ANSWER AND NEW MATTER TO FORMAL COMPLAINT". On January 27, 2017, Complainants filed a document entitled "NEW MATTER #2". Respondent filed a letter dated February 2, 2017, in response to the filings by Complainants on January 24, 2017 and January 27, 2017.
On February 3, 2017, Complainants filed a document entitled "NEW MATTER #3". On February 14, 2017, Complainants filed a document entitled "NEW MATTER #4".”

- “Complainants further assert that they interpret Act 129 as permitting smart meter installation when a customer requests and agrees to pay for the installation and that Complainants have not made any such request. Complainants appear to assert that they intend to present evidence of the legislative history of Act 129 to support their interpretation of the law.”

The Respondent cannot now claim that these are extraneous, irrelevant, or confusing with regard to the Complainants’ Formal Complaint in its entirety, and the matters at hand.

8. Second, in its Motion... the Respondent specifically attempts to argue / re-argue four (4) points - the same arguments it put forward in its three (3) previous filings: (See para. 3.)

- (1) Relevancy.
- (2) Confusing the issues, wasting time, and needlessly presenting cumulative evidence.
- (3) Hearsay.
- (4) Improperly attempting to raise legal arguments.

Complainants will address each in turn. Complainants will try, to the degree possible, to keep our responses brief, concise, and to the point.

(1) Relevancy.

9. The Respondent asserts that Complainants’ “documents add nothing to determining whether Duquesne Light has violated the Code, a regulation, or its tariff.”

Further, the Respondent purports a violation of 52 Pa. Code § 5.401 and Pennsylvania Rules of Evidence 401 and 402, yet fails to demonstrate or establish where and how a violation has occurred.

10. First, concerning violations of the Code, a regulation, or its tariff, the Respondent apparently fails to acknowledge, or wishes to ignore, such codes as 66 Pa.C.S. § 701; 66 Pa.C.S. § 1501; 52 Pa. Code § 57.194. To refresh the memory of the Respondent,

66 Pa. C.S. § 1501

Every public utility **shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, ... as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, ... (emphasis added)**

52 Pa. Code § 57.194.

- (a) An EDC **shall furnish and maintain adequate, efficient, safe and reasonable service and facilities**, and shall make repairs, changes, alterations, substitutions, extensions and improvements in or to the service and facilities necessary or proper **for the accommodation, convenience and safety of its patrons, employees and the public. (emphasis added)**
- (b) An EDC shall install, maintain and operate its distribution system in conformity with the applicable requirements of the National Electrical Safety Code.

The Respondent again fails to acknowledge, and wishes to ignore. these regulations and the material fact that in PA PUC Docket No. C-2015-2475023, on January 26, 2018, ALJ Heep issued a Decision in which she stated the following Conclusion of Law,

“The Complainant has established that installation of a smart meter attached to her home would exacerbate ill health effects.” in violation of 66 Pa.C.S. § 701; 66 Pa.C.S. § 1501; 52 Pa. Code § 57.194.” and issued the following Order, “That Maria Povacz’s claim that her health would be adversely affected by the installation of a smart meter attached to her home is granted.”

And, the Respondent also apparently fails to acknowledge, or wishes to ignore, other relevant regulations and restrictions such as the FCC Grants of Equipment Authorization for its SK9AMI7 900 MHz LAN and its 802.15.4 2.4 GHz ZigBee Module, and the fact that the PA PUC Implementation Order must reflect and adhere strictly to Act 129 and the intention of the legislators who passed that law, as well as the freedoms and protections guaranteed to the people of Pennsylvania.

11. Codes, regulations, laws, etc. such as these are relevant to and form the basis for Complainants’ Formal Complaint, and our request for relief, as Complainants have arranged for the participation of various recognized, independent, and credentialed experts and witnesses, and accumulated a substantial amount of foundational and corroborating evidence to establish that the Respondent is in violation of these specified codes, regulations, and laws, at a minimum.

12. It is an inescapable material fact that the PA PUC has officially recognized that exposure to the emissions of a Smart Meter has caused and can cause harm, that the Complainants are both elderly, that Francis Hriadil has established that he has a number of

clinical health conditions, and that Francis Hriadil's doctor, Dr Martin Gallagher, has submitted a medical statement concerning treatment indicating that Francis Hriadil's clinical conditions will be exacerbated by continuous long-term exposure to the Smart Meter emissions. Complainants out-of-state expert witnesses, Dr David Carpenter MD and Dr Andrew Michrowski PhD have also submitted expert statements supporting the Complainants request for relief.

13. The Respondent has already made their argument purporting the irrelevance and inadmissibility of Complainants' evidence in its June 4, 2018 Motion for Summary Judgment, which You Honor denied *in toto* in Your November 30, 2018 Interim Order Denying Motion for Summary Judgment Filed by Duquesne Light Company. The Respondent is attempting to revisit that same issue here again in their Motion in Limine ... , making the same arguments that it made in its Motion for Summary Judgment, which again is forcing the Complainants to take time away from fully preparing for our Hearing.

14. To reiterate, the basis for Respondent's relevancy argument is that Respondent claims that the body of evidence filed by the Complainants "*do(es) not relate to Duquesne Light or its smart meter program.*" Complainants respectfully submit that this assertion is illogical and completely without merit. There is nothing patently unique or exclusive to the Respondent's Smart Meter program and how it is being operated.

15. The Respondent only makes this claim; but, has never established that its SK9AMI7 Smart Meter program in its Smart Mesh is in any way special or patently unique and superior in form, fit, function, or operation to other similar programs, nor has it provided any evidence, for example, that its privacy and security measures are superior to, or even measure up to, the extensive security measures incorporated by the government and private industry who have suffered many significant, costly, and harmful breaches, which have been reported in

the press and various industry journals and which the Respondent considers to be irrelevant. The Respondent has presented no analysis, testing, data, or statistics justifying or substantiating its claim.

16. The Respondent asserts great commonality with its current analog meters that it wants to replace, yet, disavows any commonality with other similar emitting smart meters and programs being implemented in other locations. Physics operates no differently in Pennsylvania than anywhere else in the country or the world. Pennsylvanians possess no greater immunity to the deleterious efforts of the RF and LF emissions caused by emitting Smart Meters, such as the Respondent's Smart Meter, etc., that are being increasingly studied, recognized, and reported by respected experts, agencies, and institutions, both private and governmental, throughout the country, and the world. Further, it has been established (which Complainants' body of evidence shows and to which our expert witnesses will attest) that long term exposure to these types of emissions is eventually detrimental to everyone, and that there exist many categories/classes of people such as children (such as those of Complainants' relatives and friends), pregnant women (such as those of Complainants' relatives and friends), the elderly (such as the Complainants, their relatives, and their friends), and those with various chronic clinical conditions (such as the Complainants, their relatives, and their friends) who are especially susceptible to harm from the on-going and unceasing exposure to such devices and systems. Per 66 Pa.C.S. § 1501; 52 Pa. Code § 57.194, these categories/classes of people cannot be ignored and must be accommodated by law. This evidence is not irrelevant, and these people are not irrelevant.

17. On the subject of commonality, as Complainants have established, in our filings, etc., there is substantial commonality between the Respondent's Smart Meter and its operation in its Smart Mesh, and other similar programs being implemented in other locations, many of which are being implemented on a voluntary basis. The Respondent utilizes an

Itron / Centron OpenWay Smart Meter that is being utilized by other EDCs in a Smart Mesh.

Where there are pertinent differences of note, the Complainants have made a conscientious effort to point those out.

Specifically, the material and foundational facts are:

- the Respondent's Itron/Centron OpenWay SK9AMI7 meter is a wireless, digital Smart Meter with co-located transceivers operating at 900 MHz and 2.4 GHz, respectively, in a Smart Mesh. Their Smart Meter draws power from the electric service line via a Switch Mode Power Supply (SMPS), and it is constructed primarily of electronic components and various plastic and polymer materials, etc. Though there may be some superficial differences between various Smart Meters currently in use in a Smart Mesh, they all operate fundamentally the same way and obey the same laws of physics.
- the specific Itron/Centron OpenWay SK9AMI7 Smart Meter being deployed by the Respondent in a Smart Mesh, is also being deployed in Smart Meshes by other Pennsylvania EDCs such as FirstEnergy in Pennsylvania, and by other EDCs elsewhere, such as FortisBC Energy Inc. in British Columbia, etc.
- the Respondent has stated in its Smart Meter Technology installation plan, the "Duquesne Light Company Final Smart Meter Technology Procurement and Installation Plan" Docket Nos. P-2012- M-2009-2123948, presented to the Commission that it has structured its SK9AMI7 Smart Meter deployment in the same manner as several EDCs in California, Nevada, and Illinois. (See Complainants' New Matter #3.)

18. Furthermore, the Complainants wish to remind the Respondent, and also Your Honor, that the Respondent has submitted as relevant evidence in its favor, various reports such as that by the California Council of Service and Technology (CCST), for example, (see Respondent's Answer and New Matter, etc.) purporting the safety of its Smart Meter in its Smart Mesh. Yet, this report did not specifically include the Respondent's Itron/Centron OpenWay SK9AMI7, operating in its Smart Mesh, in its analysis. The Respondent has no qualms about submitting this type of evidentiary report asserting commonality with other Smart Meters, when it suits its purposes and appears to support its Smart Meter program. Actions such as this by the Respondent illustrate the disingenuous nature and hypocrisy of the Respondent when it comes to offering its opinion on the relevancy and admissibility of Complainants' documentary

evidence. It is noted that Complainants assembled evidentiary documentation that this CCST report was flawed and has been discredited.

19. The Complainants wished to establish the inherent commonality of the Respondent's Smart Meter with other such similar devices beyond any doubt with our New Matter #5 (dated January 24, 2019) and our Petition / Motion to Compel Respondent to Supply Its Smart Meter for Examination (dated February 27, 2019). The Respondent vigorously opposed this motion and effort, but in the Respondent's Response to Petition/Motion to Compel Respondent to Supply its Smart Meter for Examination (dated March 19, 2019), the Respondent eventually admitted in the top paragraph on page 2 that

'...Duquesne Light has never asserted that its smart meters are "separate and distinct" from all other smart meters.'

The Respondent cannot have it both ways.

20. It is a material fact that the Itron Openway Smart Meter and its Smart Mesh possesses the same operational, functional, structural, and material characteristics, vulnerabilities and flaws, etc. that have been identified and are inherent in other Smart Meters, Smart Meshes, and similar devices. As one example, the Itron OpenWay Smart Meter has been involved in residential fires, and the Complainants are providing evidentiary documentation of this fact. Consequently, the evidentiary documentation and testimony that the Complainants intend to introduce is relevant and appropriate to the matter at hand.

21. Concerning Pennsylvania Rules of Evidence 401 and 402,
Rule 401. Test for Relevant Evidence.

Evidence is relevant if:

- (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and
- (b) the fact is of consequence in determining the action.

Rule 402. General Admissibility of Relevant Evidence

Relevant evidence is admissible unless any of the following provides otherwise: the United States Constitution; a federal statute; these rules; or other rules prescribed by the Supreme Court.

The body of evidence which supports Complainants' Formal Complaint, and the testimony of our expert witnesses, make the facts to be presented more, not less, probable than would be the case without that evidence. And, those facts are relevant, admissible, and of primary consequence in determining the truth of the matter, and a fair and just outcome for the Complainants. Furthermore, this body of evidence does not violate the United States Constitution, ..., or other rules prescribed by the Supreme Court.

(2) Confusing the issues, wasting time, and needlessly presenting cumulative evidence.

22. As stated in You Honor's Prehearing Orders

"Complainants bear the burden of proof and must demonstrate by a **preponderance of the evidence** that Respondent violated its tariff, the Public Utility Code, or a commission order or regulation, and that they are entitled to the relief requested in the Complaint." (**emphasis added**)

The Complainants are obligated to meet this burden of proof. The Respondent's motion is clearly intended to preclude the submission of pertinent evidentiary documentation, which is relevant and admissible, to either prevent the occurrence of any Hearing for the Complainants, or to so critically hamper the Complainants' efforts that it guarantees we cannot meet our burden of proof. All of the documentation that has been submitted to the Respondent in Discovery and intended for submission into evidence has a direct bearing on the issues of our Formal Complaint. To endorse this on-going effort on the part of the Respondent to circumvent the truth would be extremely prejudicial against the Complainants and our complaint.

23. The Respondent complains of the Complainants' evidence as being "cumulative and repetitious". The evidentiary documentation that has been assembled comes from different and separate experts and sources, all of which have been carefully reviewed, referenced, and vetted for relevance, etc., and provides overwhelming correlation and corroboration of the facts being presented.

What the Respondent asserts is cumulative and repetitive, the Complainants' assert is

correlative and corroborative, and represents the preponderance of evidence that Your Honor has stated is required.

24. The Respondent asserts that this is “wasting time.” The Complainants ask, who’s time is it wasting? The Respondent clearly feels that it is wasting its time because the Respondent does not want to have to face the facts, and deal with the consequences.

The Respondent’s repetitious nuisance motions are clearly wasting the Complainants’ time, because we have to take precious time away from properly preparing for our Hearing to respond to the Respondent’s repetitive motions.

Is the court’s or the Commonwealth’s time being wasted? The Complainants assert that it is not. The PA PUC exists as a government agency, as a part of the state government of Pennsylvania which is sworn to protect the well-being of its people, and uphold the Constitutions of Pennsylvania and the United States. It exists, as its mission statement declares, to balance the needs of consumers and utilities (not rubber stamp the desires of the utilities); ensure safe and reliable utility service at reasonable rates (not the preferences of the utilities); to protect the public interest (not the interest of the private sector); to educate consumers to make independent, informed utility choices (which the Complainants are making great effort to try to accomplish here for their own health and well-being); and, to foster new technologies and competitive markets in an environmentally sound manner (not in a manner that worsens the natural living environment and well-being of the people of Pennsylvania).

25. If the Respondent is so concerned with wasting the time of the court and the Commonwealth of Pennsylvania, they can simply stipulate to the Complainants’ ages, clinical conditions, and the public evidentiary documents that Complainants have supplied. This would expedite this whole process, and allow the Complainants to receive a fair and just resolution of our Formal Complaint and request for relief. This is what the Complainants would reasonably expect from any conscientious corporate citizen of Pennsylvania who listens to, cares about,

and responds to the needs of its customers. Instead, the Respondent continues with its repeated ongoing attempts to forestall the submission of all relevant evidence, substantially dragging out the Hearing process, etc. We guess it would be naïve for the Complainants to have expected the Respondent to appeal to the PA PUC, along with and in support of the Complainants, to address and accommodate our needs, and grant our legitimate request for relief.

26. The Respondent asserts that this is all a big inconvenience and a big waste of time, because in its view “all the issues have been addressed” when the truth of the matter is that they have not been properly and fully addressed.

There are glaring problems that have come to light about this technology that have been overlooked, that have not been properly considered, and that remain unaddressed, all to the detriment of Pennsylvania and its people, including the Complainants. It is only a “waste of time” to the Respondent, as it wishes to evade that truth, and maximize its returns and profits. Anything that does not maximize its profits is a waste of time for the Respondent.

27. Finally, the Respondent asserts that the Complainants body of evidence confuses the issues at hand. There is nothing in the documentation supplied by the Complainants that is extraneous or irrelevant. On the contrary, everything that the Complainants have submitted brings all of the issues into sharp focus when considering Codes and regulations, such as but not limited to 66 Pa.C.S. § 1501 and 52 Pa. Code § 57.194, etc. Complainants’ aver that this body of documentary evidence is correlative, corroborative, relevant, and satisfies our obligation of preponderance. There is a great deal more supportive documentation available that the Complainants could have chosen to submit as well; but, we choose to limit our submissions for *practical* reasons. Everything that has been submitted is directly relevant to the specifics of the matters at hand in our Formal Complaint. The Complainants have taken great pains to eliminate extraneous material; have only submitted

documentation that has been researched, referenced, and vetted for its relevance, that has been corroborated by multiple established sources, and has been supplied and referred to the Complainants by their authors. The great amount of relevant documentation that exists speaks volumes to its importance; it does not justify the Respondent's assertion that its inclusion is needless or cumulative. It establishes a comprehensive body of corroborative material and foundational facts, as well as a pattern of evidence, that cannot simply be ignored or dismissed. And, it, along with the testimony of the Complainants' independent expert witnesses, establishes the preponderance of evidence that Your Honor has stated is required.

(3) Hearsay.

28. The Respondent has already made their argument concerning Hearsay in its June 4, 2018 Motion for Summary Judgment, which You Honor denied *in toto* in Your November 30, 2018 Interim Order Denying Motion for Summary Judgment Filed by Duquesne Light Company. The Respondent is attempting to revisit that same issue here again in their Motion in Limine ..., making much the same arguments that it made in its Motion for Summary Judgment, which again is forcing the Complainants to take time away from fully preparing for our Hearing.

29. As already explained in Complainants' response to Respondent's Motion for Summary Judgment, the Supreme Court of Pennsylvania Committee on Rules of Evidence has published that "the admissibility of evidence is conditioned upon the proof of foundational facts," which the Complainants' evidentiary documentation, sponsored and to be testified to by our expert witnesses, provides.

30. In its Motion for Summary Judgment, the Respondent made the generic and dismissive reference that material served by the Complainants was obtained from the internet. Now, in its Motion in Limine..., the Respondent makes an opposite generic and dismissive reference to the material served by the Complainants as "not being written or created by the

Complainants or our participating expert witnesses.” Of course, the Complainants, nor our participating expert witnesses, did not and could not have generated all of this evidentiary material on their own, however their review and understanding of this authoritative material forms the basis of their expert views and, by Pennsylvania law, cannot be ignored. To expect the Complainants and its participating witnesses to have done so is ridiculous. The evidentiary documentation supplied by the Respondent was not all generated by Duquesne Light Company (DLC) directly. It was supplied by Itron, and other sources.

31. In addition to the material that was created or directly generated by the Complainants and our participating expert witnesses, this material has been produced by the Complainant’s doctor, and by respected and recognized independent experts and world authorities, as well as by government and private agencies and institutions, throughout the country and the world. The material not generated by the Complainants or our doctor, have all been published, and are public documents that are part of the public record. The Complainants’ had no influence or part in their making, the facts that they present, nor the conclusions that they reach.

32. The Respondent has routinely and generically referred to these simply and derogatorily as “internet articles”, etc. and attempts in one broad stroke to denigrate, in their entirety, their accuracy, reliability, validity, and applicability. Complainants wish to reiterate the fact that many of the world's biomedical research, scientific, engineering, security, economic, governmental agency, law, etc. journals now publish online exclusively. They have abandoned hard copy entirely. All government agencies, including Public Utility Commission, have internet websites for the dissemination of information. The reasons for this are that publication online is less expensive and greatly enhances accessibility to the audiences for these publications, and for this information. Complainants respectfully submit that individual sources of information need to be judged solely by their quality and merit, and not simply by their method of delivery.

Inaccuracies and misprints are possible no matter what medium is utilized. And, truth and accuracy is not automatically in question just because a source material may have been obtained from the internet. Unlike, hardcopy media, mistakes in source material on the internet are subject to much more substantive review, and are readily updatable and correctable.

33. The Complainants have provided filed public documents composed of official public records; government, scientific, medical, and health reports and publications; investigative news and industry reports; expert reports and testimonies; various Utility Commission records; peer-reviewed scientific reports; medical records; doctor recommendations; Congressional, Legislative, Judicial, and Executive hearing records, EDC documents and public statements, industry reports, official institution and agency releases, etc., most in written format and some in video format, to substantiate our claims and Formal Complaint.

This written and video documentation was fully reviewed, sourced, and referenced. The foundational facts presented in this material have been verified via multiple sources, providing corroboration. They have either been accepted into evidence in prior judicial court cases, public hearings, etc. by various commissions (including the PA PUC), legislatures, and or congressional committees, etc. or fall within the admissibility guidelines established by:

Title 66, Part I. Pa. Public Utility Code

66 Pa. Chapter 3, Subchapter B. Investigations and Hearings

66 Pa. C.S. § 332 (b) - Admissibility of evidence

66 Pa. C.S. § 332 (c) - Submission of evidence

Federal Rules of Evidence: 801-03, 901

Rule 803. Hearsay Exceptions; Availability of Declarant Immaterial

Rule 901. Requirement of Authentication or Identification

52 Pa. Chapter 5, Subsection E., Evidence and Witnesses

Section § 5.401 - Admissibility of evidence

Section § 5.406 - Public documents.

Section § 5.407 - Records of other proceedings.

1 Pa. Code § 35.167 - Records in Other Proceedings
and, Pa. Code Title 225 - Rules of Evidence.

And, **they are sponsored by all of the expert witnesses participating in our Hearing on our behalf, whether generated by them directly or not, who will testify and be available for cross-examination on their content and relevance. (emphasis added)**

See Complainants' attached Exhibit A.

34. The testimony of Complainants' expert witnesses, along with the correlative and corroborative body of evidence the Complainants' intend to submit into evidence, which have been fully and properly served to the Respondent in Discovery, possess substantial probative value and, as a body of evidence, serve as a sound legal foundation for a finding of fact.

35. Finally, in assembling and preparing its evidentiary documentation the Complainants carefully reviewed the rules of evidence in an Administrative hearing before the Commission, and the Commission's officially stated position. As an overview, and beyond what the Complainants have already presented and argued, the Commission has clearly stated the guidelines and requirements that it applies to evidence - what is acceptable / relevant / admissible, and what may be received by the Commission - as follows:

“As a Commonwealth agency, the Commission is governed by the Commonwealth's Administrative Agency Law, 2 Pa. C.S. § 101, et seq. Section 505 of the Administrative Agency Law, 2 Pa. C.S. § 505, specifies that a Commonwealth agency is not bound by technical rules of evidence at an agency hearing. Specifically, 2 Pa. C.S. § 505, provides: **‘Commonwealth agencies shall not be bound by technical rules of evidence at agency hearings, and all relevant evidence of reasonably probative value may be received. ...’** Thus, **if the evidence is relevant to the issues before the agency and of reasonable probative value, the agency may receive it.** 2 Pa.C.S. § 505. **Evidence is relevant if it tends to establish facts in issue.** *LeRoi v. Pa.State Civil Service Commission*, 382 A.2d 1260(Pa. Cmwlth.1978).“
Reference: (Commission Opinion and Order, C-2015-2474602, *C. Frompovich v. PECO Energy Company*, May 3, 2018)

(emphasis added)

Furthermore,

“Under the relaxed evidentiary standards applicable to administrative proceedings, see 2 Pa. C.S. § 505, it is well-settled that simple hearsay evidence, which otherwise would be inadmissible at a trial, generally may be received into evidence and considered during an administrative proceeding. *D’Alessandro v Pennsylvania State Police*, 937 A.2d 404, 411, 594 Pa. 500, 512 (2007) ’Alessandro).”

Reference: (Commission Opinion and Order, C-2015-2474602, *C. Frompovich v. PECO Energy Company*, May 3, 2018)

(emphasis added)

These statements cannot be any more clearly stated. They are unambiguous and definitive.

36. The Commission has always had the stated policy that hearsay evidence will be given its natural probative value and may support a finding of an agency “if it is corroborated by competent evidence in the record”, which the Complainants and our expert witnesses have provided and will substantiate with their testimonies.

(4) Improperly attempting to raise legal arguments.

37. Relevant factual evidence is provided within the body and substance, and associated supporting documentation, of the specific exhibits that the Respondent makes reference to - namely, the Complainants’ five New Matters, the Complainants’ response to the Respondent’s Motion for Summary Judgment, and the Complainants’ Motion to Compel Discovery Responses. Documents of this nature are not automatically or categorically excluded as evidence, or from consideration. They are relevant and appropriate to the matter at hand.

Summary and Conclusion

38. As already explained in Complainants’ response to Respondent’s Motion for Summary Judgment, the Supreme Court of Pennsylvania Committee on Rules of Evidence has published that “the admissibility of evidence is conditioned upon the proof of foundational facts,” which the Complainants’ evidentiary documentation, along with its expert witnesses, provides.

39. The testimony of Complainants' expert witnesses, along with the correlative and corroborative body of evidence the Complainants intend to submit into evidence, which have been fully and properly served to the Respondent and the PUC, possess substantial probative value and serve as a sound legal foundation for a finding of fact.

40. The body of evidence intended for submission by the Complainants, and served to the Respondent and the PUC, is relevant and material to the matter at hand. It is correlative and corroborative within itself. And, it is correlative and corroborative with and substantiates the testimony to be provided in support of and on behalf of the Complainants at our Hearing. Taken together with the planned testimony, it presents the preponderance of evidence that Your Honor has stated is required. It provides substantial probative value. It "represents" a danger of "unfair prejudice" only if the foundational facts and the truth also "represent" a danger of "unfair prejudice." It brings all of the pertinent issues into sharp focus when considering Codes and regulations such as but not limited to 66 Pa.C.S. § 1501 and 52 Pa. Code § 57.194, etc. And, it does not represent a waste of time on the part of the Commonwealth of Pennsylvania and the PA PUC, who exist to serve the people.

41. The nature of Smart Meters and Smart Meshes, and the consequences of their operation, is an involved subject, but it is a very critical one that is important to the well-being, rights, and future of the Complainants, and the people of Pennsylvania and this country. To fully understand the multitude of issues and their significant implications and consequences, one must consider the full scope of all of the events and the interdisciplinary analyses and evaluations that have occurred to date, and not exclude or preclude pertinent and relevant information or material based on some flimsy pretext. To do otherwise would be a betrayal of the mandate that the PA PUC serves under, and the people of Pennsylvania for whom it was created and it exists to serve.

42. In conclusion, the Complainants re-iterate that the body of evidentiary documentation to be submitted by the Complainants, simply listed but not detailed by the Respondent, consists of:

- evidentiary documentation specific to the Itron/Centron OpenWay SK9AMI7 Smart Meter being utilized by Duquesne Light Company in its Smart Mesh.
- evidentiary documentation germane to all Smart Meters operating in a Smart Mesh, and with which the Duquesne Light Company shares a high degree of commonality.
- evidentiary documentation from Francis Hriadil's doctor, Dr. Martin Gallagher, indicating his medical recommendation and treatment that Francis Hriadil has clinical conditions which will be exacerbated, at a minimum, by continuous long-term exposure to the Smart Meter emissions.
- evidentiary expert reports by Complainants expert witnesses
- evidentiary public documents and records from recognized experts (along with their curriculum vitae), agencies, institutions, etc., both government and private
- evidentiary peer-reviewed scientific studies and reports.
- evidentiary testimony and exhibits already accepted into evidence in other proceedings before the PA PUC, etc.

which are all being sponsored by our participating expert witnesses, who will be available to testify to, and undergo cross-examination on, their content and relevance. The Complainants have read/viewed, understand, and agree with this material we are presenting. And, the Complainants aver, and stand ready to justify, each and every evidentiary document to be submitted into evidence, which has been submitted to the Respondent and the PUC, that it and they are admissible, relevant, and material to the Complainants' Formal Complaint, and the matter at hand.

43. Again, the Complainants wish to point out that the Respondent, Duquesne Light with revenues ~ \$806,100,000, net income ~ \$69,600,000, total assets ~ \$2,209,200,000, and being represented Tucker-Arensberg, Attorneys. In comparison, the Complainants are two (2) elderly fixed income individuals, one (1) working full-time and one (1) retired, representing themselves pro se, who do not possess even a fraction of one percent of the revenues, net income, total assets, and resources available to the Respondent. The disparity here is glaring. For the Respondent to continue to attempt to leverage their unmatched resources in this way,

with repetitious and cumulative nuisance motions such as this is unfair, unreasonable, and imposes an unfair burden, etc. on the Complainants in violation of PA Code § 5.361(a)(2).

To condone this activity would be prejudicial against the Complainants, our complaint, and our conscientious effort to present all of the relevant foundational facts to meet our burden of proof. And, it would prevent Your Honor and the Commission from getting the full and complete truth concerning the matters at issue.

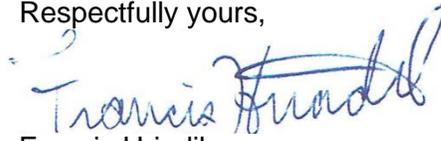
44. The testimonies to be provided by the Complainants and their independent expert witnesses, in conjunction with the evidentiary documentation Complainants intend to place into evidence, will definitively establish that this is a matter of direct and detrimental physical and personal consequence to the Complainants, and a matter that is in the public interest, and will definitively provide the preponderance of evidence that Your Honor has stated is required.

WHEREFORE, in light of these circumstances, Complainants aver that our evidentiary documentation is relevant and admissible, that the Respondent's claims and arguments to preclude Complainants from introducing or referencing any of the documents, videos, or things the Respondent listed in their Exhibit A at the hearing are without merit, and have already been argued to large degree in Respondent's Motion for Summary Judgment (which also argued to disregard / discard / narrow our evidentiary documentation and our complaint) and been denied.

Complainants Michele Hriadil and Francis Hriadil therefore respectfully request that the Respondent's October 28, 2019 Motion in Limine to Bar Complainants From Introducing or Relying Upon Inadmissable Evidence, which is the third (3rd) filing of this same Motion in Limine, be denied.

Complainant's response and Certificate of Service have been filed with the Commission's Secretary, in accordance with Commission Regulations.

Respectfully yours,

A handwritten signature in blue ink that reads "Francis Hriadil". The signature is written in a cursive style with a large, stylized initial "F".

Francis Hriadil
(412) 779-3314
331 Shady Ridge Drive
Monroeville, Pennsylvania
November 6, 2019

2. As such, the issue of the legality of the Public Utility Commission's 2009 Implementation Order mandating the universal deployment of Smart Meters has now been settled in law, and has been ruled as incorrect and in violation of Act 129.

3. It is a matter of record, that the Complainants have refused this Smart Meter program, for a number of legitimate reasons. We have never requested to opt-in to this Smart Meter program. We have never requested a Smart Meter. And, we have never agreed to pay the cost of a Smart Meter. Both the Respondent and the Commission have been properly informed of this in writing.

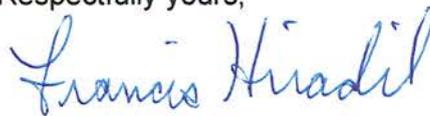
WHEREFORE, in light of these circumstances, Complainants Michele Hriadil and Francis Hriadil wish and respectfully request that Your Honor:

1. grant an immediate Summary Judgment in favor of the Complainants, our Complaint, and our request for relief; and against the Respondent,
2. and order that the Respondent

not install its Smart Meter on our residence at 331 Shady Ridge Drive; Monroeville, Pennsylvania,

and immediately remove the Smart Meter it has installed improperly on our property at 810 Selby Way; Pittsburgh, Pennsylvania, against our expressed wishes and written notifications, and in violation of this Formal Complaint proceeding, and replace it, in a safe manner, with an electro-mechanical, analog, non-RF-emitting electric meter.

Respectfully yours,



Francis Hriadil
(412) 779-3314
331 Shady Ridge Drive
Monroeville, Pennsylvania
October 23, 2020

THEREFORE,

IT IS ORDERED:

1. That the motion for summary judgment by the Complainants, Michele Hriadil and Francis Hriadil, for their complaint and request for relief, filed at Docket No. C-2016-2571726, is granted.

2. That the Respondent not install its Smart Meter on the Complainants' residence at 331 Shady Ridge Drive; Monroeville, Pennsylvania.

3. And, that the Respondent immediately remove the Smart Meter it has improperly installed on the Complainants' property at 810 Selby Way; Pittsburgh, Pennsylvania in violation of this proceeding, and replace it, in a safe manner, with an electro-mechanical, analog, non-RF-emitting electric meter.

Date: _____

Jeffrey A. Watson
Administrative Law Judge

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 those 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 as soon as possible.

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 a month and a half 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. As an excuse, to apparently justify its dismissal of the Complainants' relevant Interrogatories, in its GENERAL OBJECTIONS AND COMMENTS Item 3. etc., the Respondent states

"Exhibit F-8 is simply an updated version of a White Paper that Itron previously published in October 2015 titled "RF Safety Compliance of OpenWay Smart Meters and the CG Mesh IPv6 Network" ("Original Itron White Paper")."

This is **irrelevant, immaterial, and justifies nothing** submitted in the Respondent's objections. The Exhibit F-8 was submitted as presenting new information, purporting to have a new bearing on this matter and our complaint, which is of sufficient consequence that Dr Cotts needed to become involved to carry out new calculations, etc. As such, it is effectively a new report, and must be reviewed and evaluated as such. And, per your Interim Order, Discovery was opened on this new material "on any issue relevant to the subject matter" per Pa Code, 52. Pa. Code § 5.321(c). It cannot be contested that all interrogatories submitted by the Complainants in this regard are relevant to the subject matter of the Respondent's new exhibit, Exhibit F-8, and Dr Cotts utilization thereof.

3. In its GENERAL OBJECTIONS AND COMMENTS Items 6.-9., the Respondent states that it supplied the Complainants with the "Original Itron White Paper" multiple times. Again, this **objection is irrelevant and immaterial** to the matter at hand, and is effectively illustrative of the Respondent's effort to overwhelm and potentially confuse the Complainants with excessive, cumulative, and repetitive submission of the same documents over and over again, in addition its numerous and frivolous motions. Each such submission had to be reviewed and assessed independently to make sure nothing had been changed, corrected, or amended.

4. In its GENERAL OBJECTIONS AND COMMENTS Item 11, the Respondent states "On January 8, 2020, Duquesne Light served its Fourth Supplemental Responses to Complainants' Set #1 of Discovery Requests ("Fourth Supplemental Responses")" The Complainants received this new material on January 11, a mere two (2) days before Discovery was set to close on Exhibit F-8, with little time to review its content. Upon review of this material, there is

nothing presented in the Respondent's "Fourth Supplemental Responses to Complainants' Set #1 of Discovery Requests" that answers the specific interrogatories submitted with regard to the Respondent's Exhibit F-8 or Dr Cotts' utilization thereof. So again, this objection is **irrelevant and immaterial** to the matter at hand.

5. In its GENERAL OBJECTIONS AND COMMENTS Item 14, the Respondent states

"Furthermore, Complainants have already served hundreds of discovery requests on Duquesne Light in this matter. In response to these requests, Duquesne Light produced numerous reports and publications by Itron. Until Duquesne Light served Complainants with Exhibit F-8 on November 18, 2019, Complainants never previously sought detailed information relating to the underlying methodology of Itron's studies, thus indicating that Complainants did not believe such information was relevant to their claims."

This statement is blatantly disingenuous and a complete mischaracterization of the truth of the matter.

- Considering the complex and technical nature of the matter at hand, the Complainants served an appropriate and proper number of relevant Discovery Interrogatories which were reasonable, specific, appropriate, relate directly to, and have a direct bearing on issues of health, safety, reliability, security, and privacy, at the present time and in the future, all of which have been raised in Complainants Formal Complaint and subsequent submissions. The Respondent objected and refused to provide suitable answers to most of the Complainants' Discovery Interrogatories, and the Complainants' effort to compel those answers did not resolve the Complainants' dissatisfaction with the Respondent's responses.

The Respondent expended much more time and resources in its effort to avoid providing full and complete answers to those interrogatories, than it would have taken to provide those answers. Nothing submitted by the Complainants was excessive or overly burdensome, contrary to the Respondent's claims.

- The Respondent did not produce "numerous reports and publications by Itron". It submitted, by its own admission, the same Itron reports multiple times. The Respondent only produced a total of three (3) reports from Itron, prior to its current submission.
- The Respondent also now presumes to "know" what the Complainants "believe" is or was relevant to our claims. This is ludicrous at its core. The Respondent is well aware of the Discovery interrogatories and the details that were requested and not provided, its vigorous effort to avoid providing the details that were requested, the timing in which documents and numerous motions were served, the time constraints that were imposed on Discovery, and the disability, limitations, and circumstances of the Complainants who are representing themselves. The Respondent cavalierly glosses over all of this as inconsequential. Bottomline, **this "objection" is irrelevant and immaterial to the matter at hand, as Discovery was opened with regard to its Exhibit F-8 in its entirety.**

6. In its GENERAL OBJECTIONS AND COMMENTS Item 15, the Respondent states

“Duquesne Light also objects to Complainants' Discovery Requests to the extent that they seek to impose additional obligations on Duquesne Light that are not required by the applicable rules and procedures.”

Complainants aver that we have adhered to the spirit and intent of 52. Pa. Code § 5.321(c). All of the Complainants Discovery Requests relate directly to health, safety, reliability, security, and privacy, all of which have been raised in Complainants Formal Complaint and subsequent submissions. **Complainants have only submitted Discovery Requests that are reasonable, logical, germane, and relevant to our complaint, and our appeal for accommodation and relief, and impose no undue burden on the Respondent.**

7. In its GENERAL OBJECTIONS AND COMMENTS Item 16, the Respondent states

“Duquesne Light objects to Complainants' Discovery Requests because they seek information that is not in Duquesne Light's possession, custody, or control and/or that may be confidential or proprietary information of another company such as Itron or BC Hydro.”

This “objection” is simply an evasion on the part of the Respondent. There is nothing submitted in the Complainants' interrogatories that seeks confidential or proprietary information. The interrogatories submitted by the Complainants, with regards to its Exhibit F-8 and Dr Cotts, request reasonable details that should be known by the Respondent, or its subcontractor Itron, in order to properly ascertain the validity and relevance of the new evidence being submitted, and how “representative” the data truly is. The Respondent is submitting this new information and is responsible for it and Dr Cotts. The Respondent has total access to Itron and Dr Cotts, the Complainants do not. The Respondent presents its Exhibit F-8 and Dr Cotts' purported new calculations in support of its claims yet attempts to plead ignorance and the inability to provide the basis that upon which the validity and relevance of its new evidence rests.

8. The Respondent's Exhibit F-8 fails to provide a number of significant and relevant details.

- the specific Itron OpenWay meters involved in the “sample population” of 2015, etc as compared with the specified meter currently being deployed by the Respondent,

- the statistical distribution of the meters with regards to the mesh router locations in the “sample population” of 2015, etc as compared with the distribution currently being deployed by the Respondent,
- and the mesh operation of the “sample population” of 2015, etc. as compared with the current and future mesh operation being employed by the Respondent.

The Complainants submitted reasonable interrogatories to obtain this important and relevant missing information. Itron’s OpenWay meters come in various configurations and with various options. different utilities deploy routers differently, and different utilities operate their smart meshes differently. There is nothing in Exhibit F-8, or the material subsequently supplied by the Respondent, that verifies definitively and explicitly any relevant correlation to the Respondent’s current meters, router distribution, and mesh operation.

9. The purported new Exhibit F-8 calculations from the Respondent’s Dr Cotts was to be provided in a timely manner, as stated by the Respondent, “as soon as they receive them.” It has been months and the Complainants have received nothing in this regard. Discovery was closed on January 13, depriving the Complainants of any opportunity to apply Discovery to this material.

COMPLAINANTS' DISCOVERY REQUESTS

10. Complainants’ Interrogatory 1.

The Respondent is deploying the Itron/Centron SK9AMI7 Smart Meter in a Smart Mesh in the Complainants’ area. The specific Smart Meter (s) and the Smart Mesh (es) comprising the 2015 sample population discussed in Exhibit F-8, utilized by BC Hydro of Canada, were not clearly and explicitly identified and described.

- a. What is the specific make up of Smart Meters that were assessed, by numbers, types, model numbers, features, operating parameters, etc. comprising this sample population?

The Respondent did not provide a definitive answer. Itron’s OpenWay meters come in various configurations and with various options. The question is simple enough - to establish and verify how representative the meters of the “sample population” are with regard to the Respondent’s meter it is currently deploying.

- b. What are the specific natures, and operating characteristics of the Smart Mesh or Meshes that these Smart Meters were used in, in the sample population assessed in the Itron whitepaper comprising Respondent’s Exhibit F-8?

The Respondent did not provide a definitive answer. Different utilities operate their meshes differently. There is nothing provided that establishes the mesh operation of the “sample population” is representative of the Respondent and its Smart Meter deployment and operation.

- c. In what specific way or ways is the sample population and smart mesh operation, assessed therein, technically, functionally, and operationally (i.e. how it actually operates and is operated in the field), similar and different from the current Smart Meter and Smart Mesh being deployed and operated by the Respondent in its service area?

As in b., the Respondent did not provide a definitive answer. Different utilities operate their meshes differently. There is nothing provided that establishes the mesh operation of the “sample population” is representative of the Respondent and its Smart Meter deployment and operation.

11. Complainants' Interrogatory 2.

What specifically does the Respondent claim that its new Exhibit F-8 demonstrates or signifies?

The Respondent did not answer. Only stated that Exhibit F-8 speaks for itself. Nothing presented in the Respondent's “Fourth Supplemental Responses to Complainants' Set #1 of Discovery Requests” answers this question.

12. Complainants' Interrogatory 3.

What is the Respondent's evidence that supports this assertion/conclusion purported in its answer to Question 2, submitted herein?

The Respondent did not answer. Only stated that Exhibit F-8 speaks for itself. Nothing presented in the Respondent's “Fourth Supplemental Responses to Complainants' Set #1 of Discovery Requests” answers this question.

13. Complainants' Interrogatory 4.

In Exhibit F-8, Itron admits that Smart Meter proximity to the utility's Smart Mesh routers has a definitive impact on Duty Cycle, yet fails to identify what the proximity distribution of the assessed sample population is. What is the distribution of the Smart Meters in terms of proximity to the utility's mesh routers, assessed in the sample population?

The Respondent did not answer. Only stated that Exhibit F-8 speaks for itself. Nothing presented in the Respondent's “Fourth Supplemental Responses to Complainants' Set #1 of Discovery Requests” answers this question. There is nothing provided that establishes the mesh operation of the “sample population” is representative of the Respondent and its Smart Meter deployment and operation.

14. Complainants' Interrogatory 5.

What evidence does the Respondent have that any conclusion derived from Exhibit F-8 is representative of, and applies or is relevant to, the Respondent's Itron SK9AMI7 Smart Meters currently being deployed in its Smart Mesh here in its service area?

The Respondent did not answer. Only stated that Exhibit F-8 speaks for itself. Nothing presented in the Respondent's "Fourth Supplemental Responses to Complainants' Set #1 of Discovery Requests" answers this question. There is nothing provided that establishes the mesh operation of the "sample population" is representative of the Respondent and its Smart Meter deployment and operation.

15. Complainants' Interrogatory 6.

Has Exhibit F-8, (i.e. this Itron "paper") been accepted by and published in any recognized and independent scientific journal or publication? If so, please specify where it was accepted and published?

The Respondent did not answer, and completely ignored this interrogatory concerning the nature and publication of Itron's paper.

16. Complainants' Interrogatory 7.

Has Exhibit F-8, (i.e. this Itron "paper") been peer-reviewed? If so, where and by whom, and produce that peer-review?

The Respondent did not answer, and completely ignored this interrogatory concerning the nature and publication of Itron's paper.

17. Complainants' Interrogatory 8.

The Respondent has informed the Complainants that its expert witness, Benjamin Cotts PhD, PE of Exponent, would be following up its new exhibit, Exhibit 8, with supplemental calculations based on the content of Exhibit F-8. As of this date, the Complainants have not yet been served with these supplemental calculations, and any explanation of their purported significance and relevance.

a. When will the Complainants be served these supplemental calculations?

The Complainants were informed by the Respondent that these new Exhibit F-8 calculations would be carried out by Dr Cotts and that we would be supplied with them. As such, the Respondent cannot now claim they are in any way privileged. Further, the Complainants were informed that we would be supplied with these calculations in a timely manner, not after Discovery had closed and not as part of any revised Expert Report. So, the Respondent has changed its story regarding these new Exhibit F-8 calculations and their delivery to the

Complainants. Discovery has now closed depriving the Complainants of any Discovery on this matter.

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.”

- b. What does the Respondent claim is their significance and/or relevance to our circumstances, complaint, and request for relief?

The Complainants were informed by the Respondent that these new Exhibit F-8 calculations would be carried out by Dr Cotts and that we would be supplied with them. As such, the Respondent cannot now claim they are in any way privileged. Further, the Complainants were informed that we would be supplied with these calculations in a timely manner, not after Discovery had closed and not as part of any revised Expert Report. So, the Respondent has changed its story regarding these new Exhibit F-8 calculations and their delivery to the Complainants. Discovery has now closed depriving the Complainants of any Discovery on this matter.

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- c. The Complainants have been waiting for this new material from the Respondent's expert witness, Benjamin Cotts. Why have the Complainants not been provided with this purported new evidence in a timely manner, so that we can have sufficient time to review and assess it, and possibly follow-up, while Discovery is still open with regards to Exhibit F-8?

The Complainants were informed by the Respondent that these new Exhibit F-8 calculations would be carried out by Dr Cotts and that we would be supplied with them. As such, the Respondent cannot now claim they are in any way privileged. Further, the Complainants were informed that we would be supplied with these calculations in a timely manner, not after Discovery had closed and not as part of any revised Expert Report. So, the Respondent has changed its story regarding these new Exhibit F-8 calculations and their delivery to the Complainants. Discovery has now closed depriving the Complainants of any Discovery on this matter.

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18. Complainants’ Interrogatory 9.

The Complainants were specifically informed by the Respondent that its expert witness, Benjamin Cotts, would be utilized in providing supplemental calculations regarding the data provided in its new exhibit, Exhibit F-8. This brings into question the relationship of Benjamin Cotts with the Respondent, and his potential bias, and lack of independence and fairness, in carrying out any such assessment.

- a. Has Benjamin Cotts ever published any report or provided any testimony critical of any aspect of Smart Meter Technology operating in a Smart Mesh? If so, produce those reports or that testimony?

The Respondent refused to answer.

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.”

Dr Cotts’ prior writings and testimonies, and his objectivity, are relevant to this matter. The Respondent raised Dr Cotts’ participation with regard to Exhibit F-8. As the Complainants had no prior opportunity to pursue this in Discovery as Discovery was closed when the Complainants were informed of Dr Cotts and his participation, the Complainants now exercise our right to pursue it now.

- b. How many smart meter cases/complaints has Benjamin Cotts participated in, as an expert for the utilities and the industry, in support of smart meter technology? List those specific cases/complaints?

The Respondent refused to answer.

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

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- c. What compensation is Benjamin Cotts receiving from the Respondent to carry out his assessments, and represent the Respondent as an expert witness in support of its position, with regards to our complaint and request for relief?

The Respondent refused to answer.

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

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19. Complainants’ Interrogatory 10.

Produce all supportive documents, including but not limited to studies, that relate to your answers to these Discovery Interrogatories concerning your new exhibit, Exhibit F-8, and your expert witness’, Benjamin Cotts’, involvement with and utilization of your new Exhibit F-8.

The Respondent did not answer, and completely ignored this interrogatory.

20. 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.

21. 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.

22. Again, Complainants refer to 52. Pa. Code § 5.321(c) Scope,

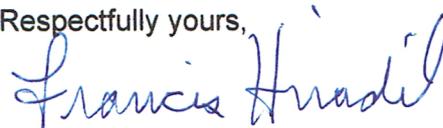
a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, ... , including the existence, description, nature, content, custody, condition and location of any books, documents, or other tangible things and the identity and 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. (emphasis added)

The Complainants again aver that we have adhered to the spirit and intent of 52. Pa. Code § 5.321(c), and have only submitted Discovery Requests that are reasonable and germane to our complaint, and our appeal for accommodation and relief.

23. 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.

Respectfully yours,



Francis Hriadil
(412) 779-3314
331 Shady Ridge Drive
Monroeville, Pennsylvania
January 25, 2020

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.

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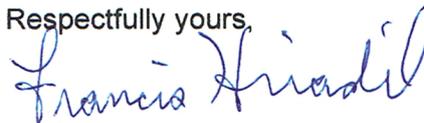
then the purpose and intent of Discovery will have been circumvented.

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