

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Michele Hriadil and
Francis Hriadil,

Complainant,

vs.

DUQUESNE LIGHT COMPANY,

Respondent.

No: C-2016-2571726

**REPLY TO
RESPONDENT'S BRIEF IN OPPOSITION
TO
COMPLAINANTS' MOTION FOR
SUMMARY JUDGMENT
DATED JANUARY 26, 2024**

Filed by Michele and Francis Hriadil

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**REPLY TO
RESPONDENT'S BRIEF IN OPPOSITION
TO
COMPLAINANTS' MOTION FOR SUMMARY JUDGMENT
DATED JANUARY 26, 2024**

TO: ALJ EMILY I DEVOE

**ENCLOSED IS COMPLAINANTS' REPLY TO RESPONDENT'S BRIEF IN
OPPOSITION TO COMPLAINANTS' MOTION FOR SUMMARY JUDGMENT DATED
JANUARY 26, 2024.**



Francis Hriadil
February 20, 2024

3. As stated in para. 4, of Complainants' January 17, 2024 Status Report and Motions,

“As Pro se Complainants, both of whom are elderly, one, Michele Hriadil, who still works full time, and one, Francis Hriadil, who suffers with a number of chronic increasingly debilitating physical conditions, it is not possible to submit as full and complete of a response as is warranted, in the short time allotted.”

The Complainants have always striven to submit our filings in a correct and professional manner, according to this proceeding's requirements. And in the few instances when and where we have fallen short, it has been due to our misunderstanding of the requirements and / or an oversight in our proofreading of our submission, under the circumstances and demands of satisfying stringent court deadlines.

4. Complainants, Michele Hriadil and Francis Hriadil, both elderly people with physical and financial limitations, and as ourselves in our Formal Complaint, cannot be treated the same as a professional law firm, such as Tucker Arensberg P.C. representing the Respondent, Duquesne Light Company. The US Supreme Court (Reference: Haines v. Kerner, 404 U.S. 520 (1971)), has ruled that people as themselves (that are pro se, as we are) are not same as professional attorneys, and should not be treated and judged as such. Nor should we be judged to the same standard. Nevertheless, Complainants have consistently put forward a good-faith effort to try to comply with all court requirements, which can be verified by a review of the record of this proceeding. And, if the Court requires us to do so, we will resubmit our Motion with the Notice to Plead.

MOTION FOR SUMMARY JUDGMENT STANDARD

5. The Respondent asserts in its Brief, Section III. Argument A, page 3,

“Summary judgment is only available where there is undisputed evidence affirmatively showing that the moving party is entitled to judgment as a matter of law. 52 Pa. Code § 5.102(c). Duquesne Light has submitted a plethora of evidence throughout this

lengthy proceeding showing that its smart meters and related operations are both safe and reasonable. None of that evidence is even referenced in Complainants' motion."

6. Yet, as part of the record of this Formal Complaint, the Respondent has filed multiple Motions for Summary Judgment during the course of this proceeding, with many relevant issues remaining outstanding, and much evidence remaining in dispute. Just as the most recent example, the Respondent submitted its January 17, 2024 Motion for Summary Judgment and to Stay Hearing Pending Outcome of Accommodation Process, knowing full well that there still remain pertinent and relevant cases in Commonwealth Court contesting the forced deployment of unrequested and unwanted Smart Meters on Pennsylvania residents.

These include, but are not limited to:

- Docket No. 1253 CD 2019, McKnights vs PA PUC.
- Docket No. 827 CD 2020, Hughes vs PA PUC.
- Docket No. 526 MD 2023, Colbert vs DeFrank, Chair, PA PUC.

These pending cases raise issues that the Complainants, the Hriadils, have brought forward in our Formal Complaint proceeding. So, there are multiple issues that remain disputed. As such, these cases all have a direct bearing on the disposition of our Formal Complaint. And as such, they warrant a Stay in the proceeding of our Formal Complainant, until their matters are fully adjudicated.

7. Also, the Respondent asserts that it has submitted a plethora of evidence throughout this proceeding "showing" that its smart meters and related operations are both "safe and reasonable". Further, the Respondent complains that "None of that evidence is even referenced in Complainants' motion." While the Respondent's Smart Meters "may" satisfy "some" design, functional, and operational requirements, the Respondent has never established that it satisfies all necessary requirements, and it has not ever established that its Smart Meter device and its Mesh are safe, reliable, and secure.

8. The PA PUC has received testimony on the record from various independent expert witnesses in other PA Smart Meter Formal Complaints establishing that the numerous pulsed RF transmissions and the induced LF transmissions of Smart Meters in their Smart Mesh have never been established as safe, and represent a health risk to substantial segments of the population, including the Complainants who are both elderly, in the short term, and all segments of the population in the long term. See Dr Andrew J. Marino PhD, JD, for *Maria Povacz, Laura Sunstein Murphy, Diane Van Schlock, Stephen Van Schoyck, Cynthia Randall, and Paul Albrecht vs. PECO Energy, Docket No: C-2015-2475726* and David Carpenter MD for *Richard N. Myers vs PPL Electric Utilities Corporation, Docket No. C-2017-2620710*, just as two examples.

9. And, the very basis upon which the Respondent rests its “claims of safety”, the FCC published RF radiation standard, has been called into question by the DC Circuit US Court of Appeals, reference: *D.C. Circuit Decision - Environmental Health Trust, et al. v. FCC & USA, No. 20-1025, dated Aug 16, 2021.* Here, the DC Circuit US Court of Appeals has ruled that the FCC failed to address the EHT’s 11,000 pages of scientific evidence reporting adverse health effects from the pulsating microwave radiation of the type transmitted by these Smart Meter devices in their Smart Mesh, and has not provided a reasoned explanation that the FCC’s “safety standards” for this radiation is protective of public health. The fact of the matter is that this “safety standard” remains questionable and in dispute to this day.

□

10. Furthermore, as to the Complainants “not even referencing” the “plethora” of other “evidence” submitted by the Respondent in support of its Smart Meter and its use, function, and operation, the plain truth of the matter is that this “other evidence” submitted by the Respondent, even if it shows compliance with some design, functional, and operational requirements, is extraneous, irrelevant, and not germane to the specific violations / noncompliances cited in Complainants’ January 26, 2024 Motion for Summary Judgment.

It does not matter how many other requirements the Respondent's Smart Meter satisfies. It must satisfy all requirements to comply with Pa. Codes such as 66 Pa. C.S. § 1501 and 52 Pa. Code § 57.194. An automobile, for example, is not safe to use and operate, if even one of its components is not within code. That is why yearly inspections are required by law, and many recalls have occurred in the auto industry. The Respondent, in its 145 page Brief, is simply attempting to cloud the specific issue raised in the Complainants' January 26, 2024 Motion for Summary Judgment.

THE CORE OF THE ISSUE HERE

11. The **FCC Grants of Equipment Authorization** are quite clear in requiring that:

- antenna(s) **must** provide a separation distance of at least 20 cm from all persons
 - end-users **must** be provided with antenna installation and transmitter operating conditions for satisfying RF exposure compliance
 - antenna(s) **must not** be co-located with any other antenna or transmitter
 - antenna(s) **must not** be or operating in conjunction with any other antenna or transmitter
 - the meters **must** be professionally installed
- (emphasis added)**

There is nothing ambiguous or open to argument here. The facts are plain and simple.

12. The Respondent's voluminous, and largely irrelevant, wordage aside, the question remains, does the design, function, installation, and use (i.e. the form, fit, function, and operation) of the Respondent's Smart Meter device, in its continually-pulsating Mesh, satisfy the Government agency issued and documented SK9AMI7 Smart Meter and 802.15.4 ZigBee Module FCC Grants of Equipment Authorization, presented, verbatim, in Complainants' January 26, 2024 Motion for Summary Judgment?

It clearly and unequivocally **DOES NOT**. This cannot be argued or denied.

Specifically:

- Does the Respondent's Smart Meter device and installation, in any way, provide and / or guarantee a separation distance of at least 20 cm from all persons at our residence, as required by the FCC Grants of Equipment Authorization? The plain and simple truth of the matter, and the undeniable fact of the matter, is that it DOES NOT.
- Does the Respondent in any way, provide homeowners / residents, that is the Complainants, with antenna operating conditions for satisfying RF exposure compliance, as required by the FCC Grants of Equipment Authorization? The plain and simple truth of the matter, and the undeniable fact of the matter, is that it DOES NOT.
There is nothing that prevents the homeowner, family members, children, pets, etc. from coming into close proximity to the Smart Meter on a regular basis, when carrying out normal activities in and around the residence. Further, the Respondent does not post any notice or warning on the Smart Meter, and does not even inform homeowners and their family members to always remain a safe distance away from the Smart Meter.
- Does the Respondent's Smart Meter device, with its multiple internal antennas and transmitters co-located within its assembly, comply with its authorization, as required by the FCC Grants of Equipment Authorization? The plain and simple truth of the matter, and the undeniable fact of the matter, is that it DOES NOT.
- Does the Respondent's Smart Meter device, with its multiple internal antennas and transmitters, operating in conjunction with its multiple internal antennas and transmitters, and also in conjunction with the multiple antennas and transmitters of the Respondent's other Smart Meters in close proximity, in its Mesh, comply with its authorization, as required by the FCC Grant of Equipment Authorization? The plain and simple truth of the matter, and the undeniable fact of the matter, is that it DOES NOT.
- Does the Respondent use certified professionals to professionally install its Smart Meter devices on residences and homes, as required by the FCC Grant of Equipment Authorization? The plain and simple truth of the matter, and the undeniable fact of the matter, is that it DOES NOT.
The Respondent has undeniably-stated in its published Smart Meter Technology installation plan, the "Duquesne Light Company Final Smart Meter Technology

Procurement and Installation Plan” Docket Nos. P-2012- M-2009-2123948, that it structured its SK9AMI7 Smart Meter deployment in the same manner as several EDCs in California, Nevada, and Illinois, who contracted out the smart meter installation to companies, such as Wellington Power Corporation used by the Respondent here in Pennsylvania. Typically, these “installers” are nonprofessionals who receive only a few weeks of training before being dispatched into the field.

In all of its voluminous filings, the Respondent has never confirmed or identified any professional certification that is bestowed on its outside-contracted installers when they pass its rudimentary training program, and has refused to confirm or deny the existence of a quota bonus-based installation program.

13. Irrespective of all the other unrelated matters that the Respondent is attempting to introduce in its Brief, there is nothing there that negates what the Complainants have presented in our January 26, 2024 Motion for Summary Judgment, and that has been restated herein. It cannot be denied or argued by the Respondent. The evidence pertaining to this specific issue comes from government records, documentation, and requirements of the FCC (Federal Communications Commission) and the Respondent’s own deployment plan, as presented in the Complainants’ January 26, 2024 Motion for Summary Judgment. It is indisputable. It is plain, simple, and clear, and it affirmatively establishes that the Complainants are entitled to our Motion for Summary Judgment, as a matter of law.

14. Any of the other statements put forward by the Respondent in their 145 page Brief are extraneous and irrelevant to this matter. The Brief submitted by the Respondent is nothing but a calculated effort to overwhelm the Complainants, and the court, with irrelevant wordage, to distract the court from the crux of the matter here, and introduce extraneous information to cloud the central issue and “muddy the water”. It is not relevant or germane to the specific matter here.

15. The Respondent asserts, in its Brief, that the “Complainants’ Motion is difficult to

follow in many respects”. The Complainants question, how and in what respects are we unclear or hard to follow? The mere assertion the Respondent in this regard does not make it so. The Respondent can willfully choose to remain oblivious to the issue here; the Court cannot. The Complainants have presented the content and requirements of the relevant FCC Grants of Equipment Authorization verbatim. The Complainants have referenced Duquesne Light Company’s own Procurement and Installation Plan. Neither of these documents are in dispute. The Complainants’ have presented our Motion in a clear, concise, precise, logical, and to-the-point manner, that any normal person can understand and follow.

16. The FCC created these Grants of Equipment Authorization requirements to provide at least some measure of safety. Any one of these non-compliances alone would negate the FCC Grants of Equipment Authorization, yet multiple non-compliances are clearly evident. And, as such, they represent a clear violation of Pa. Codes such as 66 Pa. C.S. § 1501 and 52 Pa. Code § 57.194.

WHEREFORE, in light of these circumstances, Complainants Michele Hriadil and Francis Hriadil respectfully repeat and submit that the Honorable ALJ DeVoe grant an immediate Summary Judgment in favor of the Complainants, our Complaint, and grant our request for relief, and against the Respondent, particularly as the Respondent’s Itron Smart Meters, as constructed, with their collocated SK9AMI7 and 802.15.4 ZigBee Modules, do not fully comply with their FCC Grants of Equipment Authorization, and as such, do not fully comply with 66 Pa. C.S. § 1501 and 52 Pa. Code § 57.194.(a).

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 safely replace it with an electro-mechanical, analog, non-RF-emitting electric meter of the exact type formerly installed on that home.

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

Respectfully yours,



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February 20, 2024

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All civil rights reserved.
UCC 1-308 invoked.

