

Ann Marie Luyando
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March 27, 2024

Via E-Mail only
The Honorable Gail M. Chiodo
Office of Administrative Law Judge
PA Public Utility Commission
400 North Street
Harrisburg, PA 17120
gchiodo@pa.gov

Re: Ann Marie Luyando, Complainant
v.
Newtown Artesian Water Company

Dear Judge Chiodo:

Enclosed please find the Complainant, Ann Marie Luyando's Motion to Compel Answer to Complainant Interrogatory questions 1 – 26 in the above referenced proceeding.

Copies have been served upon the parties as evidenced by the attached Certificate of Service.

Respectfully submitted,



Ann Marie Luyando
Complainant

Enclosures:

Cc: PUC Secretary Rosemary Chiavetta (via USPS certified mail)
Certificate of Service
Thomas J. Walsh (via email only)
Certificate of Service
twalsh@twalshlaw.com

DATE OF DEPOSIT

MAR 27 2024

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

CERTIFICATE OF SERVICE

Ann Marie Luyando

Complainant

v.

Docket No. F-2022-3034600

Newtown Artesian Company

Respondent

I hereby certify that I have this day served a true copy of the following document, Ann Marie Luyando's Motion to Compel to Complainant's Interrogatory questions 1 – 26, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 27th day of March 2024.

SERVICE

**Secretary (Via Certified Mail)
PA Public Utility Commission
400 North Street
Harrisburg, PA 17120**

**Thomas J. Walsh, III (Via email)
3655 Route 202 Suite 105
Doylestown, PA 18902
twalsh@twalshlaw.com**

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Ann Marie Luyando, Complainant

v.

Docket No. F-2022-3034600

Newtown Artesian Water Company (NAWC)

MOTION OF COMPLAINANT, ANN MARIE LUYANDO
TO DISMISS OBJECTIONS AND TO COMPEL
NEWTOWN ARTESIAN WATER COMPANY TO ANSWER INTERROGATORIES

Pursuant to 52 Pa. Code Section 5.342, Complainant, Ann Marie Luyando hereby respectfully requests that the Administrative Law Judge dismiss the objections of Newtown Artesian Water Company, and Order the Company to timely reply to Complainant, Ann Marie Luyando's questions numbered 1 – 26 in the above-referenced proceedings. The unresolved objection to Complainant's questions 1 – 26 as served, is attached as Appendix A. In support of her Motion, Complainant sets forth the following:

I. INTRODUCTION

On, or about, April of 2022, at the company's direction, Ann Marie Luyando, Complainant, filed her Initial Complaint with the PUC because the company had refused her disability accommodation request but promised to honor her request if the PUC honored it. Complainant was told after the initial complaint that her request was accepted by NAWC but had been given conflicting information about the proposed upgrade replacement water meter and parts that did not put her medical concerns to rest. Complainant immediately made inquiries and requests about the proposed meter but the company did not answer prompting her to file a formal complaint with the PUC before the filing deadline.

About a year later, on Feb. 3, 2023, after unsuccessful attempts to retrieve answers from NAWC, Complainant still had not received the requested information. She informally listed and included the interrogatories in a letter with requested settlement updates to the ALJ, along with her objection to the untimely filing of the answer from NAWC. In her letter Complainant requested the company be ordered to provide answers and copied the Respondent. Again,

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NAWC did not respond to any of the interrogatories. On Feb. 15, 2023, Complainant wrote another letter to the ALJ referencing the unanswered interrogatories and copied the Respondent. Again, NAWC remained defiant in not answering the questions.

On Feb. 25, 2024, in the continued interest of settling an informal agreement prior to, or during, the Feb. 29, 2024 preliminary hearing, Complainant made another attempt at soliciting the company's cooperation in answering interrogatories. Complainant listed all the questions in one document and served the Respondent via email requesting responses. The company did not respond to the questions or the email. Again on Feb. 26, 2024 Complainant sent another email to Respondent with the interrogatories attached asking if the company intended to respond, if so did NAWC intend to do so before or during the preliminary hearing since most of the questions were not new questions. Again the company did not respond to the email or the questions.

On Feb. 29, 2024, almost two years after filing the complaint, despite Complainant's best efforts to reach an informal agreement, the case was deemed unresolved by the ALJ at the informal hearing as Complainant was prevented from making informed decisions due to unanswered questions, conflicting information and new obstacles created by the company without any explanation or clarification in bad faith offers from the company despite her repeated requests for answers to interrogatories served. A Formal Hearing was scheduled due to the NAWC's refusal to answer interrogatories, clarify offer, provide pertinent information, and unwillingness to make a good will offer. NAWC denied Complainant the opportunity to make an informed decision preventing her from reaching an informal settlement agreement and further denying her of any disability accommodation offer.

In pursuit of seeking answers in preparation for the upcoming June 13, 2024 Hearing, Complainant inquired about answers via email to the respondent on March 18th late afternoon, because she had last served the interrogatories to Respondent on February 25th and in accordance with the rules, the answers were due on Sunday, March 17, 2024 (Monday, March 18, 2024). Instead, Respondent emailed untimely objections to the questions late afternoon on Tuesday, March 19, 2024. The rules require objections to interrogatories be served within 10 days of service of the interrogatories, therefore, the objections were to be served no later than March 11, 2024.

Pursuant to 5.342 "Answers or objections to written interrogatories by a party" the Commission lists specific guidelines and states that those guidelines **must be adhered to by the**

party making answers or objections. The Respondent completely ignored these guidelines as set forth by the Commission. Instead, Respondent lists questions in groups and not individually, does not provide any full and complete direct answers, does not file objections and answers directly and in separate documents, does not restate the interrogatory or part thereof deemed objectionable, does not state and explain the specific grounds to the objection, does not include a description of the facts and circumstances purporting to justify the objection, untimely files some incomplete answers and untimely files objections to all questions simultaneously lumped together in the same document while missing the deadlines for both the answers as well as the objections resulting in the inadmissible and untimely filing of both the incomplete answers and the objections.

The interrogatories relevant to this Motion are attached as Attachment A to the unresolved objections. Accordingly, the Complainant, Ann Marie Luyando, submits this Motion to Compel pursuant to 52 Pa. Code 5.342(g) to require NAWC to provide answers to Complainant questions numbered 1 – 26 in their entirety.

II. LEGAL STANDING

The burden is placed on the party objecting to discovery to establish that the information requested is not relevant or discoverable. *See Petition of the Borough of Cornwall for a Declaratory Order that the Provisions of Water Service to Isolated Customers Adjoining its Boundaries Does Not Constitute Provision of Public Utility Service Under 66 Pa. C.S. 102, P-2015-2476211* at 6 (Order Sept. 11, 2015) citing *Koken v. One Beacon Insurance Co.*, 911 A.2d 1021, 25 (Pa. Cmwlth Ct. 2006). Relevancy depends upon the nature and facts of the individual case, and any doubts are to be resolved in favor of relevancy and permitting discovery. *Id.* For information to be relevant it must either tend to establish a material fact, tend to make a fact at issue more or less probable, or support a reasonable inference or presumptions regarding a material fact. *Id.* At 9-10, citing *Smith v. Morrison*, 47 A.3d 131,37 (Pa. Super. Ct. 2012).

Section 5.321(c), of the Commission's Rules of Administrative Practice and Procedure, 52 Pa. Code Section 5.321(c), specifically provides that "a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action." Discovery is permitted regardless of whether the information sought "relates to the claim or defense of the party seeking discovery or to the claim or defense of another party or

participant.” *Id.* Information may be discoverable, even if it would be inadmissible at a hearing. “It is not grounds for objection that the information sought will be inadmissible at hearing if the information sought seems reasonably calculated to lead to the discovery of admissible evidence.” *Id.*

The Commission has held that, “The material sought to be discovered need not be admissible. Rather, it must be reasonably expected to lead to the discovery of admissible evidence.” *J3 Energy Group, Inc. v. West Penn Power Co. and UGI Development Co.*, 2014 Pa. PUC LEXIS 406 at *7 (Order Aug. 21, 2014). Thus, where evidence is reasonably calculated to lead to the discovery of admissible evidence and not privileged, it should be discoverable. Consistently, the Commission has allowed participants wide latitude in discovery matters. *Application of Nabil Nasr and Wael Hafez*, 2012 Pa. PUC LEXIS 1849 at *12 (Order Nov. 28, 2012); *Pa. PUC v. Peoples Natural Gas Co.*, 1986 Pa. PUC LEXIS 79 at *17 (Order Aug. 26, 1986); and *Pa. PUC v. Equitable Gas Co.*, 1986 Pa. PUC LEXIS 110 at *22 (Order May 16, 1986) (*Equitable Gas Co.*).

The Commission has stated that the relevancy test should be liberally applied when considering data requests. *Equitable Gas Co.* at *22. The scope of discovery includes information that relates to any arguments that the Complainant may present in her position in this proceeding. The information sought here is discoverable within the Regulations and Commission practice and is required to be provided to the Complainant pursuant to applicable discovery rules.

III. MOTION TO COMPEL

A. Introduction

Complainant questions 1 – 26 go to the heart of Ms. Luyando’s Complaint. They are designed to assist Ms. Luyando in the understanding and application of the smart water meter technology, proposed equipment and parts, and the impacts to her health regarding the proposed water meter upgrade in her home and any “offer” thereof, clarify any ambiguity created by the company, to determine actual exposure amounts of radiation emission exposure in her home, the frequency of emissions, the power source, the source and method of the signals, any related costs and details, and any other related concerns and risks, and the impact on her health which will likely exacerbate her life threatening disabilities.

These interrogatories have been at the heart of her Complaint from the onset and represent the basis of her Complaint yet the Respondent has been unrelenting in their defiance to fully disclose any answers to the interrogatories and her concerns. Respondent still has not provided Complainant's requested manufacturing specs providing only vague marketing data sheets designed for marketing and sales purposes that offer all fluff but no substance and no real answers to the specific questions and information requested. Requesting full disclosure of clear, concise answers to these interrogatories be provided by NAWC is entirely relevant to her case and is strictly required as per the Commission rules.

As the Commission favors the discoverability of evidence, the Company should be required to produce the information necessary to adequately assess NAWC's proposed water meter, equipment and parts, the application of the smart technology, all related details, costs, any offer details, associated risks and concerns, and their impact on Complainant's health in her home, allowing the Administrative Law Judge to afford the information the proper weight in its consideration of the case.

B. NAWC Has Not Met Its Burden To Demonstrate That the Requested Information Is Outside The Scope Of The Proceeding and Irrelevant.

NAWC has blanket objections to all questions 1 – 26 as beyond the scope of the proceeding and irrelevant without explanation and without identifying which question is being addressed, and has not completely answered any question, or objection, despite being required by the rules, so as to amount to no real answers at all. Ironically, Respondent also falsely attempts to place blame, and the burden of answering interrogatories, on the Complainant even though Respondent was required to answer the interrogatories when they were first served informally over a year ago.

C. NAWC Has Not Satisfied The Commission's Pa. Code 5.342 Strict Requirements In Filing Answers Or Objections To Written Interrogatories To A Party.

Pursuant to **Pa. Code 5.342 Answers or objections to written interrogatories to a party** these specific requirements are required by the Commission but were ignored by NAWC:

- (a) *Form.* Answers to interrogatories must:
- (4) Answer each interrogatory fully and completely unless an objection is made.

(5) Restate the interrogatory, which is being answered or be inserted in the spaces provided in the interrogatories.

(c) *Objections.* An objection shall be prepared, filed and served in the same manner provided for an answer, except that an objection must be contained in a document separate from the answer, as required by the time provisions of subsection (e). An objection must:

(1) Be served instead of an answer.

(2) Restate the interrogatory or part thereof deemed objectionable and the specific ground for the objection.

(3) Include a description of the facts and circumstances purporting to justify the objection.

(d) *Service of answer.* The answering party shall serve answers on the parties within 15 days for rate proceedings, and 20 days after service of the interrogatories for other cases. Time periods may be modified by the presiding officer, on motion or by agreement of the parties.

(e) *Service of objections.* The objecting party shall serve objections within 10 days of service of the interrogatories.

(1) The objecting party shall serve copies of the objection on the parties, along with a certificate of service, which specifically identifies the objectionable interrogatories.

D. NAWC Ignores The ALJ Scheduling Order Filed On March 5, 2024

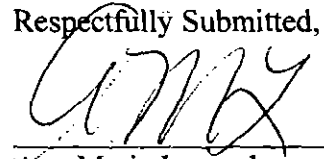
The Administrative Law Judge issued a Scheduling Order filed on March 5, 2024 that orders the parties to **not** send the ALJ discovery requests, **responses or material or cover letters**, unless attached to a motion to compel. On March 19, 2024 NAWC emailed the ALJ copies of Certificate of Service for the discovery responses and objections, forwarded emails sent to Complainant about the discovery responses/objections with attached responses and objection to the ALJ ignoring the Order.

IV. CONCLUSION

The Complainant's questions 1 – 26 interrogatories are all included in the Company's Objections and are directly relevant to Ms. Luyando's Complaint pertaining to the proposed

smart water meter upgrade, technology, radiation emissions, related details, in connection with her disability accommodation request, assist in providing her with a better understanding of the impacts on her health, and is within the scope of this proceeding. The information sought is reasonably calculated to lead to admissible evidence. Additionally, NAWC continues to ignore the Commission's Pa. codes on multiple rules, ignores the ALJ Orders, and continues to default on procedural grounds. For all the reasons discussed above, Ann Marie Luyando, Complainant, respectfully requests that the Administrative Law Judge dismiss the Company's Objections and grant this Motion and Compel NAWC to provide a complete and timely response to all the Complainant discovery at issue here.

Respectfully Submitted,



Ann Marie Luyando
Complainant

4 Magnolia Drive
Newtown, PA 18940
267-917-5854
DATE: March 27, 2024

LUYANDO MOTION TO COMPEL -
APPENDIX A

Thomas J. Walsh III, Esquire
Attorney I.D. #73528
3655 Route 202, Suite 105
Doylestown, PA 18902
Email: twalsh@twalshlaw.com

Attorney for Newtown
Artesian Water Company

ANN MARIE LUYANDO,
Complainant

v.

NEWTOWN ARTESIAN
WATER COMPANY,
Respondent

PENNSYLVANIA PUBLIC
UTILITY COMMISSION

I.D. #73528

No. F-2022-3034600

FORMAL COMPLAINT

**NEWTOWN ARTESIAN WATER COMPANY'S
OBJECTIONS AND RESPONSES TO INTERROGATORIES OF
COMPLAINANT ANN MARIE LUYANDO, SET 1, DATED FEBRUARY 23, 2024**

Pursuant to 52 Pa. Code §5.342, Newtown Artesian Water Company ("NAWC") hereby objects and responds to the Interrogatories of Complainant Ann Marie Luyando ("Luyando"), Set 1:

- L-1. Manufacturer's product spec [sic] sheets of the proposed meter with all parts included and identified, as well as how each part functions, with all EMF/RF emission details including amounts, frequencies, how frequently, etc.
- L-2. Manufacturer's product spec [sic] sheets of all radio frequency radiation emitting and electro magnetic frequencies of the proposed attachments / components with all part listed and identified, as well as how each part functions, with all EMF / RF emission details including amounts, frequencies, how frequently, etc.

Objection: Interrogatories L-1 and L-2 request information that is beyond the scope of the proceeding and therefore cannot result in the discovery of admissible evidence.

Response: NAWC provided Luyando with the manufacturer's specifications for both the iPERL Smart Water Meter and the Xylem SmartPoint module. These are attached as Exhibit "A" and Exhibit "B," respectively, to NAWC's Answer and New Matter. The Formal Complaint is limited to allegations that Luyando is "medically exempt" from the smart meter and related facilities proposed for her residence. Questions regarding how the meter and module function are beyond the scope of the Formal Complaint and cannot lead to the discovery of admissible evidence.

Response Provided By: Daniel Angove, NAWC Chief Executive Officer
Richard Pierone, NAWC Director of Operations

NAWC Responses to Luyando Interrogatories, Set 1

- L-3. Strict evidence proving the NAWC claims that the utility provided and updated Respondents' [sic] contact information including email address to the PUC for the purposes of this formal complaint within the required timeframe to file the answer.
- L-4. Strict evidence that the NAWC email was "out of service" at the time and any evidence that the respondent tried to rectify the problem with the required time frame.

Objection: Interrogatories L-3 and L-4 request information that is beyond the scope of the proceeding and therefore cannot result in the discovery of admissible evidence.

Response: NAWC filed its Answer and New Matter to Luyando's Formal Complaint with the Commission via eFiling on January 25, 2023 (eFiling confirmation number 2453543). At a telephonic conference and hearing held on February 29, 2024, Administrative Law Judge Gail Chiodo granted NAWC's oral motion to consider NAWC's Answer and New Matter as timely filed *nunc pro tunc*. The Formal Complaint is limited to allegations that Luyando is "medically exempt" from the smart meter and related facilities proposed for her residence. Questions regarding NAWC's contact information and status of the email address on file with the PUC are beyond the scope of the Formal Complaint and cannot lead to the discovery of admissible evidence.

Response Provided By: Daniel Angove, NAWC Chief Executive Officer
Richard Pierone, NAWC Director of Operations

NAWC Responses to Luyando Interrogatories, Set 1

- L-5. When (date) was the smart meter upgrade started in Complainants' [sic] neighborhood where she lives? When was it completed? Strict evidence required.
- L-6. When (date) was the smart meter upgrade started in the Complainants' [sic] street where she lives? When was it completed? Strict evidence required.

Objection: Interrogatories L-5 and L-6 request information that is beyond the scope of the proceeding and therefore cannot result in the discovery of admissible evidence.

Response: In 2015, as part of recommendations set forth Management and Operations Audits of NAWC conducted by the Commission's Bureau of Audits, NAWC implemented a directive to replace all of its existing manually-read touchpad meters with automated meter reading (AMR) technology over a ten (10) year period. Luyando's plumber contacted NAWC in or around April 2022 to report a possible leak with the existing meter. NAWC determined that the age and type of meter at Luyando's residence warranted replacement with AMR equipment in accordance with the plan. The Formal Complaint is limited to allegations that Luyando is "medically exempt" from the smart meter and related facilities proposed for her residence. Questions regarding when NAWC conducted water meter replacements near Luyando's residence are beyond the scope of the Formal Complaint and cannot lead to the discovery of admissible evidence.

Response Provided By: Daniel Angove, NAWC Chief Executive Officer
Richard Pierone, NAWC Director of Operations

LUYANDO MOTION TO COMPEL - APPENDIX A

Luyando v. Newtown Artesian Water Company
Formal Complaint – Docket No. F-2022-3034600

NAWC Responses to Luyando Interrogatories, Set 1

- L-7. How old is the current analog meter at Claimants [sic] home? When was that meter installed at Complainants [sic] home address (dates)? Was it installed by NAWC? Strict evidence requested.
- L-8. Did NAWC install an upgraded analog meter within the 20-year time limit, as required by 52 Pa. code [sic] 65.8, after the current analog meter was installed at Claimants' [sic] home address? When was the meter due for an upgrade (dates)? Why wasn't [sic] the upgrade done at her residence within the required timeframe? Strict evidence requested.
- L-9. During the time after the smart meter upgrades were done on Complainants [sic] street where she lives, to present day, did NAWC experience any issues in reading the analog meter and collecting the data needed to fulfill the company's service obligations due to her analog water meter that remained in service during the entire time? If so, what, where, and when (dates)? Strict evidence requested.
- L-10. From the time when the smart water meter upgrades were done on Complainants [sic] street where she lives to present day, did NAWC charge her for any smart water meter upgrade related expenses or costs and/or related equipment and services even though the company neglected to install a smart water meter upgrade at her residence? If so, for what, when, and how much? Please provide itemized quarterly statements reflecting all costs, including any itemized hidden costs, charged to and paid by Complainant during the entire time she was billed for these costs. Strict evidence requested.
- L-11. If NAWC billed any of the aforementioned costs and expenses related to the smart water meter upgrade she did not receive, will the company reimburse her for the full amount from the date of her street upgrades to present date? Strict evidence requested.

Objection: Interrogatories L-7 through L-11, inclusive, request information that is beyond the scope of the proceeding and therefore cannot result in the discovery of admissible evidence.

Response: As of January 2023, the water meter serving Luyando's residence was 32 years old. NAWC does not know when the existing meter was installed. It was most likely installed by the original builder of her home when it was constructed in 1989. Like all similarly situated residents, Luyando pays only residential base rates for water service, per NAWC's tariff. The Formal Complaint is limited to allegations that Luyando is "medically exempt" from the smart meter and related facilities proposed for her residence. Questions regarding the installation date of the existing water meter, NAWC's water meter replacement program, and charges to recover meter replacement costs are beyond the scope of the Formal Complaint and cannot lead to the discovery of admissible evidence.

Response Provided By: Daniel Angove, NAWC Chief Executive Officer
Richard Pierone, NAWC Director of Operations

LUYANDO MOTION TO COMPEL - APPENDIX A

Luyando v. Newtown Artesian Water Company
Formal Complaint - Docket No. F-2022-3034600

NAWC Responses to Luyando Interrogatories, Set 1

- L-12. Why did NAWC rescind the previous offer made to Complainant on 5/31/22? Please provide explanation and details. Strict evidence requested.
- L-13. Did NAWC offer to accommodate Complainants' [sic] request of an analog water meter upgrade in her residence if the PUC honored her accommodation request?

Objection: Interrogatories L-12 and L-13 request information that is beyond the scope of the proceeding and therefore cannot result in the discovery of admissible evidence.

Response: NAWC did not make, nor rescind, any official offer to Luyando on May 31, 2022. Any such communications were discussions by Mr. Angove and Mr. Pierone to attempt to reasonably address Luyando's concerns. By letter dated January 25, 2023, in the interest of settling Luyando's Formal Complaint, NAWC made an official offer to install the iPERL meter but not attach the radio transmitting device (SmartPoint module). The Formal Complaint is limited to allegations that Luyando is "medically exempt" from the smart meter and related facilities proposed for her residence. Questions regarding offers made in the interest of settling the Formal Complaint are beyond the scope of the Formal Complaint and cannot lead to the discovery of admissible evidence.

Response Provided By: Daniel Angove, NAWC Chief Executive Officer
Richard Pierone, NAWC Director of Operations

LUYANDO MOTION TO COMPEL - APPENDIX A

Luyando v. Newtown Artesian Water Company
Formal Complaint – Docket No. F-2022-3034600

NAWC Responses to Luyando Interrogatories, Set 1

- L-14. Would the proposed smart meter install physically include the EMF / RFR-transmitting part(s), or would that part(s) [sic] be “absent” and not physically in her home at any time.
- L-15. What levels of EMF/RFR will the proposed smart water meter, and parts, emit? How frequently will these emissions occur? From how many smart water meter sources, parts, or attachments, will the emissions be emitted?
- L-16. If turned off or removed, would the company still be able to turn on the EMF/Radio Frequency Radiation-emitting device(s) at any time either in person or remotely? If turned off, will the meter still emit any EMF/RFR at any time in Complainants’ [sic] home?
- L-17. Would the installed meter and equipment still have wireless or power line data transmission capabilities?
- L-18. Would the installed meter and equipment still have wireless or power line reception capabilities?
- L-19. Would the installed meter be attached to the wiring of Complainants residence and if so, would the meter and equipment contain surge protection?

Objection: Interrogatories L-14 through L-19, inclusive, request information that is beyond the scope of the proceeding and therefore cannot result in the discovery of admissible evidence.

Response: By letter dated January 25, 2023, NAWC offered to install the iPERL meter but not attach the radio transmitting device (SmartPoint module). The replacement iPERL meter will contain a battery-operated flow measurement system. It will be attached to the existing wire that leads to the existing external touchpad at the residence that is presently used to read Luyando’s water meter. The Formal Complaint is limited to allegations that Luyando is “medically exempt” from the smart meter and related facilities proposed for her residence. Questions regarding offers made in the interest of settling the Formal Complaint, as well as the functioning, capacity, transmission and/or reception capabilities of the proposed meter, are beyond the scope of the Formal Complaint and cannot lead to the discovery of admissible evidence.

Response Provided By: Daniel Angove, NAWC Chief Executive Officer
Richard Pierone, NAWC Director of Operations

NAWC Responses to Luyando Interrogatories, Set 1

- L-20. Would the company employee be required to make readings at Complainant's home from outside the residence, or does the company demand access into the home every month for a meter usage reading?
- L-21. What is the cost for these newly added monthly employee readings at Complainant's residence? Are there any other costs associated with this smart meter upgrade, installation, parts, equipment, services, etc., to be passed on to the Complainant, if so what are they specifically and how much is each cost? Please itemize all associated costs.

Objection: *Interrogatories L-20 and L-21 request information that is beyond the scope of the proceeding and therefore cannot result in the discovery of admissible evidence.*

Response: By letter dated January 25, 2023, in the interest of settling Luyando's Formal Complaint, NAWC offered to install the iPERL meter but not attach the radio transmitting device (SmartPoint module). Under this arrangement, a NAWC employee will need to read the meter in person to determine Luyando's usage just like it is done today. The employee will remain outside Luyando's dwelling to take the reading by using a hand-held meter reader that interacts with the touchpad. Because Luyando rejected this offer, NAWC did not calculate the related labor costs and overhead to read the meter in person. The Formal Complaint is limited to allegations that Luyando is "medically exempt" from the smart meter and related facilities proposed for her residence. Questions regarding offers made in the interest of settling the Formal Complaint, as well as the functioning, capacity, transmission and/or reception capabilities of the proposed meter, are beyond the scope of the Formal Complaint and cannot lead to the discovery of admissible evidence.

Response Provided By: Daniel Angove, NAWC Chief Executive Officer
Richard Pierone, NAWC Director of Operations

NAWC Responses to Luyando Interrogatories, Set 1

- L-22. How much does the proposed smart meter and equipment costs?
- L-23. Who is responsible to pay for the smart meter and equipment the company proposes to install in the Complainant's residence?

Objection: Interrogatories L-22 and L-23 request information that is beyond the scope of the proceeding and therefore cannot result in the discovery of admissible evidence.

Response: The costs for the residential smart water meter and any related equipment are included in NAWC's base rates and/or related surcharge. There is no separate cost imposed on NAWC's customers for the smart water meter. The Formal Complaint is limited to allegations that Luyando is "medically exempt" from the smart meter and related facilities proposed for her residence. Questions regarding the costs of the smart meter are beyond the scope of the Formal Complaint and cannot lead to the discovery of admissible evidence.

Response Provided By: Daniel Angove, NAWC Chief Executive Officer
Richard Pierone, NAWC Director of Operations

NAWC Responses to Luyando Interrogatories, Set 1

- L-24. Did Complainant say she filed a PFA order on her PUC Formal Complaint?
- L-25. In the untimely answer to complaint, Respondent claims that the proposed smart water meter surpasses in its safety and efficiency [sic]. Strict evidence demanded.
- L-26. What PA Codes require the water utility to upgrade smart water meters from analog water meters? Strict evidence requested.

Objection: Interrogatories L-24, L-25, and L-26 request information that is beyond the scope of the proceeding and therefore cannot result in the discovery of admissible evidence.

Response: The Formal Complaint is limited to allegations that Luyando is “medically exempt” from the smart meter and related facilities proposed for her residence. Questions regarding whether or not Complainant filed a PFA, the safety and efficiency of the water meter installed by NAWC, and NAWC’s water meter upgrade and replacement program are beyond the scope of the Formal Complaint and cannot lead to the discovery of admissible evidence.

Response Provided By: Daniel Angove, NAWC Chief Executive Officer
Richard Pierone, NAWC Director of Operations

Luyando's Motion to Compel – Appendix A - Attachment A

Ann M. Luyando
Complainant

PUC No. F-2022-3034600
ALJ Gail Chiodo

Vs

Newtown Artesian Company
Respondent

Discovery requested from Respondent

1. Manufacturer's product spec sheets of the proposed meter with all parts included and identified, as well as how each part functions, with all EMF/RF emission details including amounts, frequencies, how frequently, etc.
2. Manufacturer's product spec sheets of all radio frequency radiation emitting and electro magnetic frequencies of the proposed attachments/components with all parts listed and identified, as well as how each part functions, with all EMF/RF emission details including amounts, frequencies, how frequently, etc.
3. Strict evidence proving the NAWC claims that the utility provided and updated Respondents' contact information including email address to the PUC for the purposes of this formal complaint within the required timeframe to file the answer, as well as when and how the information and updates were forwarded to the PUC.
4. Strict evidence that the NAWC email was "out of service" at the time and any evidence that the respondent tried to rectify the problem within the required time frame.
5. When (date) was the smart meter upgrade started in Complainants' neighborhood where she lives? When was it completed? Strict evidence requested.
6. When (date) was the smart meter upgrade started in Complainants' street where she lives? When was it completed? Strict evidence requested.
7. How old is the current analog meter at Claimants home? When was that meter installed at Complainants home address (dates)? Was it installed by NAWC? Strict evidence requested.
8. Did NAWC install an upgraded analog meter within the 20-year time limit, as required by 52Pa. code 65.8, after the current analog meter was installed at Claimants' home address? When was the meter due for an upgrade (dates)? Why wasn't the upgrade done at her residence within the required timeframe? Strict evidence requested.
9. During the time after the smart water meter upgrades were done on Complainants street where she lives, to present day, did NAWC experience any issues in reading the analog meter and collecting the data needed to fulfill the company's service obligations due to her analog water meter that remained in service during the entire time? If so, what, where, and when (dates)? Strict evidence requested.
10. From the time when the smart water meter upgrades were done on Complainants street where she lives to present day, did NAWC charge her for any smart water meter upgrade related expenses or costs and/or related equipment and services even though the company neglected to install a smart water meter upgrade at her

Luyando's Motion to Compel – Appendix A - Attachment A

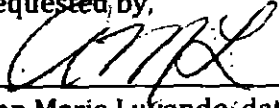
residence? If so, for what, when, and how much? Please provide itemized quarterly statements reflecting all costs, including any itemized hidden costs, charged to and paid by Complainant during the entire time she was billed for these costs. Strict evidence requested.

11. If NAWC billed any of the aforementioned costs and expenses related to the smart water meter upgrade she did not receive, will the company reimburse her for the full amount from the date of her street upgrades to present date? Strict evidence requested.
12. Why did NAWC rescind the previous offer made to Complainant on 5/31/22? Please provide explanation and details. Strict evidence requested.
13. Did NAWC offer to accommodate Complainants' request of an analog water meter upgrade in her residence if the PUC honored her accommodation request?
14. Would the proposed smart meter install physically include the EMF/RFR-transmitting part(s), or would that part(s) be "absent" and not physically in her home at any time?
15. What levels of EMF/RFR will the proposed smart water meter, and parts, emit? How frequently will these emissions occur? From how many smart water meter sources, parts or attachments, will the emissions be emitted?
16. If turned off or removed, would the company still be able to turn on the EMF/Radio Frequency Radiation-emitting device(s) at any time either in person or remotely? If turned off, will the meter still emit any EMF/RFR at any time in Complainants' home?
17. Would the installed meter and equipment still have wireless or power line data transmission capabilities?
18. Would the installed meter and equipment still have wireless or power line reception capabilities?
19. Would the installed meter be attached to the wiring of Complainants residence and if so, would the meter and equipment contain surge protection?
20. Would the company employee be required to make readings at Complainants home from outside the residence, or does the company demand access into the home every month for a meter usage reading?
21. What is the cost for these newly added monthly employee readings at Complainant's residence? Are there any other costs associated with this smart meter upgrade, installation, parts, equipment, services, etc., to be passed on to the Complainant, if so what are they specifically and how much is each cost? Please itemize all associated costs.
22. How much does the proposed smart meter and equipment cost?
23. Who is responsible to pay for the smart meter and equipment the company proposes to install in the Complainant's residence?
24. Did Complainant say she filed a PFA order on her PUC Formal Complaint?
25. In the untimely answer to complaint, Respondent claims that the proposed smart water meter surpasses in its safety and efficiency. Strict evidence demanded.

Luyando's Motion to Compel – Appendix A - Attachment A

26. What PA codes require the water utility to upgrade smart water meters from analog water meters? Strict evidence requested.

Requested by,



Complainant

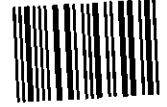
Ann Marie Luyando; date: Feb. 23, 2024

CERTIFIED MAIL



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FROM:



Ann Luyando
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Newtown PA 18940-9236

TO: SECRETARY
PA Public Utility Commission
400 NORTH STREET
HARRISBURG PA 17120

MAR 29 2024

PA PUBLIC UTILITY COMMISSION
SECRETARY BUREAU

717-705-1952

PUC SECRETARY BUREAU

to: PUC

date: 3/29/2024 9:23:10 AM

email carrier:



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