

STATE OF NEW YORK PUBLIC SERVICE COMMISSION

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In the Matter of the Proceeding on Motion of the
Commission as to the Rates, Charges, Rules and
Regulations of Orange and Rockland
Utilities, Inc. for Electric Service.

**Case No.: 18-E-0067
18-G-0068**

**SUBPOENA
DUCES TECUM**

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To: Aclara Meters LLC
Aclara Smart Grid Solutions, LLC
Aclara Technologies LLC
c/o Corporation Service Company
80 State Street
Albany, NY 12207-2543

GREETINGS:

WE COMMAND YOU, that all business and excuses being laid aside, you appear at the New York residence of Deborah Kopald on the **11th day of November 2018, at 10 o'clock in the a.m.** to testify and give evidence in the above-captioned proceeding, and to bring with you and produce at the time and place aforesaid all documents regarding the information listed below, now in your custody or control and all other writings which you have in your custody concerning the information listed below, in a certain proceeding pending before the Public Service Commission regarding the above-mentioned party.

- All notes, written critiques, impressions, critiques of the following study: Leferink F, Keyer C, Melentjev A. Static energy meter errors caused by conducted electromagnetic interference. *IEEE Electromagnetic Compatibility*. 2016; 5(4): 59-55 (“THE LEFERINK STUDY”)
- All studies refuting the findings of THE LEFERINK STUDY, including but not limited to studies performed by Aclara Meters LLC, Aclara Smart Grid Solutions, LLC and/or Aclara Technologies LLC, together- (“ACLARA”) to test the claims made therein.
- All studies supporting the findings of THE LEFERINK STUDY, including but not

limited to studies performed by ACLARA to test the claims made therein.

- All evidence refuting the findings of THE LEFERINK STUDY.
- All evidence supporting the findings of THE LEFERINK STUDY.
- All studies performed by ACLARA that shows how dimmer switches affect the performance of the meters (including, but not limited to their ability to meter electric and/or gas use properly) of the type sold to and/or used by Orange and Rockland Utilities, Inc. (O&R) by ACLARA and/or sold to Consolidated Edison Corporation of New York, Inc. (“CONED”) by ACLARA for use by O&R (“METERS”), including notes and written impressions thereof.

- All evidence of the effects of dimmer switches upon the METERS.
- All notes about technical and/or other fixes to address the effects of dimmer switches upon the ability of the METERS to accurately meter electricity and/or gas use-age.

- All notes about the legal and all other implications of the effects of dimmer switches on the ability of the METERS to accurately meter the electricity and/or gas use-age including all estimates and analyses regarding the costs of overbilling to the ratepayers. (This request includes, but is not limited to, information regarding direct overbilling to the ratepayers and cost to the utility to rectify said overbilling).

- All notes, reports, studies and all other documents about how devices (including, but not limited to, household appliances), conditions on premises (including, but not limited to electrical configuration), environmental conditions, internal aspects of the METERS (including, but not limited to software) affect the ability of the METERS to accurately meter electricity and/or gas use-age (and otherwise perform); as well as all notes, reports and studies documenting engineering, legal and all other implications thereof; as well as all notes, reports and studies

about technical and/or other fixes to address the effects of these devices (including, but not limited to, household appliances), conditions on premises (including, but not limited to, electrical configuration), environmental conditions, internal aspects of the METERS (including, but not limited to, software) upon the ability of the METERS to accurately meter electricity and/or gas use-age (and otherwise perform) as well as all costs of the aforementioned technical and/or other fixes, including all estimates and analyses regarding the costs of overbilling to the ratepayers. (This request includes, but is not limited to, information regarding direct overbilling to ratepayers and costs to the utility to rectify said overbilling).

- All notes, studies and all other documents about the failure rates of the METERS and everything else known about failures of the METERS, as well as all notes, reports and studies documenting engineering, legal and all other implications thereof as well as all notes, reports and studies about technical and/or other fixes to address the failure of the METERS and their costs. This request is not limited to equipment in any specific jurisdiction and refers to the same equipment sold to O&R and/or CONED; it should be read to cover all jurisdictions.

- All notes, studies and all other documents regarding evidence about the service life of the METERS. This request is not limited to equipment in any specific jurisdiction and refers to the same equipment sold to O&R and/or CONED; it should be read to cover all jurisdictions.

The reason for the service of this subpoena is that O&R's response to an interrogatory, Kopald Set 1- Question 35 suggests that ACLARA told O&R that they dismissed the findings of THE LEFERINK STUDY. The intervenors should know the basis for these statements. O&R also told the Administrative Law Judges during a phone conference that this information was relayed to them in a conversation and not with documents. The interrogatory and response are reproduced below:

Question No.: 35

Please explain how the current transformer in the GE 2S-200-RES (727XC86024) will not increase bills of buildings that have dimmer switches that are in use as asserted in the following study ?

Leferink F, Keyer C, Melentjev A. Static energy meter errors caused by conducted electromagnetic interference. *IEEE Electromagnetic Compatibility*. 2016; 5(4): 59-55?

Response

The Company objects to this interrogatory on the grounds that it seeks information that is irrelevant or not reasonably calculated to lead to the discovery of admissible evidence, is overbroad, unduly burdensome, harassing, expensive, oppressive or exceeds the scope of this proceeding. Without waiving these objections, the Company would note that Aclara has reviewed the referenced study and has noted that there are several technical issues with the way it was conducted that adversely affect the results. These include systemic wiring related errors, equipment used outside its rated performance range, and the inadequacy of reference instruments. In addition, the test conditions were not representative of normal electrical wiring practices.

The response to this interrogatory also raises the questions of what other information ACLARA has about the performance of the meters and conditions that could affect their performance that it may or may not have shared with O&R. As O&R is putting these meters into rate base and expenses and raising rates on the basis of their purchase and/or use, it is imperative that the intervenors have any and all information regarding technical flaws/glitches/defects and the implications thereof before the rate hike is approved. The proper depreciation rate of these meters should be accounted for at this time to get the best possible calculation of the appropriate electricity and gas rate increases as the meters are part of the calculation of the rate base and expenses in the formula that leads to this amount, which will affect the economic well-being of the ratepayers. The information requested will help to assess the proper depreciation rate of these meters.

It should be noted that the issues pertaining to service life, dimmer switches and other appliances' and environmental effects upon billing were not necessarily addressed in Cases 16-E-0242 and 16-E-0366. Any new information adduced by ACLARA on any of the

aforementioned topics since that time is relevant inasmuch as it affects the calculation of rates pursuant to the aforementioned.

PLEASE TAKE FURTHER NOTICE, that any failure to comply with this subpoena is punishable as a contempt of Court and shall make you liable to the person on whose behalf this subpoena was issued for a penalty not to exceed one hundred fifty dollars and all damages sustained by reason of your failure to comply.

In lieu of appearing, you may produce the documents at the residence of Deborah Kopald, 88 Forest Hill Road, Fort Montgomery NY, 10922 and by email to Deborah_Kopald@post.harvard.edu If documents are sent by FedEx or UPS, please waive signature and call the below number to let Deborah Kopald know what time window to expect them. Please take further notice: there is no post office service to this address.

Please provide affidavits verifying the authenticity of the documents.

Dated: Fort Montgomery, New York
October 18, 2018


Deborah Kopald, Intervenor
88 Forest Hill Road
Fort Montgomery, NY 10922
(845) 446-9531

So ordered:

- Hon. Dakin Lecakes, ALJ
- Hon. Maureen F. Leary, ALJ
- Hon. Kathleen Burgess, Secretary of the Commission
- Hon. John B. Rhodes
- Hon. Gregg C. Sayre
- Hon. Diane X. Burman
- Hon. James S. Alesi

(check where applicable)

Offices of the New York State Public Service Commission, Albany, NY

Date: October _____, 2018