



THE
LANZA
FIRM

Experience & Value

September 29, 2015

Via electronic mail

Hon. Elizabeth H. Barnes
Administrative Law Judge
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

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SECRETARY'S BUREAU

**RE: Maria Povacz v. PECO Energy Company
Docket No. C-2015-2475023**

Your Honor:

On behalf of Complainant, and in accordance with your Prehearing Order in this matter, issued on July 30, 2015, I am writing to request a change to the hearing scheduled for Monday, October 5, 2015 at 10:00 a.m.

As you are aware, undersigned counsel was retained recently to represent Complainant and more time is needed to prepare the matter for hearing. It is my understanding that there has been no discovery in the case, and the same may be necessary to fully prepare for hearing and to present the case properly to Your Honor. Also, the Complainant's medical witness is not available to testify on October 5th.

Complainant has alleged harmful health effects attributable to the smart meter PECO is installing in its service territory, and Complainant respectfully requests a change to an in-person hearing in order for the Presiding Officer to appreciate the health complications that Complainant is experiencing. If the request to hold an in-person hearing is granted, Complainant would request that the hearing be held in Philadelphia for the convenience of the parties.

Based on the foregoing, Complainant respectfully requests that the hearing in this matter be continued to a date at least ninety (90) days following the issuance date of Your Honor's Order granting a continuance. In addition, Complainant requests that the hearing be held in Philadelphia, the closest site to where the parties and witnesses are located.

Undersigned counsel contacted counsel for Respondent and she objects to the Complainant's request on behalf of PECO.

If you have any questions or concerns regarding the above, do not hesitate to contact me.

Very truly yours,



Edward G. Lanza, Esq.
THE LANZA FIRM, LLC

cc: Shawanee Lee, Esq. (via email)
Maria Povacz (via email)

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September 29, 2015

VIA EMAIL and FACSIMILE

Administrative Law Judge Elizabeth H. Barnes
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Maria Povacz v. PECO Energy Company
Docket Number: C-2015-2475023

Dear Judge Barnes:

This responds to Mr. Lanza's letter of September 29, 2015, in which he requests a delay of the telephonic hearing, currently scheduled for October 5, 2015 at 10:00 a.m., and to change the hearing to an in-person hearing.

The core of Mr. Lanza's request is stated as follows:

Complainant has alleged harmful health effects attributable to the smart meter PECO is installing in its service territory, and Complainant respectfully requests a change to an in-person hearing in order for the Presiding Officer to appreciate the health complications that Complainant is experiencing.

Mr. Lanza also requests an extension in part because "the Complainant's medical witness is not available to testify on October 5th."

Mr. Lanza's entire request is thus predicated on the presumption that the Complainant's AMI health claims will proceed to hearing. However, Your Honor has already ruled that Complainant's health claims are dismissed. In your June 30, 2015 Order, you stated that:

In the instant case, Complainant again requests permission to opt out of a smart meter installation at her residence for health, privacy, and safety reasons. The only difference in the instant Complaint is that Complainant offers evidence of a signed medical certificate showing she is sensitive to electromagnetic waves emitted by smart meters.

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To the extent that Ms. Povacz desires the ability to opt out of the smart meter installation, she should advocate for such ability before the General Assembly. The Commission simply does not have the authority, absent a directive in the form of legislation, to prohibit the Respondent from installing a smart meter where a customer does not want one. Similarly, the Respondent would be in violation of law if it did not install a smart meter at the Complainant's residence. The Commission cannot grant the relief of precluding PECO from installing a smart meter upon the service property as requested by the Complainant.

In accordance with the principles of *res judicata*, the other claims are stricken from the Complaint, and the remaining issue as to whether there was valid medical certification provided to Respondent, and whether Respondent is complying with the provisions of Chapter 14 of the Public Utility Code with regard to notice of termination and medical certification shall be referred to the Mediation Unit for mediation review. There remains a legally sufficient issue of whether Complainant is entitled to a stay of termination based upon a medical certification, which shall be referred to the Mediation Unit for mediation review.

As stated in the above Order, the issues to proceed to hearing are limited to whether the Complainant is entitled to a stay of termination based upon a medical certification and whether PECO complied with the regulations concerning medical certifications. Mr. Lanza has not provided any reason why a medical certificate case should be held in person and why he cannot prepare for a medical certificate case within this timeframe. Based upon this, there is no requirement to move this case to another judge in another forum or to continue this matter to include medical witnesses.

PECO Energy therefore respectfully requests that the request for a transfer of venue to Philadelphia and continuance be denied and the case move forward as scheduled on October 5, 2015.

Very truly yours,



Shawane L. Lee
Assistant General Counsel, PECO Energy
Encl.

cc: Edward Lanza, Esquire, *via email*