

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**  
**Harrisburg, PA 17105-3265**

**Susan Kreider**  
v.  
**PECO Energy Company**

**Public Meeting – January 28, 2016**  
**2495064 – OSA**  
**Docket No. P-2015-2495064**

**STATEMENT OF**  
**COMMISSIONER PAMELA A. WITMER**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Petition for Reconsideration (Petition), filed by PECO Energy Company (PECO), seeking reconsideration of the September 3, 2015 Order (September Order) relative to the above-referenced proceeding. The September Order precluded Ms. Kreider (Complainant) from introducing evidence on the issue of whether an opt-out option is available to smart meter installation. The September Order also contemplated the ability for Ms. Kreider to present evidence that installation of the smart meter at her residence has caused deleterious health effects, because the allegations were specific to her, rather than general in nature. Upon further review of case law on this issue as well as PECO's Petition, I agree with PECO that nothing alleged by Complainant here is new, novel or necessitates an additional hearing. Accordingly, I agree with PECO that this case should be dismissed as legally insufficient.

The facts at issue can be summarized as follows: Complainant alleged that after a smart meter was installed by PECO, she has seen specific health effects. In an effort to "self-help," Complainant had the smart meter removed and an analog meter installed. For relief, Ms. Kreider requested that she wants "to be permitted to keep an analog meter until 2023, or, better yet, allow opt-out." This case is nearly identical to *Gerald Smith v. PECO*, Docket No. C-2014-2443198, where Mr. Smith, among other things, alleged specific health effects upon installation of a smart meter, and had similarly "removed the smart meter and installed a different meter."<sup>1</sup> For relief, Mr. Smith, in part, requested that PECO...remove the smart meter and replace it with the original analog unit."

Mr. Smith's case was dismissed on Preliminary Objections<sup>2</sup> as legally insufficient because "PECO did not violate any Statute, Regulation or Commission Order by installing the smart meter at the Complainant's residence."<sup>3</sup> Because of the nearly identical fact pattern before us today, I must dissent from the majority's opinion. The decision today returns the matter for a hearing to determine whether there is evidence to support the claim that the Complainant's health was affected by the smart meter, and whether or not PECO's use of the meter constitutes unsafe or unreasonable service.

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<sup>1</sup> Smith I.D. at 2.

<sup>2</sup> See *Smith v. PECO Energy Company*, Docket No. C-2014-2443198 (Apr. 23, 2015)

<sup>3</sup> *Id.* at 10 (internal citations omitted).

I disagree with today's action because a plain reading of Act 129 mandates universal deployment of smart meter technology by electric distribution companies without exception, and the Legislature has not created an opt-out provision. Moreover, the Commission approved PECO's Smart Meter Universal Deployment Plan, filed to comply with the requirements of Act 129, as just and reasonable. As such, there is no set of factual circumstances that could be presented that would afford Ms. Kreider the relief she seeks. This is particularly true in the instant proceeding because even with a hearing, the Complainant is precluded from introducing evidence concerning whether a statutory provision, Regulation or Order allows a customer to opt out of smart meter installation.

Accordingly, the better course of action would be to affirm our holding in Smith v. PECO, where under a similar fact pattern, we granted PECO's Preliminary Objections because PECO's installation of a smart meter complied with the relevant provisions of Act 129 and the Commission's related Orders authorizing the development and implementation of smart meter plans, including no opt-out for customers. Unless and until such time as Act 129 is changed, there is no other possible outcome.

For these reasons, I dissent.

**DATE: January 28, 2016**

  
**PAMELA A. WITMER**  
**COMMISSIONER**