



An Exelon Company

Legal Department
2301 Market Street / S23-1
P.O. Box 8699
Philadelphia, PA 19101-8699

Direct Dial: 215-841-6863

April 19, 2016

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120

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

Dear Ms. Chiavetta:

Enclosed for filing with the Commission is PECO Energy Company's Answer to Motion to Compel.

Very truly yours,

A handwritten signature in black ink, appearing to read "Ward L. Smith".

Ward L. Smith
Counsel for PECO Energy Company

WS/ab
Enclosure

cc: Christopher P. Pell, ALJ
Darlene D. Heep, ALJ
Ed Lanza, Esquire

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Maria Povacz

v.

PECO Energy Company

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C-2015-2475023

**PECO Energy Company's
Answer to Motion to Compel**

PECO Energy Company ("PECO") hereby briefly answers the Motion to Compel in this proceeding.

Plaintiff Maria Povacz submitted 65 interrogatory questions to PECO in this proceeding. PECO has answered 60 of those questions, but objected to five questions (27, 35, 52, 58, and 59) on one or two grounds (set out more fully in the objections themselves): (1) that the issue raised is beyond the scope of the proceeding and cannot result in the discovery of admissible evidence, and (2) that the issue raised is beyond the proceeding and the standing of the Complainant. (The Interrogatories to which objections were made, and the full text of PECO's objections, were appended to the Motion to Compel.)

Beyond the Scope of the Proceeding

PECO objected to four questions (27, 52, 58, and 59) on the grounds that they are outside of the scope of the proceeding. The Motion to Compel attempted to demonstrate that three questions – 27, 52, and 58 – are within the scope of the proceeding. PECO therefore notes that Complainant made no response to its objection to Question 59, and by the Commission's rules, Question 59 therefore is deemed withdrawn. 52 Pa. Code §5.342(g).

As to the remaining three questions, Complainant makes essentially two arguments (p. 3) as to how these questions are within the scope of the proceeding. First, Complainant generally argues that,

because she mentioned Section 1501 in her Amended Complaint, she can ask questions about any issue related to safe and reasonable service. Second, Complainant argues (p. 3) that: “It is Complainant’s position that some of the harmful emissions from PECO’s smart meters travel into the living areas of Complainant’s home through the inside wiring and appliances in the home. Question Nos. 27, 52, and 58 seek information regarding the inside wiring and how the wiring is affected by the emissions coming from PECO’s smart meters.”

As to the first response, that is simply not correct. The scope of the proceeding is limited by more than the scope of 1501 – it is limited to the issues raised in the Amended Complaint. A customer could theoretically argue that they have foreign wiring, or that they are entitled to a payment arrangement, and that PECO’s failure to address such issues is a violation of Section 1501. But no one could seriously that, at this point in this proceeding, that Ms. Povacz can pursue a foreign wiring or payment arrangement argument, *because those issues are not raised in the Amended Complaint*. The only issue that is raised in the Amended Complaint is whether exposure to radiofrequency fields from an AMI meter will cause Ms. Povacz to suffer health effects. She cannot pursue any other concerns she may have with the AMI meter (privacy, billing, safety) because none of those issues were raised in the Amended Complaint.

As to the second argument, PECO notes that it has no objection to answering questions regarding how radiofrequency fields from the smart meter may, or may not, enter the home over household wires. Indeed, it gave full answers to Questions 20, 47, 48, and 53 (attached), all of which went to that question.

And, if that is all that is being asked in Questions 27, 52, and 58, then those questions have already been answered, as they apply to service to Complainant. PECO objected to these questions because it is clear to it that the Questions inquire about an that was not raised by the Amended

Complaint, and which was not the subject of the Commission's general scope of remand in *Kreider* hearings – that is, whether installation of the smart meters damages the wiring inside the home.

Question 27 asks about the “impact of smart meter technology on residence wiring and on each of the appliances found in the home of PECO residents.” If this question is simply asking about how emissions could “travel into the living areas,” then PECO already provided that information in response to Question 20, and Question 27 is repetitive and would simply be answered by cross-reference to Question 20. On the other hand, if this question is asking about damage to the wiring, that is outside of the scope of the health issues that are the focus of this proceeding, and the question cannot result in admissible evidence.

Question 52 is the last question in a series (49-52, which are attached) going to PECO's installation procedures, and in that context, and on its face, it clearly asks about potential damage to the residential wiring, asking whether PECO's installation procedures “protect the wiring.” This question is not about how emissions could “travel into the living areas” – it goes to the question of physical damage to the wires, which is not pled in the Amended Complaint.

Similarly, on its face Question 58 asks about “electrical disturbances” in customer homes – not about related health effects. Again, if this question is merely a repeat of the inquiry, already answered for Questions 20, then Question 58 is repetitive and would simply be answered by cross-reference to Question 20. On the other hand, if this question is asking about damage to the wiring, that is outside of the scope of the health issues that are the focus of this proceeding, and the question cannot result in admissible evidence.

Finally, PECO notes that this entire issue appears to be moot in any event. Attempting to demonstrate that transmissions from PECO's AMI meters “travel into the living areas of Complainant's home through the inside wiring and appliances in the home” is a matter of technical expertise that could only be demonstrated by expert testimony. The deadline for filing expert testimony in this proceeding

expired yesterday, April 18, and Complainant did not file any expert testimony that addressed this issue in any way. There is now no mechanism for the Complainant to file expert testimony on whether and how emissions from the AMI meters “travel into the living areas of Complainant’s home through the inside wiring and appliances in the home.”

Beyond the Standing of the Complainant

PECO objected to three questions (35, 58, and 59) as beyond the scope of the proceeding and the standing of the Complainant. Each of these questions asked about complaints that PECO received from customers *other than* Ms. Povacz. PECO’s position is that Ms. Povacz has not made any allegations in her Amended Complaint that go to service to other customers, and that even if she had made such allegations, she would not have standing to pursue such claims on behalf of other customers. These questions therefore cannot lead to the discovery of admissible evidence.

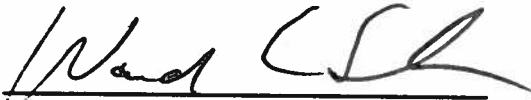
Complainant had effectively one response, best stated at page 4: “If PECO has received complaints from a number of customers regarding the adverse health effects of smart meters and the Company has continued to install harmful smart meters on customers’ homes, this would tend to show that PECO is flouting its obligation under Section 1501.”

The question that is left unanswered in this characterization is: “Flouting its obligations to whom?”

If the claim is: “If PECO has received complaints from a number of customers regarding the adverse health effects of smart meters and the Company has continued to install harmful smart meters on customers’ homes, this would tend to show that PECO is flouting its obligation under Section 1501 to *those other customers*,” then PECO reiterates its objection as stated – Ms. Povacz does not have standing to be an advocate for those other customers. The inquiry cannot result in the discovery of admissible testimony.

If, on the other hand, the claim is: "If PECO has received complaints from a number of customers regarding the adverse health effects of smart meters and the Company has continued to install harmful smart meters on customers' homes, this would tend to show that PECO is flouting its obligation under Section 1501 to Ms. Povacz," then the question is how PECO's service to other customers could possibly be relevant to whether it is providing reasonable service to Ms. Povacz.¹ The Motion to Compel does not explain any nexus between, for example, PECO's interactions with Susan Kreider and whether PECO is providing reasonable utility service to Maria Povacz.

For these reasons, PECO requests that its objections be sustained.



Ward Smith
Assistant General Counsel
PECO Energy Company
215-841-6863
ward.smith@exeloncorp.com

April 19, 2016

Shawane Lee
Assistant General Counsel
PECO Energy Company
215-841-6841
shawane.lee@exeloncorp.com

¹ Ms. Povacz has not made any claim of discriminatory service under §1502 that would warrant a comparison with other customers.

**PECO Energy Company's Answers to
Interrogatories and Requests for Documents
of Complainant Maria Povacz, Set I**

Povacz I-20: Does the Povacz Intended Smart Meter have the capability of sending (a) EMF and harmonics over Romex cable commonly used in residences in Pennsylvania, and/or (b) through walls of residential homes?

PECO Answer to Povacz I-20:

The question does not define "EMF." PECO understands the phrase to refer variously to electric and/or magnetic fields or to electromagnetic fields, depending upon the frequency under discussion, including power frequency fields and radio frequency fields.

Whenever there is a flow of electric current through wires, electric and/or magnetic fields are created, and harmonics can be induced on nearby cables and wires. Every house that receives electric service, which is provided at a frequency of 60 Hz, will experience this phenomenon, regardless of the form of meter or whether there is any meter at all. In addition, every appliance within the home will also induce fields and harmonics. The AMI meter is powered by a small amount of electricity at the frequency of 60 Hz, and it therefore also can induce fields and harmonics on nearby cable. Those fields and harmonics will be vanishingly small next to the fields and harmonics that are created by the electric service that is being measured by the AMI meter.

The purpose of the AMI communication module is to transmit over radio frequencies away from the house. Any transmission through walls would be very attenuated (much reduced). Any radiofrequency signal that was picked up by a Romex cable or similar cable would be severely attenuated over a short distance.

Responsible Witness: Glenn Pritchard and Dr. Christopher Davis

**PECO Energy Company's Answers to
Interrogatories and Requests for Documents
of Complainant Maria Povacz, Set I**

Povacz I-47: Is it possible for residents who do not have a AMI Smart Meter to stop transmissions from neighborhood AMI Smart Meters from entering their homes, either through the resident's wiring or wirelessly?

PECO Answer to Povacz I-47:

PECO is not aware of any practical method of stopping radio frequency transmissions nearby sources from entering the home, regardless of whether the source of the radio frequency transmission is a cell phone, a television station, a nearby WiFi system, an AMI meter, or other source. However, the fields from all sources will be attenuated (reduced) by their passage through structural components of the residence.

Responsible Witness: Glenn Pritchard and Dr. Christopher Davis

**PECO Energy Company's Answers to
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Povacz I-48: Identify all possible EMF fields that a PECO AMI Smart Meter could possibly induce in a customer's household regardless of how small such EMF fields might be.

PECO Answer to Povacz I-48:

See PECO Answer to Povacz I-20.

Responsible Witness: Glenn Pritchard and Dr. Christopher Davis

**PECO Energy Company's Answers to
Interrogatories and Requests for Documents
of Complainant Maria Povacz, Set I**

Povacz I-53. What kinds of EMF filters does PECO provide its customers from harmful EMF and harmonics caused by the AMI Smart Meters it deploys? Are any such filters available from any source, such as the filters which are available for computer cords, which filter electromagnetic static?

PECO Answer to Povacz I-53:

PECO does not accept the premise of the question that its AMI meters cause harmful EMF and harmonics. Given that, PECO does not provide any filters referred to in this question, and is not familiar with the marketplace, if any, for such filters.

Responsible Witness: Glenn Pritchard

**PECO Energy Company's Answers to
Interrogatories and Requests for Documents
of Complainant Maria Povacz, Set I**

Povacz I-49: Does PECO employ electricians to install Smart Meters on customers' homes?

PECO Answer to Povacz I-49:

No. This work is done by qualified installers, but the installers are not licensed electricians.

Responsible Witness: Glenn Pritchard

**PECO Energy Company's Answers to
Interrogatories and Requests for Documents
of Complainant Maria Povacz, Set I**

Povacz I-50: Does PECO provide its installers with protective gear to install AMI Smart Meters? If so, what kind, and for what purpose?

PECO Answer to Povacz I-50:

PECO requires its installers to use appropriate protective gear to protect against the flash potential inherent in working near an energized system. This includes fire resistant clothing, hard hats, safety shoes, gloves, and face shields.

Responsible witness: Glenn Pritchard

**PECO Energy Company's Answers to
Interrogatories and Requests for Documents
of Complainant Maria Povacz, Set I**

Povacz I-51: Does PECO require a "cold" install, i.e., with all electricity to the home shut down, when it installs AMI Smart Meters on homes?

PECO Answer to Povacz I-51:

PECO requests, but does not require, a cold install.

Responsible Witness: Glenn Pritchard

**PECO Energy Company's Answers to
Interrogatories and Requests for Documents
of Complainant Maria Povacz, Set I**

Povacz I-52: How does PECO's installation policy in Interrogatory No. 51 above protect the homeowner's inside wiring when the AMI Smart Meter is attached to the customer's residence?

PECO Answer to Povacz I-52:

PECO has a pending objection to this interrogatory.

Responsible Witness: Prepared by counsel.

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Maria Povacz

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PECO Energy Company

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Docket No. C-2015-2475023

CERTIFICATE OF SERVICE

I, Ward L. Smith, hereby certify that I have this day served a copy of PECO Energy Company's Answer to Motion to Compel via e-mail to:

Ed Lanza, Esquire
The Lanza Firm, LLC
P.O. Box 61336
Harrisburg, PA 17106

Dated at Philadelphia, Pennsylvania, April 19, 2016



Ward L. Smith
Counsel for PECO Energy Company
2301 Market Street, S23-1
Philadelphia, PA 19101-8699
(215) 841-6863
Fax: 215.568.3389
Ward.Smith@exeloncorp.com