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August 26, 2016

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

RE: Jody Myers v. PECO Energy Company
PUC Docket No.: F-2015-2516189

Dear Ms. Chiavetta:

Pursuant to the Order of Dennis J. Buckley, Administrative Law Judge, dated August 8, 2016, enclosed please find the *Amended Preliminary Objection of Respondent, PECO Energy Company* with regard to the matter referenced above.

I have enclosed a Certificate of Service showing that a copy of the above document was served on the interested parties. Thank you for your time and attention on this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Shawane Lee", with a long horizontal flourish extending to the right.

Shawane Lee
Counsel for PECO Energy Company

SL/ab

cc: Honorable Dennis J. Buckley. ALJ
Certificate of Service

PENNSYLVANIA PUBLIC UTILITY COMMISSION

JODY MYERS

Complainant

v.

PECO ENERGY COMPANY

Respondent

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DOCKET NO. F-2015-2516189

NOTICE TO PLEAD

Pursuant to 52 Pa. Code §§ 5.61(a)(2), you are hereby notified that, if you do not file a written response denying or correcting the enclosed Amended Preliminary Objections of PECO Energy Company within 10 days from service of this notice, a decision may be rendered against you. All pleadings, such as a Reply to Amended Preliminary Objections, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for PECO Energy Company, Shawane L. Lee, and where applicable, the Administrative Law Judge presiding over the issue.

File with:

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

With a copy to:

Shawane L. Lee, Esq.
PECO Energy Company
2301 Market Street, S-23
Philadelphia, PA 19103

Dated at Philadelphia, PA, August 26, 2016.



Shawane L. Lee
Counsel for PECO Energy Company
2301 Market Street S-23
Philadelphia, PA 19101-8699
215-841-6841
Shawane.Lee@exeloncorp.com

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JODY MYERS	:	
Complainant	:	
v.	:	DOCKET NO. F-2015-2516189
	:	
PECO ENERGY COMPANY	:	
Respondent	:	

**AMENDED PRELIMINARY OBJECTION OF RESPONDENT,
PECO ENERGY COMPANY**

Respondent, PECO Energy Company (“PECO Energy”), pursuant to 52 Pa. Code § 5.101(a)(4) respectfully petitions this Honorable Commission to dismiss the instant Complaint as legally insufficient.

1. On December 14, 2015, PECO Energy was served with a formal complaint filed by Jody Myers (hereafter “Complainant”). A copy of the Complaint is attached hereto as Exhibit “1”.

2. In her Complaint, the Complainant checks the box “Other” and states “Smart Meter. I do not want it on my home. See Exhibit “1”.

3. In her request for relief, the Complainant states:

Not to install the Smart Meter. I fear of this and will cause I harm. I do not voluntary for it. Nor do concent (sic).

See Exhibit “1”.

4. On December 21, 2015, PECO filed and Answer and Preliminary Objection to the Complainant’s Formal Complaint, requesting dismissal as pursuant to Act 129, the Complainant cannot opt out of smart meter installation.

5. On December 28, 2015, the Complainant filed a response to PECO's Preliminary Objection.

6. In her response, the Complainant stated:

I am a woman require a man or woman under oath or affirmation to come forth to swear smart meter don't cause fires, health risks, radiation expose (sic), damaging appliances, privacy spying, bill increase.

I require to keep my analog meter.

See Complainant's Response to Preliminary Objection, attached hereto as Exhibit "2".

7. In the Complainant's response, she attached a document titled "Testimony Regarding Smart Meter Fires" which is testimony from an individual (not the Complainant) testifying before the Pennsylvania State Legislature regarding Smart Meters.

8. The Complainant also attached a copy of Pennsylvania Senate Bill No. 818, enumerating Section 2807(f)(2)(iii) of Title 66 – the mandate enforcing Smart Meter installation.

9. A telephonic hearing in this matter was scheduled to take place on August 17, 2016.

10. On August 8, 2016, Administrative Law Judge Dennis J. Buckley ("ALJ Buckley") issued an Order continuing the hearing. In ALJ Buckley's Order, he stated:

Where a Complainant has presented specific factual averments regarding the health or other effects that they have experienced after a smart meter was installed at their home, the Commission has overruled Preliminary Objection and allowed a case to proceed. See Kreider. The Commission has determined that the express language of Act 129 does not prohibit the Commission from considering or holding a hearing on issues related to the safety of smart meters. The Commission further determined that to ignore claims relating to the safety of smart meters would be an abdication of its duties and responsibilities under Section 1501 of

the Pennsylvania Utility Code. 66 Pa.C.S. § 1501. *In Kreider, the Complainant alleged specific deleterious health effects after installation of a smart meter affecting her specific medical condition.*

I will not attempt at this time to determine whether the Complaint in this case falls within the requirements of *Kreider*. Complainant is not prejudiced by this PECO's and I will afford PECO the opportunity to address the essential issue, allowing for an Answer from the Complainant.

(Emphasis added).

11. The Complainant's formal complaint requests to "opt out" of smart meter installation because she believes the smart meter has safety, privacy and health effects and she fears the meter may cause safety or health issues if it is installed at her home. As pled, the Complainant is not entitled to a hearing or relief as she has not had a smart meter installed at her home and has not presented "specific factual averments regarding the health or other effects she has experienced."

12. The Complainant's case does not fall under the Kreider exception as enumerated above and should be dismissed as set forth in the cases following the Kreider Order: Alexander Solowij v. PECO, Docket No. F-2015-2491428 (Opinion and Order entered April 7, 2016); Andrew Starr v. PECO Energy Company, Docket No. C-2015-2516061 (Initial Decision entered January 14, 2016); Fugo Eye Institute v. PECO Energy Company, Docket No. C-2015-2519763 (Final Order entered July 7, 2016); Antonio Romeo v. PECO Energy Company, Docket No. C-2015-2479260 (Opinion and Order entered March 3, 2016); See James Crumley v. PECO, Docket No. C-2016-2530436 (Final Order entered August 23, 2016); Alfred Ottaviano v. PECO, Docket No. F-2016-2542081 (Initial Decision entered July 5, 2016).

13. Pursuant to 52 Pa. Code § 5.101, preliminary objections may be filed against a complaint and dismissed for legal insufficiency. 52 Pa. Code § 5.101(a)(4).

14. Commission procedure regarding the disposition of preliminary objections is similar to that utilized in Pennsylvania civil procedure. Equitable Small Transportation Intervenor. v. Equitable Gas Co., 1994 Pa.PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994).

15. In deciding preliminary objections, the Public Utility Commission must determine, based on the factual pleadings of the petitioner, if relief or recovery is possible. Roc v. Flaherty, 527 A.2d 211 (Pa. Cmwlth 1985).

16. A complaint must be able to recover under the law to survive a preliminary objection. Milliner v. Enck, 709 A.2d 417, 418 (Pa. Super. Ct. 1998) (“preliminary objection should be sustained only where it appears with certainty that, upon the facts averred, the law will not allow the plaintiff to recover”).

17. All of the non-moving party’s averments must be taken as true for the sake of deciding the preliminary objection. County of Allegheny v. Commw. of Pa., 490 A.2d 402 (Pa. 1985).

18. The court does not, however, need to accept, “unwarranted inferences from facts, argumentative allegations, or expressions of opinions.” Feingold v. McNulty, 2009 Phila. Ct. Com. Pl LEXIS 167, *3.

19. Section 703 of the Public Utility Code, 66 Pa. C.S.A. § 703(b) provides that the Commission may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary to the public interest.

20. A hearing is required only when there is a disputed question of fact, and is not required to resolve questions of law. Dee-Dee Cab, Inc. v. Pa.Pub. Util. Comm'n, 817 A.2nd 593 (Pa.Comm.w. Ct. 2003), petition for allowance of appeal denied, 836 A.2d 123 (Pa. 2003).

21. Here, there are no genuine issues of fact and PECO Energy is entitled to judgment as a matter of law with respect to all of the allegations in the Complaint.

I. Legal Insufficiency – Prior Commission Approval of Smart Meter Installation

22. The Complainant has requested that she be permitted to “opt out” of the smart meter installation at her residence because she believes the meter will have an effect on her safety, health and privacy.

23. PECO Energy’s Smart Meter installation plan was approved by the Pennsylvania Utility Commission on May 6, 2010, as a part of the Smart Meter Technology Procurement and Installation Plan, (“Smart Meter/Smart Grid Plan”) at docket number M-2009-2123944.

24. By way of background, Governor Edward Rendell signed Act 129 of 2008 into law on October 15, 2008. The Act took effect 30 days thereafter on November 14, 2008, and amended Section 2807 of the Public Utility Code. Among other things, the Act specifically directed that electric distribution companies (such as PECO Energy) with more than 100,000 customers file smart meter technology procurement and installation plans with the Commission for approval. See 66 Pa. C.S. § 2807(f). The statute does not provide customers with an option to “opt out” of smart meter installation.

25. On June 18, 2009, the Commission adopted a Smart Meter Procurement and Installation Implementation Order (“Implementation Order”) to establish the standards each plan must meet and to provide guidance on the procedures to be followed for submittal, review

and approval of all aspects of each smart meter plan. See Smart Meter Procurement and Installation Implementation Order, entered on June 24, 2009, at Docket No. M-2009-2092655.

26. Specifically, the Commission's Implementation Order states:

Act 129 requires EDCs to furnish smart meter technology (1) upon request from a customer that agrees to pay the cost of the smart meter at the time of the request, (2) in new building construction, and (3) in accordance with a depreciation schedule not to exceed 15 years. 66 Pa.C.S. § 2807(f)(2).

The Commission believes that it was the intent of the General Assembly to require all covered EDCs to deploy smart meters system-wide when it included a requirement for smart meter deployment "in accordance with a depreciation schedule not to exceed 15 years."

**THEREFORE,
IT IS ORDERED:**

1. That the Commission establishes specific smart meter technology minimum capabilities and procedures for submittal, review and approval of all aspects of each smart meter plan to include cost recovery.

2. That electric distribution companies with greater than 100,000 customers adhere to the guidelines for smart meter technology procurement and installation identified in this Implementation Order.

3. That the Director of Operations convene a stakeholder meeting no later than July 17, 2009, to discuss issues related to the costs and benefits associated with the Commission imposed smart meter capability requirements.

4. That all electric distribution companies that are required to file a smart meter technology procurement and installation plan file such a plan consistent with the directives contained in this order by August 14, 2009.

See id.

27. The Commission's Order does not have a provision for customers to "opt out" of the smart meter installation.

28. Through its Implementation Order and policies, the Commission has approved the smart meter implementation process required by Act 129.

29. On August 14, 2009, PECO Energy filed with the Commission its Petition of PECO Energy Company for Approval of its Smart Meter/Smart Grid Plan.

30. Amongst other things, PECO Energy's Petition requested that the Commission approve the deployment of up to 600,000 smart meters. See PECO Energy's Smart Meter/Smart Grid Petition.

31. As a part of PECO Energy's meter deployment plan, the company committed to deploy 600,000 meters by March 2013, upon receiving American Recovery and Reinvestment Act funding from the Department of Energy. See id.

32. PECO Energy's Implementation plan does not give customers the option to "opt out" of smart meter installation.

33. By Order entered May 6, 2010 at Docket No. M-2009-2123944, the Commission approved PECO Energy's Smart Meter/Smart Grid Plan.

34. The Commission's Order approving PECO Energy's plan does not provide an "opt out" provision.

35. In conjunction with the Commission's Implementation Order; the Commission-approved Smart Meter/Smart Grid Plan and continuing compliance with Act 129, PECO Energy has deployed over 194,000 Advanced Metering Infrastructure ("AMI") meters in customer's homes and businesses.

36. Act 129, the Commission's Implementation Order; and PECO Energy's Commission-approved Smart Meter/Smart Grid Plan do not provide customers the ability to "opt out" of having a smart meter installed in their homes or businesses. See 66 Pa. C.S. § 2807(f). See

also Smart Meter Procurement and Installation Implementation Order, at Docket No. M-2009-2092655. See PECO Energy's Smart Meter/Smart Grid Plan at docket number M-2009-2123944.

37. The absence of an "opt out" provision in the existing statute; Implementation Order; and Smart Meter/Smart Grid Plan is underscored by a recent bill introduced at the General Assembly.

38. House Bill 394, which was introduced on February 9, 2015, seeks to change the existing law by adding a "opt out" provision. Specifically, House Bill 394 reads as follows:

Section 1. Section 2807(f)(2)(iii) of Title 66 of the Pennsylvania Consolidated Statutes is amended to read:

§ 2807. Duties of electric distribution companies.

(f) Smart meter technology and time of use rates.-

(2) Electric distribution companies shall furnish smart meter technology as follows:

(iii) In accordance with a depreciation schedule not to exceed 15 years. Customers may opt out of receiving smart meter technology under this subparagraph by notifying, in writing, the electric distribution company. The following shall apply:

A) The electric distribution company shall provide an opt-out form to consumers upon request and may provide a method for consumers to opt out electronically through the electric distribution company's Internet website.

39. House Bill 394 attempts to address individual customer concerns about the smart meter (such as the Complainant's concerns) by allowing individual customers to "opt out" of receiving smart meter technology on the mandatory schedule established by Act 129.

40. The "opt out" provision; however, has not been scheduled for a vote by the General Assembly, and the ability to opt out of smart meter installation is not currently permissible under the law.

41. Administrative Law Judge Joel H. Cheskis reached a similar conclusion in the matter Maria Povacz v. PECO Energy, Docket No. C-2012-2317176 (Order entered September 28, 2012). In that case, the Complainant, Maria Povacz requested to “opt out” of installation of the smart meter at her residence. Id.

42. ALJ Cheskis issued an Initial Decision wherein he determined:

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 formal Complaint process against one Electric Distribution Company, PECO, is not the appropriate avenue for this issue to be addressed.

Id.

43. On January 24, 2013, the Commission issued a Final Order, adopting ALJ Cheskis’ Initial Decision. In the Order, the Commission specifically addressed whether a PECO customer could “opt out” of meter installation at their property as follows:

There is no provision in the Code, the Commission’s Regulations or Orders that allows a PECO customer to “opt out” of smart meter installation, as the Complainant desires to do. Accordingly, unless and until House Bill 2188, supra, passes the General Assembly, or some other provision is put in place that specifically allows customers to opt out of smart meter installation, PECO has not violated any provision of the Code, any Commission Order or Regulation or any Commission-approved Company tariff by prohibiting the Complainant from opting out.

See Maria Povacz v. PECO Energy, Docket No. C-2012-2317176 (Order adopted January 24, 2013).

44. The issue of smart meters and a customers’ ability to “opt out” of meter installation has been specifically addressed and rejected by the Commission. See e.g. Theresa Gavin v. PECO Energy, Docket No. C-2012-2325258 (Order entered January 24, 2013); Jeff Morgan v. PECO Energy, Docket No. C-2013-2356606 (Final Order entered July 23, 2013); Thomas

McCarey v. PECO Energy, Docket No. C-2013-2354862 (Final Order entered September 26, 2013); Renney Thomas v. PECO Energy, Docket No. C-2012-2336225 (Final Order entered December 31, 2013); Ellen Donnelly v. PECO Energy, Docket No. F-2013-2330663 (Final Order Entered March 18, 2014) and Gerald H. Smith v. PECO, Docket No. C-2014-2443198 (Opinion and Order entered April 23, 2015).

45. On September 3, 2015, the Commission entered an Opinion and Order in the Smart Meter health “opt out” case Susan Kreider v. PECO, Docket No. P-2009-2495064 (Opinion and Order entered, September 3, 2015). In that case, the Commission determined that the “law does not prohibit [the Commission] from considering or holding a hearing on issues related to the safety of smart meters.”

46. Since the Kreider Order, the Commission has narrowed the cases that will proceed to hearing. For instance, in Alexander Solowij v. PECO, Docket No. F-2015-2491428 (Initial Decision entered September 21, 2015), the Complainant objected to the installation of the Smart Meter because he believed if the meter were installed it would aggravate a health condition. PECO terminated Mr. Solowij’s service for his failure to permit installation of the meter. Administrative Law Judge David A. Salapa (“ALJ Salapa”) granted PECO’s Preliminary Objection and dismissed the complaint.

47. In his Initial Decision, ALJ Salapa pointed out:

Since the complainant in this case does not allege that [PECO] installed a smart meter at the Complainant’s residence and does not allege that the Complainant has suffered specific physical symptoms resulting from the installation of a smart meter, Kreider is not applicable to this case. This conclusion is supported by the Commission’s statement in Kreider that its decision was not intended to create a broad reaching precedent.

See Alexander Solowij v. PECO, supra.

48. Mr. Solowij filed Exceptions to ALJ Cheskis' Initial Decision; however, the Commission agreed with ALJ Cheskis and adopted his Initial Decision. The Commission issued an Opinion and Order, stating:

Based on the Complainant's factual averments in this particular case, we find no genuine issue of material fact. We therefore agreed with the ALJ's conclusion that the Complaint should be dismissed. Regarding the Complainant's objection to smart meter installation at his residence, Mr. Solowij has not presented a claim to which he could personally testify that would support a finding that a smart meter was responsible for any specific safety or health affects he experienced within his home. His allegations concerning this issue do not implicate a potential violation of the Code or the Commission's Regulations or Orders.

See Alexander Solowij v. PECO, Docket No. F-2015-2491428 (Opinion and Order entered April 7, 2016).

49. Administrative Law Judge Steven K. Haas reached a similar conclusion in Andrew Starr v. PECO Energy Company, Docket No. C-2015-2516061 (Initial Decision entered January 14, 2016). In that case, the Complainant objected to the installation of a smart meter because he claimed it would have an effect on his health.

50. ALJ Haas granted PECO's Preliminary Objection and dismissed the case as matter of law. In his Initial Decision, he noted:

In the present case, installation of the smart meter has not yet occurred, since the Complainant has refused to provide his consent to PECO. Therefore, no actual ill health effects have been or could be claimed. The Complainant has not alleged any act done or omitted to be done by the Respondent that constitutes a violation of a statute, Commission regulation or order. Accordingly, the Formal Complaint is legally insufficient and this complaint is dismissed. As there is no legally justiciable claim, a hearing is not necessary in the public interest. 66 Pa.C.S. §703(b).

See Andrew Starr supra.

51. More recently, Administrative Law Judges Darlene D. Heep and Christopher P. Pell reached the same conclusion in Fugo Eye Institute v. PECO Energy Company, Docket No. C-2015-2519763 (Initial Decision entered March 10, 2016) (Final Order entered July 7, 2016). In that case, the Complainant alleged that installation of the smart meter would have a negative health effect on their patients and staff.

52. ALJ Heep and ALJ Pell dismissed the Complainant's formal complaint on PECO's Preliminary Objection stating:

The Fugos have made no specific factual averments regarding health or other effects experienced after a smart meter was installed. **Complainants have not permitted installation of a smart meter at the medical facility. They state, speculatively, that the smart meter "will" have a negative impact on their staff and patients if installed and as relief want keep the old meter. They did not provide any details regarding the alleged future health effects.**

See Fugo Eye Institute v. PECO Energy Company supra.

53. In the case Antonio Romeo v. PECO Energy Company, Docket No. C-2015-2479260 (Initial Decision entered June 4, 2015), the Complainant refused to have a smart meter installed because he feared it would cause fires and affect his safety and health.

54. The Commission adopted Administrative Law Judge Elizabeth H. Barnes' Initial Decision and determined:

There are some cases, such as this case, however, where a hearing would not alter the inevitable conclusion that this Commission cannot provide the Complainant the relief requested. *See, Floyd v. Verizon Pennsylvania LLC*, Docket No. C-2012-2333157 (Order entered April 4, 2013). **Mr. Romeo has not presented a claim to which he could personally testify that would support a finding that a smart meter was responsible for any fire or damage or other specific safety or health affects he experienced within his home.** For these reasons, we find *Carlock* distinguishable from the case now before us and agree with the ALJ's dismissal.

See Antonio Romeo v. PECO Energy Company, Docket No. C-2015-2479260

(Opinion and Order entered March 3, 2016).

55. In the recent case, James Crumley v. PECO, Docket No. C-2016-2530436 (Initial Decision entered May 17, 2016) (Final Order entered August 23, 2016), the Complainant refused the installation of the smart meter at his home and stated that he was “very fearful of meter fires and forced submission to dangerous meters.” The Complainant alleged that smart meters “radiate dangerous radio frequency energy” and the meter is a threat to his security.

56. Administrative Law Judge Darlene D. Heep and Christopher P. Pell granted PECO’s Preliminary Objection and dismissed Mr. Crumley’s case without a hearing. A Final Order was entered in this matter. See James Crumley v. PECO, Docket No. C-2016-2530436 (Final Order entered August 23, 2016).

57. Finally, in Alfred Ottaviano v. PECO, Docket No. F-2016-2542081 (Initial Decision entered July 5, 2016), Administrative Law Judge Darlene D. Heep and Christopher P. Pell granted PECO’s Preliminary Objection and dismissed Mr. Ottaviano’s case without a hearing. In that case, Mr. Ottaviano refused the installation of a smart meter at his home and alleged the meter had issues of health, safety and exposure to certain levels of radiation. Mr. Ottaviano also alleged there were documented incidents of meter fires that caused “damage, havoc, injury and potential loss of life.”

58. ALJ Heep and ALJ Pell denied the Complainant a hearing and dismissed his complaint reasoning:

Mr. Ottaviano’s Complaint does not contain allegations to which he can personally testify, such as that he has experienced fire or damage or other specific safety or health problems with respect to installation of a smart meter. His Complaint does not contain any

allegations of material facts regarding any health effects that he or his family, specifically, would experience if a smart meter is installed in the future, and therefore, his claim is legally insufficient. *See Kreider v. PECO Energy Company.*

59. The case at bar is similar to the Solowij, Starr, Fugo, Romeo, Crumley and Ottaviano cases. The Complainant does not have a meter installed and alleges she does not want the meter because she fears it will affect her privacy, health and safety. The Complainant has not made any specific factual averments of a health effect experienced. The Complainant speculatively suggests that the meter will have an effect on her and cannot personally testify that a smart meter was responsible for a fire or radiation exposure that affected her or her home. As the Complainant has not averred a specific health effect or safety issue caused by the meter, the Complainant's formal complaint must be dismissed as a matter of law.

60. PECO Energy is required by law to install smart meters throughout its service territory, and there is no provision providing customers with an option of "opting out."

61. Assuming that everything the Complainant alleges in his Complaint is true, PECO Energy is operating under the basis of Act 129 and the specific direction given to the company by the legislature and the Commission through the Commission's Implementation Order.

62. As the law currently stands, pursuant to Act 129 and the Commission's Implementation Order, customers do not have the ability to "opt out" of smart meter installation.

63. The Complainant's Complaint, objecting to the installation of a smart meter at her home does not allege a violation of any order, law or tariff that can be the basis of any finding against PECO Energy.

64. Because PECO Energy's smart meters are being deployed in compliance with the Commission-approved Smart Meter/Smart Grid Plan, and the law does not provide for the Complainant to "opt out" of smart meter installation, there is no legal basis for the Complainant's Complaint.

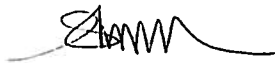
65. For the reasons set forth above, the Complainant's Complaint should be dismissed as a matter of law.

66. Therefore, the Complainant is not entitled to relief under the law.

REQUEST FOR RELIEF

WHEREFORE, for the reasons set forth above, PECO Energy Company respectfully requests that your Honorable Commission summarily dismiss the Complainant's formal complaint, and all issues which were raised in the Complaint.

Respectfully submitted,



Shawane L. Lee
Counsel for PECO Energy Company
2301 Market Street, S23-1
Philadelphia, PA 19103
(215) 841-6841
Fax: 215.568.3389
Shawane.Lee@exeloncorp.com

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JODY MYERS

Complainant

v.

PECO ENERGY COMPANY

Respondent

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DOCKET NO. F-2015-2516189

VERIFICATION

I, Shawane L. Lee, hereby declare that I am counsel for PECO Energy Company; that as such I am authorized to make this verification on its behalf; that the facts set forth in the foregoing Pleading are true to the best of my knowledge, information and belief, and that I make this verification subject to the penalties of 18 Pa. C.S. § 4904 pertaining to false statements to authorities.

Date: August 26, 2016



Shawane L. Lee

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JODY MYERS

Complainant

v.

PECO ENERGY COMPANY

Respondent

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DOCKET NO. F-2015-2516189

CERTIFICATE OF SERVICE

I, Shawane L. Lee, hereby certify that I have this day served a copy of PECO Energy Company's Preliminary Objection in the above matter upon all interested parties by mailing a copy, properly addressed and postage prepaid to:

Jody Myers
824 Scholl Road
Pottstown, PA 19465
Via First Class Mail

August 26, 2016



Shawane L. Lee
Counsel for PECO Energy Company
2301 Market Street, S23-1
P.O. Box 8699
Philadelphia, PA 19101-8699
(215) 841-6841
Fax: 215.568.3389
Shawane.Lee@exeloncorp.com

EXHIBIT "1"

timely
BCS: 3334937
PECO ENERGY
Must be returned by November 30, 2015

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Formal Complaint

Filing this form begins a legal proceeding and you will be a party to the case.
If you do not wish to be a party to the case, consider filing an informal complaint.

To complete this form, please type or print legibly in ink.

PA P.U.C.
SECRETARY'S BUREAU

2015 NOV 30 AM 10:42

RECEIVED

1. Customer (Complainant) Information

Provide your name, mailing address, county, telephone number(s), e-mail address and utility account number: It is your responsibility to update the Commission with any changes to your address and to where you want documents mailed to you.

Name Jody Myers
Street/P.O. Box 824 Scholl Rd Apt # _____
City Pottstown State Pa Zip 19465
County Chester

Telephone Number(s) Where We Can Contact You During the Day:

60327-2017 (home) (mobile)

E-mail Address (optional): _____

Utility Account Number (from your bill) 44792-00509

If your complaint involves utility service provided to a different address or in a different name than your mailing address, please list this information below.

Name _____
Street/P.O. Box _____
City _____ State _____ Zip _____

2. Name of Utility or Company (Respondent)

Provide the full name of the utility or company about which you are complaining. The name of your utility or company is on your bill.

Peco (one)

3. Type of Utility Service

Check the box listing the type of utility service that is the subject of your complaint (check only one):

- ELECTRIC WASTEWATER/SEWER
 GAS TELEPHONE/TELECOMMUNICATIONS (local, long distance)
 WATER MOTOR CARRIER (e.g. taxi, moving company, limousine)
 STEAM HEAT

4. Reason for Complaint

What kind of problem are you having with the utility or company? Check all boxes below that apply and state the reason for your complaint. Explain specifically what you believe the utility or company has done wrong. Provide relevant details including dates, times and places and any other information that may be important. If the complaint is about billing, tell us the amount you believe is not correct. Use additional paper if you need more space. Your complaint may be dismissed without a hearing if you do not provide specific information.

- The utility is threatening to shut off my service or has already shut off my service.
- I would like a payment agreement.
- Incorrect charges are on my bill. Provide dates that are important and an explanation about any amounts or charges that you believe are not correct. Attach a copy of the bill(s) in question if you have it/them.
- I am having a reliability, safety or quality problem with my utility service. Explain the problem, including dates, times or places and any other relevant details that may be important.

Other (explain). *smart meter*
i do not want it on my home

Note: If your complaint is only about removing or modifying a municipal lien filed by the City of Philadelphia, the Public Utility Commission (PUC) cannot address it. Only local courts in Philadelphia County can address this type of complaint. The PUC can address a complaint about service or incorrect billing even if that amount is subject to a lien.

In addition, the PUC generally does not handle complaints about cell phone or Internet service, but may be able to resolve a dispute regarding voice communications over the Internet (including the inability to make voice 911/E911 emergency calls) or concerns about high-speed access to Internet service.

5. Requested Relief

How do you want your complaint to be resolved? Explain what you want the PUC to order the utility or company to do. Use additional paper if you need more space.

not to install the smart meter
i fear of this and will cause i
harm
i do not voluntary for it
nor do i consent

Note: The PUC can decide that a customer was not billed correctly and can order billing refunds. The PUC can also fine a utility or company for not following rules and can order a utility or company to correct a problem with your service. Under state law, the PUC cannot decide whether a utility or company should pay customers for loss or damages. Damage claims may be sought in an appropriate civil court.

6. **Protection From Abuse (PFA)**

Has a court granted a "Protection From Abuse" order that is currently in effect for your personal safety or welfare? The PUC needs this information to properly process your complaint so that your identity is not made public.

Note: You must answer this question if your complaint is against a natural gas distribution utility, an electric distribution utility or a water distribution utility AND your complaint is about a problem involving billing, a request to receive service, a security deposit request, termination of service or a request for a payment agreement.

Has a court granted a "Protection From Abuse" order for your personal safety or welfare?

YES

NO

If your answer to the above question is "yes," attach a copy of the current Protection From Abuse order to this Formal Complaint form.

7. **Prior Utility Contact**

a. Is this an appeal from a decision of the PUC's Bureau of Consumer Services (BCS)?

YES

NO

Note: If you answered yes, move to Section 8. No further contact with the utility or company is required. If you answered no, answer the question in Section 7 b. and answer the question in Section 7 c. if relevant.

b. If this is not an appeal from a BCS decision, have you spoken to a utility or company representative about this complaint?

YES

NO

Note: You must contact the utility first if (1) you are a residential customer, (2) your complaint is against a natural gas distribution utility, an electric distribution utility or a water utility AND (3) your complaint is about a billing problem, a service problem, a termination of service problem, or a request for a payment agreement.

- c. If you tried to speak to a utility company representative about your complaint but were not able to do so, please explain why.

Note: Even if you are not required to contact the utility or company, you should always try to speak to a utility or company representative about your problem before you file a Formal Complaint with the PUC.

8. **Legal Representation**

If you are filing a Formal Complaint as an individual on your own behalf, you are not required to have a lawyer. You may represent yourself at the hearing.

If you are already represented by a lawyer in this matter, provide your lawyer's name, address, telephone number, and e-mail address, if known. Please make sure your lawyer is aware of your complaint. If represented by a lawyer, both you and your lawyer must be present at your hearing.

Lawyer's Name _____

Street/P.O. Box _____

City _____ State _____ Zip _____

Area Code/Phone Number _____

E-mail Address (if known) _____

Note: Corporations, associations, partnerships, limited liability companies and political subdivisions are required to have a lawyer represent them at a hearing and to file any motions, answers, briefs or other legal pleadings.

9. Verification and Signature

You must sign your complaint. Individuals filing a Formal Complaint must print or type their name on the line provided in the verification paragraph below and must sign and date this form in ink. If you do not sign the Formal Complaint, the PUC will not accept it.

Verification:

I Jody Myers, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Jody Myers
(Signature of Complainant)

11-22-2015
(Date)

Title of authorized employee or officer (only applicable to corporations, associations, partnerships, limited liability companies or political subdivisions)

Note: If the Complainant is a corporation, association, partnership, limited liability company or political subdivision, the verification must be signed by an authorized officer or authorized employee. If the Formal Complaint is not signed by one of these individuals, the PUC will not accept it.

10. Two Ways to File Your Formal Complaint

Electronically. You must create an account on the PUC's eFiling system, which may be accessed at <http://www.puc.pa.gov/efiling/default.aspx>.

Note: If you are appealing your Bureau of Consumer Services (BCS) decision, you must file your formal complaint by mail.

Mail. Mail the completed form with your original signature and any attachments, by certified mail, first class mail, or overnight delivery to this address:

Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, Pennsylvania 17120

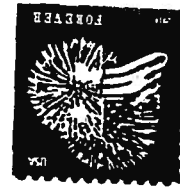
Note: Formal Complaints sent by fax or e-mail will not be accepted.

If you have any questions about filling out this form, please contact the Secretary's Bureau at 717-772-7777.

Keep a copy of your Formal Complaint for your records.

C/o 824 Scholl Rd
Pottstown
Pa 19465

22



Secretary
Pa Public Utility Commission
400 North St
Commonwealth Keystone Building 2nd floor
Harrisburg Pa 17120

1712030093 0000



EXHIBIT "2"

Public Utility Commission
JAN 03 2015
Public Utility Commission

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JODY MYERS
Complainant
v.

PECO ENERGY COMPANY
Respondent

DOCKET NO. F-2015-2516189

Objection

i; a woman require a man or
woman under oath or affirmation
to come forth to swear
Smart meter dont cause fires,
health risks, radiation expose,
damaging appliances, privacy spying,
bill increase

i require to keep my analog meter

Jody Myers
c/o 824 Scholl Rd
Pottstown
Pa 19465

Testimony Regarding Smart Meter Fires

I would like to thank Representative Dave Reed and Kerry Benninghoff for giving me this opportunity to present information on an extremely important issue, smart meter fires.

Smart meters continue to cause fires, home explosions and power surges, causing major destruction to homes, businesses and lives.

This is an example of what happened to a home in Yardley, PA. Mary was initially given a Sensus smart meter in January despite the fact that this smart meter had been recalled two weeks earlier. A few minutes after the smart meter was installed, the homeowner heard an explosion. The lights in her house exploded, her computer exploded, her refrigerator and all other appliances exploded, and the computer surge protector melted onto the floor. As a result of this explosion, her walls and floors needed to be replaced, as well as all the wiring. Her heater needed to be replaced. The microwave and double oven also needed to be replaced.

In February, while Mary's house was being repaired, she was given a Flexall Smart Meter. This smart meter also exploded. As a consequence of this smart meter explosion, she had no electricity to her home, which resulted in basement flooding due to frozen pipes. Tragically, her house sustained major structural damage because of the installation of these smart meters. And this is just one case. There are thirty additional cases.

Electrically initiated fires can be caused by old wiring as well as new wiring.

This and other smart meter fires could have been prevented if the roll-out of smart meters had been discontinued. If the smart meter roll-out continues, more homes and lives will be destroyed, as was the case in California and Canada, where deaths occurred as a result of smart meter fires.

You might think that homeowner's insurance would cover smart meter damage, but that is not the case. Insurance companies consider smart meter technology advanced and therefore will not cover damages if they feel homes are not smart

meter-compliant. For a home to be smart compliant, the home needs to be completely rewired so that it is compliant with the demands of the smart grid. It is prohibitively expensive for the hard-working public to make their homes smart-compliant.

Houses that are currently up-to-code are no longer considered to be up-to-code by the PUC, electric companies, grid subcontractors and insurance companies once a smart meter is placed in the home because smart meters are built with future technologies in mind and are not built to communicate with existing home technology. Given that the grid modernization technology sphere is dynamic and rapidly evolving, our homes will never be smart meter compliant. It is an unreasonable expectation placed on consumers by the utility companies, PUC, insurance companies and the government to require our homes to be smart compliant.

In addition, when PA adopted the smart grid program, Underwriters Laboratories stated that "the meters are owned by the electric companies, while the consumers own and are responsible for the meter box and consumers are responsible for any damage that results from fires, short circuits and power surges."

This means that all the responsibility is placed on the homeowner. Unfortunately, the government, PUC and electric companies never discussed this responsibility with homeowners. And through HB 2200 and Act 129, citizens are forced to comply with the demands of the grid by accepting a smart meter, without being aware that these smart meters may cause home fires. The electric companies know that they can continue to roll-out smart meters because they will not be responsible for the fires due to smart grid program policies. And the insurance companies know they will not have to pay for fire damages because the smart meter grid program puts all the responsibility on the homeowner.

So who is responsible?

The responsibility lies with every person who does nothing to stop the roll-out of these smart meters. The responsibility for the fires and the devastation caused by smart meters is in your hands.

Unfortunately, the individuals who lack an understanding of smart meters and the smart grid are the same individuals who have the most to lose - the citizens of Pennsylvania.

Well, homeowners do not want to be responsible for the horrific consequences of a smart meter fire, either. We did not ask for these meters and we were not made aware of the consequences of installing these meters. I guarantee that no one would want a smart meter if they knew that they can cause fires and deaths. Also, as stated earlier, homes are not adapted for smart meter technology.

Smart meters are not UL-Certified. The Underwriters Laboratories has indicated that only consumer products need to be UL-Certified. A smart meter is considered a "utility product," sold only to utility companies, so they are not required to have testing done by Underwriters Laboratories. Therefore, meters have not passed an important safety test by an independent safety expert such as Underwriters Laboratories.

Tests of smart meter construction specifications in Canada have verified accuracy, but have not guaranteed safe operation over the lifespan of the meter. We can reasonably assume that this is also true for smart meters used in the United States, since Canada uses some of the same meters as the United States.

Electric companies and subcontractors are willfully negligent, reckless and careless for ignoring the requests of citizens to stop putting smart meters in their homes, even though they are well aware that smart meters are continuing to cause fires.

Fires have occurred in the following states and provinces: Michigan, California (a case of one death from a smart meter fire was settled out of court), Florida, Tennessee, Texas, Illinois, Georgia, Vermont, Maine, Nevada, Oregon, District of Columbia, British Columbia, Quebec (where there were 3 deaths before Christmas), and Australia.

Electric companies and subcontractors have clearly been engaging in unfair and deceptive practices.

We believe that electric companies and their subcontractors violated the Unfair Trade Practices and Consumer Protection Law, 73 P.S. 201-1 et seq., for the following reasons:

1. Failure to notify customers of the fires and hazards caused by smart meters.
2. Engaging in fraudulent and deceptive practices which created consumer confusion and caused citizens to believe that smart meters are safe.

In addition, the PUC and electric companies have failed to comply with HB 2200, amending Title 66 (Public Utilities of Pa Consolidation Statutes). Specifically, they have failed to "insure the health, safety and prosperity of all citizens of this commonwealth" by coercing citizens to accept a smart meter or have their electricity shut off. In addition, the PUC and electric companies are well aware that smart meters cause fires and other physical ailments.

Wal-Mart and Sam's Club, recently stated that they "simply cannot participate in programs requiring any type of direct load control by the utility for safety reasons", per Docket No. M-2009-2092655 – Commonwealth of Pennsylvania Public Utility Commission, Smart Meter Technology Procurement and Installation Plans.

If it is not safe for a major corporation, then how can it be safe for us? Pennsylvania citizens simply cannot participate in the smart meter roll- out due to safety concerns!

Support to stop smart meter roll- outs includes the following:

Hawaii State Representative Kaniela Ing introduced bill "Expressing support for an immediate moratorium on the installation and promotion of smart meters until they are proven safe to public health and the environment, economy, and security of the state."

The Governor of Illinois vetoed the smart grid.

The Fairfield, Iowa Water Department proposed to halt implementation of smart water meters and to reimburse citizens for opt-out fees for smart water meters.

Ventura County developed an "opt out" program.

Palo Alto has been installing smart meters since 2009 but recently stopped the installation of smart meters since they had complaints of health problems and increased electric costs. They concluded that it makes no economic or functional sense to install smart meters now. They found that savings were only 1% for residential and ½% for commercial structures.

Solutions to this extremely important problem include:

- Remove the smart meter mandate. Stop the roll-out.
- Remove smart meter charges from our monthly electric bill. We are being forced to pay, through Act 129, to have the electric company roll-out smart meters, which is a serious fire hazard. It is disgraceful that people are being forced to pay for a service that may kill them.
- Manufacturers, subcontractors and the PUC must be held accountable with a mandatory fine of up to \$10,000 per day for a smart meter that is not removed from a home or business after a 3 day recall notification is given to the public.
- The public should be educated about the dangers of smart meter fires.
- There should be no charge for smart meter removal or re-installation of an analog meter.
- A bill should be introduced which establishes the responsibility of electric providers, manufacturers and fire companies to report all smart meter fires. This information should be easily accessible to the public.

In conclusion, we believe that we should not be required to install or pay for a smart meter because the meters represent a serious and potentially deadly fire hazard. Ensuring the safety of the public should be of paramount importance.

Precautionary principle

From Wikipedia, the free encyclopedia

The **precautionary principle** or precautionary approach to policy states that if an action or policy has a suspected risk of causing harm to the public or to the environment, in the absence of scientific knowledge that the action or policy is not harmful, the burden of proof that it is *not* harmful falls on those taking an action.

The principle is used by policy makers to justify discretionary decisions in situations where there is the possibility of harm from making a certain decision (e.g. taking a particular course of action) when extensive scientific knowledge on the matter is lacking. The principle implies that there is a need to protect the public from exposure to harm, when scientific investigation has found a plausible risk. These protections can be relaxed only if further scientific findings emerge that provide sound evidence that no harm will result.

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 818 Session of 2013

INTRODUCED BY WHITE, KASUNIC, ROBBINS, FOLMER, HUTCHINSON, VULAKOVICH, McILHINNEY, ALLOWAY, WARD, BAKER AND EICHELBERGER, APRIL 4, 2013

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, APRIL 4, 2013

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, further providing for duties of
3 electric distribution companies.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Section 2807(f)(2)(iii) of Title 66 of the
7 Pennsylvania Consolidated Statutes is amended to read:

8 § 2807. Duties of electric distribution companies.

9 * * *

10 (f) Smart meter technology and time of use rates.--

11 * * *

12 (2) Electric distribution companies shall furnish smart
13 meter technology as follows:

14 * * *

15 (iii) In accordance with a depreciation schedule not
16 to exceed 15 years. Customers may opt out of receiving

17 smart meter technology under this subparagraph by

notifying, in writing, the electric distribution company.

The following shall apply:

(A) The electric distribution company shall provide an opt-out form to consumers upon request and may provide a method for consumers to opt out electronically through the electric distribution company's Internet website.

(B) The commission shall create and regulate a surcharge for consumers who elect to opt out of receiving smart meter technology under this subparagraph. The surcharge may include a one-time fee and a monthly fee reflective of the actual costs incurred by an electric distribution company to install, read, maintain or service the meters of customers who elect to opt out.

* * *

Section 2. This act shall take effect in 60 days.
20130SB0818PN0857

Proof of service

Shawane lee

2301 Market St 523-1

Phila Pa 19101

first class mail

12-28-2015

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400 North St 2nd floor
Harrisburg Pa 17120

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