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September 1, 2016

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

**RE: Richard and Marie A. Fugo v. Pennsylvania-American Water Company**  
**Docket No. C-2015-2519399**

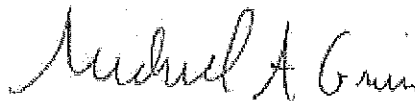
Dear Secretary Chiavetta:

Enclosed for filing on behalf of Pennsylvania-American Water Company is its Motion for Judgment on the Pleadings in the above-referenced matter. A copy has been served on the Complainant in accordance with the attached Certificate of Service.

If you have any questions, please feel free to contact me.

Best Regards,

STEVENS & LEE



Michael A. Gruin

Enclosure

cc: Certificate of Service  
Administrative Law Judge Mark Hoyer

Philadelphia • Reading • Valley Forge • Allentown • Harrisburg • Lancaster • Scranton  
Wilkes-Barre • Princeton • Charleston • New York • Wilmington

A PROFESSIONAL CORPORATION

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

RICHARD AND MARIE A. FUGO  
Complainant

v.

PENNSYLVANIA-AMERICAN  
WATER COMPANY  
Respondent

Docket No. C-2015-2519399

**NOTICE TO PLEAD**

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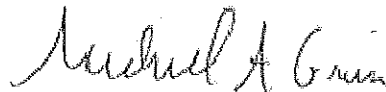
**To: *Richard and Marie Fugo***

You are hereby notified to file a written response to the attached Motion for Judgment on the Pleadings of Pennsylvania-American Water Company within twenty (20) days from the date of service of this notice. If you do not file a written response denying or correcting the enclosed Motion within twenty (20) days of service, the facts set forth by Pennsylvania-American Water Company may be deemed to be true, thereby requiring no other proof, and judgment may be entered against you. All pleadings, such as Answers to Motions, must be filed with the Secretary of the Pennsylvania Public Utility Commission:

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

You must also serve a copy of your response on the undersigned counsel for Pennsylvania-American Water Company. Failure to respond to this Motion could result in the dismissal of your case.

STEVENS & LEE



Michael A. Gruin, (I.D. No. 78625)  
17 N. 2<sup>nd</sup> St., 16<sup>th</sup> Fl  
Harrisburg, PA 17101  
Tel. (717) 255-7365  
Fax (610) 988-0852  
COUNSEL FOR PENNSYLVANIA  
AMERICAN WATER COMPANY

DATE: September 1, 2016

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

RICHARD AND MARIE A. FUGO  
Complainant

v.

PENNSYLVANIA-AMERICAN  
WATER COMPANY  
Respondent

Docket No. C-2015-2519399

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**PENNSYLVANIA-AMERICAN WATER COMPANY'S  
MOTION FOR JUDGMENT ON THE PLEADINGS**

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Pennsylvania-American Water Company (“PAWC” or “Company”), pursuant to 52 Pa. Code § 5.102(c), files this Motion requesting dismissal of the Complaint of Richard and Marie Fugo (“Complainants”) and cancellation of the hearing scheduled for September 13, 2016 in this matter. As set forth below, the Complainants claims against PAWC should be dismissed as a matter of law. In support thereof, the Company avers as follows:

**I. BACKGROUND**

1. On December 21, 2015, PAWC was served with a copy of the Formal Complaint that Complainants filed with the Pennsylvania Public Utility Commission (“Commission”) against PAWC. A copy of the Complainants’ Formal Complaint is attached hereto as Exhibit 1.

2. The Complaint alleges that “Pennsylvania American Water Company was not given permission to install a “smart meter”. The Complaint goes on to allege that *“This location is a medical facility. The installation of new “smart meters” will have a negative health impact on our staff and patients and we can prove and all bills and*

*obligations are paid up to date. Resolution: Allow the present metering system to remain intact”.*

3. On January 11, 2016, PAWC filed an Answer and New Matter with a Notice to Plead, a copy of which is attached hereto as Exhibit 2. The Answer and New Matter was verified, was accompanied by a Notice to Plead, and was served on the Complainants via U.S. Mail.

4. The Complainants did not file a response to PAWC’s New Matter, and therefore, all allegations in PAWC’s New Matter are deemed admitted pursuant to 52 Pa. Code § 5.63(b).

5. PAWC’s Answer and New Matter explained that the meter replacement sought by the Company would include the installation of a radio reading device which will enable the Company to obtain remote readings and will eliminate the need to estimate meter readings during inclement weather.

6. PAWC’s Answer and New Matter further stated that:

- a. Section 12.1 of the Company’s water tariff states that water service may be terminated by the Company for failure to permit access to meters, service connections, or other property of the company for the purpose of replacements, maintenance, or repair of the meter reading device after proper notice; and
- b. Section 5.2 of the Company’s Commission-approved water tariff states that at the Company's option, the Customer shall also provide a safe and readily accessible location outside of his residence for the installation of a remote meter reading device.

7. PAWC's New Matter also explained that the Company was permitted to issue a ten-day termination notice to the Complainants because the Complainants did not permit access to the Company's meter after multiple requests, citing to 52 Pa. Code §65.7(c) and 52 Pa. Code §56.81 (3), and 66 Pa.C.S. §1406(A)(4).

8. PAWC's New Matter explained that there are many benefits to RF meters in comparison to manually-read meters, including the ability to obtain remote readings, the safety of the Company's field personnel, the elimination of the need to estimate meter readings during inclement weather, and better ability to proactively identify leaks that may be present at a customer's location.

9. PAWC's New Matter provided detailed support for why RF meter that the Company seeks to install at the Complainants' property is safe, poses no threat or harm to the Complainants, and conforms to all applicable safety regulations. PAWC's New Matter included the following verified factual statements:

- a. The Company installs RF meters made by leading meter manufacturers which operate within the Industrial, Scientific, and Medical ("ISM") frequency band, which includes frequencies from 902 MHz to 928 MHz.
- b. The U.S. Food and Drug Administration ("FDA") and the FDA's Center for Devices and Radiological Health have classified radiation emitted by devices operating at these RF frequencies as "non-ionizing." Other types of non-ionizing radiation devices include televisions, radios, remote controls, and other devices that use visible light and infrared light.
- c. The Federal Communications Commission ("FCC") has established rules requiring transmitting devices to comply with RF exposure guidelines. The limits established in the guidelines are designed to protect the public

health with a very large margin of safety. These limits have been endorsed by other federal health and safety agencies, such as the Environmental Protection Agency (EPA) and the FDA.

- d. The FCC has established specific exposure guidelines for RF devices operating in the 300 kHz to 100 GHz range. These safety guidelines are outlined in the publication entitled “OET Bulletin 65 Edition 91-01, Evaluating Compliance with the FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Field,” which can be found at [www.fcc.gov/oet/rfsafety](http://www.fcc.gov/oet/rfsafety).
- e. The general population exposure limit set by the FCC for the frequency range utilized by the Company’s meters/radios and other devices like cordless phones and baby monitors is 0.6 milliwatts per centimeter squared ( $\text{mW}/\text{cm}^2$ ) at 902 MHz.
- f. When the RF meters that the Company uses is transmitting, which generally is less than one minute total per day and for 7 milliseconds at a time, the exposure to radio frequency energy at a distance of 20 centimeters (8 inches) from the meter is  $0.06 \text{ mW}/\text{cm}^2$ , which is approximately 10 times lower than the exposure limit set by the FCC
- g. The Company’s RF meters operate in full compliance with the FCC’s regulations at 47 CFR Part 15. These regulations require the coexistence with other Part 15 certified devices. Within the 902-928 MHz frequency band, operation is limited to frequency-hopping, direct sequence spread-spectrum, and digital modulation intentional radiators. This rule facilitates

multiple devices operating in the same location. This includes devices such as security systems, pacemakers, cell phones, and cordless phones.

- h. Numerous studies have been conducted regarding the health effects of RF meters, and there is overwhelming consensus that there is no demonstrable health impact from low-level non-ionizing transmissions from RF meters.

10. By Interim Order issued on January 13, 2016, the Fugos' Complaint was assigned to the Commission's mediation program. No resolution of the Complaint was obtained via the mediation program, and by Prehearing Order issued on August 10, 2016, the matter was scheduled for a hearing on September 13, 2016 before Administrative Law Judge Mark Hoyer.

11. The Commission's regulations at 52 Pa. Code 5.102(a) permit any party to move for summary judgment or judgment on the pleadings after the pleadings are closed. The presiding officer will grant the motion if the pleadings, depositions, answers to interrogatories, admissions and affidavits show that there is no genuine issue as to a material fact and that the moving party is entitled to judgment as a matter of law. 52 Pa. Code § 5.102(d)(1).

12. The moving party bears the burden of showing that no genuine issue of material fact exists and that it is entitled to judgment as a matter of law. The Commission must view the record in the light most favorable to the non-moving party, giving that party the benefit of all reasonable inferences. First Mortgage Co. of Pennsylvania v. McCall, 459 A.2d 406(Pa. Super. 1983).

13. The provision at 52 Pa. Code §5.102(c) serves judicial economy by avoiding a hearing where no factual dispute exists. If no factual issue pertinent to the resolution of the case exists, a hearing is unnecessary. Lehigh Valley Power

Committee v. Pennsylvania Public Utility Commission, 563 A.2d. 557 (Pa. Cmwlth. 1989).

14. The pleadings in this case reveal that Pennsylvania-American Water Company is entitled to judgment as a matter of law.

15. In this case, there is no dispute as to the facts. Viewing the pleadings in the light most favorable to the Complainants, the facts are as follows:

- a. The Complainants object to the installation of a meter with an RF reader at their property, and object to the termination of their service for failing to allow the installation of the new meter.
- b. PAWC has sought access to the Complainants' property to install a meter with an RF reader, and the Complainants have refused to provide access to the property to allow PAWC to install the new meter.
- c. PAWC issued a notice to the Complainants to inform them that their service would be terminated unless the Company was allowed to install the new meter.

16. The facts and the applicable authority make it clear that the PAWC is entitled to judgment as a matter of law, and that no violation can be proven based on the undisputed facts as set forth above.

17. In fact, there is clear Commission precedent that is squarely on point that controls the disposition of this case and supports dismissal of the case without a hearing.

18. In late 2015, Mr. and Mrs. Fugo filed a nearly identical complaint against PECO Energy Company which contained nearly identical allegations to those made in the Complaint against PAWC, i.e. that the installation of a smart meter at their medical

facility will have a negative health impact on the staff and the patients. See, Richard and Marie Fugo v. Peco Energy Company, Docket No. C-2015-2519763

19. PECO filed preliminary objections to the Fugos' Complaint, and by Initial Decisions issued on April 6, 2016, Administrative Law Judges Darlene Heep and Christopher Pell granted the preliminary objections and dismissed the complaint.

20. In dismissing the Fugos' Complaint against PECO, the ALJs noted that

“In this case, however, 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 only allege, speculatively, that the smart meter “will” have a negative impact on their staff and patients if installed, and as relief they want to keep their old meter. They did not provide any details regarding the alleged future health effects.”<sup>1</sup>

21. On July 7, 2016, the Commission issued an Order pursuant to 66 Pa. C.S. §332(h) stating that the Initial Decision issued by ALJs Heep and Pell had become final, that the Fugos' Complaint against PECO was dismissed. A copy of the Commission's Final Order, along with the underlying Initial Decision, is attached hereto as Exhibit 3.

22. In dismissing the Fugos' Complaint against PECO, the ALJs determined that in the context of smart meter complaints, “the Commission has not recognized a general assertion of a potential “negative health impact” as sufficient to overcome Preliminary Objections. More is required than the vague allegation of unspecified future harm presented by the Fugos to overcome PECO's Preliminary Objections.”

23. Dismissal of the Fugos' current Complaint against PAWC is similarly warranted, because the Fugos' Complaint against PAWC is nearly identical to their

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<sup>1</sup> Richard and Marie Fugo v. Peco Energy Company, Docket No. C-2015-2519763 (Initial Decision issued April 6, 2016, at p. 6)

Complaint against PECO, in that the Fugos' Complaint makes only a general assertion about potential negative health impacts associated with the installation of an RF meter.<sup>2</sup>

24. The Commission will grant a motion for judgment on the pleadings only if the pleadings show there is no genuine issue as to a material fact and that the moving party is entitled to judgment as a matter of law. 52 Pa.Code § 5.102(d)(1). Only in a case where the moving party's right to prevail is so clear that a trial would be a fruitless exercise should judgment on the pleadings be granted. Williams v. Lewis, 466 A.2d 682 (Pa.Super. 1983); Service Employees International Union, Local 69, AFL-CIO v. The Peoples Natural Gas Company, d/b/a Dominion Peoples, Docket No. C-20028539 (Opinion and Order entered December 19, 2003). In ruling on a motion for judgment on the pleadings, the tribunal must consider as true all well-pleaded averments of the party against whom the motion is directed and consider against him only those facts he specifically admits. Judgment on the pleadings should be entered only when the case is clear and free from doubt. Reuben v. O'Brien, 496 A.2d 913 (Pa.Super. 1985).

25. Here, PAWC's entitlement to judgment as a matter of law is clear, and based on controlling Commission precedent a hearing would be a fruitless exercise. The Commission has made it clear that Complaints alleging generalized objections to the installation of smart meters on vague health ground must be dismissed as a matter of law, and the Commission has dismissed a nearly identical complaint filed by these exact same Complainants against another utility.

26. The same rationale that applied in the Commission's decision in the Fugo vs. PECO case applies here. As ALJs Heep and Pell held in the Fugos' PECO Complaint

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<sup>2</sup> In fact, the facts of the present case provide a stronger basis for dismissal of the Complaint. The PECO case involved Preliminary Objections, and the case was dismissed based on the averments of the Complaint alone. In the present case, PAWC filed detailed New Matter in response to the Complaint, which provided the Complainants with an additional opportunity to provide support for their allegations of health benefits, but the Complainants did not submit any response to PAWC's New Matter.

case, “more is required than the vague allegation of unspecified future harm presented by the Fugos” to allow their Complaint to go forward against PAWC

27. In addition to the Fugos’ Complaint against PECO, the Commission has dismissed numerous other Complaints brought by customers who alleged general objections to the installation of smart meters. See, e.g., Nancy and Jim Colbert v. PECO Energy Company, Docket No. C-2015-2515607, Order entered June 30, 2016; Maria Povacz v. PECO Energy Company, Docket No. C-2012-2317176 (Order entered January 24, 2013); Theresa Gavin v. PECO Energy Company, Docket No. C-2012-2325258 (Order entered January 24, 2013); Jeff Morgan v. PECO Energy Company, Docket No. C-2013-2356606 (Final Order entered July 23, 2013); Thomas McCarey v. PECO Energy Company, Docket No. C-2013-2354862 (Final Order entered September 26, 2013); Renney Thomas v. PECO Energy Company, Docket No. C-2012-2336225 (Final Order entered December 31, 2013); Ellen Donnelly v. PECO Energy Company, Docket No. F-2013-2330663 (Final Order entered March 18, 2014); and Gerald H. Smith v. PECO Energy Company, Docket No. C-2014-2443198 (Order entered April 23, 2015)

28. There is also no doubt that the applicable regulations and statute permitted PAWC to issue the Fugos a termination notice for preventing PAWC from accessing the meter at their property.

29. The Public Utility Commission’s regulations clearly state that each utility shall at all reasonable times have access to meters, service connections, and other property owned by it on the premises of a customer. See 52 Pa. Code §65.7(c).

30. Furthermore, the Commission’s regulations establish that the refusal of a customer to provide access shall constitute sufficient cause for termination of service. See 52 Pa. Code §56.81 (3).

31. The Public Utility Code also establishes that a utility is permitted to terminate a customer's service for failure to provide meter access. See 66 Pa.C.S. §1406(A)(4).

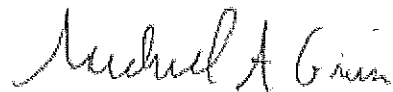
32. Because the Fugos' Complaint only raises generalized and unspecified health objections to the installation of an RF meter, and because the Commission's regulations and the Public Utility Code clearly permit utilities to terminate service for failing to provide access to meters, there can be no doubt the Fugos' complaint must be dismissed. The facts and the applicable authority make it clear that the PAWC is entitled to judgment as a matter of law, and that no violation can be proven based on the undisputed facts as set forth above.

**REQUEST FOR RELIEF**

WHEREFORE, for all of the reasons stated herein, Respondent Pennsylvania-American Water Company respectfully requests that the hearing scheduled for September 13, 2016 in this matter be cancelled, and that your Honorable Commission grant the within Motion and dismiss the Complaint, with prejudice

Respectfully submitted,

STEVENS & LEE



Michael A. Gruin, (I.D. No. 78625)  
17 N. 2<sup>nd</sup> St., 16<sup>th</sup> Fl  
Harrisburg, PA 17101  
Tel. (717) 255-7365  
COUNSEL FOR PENNSYLVANIA  
AMERICAN WATER COMPANY

DATE: September 1, 2016

# **EXHIBIT 1**

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.

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 RICHARD FUGO & MARIE A. FUGO

Street/P.O. Box P.O. Box 1070 Apt #

City NORRISTOWN State PA Zip 19404

County Montgomery

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

(610) 277-3937 (home) (610) 247-7449 (mobile)

E-mail Address (optional):

Utility Account Number (from your bill) 1024-2100.35828230

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 RICHARD FUGO & MARIE A. FUGO

Street/P.O. Box 100 W. FORNANCE ST

City NORRISTOWN State PA Zip 19401

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.

Pennsylvania American Water

RECEIVED

DEC 14 2015

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

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.  
*PENNSYLVANIA AMERICAN WATER WAS NOT GIVEN PERMISSION TO INSTALL A "SMART METER", SHUT OFF DATE: 12/18/15.*
- 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).

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.

*This location is a Medical Facility. The installation of the new "SMART METERS" will have a negative health impact on our staff and patients as we can prove, all bills and obligations are paid up to date.*

*Resolution: Allow the present metering system to remain in tact.*

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 RICHARD FUGO & MARIE FUGO 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).

Richard Fugo & Marie Fugo Marie Fugo 12/11/15  
(Signature of Complainant) (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

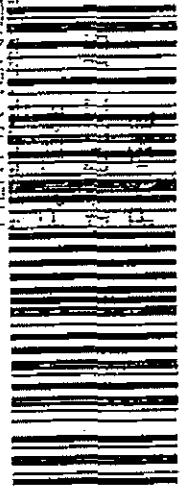
Note: Formal Complaints sent by fax or e-mail will not be accepted.

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.

Richard & Marie Jung  
100 W. Fairview St.  
Newtown, PA 19401

**CERTIFIED MAIL**



7815 1520 0002 6898 1610



1000



17120

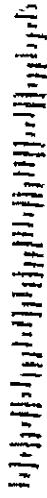
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Secretary  
Pennsylvania Public Utility Commission  
400 NORTH M.  
Harrisburg, PA 17120

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## **EXHIBIT 2**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

RICHARD AND MARIE A. FUGO  
Complainant

v.

PENNSYLVANIA-AMERICAN  
WATER COMPANY  
Respondent

Docket No. C-2015-2519399

**NOTICE TO PLEAD**

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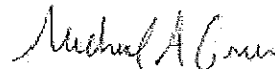
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Harrisburg, PA 17101  
Tel. (717) 255-7365  
Fax (610) 988-0852  
COUNSEL FOR PENNSYLVANIA  
AMERICAN WATER COMPANY

Date: January 11, 2016

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

RICHARD AND MARIE A. FUGO	:	
Complainant	:	
	:	
v.	:	Docket No. C-2015-2519399
	:	
PENNSYLVANIA-AMERICAN	:	
WATER COMPANY	:	
Respondent	:	

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**ANSWER & NEW MATTER OF RESPONDENT,  
PENNSYLVANIA-AMERICAN WATER COMPANY**

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Pursuant to 52 Pa Code §5.61, Pennsylvania-American Water Company (“Respondent” or “Company”), by and through its attorneys Stevens & Lee, P.C., hereby responds to the Formal Complaint (“Complaint”) filed by Richard and Marie Fugo (“Complainants”). In support thereof, the Company avers as follows:

1. Admitted.
2. Admitted.
3. Admitted

4. Admitted in Part and Denied in Part. The Company admits that it has attempted to schedule access to the Company’s meter at the Complainants’ property in order to exchange the meter. The meter replacement sought by the Company would include the installation of a radio reading device which will enable the Company to obtain remote readings and will eliminate the need to estimate meter readings during inclement weather. The Company denies that there is anything improper about the request to install the meter. The Company admits that the Complainants were sent multiple letters to request access to the Complainants’ property. After the Complainants

refused to provide access to the Company's contractor to perform the meter replacement, the Company issued letters to the Complainants which indicated that their service could be terminated for refusal to provide access. The Company denies that it acted improperly or violated any statutes or regulations. To the extent paragraph 4 contains additional allegations, such allegations are denied.

5. The Company denies that the Complainant is entitled to the relief requested. There is no legitimate basis to permit the Complainants to "opt-out" of the installation of an RF meter at their property. To date, the General Assembly has declined to include an opt-out alternative for utility smart meters in the Commonwealth. In testimony before the Consumer Affairs Committee of the Pennsylvania House of Representatives, both Pennsylvania Public Utility Commission Chairman Robert Powelson and former Consumer Advocate Sonny Popowsky stated that a smart meter opt-out process is inefficient and actually increases costs for ratepayers, and therefore is not recommended. The Company denies the Complainants' allegations related to adverse health effects of RF meters. As set forth below in New Matter and the Exhibits attached to this Answer, the RF meters installed by the Company are narrow band, low power transmitters that operate within the 902-928MHz radio frequency spectrum with an output that is far below the maximum authorized by the Federal Communications Commission. The level of exposure to RF emissions for RF meters such as those installed by the Company are lower than typical exposure to laptops, WiFi networks, and cell phones.

6. Paragraph 6 is a statement to which no response is required.

7. Admitted.

8. Paragraph 8 is a statement to which no response is required.

9. Paragraph 9 is a verification to which no response is required.

**NEW MATTER**

1. Pennsylvania-American Water Company incorporates by reference responses contained in Paragraphs 1 through 9 above as though fully set forth at length.

2. Pennsylvania-American Water Company is represented in this matter by:

Michael A. Gruin  
PA ID No. 78625  
Stevens & Lee  
17 North 2<sup>nd</sup> Street, 16<sup>th</sup> Floor  
Harrisburg, PA 17101  
Telephone: 717- 255-7365  
Fax: 610-988-0852  
[mag@stevenslee.com](mailto:mag@stevenslee.com)

3. By letters dated February 6, 2015, February 22, 2015, March 13, 2015, June 2, 2015, June 17, 2015 and July 29, 2015, the Company informed the Complainants that its contractor needed access to their property to install a new meter.

4. On October 27, 2015, a Ten-Day Shut-Off Notice for Non Access was sent to the Complainants. The notice again requested that the Complainants contact the Company to schedule an appointment to provide access to change their meter. This letter advised the Complainant that their water service would be shut-off on November 9, 2015 if they did not respond to the Company.

5. The Company has notified the Complainants on multiple occasions in writing that access to their meter was required, but the Complainants failed to provide the requested access.

6. Section 12.1 of the Company's water tariff states that water service may be terminated by the Company for failure to permit access to meters, service connections, or

other property of the company for the purpose of replacements, maintenance, or repair of the meter reading device after proper notice.

7. Section 5.2 of the Company's Commission-approved water tariff states that at the Company's option, the Customer shall also provide a safe and readily accessible location outside of his residence for the installation of a remote meter reading device.

8. The Public Utility Commission's regulations clearly state that each utility shall at all reasonable times have access to meters, service connections, and other property owned by it on the premises of a customer. See 52 Pa. Code §65.7(c).

9. Furthermore, the Commission's regulations establish that the refusal of a customer to provide access shall constitute sufficient cause for termination of service. See 52 Pa. Code §56.81 (3).

10. The Public Utility Code also establishes that a utility is permitted to terminate a customer's service for failure to provide meter access. See 66 Pa.C.S. §1406(A)(4).

11. Because the Complainant did not permit access to the Company's meter after multiple requests, the Company was permitted to issue a ten-day termination notice to the Complainant.

12. Like many water utilities throughout the United States, the Company is upgrading its metering infrastructure to include RF meters. There are many benefits to RF meters in comparison to manually-read meters, including efficiency, safety and environmental benefits. The use of RF meters enables the Company to obtain remote readings, which eliminates the need to have a Company field representative physically read each and every customer meter. This is especially beneficial in situations where a customer's meter is located inside a home or in a difficult to reach location. RF meters

promote the safety of the Company's field personnel, who are able now able to obtain meter readings while avoiding potentially dangerous situations within neighborhoods and at customer premises such as dogs and/or unsafe sidewalks and stairwells. RF meters also eliminate the need to estimate meter readings during inclement weather.

13. The RF meters also provide the Company with a better ability to proactively identify leaks that may be present at a customer's location. Because readings are obtained from RF meters throughout a billing cycle, and not just once each month, the Company is able assist customers with troubleshooting leaks, theft of water, or unintended usage.

14. The RF meter that the Company seeks to install at the Complainants' property is safe, poses no threat or harm to the Complainants, and conforms to all applicable safety regulations.

15. The Company installs RF meters made by leading meter manufacturers which operate within the Industrial, Scientific, and Medical ("ISM") frequency band, which includes frequencies from 902 MHz to 928 MHz.

16. The U.S. Food and Drug Administration ("FDA") and the FDA's Center for Devices and Radiological Health have classified radiation emitted by devices operating at these RF frequencies as "non-ionizing." Other types of non-ionizing radiation devices include televisions, radios, remote controls, and other devices that use visible light and infrared light.

17. The Federal Communications Commission ("FCC") has established rules requiring transmitting devices to comply with RF exposure guidelines. The limits established in the guidelines are designed to protect the public health with a very large

margin of safety. These limits have been endorsed by other federal health and safety agencies, such as the Environmental Protection Agency (EPA) and the FDA.

18. The FCC has established specific exposure guidelines for RF devices operating in the 300 kHz to 100 GHz range. These safety guidelines are outlined in the publication entitled "OET Bulletin 65 Edition 91-01, Evaluating Compliance with the FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Field," which can be found at [www.fcc.gov/oet/rfsafety](http://www.fcc.gov/oet/rfsafety).

19. The general population exposure limit set by the FCC for the frequency range utilized by the Company's meters/radios and other devices like cordless phones and baby monitors is 0.6 milliwatts per centimeter squared (mW/cm<sup>2</sup>) at 902 MHz.

20. When the RF meters that the Company uses is transmitting, which generally is less than one minute total per day and for 7 milliseconds at a time, the exposure to radio frequency energy at a distance of 20 centimeters (8 inches) from the meter is 0.06 mW/cm<sup>2</sup>, which is approximately 10 times lower than the exposure limit set by the FCC.

21. The Company's RF meters operate in full compliance with the FCC's regulations at 47 CFR Part 15. These regulations require the coexistence with other Part 15 certified devices. Within the 902-928 MHz frequency band, operation is limited to frequency-hopping, direct sequence spread-spectrum, and digital modulation intentional radiators. This rule facilitates multiple devices operating in the same location. This includes devices such as security systems, pacemakers, cell phones, and cordless phones.

22. Again, the meter's transmit signal is of very short duration (7 milliseconds), which further decreases the potential for interference with other devices.

For comparison, 7 milliseconds equates to approximately one minute total transmission time per day.

23. Numerous studies have been conducted regarding the health effects of RF meters, and there is overwhelming consensus that there is no demonstrable health impact from low-level non-ionizing transmissions from RF meters.

24. The Company acted properly in all respects in connection with the Complainant's account.

25. The Complainant fails to state a claim for which relief can be granted.

**REQUEST FOR RELIEF**

WHEREFORE, for all of the reasons stated herein, Respondent Pennsylvania-American Water Company respectfully requests that your Honorable Commission dismiss the instant complaint with prejudice.

Respectfully submitted,

STEVENS & LEE



Michael A. Gruin, (I.D. No. 78625)  
17 N. 2<sup>nd</sup> St., 16<sup>th</sup> Fl  
Harrisburg, PA 17101  
Tel. (717) 255-7365  
Fax (610) 988-0852

COUNSEL FOR PENNSYLVANIA  
AMERICAN WATER COMPANY

DATE: January 11, 2016

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

RICHARD AND MARIE A. FUGO  
Complainant

v.

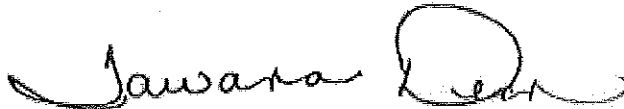
PENNSYLVANIA-AMERICAN  
WATER COMPANY  
Respondent

Docket No. C-2015-2519399

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**VERIFICATION**

I, Tawana Dean, Regulatory Compliance Manager with Pennsylvania American Water Company, verify that the answers and the factual allegations contained in the foregoing Answer to Complaint are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsifications to authorities.



Date: January 11, 2016

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

RICHARD AND MARIE A. FUGO  
Complainant

v.

PENNSYLVANIA-AMERICAN  
WATER COMPANY  
Respondent

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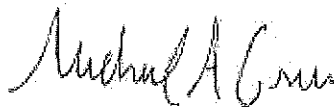
Docket No. C-2015-2519399

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing Answer upon the party listed below, in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a party).

VIA First Class U.S. Mail

Richard and Marie A. Fugo  
P.O. Box 1070  
Norristown, PA 19404



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Michael A. Gruin

DATED: January 11, 2016

# **EXHIBIT 3**

PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265

Richard and Marie Fugo  
in care of Fugo Eye Institute

v.

PECO Energy Company

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C-2015-2519763  
C-2015-2519770

**FINAL ORDER**

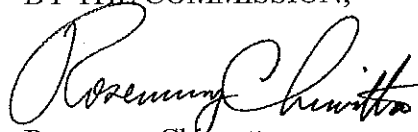
In accordance with the provisions of Section 332(h) of the Public Utility Code, 66 Pa. C.S. §332(h), the decision of Administrative Law Judges Darlene D. Heep and Christopher P. Pell dated April 6, 2016, has become final without further Commission action;

THEREFORE,

IT IS ORDERED:

1. That the Complaint in the case captioned as Richard and Marie Fugo in care of Fugo Eye Institute v. PECO Energy Company at Docket Numbers C-2015-2519763 and C-2015-2519770 (consolidated) is dismissed.
2. That the Complaints be marked closed.

BY THE COMMISSION,



Rosemary Chlavetta  
Secretary

(SEAL)

ORDER ENTERED: July 7, 2016

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Richard and Marie Fugo	:	
in care of Fugo Eye Institute	:	
	:	
v.	:	C-2015-2519763
	:	C-2015-2519770
PECO Energy Company	:	

**INITIAL DECISION**

Before  
Darlene D. Heep  
Administrative Law Judge

Christopher P. Pell  
Administrative Law Judge

The Complainants object to the installation of a smart meter at their eye clinic. PECO filed Preliminary Objections, contending that PECO seeks to install the meter in accordance with the law and therefore the Complaint is legally insufficient and should be dismissed. Given the vague and speculative assertions made by the Complainant's in their Complaint, PECO's Preliminary Objections are sustained and the matter is dismissed.

**HISTORY OF THE PROCEEDING**

On December 16, 2015, Richard and Marie Fugo filed two separate Formal Complaints against PECO, Docket Nos. C-2015-2519763 and C-2015-2519770.<sup>1</sup> In their Complaints, the Fugos state that: 1) PECO is threatening to shut off their service or has already shut it off, 2) PECO was not given permission to install a smart meter, and 3) installation of a

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<sup>1</sup> These two Complaints are essentially identical. Accordingly, the Complaints at Docket Nos. C-2015-2519763 and C-2015-2519770 were consolidated by Order dated March 22, 2016.

smart meter at their medical facility will have a negative health impact on the staff and the patients. They further state that they would like the present metering system “to remain intact.”

On December 29, 2015, PECO filed an Answer and Preliminary Objections. PECO argues in its Preliminary Objections that the Complaint should be dismissed under 52 Pa.Code § 5.101(a)(4) for legal insufficiency. Specifically, PECO avers that the Complainants want to opt out of smart meter installation for health reasons, but that an opt out is not available under any controlling authority. PECO contends that an opt out is not provided for under PECO’s smart meter installation plan<sup>2</sup> that was approved by the Commission,<sup>3</sup> under Act 129 of 2008 (Act 129) under which PECO’s smart meter plan was compelled, or under the Commission’s June 18, 2009 Order establishing standards for which each electric distribution company (EDC) with more than 100,000 customers must file smart meter technology procurement and installation plans.<sup>4</sup>

PECO also avers in support of its Preliminary Objections that the General Assembly has not acted on draft legislation that would permit a customer to opt out of smart meter installation. PECO also referenced several Commission Orders in which complaints against smart meter installation were dismissed upon preliminary objection.<sup>5</sup>

Complainants did not file a response to the Preliminary Objections.

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<sup>2</sup> See *Petition of PECO Energy Company for Approval of its Smart Meter Technology Procurement and Installation Plan*, Docket No. M-2009-2123944 (Smart Meter Plan).

<sup>3</sup> See *Petition of PECO Energy Company for Approval of its Smart Meter Technology Procurement and Installation Plan*, Docket No. M-2009-2123944 (Order entered May 6, 2010) (*PECO Smart Meter Plan Order*).

<sup>4</sup> See *Smart Meter Procurement and Installation*, Docket No. M-2009-2092655 (Implementation Order entered June 24, 2009) (*Smart Meter Procurement and Installation Order*).

<sup>5</sup> See *Maria Povacz v. PECO Energy Company*, Docket No. C-2012-2317176 (Order entered January 24, 2013); *Theresa Gavin v. PECO Energy Company*, Docket No. C-2012-2325258 (Order entered January 24, 2013); *Jeff Morgan v. PECO Energy Company*, Docket No. C-2013-2356606 (Final Order entered July 23, 2013); *Thomas McCarey v. PECO Energy Company*, Docket No. C-2013-2354862 (Final Order entered September 26, 2013); *Renney Thomas v. PECO Energy Company*, Docket No. C-2012-2336225 (Final Order entered December 31, 2013); *Ellen Donnelly v. PECO Energy Company*, Docket No. F-2013-2330663 (Final Order entered March 18, 2014); and *Gerald H. Smith v. PECO*, Docket No. C-2014-2443198 (Final Order entered April 23, 2015).

On March 10, 2016, we issued an Initial Order sustaining the Preliminary Objections and allowing the Complainants ten days to amend their Complaint, pursuant to 52 Pa.Code § 5.101(h) and advised that a party that is not an individual must be represented by an attorney.

This matter is ripe for disposition.

#### FINDINGS OF FACT

1. The Complainants in this proceeding are Richard and Marie Fugo in care of Fugo Eye Institute.
2. The respondent in this proceeding is PECO Energy Company.
3. The service address at issue is Fugo Eye Institute, 100 West Fornance Street, Norristown, PA 19401.
4. On December 16, 2015, Complainants filed a formal Complaint alleging that PECO is threatening to shut off their service or has already shut it off, that PECO was not given permission to install a smart meter, and that installation of a smart meter at their medical facility will have a negative health impact on the staff and the patients.
5. On December 29, 2015, PECO filed Preliminary Objections asserting that the Complaint should be dismissed under 52 Pa.Code § 5.101(a)(4) for legal insufficiency.
6. Complainants did not file a response to PECO's Preliminary Objection.
7. On March 10, 2016, we issued an Initial Order sustaining the Preliminary Objections and allowing the Complainants ten days to amend their Complaint, pursuant to 52 Pa.Code § 5.101(h).

8. Complainants did not file an amended complaint.

### DISCUSSION

Section 5.101 of Commission regulations, 52 Pa.Code § 5.101, sets forth the grounds for granting preliminary objections. That section provides as follows:

#### **§ 5.101. Preliminary objections.**

(a) *Grounds.* Preliminary objections are available to parties and may be filed in response to a pleading except motions and prior preliminary objections. Preliminary objections must be accompanied by a notice to plead, must state specifically the legal and factual grounds relied upon and be limited to the following:

- (1) Lack of Commission jurisdiction or improper service of the pleading initiating the proceeding.
- (2) Failure of a pleading to conform to this chapter or the inclusion of scandalous or impertinent matter.
- (3) Insufficient specificity of a pleading.
- (4) Legal insufficiency of a pleading.
- (5) Lack of capacity to sue, nonjoinder of a necessary party or misjoinder of a cause of action.
- (6) Pendency of a prior proceeding or agreement for alternative dispute resolution.
- (7) Standing of a party to participate in the proceeding.

52 Pa.Code § 5.101(a).

Commission procedure regarding the disposition of preliminary objections is similar to the procedure utilized in Pennsylvania civil practice. A preliminary objection in civil practice seeking dismissal of a pleading will be granted only where relief is clearly warranted and free from doubt. *Interstate Traveller Services, Inc. v. Pa. Dep't of Environmental Resources*, 486 Pa. 536, 406 A.2d 1020 (1979). The moving party may not rely on its own

factual assertions, but must accept for the purposes of disposition of the preliminary objection all well-pleaded, material facts of the other party, as well as every inference fairly deducible from those facts. *County of Allegheny v. Commonwealth of Pa.*, 507 Pa. 360, 490 A.2d 402 (1985). The preliminary objection may be granted only if the moving party prevails as a matter of law. *Rok v. Flaherty*, 527 A.2d 211 (Pa. Cmwlth. 1987). Any doubt must be resolved in favor of the non-moving party by refusing to sustain the preliminary objections. *Dep't. of Auditor General, et al. v. State Employees' Retirement System, et al.*, 836 A.2d 1053, 1064 (Pa. Cmwlth. 2003) (citing *Boyd v. Ward*, 802 A.2d 705 (Pa. Cmwlth. 2002)).

In order to be legally sufficient, a complaint must set forth “an act or thing done or omitted to be done or about to be done or omitted to be done by the respondent in violation, or claimed violation, of a statute which the Commission has jurisdiction to administer, or of a regulation or order of the Commission.” 52 Pa.Code § 5.22(a)(4). Further, a complainant must be able to recover under law to survive a preliminary objection. *Milliner v. Enck*, 709 A. 2<sup>nd</sup> 417, 418 (Pa. Super. Ct. 1998).

The Fugos state that they have not given PECO permission to install a smart meter and that PECO is now threatening to shut off their service or has shut it off. As relief they seek to keep the meter now in place. Respondent contends that the Complaint is legally insufficient because the allegations of the Fugos do not set forth that Respondent has violated any statute, regulation or order which the Commission has jurisdiction to administer by attempting to install a smart meter at the Complainants' eye clinic or by threatening termination. Given that the Commission has stated that there is no provision in the Code, the Commission's Regulations or Orders that allows a PECO customer to “opt out” of smart installation (*See Maria Povaca v. PECO Energy Company*, Docket No. C-2012-2317176 (Order and Opinion entered January 24, 2013)) and that the relief sought by the Fugos is an “opt out” of installation of a smart meter PECO's Preliminary Objection was sustained.

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 Objections and allowed a case to proceed. *See Van*

*Schoyck* and *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 Code. *Susan Kreider v. PECO Energy Company*, Docket No. P-2015-2495064 (Order entered September 3, 2015).

In *Kreider*, the Complainant alleged specific deleterious health effects after installation of a smart meter affecting her specific medical condition. In *Van Schoyck*, Complainants alleged potential health risks due to constant ringing noise in their home and their inability to sleep since the smart meter was installed.

In this case, however, 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 only allege, speculatively, that the smart meter “will” have a negative impact on their staff and patients if installed, and as relief they want to keep their old meter. They did not provide any details regarding the alleged future health effects.

Unlike the Complaints in *Kreider* and *Van Schoyck*, the Complainants in this case have not specified what medical or other problems they foresee at the eye clinic, or the reason they anticipate such medical issues will arise, if the smart meter is installed. The Commission has not recognized a general assertion of a potential “negative health impact” as sufficient to overcome Preliminary Objections. More is required than the vague allegation of unspecified future harm presented by the Fugos to overcome PECO’s Preliminary Objections.

In an Order issued on March 10, 2016, the Preliminary Objection was sustained and the Complainants were given ten days to amend their Complaint, pursuant to 52 Pa.Code § 5.101(h). Ordering Paragraph number 4 of our March 10, 2016 Order warned the Complainants that “if an amended complaint is not filed within ten (10) days, the Complaint will be dismissed and the matter marked closed.” This document was not returned by the

Commission by the U.S. Postal Service as undeliverable, and is therefore deemed to have been received. *Berkowitz v. Mayflower Securities*, 455 Pa. 531, 317 A.2d 584 (1974), *Chartiers Industrial and Commercial Development Authority v. Allegheny County Board of Property Assessment Appeals and Review*, 645 A.2d 944 (Pa. Cmwlth. 1994).

To date, the Complainants have not filed an amended complaint and therefore the Complaint remains legally insufficient. Where a party does not comply with the order of a presiding officer, the presiding officer may issue an order dismissing the proceeding. *Snyderville Community Development Corporation v. Verizon Pennsylvania, Inc.*, Docket No. C-20055032 (Opinion and Order entered July 31, 2006).

Since the complainants did not file an amended complaint as directed, the complainants failed to comply with our Order. Consequently, the Complaint is dismissed.

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter of and the parties to this proceeding. 66 Pa.C.S. § 701.

2. Mail sent to a party's last known address and not returned by the post office is presumed to have been received. *Berkowitz v. Mayflower Securities*, 455 Pa. 531, 317 A.2d 584 (1974), *Chartiers Industrial and Commercial Development Authority v. Allegheny County Board of Property Assessment Appeals and Review*, 645 A.2d 944 (Pa. Cmwlth. 1994).

3. Where a party does not comply with the order of a presiding officer, the presiding officer may issue an order dismissing the proceeding. *Snyderville Community Development Corporation v. Verizon Pennsylvania, Inc.*, Docket No. C-20055032 (Opinion and Order entered July 31, 2006).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Complaint in the case captioned as *Richard and Marie Fugo in care of Fugo Eye Institute v. PECO Energy Company* at Docket Numbers C-2015-2519763 and C-2015-2519770 (consolidated) is dismissed.

2. That the Complaints be marked closed.

Date: April 6, 2016

/s/  
Darlene Heep  
Administrative Law Judge

/s/  
Christopher P. Pell  
Administrative Law Judge

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

RICHARD AND MARIE A. FUGO	:	
Complainant	:	
	:	
v.	:	Docket No. C-2015-2519399
	:	
PENNSYLVANIA-AMERICAN	:	
WATER COMPANY	:	
Respondent	:	

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing Motion for Judgment on the pleadings upon the parties listed below, in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a party).

VIA FEDERAL EXPRESS  
Richard and Marie A. Fugo  
P.O. Box 1070  
Norristown, PA 19404



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Michael A. Gruin

DATED: September 1, 2016