

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

THOMAS A. MCCAREY  
Complainant

v.

PECO ENERGY COMPANY  
Respondent

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:  
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DOCKET NO. C-2017-2615597  
DOCKET NO. C-2017-2615980

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AUG 25 2017

PA PUBLIC UTILITY COMMISSION  
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**COMPLAINANT MCCAREY'S RESPONSE TO NEW MATTERS AND MOTIONS BY  
PECO ENERGY COMPANY**

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1. Complainant Thomas McCarey comes before Honorable Rosemarie Chiavetta, Secretary of Pennsylvania Public Utility Commission, and submits his Responses to PECO Energy Company's attorney Shawane L. Lee's respective correspondences dated August 9, 2017 and August 10, 2017

2. Complainant McCarey expresses confusion in *PECO ENERGY COMPANY'S MOTION TO CONSOLIDATE* wherein Lee did not provide an amended date for answering, since the corrected paperwork was dated August 10, 2017 along with her cover letter, but no information about extending the answer date to August 30, 2017.

3. Additional confusion abounds from PECO attorney Lee in PECO's *Motion to Consolidate (August 9, 2017)* on Page 3, ¶5 wherein Lee states:

Pursuant to 52 Pa. Code §5.101(b), PECO timely filed an Answer to both Complaints. A copy of the answers is attached as Exhibit "3".

which were not clearly identified and left to conjecture, as what Exhibit "3" is and was not noted on any of the paperwork.

4. Complainant McCarey raises no objection to consolidating both complaints: electric and gas meters.

5. "Answer of Respondent, PECO Energy Company" needed correction in Attorney Lee's letter dated August 10, 2017 due to a 2015 Docket Number being stated as McCarey's current 2017 complaint.

6. In PECO attorney Lee's *ANSWER OF RESPONDENT PECO ENERGY COMPANY* dated August 10, 2017, Page 2, ¶3 "Admitted." PECO obviously admits to Complainant McCarey's claims in McCarey's **Item 3** of his letter to Rosemary Chiavetta (not dated, but CRRR USPS mailed around July 18, 2017, (a copy was included in PECO's filing) wherein citing the law, Lee acknowledges Complainant **McCarey's complying with Act 129 (2008) wherein he gave written notice he did not want to purchase an AMI Smart Meter as per**

**HB2200 §2807(f)7(2) Legislative History as published of record:**

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

**(i) Upon request from a customer that agrees to pay the cost of the smart meter at the time of the request.**

McCarey duly sent in his notice of no intent of request or agreement to pay for a smart meter on his electric and/or gas services, therefore **McCarey is in compliance with the above Act/law** as voted by the PA legislature and signed into law by then-Governor Rendell. **Only the PA Legislature can write laws; not the PA PUC during formulating Implementation Regulations.**

Furthermore, as HB2200/Act 129 are published of public record, Act 129 is an OPT-IN Bill/Law with no Opt-Out clause necessary.

7. Complainant McCarey **completely disagrees** with PECO's Denial of McCarey's letter's **Item 5 regarding the right to privacy and violation of the Fourth Amendment to the**

**U.S. Constitution, but challenges anyone’s illegal surveillance and denying his rights, as there is a Patent for such “utilities” surveillance, storage and transfer of data.**

Below is the **PATENT** information for AMI Smart Meter surveillance and sales of data designated as “Data storage and transfer” EP 2499463 B1 of public record<sup>1</sup> noting the applicant is **ONZO Limited**, a surveillance and data collection algorithm described in an Internet infomercial at <https://youtu.be/uluKjzqHDz0?> and in the *Activist Post* article “Onzo, Possibly A Utility Customer’s Worst “Friend”?”<sup>2</sup>

From the *Google Patent* website, we have the algorithm ONZO description<sup>3</sup> as follows:

**Field of the Invention**

**This invention relates to methods, systems, devices and computer code for storage and transfer of data, particularly data associated with consumption of utilities such as gas, water and electricity, and to transfer the stored utility consumption data for applications such as analysis of household power consumption by an end-user or by a utility supplier, or monitoring occupancy and activity within a household.**

<b>Publication number</b>	EP2499463 B1
<b>Publication type</b>	Grant
<b>Application number</b>	EP20100796092
<b>PCT number</b>	PCT/GB2010/002091
<b>Publication date</b>	11 Jan 2017
<b>Filing date</b>	12 Nov 2010

<sup>1</sup> <http://www.google.com.pg/patents/EP2499463B1?cl=en> accessed 8-14-17

<sup>2</sup> <http://www.activistpost.com/2017/03/onzo-possibly-utility-customers-worst-friend.html> accessed 8-14-17

<sup>3</sup> <http://www.google.com.pg/patents/EP2499463B1?cl=en> accessed 8-14-17

<b>Priority date</b>	12 Nov 2009
<b>Also published as</b>	EP2499463A2, EP2531818A2, EP2531818B1, US8843332, US8874623, US20110295912, US20110301887, WO2011058326A2, WO2011058326A3, WO2011058327A2, WO2011058327A3, WO2011058327A4, Less «11 More »
<b>Inventors</b>	Loureda Jose Manuel Sanchez, Adam Richard Westbrooke, Edward Horsford, Brian Mcguigan, Less «3 More »
<b>Applicant</b>	Onzo Limited
<b>Export Citation</b>	BiBTeX, EndNote, RefMan
Non-Patent Citations (1), Classifications (9), Legal Events (19)	

8. Complainant McCarey disagrees with PECO Item 6. The World Health Organization's IARC (International Agency for Research on Cancer) declared cell phone microwaves as a **Class 2B carcinogen**—the very same technology that runs **AMI Smart Meters**. Those microwaves should NOT be forced by either PECO or the PA PUC to

jeopardize McCarey's health, since no long-term risk assessment or studies regarding EMF exposures 24/7/365 from AMI Smart Meters have been produced to date.

9. Complainant McCarey notes PECO's reply as "Admitted." to McCarey's **Item 7** in his letter to Secretary Chiavetta regarding low level microwaves radiation is not innocuous and must refer to the November 2-3, 2016 PA PUC Administrative Law court hearing for Catherine J Frompovich (**Docket No. C-2015-2474602**) when PECO expert Glenn Pritchard explained how AMI Smart Meters keep pulsing continuously. See *Frompovich vs. PECO Energy Company* Respondent Brief by Frompovich stating on Page 17:

22. Mr. Pritchard apparently misrepresented or misstated the power of the ZigBee radio on Page 163 (23-24) when he said, "That would be the purpose of the low power ZigBee radio itself." The ZigBee, according to Mr. Pritchard at Pg. 134 (17), "**...would be putting out a message every 30 seconds,**" not only ten times a day, as PECO expert Glenn Pritchard previously testified, "*On average most meters transmit less than ten times a day with the FlexNet radio.*" Cf. *Transcript Pg. 133 ((15-17)* That indicates yet another misrepresentation of the facts by PECO regarding its AMI Smart Meter(s) made during the Frompovich hearing and which this Honorable Court needs to make note of and factor into its decision-making processes. [...]

24. Judge Pell then remarked, "I understand you to say that, **if it doesn't connect with anything, it pulses every 30 seconds?**" PECO employee and expert Pritchard states, "It continues to seek that, yes." Whereas, His Honor Judge Pell then asks, "**Indefinitely or will it decide, okay, I'm not finding anything, stop? Can that be adjusted?**" Mr. Pritchard replied, "No." Judge Pell queries further, "**No. Does it have to be that way?**" Mr. Pritchard replied, "**We have no options with that.**" Cf. *Transcript Pg. 169 (1-17)*

10. Complainant McCarey addresses PECO's *Answer of Respondent* dated August 10, 2017 **Item 8, Pg. 3:**

"Energy neither admits nor denies the allegations in paragraph 8. PECO is without knowledge or information sufficient to form a belief as to the truth of this averment and, therefore, such allegation is deemed denied."

First and foremost, shouldn't it be PECO's and the PA PUC's regulatory duty to know about "dirty electricity" a common term applied for spiking wavelengths, which both PECO's expert

witnesses, Glenn Pritchard and Christopher Davis, PhD, in the Frompovich case aforementioned stated that “dirty electricity” is known as and called “sinusoidal waves.”<sup>4</sup>

11. Complainant McCarey contends PECO attorney Lee’s Reply No. 10 on Pg. 3 needs no response indicates Lee’s and PECO’s denial AGAIN of McCarey’s constitutional rights by ignoring answering and saying “no response is required.”

**NEW MATTER OF RESPONDENT, PECO ENERGY COMPANY**

12. Complainant McCarey objects to PECO No. 4, Pg. 4 “The statute does not provide customers with an option to “opt out” of smart meter installation.” Such a statement is patently incorrect since SB2200/Act 129 (2008) was discussed in committee; voted upon and passed; and signed into law as an **OPT-IN** bill with no Opt-out clause necessary. See **HB2200 §2807(f)7(2)**

**Legislative History** as published of record:

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

**(i) Upon request from a customer that agrees to pay the cost of the smart meter at the time of the request.**

See HB2200 discussion and intent published in PA House & Senate Journals February 11, 2008 *House Journal* pp. 386-403 October 8, 2008 and *Senate Journal*, pp. 2626-2631. Furthermore, PA State Senator Vince Fumo (Philadelphia) is on published record as saying,

**In addition, we did not mandate smart meters, but we made them optional. We did say in new construction, where they really are practical, they will be put in.**<sup>5</sup>

So, how can the PA PUC mandate AMI Smart Meters and allow PECO to harass McCarey to replace his safe analog meter when there’s no legislative mandate?

<sup>4</sup> <http://www.electronics-tutorials.ws/accircuits/sinusoidal-waveform.html> accessed 8-14-17

<sup>5</sup> <http://www.legis.state.pa.us/WU01/LI/SJ/2008/0/Sj20081008.pdf#page=8> (Pg. 2629) accessed 8-14-17

13. Complainant McCarey contends PECO's **Item 6** on page 5 is off-base, since no opt-out clause is necessary, as HB2200 and Act 129 are an opt-in bill and law. See ¶s 6 and 12 above as to why no opt-out is necessary.

14. Complainant McCarey contends **Item 9** on page 5 is erroneous; see clauses 6, 12 and 13 above to clarify.

15. Complainant McCarey totally disputes PECO's **Item 11** on page 5, based upon the following admission by PA PUC Office of Communications Dave Hixson's letter dated March 22, 2017 wherein the very last paragraph Mr. Hixson **ADMITS** illegal PA PUC overreach:

*"As I stated in my earlier email correspondence with you, the Commission believes that it was the intent of the General Assembly to require all covered electric companies to deploy smart meters system wide."* See Exhibit 1 – Hixson Letter to McCarey dated 3/22/17.

16. Complainant McCarey vigorously points out the fallacious "smoke and mirrors" tactics PECO's attorney Lee uses in **Items 12, 13, 14 and 15** where Lee discussed "*sine die*" bills of previous 6 years of PA Legislative sessions while, obviously, totally disregards the current (2017-18) legislative session House (General Assembly) **Opt-out Bill SB1564 introduced by 29 members of the House!** Why such deception on the part of PECO?

17. Complainant McCarey respectfully reminds PA Secretary Chiavetta and the PA PUC that in view of the PA legislature submitting so many bills over the past 6 years, it should be obvious to all that the PA PUC needs to prevail upon Chairman Godshall to move HB1564 out of committee for a vote, as that would be in the best interests of Pennsylvanians whom the PA PUC is supposed to protect from utility issues and harms! Therefore, Complainant McCarey should be 'grandfathered' into consideration pending the outcome of HB1564 and permitted to keep his current meters.

18. Regarding PECO **Item 18** on page 6, Complainant McCarey refers Secretary Chiavetta and the PA PUC to McCarey's paragraphs 12 through 17 above.

19. Regarding PECO **Item 19**, page 7, Complainant McCarey states he has suffered **two TIAs (transient ischemic attacks): January 30, 2015 and July 30, 2015** and was under the care of Thomas Graham, MD, Main Line Health and Paoli Hospital Medical Director, Stroke Program, both times.

As a result of those TIAs, McCarey believes (*he can believe, if PA PUC can*) that according to the American Academy of Environmental Medicine<sup>6</sup> (AAEM) which recommends, "Because Smart Meters produce Radiofrequency emissions, it is recommended that patients with the above conditions [*neurological*] and disabilities be accommodated to protect their health. The AAEM recommends: that no Smart Meters be on these patients' homes,..."

Furthermore, Complainant McCarey invokes the Americans with Disabilities **AMENDMENTS ACT**, Prong No. 3 to provide protection for his health, neurological system and wellbeing.

20. Complainant McCarey respectfully reminds Secretary Chiavetta and the PA PUC that the **U.S. FCC is not up to date—over 30 years behind** in revising "Exposure From Wireless Transmitters" because:

"The FCC has struggled to establish standards for public exposures because it lacks the internal biological expertise to evaluate risks to humans. The FCC staff is dominated by electrical engineers, physicists, bureaucrats and ex-telecommunications executives. No biologists. In the mid-1980's the FCC finally gave up trying to establish a standard for safety and instead adopted a very weak and out-dated one. The new standard was adopted from the recommendation of two non-government organizations (NGOs) comprised mostly of engineers and ex-telecom executives – the IEEE and ANSI. The standard, which was established in the 1950's, was based solely on the *thermal effect* (heating of tissue). This safety standard ignores biological impacts from low-level microwaves and does not protect us from at least nine additional microwave

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<sup>6</sup> <https://aaemonline.org/pdf/AAEMEMFmedicalconditions.pdf> accessed 8-14-17

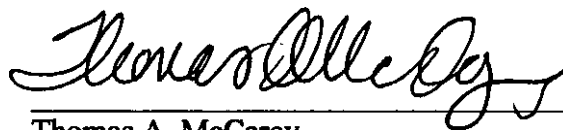
effects that can injure us. Other countries set their standards, based on science that shows biological effects at very low, non-thermal exposure levels.<sup>7</sup>

21. Complainant McCarey calls to the PA PUC's attention the fact that the U.S. FCC's **exposure limits are 580 microwatts ( $\mu$ W) versus 10  $\mu$ W in Russia; 6  $\mu$ W in China; 5  $\mu$ W in Italy; 4.2  $\mu$ W in Switzerland; 0.1  $\mu$ W in Salsburg, Austria; and 0.1  $\mu$ W in Lichtenstein.**<sup>8</sup>

22. Complainant McCarey contends AMI Smart Meters are constructed with cheap plastic materials; **lack surge protectors**; lacking a glass dome, AMI SMs are subject to overheating in the summer, thus the special program PECO maintains to reduce AMI SM temperature alarms to avoid 'false' alarms, thereby putting consumers' homes at risk for house fires, which McCarey is not interested in experiencing.

WHEREFORE and due to the facts stated above, Complainant McCarey requests the end to PECO and PA PUC harassment about retrofitting an AMI Smart Meter on to McCarey's natural gas and electric home services.

Respectfully submitted,



Thomas A. McCarey  
285 Dayleview Road, Berwyn, PA 19312  
Phone: 610-687-7607

Dated: August 25, 2017

<sup>7</sup> <http://www.justproveit.net/content/safety-standards> accessed 8-14-17

<sup>8</sup> *ibid.*

**RECEIVED**

**AUG 25 2017**

**PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU**

**EXHIBIT NO. 1**

**Letter March 22, 2017**

**Dave Hixson, PA Public Utility Commission  
Office of Communications  
To  
Thomas A. McCarey**



**COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. BOX 3265, HARRISBURG, PA 17105-3265**

March 22, 2017

Mr. Thomas A. McCarey  
285 Dayleview Road  
Berwyn, PA 19312

Dear Mr. McCarey:

Chairman Gladys M. Brown of the Pennsylvania Public Utility Commission (Commission) asked me to respond to your email to Gov. Tom Wolf regarding smart meters and subsequent charges on monthly electric bills for smart meter technology.

For several years, PECO and the state's other six largest electric distribution companies (EDCs) who must comply with Act 129 of 2008 have included smart meter charges on customer bills to pay for the development and deployment of smart meter technology. The smart meter charges are non-bypassable and are applied to customer bills consistent with the terms and conditions found in the utility's tariff, which is approved by the Commission. These charges are permissible by law, and offset costs incurred by the EDCs specifically for smart meter deployment in their service territories.

The Commission must, of course, implement the smart meter legislation that is currently law. The Commission does not have the authority to allow customers to opt out of smart meter legislation. Your organization has already been in contact with elected state officials, who ultimately must decide whether or not to change any law.

That being said, the Commission does recognize that smart meters bring many benefits to the Commonwealth by empowering customers to take control of their electricity usage, reducing outage times, saving customers money, and increasing overall system reliability. With smart meters, EDCs restore service faster during power outages and reduce meter-reading costs; customers better understand how much electricity they are using throughout the day; and the theft of electricity can be detected more quickly and effectively.

As I stated in my earlier email correspondence with you, the Commission believes that it was the intent of the General Assembly to require all covered electric companies to deploy smart meters system-wide. Thus, the Commission continues to ensure that electric utilities implement the universal installation of smart meter technology in a manner that meets the intent of the General Assembly. Thank you again for your letter. I have copied Chairman Brown's office on my reply.

Sincerely,

Dave Hixson  
PA Public Utility Commission  
Office of Communications  
[dhixson@pa.gov](mailto:dhixson@pa.gov)  
(717) 787-5722

cc: Office of Chairman Gladys M. Brown

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

THOMAS A. MCCAREY  
Complainant

v.

PECO ENERGY COMPANY  
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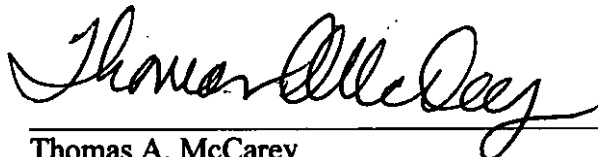
**CERTIFICATE OF SERVICE**

I, Thomas A. McCarey, hereby certify that I have this day served a copy of  
Complainant McCarey Response to *New Matters and Motions By PECO Energy Company*  
AND *New Matter of Respondent, PECO Energy Company* in the above matters, which PECO  
requests to be consolidate, upon all interested parties by mailing a copy, properly addressed and  
postage prepaid to:

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

With a copy via Priority Mail with Tracking  
Shawane L. Lee, Esq.  
PECO Energy Company  
2301 Market Street, S-23  
Philadelphia, PA 19103

Dated at Berwyn, PA, August 25, 2017.

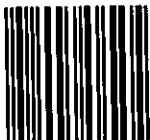


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Thomas A. McCarey  
285 Dayleview Road, Berwyn, PA 19312  
Phone: 610-687-7607

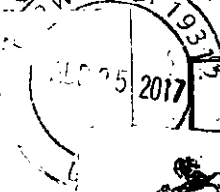


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