

December 7, 2017

Linda Biconik
73 Cherry Lane
Homer City, PA 15748

VIA ELECTRONIC FILING

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

**Re: Linda Biconik v. Pennsylvania Electric Company
Docket No. C-2017-2632380**

Dear Secretary Chiavetta:

Attached, please find the Answer to Respondent's Preliminary Objection in the above-referenced matter. This document has been served on the Respondent as shown in the attached Certificate of Service.

Please contact me if you have any questions or need anything further to process this filing.

Very truly yours,

A handwritten signature in cursive script that reads "Linda Biconik".

Linda Biconik

Enclosures

Before the Pennsylvania Utility Commission

Linda Biconik,	:	
	:	
Complainant.	:	
	:	
	:	
	:	Docket No. C-2017-2632380
Pennsylvania Electric Company,	:	
	:	
Respondent.	:	
	:	
	:	
	:	
	:	

ANSWER TO RESPONDENT’S PRELIMINARY OBJECTIONS

Complainant, Linda Biconik, *pro se*, files this Answer to Respondent’s Preliminary Objections pursuant to Sections 5.61 and 5.101(f) of the Pennsylvania Public Utility Commission (“Commission”) regulations, 52 Pa. Code Sections 5.61 and 50101(f), and in support thereof, avers as follows:

I. RESPONSES

1. Admitted in part and denied in part. The summary of requested relief set forth in Paragraph 1 of Respondent’s Preliminary Objection is admitted; however, the characterization of the allegation in the first sentence of said paragraph is denied. Complainant avers that she is refusing the installation of a smart meter that emits electromagnetic fields (“EMFs”) and/or radio frequencies (“RFs”), which poses a risk of manipulation by hackers, or is susceptible to fires, explosions or electrical problems. Complainant (the “Proposed Smart Meter”). Complainant believes and therefore avers that the Proposed Smart Meter is an Advanced Metering Infrastructure Meter (“AMI Meter”) or similar wireless meter, but Respondent has not provided Complainant with the exact type or model of the Proposed Smart Meter, nor is this information appear to be available on Respondents’ website (firstenergycorp.com/PAsmartmeter) that customers are directed to in order to obtain more information regarding Respondent’s smart meter deployment program.

2. Denied. The averments in this paragraph are conclusions of law to which no response is required and are specifically denied and include a fact of which Complainant has no knowledge.

3. Admitted in part and denied in part. Complainant denies that she refused installation of all smart meters. By way of further explanation, Complainant avers that she called Respondent on October 21, 2017, to discuss the installation of the Proposed Smart Meter at the 73 Cherry Lane, Homer City, Pennsylvania, 15748 (the "Service Location") and to notify Respondent that she did not want a smart meter that emitted EMFs installed at the Service Location. The representative of the Respondent indicated that a note would be made on Complainants account and that there should be no problem with Complaint keeping the current electric meter and refusing the installation of the proposed smart meter.

Complainant would like to note that she has yet to receive or find a detailed specification sheet outlining the specifications of the Proposed Smart Meter, nor is such information available on Respondent's website. Such opacity of the deployment of Respondent's smart meter program is in violation of Public Utility Code Section 1501. 66 Pa.C.S. Section 1501.

4. Denied. The averments in this paragraph are conclusions of law to which no response is required and are specifically denied. By way of further response, Complainant avers that Respondent's actions are in violation of Section 1501 of the Public Utility Code, as well as Article 1, Section 1 of the Constitution of the Commonwealth of Pennsylvania.

5. Denied. By way of further response, it is specifically denied the Complainant is requesting an exemption from the installation of a smart meter. Complainant is requesting reasonable accommodation be made by Respondent, as is specifically required by Section 1501, which states "[e]very public utility shall furnish and maintain *adequate, efficient, safe, and reasonable service and facilities*, and shall make all such repairs, changes, alterations, *substitutions*, extensions, and improvements in or to such service and facilities as shall be *necessary or proper for the accommodation*, convenience, and safety of its patrons, employees, and the public." *Emphasis added.*

II. BACKGROUND

6. Admitted.

7. Admitted in part and denied in part. Complainant denies that on October 2, 2017, she refused installation of the Proposed Smart Meter at to Wellington Energy, a contractor for the Respondent. Complainant avers that the representative of Wellington Energy indicated that the Service Location was not on his installation list. Complainant also denies that she refused installation of all smart meters. At all times, Complainant avers that she refused installation of the Proposed Smart Meter, not all smart meters (for example, a wired fiber optic connected meter that emits no EMFs or RFs and is safe for Complainant and Complainant's household members) were refused.

8. Admitted.

9. Denied. The averments in this paragraph are conclusions of law to which no response is required and are specifically denied. Complainant will timely respond to Respondent's Answer and New Matter in a separate filing.

III. ARGUMENT

10. Denied. The averments in this paragraph are conclusions of law to which no response is required. To the extent that a response is required, the averments in this paragraph are specifically denied.

11. Denied. The averments in this paragraph are conclusions of law to which no response is required. To the extent that a response is required, the averments in this paragraph are specifically denied.

12. Denied. The averments in this paragraph are conclusions of law to which no response is required. To the extent that a response is required, the averments in this paragraph are specifically denied.

13. Denied. The averments in this paragraph are conclusions of law to which no response is required. To the extent that a response is required, the averments in this paragraph are specifically denied. By way of further response, Respondent's actions are not mandated by Act 129 or the June 5 Order. Respondent is not obligated to install *wireless* smart meters at the Service Location. Respondent is not authorized to create an unsafe and unhealthy condition at the Service Location, but instead is specifically required to provide safe and adequate service. Respondent's installation of the Proposed

Smart Meter at the Service Location is in direct violation of Section 1501 of the Public Utility Code, which requires every public utility to furnish and maintain safe and reasonable service.

14. Denied. The averments in this paragraph are conclusions of law to which no response is required. To the extent that a response is required, the averments in this paragraph are specifically denied.

15. Denied. The averments in this paragraph are conclusions of law to which no response is required. To the extent that a response is required, the averments in this paragraph are specifically denied. By way of further response, Complainant challenges the installation of the Proposed Smart Meter at the Service Location, not all smart meters. It is also denied that Act 129 requires the installation of the *Proposed Smart Meter*. Rather, Act 129 requires installation of a smart meter, but does not specify the type. Therefore, it is reasonable to conclude that Respondent is authorized to make reasonable accommodations in order to meet its obligations pursuant to Section 1501 of the Public Utility Code.

16. Denied. The averments in this paragraph are conclusions of law to which no response is required. To the extent that a response is required, the averments in this paragraph are specifically denied. By way of further response, Complainant is specifically *not* requesting an opt-out, as categorized by Respondent. Instead, Complainant is requesting reasonable accommodation to provide safe and adequate service at the Service Location.

17. Denied. The averments in this paragraph are conclusions of law to which no response is required. To the extent that a response is required, the averments in this paragraph are specifically denied.

18. Denied. The averments in this paragraph are conclusions of law to which no response is required. To the extent that a response is required, the averments in this paragraph are specifically denied. It is also denied that Act 129 requires the installation of the *Proposed Smart Meter*. Rather, Act 129 requires installation of a smart meter, but does not specify the type. Therefore, it is reasonable to conclude that Respondent is authorized to make reasonable accommodations in order to meet its obligations pursuant to Section 1501 of the Public Utility Code.

19. Denied. The averments in this paragraph are conclusions of law to which no response is required. To the extent that a response is required, the averments in this paragraph are specifically denied. By way of further answer, the claims made in the Formal Complaint are legally sufficient, and Preliminary Objections are not appropriate in this case.

20. Respondent's Preliminary Objection does not contain a Paragraph 20, therefore no response is required.

21. Denied. The averments in this paragraph are conclusions of law to which no response is required. To the extent that a response is required, the averments in this paragraph are specifically denied. By way of further response, Complainant avers that a hearing on the merits of this matter is in the direct public interest and there are issues of material fact that need to be adjudicated by a finder of fact. The Respondent's actions, as outlined in the Formal Complaint filed in this matter and herein, and those actions that Complainant seeks to prevent, namely the installation of a smart meter that will increase her exposure to EMFs, are in violation of Article I, Section 1 of the Constitution of the Commonwealth of Pennsylvania.

22. Admitted in part and denied in part. Complainant admits to certain characterizations of previous Commission decisions, but denies that the current case does not meet the standards set forth in those decisions and that those decisions are precedential in this matter. By way of further response, it is a complete lack of regard for human health to require a customer to experience debilitating health effects, many which are irreversible, and lose years of health and happiness, *prior* to seeking relief through a long litigation process. Complainant and her husband, and other family members, are particularly susceptible to EMF and RF exposure, as described below.

By way of further information, the members of Complainant's household have unique health concerns that are exacerbated by exposure to EMFs and RFs. These include, but are not limited to, a thyroid disorder, keratoconjunctivitis sicca, severe migraines, dermatitis and Lymes disease. Complainant has taken steps to reduce all exposure to EMFs and RFs and both her and her husband have experienced some relief of their symptoms. Increasing their exposure again to EMFs and/or RFs, or "dirty electricity" by installation of the Proposed Smart Meter is unacceptable, cruel and unjust.

Furthermore, Complainant is a caretaker of her young 22 month old grandchild, and will soon be a caretaker of a newborn grandchild at the Service Location. It is believed and therefore averred that children are particularly susceptible to exposure to EMFs and RFs and as such, installation of the Proposed Smart Meter in this case would expose these young children to unnecessary levels of EMFs and RFs, especially when other alternatives are available.

Respondent's argument that Complainant and her household members must experience deleterious health effects *prior* to seeking or obtaining legal relief is contrary to common sense and decency. Such a result is in direct conflict with Article I, Section 1 of the Constitution of the Commonwealth of Pennsylvania and in conflict with Section 1501 of the Public Utility Code. Electrical service that causes debilitating health effects is not safe and reasonable service in accordance with said section, *especially in light of the fact that healthy alternatives are available.*

23. Admitted in part and denied in part. Complainant does not deny the summarization of the prior case, but denies that she is refusing all smart meter installation. She is refusing installation of the Proposed Smart Meter. She requests a reasonable accommodation of her and her husband's unique health concerns.

24. Denied. Since electric service is essential to the health and well-being of the residents of Pennsylvania, this would be in violation of current law.

25. Denied. Act 129 of 2008 does not specifically authorize or require the installation of universal installation of smart meters, nor does it require the installation of the Proposed Smart Meter, which installation would be in violation of Section 1501 in a home where the inhabitants have the unique health concerns outlined above and where young children spend a substantial amount of time.

IV. CONCLUSION

There are genuine issues of material fact at issue in this case that require a hearing. No grounds for preliminary objection set forth in 52 Pa. Code Section 5.101(a) are met. Termination of Complainant's electric service or installation of the proposed smart meter is unwarranted and unlawful. It is important to note that Complainant is not refusing the installation of all smart meter technology, just smart meter technology that emits EMFs and RFS, and avers that there is alternative technology available that would comply with Act 129 of 2008, or, in the alternative, to keep the current meter that is installed at the Service Location.

Based upon the foregoing, Complainant respectfully requests that the Commission deny Respondent's Preliminary Objection to the Formal Complaint of Linda Biconik and issue an Order allowing this matter proceed and granting any other relief the Commission deems just and property.

Respectfully submitted,



Linda Biconik
Complainant, *Pro se*
73 Cherry Lane
Homer City, PA 15748

Dated: 12/07/2017

Certificate of Service

I hereby certify that this 7th day of December, 2017, I served a copy of Complainant's Answer to Respondent's Preliminary Objections upon the persons listed below, in the manner indicated, in accordance with the requirements of 52 Pa. Code Section 1.54.

Via Electronic Mail and/or First Class Mail:

Lauren M. Lepkoski
Tori L. Giesler
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, PA 19612-6001

Dated: 12/07/2017


Linda Biconik