

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

James Quigley and Teresa Mendez-Quigley :

Complainant, :

v. :

Docket No. C- 2017-2617558

PECO Energy Company :

Respondent. :

MAIN BRIEF OF COMPLAINANTS JAMES QUIGLEY AND TERESA MENDEZ-QUIGLEY

Quigley's
401 Longfield Road
Erdenheim, PA 19038

Dated: August 3, 2018

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Main Brief of James Quigley & Teresa Mendez-Quigley, Complainant

v. PECO Energy Company, Respondent

Presented to Honorable Administrative Law Judge Darlene D. Heep

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INTRODUCTION

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This brief is submitted by Complainants James Quigley and Teresa Mendez-Quigley ("Quigleys") in support of their claim that the installation by PECO Energy Company ("PECO") of an AMI smart meter at their home will adversely affect them and is neither "safe" nor "reasonable" under 66 Pa. C.S. §1501 as to them.

The Quigleys submitted evidence at hearings on April 17 and 18, 2018 pursuant to the Orders of Administrative Law Judge Darlene Heep.

The quality of being safe means the absence of risk or harm. At the Initial Hearing where they presented scientific peer-reviewed published articles, Complainants demonstrated that PECO's smart meters present a risk of harm to them, and that it is neither safe nor reasonable under the circumstances to force them to accept this risk.

The complainants brought their case against PECO in response to PECO's insistence that the Quigleys acquiesce to PECO's demands to install smart meter at their residence or be subject to imminent loss of electricity. The Complainants were informed that prompt filing of a formal complaint with the PUC against PECO was the only method by which the Complainants could retain electrical service while refusing to be subjected to radio frequency ("RF") electromagnetic energy ("EE") emitted by smart meters which they have a credible basis to believe is harmful to them.

PECO takes the extraordinary and unreasonable position that RF exposure from its smart meters is utterly incapable of causing harm, as if that position had been scientifically proven and generally accepted in the scientific community. To the contrary, reliable and sound scientific evidence shows that RF exposure from smart meters such as PECO's meters, is a

probable cause of harm to humans, especially people like the Quigley's who have current health conditions.

The Public Utility Commission ("PUC") does not have to resolve the scientific disagreement between the parties to resolve these cases. The evidence at the very least shows potential harm to Complainants from RF exposure such as that emitted from smart meters. Forcing the Quigleys to accept exposure to RF from smart meters on their home that they sincerely believe will further degrade and harm their health, and forcing them to do so against their doctor's written orders, debases the principles of regard for personal health and safety and is considered unreasonable and unsafe service to Complainants in violation of 66 Pa. C.S. § 1501 and is against the expressed written intent of the legislative body that enacted Act 129.

The evidence is amply sufficient for Complainants to meet their burdens under section 1501. The PUC should order PECO not to install smart meters at Complainants' home, install an analog meter, and cease and desist further threats with shut-off notices.

BRIEFING ORDER

An Initial Hearing was held on April 17 and 18, 2018 at Docket No C-2017-2617558. The parties were given leave to file main briefs.

On May 30th, Administrative Law Judge Darlene D. Heep ordered that the parties shall file and serve main briefs on or before July 10, 2018 and reply briefs on or before August 7, 2018. The Complainants asked for an extension which was granted and ordered to be on August 3, 2018 for the main brief and September 7, 2018 for the reply brief.

JUDGE HEEP ORDERED:

That an original copy of all briefs must be filed with the Secretary, in accordance with 52 Pa. Code § 5.502(b), and two copies served on each presiding officer and the other parties no later than 4:30 p.m. on the dates listed. 52 Pa. Code § 5.501(e) requires that “[b]riefs shall be as concise as possible.”

STATEMENT OF THE CASE

On June 5, 2012, Complainants contacted PECO to state that they did not want an AMI meter installed at their home due to health reasons. On March 24, 2014, PECO issued a 10-day Shut Off Notice. On April 3, 2014, the Quigleys called PECO to inquire about transmission readings. On April 15, 2014, Complainants sent a letter to PECO refusing the installation of a smart meter and attached a letter from Teresa’s physician which stated “It is my medical recommendation that this patient reduce involuntary electromagnetic exposures including wireless transmissions. These were received by PECO on April 16, 2014. PECO sent a form letter on April 18, 2014 stating that PECO “worked closely with Underwriters Laboratory...to establish a protocol for independent testing and analysis, which is now being replicated at utilities across the country.” On September 28, 2016, PECO “Retrofitted” the gas meter to a smart meter against the expressed requirement not to do so. On October 4, 2016, PECO sent Complainants a shut-off notice. On October 14, 2016, Complainants called PECO and was informed that a supervisor would call back. On October 24, 2016, the Quigleys sent PECO a letter restating that they did not want a smart meter attached to their personal residence. It went on to state that “PECO has not directly addressed the health concerns stated in my letter

or on my doctor's note. Safety for the general population does not guarantee health protection. Despite our paying our bills on time and in full, PECO is threatening us with a shut off notice." On July 26, 2017, PECO attempted to change out the electricity meter. On July 31, 2017 Complainants again stated that they do not want a meter exchanged. On August 1, 2017, Complainants were informed that the only recourse was to file a complaint with PUC against PECO. Complainants filed and informed PECO via phone. On August 4, 2017, PUC notified PECO of formal complaint. The Complainants have been threatened with shut off notices because they refused to have a smart meter installed on their private residence. The Complainants contend that the smart meter PECO wants to install on their home will incur health risks that further place Teresa's health in jeopardy since she has been diagnosed with numerous illnesses, including an autoimmune disorder. PECO requested dismissal of the case to which the Complainants objected on August 20, 2017. On September 7, 2017, Judge Heep issued a Pre-Hearing Order. On January 3, 2018, PECO motioned for PUC to Compel and on January 13, 2018, the Complainants responded. On April 3, 2018, the Complainants hand delivered the exhibits to PECO and Judge Heep. On April 4, 2018, PECO's testimonies were delivered to the Complainants. On April 17 and 18, 2018, the Initial Hearing took place.

BACKGROUND AND PROCEDURAL HISTORY

COMPLAINANT'S BRIEF PREPARED WITHOUT ACCESS TO TRANSCRIPT

The Complainants are representing themselves, pro se, against the vast resources of the country's largest utility company. We are unable to afford to purchase the transcripts from the Initial Hearing. We cannot travel to Harrisburg to view the transcripts as Jim recently started to

work as a broker without salary and the Complainants have a young child. Therefore, this brief relies on our notes and the exhibits provided by both parties.

PERTINENT FINDINGS OF FACT

1. James Quigley and Teresa Mendez-Quigley have been married for over 20 years.
2. They have resided together at 401 Longfield Road, Erdenheim, PA 19038 since 1997.
3. James worked for over 15 years at three different electronic publishing companies.
4. Teresa is a Master's level trained and experienced social worker currently working with grieving children and their families.
5. In addition to reviewing scientific and medical publications in his previous employment, James conducted a thorough examination of the peer-reviewed literature for this case.
6. James earned his Masters of Science from the University of Pennsylvania.
7. Teresa was diagnosed by her physician of over 20 years with an autoimmune disorder in 2005 which is related to other autoimmune disorders that run in her family. She also has severe vitamin D deficiency, bone loss and an increased risk for lymphoma.
8. James grew increasingly concerned as he continued to find articles that were not industry sponsored. In the peer-review literature of scientific and medical journals – that are not sponsored by EDCs or other related industries – the evidence is strong to support their complaint.
9. Teresa's physician provided a letter wherein he recommends that Teresa reduce her exposure to involuntary radiofrequency exposures in 2016.

10. An AMR meter was installed on the Quigley home in 2001, and has remained installed since that time. The Quigley's received a letter from PECO informing them that PECO wanted to change the AMR meter to an AMI smart meter (hereafter "smart meter").
11. James and Teresa Quigley objected to the installation of the smart meter because PECO has not evaluated a smart meter's effect on human health by performing independent safety tests and has not addressed Teresa's specific health concerns.
12. The Quigley's expressed their concerns regarding the installation of a smart meter to PECO.
13. The Quigley's felt that PECO was unwilling and unable to address their concerns regarding the smart meter.
14. The Quigley's further felt threatened with PECO's repeated menacing shut-off notices.
15. The Quigley's objection to the installation of a smart meter in their home is the basis for the complaint in this action.
16. They filed a formal complaint with the PUC on July 31, 2017.
17. Teresa and James have attempted to minimize their radiation exposure by not cooking in a microwave (only installed one due to the resale value of the home suggested by the contractor), not having a cordless phone, only using their computers when they are hardwired to the internet, and not having other wireless devices in the home.
18. Although James and Teresa do own cell phones – for work and safety - James turns it to airplane mode or off and Teresa turns off her cell phone at day's end and only uses it primarily to text her husband and close family. She keeps it away from her body and when driving, keeps it in the back seat or in the trunk.

19. While James and Teresa recognize that they cannot reduce their exposure to radiation away from the home, their goal is to limit and minimize their exposure while at home because that is where they spend most of their time, including to sleep and where they are raising their child.

PROPOSED FINDINGS OF FACT

PRIOR CASES: ADMISSION OF TESTIMONIES

The PUC ruled a final decision in the Frompovitch v. PECO Energy Company case (C-2015-2474602) in which they said: "While having the authors present at the hearing to authenticate the studies is one acceptable way to satisfy the authentication requirement of Rule 901, we recognize that there may have been an additional way(s) to authenticate the studies. For example, a comparison by the ALJ of an offered study with an authenticated study admitted in another proceeding would have been sufficient."

Therefore, the Quigleys ask for the following three (3) experts cited in other hearings to authenticate the research submitted at the initial hearing and to support their claim that the smart meter PECO is forcing them to have installed at their house is unreasonable for them to accept given Teresa's health status.

1) Dr. Andrew Marino, Ph.D.

"The Commission instead should adopt the testimony of Andrew Marino, Ph.D. Marino does not sponsor any wild conjecture or make any bold claims about health effects from exposure to EE. He opines that there is a reliable basis to conclude that there is at least a risk of harm to the vulnerable and sensitive, and that it is unreasonable to expose the Complainants to that risk.

Marino's position finds support in animal studies, epidemiology, and all the work he has conducted on the issue of health effects from RF exposure throughout his long and distinguished career as a biophysicist, research scientist, and author. Marino's position also finds support in the classification of RF exposure as a "possible carcinogen" by The International Agency for Research on Cancer ("IARC"), which is part of the World Health Organization, and in the May 2016 Report of the National Toxicology Program ("NTP"). PECO and its witnesses have no credible reason for disregarding IARC, the NTP, or Marino's opinion based on the empirical evidence" (Main Brief of Complainant Laura Sunstein Murphy v. PECO Energy Company C-2015-2475726 Page 27). "At the hearings on September 15, 2016, and again on January 25, 2017, Complainants presented the testimony of Andrew Marino, Ph.D. The Commission should adopt this testimony because it is correct and well supported by science. Dr. Marino offered two expert opinions: (1) that there is a basis in established science to conclude that the Complainants could be exposed to harm from the radiation emitted by PECO AMI or AMR smart meters, *Direct Testimony of Dr. Marino Hearing Transcript, September 15, 2016*, at 578:13-16; (JA000578); and (2) because the PECO smart meters have not been proved safe it is unreasonable to force the Complainants to accept the exposure to the radiation emitted by the smart meters on their residences" *Id.* at 578:23-579:1; (JA000578- 000579). His testimony is based on primary evidence and not on opinions of others. *Id.* at 580:22-581:1; (JA000580-000581). (Main Brief of Complainant Laura Sunstein Murphy v. PECO Energy Company C-2015-2475726, page 31-32).

2) Mr. William Bathgate

Mr. William Bathgate is a scientific expert in the areas of electrical engineering and in the design and measurement of power systems and radio design. (Tr. 4/11 at 327:12-13; 328:14-15). Bathgate tested emissions of 2 versions of the Aclara meter proposed by PECO to be installed at the McKnight household relative to a clean baseline (Tr. 4/11 at 342:25, Complainant Joint Exhibit 5 at page 10). He reported that both meters produced transients of over 300 millivolts. (Complainant Joint Exhibit 5 at page 3-4) which is more than 1,200 times the FCC class B specification for unintended conducted emissions of other devices like this in households (Tr. 4/11 at 348:14-16; 354:20).

Bathgate has tested other meters, including the Landis + Gyr, and noted that they have the same problem with extremely high conducted transients. (Tr. 4/11 at 366:2-4).

Bathgate testified that he measured the transients at the McKnight household, and that they were not visible using the same scale 200millivolt/div scales used in Complainant Joint Exhibit 5 at page 3-4, but instead needed to change scale to 50millivolts/div see them because they were so much smaller (Tr.4/12 at 20:20-25; 21:1-5). The FlexNet radio sends bursts of information, and that burst of information is frequently interpreted as a 'pulse' (Tr. 4/11 at 379:8-10). Most modern cell phones transmit at 0.4 -0.5 watts (Tr. 4/11 at 384:21-22) Docket C-2017-2621057 (McKnight v PECO) Complainant Main Brief Page 10 of 68.

A secondary antenna is created when a primary antenna sends electromagnetic energy to another wire, and the other wire conducts the RF. This is the same antenna design principle used when attempting to design an antenna to have more power directed in a particular direction but can happen as an unintentional effect (Tr. 4/11 at 389:20-390:1-10).

Bathgate testified how the antenna of the AMI meter is in close proximity to other wires within the meter box, and this can work to create a secondary antenna effect on other household wires and ground (Tr. 4/11 at 389:17-390:4). Bathgate testified that he has seen the secondary antenna effect specifically occur with other smart meters, and that removal of the smart meter radio makes the effect go away (Tr. 4/11 at 391:1-3). Bathgate testified that simply moving the AMI meter to a pole far from the house will not prevent the secondary antenna effect (Tr. 4/11 at 400:22-25-401:1) (Alexia L. McKnight and Lawrence K McKnight v. PECO Energy Company Docket No. C-2017-2621057, page 9-10).

6.2.4.1 Bathgate testified to multiple reasons why an AMI meter can generate EMF unintentionally, and that he measured the meters operating differently than their expected design suggests.

Bathgate is a scientific expert in the areas of electrical engineering and in the design and measurement of power systems and radio design (Tr. 4/11 at 327:12-13; 328:14-15). He has extensive experience with tracing situations where designs can create unintentional effects (Tr. 4/11 a 325:5-326:12).

Bathgate identified that a utility power meter with a switch mode power supply and a radio could generate noticeable EMF in at least 3 possible routes.

- 1) Through conducted transient emissions on household wiring due to a faulty design where the switch mode power supply does not have proper filtering and a ground path.
- 2) Through the AMI meters radio and primary antenna, which are operating differently in the field than predicted by design.

3) Through an effect where the AMI meters primary radio antenna is too close to the household ground and wiring and therefore effectively creates a secondary antenna on the household wiring.

3) Dr. David Carpenter

“The [STATE OF NORTH CAROLINA UTILITIES] Commission received a statement from David Carpenter, MD, who is Director of the Institute for Health and the Environment at the University at Albany in Rensselaer, New York. The letter was co-signed by four other scientists and doctors, and was cited by many public commenters as providing proof that smart meters are a risk to human health. Among other things, Dr. Carpenter’s letter stated: The majority of the scientific literature related to RFR [radiofrequency radiation] stems from cell phone studies. Smart meters and cell phones occupy similar frequency bands of the electromagnetic spectrum, meaning that cell phone research can apply to smart meter RFR. While the strongest evidence for hazards coming from RFR is for cancer, there is a growing body of evidence that some people develop a condition called electrohypersensitivity (EHS). These individuals respond to being in the presence of RFR with a variety of symptoms, including headache, fatigue, memory loss, ringing in the ears.... Some reports indicate that up to three percent of the population may develop these symptoms, and that exposure to smart meters is a trigger for development of EHS.” (STATE OF NORTH CAROLINA UTILITIES COMMISSION RALEIGH DOCKET NO. E-7, SUB 1115 DOCKET NO. E-100, SUB 147 DOCKET NO. E-100, SUB 153 BEFORE THE NORTH CAROLINA UTILITIES COMMISSION DOCKET NO. E-7, SUB 1115 page 11).

EXHIBITS AND TESTIMONIES AT INITIAL HEARING

This is information presented at the hearing on April 17 and 18, 2018 that we have read and consider to be scientifically significant.

1. ACT 129: THE LAW AS WRITTEN & INTENDED

At the Initial Hearing, James Quigley testified that PECO has alleged and PUC has maintained that Act 129 mandates Electric Distribution Companies (EDC) to install smart meters. However, James presented evidence that Act 129 does not mandate said installation on all customers. James referred to the Public Utility Code (66 PA.CS) – Omnibus Amendments Act of Oct. 15, 2008, P.L. 1592, No. 129 (Exhibit C-1) Section S2806.2 (f) which states “Smart meter technology and time of use rates.---in accordance with paragraph (2) Electric distribution complies 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; (ii) In new building construction; (iii) In accordance with a depreciation schedule not to exceed 15 years” (Exh. C-1, p 17).

James and Teresa Quigley have not requested a “smart” meter. In fact, we have requested not to have one. The Quigleys do not live in new construction. Their house was built in 1960. The depreciation schedule is irrelevant to anyone who does not comply with (i) and (ii), supra. The Quigleys have the ethical and law-abiding right to refuse the imposition of PECO’s Smart Meters.

James, further, testified that he read and provided a copy of the Legislative Journal (Wednesday, October 8, 2008, No. 64), Bills on Third Consideration and Final Passage, HB 2200 (Pr. No. 4526) which states “The Senate proceeded to consideration of the bill entitled: An Act

amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes...further providing for duties of electric distribution...Considered the third time and agreed to, And the amendments made thereto having been printed as required by the Constitution, On the question Shall the bill pass finally? The PRESIDENT pro tempore, The Chair recognizes the gentleman from Bucks, Senator Tomlinson (who spoke)...It also contains language in there that we will have smart meters. It is not mandated, but it allows for the deployment of smart meters through a depreciation process, through new home construction process, and through the depreciation of 15 years, and for anyone who wants to purchase a smart meter which they feel will help them manage their electric load better” (Exh C-2, p. 2626).

Further in the same Legislative Journal, it states, “The PRESIDENT pro tempore. The Chair recognized the gentlewoman from Northampton, Senator Boscola (who spoke)...We also made sure that smart meters would not be mandated for every single ratepayer. Not only is that a smarter approach to smart meter deployment, but it will also save electric customers hundreds of millions of dollars paying for something that will not provide a real benefit in their own households” (Exh C-2, p. 2627). On page 2629, it states, “The PRESIDENT pro tempore. The Chair recognizes the gentleman from Philadelphia, Senator Fumo (who spoke)...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.” Further down Senator Fumo is quoted, “For the first time, when this begins to become a reality, the power base will not be with any lobbyist, will not be with any special interest group. It will be with those who are with the people. The people will rebel. The people will demand mitigation far in excess, far in excess to

what we are willing to compromise with today. But the utilities will ultimately pay for that arrogance” (Exh C-2, p. 2630)

Despite the above, with clear statements on the letter and intent of the law, the PA Public Utility Commission, according to the Public Meeting held June 18, 2009 (Smart Meter Procurement and Installation, Docket No. M20092092655), issued the Implementation Order (Exh. C-3) that reads as follows: “Each EDC smart meter plan must describe the smart meter technologies the EDC proposes to install, upon request from a customer at the customer’s expense, in new construction and in accordance with a depreciation schedule not to exceed 15 years” (Exh. C-3, p. 3).

In the same Implementation Order, under 4. SystemWide Deployment, “The Commission (PUC) believes that it was the intent of the General Assembly to require all covered EDCs to deploy smart meters systemwide when it included a requirement for smart meter deployment “in accordance with a depreciation schedule not to exceed 15 years” (Exh C-3, p. 16).

According to Accounting principles (Exh C-4) “A depreciation schedule is a chart that calculates an assets depreciation expenses based on its purchase date, cost, useful life, and method.” The Depreciation Schedule has nothing to do with a systemwide deployment. It appears to be an excuse used by the Commissioners of the PUC to benefit the EDCs. The PUC decided to violate the letter of the law and the stated intent of the law according to Senators Tomlinson, Boscola and Fumo.

The Quigleys have the law-abiding right to refuse PECO's smart meters. They are choosing not to opt in. Citizens have the right to follow the letter and intent of the law even when corporations and regulatory entities undermine the law for their own benefit.

Therefore, the Quigleys ask the Court to render the PUC's Implementation Order relevant to Act 129 ultra vires.

2. HEALTH CONSIDERATIONS FOR TERESA

2A. Autoimmune Disorder

The complainant, Teresa Mendez-Quigley, has been diagnosed with Sjogren's Syndrome. As per Teresa's physician's letter (Exh. A-1) and her testimony, Teresa has been diagnosed with Sjogren's Syndrome. Inflammatory systemic autoimmune diseases, such as rheumatoid arthritis, lupus and Sjögren's Syndrome, have all been found to overlap and occur in her family. Her sister died from Lupus complications in 1999 (Exh. A-9).

Teresa has been treated by her medical doctor for more than 20 years. As her primary care physician, he diagnosed her in 2005 with Sjogren's. He also found that she has vitamin D deficiency which required high dose prescription strength vitamin D2 50,000 units once a week. He reports that she also has osteoporosis and a family history of coronary artery disease. (Exh. A-1).

As described in the medical literature, "An autoimmune disorder occurs when the body's immune system attacks and destroys healthy body tissue by mistake...immune system does not distinguish between healthy tissue and antigens. As a result, the body sets off a reaction that destroys normal tissues...An autoimmune disorder may result in: The destruction

of body tissue; abnormal growth of an organ; Changes in organ function” (Exh A-8). Sjogren’s causes Teresa’s body to attack the parts that involve moisture – which is every part of the body (Exh A-5). Teresa’s symptoms, to which she testified and are included in Exhibit A-9, include severe dry eyes (can result in corneal ulcerations), dry mouth (causes dental issues), digestive issues, brain fog (memory loss), fatigue, and neuropathy (pain in toes and fingers) – all which can be aggravated during flare ups, and can become more severe as she ages (Exh. A-5). Further, Sjogren’s involves “serious complications (that) include profound fatigue, chronic pain, major organ involvement, neuropathies, and lymphomas” (Exh A-3 & A-6). “Sjogren’s is a systemic disease, affecting the entire body. Symptoms may remain steady, worsen, or, uncommonly, go into remission. While some people experience mild discomfort, others suffer debilitating symptoms that greatly impair their functioning” (Exh A-3 & A-4). This is a disease that must be managed. Teresa testified that she makes diligent efforts to avoid exposures from various sources and eats healthy and organic foods, avoids most medicines because of contraindications. The National Library of Medicine states, “Medicines used to suppress the immune system can cause severe side effects, such as higher risk of infections (Exh A-8).

Teresa testified, under oath, that the complainants make every best effort to reduce exposures from many sources in order to reduce the risk of a flare up. This includes limiting her exposures to involuntary electromagnetic fields, including wireless transmissions. At home, the computers are cabled and the Wi-Fi is turned off at all times. The computers are turned off completely at night. The complainants don’t cook in the microwave and when they do use it, it’s mostly to heat up a heating pad. They don’t own or use a cordless phone and only use a corded phone (landline) at home. Teresa’s personal cell phone is a flip phone because she

doesn't want to use a "smart" phone and be connected all the time. It is turned off each night. In the car, as per her testimony, it is kept either in the trunk with personal effects or in the back seat. It is primarily a safety tool and to communicate via text with her spouse. Teresa's voicemail is not set up and she doesn't use it to talk with friends or family. There are only a handful of people who have her number and they know to text her. She will use the home landline to call them. Her work cell is off when she gets home and remains off during the weekends. When she must use it, she holds it away from her head for voicemail and calls back on a landline whenever possible. The complainants don't use or own tablets or iPad or other devices.

Teresa's testimony addressed the scientific community's Wingspan Statement on the Precautionary Principle which states: "When an activity raises threats of harm to the environment or human health, precautionary measures should be taken even if some cause and effect relationships are not fully established scientifically." Further, "When the health of humans and the environment is at stake, it may not be necessary to wait for scientific certainty to take protective action" (Exh A-9). However, as reported in the literature as an invisible disease, some "may face disbelief from family, friends, co-workers, and even doctors, who don't understand what's wrong with you" (Exh. A-7). The goal with treatment of Sjogren's is to "Reduce symptoms; Control the autoimmune process; Maintain the body's ability to fight disease (Exh A-8). In short, we must actively manage Teresa's Sjogren's.

2 B: Immune System

Radio Frequency (RF) and Microwave (Mw) Transmissions impact the Immune System.

James Quigley, under oath, shared his extensive experience of 15 years working for the medical and scientific electronic industry wherein he provided access to peer-reviewed journals in electric / digital format for scientists conducting research. He further testified that he holds a Masters of Science degree from the University of Pennsylvania.

James did present in his testimony that he based his opinion and information on the examination of the peer-reviewed medical and scientific literature, including the article "Electromagnetic fields and autoimmune diseases," by Boscolo et al., published by Prevention & Research in 2014 (Exh B-1) that holds "It is demonstrated that there is absorption of energy in organisms exposed to EMFs; the effects of the EMFs (more elevated on the immune and nervous systems) are similar to those induced by stress stimulations. We suggest that the adaptation of tissues to the EMFs, in genetically predisposed subjects, may stimulate the onset and progression of autoimmune diseases" (Exh B-1, p 79).

James did further share with the Court that the authors of said article wrote, "It is also clear that the cells which are more affected by EMF exposure are those of the immune and nervous systems and that EMFs may affect DNA metabolism." (Exh B-1, p. 82). James added that "An organism is exposed to EMFs may adopt mechanisms which provide adaptation for the absorbed energy of the EMFs. Whenever there is genetic predisposition to autoimmunity disorders, in particular to SLE (Systematic Lupus Erythematosus), the organism, during the phase of adaptation to the EMF exposure, may develop autoimmunity mechanisms which may reduce the immune tolerance versus its own cells" (Exh B-1, p 82).

James further testified that he was informed by the peer-review article, "Electrosmog and autoimmune disease (Exh B-2), whose author, Trevor G. Marshall is from the Autoimmunity

Research Foundation in California. In said article, James stated that “autoimmune patients seem predisposed to Electrosmog hypersensitivity at levels currently existing in typical home and work environments, and this factor may be affecting their response (Exh B-2, p 133). James added that the Quigleys go to great lengths to reduce their exposures to RF / EMF and to now face exposures would risk immunopathology which would impact their therapeutic response. “I would like to reiterate that we have a tenuous homeostasis with Sjogren’s.”

James did share that “The experiments described in this document confirm that biological molecules are constantly moving and interact with timescales measured in picoseconds. As a result, forces will be exerted on the charged atoms with these molecules by incident electromagnetic fields, including Electrosmog....We cannot ignore the increasing body of evidence showing electromagnetic effects on the immune system” (Exh B-2, p 134).

James’s extensive examination of the peer-reviewed medical and scientific literature led him to Boscolo’s “Combined Effects of Electromagnetic Fields on Immune and Nervous Responses,” published in the International Journal of Immunopathology and Pharmacology. In this article, James read, “We suggest that the effects of EMFs are more evident in subjects with vulnerable immune and/or nervous system” (Exh B-4, p. 61).

Along this line, James did analyze the Bioelectrochemistry and Bioenergetics article, “Microwaves and Cellular Immunity,” which stated, “Our data suggest that irradiation with low-power density microwaves significantly activates the immune potential of macrophages and T cells” (Exh. B-6, p. 40). We do not want to ‘significantly activate’ Teresa’s already overactive immune system.

Further, James's research led him to the Bioelectromagnetics article "Confirmation Studies of Soviet Research on Immunological Effects of Microwaves," whose results state, "Our results, using CFT and ELISA, partly confirmed the findings of the early studies and indicated possible effects from non-thermal RF exposure on autoimmune processes (Exh B-3, p. 589). It goes on to say, "The results of our immunology study using the CFT and ELISA tests partly confirmed the results of the Soviet research groups on the possible induction of autoimmune responses (formation of antibodies to brain tissues) and stress reactions from...long-term non-thermal RF exposure" (B-3, p. 601).

From the review article in the journal Pathophysiology, "Disturbance of the immune system by electromagnetic fields – A potentially underlying cause from cellular damage and tissue repair reduction which could lead to disease and impairment," James notes that "EMFs disturb immune function through stimulation of various allergic and inflammatory responses, as well as effects on tissue repair processes. Such disturbances increase the risks for various diseases, including cancer. These and the EMF effects on other biological processes (e.g., DNA damage, neurological effects, etc.) are now widely reported to occur at exposure levels significantly below most current national and international safety limits" (Exh. B-5, p. 157). In line with James's opinion, the article goes on to state, "Specific findings from studies on exposures to various types of modern equipment and/or EMFs report over-reaction of the immune system; morphological alterations of immune cells; profound increases in mast cells in the upper skin layers, increased degranulation of mast cells and larger size of mast cells in electrohypersensitive individuals; presence of biological markers for inflammation which are sensitive to EMF exposure at **non-thermal levels**; changes in lymphocyte viability; decreased

count of NK cells; decreased count of T-lymphocytes...suppressed or impaired immune function; and inflammatory responses that can ultimately result in cellular, tissue and organ damage (Exh B-5, p.174). This is critically relevant as Teresa's health is already impacted and could result in greater deficits with EMF/RF exposures.

James's opinions were also informed by the BioInitiative 2012 Report which states "This update covers about 1800 new studies reporting bioeffects and adverse health effects of electromagnetic fields (powerlines, electrical wiring, appliances and hand-held devices) – and wireless technologies (cell and cordless phones, cell towers, WI-FI, wireless laptops, wireless routers, baby monitors, surveillance systems, wireless utility meters ("smart meters"), etc" (Exh. D-1, p 1). The publication goes on to state that "The BioInitiative 2012 Report has been prepared by 29 authors from ten countries*, ten holding medical degrees (MDs), 21 PhDs, and three MScs, MAs or MPHs. Among the authors are three former presidents of the Bioelectromagnetics Society, and five full members of BEMS. Another is a Senior Advisor to the European Environmental Agency" (Exh D-1, p. 1).

*Sweden (6), USA (10), India (2), Italy (2), Greece (2), Canada (2), Denmark (1), Austria (2), Slovak Republic (1), Russia (1).

These experts represent a wide array of disciplines with vast experience and current knowledge that support James's opinions. In the BioInitiative 2012: A Rational for Biologically-based Exposure Standards for Low-Intensity Electromagnetic Radiation, the conclusion states "Bioeffects are clearly established and occur at very low levels of exposure to electromagnetic fields and radiofrequency radiation. Bioeffects can occur in the first few minutes at levels associated with cell and cordless phone use. Bioeffects can also occur from just minutes of

exposure to mobile phone masts (cell towers), WI-FI, and wireless utility “smart” meters that produce whole-body exposure.”

Additionally, James expresses concerns due to “Many of these bioeffects can reasonably be presumed to result in adverse health effects if the exposures are prolonged or chronic. This is because they interfere with normal body processes (disrupt homeostasis), prevent the body from healing damaged DNA, produce immune system imbalances, metabolic disruption and lower resilience to disease across multiple pathways. Essential body processes can eventually be disabled by incessant external stresses (from system-wide electrophysiological interference) and lead to pervasive impairment of metabolic and reproductive functions (Exh D-2, p. 1).

James concurs that “Safety standards for sensitive populations will more likely need to be set at lower levels than for healthy adult populations. Sensitive populations include the developing fetus, the infant, children, the elderly, those with pre-existing chronic diseases, and those with developed electrical sensitivity” (EHS) (Exh D-2, p. 9). James and Teresa ask that the PUC give this added weight in its decision. James did provide to the Court and PECO numerous articles that support this.

This is confirmed in the 2014 Supplement of the BioInitiative Report’s Summary for the Public that states, “Several decades of international scientific research confirm that EMFs are biologically active in animals and in humans. Now, the balance has clearly shifted to one of ‘presumption of possible adverse effects’ from chronic exposure. It is difficult to conclude otherwise, when the bioeffects that are clearly now occurring lead to such conditions as pathological leakage of the blood-brain barrier (allowing toxins into the brain tissues); oxidative damage to DNA and the human genome, preventing normal DNA repair in human stem cells;

interfering with healthy sperm production; producing poor quality sperm or low numbers of healthy sperm, altering fetal brain development that may be fundamentally tied to epidemic rates of autism and problems in school children with memory, attention, concentration, and behavior; and leading to sleep disruptions that undercut health and healing in numerous ways (Exh. D-4, p 5, Section C Do We Know Enough to Take Action).”

In the above-mentioned BioInitiative 2014 Supplement it boldly states, “it is essential to re-think safety standards to take into account the exquisite sensitivity of biological systems and tissue interactions where the exposures are pulsed and cumulatively insignificant over time-scale averaging, but highly relevant to body processes and functioning.” (Exh D-4, p. 17 – B. Recommended Actions).

The BioInitiative 2012 Summary for the Public clearing states “There is substantial evidence that ELF and RF can cause inflammatory reactions, allergy reactions and change normal immune function at levels allowed by current public safety standards” (Exh D-3, p 18). This has direct significance for Teresa’s health as her immune system is already compromised. This Summary further states “Anything that triggers an immune response should be carefully evaluated, since chronic stimulation of the immune system may over time impair the system’s ability to respond in the normal fashion” (Exh D-3, p. 18).

2C: Vitamin D Deficiency

Teresa has already been diagnosed with vitamin D deficiency. Marshall at al report that in the presence of Electrosmog, the vitamin D receptor has difficulties doing its job (Exh B-2).

This plausibility will complicate Teresa's health, including vitamin D deficiency, osteoporosis and Sjogren's.

James Quigley testified, based on his examination of the medical and scientific literature, that Teresa's diagnosis of vitamin D deficiency places her health in a precarious situation. James referred to the National Institutes of Health/US National Library of Medicine (Exh E-1) that defines Vitamin D Deficiency as "not getting enough vitamin D to stay healthy" (Exh E-1, p. 1). It explains that "Vitamin D helps your body absorb calcium. Calcium is one of the main building blocks of bone. Vitamin D also has a role in your nervous, muscle, and immune systems." "The recommended amounts, in international units (IU) each day, are...Adults 19-70 years: 600 IU." Teresa was prescribed 50,000 IU per week. "Some people are at higher risk of vitamin D deficiency:...People with osteoporosis; People with some lymphomas" (Exh E-1).

James also referenced the US National Library of Medicine that explains that "Vitamin D deficiency can lead to a loss of bone density, which can contribute to osteoporosis and fractures. Severe vitamin D deficiency can also lead to other diseases...In adults, severe vitamin D deficiency leads to osteomalacia...causes weak bones, bone pain, and muscle weakness." (Exh E-1, p. 2).

James's testimony was also informed by the National Institutes of Health (NIH) article, "Calcium and Vitamin D: Important at Every Age," that "Two nutrients in particular, calcium and vitamin D, are needed for strong bones. Calcium is needed for our heart, muscles, and nerves to function properly and for blood to clot. Inadequate calcium significantly contributes to the development of osteoporosis." Further, it elaborates, "The body needs vitamin D to absorb

calcium. Without enough vitamin D, one can't form enough of the hormone calcitriol...This in turn leads to insufficient calcium absorption from the diet. In this situation, the body must take calcium from its stores in the skeleton, which weakens existing bone and prevents the formation of strong, new bone" (Exh E-2).

James provided in the exhibits the Fact Sheet by the US Department of Health & Human Services Office on Women's Health on Osteoporosis in which it explains that "Osteoporosis is a disease of the bones that causes bones to become weak and break easily...Broken bones from osteoporosis cause serious health problems and disability in older women" (Exh E-4).

Teresa has already been diagnosed with osteoporosis and is getting older. The Fact Sheet states clearly that "Most often, the reason for bone loss is very low levels of the hormone estrogen...The most common cause of low estrogen levels is menopause...Some women lose up to 25% of bone mass in the first 10 years after menopause" (Exh E-4, p. 2). Teresa has been post menopausal for 14 years.

The Fact Sheet suggests that to prevent osteoporosis "Get enough calcium and vitamin D each day." As it explains, supra, vitamin D deficiency does not enable Teresa to do this. Further, it states "don't smoke." Teresa has never smoked and lives in a household that is smoke-free. She does not drink alcohol on a daily basis, strives to keep healthy, as per her testimony, and aims to decrease her exposure to radiofrequencies and Electrosmog. According to the article from Immunological Research entitled "Electrosmog and autoimmune disease," (Exh B-2) "...the human Vitamin-D receptor (VDR) and its ligand, 1,25-dihydroxyvitamin D (1,25-D), are associated with many chronic inflammatory and autoimmune diseases...We here report that structural instability of the activated VDR becomes apparent

when observing hydrogen bond behavior with molecular dynamics, revealing that the VDR pathway exhibits a susceptibility to Electrosmog. Further, we note that characteristic modes of instability lie in the microwave frequency range, which is currently populated by cellphone and WiFi communication signals, and that the susceptibility is ligand dependent” (Exh B-2, p. 1). Teresa is already vitamin D deficient. We actively manage that deficiency. According to the article in Immunological Research (Exh B-2), in the presence of Electrosmog (and we add including PECO’s ‘smart’ meters), Teresa’s vitamin D receptors will not work properly. with further vitamin D deficiency comes problems with calcium absorption and subsequently osteoporosis.

The National Institute of Health clearly states that “Studies have found an increase in bone loss and fracture in individuals...at increased risk for osteoporosis for many reasons...the glucocorticoid medications often prescribed...can trigger significant bone loss...In addition, pain and fatigue caused by the disease can result in inactivity...Studies also show that bone loss...may occur as a direct result of the disease. Of concern is the fact that 90 percent of the people affected...are women, a group already at increased risk for osteoporosis” (Exh E-5).

3: Impacts on Human Health

A growing body of well regarded, respected and renowned physicians and scientists the world over have increasingly documented their concerns and published their work. In the ‘International Appeal: Scientists call for Protection from Non-ionizing Electromagnetic Field Exposure,’ more than 238 scientists from over 30 countries have signed onto a call for action to the United Nations. Specifically, it states: “We are scientists engaged in the study of biological

and health effects of non-ionizing electromagnetic fields (EMF). Based upon peer-reviewed, published research, we have serious concerns regarding the ubiquitous and increasing exposure to EMF generated by electric and wireless devices. These include – but are not limited to – radiofrequency radiation (RFR) emitting devices...smart meters...and infra-structures used in the delivery of electricity that generate extremely-low frequency electromagnetic field (ELF EMF)” (Exh M-7, p. 1).

Under the subheading, ‘Scientific basis for our common concerns,’ this public announcement states, “Numerous recent scientific publications have shown that EMF affects living organisms at levels well below most international and national guidelines. Effects include increased cancer risk, cellular stress, increase in harmful free radicals, genetic damages, structural and functional changes of reproductive system, learning and memory deficits, neurological disorders, and negative impacts on general well-being in humans” (Exh M-7, p. 1).

Under the subheading, ‘Inadequate non-ionizing EMF international guidelines,’ it adds: “The various agencies setting safety standards have failed to impose sufficient guidelines to protect the general public...” (Exh M-7, p. 1).

If one looks at the breadth of research on the intersection of wireless transmissions and health, there is ample cause for concern regarding health. Surely, there are studies that find no harm (did industry fund those?). But equally surely, there are many more studies which do find harm. PECO and the PUC are choosing to look only at the former. As it pertains to Teresa’s health – wife, mother and full-time employee with a non-profit organization - we must look at the full collection of scientific literature and make a decision on the merits of preventing her exposures to the RF.

4. PECO's 'Experts' Testimonies & Rebuttals

4A: Mark Israel

The Complainants asked Mark Israel, MD, questions about the current number of patients he is treating that have Sjogren's, autoimmunity, vitamin D deficiency, osteoporosis. Israel acknowledged that he is not treating any patients with these disorders; in fact, he confirmed that he is not treating any patients at all. When he was asked what are the first four words of the Hippocratic Oath, an *oath* which medical students take at graduation, he could not remember. They are "*First, do no harm.*"

Israel did confirm that he is being paid for this testimony and at a number of other hearings. When asked if he thought that PECO would have selected him as an expert witness if he did not agree with their beliefs about RFs and human health, Israel indicated he did not know. This impugns his character as someone who cannot honestly respond to this inquiry. Obviously, PECO would not hire an 'expert' who did not agree with its goals.

According to Israel's written testimony, and to which he verbally attested at the Initial Hearing on April 18th, he stated that he conducts...new searches...to identify all studies, both those that report an effect and those that report no effect of radio frequency fields..." (PECO MI-2). Yet when asked to name at least one report, even one that supported his contention, he was not able to do so. He states in his written testimony that he will "Analyze individually all studies ... but (when) all important elements do not immediately come to mind, I analyze study again." When asked again, he could not name any.

For someone who testified that he analyzes and reanalyzes studies until all important elements immediately come to mind, even on a bad day, the Court should expect substantially

more than what Israel showed. Israel failed to show expertise on the fundamental issue of what he called “radio frequency fields and the reported medical conditions and symptoms” (PECO MI-1).

Israel in his testimony wrote, “Three groups of those studies provide a reliable basis for determining whether radio frequency fields have the capability to cause or contribute to adverse health effects because they address fundamental biological functions that are very sensitive to disruption: genetics, reproduction and growth and development” (PECO MI-3, p. 1). Israel goes on to lists three studies (PECO MI-3, p. 1), two of which were conducted on rats and one on mice – none on humans and Israel included no epidemiological studies.

Apparently, Israel overlooked the approximately 1,800 studies published just from 2007-2012, the majority of which report biological impacts (Exh D-2, p. 1). Just in the field of genetic studies, 114 papers were published between 2007-early 2014. Of these 74 (65%) showed genotoxic effects while 40 (35%) did not (Exh D-4, Section I). And Israel could find only three.

The Complainants note in Israel’s written testimony that he completed a residency in pediatrics and is a Diplomate of the American Board of Pediatrics, yet seems unaware of the American Academy of Pediatrics concern about radio frequency radiation. As stated in Exhibit D-2, page 2, “The American Academy of Pediatrics, in a letter...states ‘Children are disproportionately affected by environmental exposures, including cell phone radiation. The differences in bone density and the amount of fluid in a child’s brain compared to an adult’s brain could allow children to absorb greater quantities of RF energy deeper into their brains than adults. It is essential that any new standards for cell phones or other wireless devices be

based on protecting the youngest and most vulnerable populations to ensure they are safeguarded through their lifetimes” (Exh D-2, p. 2).

The American Academy of Environmental Medicine has been in existence since 1965, nearly a decade longer than Dr. Israel has been a medical doctor. While Israel denigrates the AAEM because it opposes the mass deployment of smart meters, it is a reputable organization with fifteen medical doctors on its executive committee and its Board of Directors. It issued the “Electromagnetic and Radiofrequency Fields Effect on Human Health report (Exh M-5). In said report, it states that “...many in vitro, in vivo and epidemiological studies demonstrate that significant harmful biological effects occur from non-thermal RF exposure and satisfy Hill’s criteria of causality...immune system dysfunction...have all been reported in the peer-reviewed scientific literature.

“Genotoxic effects from RF exposure, including studies of non-thermal levels of exposure...consistently and specifically show chromosomal instability, altered gene expression, gene mutations, DNA fragmentation, and DNA structural breaks...The fact that RF exposure causes neurological damage has been documented repeatedly. Increased blood-brain barrier permeability and oxidative damage, which are associated with brain cancer and neurodegenerative diseases, have been found” (Exh M-5, p. 2). Further, it adds that “these studies clearly show causality and disprove the claim that health effects from RF exposure are uncertain...” (Exh M-5, p. 3), as Israel claims.

According to the Pre-filed Testimony of De-Kun Li, MD, PhD, MPH (MPUC Docket No. 2011-00262), Dr. Li – who holds multiple degrees in medicine, epidemiology, and public health and has extensive experience conducting research - testified that he is “not aware of any

studies that have shown that exposure to smart meters is safe for the human population. Anyone who wants to install smart meters to every household needs to conduct studies to demonstrate that such massive installation is safe and will have no effect on the risk of...autoimmune diseases, etc.” (Exh M-4, p. 6).

The truth of the matter is that, it is PECO and its affiliate lawyer and ‘expert’ witness, Israel, who are limiting the scope of their examination to include only the research that fits their agenda. The collective wisdom of The American Academy of Environmental Medicine is far greater than Israel’s ‘reasonable degree of medical certainty’ based on his paltry literature review.

4B: Bryan Uber

PECO’s witness, Bryan Uber, states that he holds a B.S. degree (Exh PECO BU-1). He is only able to speak about his role at PECO but has no qualifications in human health.

As with all PECO employees and their subcontractors, Uber promulgates the inaccuracy and misstatement that PECO is installing smart meters to maintain compliance with Act 129. The truth of the matter is that PECO is installing smart meters to maintain compliance with the PUCs implementation order, which unjustly interpreted Act 129 and undermined the process of governance in a democratic republic.

While the Quigley’s refused a gas smart meter – as documented by Uber’s own testimony – and although on both February 19, 2016 and March 10, 2016 “noted the account not to field the gas module for installation until cleared,” PECO “successfully changed the AMI gas module” on September 28, 2016 (Exh PECO BU-1). Clearly PECO acted with disregard and

disrespect for citizens and citizen rights. PECO's behavior regarding the gas smart meter was surreptitious and secretive and went against the explicit wishes of the homeowners.

PECO attempted to change the electric smart meter as per Uber's written testimony, but was unable to gain access to the current meter. This shows that PECO has disregard and disrespect for citizens' rights. The Court should clearly be able to see the citizens' distrust of PECO. With threatening shut off notices, the Quigleys had to file a complaint to the PUC, as the only course of action. Not once during all the harassing letters and shut off notices did any PECO employee say to Teresa or James Quigley that there are many other citizens who have health and medical concerns and that PECO would make an honest attempt to research all the literature to find a solution that would meet their health needs.

4C: Glenn Pritchard

PECO's witness, Glenn Pritchard, states that he is "a recognized expert in the design, operation, and technology of advanced grid installations" (Exh. PECO GP-1). Pritchard also testified that he holds a Bachelor's degree. This confirms that he has no qualifications in human health and how smart meter transmissions impact people's health. This validates the Quigleys contention that PECO is not addressing the health concerns and current health needs of Teresa Mendez-Quigley.

Pritchard misstates in his testimony that "...Act 129...requires the installation of 'smart meters' (Exh PECO GP-1, p. 2) since the law – as written and with documented statements of then senators – clearly does not mandate this. As stated previously (under Uber testimony), Pritchard continues PECO's practice of misstating the reason for PECO's insistence on installing

smart meters. It is not because of Act 129 which clearly provides citizens the right to not have smart meter.

Pritchard's testified, "For the FlexNet radio, if it is tuned to transmit 6-8 times a day (which is the most that I expect the Complainants' meter to transmit), then the FlexNet radio will transmit for a total of about 0.43 to 9.56 seconds every 24 hours" (PECO GP-1, p. 4).

Marshall et al write in the article "Electrosmog and Autoimmune Disease, that "The experiments described in this paper confirm that biological molecules are constantly moving and interact with timescales measured in picoseconds. As a result, forces will be exerted on the charged atoms within these molecules by incident electromagnetic fields, including Electrosmog...We cannot ignore the increasing body of evidence showing electromagnetic effects on the immune system" (Exh B-2, p. 134). A pico second is one trillionth of a second. Therefore, PECO's transmission timescales far exceed the safe zone to protect vitamin D synthesis and immune function.

As reported in Pritchard's testimony, the Zigbee transmitter in the vast majority of PECO installed meters will transmit a signal every 30 seconds until it finds a "smart device." PECO is ostensibly unconcerned with 2,880 (2/minute or 120/hour x 24 hours) Zigbee transmissions per day for each customer - when a "smart device" is not present in the home – even though scientific peer-reviewed research indicates that transmissions of exceedingly short durations impact human health. This continues PECO's general practice of choosing to look only at research or biased standards from monied interests which claim the transmissions are safe.

Pritchard's testimony goes on to state, "Complainants will regularly encounter PECO AMIs anywhere that they travel in PECO's service territory" (Exh PECO GP, p. 2). Yes, of course, but the Quigleys won't be sleeping within 30 inches of the meter as they do in their home.

When the Quigleys asked Pritchard, "Are you aware of any third-party testing to compare or contrast with your claims about the duration of transmissions? By third party I mean research not funded or conducted by PECO or an industry affiliated," Pritchard tried to avoid answering the question and when pressed, he could not provide an answer.

Pritchard, in his written testimony states that "PECO has offered this Complainant the accommodation of delaying installation..." The Quigleys argue that PECO did not "offer" any accommodations despite written letters from Teresa's medical doctor. The Quigleys demanded and received the delays through no support or "accommodations" from PECO. Rather, the Quigleys would argue, that PECO has harassed the Quigleys via menacing shut off notices, adding stress to Teresa's already compromised health from an autoimmune disease. This is another example of PECO misconstruing their behavior with citizens of Pennsylvania. PECO, as per Pritchard's written testimony, claims that it "cannot delay installation any longer" (Exh GP-1, p. 8). PECO must recognize that it will be required to delay installation as long as a Commonwealth or Federal Court requires it.

4D: Christopher C. Davis

Christopher C. Davis, PhD, has never treated a patient of any kind, especially one with Sjogren's or other autoimmune disease. Though he claims expertise in biophysics and bio-electromagnetics, he has no experience in human health (for an actual human being).

Davis was asked if he was being paid for his testimony and he confirmed that he was. When asked if he thought that PECO would have selected an expert witness who did not agree with their interpretation of the health characteristics of RF transmission, he confirmed that probably would not be the case.

Davis states in his 'expert' testimony that "The Non-ionizing category of the electromagnetic spectrum consists of waves that do not have enough energy to break any chemical bonds including the chemical bonds in DNA" (PECO CD-2. p. 2). Davis seems unaware that the 2014 Supplement to the BioInitiative Report entitled 'Summary for the Public' states: "Clearly, the preponderance of genetic studies report DNA damage and failure to repair DNA damage" (Exh. D-4, Section I).

One hundred fourteen (114) new papers on genotoxic effects of RFR (radio frequency radiation) published between 2007 and early 2014 are profiled. Of these, 74 (65%) showed effects and 40 (35%) showed no effects (Exh D-4, Section I). Unsurprisingly, Davis was unaware of many of the published works he was asked about during cross examination as the Court transcript shows.

In Davis's written testimony, he writes "AMI meters do not generate electricity and therefore do not produce harmonics" (PECO CD-2, p. 4). This is in direct contradiction to PECO's other expert witness, Pritchard, wherein Pritchard wrote in his written testimony, "Both AMR and electric AMI meters use electric power in small amounts, and therefore introduce a small amount of harmonics." Since two of PECO's 'expert' witnesses do not agree in their testimonies over a relatively straight forward concept (i.e., harmonics), this gives pause to the expert credibility of one or the other on their stated areas of expertise.

Davis relies on the FCC for a consideration of the health effects of RFR along with 'expert' organizations NCRP and ANSI. It is not surprising that Davis chooses organizations with no human health expertise, since he himself has no human health expertise. Davis writes, "The FCC states on its website that the scientific evidence for adverse biological effects from non-thermal exposure levels remains 'unproven.'" (Exh PECO CD-2, p. 3). An organization which does have human health expertise (with members actually treating patients), the American Academy of Environmental Medicine (AAEM), states differently. In AAEM's publication, 'Electromagnetic and Radiofrequency Fields Effect on Human Health' the AAEM writes, "According to the FCC and other regulatory agencies, only thermal effects are relevant regarding health implications and consequently, exposure limits are based on thermal effects only" (Exh. M-5 p. 1).

The AAEM further writes, "...Many in vitro, in vivo and epidemiological studies demonstrate that significant harmful biological effects occur from non-thermal RF exposure (including)...immune system dysfunction..." (Exh M-5, p. 2). Additionally, it states, "...these studies clearly show causality and disprove the claim that health effects from RF exposure are uncertain..." (Exh. M-5, p. 3).

Davis is equally confused about another point. He writes in his testimony, "The FCC's view about non-thermal radio frequency field exposure is shared by the consensus of independent scientists who are expert in radio frequency bio-electromagnetics" (PECO CD-2, p. 3). However, Exhibit D-1 describes the authors of the Bioinitiative Report. It shows that "This update covers about 1800 new studies reporting bioeffects and adverse health effects of electromagnetic fields (powerlines, electrical wiring, appliances and hand-held devices) – and

wireless technologies (cell and cordless phones, cell towers, WI-FI, wireless laptops, wireless routers, baby monitors, surveillance systems, wireless utility meters ('smart' meters), etc." (Exh. D-1, p 1). Further it states, "Among the authors are three former presidents of the Bioelectromagnetics Society (BEMS), and five full members of BEMS. One distinguished author is the Chair of the Russian National Committee on Non-Ionizing Radiation" (Exh. D-1, p. 1).

In addition, "International Appeal: Scientists Call for Protection from Non-Ionizing Electromagnetic Field Exposure" the 238 scientists from 30+ countries write "We are scientists engaged in the study of biological and health effects of non-ionizing electromagnetic fields (EMF)...These include ... smart meters..." In the 2nd paragraph under 'Scientific basis for our common concerns', it states, "Numerous recent scientific publications have shown that EMF affects living organisms at levels well below most international and national guidelines... Under the subheading 'Inadequate non-ionizing EMF international guidelines' it concludes "The various agencies setting safety standards have failed to impose sufficient guidelines to protect the general public, particularly children. (Exh. M-7, p. 1).

REQUEST TO STRIKE TESTIMONY AND OMIT OPINIONS FROM THE PROFESSIONAL EXPERT

WITNESSES Christopher C. Davis, Ph.D. and Mark A. Israel, M.D

The Quigleys request to strike and disallow the testimony of Christopher C. Davis, Ph.D. and Mark A. Israel, M.D, based on the following facts:

1. COMPENSATED WITNESSES: They are biased because of financial interest and should be considered professional paid witnesses based on the amount of previous and future hearings they attended or will be attending as professional witnesses. Both witnesses have testified

previously on behalf of PECO. As paid professional witnesses by PECO, Davis and Israel's prior testimony are biased in favor of PECO based upon an expectation of future employment. Both witnesses derive a significant portion of their total income from litigated matters.

Dr. Christopher C. Davis, according to his testimony from John Kline vs. PPL Electric Utilities corporation Docket No. C-2017-2621072 (transcript page 124 through 129 from Evidentiary Hearing on March 29, 2018) admitted to attending at least 10 trials as a witness and had 7 or 8 more scheduled. Dr. Davis stated "I'm Compensated at \$400.00 per hour for my active work in these cases. And I do a great deal of background work in connection with these cases which I receive more compensation." He also made mention in the Kline vs. PPL Electric case that his current employment allows him to be a consultant (transcript page 131) indicating that the work he does for these trials is professional consulting work. The amount of compensation Dr. Davis would receive for these trials could derive a significant portion of his total income.

Dr. Mark A. Israel, according to his testimony in John Kline vs. PPL Electric Utilities corporation (transcript page 155 through 157) admitted to attending 4 hearings in addition to Mr. Kline's March 29, 2018 hearing plus 3 or 4 more. As far as future hearings schedules Dr. Israel stated "It's something in between two and three or six and seven, I don't know." Dr. Israel's compensation is \$500.00 an hour including time in court and all research. The amount of compensation Dr. Israel would receive for 15 or 16 trials could derive a significant portion of his total income.

2) PRO HAC VICE MOTION NEVER MADE BY PECO TO ADMIT WATSON AS PER PA STATUTE

Tom Watson, esquire, was present at the Quigley's Initial Hearing on April 17 and 18, 2018 in which he introduced the two expert witnesses, Dr. Israel and Dr. Davis. Attorney Watson does not have a license in PA to practice law. It is illegal for him to appear in this case. The Quigleys are requesting that the expert testimonies and opinions of Dr. Israel and Dr Davis be stricken and/or withdrawn from the record and not considered in this case. PECO did not follow normal procedure to ask for his admission Pro Hac Vice.

Furthermore, in Mary Paul v. PECO Energy Company Docket No. C-2015-2475355 (PECO Energy Company Answer to Petition for Reconsideration, page 8), PECO said "Ms. Paul correctly identifies three latter PECO cases in which PECO did not file a pro hac vice Motion (Caesar, Bachman, and McKnight), but incorrectly assigns nefarious motives of bias and collusion. In fact, nearly two years into the litigation of this body of cases, and with no objections to any pro hac vice motion after the Kreider case, counsel for PECO simply overlooked the filing of additional, iterative, versions of pro hac vice motions in some of the latter cases. This oversight will be corrected as needed with nunc pro tunc filings." Pro hac vice means "in this case only." In the Quigley's case only, Watson's presence and support of testimony by two experts is illegal and the testimony of Dr. Israel and Dr. Davis should be disallowed.

PECO submitted a motion for pro hac vice three (3) months after the record was closed due to "oversight" (See Appendix A). On July 24, 2018, the Quigleys did answer the motion and asked that Judge Heep deny PECO's Motion to admit Tom Watson pro hac vice nunc pro tunc in our matter. The Quigleys contend the following in their answer:

1. While the PUC's procedural rules allow an "attorney not licensed in the Commonwealth" to appear before the PUC, neither Ward Smith nor Tom Watson have complied with the PA Bar Admission Rules, to which PECO refers in its Motion.
2. PECO cites the PA Bar Admission Rules for pro hac vice admission, which require Attorney Tom Watson to be admitted at least 3 days before our hearing, yet PECO's counsel, Ward Smith, is obfuscating said Rules.
3. PECO's verified statements clearly show that a personal and fiduciary relationship exist between PECO's counsel and Tom Watson, to which the complainants are placed in a disadvantage and which is not equably applied.
4. Tom Watson has appeared before the PUC on numerous occasions since 2016, as admitted by Ward Smith in his motion to admit Watson yet another time, even after the hearing was over and the record was closed. PECO and Ward Smith continue to circumvent the requirement to practice with a PA license in Pennsylvania and pay said dues to the Commonwealth. PECO's counsel admits that Mr. Watson has had ample time to obtain a PA license to practice law in Pennsylvania but relies on pro hac vice to circumvent this requirement.
5. PECO's counsel lists the times that the PUC has admitted Watson pro hac vice but does not indicate the timing of this and how it was slipped in to deny due process to the complainants, many of whom are pro se. Previous case law cited by PECO in pro hac vice nunc pro tunc has no bearing on this case because that case is different and distinguishable from the Complainants. That case involved a settlement agreement with utilities about rate making. It did not involve a hearing and health issues of a customer.

And there is no reason that if that nunc pro tunc pro hac vice was granted (so that PECO should be able to cite this as precedent in our formal complaint. PECO cites absolutely no PA court case law admitting an out of state lawyer pro hac vice nunc pro tunc in a case where the hearing has been concluded. We believe PECO did not cite any PA court case for a pro hac vice nunc pro tunc being granted because none exists.

6. PECO counsel says that Ward Smith is not currently acting as the sponsor for any pro hac vice candidates in any proceeding in Pennsylvania; however, he does not clarify that other PECO counsel are sponsoring Mr. Watson's partner, Renner, in other proceedings in PA and Ward Smith did not act as a sponsor for Watson in our hearing because he could not have; he never filed a pro hac vice motion for him to act as a sponsor for Watson in our hearing until months after the hearing was held.
7. The PUC should not allow blanket pro hac vice in all complaints for the same out of state DC lawyers Watson and Renner. Further, the PUC certainly should not allow pro hac vice motions to be granted after a hearing has taken place and the record has been closed for months. At the Initial Hearing, PECO argued that the complainants had ample time to prepare for the Initial Hearing and that the Initial Hearing must take place as scheduled (April 17 & 18, 2018). We counter at this time, that PECO counsel had ample time and resources to submit a pro hac vice prior to or at the Initial Hearing.
8. PECO counsel admits that "through inadvertence and oversight, PECO counsel did not file a pro hac vice Motion in the instant case" despite having numerous resources, staffing, and legal training. PECO counsel fiercely opposed delaying our Initial Hearing when it became evident to the Honorable Judge Heep that the complainants were not in

a position to proceed with it. PECO's negligence to file early in the proceedings, in respect of the law, should not be cause for admitting this Motion after the hearing has taken place.

9. The Hearing has been held and the exhibits were presented in April. To request and receive the pro hac vice more than three (3) months after the Initial Hearing is another way in which PECO counsel is attempting to circumvent the rules, especially when complainants are pro se. The Brief was due in July (complainants asked for an extension only due to being away for a family wedding), the Motion for pro hac vice should be inadmissible and must be denied.
10. The PUC should not admit Watson pro hac vice because the Initial Hearing has ended and Teresa's health is at stake. It would be inequitable to the complainants to admit Watson pro hac vice in this case at this time especially. This is against the PA rules for admitting an out of state lawyer pro hac vice. The Honorable Judge Heep heard at the Initial Hearing the testimony of complainants and PECO months ago. PECO should not be able to reopen the record, which goes against PA law, for Watson to be admitted pro hac vice nunc pro tunc.
11. PECO counsel does not show good cause to reopen the record.
12. Further, to admit pro hac vice at this late stage goes against the PA statutes.

The Quigleys therefore respectfully request that the pro hac vice nunc pro tunc Motion be disallowed to ensure fairness to the complainants."

Clearly, PECO is taking advantage of all of the pro se Complainants who are not privileged to have the resources of a large energy company, and who are not aware of such obscure laws. The Quigley's believe that they are entitled to due process and have objected to a pro hac vice filing to admit Attorney Watson into their case.

ARGUMENT

PECO IS REQUIRED TO PROVIDE SAFE AND REASONABLE SERVICE

The Quigleys believe that PECO's use of a smart meter "will constitute unsafe or unreasonable services in violation of Section 1501. In enforcing section 1501, the Commission and PECO must be concerned with the potential for harm. If something is potentially harmful to complainants, it is both unsafe and unreasonable as to the complainants. For the Complainants, this means that proving PECO's use of smart meters adversely affects them and is unsafe and unreasonable under the circumstances of their case. It is important for the burden of proof to take into account that PECO needs to prove they are providing safe and reasonable service, with people who experience health issues or medical conditions.

The Commission, instead, should adopt the testimony of Dr. Andrew Marino who has stated that there is a reliable bias to conclude that there is at least a risk of harm to the vulnerable and sensitive, and that it is unreasonable to expose people to RF from smart meters. The Commission must decide if the smart meters PECO seeks to impose on the Complainants are "safe" and "reasonable" given the Complainants' states of health and given the medical opinions of the Complainants' treating physicians.

The other factor to consider is not just “safety” but “reasonable service.” Based on the evidence presented regarding these Complainants and the extent and bases of their concern for their safety, health, and wellbeing, the forced installation of smart meters on our property is unreasonable. The Commission should defer to the judgment of Complainants and their treating physicians. It lacks the authority to override the decision of these medical professionals.

PECO RELIES TOO HEAVILY ON THE FCC LIMITS BASED ON A DATED 1986 REPORT

PECO, through Dr. Davis, claims that PECO smart meters are safe because they emit RF below the limits established by the FCC. The determination that there can be no effects other than possibly heating below the FCC limits is based on a 1986 report of the National Council on Radiation Protection (NCRP) *Cross Examination of Dr. Christopher Davis, December 7, 2016 Hearing Transcript*, at 1354:2-10; (JA001678). Davis admitted that the NCRP Report stated that the understanding of biological effects “is still evolving . . . and it’s to be expected that the exposure criteria set out in this report will be evaluated periodically in the future and possibly reversed as new information becomes available.” *Id.* at 1355:24-1356:14; (JA001679). Davis claims that the FCC mentions the issue and would revise the limits “if someone ever produces some conclusive evidence it was a problem . . .” *Id.* at 1349:1-8. As explained by Marino, there have been hundreds of studies reporting biological effects from exposure to RF at powers and frequencies comparable to smart meters, not to mention epidemiological studies, studies on mechanism, and most recently the NTP Report. Under the circumstances, PECO places far too much reliance on FCC limits that reflect out of date science. (Laura Sunstein Murphy v. PECO Energy Company No: C-2015-2475726; (December 7 hearing Cynthia Randall and Paul Albrecht

v. PECO Energy Company C-2016-2537666; Laura Sunstein Murphy v. PECO Energy Company C-2015-2475726; Maria Povacz vs. PECO Energy Company C-2015-2475023).

There is no proof of safety. PECO tries to put the burden on Complainants to prove RF has conclusively been proven to cause harm, when the reality is that it should shoulder the burden of proving safety. PECO cannot meet that burden, which is why it relies so heavily on the FCC limits.

PA PUC ADOPT THE SAME REGULATION AS NORTH CAROLINA PUC-OPT OUT FOR MEDICAL REASONS

The Quigleys request that the PA PUC adopt the same AMI smart meter opt out regulations that North Carolina PUC ordered: “any sensitive customer with a physician’s letter may opt out of AMI metering and will be provided safe metering for them at no additional fee.” We are requesting an accommodation under the American Disabilities Act to have an analog meter for the specific health issues and concerns listed supra.

EXPOSURE TO RF WOULD VIOLATE DUE PROCESS

Complainant is questioning whether a government agency has the authority to expose a person to electromagnetic energy against their wishes and against the recommendation of their physician. This would violate the due process clause of the 14th Amendment of the Federal Constitution as well as the due process protections in Article 1, Section 11 of the Pennsylvania State constitution. “All courts shall be open; and every man for an injury done him in his lands, goods, person or reputation shall have remedy by due course of law, and right and justice administered without sale, denial or delay. Suits may be brought against the Commonwealth in such manner, in such courts and in such cases as the Legislature may by law direct.”

MEDICAL OPT-OUTS SHOULD BE IMPLEMENTED

Given the nature of the Commission's charge, complainants should not have to prove medical causation as if this were a toxic tort action seeking damages. The Commission as policy maker must be concerned with risk of harm, not just actual proven manifested harm in the past. This is inherent in the nature of a regulatory agency like the Commission. The recent North Carolina PUC decision has paved the road for other Commissions to follow. They have already developed the paperwork necessary to assist those with health issues to navigate their way through medical accommodations to not be forced to have smart meters.

Overall, PECO ignores the empirical evidence showing a risk of harm for medically sensitive and vulnerable people like the Complainants and disregards anything that suggests potential harm. The Commission should order PECO to accommodate the Complainants by not installing any smart meters on their property that emit RF and removing any currently installed.

Formal complaints before the PUC alleging negative health effects from smart meters cost a huge resource of time, expense and aggravation as well as induces stress in the Quigleys, further undermining their efforts to live healthy lives and takes away time and energy from raising their young child. This takes away valuable AU time.

The PUC should rule to allow a safe and reasonable medical exception to the AMI smart meter program by providing an analog alternative with no wireless transmissions for those with health issues or medical conditions. As Bathgate described in great detail, moving the meter further away from the house does not reduce the RF to those living in a house with a smart meter. The secondary antennae is still an issue. That is not a solution. Providing a reasonable

medical exception would be a better solution to spending years in Court with countless Complainants trying to prove harm. Providing for health accommodations, as the recent ruling in North Carolina provides, minimizes PECO's future legal liability to ensure that it has provided reasonable and safe service to customers with health concerns.

PROTECTION FOR DISABILITIES

PECO and the PUC are subject to the Americans with Disability Act, PA Disability Rights, The Rehabilitation Act of 1973, and Section 1501 of the PA PUC law, all of which require PECO to take into consideration Teresa's autoimmune disorder and provide the Quigleys reasonable accommodation, while still furnishing them with electricity and gas utility service, without discrimination or retaliation. The accommodation requested from PECO is reasonable, and the least costly and most effective remedy for furnishing utility services without RF on the Quigley's property.

PETITION FOR RELIEF

The Quigleys would like to ask the Commission if we can convert the formal complaint to a petition for relief if it finds that it cannot grant them the accommodation under the formal complaint procedure.

Therefore, for all of the foregoing reasons, we are requesting the following:

That the Commission compel PECO to provide accommodations for Complainants pursuant to Pa. C.S. 66 Section 1501;

That the Commission compel PECO to provide electrical service to Complainants at their homes without requiring the installation of a device that emits radio frequency electromagnetic

energy and removes any devices which do emit radiofrequency electromagnetic energy. A reasonable solution would be to install an analog meter with no wireless transmissions.

Furthermore, the Quigleys ask the Court to render the PUC's Implementation Order, relevant to Act 129, ultra vires.

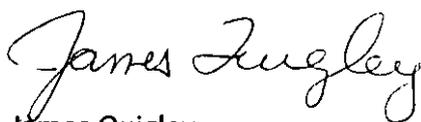
CONCLUSION

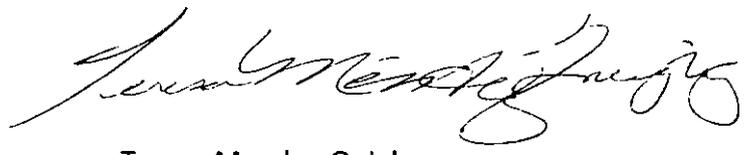
1. The Quigleys cannot excuse PUC and PECO for intentional, planned ignorance of the harm to the immune system, on vitamin D synthesis, lymphoma, other cancer risks, neurological damage or cardiovascular risk from "smart" meters and the "smart" grid.
2. It is unreasonable for the PUC and PECO to violate the letter and intent of the law, Act 129.
3. The preponderance of current science finds biological (human) harm from radio frequency transmissions. Specifically that harm includes damage to the immune system, vitamin D synthesis and subsequently calcium absorption and osteoporosis.
4. The PUC and PECO may currently have the legal ability to, but no one can give them the right to, contradict Teresa's doctor's recommendations for her health.
5. The Quigleys deserve an analog meter with no wireless transmissions and the removal of all PECO wireless meters.

The Quigleys would like to end with this quote by Aristotle:

The salvation of the State is watchfulness in the Citizen.

Respectfully submitted,


James Quigley


Teresa Mendez-Quigley

Dated: August 3, 2018

APPENDIX A:
PECO's Pro Hac Vice Motion
Quigley's Answer

RECEIVED

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

James Quigley and	:	
Teresa Mendez-Quigley	:	
v.	:	C-2017-2617558
	:	
PECO Energy Company	:	

**PECO Energy Company's
Motion to Admit Counsel *Pro Hac Vice***

PECO makes this Motion, pursuant to 52 Pa. Code §1.22(b), to admit Thomas Carl Watson, Esquire to appear *pro hac vice* in this matter. In support of this Motion, PECO states as follows:

1. The Commission's procedural rules allow an "attorney not licensed in the Commonwealth" to appear before the Commission – sometimes known as *pro hac vice* representation -- "in accordance with the Pennsylvania Bar Admission Rules." 52 Pa. Code §1.22(b).
2. The Pennsylvania Bar Admission Rules for *pro hac vice* admission are found at Pennsylvania Rules of Civil Procedure §1012.1 and 204 Pa. Code § 81.501 *et seq.* In broad terms, these rules require that both the "Candidate" – in this case, Mr. Watson – and a "Sponsor" – in this case, Ward Smith, Esquire – to provide verified statements in support of a Motion for Admission *pro hac vice*.
3. The requisite verified statements are attached to this Motion.

4. As the Candidate, Mr. Watson's verified statement states that:

- He is licensed to practice law in Washington D.C. (#180943), and that he has never been suspended, disbarred or otherwise disciplined by any jurisdiction in which he holds or has held a license to practice law, and that he is not currently the subject of disciplinary proceedings in any such jurisdiction.
- He has appeared before the Pennsylvania Public Utility Commission on numerous occasions prior to 2007. Between 2007 and 2016, he did not appear *pro hac vice* before the Pennsylvania Public Utility Commission. Since 2016, he has been admitted and appeared *pro hac vice* in the matters listed in the accompanying Motion to Admit.
- He has never been denied permission to appear *pro hac vice* before the Pennsylvania Public Utility Commission or any Pennsylvania court.
- In his representation before the Pennsylvania Public Utility Commission, he shall comply with and be bound by the applicable statutes, case law and procedural rules of the Commonwealth of Pennsylvania, including the Pennsylvania Rules of Professional Conduct.
- He shall submit to the jurisdiction of the Pennsylvania courts and the Pennsylvania Disciplinary Board with respect to acts and omissions occurring during the appearance in the matter for which admission *pro hac vice* is sought.
- He consents to the appointment of his sponsor (Ward Smith, Esq.) as the agent upon whom service of process shall be made for all actions, including disciplinary actions, that may arise out of the practice of law in the matter for which admission *pro hac vice* is sought.

5. As the Sponsor, Mr. Smith's verified statement states that:

- He is acting as sponsor for the *pro hac vice* admission of Thomas Carl Watson to appear before the Pennsylvania Public Utility Commission in this matter.
- He has known Mr. Watson personally and professionally for more than 30 years, and practiced law with him for seven years involving hundreds of individual matters. Mr. Smith states that he believes Mr. Watson to be a reputable and competent attorney, and that he is in a position to recommend Mr. Watson's admission *pro hac vice*. Mr. Watson has more than 40 years' experience with litigation involving claimed health effects of power frequency fields, and more than 20 years' experience with litigation involving claimed health effects of radio frequency fields.
- Mr. Smith previously sponsored Mr. Watson's admission *pro hac vice* in a series of ongoing cases at the Pennsylvania Public Utility Commission involving claimed

health effects from radio frequency fields associated with Advanced Meter Infrastructure meters. Mr. Watson appeared¹ as follows:

- *Susan Kreider v. PECO*, C-2015-2469655 (admission granted over objection)
- *Laura Sunstein Murphy v. PECO*, C-2015-2475726 (admission granted without objection)
- *Maria Povacz v. PECO*, C-2015-2475053 (admission granted without objection)
- *Mary Paul v. PECO*, C-2015-2475355 (admission granted without objection)
- *Cynthia Randall and Paul Albrecht v. PECO*, C-2016-2537666 (admission granted without objection)
- *Catherine Frompovich v. PECO*, C-2015-2474602 (admission granted without objection)
- *McKnight v PECO*, C-2017-2621057 (request pending)
- *Caesar v PECO*, C-2015-2475355 (request pending)

Other than the cases set forth above, Mr. Smith is not currently acting as the sponsor for any *pro hac vice* candidates in any proceeding in Pennsylvania.

- To the extent that the proceeds from any settlement in this matter is received by PECO, those proceeds will be received, held, distributed and accounted for in accordance with Rule 1.15 of the Pennsylvania Rules of Professional Conduct.

6. PECO believes and therefore avers that *pro hac vice* appearance before the Pennsylvania Public Utility Commission is the equivalent to appearance before a special court, and that no fee paid to the IOLTA Board is therefore required for Mr. Watson to appear *pro hac vice* before the Commission. See 204 Pa. Code §81.505(c).

¹ Mr. Watson was also admitted, *pro hac vice* without objection, in three other cases in which hearings did not occur and thus Mr. Watson did not appear on behalf of PECO. *Barbara and Charles Tucker v. PECO*, C-2015-2515592; *Elmore Polite v. PECO*, F-2015-2514570; *Stephen and Diane Van Schoyck v. PECO*, C-2015-2478239.

7. Mr. Smith and Ms. Shawane Lee will remain PECO's attorneys of record in this matter. In his role as *pro hac vice* counsel, Mr. Watson will appear and participate at hearings and on any briefs, but will not act as attorney of record.
8. The statements set forth above comprehensively comply with the Pennsylvania Bar Admission Rules for *pro hac vice* admission as set forth at Pennsylvania Rules of Civil Procedure §1012.1 and 204 Pa. Code § 81.501 *et seq.*
9. Motions for admission *pro hac vice* are typically made during the early stages of a proceeding. However, as noted above, beginning in March 2017 Mr. Watson appeared on behalf of PECO in a series of AMI/health cases, in which the Motions to allow his *pro hac vice* appearance were unopposed. Through inadvertence and oversight, PECO counsel thus did not file a *pro hac vice* Motion in the instant case. However, the docket in this matter is still open, and PECO respectfully submits that it remains within the sound discretion of the presiding officer to grant the requested *pro hac vice* Motion.
10. Pennsylvania courts and the Commission have allowed *pro hac vice* admission to occur late in the litigation process, sometimes referring to this as admission on a *nunc pro tunc* basis. For example, the Philadelphia Court of Common Pleas has a standard form for filing *nunc pro tunc* motions; and a Motion *pro hac vice* is included on that form list as one of the motions that may be so filed.

See <https://www.courts.phila.gov/pdf/forms/civil/Motion-to-File-Nunc-Pro-Tunc.pdf>.

See also *Varner v Roberts*, 1988 Pa. Dist. & Cnty. Dec. LEXIS 274 (Complaint filed by out-of-state attorney who was not admitted *pro hac vice* was amendable by later filing).

In a 2006 Duquesne Light base rate case, the Commission's granted all motions for *pro hac vice* admission *nunc pro tunc* in the Order accepting a settlement and closing the

docket. *See PaPUC v Duquesne Light Company*, R-0061346 (December 1, 2006)

(Ordering Paragraph 2: "That all motions *pro hac vice* are granted *nunc pro tunc*."

PECO therefore respectfully requests that its Motion to Admit Thomas Carl Watson to appear as counsel for PECO, *pro hac vice*, in this matter be granted.

Respectfully submitted,



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

July 16, 2018
Date:

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

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

***PRO HAC VICE* ADMISSION OF THOMAS CARL WATSON
VERIFIED STATEMENT OF WARD L. SMITH (SPONSOR)**

1. I am acting as sponsor for the *pro hac vice* admission of Thomas Carl Watson to appear before the Pennsylvania Public Utility Commission in this matter.
2. I have known Mr. Watson personally and professionally for more than 30 years, and practiced law with him for seven years involving hundreds of individual matters. Mr. Watson is a reputable and competent attorney, and I am in a position to recommend Mr. Watson's admission *pro hac vice*. Mr. Watson has more than 40 years' experience with litigation involving claimed health effects of power frequency fields, and more than 20 years' experience with litigation involving claimed health effects of radio frequency fields.
3. I am Mr. Watson's sponsor in a series of ongoing cases at the Pennsylvania Public Utility Commission, listed in the accompanying Motion to Admit Pro Hac Vice, each of which involves claimed health effects from radio frequency fields associated with Advanced Meter Infrastructure meters. Based on work together in those cases, I can further attest that Mr. Watson is a reputable and competent attorney.
4. I am also a sponsor of Mr. Watson's law partner, Curtis Renner, in one of the AMI cases listed in the accompanying Motion.
5. Other than the cases listed in the accompanying Motion, I am not currently acting as the sponsor for any *pro hac vice* candidates in any proceeding in Pennsylvania.
6. To the extent that the proceeds from any settlement in this matter is received by PECO, those proceeds will be received, held, distributed and accounted for in accordance with Rule 1.15 of the Pennsylvania Rules of Professional Conduct.

I, Ward Smith, hereby state that the facts above set forth 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 if required to do so. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Date: July 16, 2018

Signature: Ward L. Smith

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

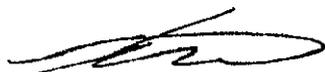
**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

***PRO HAC VICE* ADMISSION OF THOMAS CARL WATSON
VERIFIED STATEMENT OF THOMAS CARL WATSON (CANDIDATE)**

1. My name is Thomas Carl Watson. I am licensed to practice law in the District of Columbia and my bar license number is 180943. I have never been suspended, disbarred or otherwise disciplined by any jurisdiction in which I hold or have held a license to practice law, and I am not currently the subject of disciplinary proceedings in any such jurisdiction.
2. I have appeared before the Pennsylvania Public Utility Commission on numerous occasions prior to 2007. Since 2016 I have been admitted to appear *pro hac vice* before the Commission in the cases listed in the accompanying Motion.
3. I have never been denied permission to appear *pro hac vice* before the Pennsylvania Public Utility Commission or any Pennsylvania court.
4. In my representation before the Pennsylvania Public Utility Commission, I shall comply with and be bound by the applicable statutes, case law and procedural rules of the Commonwealth of Pennsylvania, including the Pennsylvania Rules of Professional Conduct.
5. I shall submit to the jurisdiction of the Pennsylvania courts and the Pennsylvania Disciplinary Board with respect to acts and omissions occurring during the appearance in the matter for which admission *pro hac vice* is sought.
6. I consent to the appointment of my sponsor (Ward Smith, Esq.) as the agent upon whom service of process shall be made for all actions, including disciplinary actions, that may arise out of the practice of law in the matter for which admission *pro hac vice* is sought.

I, Thomas Carl Watson hereby state that the facts above set forth 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 if required to do so. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: July 16, 2018

Signature: 

JAMES & TERESA MENDEZ-QUIGLEY
401 Longfield Road, Erdenheim, PA 19038

July 24, 2018

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

Re. James Quigley and Teresa Méndez-Quigley v. PECO Energy Company
Docket No. C-2017-2617558

Dear Secretary Chiavetta:

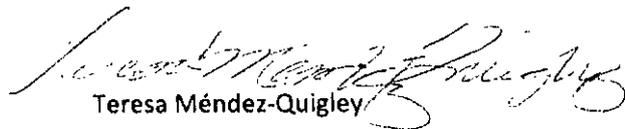
We, the complainants, have received PECO's Motion to Admit Counsel Pro Hac Vice on July 17, 2018. As the record indicates, we are non-lawyers and working on this without the assistance of an attorney due to financial inability to hire legal representation. As such, we are not familiar with the legal practices used by the PUC or any other Court.

Ward Smith, PECO legal counsel, knows this and yet continues to obfuscate the rules so that it makes it more challenging to us. With an eight (8) year old child we are raising and work responsibilities, we do not have the time and/or the means to address or research the legal wrangling. We ask that the PUC – with emphasis on "Public" – make this process accessible to those who are in similar circumstances.

Attached is our Answer to this Motion.

Very truly yours,


James Quigley


Teresa Méndez-Quigley

cc: Honorable Darlene D. Heep, Administrative Law Judge
Ward L. Smith, PECO Counsel

BEFORE THE
PA PUBLIC UTILITY COMMISSION

James Quigley & Teresa Mendez-Quigley

v.

Docket No. C-2017-2617558

PECO Energy Company

CERTIFICATE OF SERVICE

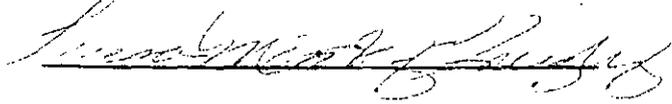
We, James Quigley and Teresa Méndez-Quigley, hereby certify that we have this day served a copy of evidence via US mail to:

Ward L. Smith, Esquire
PECO Energy Company
2301 Market Street, S23-1
Philadelphia, PA 19101-8699

Dated at Philadelphia, PA, July 24, 2018



James Quigley



Teresa Méndez-Quigley

401 Longfield Road
Erdenheim, PA 19038

**BEFORE THE
PA PUBLIC UTILITY COMMISSION**

James Quigley & Teresa Méndez-Quigley

v.

Docket No. C-2017-2617558

PECO Energy Company

Quigley's Answer To PECO's Motion To Admit Counsel Pro Hac Vice

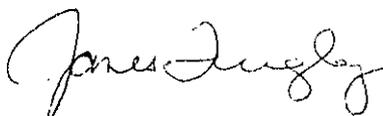
James Quigley and Teresa Méndez-Quigley respectfully ask the PUC Court, and Administrative Law Judge, the Honorable Darlene Heep, to deny PECO's Motion to Admit Tom Watson, pro hac vice nunc pro tunc in our matter. In support of this request, we respond as follows:

1. While the PUC's procedural rules allow an "attorney not licensed in the Commonwealth" to appear before the PUC, neither Ward Smith nor Tom Watson have complied with the PA Bar Admission Rules, to which PECO refers in its Motion.
2. PECO cites the PA Bar Admission Rules for pro hac vice admission, which require Attorney Tom Watson to be admitted at least 3 days before our hearing, yet PECO's counsel, Ward Smith, is obfuscating said Rules.
3. PECO's verified statements clearly show that a personal and fiduciary relationship exist between PECO's counsel and Tom Watson, to which the complainants are placed in a disadvantage and which is not equably applied.
4. Tom Watson has appeared before the PUC on numerous occasions since 2016, as admitted by Ward Smith in his motion to admit Watson yet another time, even after the hearing was over and the record was closed. PECO and Ward Smith continue to circumvent the requirement to practice with a PA license in Pennsylvania and pay said dues to the Commonwealth. PECO's counsel admits that Mr. Watson has had ample time to obtain a PA license to practice law in Pennsylvania but relies on pro hac vice to circumvent this requirement.
5. PECO's counsel lists the times that the PUC has admitted Watson pro hac vice but does not indicate the timing of this and how it was slipped in to deny due process to the complainants, many whom are pro se. Previous case law cited by PECO in pro hac vice nunc pro tunc has no bearing on this case because that case is different and distinguishable from the Complainants. That case involved a settlement agreement with utilities about rate making. It did not involve a hearing and health issues of a customer. And there is no reason that if that nunc pro tunc pro hac vice was granted (that PECO should be able to cite this as precedent in our formal complaint. PECO cites absolutely no PA court case law admitting an out of state lawyer pro hac vice nunc pro tunc in a case where the hearing has been concluded. We believe PECO did not cite any PA court case for a pro hac vice nunc pro tunc being granted because none exists.
6. PECO counsel says that Ward Smith is not currently acting as the sponsor for any pro hac vice candidates in any proceeding in Pennsylvania; however, he does not clarify that other PECO counsel are sponsoring Mr. Watson's partner, Renner, in other proceedings in PA. and Ward Smith did not act as a sponsor for Watson in our hearing because he could not have; he never filed a pro hac vice motion for him to act as a sponsor for Watson in our hearing until months after the hearing was held.

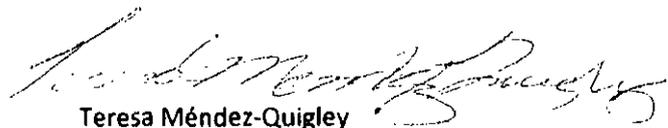
7. The PUC should not allow blanket pro hac vice in all complaints for the same out of state DC lawyers Watson and Renner. Further, the PUC certainly should not allow pro hac vice motions to be granted after a hearing has taken place and the record has been closed for months. At the Initial Hearing, PECO argued that the complainants had ample time to prepare for the Initial Hearing and that the Initial Hearing must take place as scheduled (April 17 & 18, 2018). We counter at this time, that PECO counsel had ample time and resources to submit a pro hac vice prior to or at the Initial Hearing.
8. PECO counsel admits that "through inadvertence and oversight, PECO counsel did not file a pro hac vice Motion in the instant case" despite having numerous resources, staffing, and legal training. PECO counsel fiercely opposed delaying our Initial Hearing when it became evident to the Honorable Judge Heep that the complainants were not in a position to proceed with it. PECO's negligence to file early in the proceedings, in respect of the law, should not be cause for admitting this Motion after the hearing has taken place.
9. The Hearing has been held and the exhibits were presented in April. To request and receive the pro hac vice more than three (3) months after the Initial Hearing is another way in which PECO counsel is attempting to circumvent the rules, especially when complainants are pro se. The Brief was due in July (complainants asked for an extension only due to being away for a family wedding), the Motion for pro hac vice should be inadmissible and must be denied.
10. The PUC should not admit Watson pro hac vice because the Initial Hearing has ended and Teresa's health is at stake. It would be inequitable to the complainants to admit Watson pro hac vice in this case at this time especially. This is against the PA rules for admitting an out of state lawyer pro hac vice. The Honorable Judge Heep heard at the Initial Hearing the testimony of complainants and PECO months ago. PECO should not be able to reopen the record, which goes against PA law, for Watson to be admitted pro hac vice nunc pro tunc.
11. PECO counsel does not show good cause to reopen the record.
12. Further, to admit pro hac vice at this late stage goes against the PA statutes.

The Quigley's therefore respectfully request that the pro hac vice nunc pro tunc Motion be disallowed to ensure fairness to the complainants.

Respectfully submitted,



James Quigley



Teresa Méndez-Quigley

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