

Jeffrey W. Arndt
4141 Fundistown Road
Trafford, PA 15085

August 17th, 2018

VIA ELECTRONIC FILING and Certified Mail

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

RE: Jeffrey W. Arndt v. Duquesne Light Company
Docket No. C-2018-3003482

Dear Secretary Chiavetta:

Enclosed for filing is my written response in the above referenced proceeding, is response to Duquesne Light's preliminary objections as requested in the notice to plead. Copies will be provided as indicated on the Certificate of Service.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Jeffrey W. Arndt', written in a cursive style.

Jeffrey W. Arndt

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JEFFREY W. ARNDT,	:	
	:	
Complainant,	:	
	:	
vs.	:	No: C-2018-3003482
	:	
DUQUESNE LIGHT COMPANY,	:	
	:	
Respondent.	:	

Answers to Preliminary Objections of Jeffrey W. Arndt

Preliminary Objections

- I. Introduction
 - 1. Denied. Duquesne Light repeatedly makes reference to there being no “opt-out” provision in Act 129. This however does not negate the material fact that there is no need to “opt-out” of a program that one has never “opted-into.” Furthermore, any act of the Legislature or Implementation Order by the Commission that creates a “universal mandate” requiring the installation of a Smart Meter that is inadequate, inefficient, harmful, unsafe, and/or unreasonable, and does not provide for the accommodation, convenience and safety of its patrons and the public, is in direct violation of Pa. Codes. 66 Pa. C.S. §1501 and 52 Pa. Code §57.194. at a minimum. Any act of the Legislature or Implementation Order by the Commission that introduces a carcinogenic pollutant into the natural living environment of its residents is a violation of Article I, § 27 of the Constitution of the Commonwealth of Pennsylvania.
As a responsible utility customer I have a right to a fair and impartial hearing to be scheduled to present the evidence from my complaint and any additional evidence that applies. I do not consent to a radiation emitting smart meter, therefore I should not be forced by Duquesne Light to install one on my residence. I am entitled to install a meter of my choice.
- II. Relevant Allegations
 - 2. Admitted.

3. Agreed, but I do not consent.
 4. I agree in part to this statement, but take issue with the usage of “refused” because I take issue with the idea that it is a required action”. The very meaning of that word is “failure to perform a required action”. I am disputing and do not hold to the same belief that Duquesne Light does and has made reference to. This is expressly the reason why I am in the process of disputing the validity of many actions surrounding the installation of a smart meter on my property. I do not believe that the intention of Act 129 was for it to be a required action. I did not consent to the attempted installation by Duquesne Light. Such request for opt out was never made. I pursued the filing of a formal complaint with the PA PUC to dispute such attempts of installing the smart meter, which is my right as a responsible utility customer and property owner.
 5. Agreed.
- III. Argument
- A. Denied. I am a man, not a woman in reference to Duquesne Light referring to myself with a pronoun of ‘her’. Duquesne Light repeatedly makes reference to there being no “opt-out” provision in Act 129. This however does not negate the material fact that there is no need to “opt-out” of a program that one has never “opted-into.” Furthermore, any act of the Legislature or Implementation Order by the Commission that creates a “universal mandate” requiring the installation of a Smart Meter that is inadequate, inefficient, harmful, unsafe, and/or unreasonable, and does not provide for the accommodation, convenience and safety of its patrons and the public, is in direct violation of Pa. Codes. 66 Pa. C.S. §1501 and 52 Pa. Code §57.194. at a minimum. Any act of the Legislature or Implementation Order by the Commission that introduces a carcinogenic pollutant into the natural living environment of its residents is a violation of Article I, § 27 of the Constitution of the Commonwealth of Pennsylvania.
6. The Drake v Pa. Elec. Co. case has no relevancy to the case at matter. The Drake v. elec. Co. case stated Drake requested an “opt out” and requested a refund for all amounts paid toward the implementation of a smart meter. Therefore, this argument is irrelevant – The attempt to install the smart meter is in direct violation of: 66 Pa. C.S. § 1501 Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities,... as shall be necessary or proper for the accommodation, convenience, and safety of its patrons. Public Utility Code, 66 Pa.C.S. § 501 and 1501 § 57.28. Electric safety standards. (A) (1) An electric utility shall use reasonable effort to properly warn and protect the public from danger, and shall exercise reasonable care to reduce the hazards to which employees, customers, the public and others may be subjected to by reason of its provision of electric utility service and its associated equipment and facilities. 52 Pa. Code § 57.194. (a) An EDC shall furnish and maintain adequate, efficient, safe and

reasonable service and facilities, and shall make repairs, changes, alterations, substitutions, extensions and improvements in or to the service and facilities necessary or proper for the accommodation, convenience and safety of its patrons, employees and the public.

7. Duquesne Light is stating Campisi v. PECO Energy Co. Docket No. 2014-2434501 and that case has no relevancy due to the fact that “opt out” is not in the complainants formal complaint. This argument is irrelevant as the decision for Docket No. C-2014-2434501 was made on the basis that the Complainant did not file an answer to the Respondent’s preliminary objections. These answers are evidence in and of themselves that, the PUC has the responsibility to grant me a hearing. PA PUC is obliged to receive each dispute in its entirety and be given adequate individual attention in order to give a fair and impartial ruling on a case by case basis not on their historical rulings or judgements. I have a right to due process.
8. The idea that electric distribution companies with more than 100,000 customers must install smart meters in their customers’ homes is discrimination. The definition of discrimination unequal treatment of persons, for a reason which has nothing to do with legal rights or ability. Federal and state laws prohibit discrimination in employment, availability of housing, rates of pay, right to promotion, educational opportunity, civil rights, and use of facilities based on race, nationality, creed, color, age, sex or sexual orientation. The rights to protest discrimination or enforce one’s rights to equal treatment are provided in various federal and state laws, which allow for private lawsuits with the right to damages. There are also federal and state commissions to investigate and enforce equal rights.
9. The idea that electric distribution companies with more than 100,000 customers must install smart meters in their customers’ homes is discrimination. Title 66/ Chapter 15/ Subchapter A § 1502. Discrimination in service. No public shall, as to service, make or grant any unreasonable preference or advantage to any person, corporation, or municipal corporation, or subject any person, corporation, or municipal corporation to any unreasonable prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to service, either as between localities or as between classes of service, but this section does not prohibit the establishment of reasonable classifications of service. The PA PUC, by making the installation of smart meters mandatory for only some of the electric utility distribution companies in Pennsylvania is giving a preference or advantage to any person who is not required to have a smart meter installed because they live in an area that has an electric utility distribution company with under 100,000 customers.
10. Proceeding with said Procurement and Installations plans prior to doing due diligence is precisely what I take issue with, as there is an abundance of conflicting information other than what Duquesne Light presents its’

customers with or use to defend the forcing of hazardous equipment in the form of a smart meter on my property. Duquesne Light submitting these plans in the first place rather than contesting the installation of these smart meters and taking issue with the direction of the PA PUC is what I believe the problem to be in the first place. If in fact they stand behind what they profess and attempt to provide safe, effective and economical service to their customers they would have done so.

11. The PA PUC has warped the intention of the law as a means to get the utility companies in the state of Pennsylvania to comply with its directive to have hazardous equipment forced on property owners in this state and is strong-arming its citizens by using the aid of utility companies to use means of extortion and/or coercion in so doing. By doing so our Pennsylvania Constitutional rights are being violated. Article 1/ Section 1. All men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness. In addition, the abuse of power that has been going on within the PA legislature regarding the issue also has been downright criminal. How much influence has the utility companies had on PA State Representative Robert Godshall's campaigns. As Chair of the PA House Consumer Affairs Committee, he has sat on bills in the PA legislature for several legislative sessions, and also made verbal proclamation to others that he will never bring smart meter bills to the floor for a vote, which should be an impeachable offence for depriving Pennsylvanians of their right to redress government and government agency oppressions that enable utility companies to harass and bully customers about cutting off electric service if they refuse smart meters.
12. According to the Docket No. M-2009-2123948, Duquesne Light company's final smart meter plan found on their website on page 33 it states "The company did provide an initial estimated date of December 31, 2018 for full system roll out of smart meters. However, the company explained that this date was not final and that the company would provide a detailed description of its plans for full system-wide roll out of smart meter technology as part of its Final Smart Meter Plan."
13. How is Duquesne Light complying with a law that goes directly against The Pennsylvania PUC Your Rights and Responsibilities? The Pennsylvania PUC Your Rights and Responsibilities as a Utility Consumer state the following: As a residential utility customer, you have many important rights and responsibilities to ensure fair dealings between you and your utility company. This guide highlights your rights relating to these rights and responsibilities which include our right to: Safe and reliable utility service. In addition the Pennsylvania PUC Mission Statement States: The Pennsylvania Public Utility Commission balances the needs of consumers and utilities; ensures safe and

reliable utility service at reasonable rates; protects the public interest; educates consumers to make **independent** and informed utility choices; furthers economic development; and fosters new technologies and competitive markets in an environmentally sound manner. Since the Court is part of the Pennsylvania Utility Commission I ask the following: How is the Pennsylvania Public Utility Commission balancing the needs of consumers and utilities when Duquesne Light and other utility companies are allowed to install these meters against the needs of many of their customers. In fact the Pennsylvania Utility Companies, The PUC or the Pennsylvania legislature failed to get the Pa Department of health involved for a comprehensive study on the safety of these meters. Instead, the PUC interpreted the law as mandatory without taking into account the health and welfare of their citizens which is a complete violation of our rights. It is unlawful that Duquesne Light is using one ordinance governing a service that violates and supersedes the laws of ethics, citizenship, property rights and our constitutional rights of due process.

14. Duquesne Light installation of the smart meters is in direct violation of the following: 66 Pa. C.S. § 1501 Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities,... as shall be necessary or proper for the accommodation, convenience, and safety of its patrons. Public Utility Code, 66 Pa.C.S. § § 501 and 1501 § 57.28. Electric safety standards. (A) (1) An electric utility shall use reasonable effort to properly warn and protect the public from danger, and shall exercise reasonable care to reduce the hazards to which employees, customers, the public and others may be subjected to by reason of its provision of electric utility service and its associated equipment and facilities. 52 Pa. Code § 57.194. (a) An EDC shall furnish and maintain adequate, efficient, safe and reasonable service and facilities, and shall make repairs, changes, alterations, substitutions, extensions and improvements in or to the service and facilities necessary or proper for the accommodation, convenience and safety of its patrons, employees and the public.
15. The matter at hand is not "opt out", it is me exercising my right to have a hearing to object to the current processes and procedures. I never requested for an "opt out". I pursued the filing of a formal complaint with the PA PUC to dispute such attempts of installing a smart meter, which is my right as a responsible utility customer and property owner.
16. Section 2807(f)(2) of the Public Utility Code, states: (2) Electric distribution companies shall furnish smart meter technology as follows: (i) Upon request from a customer that agrees to pay the cost of the smart meter at the time of the request. (ii) In new building construction. (iii) In accordance with a depreciation schedule not to exceed 15 years. The emphasis is but on the word "shall" which is a "false imperative and can actually mean "may, will or must." (Exhibit Kline 3A) is a posting from the Federal Aviation Administration website titled "What's the only word that means mandatory", states: We call "must" and "must not" words of obligation. "Must" is the only word that

imposes a legal obligation on your readers to tell them something is mandatory. Also, "must not" are the only words you can use to say something is prohibited. Who says so and why? Nearly every jurisdiction has held that the word "shall" is confusing because it can also mean "may, will or must." Legal reference books like the Federal Rules of Civil Procedure no longer use the word "shall." Even the Supreme Court ruled that when the word "shall" appears in statutes, it means "may." The Commission has interpreted this law to require smart meter installation by making the claim that the General Assembly intention was for the smart meter installs to be mandatory based on (In 66 Pa. C.S. §2807(f)(2),) the use of the word "shall" in the statute indicates the General Assembly's direction that all customers will receive a smart meter. I respectfully ask the court, if this law was meant to be mandatory then how come it does not state in the law that customers who refuse a smart meter will be penalized by having their electricity turned off? In fact, nowhere in the law does it list any consequences for consumers, yet we are the ones getting penalized.

17. In The Common Wealth of Pennsylvania, Legislative Journal dated WEDNESDAY, OCTOBER 8, 2008 (Exhibit Kline 2L), the date that HB 2200 was passed, It clearly states the intent of the law makers regarding the smart meter installations was that they were not mandated. Any reasonable person would be able to determine this by the following quotes: Senator TOMLINSON (pg. 2626) – "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."

Senator BOSCOLA (pg. 2627) – "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.

Senator FUMO (pg. 2629) – "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"

It is obvious by the quotes of these three Senators who voted for the bill, that their intention was not to make the smart meters mandatory yet the commission when implementing the law made it mandatory, but not for all, just for some which is Discrimination in service and does not give those who do not have a choice but to use these seven distribution companies, equal protection under the law.

18. The matter at hand is not “opt out”, it is me exercising my right to have a hearing to object to the current processes and procedures. I never requested for an “opt out”. I pursued the filing of a formal complaint with the PA PUC to dispute such attempts of installing a smart meter, which is my right as a responsible utility customer and property owner.
19. In reference to Jackson v PECO Energy Co. Docket No. C-2017-2600495 it was concluded to be dismissed due to legal insufficiency which is irrelevant to my case as I never requested for an “opt out”. My case has not yet been determined in a court of law to even suggest legal insufficiency at the time of the plans that were set forth by both Duquesne Light and the PUC, all of the information regarding the health and safety of the meters were not known. I have mentioned these issues in my formal complaint and have the right to give feedback, present evidence and argue these facts in a hearing with the ALJ. According to the PUC I have a legal right to this hearing. At the time of the plans that were set forth by both Duquesne Light and the PUC, all of the information regarding the health and safety of the meters were not known. I have mention these issues in my formal complaint and have the right to give feedback, present evidence and argue these facts in a hearing with the ALJ. According to the PUC I have a legal right to this hearing. The PUC and Duquesne Light does not have the legal right to determine what is safe for my family and I. therefore, I am demanding my right to a hearing to present all evidence that applies in this matter.
20. I never requested for an “opt out”. I pursued the filing of a formal complaint with the PA PUC to dispute such attempts of installing a smart meter, which is my right as a responsible utility customer and property owner. In the case of A. Romeo v. PA PUC No. 498 C.D. 2016 in the commonwealth Court of Pennsylvania the majority ruled that just because he cannot personally testify as to the health and safety effects does not mean that his complaint is legally insufficient. He could make out his claim through the testimony of others as well as other evidence that goes to that issue so this objection has no merit and should be rejected.
 - B.** Duquesne Light has violated my fourth amendment and in referencing the case of Katz v United States, though location is different in my case, it still proves what a person seeks to preserve as private, therefore, a person’s individual expectations of privacy should not affect the reach of their fourth amendment protections. I disagree that the commission lacks jurisdiction to resolve these issues based on the answers below:
21. I do not deny that the Duquesne Light can file preliminary objections but I disagree that the commission does not have jurisdiction in the case. In Pennsylvania State Education Association v. Commonwealth, 2016 Pa. LEXIS 2337, 2016 WL 6087684, (Pa. Oct. 18, 2016) (“PSEA”). The Supreme Court of Pennsylvania recently held that individuals have a constitutional right to privacy in their home addresses under Article 1, Section 1 of the

Pennsylvania Constitution and that individuals have a right to “informational privacy” which may not be violated unless this right is outweighed by a public interest favoring disclosure. The Court explained that Article 1, Section 1 of the Pennsylvania Constitution provides even “more rigorous and explicit protection for a person’s right to privacy” than does the United States Constitution. The ALJ can decide and recommend to the commission whether a Code, Commission regulation or a commission order violates the Pennsylvania constitution.

22. In *Feingold v. Bell of Pennsylvania* 383 A.2d 791 the Supreme Court of Pennsylvania ruled that the commission did not have jurisdiction because Feingold was seeking monetary compensation. This does not apply in this case. In fact Justice Roberts wrote “The doctrine which requires proceedings involving a regulated enterprise to begin before the regulating agency promotes “proper relationships between the courts and administrative agencies charged with particular regulatory duties.” *United States v. Western Pacific R. Co.*, 352 U.S. 59, 63, 77 S. Ct. 161, 165, 1 L. Ed. 2d 126 (1956). The regulatory agency has “primary jurisdiction” over such disputes so that uniform, consistent, and expert judgments can be rendered on specific issues. Davis, *Administrative Law Treatise* § 20.01 (Supp. 1977). Such a tribunal, “by specialization, by insight gained through experience and by more flexible procedure,” is better equipped than a court to make these judgments. Therefore, this objection lacks legal sufficiency.
23. 157 Pa. Super. 595•43 A.2d 348 is about the city of Pittsburgh petitioning the Pennsylvania Public Utility Commission to issue an order or ruling authorizing the Pittsburgh Railways Company and several local bus companies operating public conveyances within its territorial limits, to allow all members of the armed forces of the United States, when in uniform, to ride free of charge on all their conveyances, for the duration of the present war (WW 2) the court stated Notwithstanding there may be a strong desire to extend all considerations and courtesies possible to members 599 *599 of our armed forces, commissions and courts must act within, and cannot exceed, their jurisdiction. They are not justified in indulging their generous impulses by ordering either corporations or individuals to permit the free use of their property by those whom perchance the members of commissions or courts would like to favor. The refusal to enter this non-judicial order the city requested is not appealable to this court.
24. The commission has 100% jurisdiction over the subject in my formal complaint since it is in regards to the legalities and violations of Act 129 and safety of the smart meters being installed. For example: 66 Pa. C.S. § 1501 Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, as shall be necessary or proper for the accommodation, convenience, and safety of its patrons.

Public Utility code, 66 Pa.C.S. § § 501 and 1501 § 57.28. Electric safety standards. (A) (1) An electric utility shall use reasonable effort to properly warn and protect the public from danger, and shall exercise reasonable care to reduce the hazards to which employees, customers, the public and others may be subjected to by reason of its provision of electric utility service and its associated equipment and facilities. 52 Pa. Code § 57.194. (a) An EDC shall furnish and maintain adequate, efficient, safe and reasonable service and facilities, and shall make repairs, changes, alterations, substitutions, extensions and improvements in or to the service and facilities necessary or proper for the accommodation, convenience and safety of its patrons, employees and the public. The case referenced by Duquesne Light, Hughes v. Pennsylvania State Police 152 Pa. Commonwealth Ct. 409 (1992) 619 A.2d 390 is completely irrelevant as it is in regards to an appeal to Colton L. Hughes having his application denied to become a State Police officer. It has nothing to do with a Utility or PUC utility code therefore this objection should be denied.

25. In reference to Haleema B. Alkhatib v PECO Energy Co. Docket No. C-2011-2242125, is irrelevant to my case since I am not requesting any form of credit to my future bills and I do not have a bankruptcy discharge. There is no claim anywhere in my formal complaint requesting any form of compensation. Section 701 of the code 66 PA C.S. § 701 is in fact my right to complain, but the case mentioned has no relevance to my case. The whole premise of my complaint is regarding the code, commission regulations and commission orders of Act 129, so the commission has full authority to rule on this case.
26. In regards to Alice Ann Belmonte- Gates v. PECO Energy Co. Docket No. F-2012-2332583 in regards to PAWC's argument regarding lack of Commission jurisdiction, PAWC states that the Commission is not empowered to award the relief requested by Ms. Gates. In her Complaint, Ms. Gates wrote in response to paragraph 5, "Relief,": "Civil Federal Abuse, Trial by Jury of Facts under Sub Sec 402b of the United States Supreme Court Code! See Attached!" The attached document that is referred to makes no clear and concise statement of relief over which the Commission has jurisdiction. Of course the ALJ does not have the authority to authorize a Civil Federal Abuse Trial by Jury, I am not asking for any such relief. I have a right to free speech and a right to point out violations for the purpose of a ruling. The whole premise of my complaint is regarding the code, commission regulations and commission orders of act 129 so the commission has full authority to rule on this case.
27. As stated previously, the whole premise of my complaint is regarding the code, commission regulations and commission orders of act 129 so the commission has full authority to rule on this case. I have the right to present all evidence regarding the legalities, safety, violation of privacy, collection of

- information, lack of choice and any other concerns regarding the installation of the meter in a hearing.
28. The commission has full authority to rule on any claims regarding act 129.
29. Since the entire complaint is in regards to act 129 and the smart meter installation, nothing should be dismissed and I should be entitled to move forward with the hearing process.

Wherefore, as a responsible utility customer I have a right to a fair and impartial hearing to be scheduled to present the evidence from my complaint and any additional evidence that applies. So, all of Duquesne Light's preliminary objections should be denied to move forward with the hearing and allow me my due process in this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jeffrey W. Arndt". The signature is written in a cursive style with a large initial "J" and "A".

Jeffrey W. Arndt

VERIFICATION

Answers to Preliminary Objections of Jeffrey W. Arndt

Jeffrey W. Arndt v. Duquesne Light Company
Docket No. C-2018-3003432

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

Date:

8/17/2018



Jeffrey W. Arndt

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following Persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Via Email and Certified Mail

Council of record for Duquesne Light Company

Lauren N. Rulli, Esquire
PA I.D. No. 313768
lrulli@tuckerlaw.com

Paul Shane Miller, Esquire
PA I.D. No. 319174
smiller@tuckerlaw.com

(412) 566-1212
1500 One PPG Place
Pittsburgh, PA 15222