

RECEIVED

AUG - 2 2018

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

DORENE DOUGHERTY

vs.

**PENNSYLVANIA ELECTRIC
COMPANY**

Docket No. C-2018-3001474

~~RECEIVED~~

~~JUL 13 2018~~

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

**DORENE DOUGHERTY'S REPLY TO THE PRELIMINARY OBJECTION
FILED BY PENNSYLVANIA ELECTRIC COMPANY**

COMES NOW, Dorene Dougherty, as one of the People, claiming all rights known and unknown, waiving none, seeking this commission's protection of her rights, Life and continued health and files this Reply To The Preliminary Objections And Answer Filed By Pennsylvania Electric Company.

I. INTRODUCTION

On or about April 24, 2018, Complainant's Formal Complaint was entered and

filed with the Commission stating, among other things, that installation of a wireless smart meter at her home would create an unsafe and unhealthy condition at the premises causing her a further deterioration of her health. As Complainant has stated, she is already suffering from a genuine medically diagnosed condition relating to hypersensitivity (EHS) and is under treatment.

It must be further stated that The National Center for Biotechnology Information, a division of the National Institutes of Health, has also officially recognized electro-hypersensitivity as a true medical condition stating: "...*electro-hypersensitivity (EHS) is a real disease that is caused by exposure to EMFs, especially those in the microwave range.*"¹ Such acts/installation on Complainant's home would clearly be in violation of Section 1501 of the Public Utility Code as Complainant has recently discovered.

On May 17, 2018, Respondent filed a separate Answer to the Complaint and a separate set of Preliminary Objections. In its filings, Pennsylvania Electric Company, herein after "Penelec," denies all the substantive allegations in the Complaint and argues that the Company is compelled by Act 129 to install smart meters in every customer's premises, and there are no "opt-outs" to this requirement.

For the reasons set forth below, Complainant respectfully request that the Commission overrule Penelec's Preliminary Objections and allow all issues in this matter to proceed to hearing.

II. ANSWER TO PRELIMINARY OBJECTIONS

¹ PMID: 26556835 DOI: [10.1515/reveh-2015-0016](https://doi.org/10.1515/reveh-2015-0016)

1. Admitted. It is admitted that Penelec filed a Preliminary Objection in this matter dated May 17, 2018.

2. Admitted. It is admitted that Penelec's Preliminary Objection argues primarily that an "opt-out" is not permissible under Pennsylvania law. It is denied that the "optout" issue is the relevant issue in the instant matter, as it was not plead in the Formal Complaint and the Complainant is not seeking an "opt-out" in the manner as claimed by Penelec.

3. Admitted. It is admitted in Penelec's Preliminary Objection, paragraph 3, that the Complainant reiterated her refusal of the smart meter and had her physician send a letter to the Company detailing her medical condition. All other assertions by Penelec are DENIED.

4. DENIED. It is denied (#4) that the formal complaint does not constitute a violation of any law which the Commission has jurisdiction to administer, because Section 1501 of the Public Utility Code clearly states that Penelec must provide "safe and reasonable service" that would not cause impending harm to Complainant. The Complaint will propose alternative relief so as to allow the Commission to craft the most appropriate remedy.

5. DENIED. The averments in paragraph 5 of the Preliminary Objection constitute a request for relief to which no answer is required. To the extent that paragraph 5 contains factual allegations, the same are denied. By way of further answer, the Order that Penelec requests is antithetical in this case as the "opt-out" issue is not plead in the Complaint and the Complainant is not seeking an "opt-out" per se as Penelec claims.

III. DISCUSSION & ARGUMENT

At the outset, it is important to note the obvious. The instant complaint is not an “optout” complaint. The Formal Complaint does not plead an opt-out or request an opt-out order from the Commission. The parties in the case should focus on the issues raised by the pleadings; they should not waste time seeking declarations from the Commission on issues that have not been raised. There is no basis for Penelec’s request and there is no basis for the Commission to rule on the request.

The issue before the Commission now is whether Penelec is violating Section 1501 of the Public Utility Code by installing, in a unconstitutional and compulsory fashion, smart meters that Complainant maintains are causing harmful health effects. If the Commission finds, after hearing, that a violation exists, then the Commission can fashion the appropriate remedy to address the violation.

The Complainant have not requested an “opt-out” and the Commission does not need to make a declaration that an “opt-out” is not available.

The appropriate course of action for the Commission at this point is to allow the matter to proceed to hearing to address the safety and reasonableness of Penelec’s compulsory installation of harmful smart meters on the homes of vulnerable customers.

The Commission should have at its disposal all the regulatory tools to address a violation of Section 1501, if a violation of the statute is proven.

The Commission should be cognizant of the effect of ordering a dismissal or that Complainant cannot argue against the installation of smart meters as they are being carried out by Penelec currently.

Assuming, for the sake of argument, that Penelec's smart meters are shown to be harmful, will the Commission be compelled to allow Penelec to continue installing these harmful meters because it issued an order saying that customers cannot have an "opt-out???" It is not more appropriate to say that, if Complainant fails to meet her burden of proof, Penelec will continue with its smart meter deployment program as before.

However, if Penelec's smart meters are shown, by evidence presented at hearing, to cause harm to Complainant, then the Commission can order any appropriate remedy to address a violation of section 1501.

Lastly, it is important to emphasize that, even if Penelec is in compliance with Act 129 and the Commission's Orders, there is a sound legal basis to grant the relief sought by Complainant. There is nothing in the Public Utility Code or Commission regulations which commands or compels Penelec to create an unsafe condition that is harmful to a customer's health as any such codes would be immediately invalidated by the courts.

The legal basis for the Complaint, for which complainant has been placed under extreme duress by Penelec, and had great difficulty researching this, is that Penelec has an obligation under the Public Utility Code to *"furnish and maintain adequate, efficient,*

safe, and reasonable service and facilities.” 66 Pa. C.S. § 1501 (emphasis added).

Furthermore, Penelec is obligated to “**make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public.**” *Id.* (emphasis added).

Under Section 1501 of the Public Utility Code, the Commission is authorized to compel Penelec to fulfill its obligations to provide safe and reasonable service and to make changes, alterations, substitutions and accommodations for the safety of its customers, including this Complainant. The Presiding Officers and the Commission should leave the door open to consider possible remedies if a violation of the Public Utility Code is established.

The Commission has the authority to order Penelec to fulfill its obligations under Section 1501 of the Public Utility Code, and therefore, a number of appropriate remedies are available to address safety issues with Penelec’s smart meters.

IV. CONCLUSION

Based on the preceding, Complainant, Dorenc Dougherty, respectfully requests that Penelec’s Preliminary Objection be overruled and dismissed and that the relief sought by Penelec in its Preliminary Objection be denied. Complainant respectfully requests that this matter be allowed to proceed to hearing for a determination on all legitimate issues raised and all available remedies.

CERTIFICATION

I HEREBY CERTIFY THAT THE FOREGOING STATEMENTS MADE BY ME ARE TRUE. I AM AWARE THAT IF ANY OF THE STATEMENTS MADE BY ME ARE WILFULLY FALSE I AM SUBJECT TO PUNISHMENT

Submitted by,

~~Dorene Dougherty~~
Dorene Dougherty July 26, 2018

Dated July 26, 2018

Dorene Dougherty
15 Margrow Road
Tunkhannock, PA 18657

BEFORE THE

PENNSYLVANIA PUBLIC UTILITY COMMISSION

DORENE DOUGHERTY

Docket No. C-2018-3001474

vs.

**PENNSYLVANIA ELECTRIC
COMPANY**

RECEIVED

AUG - 2 2018

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of "Dorene Dougherty's Reply To The Preliminary Objections And Answer Filed By Pennsylvania Electric Company" To the following:

Rosemary Chiavetta, Secretary, Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Lauren M. Lepkoski
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, Pennsylvania 19612-6001

Dated July 13, 2018

Dorene Dougherty July 26, 2018
Dorene Dougherty
Dorene Dougherty
15 Margrow Road
Tunkhannock, PA 18657


K ELDON KIBLER
420 SNYDER RD
READING, PA 19605-9244

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

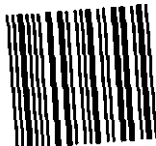
CERTIFIED MAIL



7018 0360 0001 8374 8468

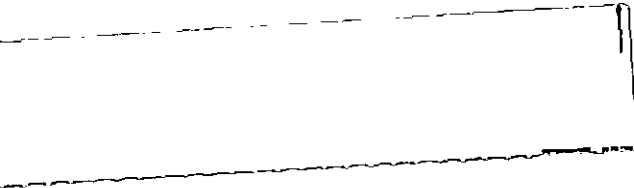


1000



17120

U.S. POSTAGE
PAID
TEMPLE, PA
19560
AUG 01 18
AMOUNT
\$7.83
R2305K139518-07



ROSEMARY CHIAVETTA
PA- PUC
400 NORTH ST
KEYSTONE BUILDING
SECOND FLOOR
HARRISBURG PA
17120