

Joseph N. Gothie, Esquire
P.A. I.D. No. 80390
111 East Market Street
Suite 101
York, PA 17401
Phone: (717) 848-8455
joe@gothielaw.com
Attorney for Plaintiff

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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

WIM NEY

v.

METROPOLITAN EDISON COMPANY

Docket No. C-2018-3003238

ANSWER TO PRELIMINARY OBJECTIONS OF METROPOLITAN EDISON

COMPANY TO THE FORMAL COMPLAINT OF WIM NEY

AND NOW, TO WIT, this 9th day of August, 2018, comes Wim Ney,

by his attorney, Joseph N. Gothie, who files the within Answer to Preliminary Objections as follows:

1. The original Complaint speaks for itself. Denied as a conclusion of law.
2. It is admitted Metropolitan Edison Company ("Met Ed") is deploying smart meters in its territory. Whether this complies with Act 129 of 2008 ("Act 129") is a conclusion of law and is therefore denied.
3. Specific representations are addressed below in the order presented in Met Ed's

Preliminary Objection:

- a. It is admitted Wim Ney, a Stage 4 throat cancer survivor, refused installation of the smart meter at his home which is also the “Service Location”.
- b. It is admitted that Met Ed send a letter to Mr. Ney regarding installation of the smart meter on or about August 30, 2016.
- c. It is admitted Mr. Ney contacted Met Ed to refuse installation of the smart meter at his home due to concerns over a medical condition.
- d. It is admitted that Met Ed advised Ney that a doctor’s letter could delay installation of the smart meter.
- e. It is admitted that Ney obtained and provided a medical letter to Met Ed raising medical concerns over the installation of a smart meter, though the letter speaks for itself.
- f. It is admitted that installation of the smart meter was delayed accordingly.
- g. It is admitted that Ney sent an “opt out” letter to Met Ed on or about September 20, 2016.
- h. Ney has no knowledge of Met Ed’s smart meter deployment schedule, and this allegation is denied. Ney has no knowledge of any alleged “need” to replace the electric meter at his home whether as a practical matter or as an element of satisfying a deployment plan he has no knowledge of. Strict proof is demanded for all allegations raised herein.
- i. It is admitted that Met Ed sent a letter to Ney on September 21, 2017 about smart meter installation.

- j. It is admitted that on October 3, 2017, that Met Ed sent a disconnection warning letter to Ney, whose bill is paid and whose electric meter is functioning perfectly. To the extent this sentence includes other allegations, they are conclusions of law and are denied.
- k. It is admitted that on October 13, 2017, that Met Ed sent a termination letter to Ney, whose bill is paid and whose electric meter is functioning perfectly. To the extent this sentence includes other allegations, they are conclusions of law and are denied.
- l. It is admitted that Ney contacted Met Ed on October 17, 2017 to inform them that he had cancer and did not want a smart meter installed at his home. By way of further answer, he advised them of his health concerns about the meter impacting his recovery from Stage 4 throat cancer, which Met Ed was already on notice of, having received a medical letter and correspondence and communication from Ney previously.
- m. It is admitted that a Met Ed representative discussed Met Ed's perspective that a smart meter was "required" under Act 129. It is admitted the same representative attempted to "address Ney's concerns".
- n. It is admitted that an informal complaint was filed by Ney on October 17, 2017. The matter at No. 3570760 speaks for itself.
- o. It is admitted the matter was closed. The BCS determination speaks for itself. All other allegations contained herein are denied as conclusions of law.

- p. It is admitted that Ney was advised there is no “opt out” provision and that Met Ed is allowed to install a smart meter at Ney’s home. All other allegations are denied as conclusions of law. By way of further answer, Ney did not raise all possible issues in the informal complaint.
- q. It is admitted Ney was told that the meter will monitor electricity consumption but that it will not affect the amount of electricity used.
- r. It is admitted that the representations did not satisfy Ney’s concern about health and safety related to the meter and that he wished to pursue the matter further.
- s. It is admitted that Met Ed sent installation correspondence to Ney again on February 16, 2018.
- t. It is admitted a pre-disconnection notice was sent to Ney on June 7, 2018, despite all equipment working normally and Ney paying his bill. Any other allegation is denied as a conclusion of law.
- u. It is admitted the Ney contacted Met Ed on June 15, 2018.
- v. It is admitted a Met Ed representative told Ney BCS closed the informal complaint and advised that Met Ed must install a smart meter at Ney’s home. The legal conclusion contained in that statement is denied, though it is admitted that was the substance of the message communicated.
- w. It is admitted that a termination letter was sent on June 19, 2018 to Ney.
- x. It is admitted Ney refused entry to his property again on June 26, 2018.

- y. It is admitted Ney was advised he could contact the Commission.
 - z. It is admitted that Ney contacted his state representative.
 - aa. Ney is without knowledge of the substance of the communications between Met Ed and State Representative Hill's office. Therefore, these allegations are denied and proof is demanded.
 - bb. It is admitted a formal complaint was filed and that this matter commenced.
- 4. Denied as a conclusion of law.
 - 5. Denied as a conclusion of law.
 - 6. Admitted.
 - 7. The allegations and recitations in the lengthy paragraph 7 are addressed in order below:
 - a. It is admitted Wim Ney, a Stage 4 throat cancer survivor, refused installation of the smart meter at his home which is also the "Service Location".
 - b. It is admitted that Met Ed send a letter to Mr. Ney regarding installation of the smart meter on or about August 30, 2016.
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- f. It is admitted that installation of the smart meter was delayed accordingly.
- g. It is admitted that Ney sent an “opt out” letter to Met Ed on or about September 20, 2016.
- h. Ney has no knowledge of Met Ed’s smart meter deployment schedule, and this allegation is denied. Ney has no knowledge of any alleged “need” to replace the electric meter at his home whether as a practical matter or as an element of satisfying a deployment plan he has no knowledge of. Strict proof is demanded for all allegations raised herein.
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- l. It is admitted that Ney contacted Met Ed on October 17, 2017 to inform them that he had cancer and did not want a smart meter installed at his home. By way of further answer, he advised them of his health concerns about the meter impacting his recovery from Stage 4 throat cancer, which Met Ed was already on notice of, having received a medical letter and correspondence and communication from Ney previously.
- m. It is admitted that a Met Ed representative discussed Met Ed's perspective that a smart meter was "required" under Act 129. It is admitted the same representative attempted to "address Ney's concerns".
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- p. It is admitted that Ney was advised there is no "opt out" provision and that Met Ed is allowed to install a smart meter at Ney's home. All other allegations are denied as conclusions of law. By way of further answer, Ney did not raise all possible issues in the informal complaint.
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 - y. It is admitted Ney was advised he could contact the Commission.
 - z. It is admitted that Ney contacted his state representative.
 - aa. Ney is without knowledge of the substance of the communications between Met Ed and State Representative Hill's office. Therefore, these allegations are denied and proof is demanded.
8. It is admitted a formal complaint was filed and that this matter commenced.

9. Met Ed's filings speak for themselves. Denied as conclusions of law.

ARGUMENT

Wim Ney filed a pro se formal complaint that sounds in "health and safety" concerns that are particular to his status as a Stage 4 throat cancer survivor. Mr. Ney may not, at a hearing, be qualified to testify as to the basis of his health and safety concerns, but he is entitled to a hearing to present these through such competent witnesses and testimony as he can muster.

Met Ed is bound by 66 P.S. §1501 which requires that public utilities must maintain adequate, efficient, safe and reasonable service and facilities for their customers. Mr. Ney's concerns, reduced to their essence, are that a smart meter is not a safe element of a public utility providing electric service to him in particular. The entire course of his communication and correspondence with Met Ed has centered on this issue. That Mr. Ney raised these concerns prior to installation of the meter and thereafter suffering adverse effects should not be a distinguishing basis precluding the litigation of his concerns. Counsel respectfully submits that Romeo v. PUC, __ A.3d __, 2017 Pa. Commw. LEXIS 20 (Pa. Cmwlth. 2017) provides relevant guidance in this matter.

For the foregoing reasons, it is respectfully requested that the preliminary objections of Met Ed should be denied and the matter permitted to proceed to the closing of pleadings, including answering the New Matter raised by Met Ed in their filing of July 30, 2018.

Respectfully submitted,

Dated: 8-9-18

BY: 

GOTHIE LAW FIRM, P.C.

Joseph N. Gothie, Esq.

P.A. I.D. No. 80390

111 E. Market Street

Suite 101

York, PA 17401

Phone: (717) 848-8455

joe@gothielaw.com

Attorney for Wim Ney

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CERTIFICATE OF SERVICE

I certify that I am this day serving a copy of the foregoing, attached document, upon the person(s) and in the manner indicated below, which service satisfies the requirements of the Pennsylvania Rules of Civil Procedure § 440.

Service by first class mail delivery addressed as follows:

Counsel for Met Ed
Lauren Lepkoski
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, PA 19612-6001

Date: 8-9-18



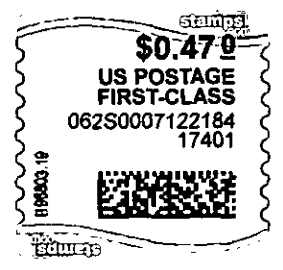
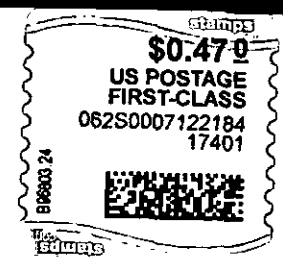
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so this
11 E. Market
York PA 17401



Sect. Rosemary Chiavetta
PA P.O.C.
Commonwealth Keystone Building
400 North Street 2ND Floor
Harrisburg PA 17120