

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Evangeline Hoffman-Lorah	:	
	:	
v.	:	C-2018-2644957
	:	
PPL Electric Utilities Corporation	:	

**INITIAL DECISION**

Before  
Elizabeth H. Barnes  
Administrative Law Judge

**INTRODUCTION**

A residential customer filed a complaint seeking to prevent an electric distribution company (EDC) from installing a smart meter a/k/a “Advanced Metering Infrastructure (AMI) meter” or “Radio Frequency (RF) meter” on her residence. The complaint will be dismissed for failure to prove by a preponderance of evidence that the installation of the smart meter constitutes unsafe or unreasonable service under 66 Pa. C.S. § 1501.

**HISTORY OF THE PROCEEDING**

On January 26, 2018, Evangeline Hoffman-Lorah (Complainant) filed the instant Complaint averring she wishes to opt out of a smart meter installation at her residence, 1635 Fourth Street, Bethlehem, Pennsylvania (account number ending in 019) for health reasons, privacy and cyber security issues, cost increases and because she contends smart meters are fire hazards and unsafe. Complainant avers that many states have already provided their residents with choices regarding the smart meter debate. She contends that the General Assembly intended Section

2807(f)(2)(i), 66 Pa. C.S. § 2807(f)(2)(i), to give homeowners the option of choosing whether or not they wanted a smart meter to be installed. The complainant also stated that it is an error to mandate the installation of these devices.

The Complaint was served upon PPL Electric Utilities Corporation (PPL, PPL Electric, Company or Respondent) on January 29, 2018.<sup>1</sup> On February 20, 2018, Respondent filed an Answer. The Answer admitted that the Respondent provides electric service to the Complainant at the address shown on the Complaint. The Answer contends that the Respondent is required to install AMI, or smart meters, for all automatic meter reading (AMR) customers and that it has the right to terminate service for failure of the customer to permit access to the meter.

On March 26, 2018, a Hearing Notice was issued scheduling a hearing for August 17, 2018 and assigning the case to me as presiding officer. A Prehearing Order was issued on April 4, 2018. On April 23, 2018, PPL filed a Motion to admit Curtis S. Renner, Esquire *pro hac vice* and represent PPL as additional counsel. On April 24, 2018, an Interim Order was issued admitting Mr. Renner *pro hac vice*. On May 17, 2018, Complainant filed an amendment to her formal complaint adding that she also objected to the installation of a smart meter on another service property (account number ending in 036) located at 4 North Street, Box 204, Port Clinton, Pennsylvania.

At the hearing, Complainant appeared *pro se* with 26 Exhibits. Respondent appeared represented by Devin Ryan, Esquire and Curtis Renner, Esquire with 8 exhibits and four witnesses: William Hennegan, Scott Larson, Christopher Davis, Ph.D., and Mark Israel, M.D. Complainant's Exhibits Nos. 1 - 26 were admitted into the record. Respondent's Exhibits Nos. 1-8 were admitted into the record. PPL Electric Statements Nos. 1 and 2 were also admitted. PPL Exhibit 9 (a study referred to by PPL Witness Davis in his testimony entitled, "Smart Meters and

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<sup>1</sup> PPL signed a waiver of the Section 702 requirement for registered or certified mail service of formal complaints, 66 Pa. C.S. § 702, and agreed to electronic service under the Commission's waiver of 702 program. *See In Re: Electronic Service of Formal Complaints*, Secretarial Letter Dated December 22, 2014, at Docket Nos. M-2013-2398153 *et al.* Service is listed in the electronic Audit History of the case as entered by the Secretary's Bureau as having been affected on January 29, 2018. Additionally, in its Main Brief, PPL stated it was served the Complaint on January 29, 2018. Thus, PPL's Answer filed on February 20, 2018 is deemed timely filed.

Routers Radiofrequency Disturbances Study with Pacemakers and Implantable Cardiac Defibrillators”) was submitted as a late-filed exhibit on August 17, 2018, after the hearing. This study identified as PPL Exhibit No. 9 was admitted into the record and the record closed on October 12, 2018. Tr. 5, 117, Second Interim Order.

On August 17, 2018, a Briefing Order was issued. A transcript consisting of 118 pages was filed on September 20, 2018. On September 24, 2018, Complainant filed her Main Brief. On October 5, 2018, Respondent filed its Main Brief. On October 17, 2018, per Complainant’s verbal request, I extended the Reply Brief deadline to October 26, 2018. The parties’ Reply Briefs were timely filed. This case is ripe for a decision.

#### FINDINGS OF FACT

1. The Complainant in this proceeding is Evangeline Hoffman-Lorah, who resides at 1635 Fourth Street, Bethlehem, Pennsylvania (account number ending in 019). Tr. 11.

2. Complainant requests a smart meter not be installed: 1) where she resides at 1635 Fourth Street, Bethlehem; and 2) where her daughter resides (account number ending in 036) located at 4 North Street, Box 204, Port Clinton, Pennsylvania. Tr. 39-41.

3. The Respondent in this proceeding is PPL Electric Utilities Corporation, an electric distribution company (EDC). Tr. 12.

4. On June 30, 2014, PPL filed its new Smart Meter Plan intended to comply with all the requirements of Act 129 and the Commission’s Smart Meter Implementation Order. PPL Electric Exhibit No. 3.

5. PPL selected Radio Frequency (“RF”) Mesh meters and metering system because the Company determined that the RF Mesh system would support the 15 capabilities required by Act 129 and the Smart Meter Implementation Order. PPL Electric Exhibit No. 3 at 5-6.

6. The RF Mesh system allows the Company to receive data from the customer's meter wirelessly, unlike PPL's previous powerline carrier (PLC) system that used the customer's actual wires. Tr. 46-49.

7. The individual RF Mesh meters are used as relay points to transmit data back to PPL. Tr. 48.

8. Under the Smart Meter Plan, the RF Mesh meters are to be deployed between 2017 and 2019 for all of PPL's 1.4 million customers. PPL Electric Exhibit No. 3 at 3, 32, Tr. 49.

9. PPL had deployed approximately 928,000 RF Mesh meters as of the August 17, 2018 hearing. Tr. 57-58, PPL Electric Exhibit No. 3.

10. On December 13, 2017, PPL sent Complainant a letter notifying her that it intended to install the new AMI meter on her residential property within approximately the next three weeks. PPL Electric Exhibit No. 2, Tr. 32.

11. The RF Mesh meter to be installed for the Complainant's residential account is the Landis + Gyr Focus AXR-SD meter. Tr. 48.

12. Complainant's residential service property is a single family two-story building in a suburban neighborhood. Tr. 11, 22.

13. Complainant resides with her husband, one adult child (age 23) and one minor child (age 13). Tr. 11, Complainant ("C") Exhibit No. 5, "Smart Meter Personal Experiences" by Evangeline (Angel) Hoffman-Lorah.<sup>2</sup>

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<sup>2</sup> Hereafter Complainant Exhibit No. shall be referred to as "C Exhibit No."

14. Complainant has two bachelor's degrees, in music performance and education, from Moravian College. Tr. 16.

15. Complainant is currently a housewife. Tr. 16.

16. On or about January 22, 2018, Complainant began experiencing symptoms of electromagnetic hypersensitivity and tinnitus, including but not limited to: headaches, difficulty concentrating, buzzing/ringing in ears, nausea, insomnia, and chest pain. N.T. 13, 21-22, C Exhibit Nos. 5 and 8, "Yevelson Internal Medicine, PC Patient Charts for Evangeline Hoffman-Lorah".

17. Complainant does not currently have an AMI meter at her residential property in Bethlehem; however, shortly after AMI meters were generally installed in her neighborhood on or about January 20, 2018, she began experiencing symptoms of tinnitus and electromagnetic hypersensitivity. Tr. 11-12, 18-20, C Exhibit Nos. 1, 5 and 8 (medical records).

18. Complainant has been diagnosed with bilateral tinnitus, headaches, insomnia and nausea. C Exhibit No. 8

19. The Landis + Gyr Focus AXR-SD meter is certified by the Underwriters Laboratories at UL 2735. Tr. 53.

20. The Landis + Gyr Focus AXR-SD meter is compliant with American National Standards Institute (ANSI) requirements. Tr. 53.

21. PPL Witness Davis has a Ph.D. in Physics and is a fulltime Professor with an endowed Chair at the University of Maryland, where for over 30 years he has taught Physics, Electrical Engineering, Electromagnetics, and RF Electromagnetics to undergraduate and graduate students. PPL Electric Statement No. 1 at 1-5.

22. In addition to his teaching, Dr. Davis is an active scientific researcher in the fields of Physics, Biophysics, Electrical Engineering, Bioelectromagnetics and RF Bioelectromagnetics, conducting many scientific studies in these fields and publishing over 250 studies in peer-reviewed scientific journals. PPL Electric Statement No. 1 at 1-5.

23. Dr. Davis conducted a substantial amount of research on RF fields of the type produced by the AMI meters being used by PPL. PPL Electric Statement No. 1 at 3.

24. RF fields are part of the lower energy, non-ionizing portion of the electromagnetic spectrum which consists of lower frequency signals that do not have enough energy to break chemical bonds in cells or DNA. PPL Electric Statement No. 1 at 5-6.

25. RF fields come from many sources in our everyday environments, including AM/FM radio, television broadcast, cell phones and their communication networks, portable phones, garage door openers and Wi-Fi networks. PPL Electric Statement No. 1 at 5-6, 12.

26. The Federal Communications Commission (FCC) has determined safe public exposure levels for RF fields from devices that transmit RF signals, such as the AMI meters. PPL Electric Statement No. 1 at 9-10.

27. The FCC safe public exposure limits are based on evaluations of the body of scientific research on RF fields and were adopted in consultation with other federal agencies, including the Food and Drug Administration (FDA) and the Environmental Protection Agency (EPA). PPL Electric Statement No. 1 at 9-10.

28. The levels of RF fields from the Landis + Gyr Focus AXR-SD AMI meters are 98,000 times lower than the RF exposure safety limits established by the FCC. PPL Electric Statement No. 1 at 13, PPL Electric Exhibit CD2.

29. RF signals from the AMI meter are of very short duration and will occur for only a total of 84 seconds over a 24-hour period. PPL Electric Statement No. 1 at 7.

30. Over a 10-month period, Complainant used her cell phone for 5,630 minutes. Tr. 22-24, PPL Electric Statement No. 1 at 15.

31. The RF field exposure from 5,630 minutes of cell phone usage is equivalent to 1,333 years of continuous RF exposure at a distance of approximately one meter from an AMI meter. PPL Statement No. 1 at 15, PPL Electric Exhibit CD-6.

32. There are six television broadcast towers within a 50 mile radius of Complainant's location in Bethlehem, Pennsylvania. PPL Electric Statement No. 1 at 15.

33. Based on the locations of each tower and their RF power outputs, the constant background level of RF fields at Complainant's residence are 92.6 times higher than the RF signals from the AMI meter. PPL Electric Statement No. 1 at 15, PPL Electric Exhibit CD-5.

34. The RF exposure from a cell phone used at a person's head is 260,000 times higher than the average RF levels 1 meter away from the Company's new smart meter. PPL Electric Statement No. 1 at 14.

35. PPL Witness Israel received his undergraduate degree from Hamilton College and his medical degree from the Albert Einstein College of Medicine, and he completed his medical training at Harvard Medical School. PPL Electric Statement No. 2 at 1.

36. Dr. Israel is a Professor of Medicine, Pediatrics, and Molecular and Systems Biology at the Dartmouth Medical School and the Executive Director of the Israel Cancer Research Fund in New York, an international charitable fund for medical and scientific research programs. PPL Electric Statement No. 2 at 1.

37. Dr. Israel is board certified and licensed to practice medicine. PPL Electric Statement No. 2 at 3.

38. Dr. Israel has conducted medical research for 40 years in a wide variety of areas, including systems biology, biochemistry, cell biology, cancer, molecular biology, and molecular genetics and has published over 245 medical research studies in leading peer-reviewed scientific journals. PPL Electric Statement No. 2 at 3-4.

39. Dr. Israel also has taught medicine and science for more than 30 years to medical students, graduate students, interns, residents, and practicing physicians in a number of fields, including endocrinology, immunology, hematology, neurology, cardiology, biochemistry, cell biology, genetics, molecular genetics, medical oncology, and radiation oncology. PPL Electric Statement No. 2 at 3.

40. Claimed symptoms related to Electromagnetic Hypersensitivity (EHS) are more accurately described as “Idiopathic Environmental Intolerance” (“IEI”), in which “idiopathic” means “cause unknown,” rather than electromagnetic hypersensitivity. PPL Electric Statement No. 2 at 13.

41. Complainant showed medical records dated February 19 and July 16, 2018, respectively, authored by medical internist, Stanley Yevelson, DO<sup>3</sup>, supporting her claimed tinnitus, EHS, and IEI symptoms. C Exhibits Nos. 1 and 8, PPL Electric Statement No. 2 at 7-9.

42. Dr. Yevelson noted Complainant had a regular heart rhythm but thinks she has EMF sensitivity; however there is no diagnosis of EMF, EHS or IEI in either the February 19 or July 16, 2018 reports. C Exhibits 1 and 8, PPL Electric Statement No. 2 at 7-8, Tr. 85-88.

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<sup>3</sup> Dr. Yevelson has a Doctor of Osteopathic Medicine degree.

43. Dr. Yevelson diagnosed Complainant with bilateral tinnitus and headaches in both reports; however, the cause of tinnitus is unspecified. C Exhibits Nos. 1 and 8, PPL Electric Statement No. 2 at 8.

44. Complainant was also examined by an Ear Nose Throat (ENT) specialist who did not specify a possible cause of tinnitus. PPL Electric Statement No. 2 at 8, C Exhibit No. 8.

45. There are no established medical criteria for the diagnosis or treatment of IEI. PPL Electric Statement No. 2, p. 16, lines 8-9.

46. IEI and the variety of symptoms attributed to it are not caused by exposure to RF fields. PPL Electric Statement No. 2 at 13.

47. The World Health Organization and a number of other public health authorities have concluded that the scientific research on RF exposures from cell phone use, which are far higher than the RF from PPL's smart meters, has not shown that RF fields cause adverse health effects. PPL Electric Statement No. 2 at 10-15, PPL Electric Exhibit MI-1.

48. Radio Frequency fields from AMI meters do not interfere with the safe operation of pacemakers and other cardio-implanted devices. N.T. 77-79, 116-117, PPL Electric Exhibit No. 9.

49. Several U.S. state public health authorities also have investigated claims about health effects from smart meters and have concluded that there is no credible scientific evidence that RF fields from smart meters will cause or contribute to any adverse health effects. PPL Electric Statement No. 2 at 11, PPL Electric Exhibit MI-2.

50. There have been numerous studies on whether exposure to RF fields causes or contributes to tinnitus. PPL Electric Statement No. 2 at 16.

51. The Landgrebe study cited by Complainant found no increase in tinnitus related to exposure to RF fields from cell phones or other sources, such as cell phone broadcast towers, cordless telephones and wireless networks. PPL Electric Statement No. 2 at 16, C Exhibit No. 21.

52. The Landgrebe study found: 1) that tinnitus was significantly more frequent in the subjective electromagnetic hypersensitive group (50.72% vs. 17.5%); 2) tinnitus duration and severity did not differ between the groups; and 3) electromagnetic hypersensitivity and tinnitus were independent risk factors for sleep disturbances. C Exhibit No. 21 at 1-2.

53. There is no reliable medical basis to conclude that RF fields from the AMI meters being used by PPL will cause or contribute to the development of illness or disease. PPL Electric Statement No. 2 at 17.

54. There is no reliable medical basis to conclude that RF fields from the AMI meters being used by PPL would cause, contribute to, or exacerbate any of the symptoms claimed by the Complainant, or any other adverse health effects. PPL Electric Statement No. 2, Tr. 96-99.

55. PPL's new AMI meters are equipped with software and mechanisms that better alert the Company if there is an issue with overheating. Tr. 54-57.

56. Specifically, there is a heat alarm set within the meter software program, so when the temperature of the meter hits an established level, the Company is alerted to the issue. Tr. 51-57.

57. PPL takes 15-minute interval temperature readings from the meter, so it can track the meter's temperature and identify any current issues or problematic trends. Tr. 51-57.

58. If the Company detects an issue with the meter's temperature, PPL will dispatch a technician to investigate. Tr. 51-57.

59. From the Company's research, "the root cause of the vast majority" of any fires involving new meters is the customer-owned meter bases wearing out and producing loose connections between the "blade" of the meter and the "jaw" of the meter base. Tr. 51-57.

60. PPL has taken several steps to mitigate the risk of these worn out meter bases, including analyzing the materials utilized for meter bases, enhancing its inspection criteria so that its service technicians are better able to "identify loose jaws in the field," and ensuring the new AMI meters meet the American National Standards Institute ("ANSI") requirements. Tr. 53-54.

61. There have not been any fires caused by the E-350 Focus AXR-SD meter on a residential property in PPL's service territory as of the date of hearing, August 17, 2018. Tr. 57.

62. The new AMI meter to be installed by the Company is not a fire or safety hazard. Tr. 52-58.

63. As a part of its Smart Meter Plan proceeding, PPL filed a detailed AMI Customer Privacy Policy, which sets forth the data PPL will collect through the new smart meter, the steps the Company will take to protect the data, and the ways in which PPL will use the data. Tr. 34-35, 50-51, PPL Electric Exhibit No. 5.

64. PPL uses firewalls to prevent anyone from obtaining unauthorized access to the AMI network. Tr. 34, 50-51.

65. Customer data is encrypted to make the data readable to only PPL personnel who can decode the encryption. Tr. 34-35, 50-51.

66. PPL’s cybersecurity and data privacy policies are consistent with the national standards for the industry. PPL Electric Exhibit Nos. 3 and 5, Tr. 33-34, 51.

67. PPL never issued Complainant a notice of termination. PPL Exhibit No. 2.

68. PPL has not yet installed an AMI meter at 4 North Street, Box 204, Port Clinton, Pennsylvania. Tr. 40.

## DISCUSSION

### Legal Standards

Under Section 332(a) of the Public Utility Code, 66 Pa. C.S. § 332(a), “the proponent of a rule or order has the burden of proof.” It is well-established that “[a] litigant’s burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible.” *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm’n*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990). The preponderance of evidence standard requires proof by a greater weight of the evidence. *Commonwealth v. Williams*, 557 Pa. 207, 732 A.2d 1167 (1999). This standard is satisfied by presenting evidence more convincing, by even the smallest amount, than that presented by another party. *Brown v. Commonwealth*, 940 A.2d 610, 614 n.14 (Pa. Cmwlth. 2008).

If the party seeking a rule or order from the Commission sets forth a *prima facie* case, then the burden shifts to the opponent. *MacDonald v. Pa. R.R. Co.*, 348 Pa. 558, 36 A.2d 492 (1944). Establishing a *prima facie* case requires either evidence sufficient to make a finding of fact permissible or evidence to create a presumption against an opponent which, if not met, results in an obligatory decision for the proponent. Once a *prima facie* case has been established, if contrary evidence is not presented, there is no requirement that the party seeking a rule or order from the Commission must produce additional evidence to sustain its burden of proof. *See Replogle v. Pa. Elec. Co.*, 54 Pa. PUC 528, 1980 Pa. PUC LEXIS 20 (Order entered Oct. 9,

1980); *see also Dist. of Columbia's Appeal*, 21 A.2d 883 (Pa. 1941); *Application of Pennsylvania-American Water Co. for Approval of the Right To Offer, Render, Furnish or Supply Water Serv. to the Pub. in Additional Portions Of Mahoning Twp., Lawrence County, Pa.*, Docket No. A-212285F0148, 2008 Pa. PUC LEXIS 874 (Order entered Oct. 29, 2008).<sup>4</sup>

In addition, a person does not sustain his or her burden of proof in an electric and magnetic field exposure case when the record evidence, “taken as a whole, leads to the ultimate finding and conclusion that the scientific studies at present are inconclusive.” *Letter of Notification of Phila. Elec. Co. Relative to the Reconstructing and Rebuilding of the Existing 138 kV Line to Operate as the Woodbourne-Heaton 230 kV Line in Montgomery and Bucks Counties*, 1992 Pa. PUC Lexis 160, at \*210-11 (June 29, 1992) (Initial Decision) (“*Woodbourne-Heaton*”). Rather, the person must demonstrate by a preponderance of the evidence that such exposure actually causes adverse health effects. *Id.* at \*211. Specifically, in AMI meter-related matters, the Commission has held that “[t]he Complainant will have the burden of proof during the proceeding to demonstrate, by a preponderance of the evidence, that [the utility] is responsible or accountable for the problem described in the Complaint.” *Kreider v. PECO Energy Co.*, Docket No. P-2015-2495064, p. 18 (Order entered Sept. 3, 2015); *see also Romeo v. Pa. Pub. Util. Comm'n*, 154 A.3d 422, 429 (Pa. Cmwlth. 2017) (finding that the smart meter complainant should have a hearing to try to prove his claim through “the testimony of others as well as other evidence that goes to that issue”).

Section 701 of the Public Utility Code provides that “any person . . . having an interest in the subject matter . . . may complain in writing, setting forth any act or thing done or omitted to be done by any public utility in violation, or claimed violation, of any law which the commission has jurisdiction to administer, or of any regulation or order of the commission.” 66

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<sup>4</sup> In addition, any finding of fact necessary to support an adjudication of the Commission must be based upon substantial evidence. *Met-Ed Indus. Users Grp. v. Pa. Pub. Util. Comm'n*, 960 A.2d 189, 193 n.2 (Pa. Cmwlth. 2008) (citing 2 Pa.C.S. § 704). Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Borough of E. McKeesport v. Special/Temporary Civil Serv. Comm'n*, 942 A.2d 274, 281 n.9 (Pa. Cmwlth. 2008) (citation omitted). Although substantial evidence must be “more than a scintilla and must do more than create a suspicion of the existence of the fact to be established,” *Kyu Son Yi v. State Bd. of Veterinary Med.*, 960 A.2d 864, 874 (Pa. Cmwlth. 2008) (citation omitted), the “presence of conflicting evidence in the record does not mean that substantial evidence is lacking.” *Allied Mech. and Elec., Inc. v. Pa. Prevailing Wage Appeals Bd.*, 923 A.2d 1220, 1228 (Pa. Cmwlth. 2007) (citation omitted).

Pa. C.S. § 701. Therefore, a complainant must generally demonstrate that the public utility violated the Public Utility Code or a Commission regulation or order.

The Commission has exclusive jurisdiction to adjudicate “issues involving the reasonableness, adequacy, and sufficiency” of a public utility’s facilities and services. *See Elkin v. Bell of Pa.*, 420 A.2d 371, 374 (Pa. 1980) (citations omitted). Section 1501 of the Public Utility Code states, in pertinent part, that:

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. Such service also shall be reasonably continuous and without unreasonable interruptions or delay. Such service and facilities shall be in conformity with the regulations and orders of the commission. Subject to the provisions of this part and the regulations or orders of the commission, every public utility may have reasonable rules and regulations governing the conditions under which it shall be required to render service. . .

66 Pa. C.S. § 1501.

When presented with a challenge to an AMI meter installation, the Commission has pronounced that “[t]he ALJ’s role . . . will be to determine based on the record in this particular case, whether there is sufficient evidence to support a finding that the Complainant was adversely affected by the smart meter or whether [the utility’s] use of a smart meter will constitute unsafe or unreasonable service in violation of Section 1501 under the circumstances in this case.” *Kreider v. PECO Energy Co.*, Docket No. P-2015-2495064 at 23 (Opinion and Order entered January 28, 2016) (citing *Woodbourne-Heaton*, 1992 Pa. PUC Lexis 160, at \*12-13). *Frompovich v. PECO Energy Co.*, Docket No. C-2015-2474602 at 10 (Opinion and Order entered May 3, 2018).

A public utility’s Commission-approved tariff is prima facie reasonable, has the full force of law and is binding on the utility and the customer. 66 Pa.C.S. § 316, *Kossmann v. Pa.*

*Pub. Util. Comm'n*, 694 A.2d 1147 (Pa. Cmwlth. 1997) (*Kossman*); *Stiteler v. Bell Telephone Co. of Pennsylvania*, A.2d 339 (Pa. Cmwlth. 1977) (*Stiteler*).

The Commission, not the ALJ, is the ultimate fact-finder in formal proceedings on a complaint of a public utility's quality of service; the Commission must weigh the evidence and resolve conflicts in the testimony. 66 Pa. C.S. § 335(a); see also *Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217, 1220, n. 7 (Pa. Cmwlth. 2001).

As a Commonwealth agency, the Commission is governed by the Commonwealth's Administrative Agency Law, 2 Pa. C.S. § 101, *et seq.* Section 505 of the Administrative Agency Law, 2 Pa. C.S. § 505, specifies that a Commonwealth agency is not bound by technical rules of evidence at an agency hearing. Specifically, 2 Pa. C.S. § 505, provides: "Commonwealth agencies shall not be bound by technical rules of evidence at agency hearings, and all relevant evidence of reasonably probative value may be received. Reasonable examination and cross-examination shall be permitted." Thus, if the evidence is relevant to the issues before the agency and of reasonable probative value, the agency may receive it. 2 Pa. C.S. § 505. Evidence is relevant if it tends to establish facts in issue. *LeRoi v. Pa. State Civil Service Commission*, 382 A.2d 1260 (Pa. Cmwlth. 1978).

The Pennsylvania Supreme Court has stated, however, that in order for evidence relied upon in an administrative proceeding to be considered "substantial evidence," the ". . . information admitted into evidence must have sufficient indicia of reliability . . ." *Gibson v. W.C.A.B.*, 861 A.2d 938, 944, 580 Pa. 470, 480 (Pa. 2004). "If the evidence is both competent and sufficient, then the finding is supported by substantial evidence." *Id.*

Accordingly, while the strict rules of evidence have been relaxed in agency hearings under the Commonwealth's Administrative Agency Law, see 2 Pa. C.S. § 505, there has not been an abandonment of all rules. *Dawes v. Pennsylvania Gas and Electric*, F-2013-2361655 (Initial Decision Issued January 14, 2014) (related to authentication per Pa.R.E. 901 of a third-party recording of a customer call and application of Best Evidence Rule, Pa.R.E. 1001

and 1002). For evidence relied upon in an administrative proceeding to be considered competent, the evidence must be authenticated and follow the applicable hearsay rules.

Pursuant to Rule 901 of the Pennsylvania Rules of Evidence, parties to a hearing are required to satisfy the requirement of authenticating or identifying an item of evidence. To do so, “the proponent must produce evidence sufficient to support a finding that the item is what the proponent claims it is.” Pa.R.E. 901. The rationale for requiring authentication is that it provides a measure of protection against fraud or mistaken attribution of a writing to a person who fortuitously has the same name as the author. *Commonwealth v. Brooks*, 508 A. 2d 316 (Pa. Super. 1986); *Commonwealth v. Harrison*, 434 A.2d 808 (Pa. Super. 1981). Improper authentication can lead to reversal on appeal. *Kopytin v. Aschinger*, 947 A.2d 739 (Pa. Super. 2008). As it is the duty of the ALJ to ensure that the evidentiary record is solid and reliable, permitting improper authentication is a breach of that duty. *See Moore*.

Hearsay is an out-of-court statement made by a declarant that is offered by a party to prove the truth of the matter asserted in the statement. See Pa.R.E. 801. The general rule against hearsay is that hearsay is inadmissible at trial unless it falls into one of the recognized exceptions to the hearsay rule pursuant to the Pennsylvania Rules of Evidence, other rules prescribed by the Pennsylvania Supreme Court, or statute. See Pa.R.E, 801, 802, 803, 803.1, 804. The rationale for the rule against hearsay is that hearsay lacks the guarantees of trustworthiness to be considered by the trier of fact; however, exceptions have been fashioned to accommodate certain classes of hearsay that are substantially more trustworthy than hearsay in general, and thus merit exception to the rule against hearsay. See e.g. *Commonwealth v. Kriner*, 915 A.2d 653 (Pa. Super. 2007); *Commonwealth v. Cesar*, 911 A.2d 978 (Pa. Super. 2006); *Commonwealth v. Bruce*, 916 A.2d 657 (Pa. Super. 2007).

Under the relaxed evidentiary standards applicable to administrative proceedings, see 2 Pa. C.S. § 505, it is well-settled that simple hearsay evidence, which otherwise would be inadmissible at a trial, generally may be received into evidence and considered during an administrative proceeding. *D'Alessandro v. Pennsylvania State Police*, 937 A.2d 404, 411, 594 Pa. 500, 512 (2007) (*D'Alessandro*). The Supreme Court of Pennsylvania stated: “Hearsay is a

statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.” Pa.R.E. 801(c). Hearsay evidence is normally inadmissible at trial unless an exception provided by the Pennsylvania Rules of Evidence, jurisprudence, or statute is applicable. Pa.R.E. 802. Complicating this general rule in the administrative law context, however, is Section 505 of the Administrative Agency Law: “Commonwealth agencies shall not be bound by technical rules of evidence at agency hearings, and all relevant evidence of reasonably probative value may be received. Reasonable examination and cross-examination shall be permitted.” 2 Pa. C.S. § 505. Therefore, hearsay evidence may generally be received and considered during an administrative proceeding. *See A.Y. v. Pa. Dep't of Pub. Welfare, Allegheny County Children & Youth Serv.*, 537 Pa. 116, 641 A.2d 1148, 1150 (1994).

However, whether simple hearsay may support a finding of an agency depends on whether the evidence meets the criteria of the *Walker/Chapman* rule. The *Walker/Chapman* rule provides that simple hearsay evidence may support an agency’s finding of fact so long as the hearsay is admitted into the record without objection and is corroborated by competent evidence in the record. *See Walker v. Unemployment Compensation Board of Review*, 367 A.2d 366, 370 (Pa. Cmwlth. 1976) (*Walker*) (citations omitted); see also *Chapman v. Unemployment Compensation Board of Review*, 20 A.3d 603, 610, n.8 (Pa. Cmwlth. 2011) (*Chapman*).

Under Pennsylvania’s *Walker/Chapman* Rule, it is well-established that “[h]earsay evidence, properly objected to, is not competent evidence to support a finding.” Even if hearsay evidence is “admitted without objection,” the ALJ must give the evidence “its natural probative effect and may only support a finding . . . if it is corroborated by any competent evidence in the record,” as “a finding of fact based solely on hearsay will not stand.” *Walker* at 370 (citations omitted).

To be “properly objected to” in an administrative proceeding, the hearsay evidence must not fall within one of the recognized exceptions to the rule against hearsay. Hearsay that falls within one of the recognized exceptions to the hearsay rule is competent evidence that may be relied upon by the agency. *See Chapman, supra*, n. 8 (finding that the

Board properly relied upon a party's admission as competent evidence as a recognized exception to the hearsay rule); see also *Sanchez v. PPL Electric Utilities Corporation*, Docket No. C-2015-2472600 (Order entered July 21, 2016) (*Sanchez*) (finding that testimony related to the issuance of a termination letter fell within the business records exception to the hearsay rule, and, therefore, was not simple hearsay, and was competent evidence to be relied upon in the proceeding to determine whether the complainant satisfied her burden of proof); see also Pa.R.E. 802, 803, 803.1 and 804.

Moreover, hearsay cannot corroborate hearsay. See *Sule v. Philadelphia Parking Authority*, 26 A.3d 1240, 1244 (Pa. Cmwlth. 2011), citing *J.K. v. Department of Public Welfare*, 721 A.2d 1127, 1133 (Pa. Cmwlth. 1998) (noting substantial evidence did not exist because there was no non-hearsay evidence to corroborate hearsay testimony).

### Health and Safety Concerns

Complainant claims she has suffered from tinnitus and Electromagnetic Hypersensitivity (EHS) since January 22, 2018, after PPL placed AMI meters in her suburban neighborhood on January 20-21, 2018. Complainant's symptoms of tinnitus and EHS include: insomnia, chest pains, headaches, ringing/buzzing in the ears, difficulty concentrating, and nausea. Tr. 10-24, C MB at 5-6, C RB at 5. Complainant offered in support of her claims the medical records of Stanley Yevelson, D.O. of Yevelson Internal Medicine, PC. She contends her physical ailments will become aggravated by the installation of an AMI meter at her residence and the residence of her daughter. Thus, it is unreasonable service to allow PPL to install the AMI meters at those locations.

Conversely, PPL contends Complainant may have Idiopathic Environmental Intolerance (IEI) and has failed in her burden of proving she has been medically diagnosed with EHS or that her tinnitus, nausea, headaches, chest pains, and lack of concentration are caused by the AMI meters installed in her neighborhood.

## Disposition

I gave some weight to C Exhibit Nos. 1 (medical report), 5 (Smart Meter Personal Experiences), 6 (Statement of Timothy Lorah), 7 (Statement of Nancy Lorah), 8 (Yevelson Internal Medicine Patient Charts for Evangeline Hoffman-Lorah), and 21 (Article from the Association of Tinnitus and Electromagnetic Hypersensitivity) as some of this evidence was corroborated by the testimonies of Complainant, Dr. Davis and Dr. Israel. However, regarding the remaining C Exhibits 2-4, 9-20 and 22-26, I gave little or no weight to the opinions of these authors of various articles who were not available for cross-examination. PPL was denied an opportunity to test the veracity of the authors' opinions or their qualifications to render such opinions. 66 Pa. C.S. § 332(c). *Answerphone, Inc. & Elite Answering Serv. v. The Bell Tele. Co. of Pa.*, 1993 Pa. PUC LEXIS 70, at \*29-30 (Order entered April 1, 1993). PPL objected to these exhibits on the grounds that they contained hearsay evidence.

To show she suffered from EHS, Mrs. Hoffman-Lorah produced photocopied medical records dated February 19, 2018, April 3, 2018, and July 16, 2018, purported to be from Stanley Yevelson, D.O. of Yevelson Internal Medicine, PC, which diagnosed Complainant with tinnitus and headaches but did not expressly diagnose her as having EHS. C Exhibit Nos. 1 and 8. Dr. Yevelson did however state, "I am concerned that placement of a smart or digital meter will exacerbate her current sx's [symptoms]." C Exhibit No. 1 at 2. On April 3, 2018, Dr. Yevelson stated, "Patient's history and clinical condition suggest chronic tinnitus mostly due to Electromagnetic Hypersensitivity." C Exhibit No. 8. Complainant also offered signed but not sworn statements from her mother and husband. C Exhibits Nos. 6 and 7. She cited to many articles written by others regarding claims of health, privacy and fire issues with smart meters. C Exhibits Nos. 2-4 and 9-26.

Complainant believes she began to experience a ringing/buzzing in her ears, headaches, nausea, chest pains and concentration problems almost immediately following the general deployment of AMI meters in her suburban neighborhood in Bethlehem in January 2018. She resides with her husband who stated that he has witnessed his wife wake up at night crying because of ringing in her ears and other symptoms. C Exhibit No. 6. Complainant's mother-in-

law, Nancy Lorah, signed a statement attesting to a buzzing noise from the meter. C Exhibit No. C-7. Complainant also offered an article entitled, “A constant, non-stop pulsed low radio frequency hum and drone radiating from global smart grid mesh network” to show the buzzing/ringing in her ears was caused by the AMI meters in her neighborhood. C Exhibit No. 2.

Although Dr. Yevelson appears to be an osteopathic medical physician, I am giving little weight to the medical reports in Complainant’s Exhibits 1 and 8 because Dr. Yevelson was not present to be cross-examined, and PPL objected to the admission of Dr. Yevelson’s medical records and was denied an opportunity to test the veracity of his medical opinion or his qualifications to render such opinion. Tr. 20-21. 66 Pa. C.S. § 332(c). *Answerphone, Inc. & Elite Answering Serv. v. Bell Tele. Co. of Pa.*, 1993 Pa. PUC LEXIS 70, at \*29-30 (Order entered April 1, 1993). PPL had no opportunity to cross-examine Dr. Yevelson; thus, under the *Walker* Rule, I am not relying upon this opinion to support a finding of fact that Complainant is electromagnetically hypersensitive or that the new AMI meters cause, contribute to, or exacerbate Complainant’s illness.

The installation of AMI meters at Complainant’s neighbors’ homes on Fourth Street, Bethlehem correlates to a self-reported worsening of Complainant’s symptoms of lack of concentration, chest pains, ringing/buzzing sounds and insomnia since January 22, 2018; however, there is insufficient evidence to prove the installation of the AMI meters caused the worsening of Complainant’s symptoms as they are subjective.

Even if I were to give weight to C Exhibit Nos. 1 and 8, and find Complainant has EHS, it is not a medical diagnosis that is widely accepted among medical practitioners given the credible testimony of Dr. Israel, who describes EHS as an idiopathic environmental intolerance (IEI), which has an unknown cause. PPL Electric Statement No. 2 at 13. Dr. Israel opined that Complainant’s insomnia and tinnitus were not caused by radio frequency waves emitting from her neighbors’ smart meters. I am persuaded to find Complainant suffers from tinnitus. However, there is insufficient evidence to show that the tinnitus is caused by Complainant’s exposure to electromagnetic fields at intensities well below the maximum levels permitted by the

FCC's radiation safety standards. The symptoms of EHS seem to vary widely and there is a psychological component to EHS. In giving his opinion, Dr. Israel relied on reports, "It is the IEI-EMF individuals' belief that exposure to RF EMFs will cause harm, rather than actual exposure itself, that results in the presence of symptoms in IEI-EMF individuals." PPL Electric Statement No. 2.

I am persuaded by the credible testimony of Dr. Israel, who testified claimed symptoms related to EHS are more accurately described as IEI in which "idiopathic" means "cause unknown." Dr. Israel evaluated the few medical records produced by the Complainant in this proceeding, which were prepared in 2018. (PPL Electric Statement No. 2, p. 7, lines 21-22) Notably, these medical records do not include any description of the physician evaluating or diagnosing electromagnetic sensitivity. (PPL Electric Statement No. 2, p. 7, line 23 to p. 8, line 1; *see, e.g.*, Complainant's Exhibit 8) The records merely state that the patient "thinks she has EMF sensitivity" and is "concerned about EMF sensitivity." (PPL Electric Statement No. 2, lines 22-23; Complainant's Exhibit 8) Moreover, the medical records state that the Complainant "denies fatigue," her rate and rhythm are "regular," and describes her mood as "upbeat & stable." PPL Electric Statement No. 2, p. 8, lines 1-3; Complainant's Exhibit 8. Further, although the Complainant alleges that her tinnitus is caused by her EHS (Tr. 18-19), the medical records reveal that she was examined by an ENT (ear/nose/throat) expert who "did not specify [a] possible cause of tinnitus." PPL Electric Statement No. 2, p. 8, lines 3-5; Complainant's Exhibit 8. Thus, the Complainant's medical records do not support her allegation that she has been diagnosed with EHS.

Even if I were to be persuaded by the reports to find that Dr. Yevelson diagnosed Complainant as having EHS, a preponderance of the evidence shows symptoms of EHS/IEI are not caused by exposure to RF fields. PPL Electric Statement No. 2. For example, a systematic review of 46 studies involving 1,175 individuals who claimed IEI symptoms found that people claiming IEI symptoms from RF fields could not replicate the claimed effect under controlled laboratory conditions. PPL Electric Statement No. 2 at 14. Another recent study found that people who claimed IEI symptoms from RF fields reported lower levels of well-being when they knew they were exposed to RF fields, but when they did not know if they were being exposed,

their reports of symptoms were not associated with RF fields. PPL Electric Statement No. 2 at 14. That study concluded that “it is IEI-EMF individuals’ belief that exposure to RF EMFs will cause harm, rather than actual exposure itself, that results in the presence of symptoms in IEI-EMF individuals.” PPL Electric Statement No. 2 at 14.

In addition, the research on IEI has been evaluated by credible public health entities and expert groups, including the United Kingdom Health Protection Agency (2012), the Royal Society of Canada (2013), the New Zealand Ministry of Health (2015), and the European Commission’s Scientific Committee on Emerging and Newly Identified Health Risks (2015). Based on their reviews of the scientific research, these entities concluded there is no reliable scientific evidence that exposure to RF fields causes claimed IEI symptoms. PPL Electric Statement No. 2, p. 15, lines 4-22; PPL Electric Exhibit MI-3. The World Health Organization has found that “There is little scientific evidence to support the idea of electromagnetic hypersensitivity.” PPL Electric Statement No. 2 at 15. These findings from public health entities and expert panels show that the theory of IEI caused by exposure to RF fields has not been generally accepted in the medical community. PPL Electric Statement No. 2 at 15.

Further, Dr. Israel evaluated whether there is a credible scientific basis for Complainant’s claim that exposure to RF fields causes or contributes to tinnitus. PPL Electric Statement No. 2 at 16. There have been a number of studies on whether exposure to RF fields causes or contributes to tinnitus. PPL Electric Statement No. 2 at 16. Several studies, including the Landgrebe study cited by the Complainant (Complainant’s Exhibit 21), found no increase in tinnitus related to exposure to RF fields from cell phones or other sources, such as cell phone broadcast towers, cordless telephones, and wireless networks. PPL Electric Statement No. 2 at 16. Therefore, there is no reliable scientific basis to conclude that exposure to RF fields from the AMI meters being used by PPL Electric causes or contributes to tinnitus. PPL Electric Statement No. 2 at 16.

Dr. Israel also evaluated scientific research on RF fields and adverse health effects generally. He testified that he has been systematically examining this research over the past several decades and that many hundreds of studies have been published. PPL Electric

Statement No. 2 at 6-8. He testified that three groups of controlled laboratory studies on animals “are particularly informative because they address fundamental biological functions that are very sensitive to any disruption: genetics, reproduction, and growth and development.” PPL Electric Statement No. 2 at 9. Dr. Israel described a number of the studies in these areas which he considered good examples of well-designed and well-conducted studies. These studies found no adverse effects on genetics, fertility, reproduction, growth or development in the animals exposed to RF fields. PPL Electric Statement No. 2 at 9. Dr. Israel also provided examples of well-conducted animal studies on RF fields and cancer. He testified that these studies, which involved animals with lifetime exposures to RF fields, did not find any increased incidence in cancer in the RF exposed animals compared to non-exposed animals. PPL Electric Statement No. 2, p. 10, lines 1-16.

Based on the body of scientific research showing no consistent and reproducible effects from RF fields on cancer and other adverse health effects, the World Health Organization (“WHO”) has concluded that “no adverse health effects have been established as being caused by mobile phone use.” PPL Electric Statement No. 2 at 10. A number of other public health authorities, including agencies in Canada, the U.K., Sweden, Norway, the Netherlands, and New Zealand, among others, have recently reached similar conclusions. PPL Electric Statement No. 2 at 10; PPL Electric Exhibit MI-1. In addition, several U.S. state public health authorities and Public Utility Commissions have investigated claims about health effects from smart meters. These include the Maine Center for Disease Control (2010), the Vermont Department of Health (2012), Arizona Department of Health, Office of Environmental Health (2014), and North Carolina Department of Health and Human Services, Division of Public Health, Occupational and Environmental Epidemiology Branch (2015). These evaluations by State public health authorities and Public Utility Commissions conclude that RF fields from smart meters do not pose any public health risk. PPL Electric Statement No. 2, p. 11, lines 1-11; PPL Electric Exhibit MI-2.

Dr. Israel testified regarding C Exhibit No. 21 – A study titled, “Association of Tinnitus and Electromagnetic Hypersensitivity: Hints for a Shared Pathophysiology?” by Michael Landgrebe, *et al.* I find Dr. Israel’s testimony to be credible that this article lacks

authenticity because the document's author was not presented to authenticate the accuracy of the factual statements in the document. Tr. 20-21. Moreover, the document is unreliable because it only contains 8 of the document's 11 pages. In addition, the document actually contradicts the Complainant's allegations, as it concludes that that "there is no hint for a relationship between tinnitus and exposure to electromagnetic fields." C Exhibit 21 at 8.

Finally, concerning the Complainant's allegations that she experiences symptoms when in the presence of AMI meters (C Exhibit 5), a preponderance of evidence shows that the Complainant experiences symptoms when she believes she is in the presence of AMI meters. Complainant testified that she would experience these symptoms when she is at home or at her daughter's property, based upon her belief that the Company's new AMI meters were installed in her neighborhood and her daughter's neighborhood. Tr. 15, 19-20; C Exhibit 5. When she has been away from those areas, she claims her symptoms dissipate. Tr. 19-20; C Exhibit 5. However, the daughter's neighborhood is located in Port Clinton, Pennsylvania (Tr. 39-40) and I am persuaded to find PPL has not yet deployed AMI meters in Port Clinton. Tr. 40. Contrary to the Complainant's assertion, any symptoms she has experienced while at her daughter's residence, cannot have been caused by PPL AMI meters in that vicinity. Rather Complainant's subjective experiences are consistent with those observed in a recent reliable study, which, as noted previously, found that "it is IEI-EMF individuals' belief that exposure to RF EMFs will cause harm, rather than actual exposure itself, that results in the presence of symptoms in IEI-EMF individuals." PPL Electric Statement No. 2, p. 14, lines 17-20. Thus, I find Complainant has failed to show her medical symptoms are caused by or would be exacerbated or caused by the meter PPL intends to install at her residence and her daughter's residence.

There is no reliable medical basis to conclude that RF fields from the AMI meters being used by PPL Electric will cause or contribute to the development of illness or disease. PPL Electric Statement No. 2 at 17. There is no reliable medical basis to conclude that RF fields from the AMI meter being used by PPL Electric would cause, contribute to, or exacerbate any of the symptoms claimed by the Complainant, including tinnitus, or any other adverse health effects. PPL Electric Statement No. 2 at 17.

Additionally, on this issue, I find credible the expert testimony of PPL witness Dr. Christopher Davis who opined the Landis + Gyr AMI meter would not cause adverse health effects. Dr. Davis sponsored late-filed PPL Exhibit No. 9, a study entitled, “Smart Meters and Routers Radiofrequency Disturbances Study with Pacemakers and Implantable Cardiac Defibrillators,” by Genevieve Ostuguy, M.D. *et al.*, a study involving the Hydro-Quebec Research Institute, that evaluated any potential electromagnetic interference (EMI) of Landis + Gyr Smart Meters and Routers with Medtronic Inc. cardiac implantable electronic devices (CIEDs), and found no interference was observed when Medtronic pacemakers and implantable cardiac defibrillators (ICDs) were placed at a distance of 10 cm from Landis + Gyr Smart Meters or Routers. PPL Electric Exhibit No. 9 at 1, 10. This study is persuasive as it is one that specifically tested the Landis + Gyr AMI meter at issue. The study’s findings refute Complainant’s claim that smart meters have been proven to cause dramatically irregular EKG readings and negatively affect cardiac function. C Exhibit 4 (“Evidence is Undeniable: Smart Meters Cause Massive Changes to the Heart”), by NaturalNews.com, C Exhibit 22 (“EKG Proof- Smart Meters Damage Your Heart” by Lori Alton, staff writer for NaturalHealth365.com. Complainant’s articles hold less weight than the study relied upon by Dr. Davis in forming his expert opinion as they are not published in scientific or medical journals.

Dr. Davis conducted a substantial amount of research on RF fields of the type produced by the AMI meters being used by PPL. PPL Electric Statement No. 1 at 3. RF fields are part of the lower energy, non-ionizing portion of the electromagnetic spectrum which consists of lower frequency signals that do not have enough energy to break chemical bonds in cells or DNA. PPL Electric Statement No. 1 at 5-6. RF fields come from many sources in our everyday environments, including AM/FM radio, television broadcast, cell phones and their communication networks, portable phones, garage door openers and Wi-Fi networks. PPL Electric Statement No. 1 at 5-6, 12.

The FCC has determined safe public exposure levels for RF fields from devices that transmit RF signals, such as the AMI meters. PPL Electric Statement No. 1 at 9-10. The FCC safe public exposure limits are based on evaluations of the body of scientific research on

RF fields and were adopted in consultation with other federal agencies, including the FDA and the EPA. PPL Electric Statement No. 1 at 9-10.

The levels of RF fields from the Landis + Gyr Focus AXR-SD AMI meters are 98,000 times lower than the RF exposure safety limits established by the FCC. PPL Electric Statement No. 1 at 13, PPL Electric Exhibit CD2. RF signals from the AMI meter are of very short duration and will occur for only a total of 84 seconds over a 24-hour period. PPL Electric Statement No. 1 at 7.

Over a 10-month period, Complainant used her cell phone for 5,630 minutes. Tr. 22-24, PPL Electric Statement No. 1 at 15. The RF field exposure from 5,630 minutes of cell phone usage is equivalent to 1,333 years of continuous RF exposure at a distance of approximately one meter from an AMI meter. PPL Statement No. 1 at 15, PPL Electric Exhibit CD-6. There are six television broadcast towers within a 50 mile radius of Complainant's location in Bethlehem, Pennsylvania. PPL Electric Statement No. 1 at 15. Based on the locations of each tower and their RF power outputs, the constant background level of RF fields at Complainant's residence are 92.6 times higher than the RF signals from the AMI meter. PPL Electric Statement No. 1 at 15, PPL Electric Exhibit CD-5. The RF exposure from a cell phone used at a person's head is 260,000 times higher than the average RF levels 1 meter away from the Company's new smart meter. PPL Electric Statement No. 1 at 14. For all of these reasons, I find in favor of PPL on this issue.

#### Accuracy of Measurement

The Complainant alleges in her Main Brief that the new AMI meters record electric usage inaccurately and lead to "excessive billing." C MB at 8. Specifically, Complainant claims that these meters cause "false readings" that produce "outrageous electric bills." C MB at 8. In support of her claim, the Complainant has submitted articles from a couple of websites, which claim that AMI meters are inaccurate. C Exhibits 4 and 22.

Conversely, PPL contends the new AMI meter is more accurate in measurement than some of its older meters.

### Disposition

I find credible PPL's witness Scott Larson who testified that in general the new AMI meter is actually "much, much more accurate than some of the older meters." Tr. 59. Mr. Larson testified, "[t]he new standard of meter accuracy" is currently "0.15 percent accuracy," meaning that the meter cannot "vary off of 100 percent accuracy more than .15 either way." Tr. 59. In contrast, the analog meters have spinning disks inside that, due to age, corrosion, or both, have a tendency to slow. Tr. 60. The slowing of these disks actually creates a less accurate meter. Tr. 60. Therefore, when the less accurate meter is removed and then replaced with the AMI meter, customers may feel like they are being charged more when the reality is that the new AMI meter is recording more accurately. Tr. 60.

Complainant offered little evidence to show AMI meters excessively bill in general. Complainant's allegations are entirely based on articles whose authors were not called to testify about the veracity of their claims. However, to the extent that the Complainant believes that the new AMI meter is inaccurate after it is installed, she can request a meter test. Tr. 60. Section 57.22 of the Commission's regulations prescribes that "[a] public utility shall make a test of the accuracy of registration of a service meter upon the written request of the customer for whom the meter is installed upon payment of the fee specified in" subsection (c). 52 Pa. Code § 57.22(a); *also see* 52 Pa. Code § 57.22(c) (setting forth the applicable testing fees for watt-hour and demand meters). Further, the Company's Commission-approved tariff specifies that "[t]he testing and adjustment of meters are made in accordance with any applicable law and any regulation" and that "[t]he company may require customers to pay a fee of \$35.00 for a meter test." Rule 8.D., Supplement No. 194 to Electric. Pa. P.U.C. No. 201, Sixth Revised Page No. 12. If the test reveals that the meter is not recording usage within the acceptable range, the customer's bills can be adjusted pursuant to the Commission's regulations. *See* 52 Pa. Code § 57.24. Thus, the Complainant can request a meter test if, in the future, she believes her new AMI meter is inaccurate. Accordingly, I find in favor of PPL on this issue.

## Fire Concerns

Complainant contends AMI meters have design defects making them fire hazards in comparison to analog meters. C MB at 11. Conversely, PPL argues that the new AMI meters are not a fire hazard because they are equipped with software and mechanisms that better alert the Company if there is an issue with overheating. PPL MB at 32-33. PPL also contends the Landis + Gyr meter meets the American National Standards Institute (ANSI) requirements and is certified by Underwriters Laboratories and that the meter can withstand a thermal index of 160 degrees Celsius before breaking down. Tr. 32-33, PPL MB at 32-33.

## Disposition

Complainant's fire risk claims are based upon hearsay evidence. C Exhibits 22 and 24. These exhibits were objected to at the hearing and are not corroborated by any other evidence in the record.

PPL's witness Scott Larson testified he is familiar with some cases in North America involving fires and he reached out to other utilities to learn from their experiences. Tr. 52. PPL chose a base plate material that would withstand temperatures of up to 160 degrees Celsius for a relative thermal index. Tr. 52. Mr. Larson testified the meter to be installed at Ms. Hoffman-Lorah's residence met the ANSI requirements and is certified by Underwriters Laboratories. Tr. 53.

Additionally, PPL trains its service technicians and independent contractors installing the AMI meter to inspect the customer's meter base and look for loose wiring or loose meter jaws. Tr. 54-56. Mr. Larson is not aware of any fires being caused by the E-350 Focus AXR-SD meter within PPL's service territory. Tr. 57-58. PPL has already installed 928,000 AMI meters within its service territory. Tr. 58.

In the *Frompovich* case, *supra*, the Commission recognized PECO Energy Company (PECO) did have an issue with the initial deployment of Sensus smart meters. The Commission held:

Specifically, as to the Complainant's fire hazard claim, PECO satisfied its burden of production, or the burden of going forward with the evidence, to show that the brand of AMI to be installed at the Complainant's home – the Landis + Gyr meter – does not present a fire hazard. PECO presented evidence in this case that previously there was a fire hazard problem with a particular brand of meter PECO had initially used in the AMI deployment. However, in approximately 2012, those meters were all removed and replaced with the Landis + Gyr Focus meters. PECO showed that since the installation of over 1.2 million of Landis + Gyr Focus meters, there have been no reports of fire incidents related to the meters. Tr. at 143. PECO showed that a Landis + Gyr meter would be installed at Ms. Frompovich's home.

Additionally, we take judicial notice here that the fire hazard issue involving the prior brand of AMI meter was raised to our attention during PECO's Smart Meter Phase II Plan proceeding at Docket No. M-2009-2123944, discussed *supra*, fn 3. In the Recommended Decision for that case, it was noted that PECO had experienced several meter events involving overheating during the Phase I deployment. PECO initiated corrective action including replacement of the installed smart meters with meters manufactured by a different contractor, Landis + Gyr. PECO had completed replacing the meters on or before January 18, 2013, the date PECO filed its Smart Meter Phase II Plan. *See* Phase II R.D. at 9.

Moreover, the Complainant did not present any competent evidence in this record to show that the Landis + Gyr brand of meters causes fires or otherwise presents a fire hazard. Therefore, we agree with the ALJ's conclusion that the Complainant did not satisfy her burden of proving that the type of AMI meter to be installed at her home would constitute an unsafe fire hazard in violation of 66 Pa. C.S. § 1501.

*Frompovich* at 56-57.

PECO had an overheating issue with its initial deployment of Sensus AMI meters; however, these Sensus AMI meters were eventually removed by PECO and replaced with Landis + Gyr Focus AXR-SD meters, the same as are being deployed at residences by PPL through its Agent Grid One Solutions. *Id.* at 56, C Exhibit 21. It is unknown how the communications

systems between PECO and PPL compare; however, the Commission has already deemed it to be reasonable and not a fire hazard within the meaning of 66 Pa. C.S. § 1501 to allow another electric distribution company to install the Landis + Gyr Focus AXR-SD meter on residential dwellings with its service territory. The Commission found that, since the installation of over 1.2 million Landis + Gyr Focus meters, there have been no reports of fire incidents related to the meters. *Id.* At 56-57. Similarly, there is no evidence to show PPL has had any fire incidents related to the same make and model meter after deploying 928,000 such meters. Tr. 58.

In the instant case, PPL showed that there is a heat alarm set within the meter software program, so when the temperature of the meter hits an established level, the Company is alerted of the issue. Tr. 52-57. Further, PPL takes 15-minute interval temperature readings from the meter, so it can track the meter's temperature and identify any current issues or problematic trends. Tr. 52-57. If the Company detects an issue with the meter's temperature, PPL will dispatch a technician to investigate. Tr. 52-57.

PPL has conducted substantial research and taken many steps to prevent fire incidents similar to the ones alleged by the Complainant. From the Company's research, "the root cause of the vast majority" of any fires involving new meters is the customer-owned meter bases wearing out and producing loose connections between the "blade" of the meter and the "jaw" of the meter base. Tr. 52-56. I find in favor of PPL on this issue.

### Privacy Concerns

The Complainant also has raised privacy issues with the new AMI meter, specifically whether the meter can tell if certain appliances are being used by a person. C Exhibit No. 25 "World's Leading Hackers Explain Why You Don't Want Huge Tech Companies Controlling Everything in Your House" by Lulu Freisdat, Altnet.com, Tr. 14.

Conversely, PPL contends C Exhibit 25 is hearsay evidence not specific to AMI meters, which supports the use of adequate procedures to protect against unauthorized disclosure of customer data. PPL MB at 35.

## Disposition

I am persuaded to find credible the testimony of PPL witness Hennegan, who testified that the meter cannot detect such use by a customer and that he possesses the technical knowledge and qualifications to answer that question with certainty. Tr. 33-35. Mr. Hennegan testified, “[T]here is no tagging in the data that says this piece of information is coming from this specific appliance.” Tr. 34.

As part of its Smart Meter Plan proceeding, PPL filed a detailed AMI Customer Privacy Policy, which sets forth the data PPL will collect through the new smart meter, the steps the Company will take to protect the data, and the ways in which PPL will use the data. PPL Electric Exhibit No. 5. Consistent with that policy, the Company will collect data on the total amount of electricity used at the premises as well as significant event information, such as outages, voltage, heat alarms, and meter tampering alerts. PPL Electric Exhibit No. 5, Section 1.2.

PPL uses firewalls to prevent anyone from obtaining unauthorized access to the AMI network. Tr. 34, 50-51. Customer data is encrypted to make the data only readable to Company personnel who can decode the encryption. Tr. 34-35, 50-51. PPL’s cybersecurity policies and practices as proposed in PPL Electric’s Smart Meter Plan (PPL Electric Exhibit No. 3) are consistent with national standards for the industry. Tr. 51. Additionally, if Complainant is concerned about the AMI meter’s connection to smart appliances in her home, she can decline to have the ZigBee radio activated. For these reasons, I find in favor of PPL on the privacy issue.

## Opt-In versus Opt-Out Program

Complainant argues that Act 129 of 2008, 66 Pa. C.S. §§ 2806.1-2807, created an opt-in program as opposed to an opt-out program whereby the General Assembly intended AMI meter deployment to be on a voluntary basis. C MB at 9. Complainant contends the Commission recognized deployment should be to customers requesting smart meters per Act 129

and cites to the House Bill SB2200/2807. Additionally, Complainant contends other States have offered residents the freedom of opting out of a smart meter. Complaint at 2-4.

Conversely, PPL contends its installation of an AMI Meter is required by Pennsylvania law and that it would not constitute unreasonable or unsafe service to install an AMI Meter on Complainant's property or her daughter's residence in Port Clinton. PPL argues Complainant has failed to demonstrate that any AMI meter causes, contributes to or exacerbates any adverse health effect. PPL denies the AMI meter causes fires or is a privacy risk.

### Disposition

The Commission has ruled that there is no provision in the Code, the Commission's Regulations or Orders that allows a PECO customer to "opt-out" of smart meter installation. 66 Pa.C.S. § 2807(f); See *Bervinchak v. PPL Electric Utilities Corporation*, C-2016-2572824 and C-2016-2577527 (Final Order October 2, 2018, Initial Decision dated August 16, 2018); *Povacz v. PECO Energy Company*, Docket No. C-2012-2317176 at 10 (Order and Opinion entered January 24, 2013); *Povacz v. PECO Energy Company*, Docket No. C-2015-2475023 (ALJ Heep Initial Decision dated January 26, 2018). Moreover, the Commonwealth Court has held that federal law does not preempt the Commission's interpretation. See *Romeo v. Pa. Pub. Util. Comm'n*, 154 A.3d 422 (Pa. Cmwlth. 2017). The Commonwealth Court did not expressly address whether Mr. Romeo could opt-out of a smart meter installation. The Court held that Mr. Romeo's claim that smart meters cause safety and fire hazards and have a negative health impact, is not legally insufficient pursuant to 66 Pa. C.S. § 1501, which requires utilities to maintain adequate, efficient, safe and reasonable service and facilities for their customers. *Id.*

I infer from the *Romeo* decision, that it is legally sufficient to plead the injunctive relief requested in the instant case and claim that smart meters are generally unsafe and unhealthy, and the installation of them is unreasonable service in violation of 66 Pa. C.S. § 1501. However, the Commonwealth Court did not expressly address the opt-in versus opt-out argument. Although Complainants similarly situated to Mr. Romeo are entitled to an evidentiary

hearing, there is Commission precedent that there is no opt-out provision in the current law in Pennsylvania.

The fact that other States have opt-in provisions in their law is noted but is non-binding. The Commission is formulating binding policy through adjudications which constitute binding precedent regarding this issue. *See Crawford v. National Fuel Gas Distribution Corporation*, C-20066348 (Opinion and Order entered December 6, 2007), *citing Pacific Gas & Electric Co. v. FPC*, 164 U.S. App. D.C. 371, 506 F.2d 33 (D.C. Cir. 1974). The Commission has consistently held there is no opt-out provision for similarly situated Complainants in the past. The instant case is more similar than distinguishable from prior decisions wherein the Commission has dismissed similar complaints. *Pennsylvania Trout v. Dep't of Env'tl. Prot.*, 863 A.2d 93 (Pa. Cmwlth. 2004).

On October 15, 2008, Governor Edward G. Rendell signed Act 129 of 2008 into law, which directed electric distribution companies with at least 100,000 customers to file, with the Commission, a smart meter deployment and installation plan. Thus, there is a statute requiring smart meter deployment by large electric distribution companies operating within the Commonwealth. 66 Pa. C.S. § 2807(f).

The implementation of the Respondent's Smart Meter Deployment Plan and the approval of the costs associated with its implementation have been found by the Commission to be in accordance with Act 129 of 2008, 66 Pa. C.S. § 2807(f). The Respondent is required by statute and Commission Order to implement a Smart Meter Program, to install smart meters throughout its service territory, and to charge a Smart Meter Technology Surcharge to all of its metered customers.

As the Commission stated in its April 21, 2016 Opinion and Order in the case of *Frompovich*:

In past cases involving smart meter installation, we have evaluated on an individual case-by-case basis the specific allegations presented in each complaint and reached a conclusion based on those particular circumstances. While PECO is correct that as adopted Act 129 does not

provide a general opt out provision, where a complainant's objection to installation of a smart meter was not based upon a general objection to smart meters *per se*, but rather upon facts specific to the individual complainant, we have denied preliminary relief and allowed the complaint to proceed to hearing. *See Kreider v. PECO Energy Company*, Docket No. P-2015-2495064 (Order on Material Question entered September 3, 2015; Order on Reconsideration entered January 28, 2016) (*Kreider*); *Paul v. PECO Energy Company*, Docket No. C-2015-2475355 (Order entered March 17, 2016). As we stated previously, "the law does not prohibit us from considering or holding a hearing on issues related to the safety of smart meters, consistent with our statutory authority in Section 1501 of the Code, when a legally sufficient claim is presented." *Kreider*, Order on Material Question at 17.

As in *Kreider* and *Paul*, Ms. Frompovich has alleged factual averments specific to her that, *if proven*, could implicate, under her particular circumstances, a violation of Section 1501 of the Code, a statute the Commission has jurisdiction to administer.

*Frompovich, supra* at 11-12 (Opinion and Order entered April 21, 2016) (emphasis added).

To the extent that Mrs. Hoffman-Lorah desires the ability to opt out of the smart meter installation, she could advocate for such ability before the General Assembly, which is currently considering amending Section 2807(f) in some pending bills including: PA House Bill Nos. 1564 and 1565; and Senate Bill No. 443. These bills are not yet law. The Commission has held that it does not have the authority, absent a directive in the form of legislation, to prohibit the Respondent from installing a smart meter where a customer does not want one. *See Povacz v. PECO Energy Company*, Docket No. C-2012-231716 (Opinion and Order entered January 24, 2013). The Commission held that similarly situated Respondents would be in violation of law if they did not install a smart meter at properties similarly situated to Complainant's residence and her daughter's residence. *Id., Frompovich* at 10. Thus, I find in favor of PPL on this issue.

### Termination of Service

Complainant claims PPL has no right to terminate electric service if she denies PPL access to replace her existing meter. Conversely, Respondent argues it is required to install

AMI, or smart meters, for all AMR customers and that it has the right to terminate service for failure of the customer to permit access to the meter.

### Disposition

I agree with PPL that if the Commission denies and dismisses this Complaint, PPL will have a legal right to initiate termination procedures if it is denied reasonable access to the Company's meter per its tariff, the Commission's Regulations, and Chapter 14 of the Public Utility Code. See 66 Pa. C.S. § 1406(a)(4); 52 Pa. Code § 56.81(3); PPL Electric Exhibits Nos. 6, and 7.

A public utility's Commission-approved tariff is prima facie reasonable, has the full force of law and is binding on the utility and the customer. 66 Pa.C.S. § 316, *Kossmann v. Pa. Pub. Util. Comm'n*, 694 A.2d 1147 (Pa.Cmwlth. 1997) (*Kossmann*); and *Stiteler v. Bell Telephone Co. of Pennsylvania*, 379 A.2d 339 (Pa.Cmwlth. 1977) (*Stiteler*).

Rule 10(B)(2)(g) of PPL Electric's tariff states that the Company is authorized to terminate service when: (1) its "representatives cannot gain admittance or are refused admittance to the premises for the purpose of reading meters, making repairs, making inspections, or removing Company property"; (2) "the customer interferes with Company representatives in the performance of their duties; or (3) "the meters or other equipment of the Company are not accessible during reasonable hours." PPL Electric Exhibit No. 7 at 2. Similarly, Rule 2F of PPL's Tariff, Supplement No. 42, Electric Pa. PUC No. 201 provides that PPL "shall have access at all reasonable hours to customer's premises, without charge for the purpose of inspecting, installations, installing meters, reading, testing, removing, replacing, or otherwise maintaining or disposing of any of Company's property." PPL Electric Exhibit No. 6.

It is well-settled that where a customer refuses a utility access to its meter, the utility may terminate service after required notice is provided. The Commission's Regulations, at 52 Pa. Code § 56.81(3), provide, in pertinent part, the following:

A public utility may notify a customer and terminate service provided to a customer after notice as provided in §§ 56.91-56.100 (relating to notice procedures prior to termination) for any of the following actions by the customer . . . Failure to permit access to meters, service connections or other property of the public utility for the purpose of replacement, maintenance, repair or meter reading.

52 Pa. Code § 56.81(3). Additionally, the Commission held in *Frompovich*,

Based on our adjudication of Ms. Frompovich's claims herein, we find that PECO's proposed termination of electric service to the Complainant's service address for the Complainant's refusal to permit PECO access to its meter, so that PECO's employees can replace the existing AMR meter with an AMI meter, to be consistent with and authorized under Section 1501 of the Code, the Commission's Regulations at 52 Pa. Code § 56.81(3), and the Company's Tariff. We remind PECO, however, that prior to taking any steps related to such termination of service, it must adhere to the applicable provisions of the Commission's Regulations relating to Notice Procedures Prior to Termination at 52 Pa. Code §§ 56.91-100. In the applicable written notice(s) required under the Commission's Regulations, PECO is requested to inform or instruct Ms. Frompovich as to how she may avoid termination related to the meter.

*Frompovich* at 59. Accordingly, given this *stare decisis* precedent, I find in favor of PPL on this issue.

### CONCLUSION

For all of these aforementioned reasons, the complaint will be dismissed for failure to prove by a preponderance of evidence that the installation of this smart meter constitutes unsafe or unreasonable service under 66 Pa. C.S. § 1501. Although the Complainant is genuine in her concerns, the Commission's decisions cited above are controlling.

### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and the subject matter in this proceeding. 66 Pa. C.S. § 701.

2. PPL Electric Utilities Corporation's smart meter procurement and installation plan, which was approved by Commission Order in the case of *Petition of PPL Electric Utilities Corp. for Approval of Its Smart Meter Technology Procurement and Installation Plan*, Docket No. M-2014-2430781, p. 24 (Order Entered Sept. 3, 2015) ("2015 Smart Meter Order") does not contain a provision for customers to opt out of smart meter installation.

3. Under Section 332(a) of the Pennsylvania Public Utility Code, the proponent of a rule or order has the burden of proof. 66 Pa. C.S. § 332(a). It is well established that "[a] litigant's burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible." *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990).

4. The preponderance of evidence standard requires proof by a greater weight of the evidence. *Commonwealth v. Williams*, 557 Pa. 207, 732 A.2d 1167 (1999). This standard is satisfied by presenting evidence that makes the existence of a contested fact more likely than its nonexistence. *Brown v. Commonwealth*, 940 A.2d 610, 614 n.14 (Pa. Cmwlth. 2008) (citation omitted).

5. A person does not sustain his or her burden of proof in an electric and magnetic field exposure case when the record evidence, "taken as a whole, leads to the ultimate finding and conclusion that the scientific studies at present are inconclusive" rather, the person must demonstrate by a preponderance of the evidence that such exposure actually causes adverse health effects. *Letter of Notification of Phila. Elec. Co. Relative to the Reconstructing and Rebuilding of the Existing 138 kV Line to Operate as the Woodbourne-Heaton 230 kV Line in Montgomery and Bucks Counties*, 1992 Pa. PUC Lexis 160, at \*210-11 (June 29, 1992) (Initial Decision) ("Woodbourne-Heaton").

6. In AMI meter-related matters, the Commission has held that "[t]he Complainant will have the burden of proof during the proceeding to demonstrate, by a

preponderance of the evidence, that [the utility] is responsible or accountable for the problem described in the Complaint.” *Kreider v. PECO Energy Co.*, Docket No. P-2015-2495064, p. 18 (Order entered Sept. 3, 2015).

7. Section 701 of the Public Utility Code provides that “any person . . . having an interest in the subject matter . . . may complain in writing, setting forth any act or thing done or omitted to be done by any public utility in violation, or claimed violation, of any law which the commission has jurisdiction to administer, or of any regulation or order of the commission.” 66 Pa. C.S. § 701.

8. Complainant has failed to sustain her burden of proof that Respondent violated Section 1501 of the Public Utility Code. 66 Pa. C.S. § 1501.

9. The Commission has exclusive jurisdiction to adjudicate “issues involving the reasonableness, adequacy, and sufficiency” of a public utility’s facilities and services. See *Elkin v. Bell of Pa.*, 420 A.2d 371, 374 (Pa. 1980) (citations omitted).

10. When presented with a challenge to an AMI meter installation, the Commission has pronounced that “[t]he ALJ’s role . . . will be to determine based on the record in this particular case, whether there is sufficient evidence to support a finding that the Complainant was adversely affected by the smart meter or whether [the utility’s] use of a smart meter will constitute unsafe or unreasonable service in violation of Section 1501 under the circumstances in this case.” *Kreider v. PECO Energy Co.*, Docket No. P-2015-2495064, p. 23 (Order entered Jan. 28, 2016) (citing *Woodbourne-Heaton*, 1992 Pa. PUC Lexis 160, at \*12-13).

11. Under Pennsylvania’s “*Walker Rule*,” it is well-established that “[h]earsay evidence, properly objected to, is not competent evidence to support a finding.” *Walker v. Unemployment Comp. Bd. of Review*, 367 A.2d 366, 370 (Pa. Cmwlth. 1976) (citations omitted).

12. Even if hearsay evidence is “admitted without objection,” the ALJ must give the evidence “its natural probative effect and may only support a finding . . . if it is

corroborated by any competent evidence in the record,” as “a finding of fact based solely on hearsay will not stand.” *Id.* at 370.

13. Complainant has failed to sustain her burden of proof that installing the new AMI meter would violate the Public Utility Code or any Commission regulation or order. See 66 Pa. C.S. §§ 332(a), 701.

14. PPL is legally required to install the RF Mesh meter on the Complainant’s property by Act 129 and Commission orders. See 66 Pa. C.S. § 2807(f); Smart Meter Procurement and Installation, Docket No. M-2009-2092655, pp. 9, 14 (Order entered June 24, 2009) (“Smart Meter Implementation Order”).

15. Nothing in Act 129 permits a customer to “opt-out” of a smart meter installation. See, e.g., *Starr v. PECO Energy Co.*, Docket No. C-2015-2516061, p. 11 (Order Entered Sept. 1, 2016).

16. The Commission previously determined that the Company’s existing PLC meters are not compliant with Act 129 and the Commission’s Smart Meter Implementation Order. See *Petition of PPL Electric Utilities Corporation for Approval of Smart Meter Technology Procurement and Installation Plan*, Docket No. M-2009-2123945, p. 24 (Order entered June 24, 2010) (“2010 Smart Meter Order”).

17. Under the Company’s Commission-approved Smart Meter Plan, PPL must replace all of the PLC meters with the RF Mesh meters, which the Commission declared as meeting all of the requirements of Act 129 and the Commission’s Smart Meter Implementation Order. See *Petition of PPL Electric Utilities Corp. for Approval of Its Smart Meter Technology Procurement and Installation Plan*, Docket No. M-2014-2430781, p. 24 (Order Entered Sept. 3, 2015) (“2015 Smart Meter Order”).

18. The Complainant has failed to demonstrate that the new AMI meter causes, contributes to, or exacerbates any adverse health effect.

19. The Complainant has failed to sustain her burden of proof that installing the new AMI meter would constitute unsafe or unreasonable service in violation of 66 Pa. C.S. § 1501.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint filed by Evangeline Hoffman-Lorah against PPL Electric Utilities Corporation at Docket No. C-2018-2644957 is denied and dismissed.
2. That the docket in this proceeding be marked closed.

Date: November 14, 2018

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/s/  
Elizabeth H. Barnes  
Administrative Law Judge