Before the

Pennsylvania Public Utility Commission

Patti Lynn Caesar,	:	
Complainant,	:	
v.	:	Docket No. C-2017-2605462
PECO Energy Company,	:	
Respondent		

CERTIFICATE OF SERVICE

I, Patti Lynn Caesar, pro se, hereby certify that on March 5, 2019, I served a copy of my Exceptions to the Initial Decision to PECO Energy Company in the above matter, upon all interested parties via email and mail delivery to:

Ward L. Smith
Counsel for PECO Energy Company
2301 Market Street, S23-1
Philadelphia, PA 19103
Phone: 215-841-6863
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March 5, 2019

Patti Lynn Caesar, pro se
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March 5, 2019

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

Re: Patti Lynn Caesar v. PECO Energy Company
Docket Nos. C-2017-2605462

Dear Secretary Chiavetta:

Today I, Patti Lynn Caesar, served my Exceptions to the Initial Decision on counsel for Peco via email.

A certificate of service evidencing that service is attached for filing. The PUC efile website is down so I will submit in the morning.

Sincerely,

Patti Lynn Caesar, pro se

PLC
Enclosures

CC: Attorney Ward Smith
Certificate of Service

BEFORE THE

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Patti Lynn Caesar	:	
	:	C-2017-260546
v.	:	
	:	
PECO Energy Company	:	

EXCEPTIONS OF COMPLAINANT PATTI LYNN CAESAR TO THE INITIAL DECISION BY ADMINSTRATIVE LAW JUDGE DARLENE DAVIS HEEP

ISSUED ON JANUARY 11,

2019

INTRODUCTION

Judge Heep ruled in her initial decision "The Complainant has not established that installation of an AMI meter at her

home would be unsafe or unreasonable in violation of 66 Pa.C.S. § 1501 or that PECO violated the Pennsylvania Public Utility Code (Code), Commission Regulations or a Commission order when it issued a shut off notice to the Complainant. The evidence also did not establish that the AMI meters PECO proposes installing violate privacy or are fire hazards. The Complaint will be dismissed."

HISTORY OF THE PROCEEDINGS

On May 17, 2017, Ms. Patti Lynn Caesar (Complainant or Ms. Caesar) filed a formal complaint against PECO Energy Company (PECO or Company) stating that PECO was threatening to shut off her service and that she was refusing to have an AMI meter, also known as a smart meter, installed in her home "because of health (electro-sensitivity) and safety reasons (fires)."

During the hearing, the emissions of concern to the Complainant were referred to in testimony and exhibits, interchangeably, as electromagnetic fields, radio frequency fields and electromagnetic radiation, *inter alia*. "EMF" will be used throughout to refer to such emissions.

PECO filed an Answer on June 1, 2017, denying all major allegations in the Complaint. The Answer also stated the Complainant refused a smart meter and that smart meters were being installed in accordance with Commission Orders and Act 129. The Company also stated that it provided the Complainant with notice of installation and possible termination. PECO also requested that the Complaint be dismissed.

On June 16, 2017, a hearing was scheduled for December 5-6, 2017 via hearing notice.

Ms. Caesar filed a response to the Answer on June 19, 2017, in which she stated that the Complaint should not be dismissed and should be considered in its entirety.

A pre-hearing order issued on June 21, 2017, confirmed the hearing date and set discovery and other procedural deadlines.

On November 20, 2017, Ms. Caesar filed a written request for continuance of the hearing date due to family medical matters.

An Order granting the request for continuance was issued on November 21, 2017.

A Hearing Notice rescheduling the hearing for February 22, 2018 was issued on November 28, 2017.

An evidentiary hearing was held on February 22, 2018, as scheduled. Ms. Caesar

represented herself and, according to Judge Heep, I introduced one exhibit. Actually, this is incorrect. I introduced 12 exhibits. PECO was represented by Ward Smith, Esquire, Shawane Lee, Esquire and Thomas Watson, Esquire. The Company presented four witnesses. Testifying on behalf of PECO were Mr. Bryan Uber, PECO Supervisor for Customer Field Operations; Mr. Glenn Pritchard, PECO Principal Engineer for the AMI Deployment Project; Christopher Davis, Ph.D. in Physics; and Dr. Mark Israel, Physician.

On May 9, 2018, a Briefing Order was issued, requiring the filing of Main Briefs

by June 18, 2018 and Reply Briefs by July 18, 2018. I requested an extension

A Briefing Order was issued July 2, 2018, setting July 13, 2018, as the deadline for the filing of Main Briefs and August 8, 2018, as the Reply Brief deadline.

On July 13, PECO filed Main Brief. Ms. Caesar was granted an extension and filed her brief on July 16, 2018.

On July 16, 2018, PECO filed a Motion to Admit Counsel Thomas Watson *Pro*

Hac Vice. The Motion notes that Mr. Watson has previously been admitted *Pro Hac Vice* to practice before this body and that he is a member in good standing of the Washington, D.C. Bar.

On August 6, 2018, the Complainant filed an Answer to the PECO Motion to

Admit Counsel *Pro Hac Vice*, opposing the Motion by stating the following.

I, Patti Lynn Caesar, am asking the PUC Court, and Administrative

Law Judge, the Honorable Darlene Heep, to deny PECO's Motion to Admit Tom Watson, pro hac vice nunc pro tunc in my matter. In support of this request, I am providing the following arguments:

Under 1, 2, 3, in their motion, PECO cites the rules in accordance with the Pennsylvania Bar Admission for Attorney Ward Smith to be the sponsor for Attorney Thomas Carl Watson.

1) PECO has been using the Washington DC law firm of Attorney Renner and Attorney Watson as tag teams for multiple PECO smart meter cases. Attorney Renner has been admitted Pro Hac Vice in multiple PPL cases and Attorney Watson has been admitted pro Hac Vice in multiple PUC cases as well.

2) I object to PECO's motion because under 301 Admission of Pro Hac Vice of PA Rules of Bar Examiners, (ii) "The motion for the applicant's candidacy for Pro Hac Vice admission shall be filed by the sponsor with the clerk of the court in which or with the magisterial district judge before which the case is pending at least three days prior to the appearance before the court or magisterial district judge by the attorney, barrister, or advocate seeking pro hac vice admission**."** My Evidentiary hearing was held on February 22, 2018 and Attorney Thomas Carl Watson was then admitted illegally to appear before the commission at my hearing because a Pro Hac Vice motion was not filed at that time. Attorney Ward Smith, the "sponsor," is attempting to introduce Attorney Watson to appear before the Commission in my case Five Months after my evidentiary hearing. This violates PA code and PA Bar admission rules.

   a) Furthermore, PECO recently filed two other Pro Hac Vice motions retroactively (3 months after the hearing) in the pro se case of James Quigley and Teresa Méndez-Quigley v. PECO Energy Company Docket No. C-2017-2617558 (for attorney Watson) and in the pro se case of McKnight and McKnight v. PECO Energy Company Docket No. C-2017-2621057 (again -3 months after testimony and to admit Attorney Renner). Both of these complainants are asking the PUC to deny PECO's motion to admit Watson and Renner Pro Hac Vice.

   b) There have been many Pro Hac Vice cases file with Attorneys Watson and Renner too numerous to mention. Some examples include

*Susan Kreider (now deceased) C-2015-2469655 P-2015-2495064 (Hearing Held 7/29/15 and Pro Hac Vice motion on 2/24/16). Opposition was made by Ms. Kreider.

* Maria Povacz C-2015-2475023 (Hearing held 9/14/16 and Pro Hac Vice Motion on 2/24/16)

* Laura Murphy C-2015-2475726 (Hearing held 12/5/16 and Pro Hac Vice Motion on 2/24/16)

* C. Frompovich C-2015-2474602 (Hearing held 11/2/16 and Pro Hac Vice 5/11/16)

* Cynthia Randall & Paul Albrecht C-2016-2537666 (Hearing held 9/26/16 And Pro Hac Vice 5/11/16)

* Mary Paul C-2015-2475355 (Hearing held 11/15/16 and Pro Hac Vice 5/11/16)

* Janette Bachman C-2017-2623504 (Hearing held 4-10-18) Pro Hac Vice

For Attorney Renner and Watson were never filed but Watson and Renner Appeared in that case without PA admission. Just because the Bachmans Settled with PECO in June, 2018 does not expunge the actions of PECO and Renner and Watson for appearing as counsel without a PA admission.

3) Under #4 in PECO's motion to admit Attorney Watson Pro Hac Vice, Attorney Smith states that "Attorney Watson has appeared before the PA PUC on numerous occasions prior to 2007. Between 2007 and 2016, he did not appear pro hac vice before the PA PUC. Since 2016, he has been admitted and appeared pro hac vice in the matters listed in the accompanying Motion to Admit." I argue that the more recent cases cited by Attorney Smith (I am not familiar with the 2007 cases) are all (except one) pro se cases of EHS customers (myself included) who are requesting medical accomodations to have analog meters (and not smart meters). Increasing legal representation by non PA practicing attorneys Watson and Renner is the equivalent of including attorneys who are practicing law without a PA license in these sensitive

cases. Many of us representing ourselves have not been aware, until now, that PECO was stepping outside of legal boundaries to try to get our cases dismissed by introducing non-PA attorney's who always presented the expert witnesses of Dr. Israel and Dr. Davis. Pro se complainants have, frankly, not been aware of their rights about opposing pro hac vice motions.

4) Under #9, Attorney Smith states in his motion that "Motions for admission pro hac vice are typically made during the early stages of a proceeding." Actually, legally, this should be made 3 days before the hearing. Attorney Smith states that "Mr. Watson appeared on behalf of PECO in a series of AMI/health cases, in which the Motions to allow his pro hac vice appearance were unopposed." Do you call three cases of seeking motions 3-5 months after the evidentiary hearing "unopposed?" All three of these complainants (myself, McKnights, and Mendez-Quigley all cited above) are opposing this motion by PECO. Do you call the case of a deceased Complainant "unopposed" (of which the Kreider case was definitely opposed). In the Bachman case (as cited above), how can complainants oppose a pro hac vice motion that was never filed (and this happened prior to their settling their case with PECO). This statement by Attorney Smith is absolutely untrue and obfuscates the truth of these cases.

5) Under #10 in Attorney Smith's motion, he states "Pennsylvania courts and the Commission have allowed pro hac vice admission to occur late in the litigation process…" However, I am asking the PUC to deny Attorney Watson's admission pro hac vice based on the frequency of his work in Pennsylvania and the work of his tag team partner Attorney Renner. In Rule 1012.1

"the candidate is, in effect, practicing as a Pennsylvania attorney, in light of the nature and extent of the activities of the candidate in the Commonwealth, without complying with the Pennsylvania requirements for the admission to the bar. The court may weigh the number of other admissions to practice sought and/or obtained by the candidate from Pennsylvania courts, the question of whether or not the candidate maintains an office in Pennsylvania although the candidate is not admitted to practice in Pennsylvania courts, and other relevant factors" (*https://www.pacode.com/secure/data/231/chapter1000/s1012.1.html*at (e)(5))(emphasis added)

"The Arkansas Supreme Court's overhaul of its rule governing pro hac vice admission creates a new bright-line test and increases scrutiny of non-resident lawyers. Courts shall deny a pro hac motion if the non-resident attorney has entered an appearance pro hac vice in three cases within the preceding 12 months. The rule includes new terms giving the trial court the right to examine the non-resident attorney, wherein the court may deny the pro hac motion for reasons including good cause." (New Pro Hac Vice Rule Increases Scrutiny of Non-Resident Lawyers Christina M. Jordan – July 25, 2017)

Also, in a 2014 case in Ohio (State ex rel. Hadley v. Pike), if a lawyer is not admitted pro hac vice, whatever the lawyer did gets thrown out, even if the lawyer is subsequently admitted pro hac vice.

6) Finally, I am asking the PUC to consider the following:

§ 5.431. Close of the record.

(a) The record will be closed at the conclusion of the hearing unless otherwise directed by the presiding officer or the Commission.

(b) After the record is closed, additional matter may not be relied upon or accepted into the record unless allowed for good cause shown by the presiding officer or the Commission upon motion.

The record should have been closed at the conclusion of my hearing. All the testimony and exhibits have been presented. The record is closed. A pro hac vice motion cannot be presented 5 months after my hearing has been closed. Courts have to do what is fair to the parties. It is NOT fair to you to allow peco to reopen the record to admit Watson pro hac vice in my case.

I, Patti Lynn Caesar, therefore respectfully request that you deny PECO's Motion to Admit Thomas Carl Watson to appear as counsel for PECO, pro hac vice.

By Order on August 17, 2018, the Motion for Admission of Mr. Watson *Pro Hac Vice* was granted.

Heeps' ruling said: " 231 Pa. Code Rule 1012.1(e)

Although the Motion was filed after the hearing, and before close of the record, there is no basis upon which to deny the Motion. PECO is seeking to comply with the rules. " I argued then and continue to argue that the record was closed. PECO requested to admit Thomas Carl Watson after the filing period expired. Citing the various times I asked for extensions has nothing to do with these two facts in the case.

PECO filed a Reply Brief on August 8, 2018.

Ms. Caesar filed a Reply Brief on August 9, 2018.

On August 9, 2018, PECO filed a Reply to Objection to Motion to Admit Counsel Watson Pro Hac Vice.

By Order on August 17, 2018, the Motion for Admission of Mr. Watson *Pro Hac Vice* was granted.

On August 23, 2018, Ms. Caesar filed a request for extension of time to file an interlocutory appeal of the Order admitting Mr. Watson *Pro Hac Vice*.

On August 23, 2018, Ms. Caesar filed a request for extension of time to file an interlocutory appeal of the Order admitting Mr. Watson *Pro Hac Vice*. Ms. Caesar never heard back from Judge Heep until she received an email from her office on October 2, 2018 asking her "Did the Secretary's Bureau respond to the request for extension of time?
Did you file anything?" I stated that I never heard back. Then Judge Heep announces on October 2 "If you are filing an appeal, you need to file it. Otherwise, I will have to issue the Decision. Please file it within the next seven days or notify me that you have decided not to file an appeal by Friday." So, I'm waiting months for a decision about whether my initial request for an extension was granted. Then I was given 7 days to file this as I was getting on a plane to visit my daughter to plan her wedding. It was impossible for me to meet this deadline. Judge Heep states in her initial decision

" an Order was issued giving the Complainant until October 12, 2018 to file an interlocutory appeal. No appeal was filed." She neglects to point out the whole story of

how “No appeal was filed.”

According to Judge Heep, she states that the record was closed on October 15, 2018, as no interlocutory appeal had been

filed by the Complainant. The record consists of a 176-page transcript and 27 exhibits. I argue that the record was closed after the Briefs have been filed and there will not be a further trial.

Throughout Judge Heep’s initial decision, she referenced multiple times in which complainant requested extensions for filings. If all pro se smart meter complaints were examined alongside of PECO’s high powered attorney filings, there would be a long list of requests for extensions. Pro se complainants, across the board, are at a disadvantage. Pointing out the number of extensions among pro se complainants should not be viewed as a liability in deciding a case against pro se complainants.

FINDINGS OF FACT As Described by Judge Heep

1. The Complainant is Patti Lynn Caesar, a PECO residential electric customer at 212 Williamsburg Road, Ardmore, Pennsylvania (service address). (Tr. 6; Complaint).

2. The Respondent is PECO Energy Company.

3. The Complainant's meter is now outdoors but was indoors for four years. (Tr. 9, 128-129).

4. The Complainant is a psychologist and herbalist. (Tr. 12).

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5. The Complainant grows her food, grows botanical medicine, and makes her own cleaning solvents and skin care products. (Tr. 12).

6. The Complainant reads labels on products because she is sensitive to chemicals in many things and avoids things that will make her ill. (Tr. 12).

7. The Complainant has a cell phone that she uses infrequently, about half an hour a day, but she keeps the phone on and with her for client contacts. (Tr. 12,40).

8. She places her cell phone as far away from her as possible when she sleeps (Tr. 12).

9. The Complainant does not have a microwave and her television is not a smart TV. (Tr. 13).

10. The Complainant has a computer, but she turns off the router when she is not using it and at night. (Tr. 13, 38).

11. Ms. Caesar spends about two hours per week using her computer for

billing. (Tr. 38).

12. Ms. Caesar has spent 15 to 20 hours per week in her office for four and a half years. (Tr. 53). THIS IS INCORRECT. I HAVE BEEN WORKING AT A HOME OFFICE SINCE MARCH, 2017.

13. There are four AMI meters at her office building, one electric and three gas. (Tr. 61). THIS IS IRRELEVENT AS I HAVE NOT BEEN AT THE OFFICE SINCE MARCH, 2017.

14. Mr. Glenn Pritchard, PECO Manager of Advanced Grid Operations and Technology, is as an expert in the design, operations and technology of advanced meter installations.

Summary:

There are exceptions I consider to be critical to examine before ruling on my case. The record was closed and PECO introduced witnesses illegally after the legal filing period. I asked for these witnesses to be eliminated and this would impact upon the ruling of my case. Furthermore, I was prevented from filing a timely interlocutory appeal for the pro hac vice decision. Thank you.

Respectfully submitted,

Patti Lynn Caesar, pro se

212 Williamsburg Road

Ardmore, PA 19003

610-809-1079

March 5, 2019