

Tori L. Giesler, Esq.
(610) 921-6658
(330) 315-9263 (Fax)

April 1, 2019

VIA ELECTRONIC FILING

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

Re: Christopher and Jo-Anna Tellefsen v. Metropolitan Edison Company
Docket No. C-2018-3005250

Dear Secretary Chiavetta:

Attached please find the Main Brief on behalf of Metropolitan Edison Company regarding the above-referenced matter. This document has been served on the all parties as shown in the Certificate of Service.

Please contact me if you have any questions.

Very truly yours,



Tori L. Giesler

krak
Enclosures

c: As Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**CHRISTOPHER TELLEFSEN
AND JO-ANNA TELLEFSEN**

v.

METROPOLITAN EDISON COMPANY

:
:
:
:
:

DOCKET NO. C-2018-3005250

**MAIN BRIEF
ON BEHALF OF
METROPOLITAN EDISON COMPANY**

Tori L. Giesler, Attorney No. 207742
Lauren M. Lepkoski, Attorney No. 94800
2800 Pottsville Pike
P.O. Box 16001
Reading, Pennsylvania 19612-6001

Counsel for Metropolitan Edison Company

Dated: April 1, 2019

TABLE OF CONTENTS

I. PROCEDURAL HISTORY..... 1

II. LEGAL STANDARDS 2

III. SUMMARY OF ARGUMENT 4

IV. ARGUMENT..... 5

**A. The Complainants failed to meet their burden of proof that Met-Ed violated the
Public Utility Code, a Commission Order, or a Commission regulation..... 5**

1. The Installation of Smart Meters is Required by Law..... 5

V. CONCLUSION 9

APPENDIX A

APPENDIX B

APPENDIX C

TABLE OF AUTHORITIES

Cases

<i>Frompovich v. PECO Energy Co.</i> , Docket No. C-2015-2474602 (Opinion and Order entered May 3, 2018).....	3
<i>Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company for Approval of Smart Meter Technology Procurement and Installation Plan</i> , Docket No. M-2009-2123950 (Order entered June 9, 2010).....	6
<i>Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company For Approval of Their Smart Meter Deployment Plan</i> , Docket Nos. M-2013-2341990, M-2013-2341991, M-2013-2341993, and M-2013-2341994 (Sec. Letter dated June 20, 2014)	4, 5, 7, 8
<i>Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company For Approval of Their Smart Meter Deployment Plan</i> , Docket Nos. M-2013-2341990, M-2013-2341991, M-2013-2341993, M-2013-2341994, Revised Smart Meter Deployment Plan, filed March 19, 2014.....	6, 7
<i>Lutherschmidt v. Metropolitan Edison Company</i> , Docket No. C-2010 2200353 (Final Order entered March 25, 2011).....	7
<i>Negley v. Metropolitan Edison Company</i> , Docket No. C-2010-2205305 (Initial Decision dated January 3, 2011 became final without Commission action on March 3, 2011).....	7
<i>Norfolk and Western Ry. v. Pa. Pub. Util. Comm'n</i> , 413 A.2d 1037 (Pa. 1980).	3
<i>Pa. Bureau of Corrections v. City of Pittsburgh</i> , 532 A.2d 12 (Pa. 1987).	3
<i>Pa. Pub. Util. Comm'n v. HIKO Energy, LLC</i> , 2015 Pa. PUC LEXIS 364 (I.D. entered Aug. 21, 2015)	3
<i>Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n</i> , 578 A.2d 600 (Pa. Commw. 1990), alloc. den., 602 A.2d 863 (Pa. 1992).	2, 3
<i>Smart Meter Procurement and Installation</i> , Docket No. M-2009-2092655 (Order entered June 24, 2009)	4
<i>Susan Kreider v. PECO Energy Co.</i> , Docket No. C-2015-2469655 (Order on Reconsideration entered January 28, 2016).	3
<i>Waldron v. Phila. Elec. Co.</i> , 54 Pa. P.U.C. 98 (Order entered Mar. 14, 1980).	2

Statutes

66 Pa.C.S. § 101, <i>et seq.</i>	5
66 Pa.C.S. § 1501.....	3
66 Pa.C.S. § 2806.1, <i>et seq.</i>	4
66 Pa.C.S. § 2807(f).....	5
66 Pa.C.S. § 2807(f)(2)	5
66 Pa.C.S. § 2807(f)(2)(i)	7, 8
66 Pa.C.S. § 332(a)	2
66 Pa.C.S. § 701.....	3

I. PROCEDURAL HISTORY

On October 8, 2018, Christopher and Jo-Anna Tellefsen (“Complainants”) filed a Formal Complaint with the Pennsylvania Public Utility Commission (“Commission”) to dispute the installation of a smart meter by Metropolitan Edison Company (“Met-Ed” or “Company”) at 3324 River Road, Mount Bethel, PA 18343 (“Service Location”) which was electronically served on Met-Ed on October 10, 2018.

On October 30, 2018, the Company filed its Answer denying the material allegations within the Formal Complaint, as well as submitting Preliminary Objections.

On November 19, 2018, the Complainants filed a response to the Company’s Preliminary Objections as well as a response to the Company’s Answer and New Matter.

On December 3, 2018, a Motion Judge Assignment Notice was issued assigning Administrative Law Judge (“ALJ”) Jeffrey A. Watson to this proceeding.

On January 7, 2019, ALJ Watson issued an Interim Order denying the Company’s Preliminary Objections.

On January 7, 2019, ALJ Watson issued an Interim Order Establishing Initial Litigation Schedule which set forth the schedule for discovery, the identification of witnesses, and filing of motions in this proceeding.

On January 11, 2019, ALJ Watson issued an Interim Order which scheduled a prehearing conference for February 4, 2019.

On January 11, 2019, a Call-In Telephonic Pre-Hearing Conference Notice was issued that scheduled a telephonic pre-hearing conference for February 4, 2019 before ALJ Watson.

On January 15, 2019, the Company propounded discovery (“Discovery Requests”) to the Complainants.

On January 31, 2019, the Complainants timely responded to the Company's Discovery Requests.

On February 4, 2019, the Complainants and counsel for Met-Ed appeared at the Pre-Hearing Conference before ALJ Watson and a discussion was held.

On February 21, 2019, in accordance with the Interim Order Establishing Litigation Schedule dated January 7, 2019, a status report was filed by the Company on behalf of the parties which advised the following: (1) the parties had concluded discovery; (2) a stipulation narrowing the issues to be addressed has been reached and was signed by the parties; (3) the parties agreed that an evidentiary hearing in this matter was not required; and (4) the parties agreed to the submission of legal briefs on the issue as outlined in the stipulation. Further, the Company filed, with the consent of the Complainants in this matter, a signed stipulation between the parties with the status report. That stipulation is attached hereto as Exhibit A.

On March 1, 2019, ALJ Watson issued an Interim Order which, *inter alia*, approved the stipulation reached by the parties dated February 8, 2019 and established a due date for main briefs of April 1, 2019. The Company submits this Main Brief pursuant to this order.

II. LEGAL STANDARDS

Under Section 332(a) of the Public Utility Code, the Complainants maintain the burden of proof in this proceeding.¹ The first step in carrying the burden of proof is establishing a *prima facie* case that Met-Ed violated the Public Utility Code, the Commission's regulations, or a Commission order. Only if the Complainants establishes a *prima facie* case does it become the responsibility of the respondent to provide rebuttal evidence.² In order to establish a *prima facie*

¹ 66 Pa.C.S. § 332(a); *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Commw. 1990), alloc. den., 602 A.2d 863 (Pa. 1992).

² *Waldron v. Phila. Elec. Co.*, 54 Pa. P.U.C. 98 (Order entered Mar. 14, 1980).

case, more is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established.³ Mere bald assertions, personal opinions or perceptions, when not substantiated by facts, do not constitute evidence.⁴

Although the factual burden may shift during the course of a proceeding, the Complainants always maintain the overarching burden of proof in the proceeding. It is clearly established that the Complainants' "burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of the evidence."⁵ A preponderance of evidence is demonstrated where the evidence presented is more convincing, even by the smallest degree, than the evidence presented by the opposing party.⁶

In order for the Commission to sustain a formal complaint, the Complainants must demonstrate that an "act or thing done or omitted to be done by any public utility [is] in violation, or claimed violation, of any law which the Commission has jurisdiction to administer, or of any regulation or order of the commission."⁷ Section 1501 of the Public Utility Code states, in relevant part: "every public utility shall furnish and maintain adequate, efficient, safe and reasonable service and facilities...."⁸ As part of formal complaint proceedings, the Commission evaluates the reasonableness of public utility service and facilities pursuant to Section 1501. In complaint proceedings similar to the instant proceeding, the Commission has held that the relevant legal standard is whether the installation of a smart meter constitutes unsafe or unreasonable service in violation of Section 1501 of the Public Utility Code.⁹

³ *Norfolk and Western Ry. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980).

⁴ *Pa. Bureau of Corrections v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987).

⁵ *Lansberry*, 578 A.2d at 602.

⁶ *Pa. Pub. Util. Comm'n v. HIKO Energy, LLC*, 2015 Pa. PUC LEXIS 364 (I.D. entered Aug. 21, 2015), *supra*.

⁷ 66 Pa.C.S. § 701.

⁸ 66 Pa.C.S. § 1501.

⁹ *Frompovich v. PECO Energy Co.*, Docket No. C-2015-2474602 (Opinion and Order entered May 3, 2018); *Susan Kreider v. PECO Energy Co.*, Docket No. C-2015-2469655 (Order on Reconsideration entered January 28, 2016).

III. SUMMARY OF ARGUMENT

The Complainants wholly failed to meet their burden of proof that the installation of a smart meter at their service location would constitute unreasonable service in violation of Section 1501 of the Public Utility Code or would otherwise violate the Public Utility Code, a Commission regulation or order.

Met-Ed has an absolute obligation to install smart meters at all of its customers' service locations under Act 129 of 2008 ("Act 129").¹⁰ Neither Act 129 nor subsequent Commission orders related to smart meter installation and deployment permit customers to "opt-out" from smart meter installation.¹¹ Further, both Act 129 and the Commission's Implementation Order require that electric distribution companies ("EDCs") install wireless smart meters with specific functionality. Met-Ed's smart meters adhere to all of the requirements of Act 129 and the Commission. The smart meter components and deployment of smart meters in the Met-Ed territory were identified in Met-Ed's Smart Meter Deployment Plan, which was ultimately approved by the Commission on June 20, 2014.¹² Met-Ed must install a smart meter at the Complainants' Service Location in order to remain in compliance with Act 129, related Commission orders, and its Smart Meter Deployment Plan.

Further, the Complainants not only utterly failed to establish by a preponderance of the evidence that Met-Ed violated a Commission statute, regulation, or order, but they made no allegations of such violation and agreed that the only question before the Commission is whether

¹⁰ 66 Pa.C.S. § 2806.1, *et seq.*

¹¹ *Id.*; see *Smart Meter Procurement and Installation*, Docket No. M-2009-2092655 (Order entered June 24, 2009) ("Implementation Order").

¹² *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company For Approval of Their Smart Meter Deployment Plan*, Docket Nos. M-2013-2341990, M-2013-2341991, M-2013-2341993, and M-2013-2341994 (Sec. Letter dated June 20, 2014) (hereinafter, "Smart Meter Deployment Plan").

Act 129 requires the installation at a smart meter at their Service Location.¹³ Given the Commission's prior finding on that, Met-Ed urges the Commission to dismiss the Complaint with prejudice.

IV. ARGUMENT

A. The Complainants failed to meet their burden of proof that Met-Ed violated the Public Utility Code, a Commission Order, or a Commission regulation.

1. The Installation of Smart Meters is Required by Law.

Under Act 129, Met-Ed has an absolute obligation to install smart meters at all of its customers' service locations. Neither Act 129 nor subsequent Commission orders related to smart meter installation and deployment permit customers to "opt-out" from smart meter installation. Met-Ed's Smart Meter Deployment Plan, approved by the Commission, explicitly states that no opt-out option is available.¹⁴ Allegations by the Complainants to the contrary should be disregarded.

On October 15, 2008, Act 129 was signed into law and codified as part of the Public Utility Code ("Code").¹⁵ Act 129 required EDCs with at least 100,000 customers, such as Met-Ed, to file a smart meter technology procurement and installation plan ("SMP Plan") with the Commission for approval.¹⁶ Specifically, Section 2807(f)(2) of the Code directed EDCs to furnish smart meter technology as follows: 1) upon request from a customer that agrees to pay the cost of the smart meter at the time of the request; 2) in new building construction; and 3) in accordance with a depreciation schedule not to exceed fifteen years.¹⁷

¹³ See Exhibit A.

¹⁴ *Smart Meter Deployment Plan*, p. 9.

¹⁵ 66 Pa.C.S. § 101, *et seq.*

¹⁶ 66 Pa.C.S. § 2807(f).

¹⁷ 66 Pa.C.S. § 2807(f)(2) (emphasis added).

Pursuant to Section 2807(f) of the Code, Met-Ed and the other FirstEnergy EDCs in Pennsylvania (Metropolitan Edison Company and Pennsylvania Power Company)¹⁸ filed their Joint Petition for Approval of Smart Meter Technology Procurement and Installation Plan on August 14, 2009 (“2009 SMP Plan”). By Order entered on June 9, 2010, the Commission approved the Companies’ 2009 SMP Plan with modifications, noting that the Companies expected to file their full deployment plan by April 2012.¹⁹ On December 31, 2012, the Companies filed their Joint Petition for Approval of their Smart Meter Deployment Plan, in which they requested that the Commission: (1) find that their proposed Deployment Plan satisfies the requirements of Act 129 and the Commission’s Implementation Order; (2) approve the Companies’ proposed procurement and deployment of approximately 2.1 million smart meters, over 98% of which should be installed by the end of 2019; (3) authorize the Companies to continue to recover smart meter costs; and (4) authorize the Companies to create a regulatory asset for their investment in their existing meters to be replaced by smart meters.²⁰ On March 19, 2014, the Companies submitted their revised Smart Meter Deployment Plan, which *intra alia* accelerated the smart meter deployment schedule laid out in their original Deployment Plan. In the original Deployment Plan, the FirstEnergy Companies proposed to deploy 60,000 smart meters in the service territory of Pennsylvania Power Company, an affiliate of Met-Ed.²¹ Under the Revised Deployment Plan,

¹⁸ West Penn Power Company, which was acquired through a merger between FirstEnergy and Allegheny Energy, did not join in the filing of this plan. Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company are collectively referred to herein as the “Companies.”

¹⁹ *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company for Approval of Smart Meter Technology Procurement and Installation Plan*, Docket No. M-2009-2123950 (Order entered June 9, 2010), p. 10.

²⁰ *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company For Approval of Their Smart Meter Deployment Plan*, Docket Nos. M-2013-2341990, M-2013-2341991, M-2013-2341993, M-2013-2341994, Smart Meter Deployment Plan, filed December 31, 2012.

²¹ *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company For Approval of Their Smart Meter Deployment Plan*, Docket Nos. M-2013-2341990, M-2013-2341991, M-2013-2341993, M-2013-2341994, Revised Smart Meter Deployment Plan, filed March 19, 2014 (hereinafter, “Revised Deployment Plan”).

the FirstEnergy Companies proposed to deploy 170,000 smart meters by the end of 2015. In its June 25, 2014 Opinion and Order, the Commission recognized the benefits of early deployment of smart meters and approved the Revised Deployment Plan, stating:

[T]his Commission has already observed the benefits of early deployment. We find that the use of Penn Power as a case study may help the Companies identify other more cost-effective meter deployment strategies that can then be leveraged by FirstEnergy's other operating companies. If deployment and operational savings prove very positive, FirstEnergy may also be able to further accelerate smart meter deployment, thus enabling an option to enhance customer savings even more.²²

In this proceeding, the Complainants' argument is that a smart meter may be deployed at their service location only upon their express request and consent.

The Complainants point to Section 2807(f)(2)(i) of the Code for the proposition that the deployment of smart meters for individual customers should occur only upon request of the individual customer.²³ By extension, the Complainants appears to contend that Act 129 allows an overall "opt-out" for customers to reject installation of a smart meter. At the outset, Met-Ed points out that Commission precedent is uniform that the Commission cannot grant exceptions to the statutory directive that smart meters be installed by allowing customers to "opt-out." Neither the Company's Commission-approved Smart Meter Deployment Plan nor Act 129 permit such opt-outs to occur.²⁴

²² *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company For Approval of Their Smart Meter Deployment Plan*, Docket Nos. M-2013-2341990, M-2013-2341991, M-2013-2341993, M-2013-2341994 (Opinion and Order entered June 25, 2014), p. 16.

²³ 66 Pa.C.S. § 2807(f)(2)(i).

²⁴ *Smart Meter Deployment Plan*, pp. 9 and 48; see, e.g., *Lutherschmidt v. Metropolitan Edison Company*, Docket No. C-2010 2200353 (Final Order entered March 25, 2011); *Negley v. Metropolitan Edison Company*, Docket No. C-2010-2205305 (Initial Decision dated January 3, 2011 became final without Commission action on March 3, 2011).

The Complainants' interpretation of Section 2807(f) of the Code is incorrect. Section 2807(f)(2)(i) provides:

(2) Electric distribution companies shall furnish Smart Meter technology as follows:

(i) Upon request from a customer that agrees to pay the cost of the Smart Meter at the time of the request.²⁵

A customer does not have the ability to “opt-out” of having a smart meter installed at his or her home under the Company’s Revised Deployment Plan. The Company’s Smart Meter Deployment Plan, as approved by the Commission, provides for all customers to receive smart meters on or before December 31, 2022. This full deployment is broken into two parts. The great majority of customers (98.5%) will receive smart meters by mid-2019, with the remaining 1.5% of customers to receive installation by December 31, 2022. The FirstEnergy Companies’ Commission-approved Smart Meter Deployment Plan, which provides in pertinent part:

The Full-Scale Deployment Stage will commence upon resolution of all problems encountered during the Solution Validation Stage and will continue until all meters are installed on or before December 31, 2022. During this stage, the remainder of the smart meter infrastructure will be concurrently built in each of the Companies’ respective service territories, starting with the most populated areas first. All remaining smart meters will be installed during this Stage at an anticipated meter installation rate of 1,900 meters per day, five days per week, and potentially ramping up to 3,000 meters per day if circumstances and conditions warrant. At this pace, the Companies expect to install approximately 98.5% of all meters by mid-2019, with the remaining 1.5% of the meters being installed thereafter through December 31, 2022. The 1.5 % of the installations represent those installations that may require alternative communication solutions or difficult to reach locations such as remote hunting cabins. Any similar situations discovered in Penn Power’s service territory are included in the 1.5% estimate and will be addressed in the time frame discussed above.²⁶

There is no provision for less than 100 percent smart meter deployment.

²⁵ 66 Pa.C.S. § 2807(f)(2)(i).

²⁶ *Smart Meter Deployment Plan*, p. 10.

V. CONCLUSION

Met-Ed has an absolute obligation under the Code to install smart meters at all of its customers' service locations. Neither Act 129 nor subsequent Commission orders, related to smart meter installation and deployment, permit customers to "opt-out" from smart meter installation. Met-Ed must install a smart meter at the Service Location in order to remain in compliance with the Code, related Commission orders, and its Revised Deployment Plan. The Complainants failed to establish that the installation of a smart meter constitutes unreasonable service. The smart meter components and deployment of smart meter in the Met-Ed territory were identified in Met-Ed's Revised Deployment Plan and approved by the Commission. Accordingly, the Formal Complaint must be dismissed by the Commission with prejudice.

WHEREFORE, Metropolitan Edison Company respectfully requests that Administrative Law Judge Jeffrey Watson recommend that the Pennsylvania Public Utility Commission dismiss the Formal Complaint of Christopher and Jo-Anna Tellefsen with prejudice.

Respectfully submitted,

Dated: April 1, 2019



Lauren M. Lepkoski
Attorney No. 94800
Tori L. Giesler
Attorney No. 207742
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, Pennsylvania 19612-6001
(610) 921-6203
(610) 921-6658
llepkoski@firstenergycorp.com
tgiesler@firstenergycorp.com

Counsel for Metropolitan Edison Company

APPENDIX A

PROPOSED FINDINGS OF FACT

1. Act 129 of 2008 required electric distribution companies with more than 100,000 customers to adopt smart meter deployment plans.

2. Act 129 provides a list of required smart meter functionality, which was supplemented by Commission order.

3. Met-Ed's deployment of a smart meter at the Complainants' service location is authorized by Act 129.

4. Met-Ed's Smart Meter Technology Procurement and Installation Plan was approved by the Commission on June 9, 2010.

5. The Commission determined that Met-Ed's Smart Meter Deployment Plan was compliant with Act 129 and ultimately approved the smart meter deployment plan on June 20, 2014.

6. The Smart Meter Deployment Plan identifies Itron as Met-Ed's smart meter vendor and network provider.

7. The Smart Meter Deployment Plan explicitly states that there is "no opt-out for customers."

8. Met-Ed's smart meter deployment plan requires Met-Ed to deploy smart meters at 100% of its customer service locations. 98.5% of smart meters must be installed by mid-2019. The remaining 1.5% of smart meters, which are located in hard-to-access locations, such as remote hunting cabins, must be installed by 2022.

9. The Complainants were first contacted regarding Met-Ed's upcoming smart meter installation on September 18, 2018.

10. On October 1, 2018, the Company received notification from Wellington Energy that the Complainants refused installation of the smart meter.

11. On October 3, 2018, the Company attempted to contact the Complainants to discuss the smart meter installation. A message was left seeking a return telephone call.

12. Later that day, Mrs. Tellefsen contacted the Company to refuse installation of the smart meter. The Company representative attempted to address her concerns. Mrs. Tellefsen reiterated her refusal and smart meter refusal notes were placed on the Account.

13. On October 4, 2018, the Company issued a letter to the Complainants stating that the Complainants should contact the Company to facilitate installation of a smart meter at the Service Location.

APPENDIX B

PROPOSED CONCLUSIONS OF LAW

1. Under Section 332(a) of the Public Utility Code, the Complainants maintains the burden of proof in this proceeding.²⁷

2. The first step in carrying the burden of proof is establishing a prima facie case that Met-Ed violated the Public Utility Code, the Commission's regulations, or a Commission order. Only if the Complainants establish a prima facie case does it become the responsibility of the Company to provide rebuttal evidence.²⁸

3. In order to establish a prima facie case, more is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. Mere bald assertions, personal opinions or perceptions, when not substantiated by facts, do not constitute evidence.²⁹

4. A party's burden of proof is met by establishing a preponderance of the evidence, which requires proof by a greater weight of the evidence.³⁰

5. A preponderance of evidence is demonstrated where the evidence presented is more convincing, even by the smallest degree, than the evidence presented by the opposing party.³¹

6. In order for the Commission to sustain a formal complaint, the Complainants must demonstrate that an "act or thing done or omitted to be done by any public utility [is] in violation,

²⁷ 66 Pa.C.S. § 332(a); *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950); *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Commw. 1990), alloc. den., 602 A.2d 863 (Pa. 1992).

²⁸ *Waldron v. Phila. Elec. Co.*, 54 Pa. P.U.C. 98 (Order entered Mar. 14, 1980); *Replogle v. Pa. Elec. Co.*, 54 Pa. PUC 528 (Order entered Oct. 9, 1980).

²⁹ *Pa. Bureau of Corrections v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987); *Mid-Atlantic Power Supply Assoc. v. Pa. Public Utility Comm'n*, 746 A.2d 1196, 1200 (Pa. Commw. Ct. 2000).

³⁰ *Lansberry*, 578 A.2d at 602.

³¹ *Pa. Pub. Util. Comm'n v. HIKO Energy, LLC*, 2015 Pa. PUC LEXIS 364 (I.D. entered Aug. 21, 2015); *see also Se-Ling Hosiery, supra*.

or claimed violation, of any law which the Commission has jurisdiction to administer, or of any regulation or order of the commission.”³²

7. As part of formal complaint proceedings, the Commission evaluates the reasonableness of public utility service and facilities pursuant to Section 1501 of the Public Utility Code. Section 1501 states, in relevant part: “every public utility shall furnish and maintain adequate, efficient, safe and reasonable service and facilities....”³³

8. In similar complaint proceedings, the Commission has held that the relevant legal standard is whether the installation of a smart meter constitutes unsafe or unreasonable service in violation of Section 1501 of the Public Utility Code.³⁴

9. Neither Act 129 nor subsequent Commission orders related to smart meter installation and deployment permit customers to “opt-out” from smart meter installation.³⁵

10. The Complainants failed to establish that the Company’s installation of a smart meter at the Complainants’ service location would violate Act 129 or any related Commission orders.³⁶

11. The Company owns, maintains, furnishes and installs its electric meters. It is within the Company’s sole and exclusive discretion to install the meters and related equipment it deems reasonable and appropriate to provide service to customers.³⁷

³² 66 Pa.C.S. § 701.

³³ 66 Pa.C.S. § 1501.

³⁴ *Frompovich v. PECO Energy Co.*, Docket No. C-2015-2474602 (Opinion and Order entered May 3, 2018); *Susan Kreider v. PECO Energy Co.*, Docket No. C-2015-2469655 (Order on Reconsideration entered January 28, 2016).

³⁵ 66 Pa.C.S. § 2806.1, *et seq.*; *see Smart Meter Procurement and Installation*, Docket No. M-2009-2092655 (Order entered June 24, 2009).

³⁶ *See id.*; *see also Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company For Approval of Their Smart Meter Deployment Plan*, Docket Nos. M-2013-2341990, M-2013-2341991, M-2013-2341993, and M-2013-2341994 (Sec. Letter dated June 20, 2014).

³⁷ Electric Pa. P.U.C. No. 81, Original Page 45, issued May 1, 2015; effective May 3, 2015.

12. The Company has the absolute right to access a customer's premises to remove or exchange any or all Company equipment including a meter.³⁸

13. The Company is permitted to terminate a customer's electric service for denying access to the meter.³⁹

14. The Complainants failed to sustain their burden of proof that the installation of a smart meter would constitute unsafe or unreasonable service by the Company.

³⁸ *Id.*

³⁹ 66 Pa. C.S. § 1406; 52 Pa. Code § 56.81; Electric Pa. P.U.C. No. 81, Original Page 60, issued May 1, 2015; effective May 3, 2015.

APPENDIX C

PROPOSED ORDERING PARAGRAPHS

1. The formal complaint of Christopher and Jo-Anna Tellefsen filed against Metropolitan Edison Company at the above-referenced docket is dismissed with prejudice.
2. This matter shall be marked as closed.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

CHRISTOPHER TELLEFSEN	:	
AND JO-ANNA TELLEFSEN	:	
	:	DOCKET NO. C-2018-3005250
v.	:	
	:	
METROPOLITAN EDISON COMPANY	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the Main Brief of Metropolitan Edison Company upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Service by Electronic and First Class Mail, postage prepaid, as follows:

Christopher and Jo-Anna Tellefsen
3324 River Road
Mount Bethel, PA 18343
Joannatellefsen@gmail.com

Administrative Law Judge Jeffrey A. Watson
Pennsylvania Public Utility Commission
Office of Administrative Law Judge
Piatt Place, Suite 220
301 5th Avenue
Pittsburgh, PA 15222
Jeffwatson@pa.gov

Dated: April 1, 2019



Lauren M. Lepkoski
Tori L. Giesler
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, Pennsylvania 19612-6001
(610) 921-6203
(610) 921-6658
llepkoski@firstenergycorp.com
tgiesler@firstenergycorp.com