

September 3, 2019

VIA HAND DELIVERY

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
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PO Box 3265
Harrisburg, PA 17105-3265

Michael Krimmel, Esq.
Prothonotary
Commonwealth Court of Pennsylvania
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PO Box 69185
Harrisburg, PA 17106-9185

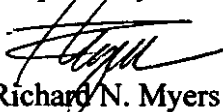
**Re: Richard N. Myers v PPL Electric Utilities Corporation
Docket No. C-2017-2620710**

Dear Secretary Chiavetta and Mr. Krimmel:

Enclosed for filing is my Petition for Supersedeas, in the above-captioned matter.

Copies have been served on all parties as indicated in the attached Certificate of Service.

Respectfully submitted,


Richard N. Myers

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Richard Myers

Complainant

v

Docket No. C-2017-2620710

PPL Electric Utilities Corporation

Respondent

PETITION FOR SUPERSEDEAS

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

AND

COMMONWEALTH COURT OF PENNSYLVANIA

Richard N. Myers, **Complainant**, files this Petition for Supersedeas pursuant to 52 Pa. Code §§ 5.572 and Pa. R.A.P. 1781. This Complainant respectfully requests that the Pennsylvania Public Utilities stay its Final Order issued August 29, 2019 and not permit PPL to install a smart meter on his home pending resolution of an appeal to the Commonwealth Court of Pennsylvania.

Should the Commission not issue a stay, respectfully request the Honorable Commonwealth Court of Pennsylvania issue the stay instead.

My Appeal will be filed with the Commonwealth Court of Pennsylvania in accordance with applicable rules and within the time frame allowed by law. This Appeal is warranted

because the installation of a smart meter or termination of electrical services is detrimental to the health and well-being of the Complainant and his family members.

1. INTRODUCTION

A. The Complainant is justified in requesting the Supersedeas based on the following:

1. Overwhelming, incontrovertible, and massive scientific evidence that radio-frequency radiation, including the type emitted by PPL's smart meters, is harmful to humans and will put his health at risk.
2. Increasing numbers of Pennsylvanians have become sick from radio-frequency radiation after a smart meter has been installed on their home. This tragic situation further validates the thousands upon thousands of scientific studies spanning eight decades which report adverse health effects from RF radiation. This includes frequencies in or near the ranges of smart meters.
3. By compelling the Complainant to be irradiated in his home by a PPL smart meter 24/7/365, PPL and PUC would be putting his health at risk. In failing to protect the Complainant PUC is not fulfilling its responsibility to ensure safe electrical service is provided to customers as required by 66 Pa. C.S. §§ 1501. Quoting the statute below:

“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 improvement 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.”

4. A pattern of pro-industry bias, unfair and detrimental to consumers, which PUC has exhibited in its implementation of smart meter ACT 129. This warrants review by Commonwealth Court of Pennsylvania and other appropriate authorities. The pattern of bias includes, but is not limited to:
 - a. PUC dismissed every Formal Complaint by victims who report being injured or suffering after smart meters have been installed on their homes. The number of informal and formal complaints grows with each passing month. Below are some of the Dockets filed in which PUC ruled against consumers and failed to require safe electrical service be provided to utility customers as required by 66 Pa. C.S. §§ 1501.

Albrecht v PECO, C-2015-2537666

Bervinchak v PPL, C-2015-2537666

Frompovich v PECO, C-2015-2474602¹

Hicks v PPL, C-2017-2628778

¹ Frompovich did not claim she was injured by RF radiation. Rather, she was a breast cancer survivor who wanted to reduce her exposure to RF radiation emitted by smart meters. In her hearing before the PUC she presented 15 published peer-reviewed studies on breast cancer which were part of a compendium of nearly 240 cancer studies. PECO objected to these studies and blocked them from being entered into the record. These peer-reviewed studies were admissible under the U.S. Supreme Court Daubert Rule. Similarly, in my Formal Complaint PPL Electric Corporation was equally successful in keeping the landmark NTP cancer finding study from being entered into the record.

Hoffman-Lorah v PPL, C-2018-2644957

Kreider v PECO, C-2015-246955, C-2015-2495064

McDonald v Met Ed, C-2018-3003758

McKnight v PECO, C-2017-2621057

Ott v Med Ed, C-2018-3005829

Paul v PECO Energy, C-2015-2475355

Povacz v PECO, C-2015-2475023

Schmukler v PPL, C-2015-2621285

Sheehan v West Power, C-2017-2630406

Sunstein Murphy v PECO, C-2015-2475726

Van Schoyck v PECO, C-2015-2478239

- b. PUC disregarded every physician testimony that Complainants' health was being harmed by smart meter RF radiation. However, PUC does not claim to have medical expertise.
- c. PUC over reached in its interpretation that the wording in ACT 129 makes installation of smart meters mandatory for all customers, even though Legislative Journals clearly show it was not the intent of Legislators
- d. PUC refused to allow this Complainant to elicit critical expert witness testimony into his hearing record regarding newly announced, extraordinary findings from a 10-year, \$25 million U.S. Government landmark study. Known as the National Toxicology

Program study the long-awaited study found clear evidence that radio frequency radiation close to the frequencies emitted by PPL smart meters was carcinogenic to rats. This new and novel evidence debunks and upends PPL's false claim that there is no reliable medical basis to conclude that RF radiation would contribute to or exacerbate any adverse health effects. The NTP study findings are consistent with the 4,266 studies I identified which report biological and adverse health effects from RF radiation.

- e. PUC obtains its operating revenue in part from earnings of electric utility companies which the Treasury allocates to the PUC. If electric utility companies suffer financial loss because customers can refuse smart meters it would directly impact the PUC budget. This is a clear conflict of interest that the Commonwealth Court must consider.

B. The recognition of and ruling by PUC or the Commonwealth Court on the dangers of smart meter RF radiation is of the utmost moral and ethical significance. The Complainant submits it may be one of the most important rulings the PUC and Commonwealth Court will make. If the findings of the NTP study and the 4,266 studies endorsed by peer-review experts the Complainant has identified are correct² then the magnitude of human suffering from smart meters could be immense. To place this in perspective, 3.1% of the Swedish population report they are sensitive to radio-frequency radiation from wireless devices (even higher in other European countries)³. If 3.1% of Pennsylvania's 12.8 million residents become sensitive to or are adversely affected by smart meter radio-frequency

² PPL's expert witness Mark Israel cited only ten (10) studies which did not discover biological or adverse health effects from RF radiation. How can ten negative studies invalidate 4,266 scientific studies with positive findings?

³ Exhibit 3 of Complainant's written Testimony dated April 2, 2018

radiation the sick and injured would total 396,800 people. Surely Legislators and the Governor never intended to harm their constituents when enacting ACT 129. And the PUC lacks the authority to endanger and harm 12.8 million Pennsylvanians.

2. APPLICABLE LEGAL STANDARDS

A. To grant a stay pending a petition for review the Pennsylvania Supreme Court established the following criteria.⁴

- 1) The petitioner makes a strong showing that it is likely to prevail on the merits.
- 2) The petitioner shows that without the requested relief it will suffer irreparable harm.
- 3) The issuance of a stay will not substantially harm other interested parties in the proceeding.
- 4) The issuance of a stay will not adversely affect the public interest.

The Court also allowed that the petitioner demonstrating a likelihood to prevail on the merits should not be an inflexible rule, but must be considered and weighted relative to the other three criteria (*id.* At n8), even though the lower court disagrees with the relief requested.

In satisfying the above it is clear that the effective date for the PUC Final Order of August 29, 2019 should be stayed pending the appeal to the Commonwealth Court of Pennsylvania.

3. COMPLAINANT MEETS THE STANDARDS ABOVE FOR GRANTING THE SUPERSEDEAS

A. The Petitioner Makes a Strong Showing That It is Likely to Prevail on the Merits.

⁴ Pa. P.U.C.v. Process Gas Consumers Grp., 502 Pa. 545, 467.A.2d(1983)

The Complainant has made a strong showing that he is likely to prevail on the merits of his hearing testimony, his expert witness testimony, his Briefs, Petition to Reopen the Record, and Exceptions to Judge Barnes' Initial Decision. Therefore, they need not be repeated here. In his Appeal the Complainant will address more than 50 instances of false PPL testimonies, erroneous findings of fact, errors in law, and violations of his Constitutional rights.

B. The Petitioner Shows That Without the Requested Relief it Will Suffer Irreparable Physical and Financial Harm.

The victims of smart meter injuries identified in the Dockets above have suffered severe distress and physical harm due to RF radiation exposure. In every case their ailments have been irreversible. Other Pennsylvanians injured by smart meter RF radiation have been forced under duress to go off the electric grid under and seek other sources of power. One victim had to move out of her house and live in a tent at the edge of her property, or inside her car, to reduce exposure and minimize the painful effects from smart meter RF radiation.

In his Testimonies the Complainant has identified over 100 adverse health effects from RF radiation. As a 74-year old male and 35-year Navy veteran who has had years of exposure to RF radiation from shipboard radars the Complainant is a vulnerable subset of the general population and has concluded from the scientific evidence that he is at higher risk of injury or sensitivity to smart meter RF radiation.

If the Complainant does not get relief from smart meter installation he will have the financial burden of costly mitigation and litigation. Being retired and on a fixed income the expense to the Complainant to protect his health would be ruinous. He may be forced to move from

Pennsylvania to one of the many states⁵ that do not require smart meters be installed on homes.

Finally, subjecting the Complainant to harm from a new technology, untested for human safety, violates his rights to life, liberty and the pursuit of happiness guaranteed by the U.S. and Pennsylvania Constitutions.

C. The Issuance of a Stay Will Not Substantially Harm Other Interested Parties in the Proceeding.

PPL is the only party affected by this Appeal.⁶ Granting the requested stay will save PPL the expense of replacing his old analog meter with a smart meter and then PPL having to return again to his home and replace it with an analog meter. If his appeal is granted the Complainant offers to take periodic photos of his existing analog meter and forward the consumption information to PPL for billing purposes. Complainant is willing to pay a minor surcharge as other states allow for an employee to come to his residence and manually take the reading.

D. The Issuance of a Stay Will Not Adversely Affect the Public Interest.

The analog meter currently installed on the Complainant's house does not adversely affect anyone in the neighborhood. However, his next door neighbor's patio is opposite from where the smart meter would be mounted on his house. Accordingly, these retired, elderly neighbors would be in the direct path of the smart meter emissions as well as pedestrians walking in the alleyway just several feet distant from the smart meter. Furthermore, by not

⁵ Approximately 40

⁶ Not counting PUC and the potential loss of revenue generated from reduced electric utility company earnings.

having a smart meter installed on his home, there would be one less smart meter adding to ambient RF radiation levels in the neighborhood.

Based on the above Complainant respectfully requests the PUC grant this Supersedeas so PPL does not install a smart meter or disconnect electrical service to his residence pending resolution of his Appeal to the Commonwealth Court.

If PUC does not grant the Supersedeas respectfully request the Honorable Commonwealth Court grant the Supersedeas.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R. Myers', written in a cursive style.

Richard N. Myers

1123 Elm Avenue

Lancaster, PA 17603

CERTIFICATE OF SERVICE

Richard N. Myers v. PPL Electric Utilities

Docket No. C-2017-2620710

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons in accordance with 52 PA Code 1.54.

VIA HAND DELIVERY

Rosemary Chiavetta, Secretary
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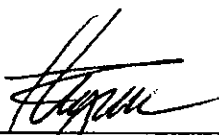
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Harrisburg, PA 17101-1601

Date: September 3, 2019


Richard N. Myers

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the Provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that requires filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Richard N. Myers

Signature:

A handwritten signature in black ink, appearing to read "R. Myers", is written over a horizontal line.

Name: Richard N. Myers

Attorney: Pro Se

Date: September 3, 2019

Richard Myers
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Lancaster, PA 17603

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