

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Diane Distefano

v.

METROPOLITAN EDISON COMPANY

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Docket No. C-2017-2631007

MAIN BRIEF OF COMPLAINANT DIANE DISTEFANO

Pro Se

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SUMMARY OF ARGUMENT

This case is about whether Metropolitan Edison has taken sufficient precautions in providing safe and reliable service according to The PA Utility Code Title 66, Part I, Subchapter A §1501. Article IV of the US Constitution guarantees safety of persons in their homes, however, Metropolitan Edison's smart meter technology is an unproven technology that has not been thoroughly tested for human safety, and threatens personal, financial and physical safety of the occupants. Metropolitan Edison has not provided any evidence that their smart meter program has reduced utility consumption or costs for customers. The smart meter program has added additional unnecessary financial burden on customers who not only have to pay for all related costs, but who ultimately need to spend thousands of dollars to mitigate their homes from the interfering voltages and RF radiation that the meters emit. The PUC has the authority and the obligation to protect the public interest by halting mandatory smart meter installations until the safety issues of the meters have been addressed by the utility.

FINDINGS OF FACT

- 1. Utility “smart” meters are subjecting home owners and occupants to an experiment without consent, which is a violation of the Nuremberg Code (EXHIBIT A)**
- 2. The Complainant was not allowed to present (Exhibit B), Martin Pall Article published in the Environmental Research Journal, which discusses established effects of microwave frequencies, on the basis that the author was not present as a witness.**
- 3. The Complainant is acting *Pro Se* and cannot pay for expert witnesses such as Martin Pall and others to travel to Pennsylvania to attend and testify.**
- 4. Metropolitan Edison and First Energy have provided a misleading “Fact Sheet” (EXHIBIT C) to their customers on the operation of the “smart” meter.**
- 5. The First Energy Fact Sheet (EXHIBIT C), states that “Q. How does a smart meter work? A. Our smart meters send readings electronically to a network of receivers that are installed on poles. Energy consumption data for utility billing purposes is collected and transmitted a few times a day using short, extremely low-power radio transmissions through a wireless network system.**
- 6. John Ahr testified that the Itron Open-Way meter is the “smart” meter being deployed by Metropolitan Edison in the Complainant’s area.**
- 7. John Ahr testified that the Itron Open-Way meter transmits signals anywhere from 1,268 to 25,916 times in a 24 hour period and this is also shown in (EXHIBIT G), West Penn Power Company responses to Diana Sabatine Interrogatories, March 2019 which also describes the operation of the Itron Open-Way meter.**
- 6. Metropolitan Edison did not perform any type of long term safety test or study on humans to evaluate the safety of smart meters. Cross Examination of John Ahr, September 3, 2019 Hearing.**
- 7. Metropolitan Edison does not test smart meters after installation to verify that the operation of the meter in a home environment or near other meters in close proximity is still compliant within FCC guidelines. Cross Examination of John Ahr, September 3, 2019 Hearing.**
- 8. (EXHIBIT D), letter from Dr. D-Kun Li, MD, PhD, MPH was not allowed to be presented as evidence on the basis the author was not present.**

9. The First Energy "Fact Sheet" (EXHIBIT C) shows a graph comparing the Radio Frequency Power Density Levels of Common Devices (in microWatts/cm²).
10. The graph on First Energy's "Fact Sheet" (EXHIBIT C) states it is "a comparison based on one model", but which model smart meter is not disclosed.
11. The graph on First Energy's "Fact Sheet" (EXHIBIT C) states Cellular phones are evaluated for compliance with FCC exposure standards on the basis of specific absorption rate (SAR) and not power density.
12. The graph on First Energy's "Fact Sheet" (EXHIBIT C) shows the Radio Frequency Power Density of the smart meter at a distance of 3 feet or 10 feet away.
13. Metropolitan Edison does not warn customers that they should stay a minimum of 3 feet away from the meter, John Ahr testimony, September 3, 2019 Hearing.
14. The expected lifespan of a smart meter is 15 years according to John Ahr testimony, September 3, 2019 Hearing.
15. The expected lifespan of a Metropolitan Edison smart meter is 5-7 years according to Mr. Bennett, Congressional Testimony (EXHIBIT J).
16. William Bathgate (EXHIBIT I) holds an electrical engineering and mechanical engineering degree and has 40 years experience working with switched mode power supplies, RFI/EMI mitigation, UL safety certifications.
17. (EXHIBIT I) William Bathgate states the smart meter utilizes a switched mode power supply to convert 240 volts AC to required DC voltage.
18. (EXHIBIT I) William Bathgate states the switched mode power supply creates interference referred to as Radio Frequency Interference (RFI) and Electromagnetic Interference (EMI) that can be measured with an EMI line meter or other metering equipment.
19. (EXHIBIT I) William Bathgate states the interfering voltages are referred to as "dirty electricity".
20. (EXHIBIT I) William Bathgate explains that interfering voltages can lead to appliance damage including furnaces, washers and dryers, refrigerators, etc.
21. (EXHIBIT I) William Bathgate explains that interfering voltages can be mitigated, however, it costs \$1000's of dollars to install equipment to filter out the interfering voltages, and if that isn't done, appliances will need to be replaced more frequently.

22. John Ahr of First Energy was not familiar with the inside of the meter and didn't know if the switched mode power supply in the Itron OpenWay meter was located in advance of the current and voltage sensors.

23. John Ahr of First Energy did not know how many smart meters have needed to be replaced since implementation of the smart meter program.

24. John Ahr of First Energy did not know what the annual cost each utility customer must pay for the smart meter program including maintenance, cyber security, meter failures, etc.

25. According to John Ahr, First Energy relies on the smart meter manufacturer's testing and does not field test any smart meter equipment once installed on customers' homes to verify their meters are operating within FCC guidelines.

27. (EXHIBIT J) Mr. Bennett's Congressional Testimony describes the security required to maintain a smart grid that is vulnerable to cyber attacks.

28. (EXHIBIT L) The NTP Website Study Findings was not admitted as evidence because the author was not present to testify.

29. (EXHIBIT M) Klaus Bender, Utilities Telecom Council statement was not admitted as evidence.

30. (EXHIBIT N) Chart of states allowing opt-outs was not admitted as evidence.

31. (EXHIBIT P) This Lamech Peer-Reviewed Smart Meter Symptom study that was previously accepted as evidence in the Laura Murphy PUC formal complaint hearing, was not accepted because the author of the study was not present.

ARGUMENT

The Pennsylvania Public Utility Code requires each public utility to provide the following:

66 Pa.C.S. § 1501. Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities,... Such service and facilities shall be in conformity with the regulations and orders of the commission. 66 Pa.C.S. § 1301. Rates to be just and reasonable.

Metropolitan Edison/First Energy are deploying smart meter technology that they have not adequately studied before deployment for safety, health effects, or cost benefits. First Energy's marketing information provided to customers provides misleading information about the safety, operation and costs of the smart meter program. Customers are led to believe that the transmissions from the meters only happen a few times a day, and are no more harmful than using a cell phone. The study the utility refers to for this information is the California Council for Science and Technology (CCST) study referred to on their Fact Sheet found on their website.

The chart on their Fact Sheet was reprinted from "An Investigation of Radiofrequency Fields Associated with the Itron Smart Meter," Electric Power Research Institute, December 2010. in reference to "Health Impacts of Radio Frequency Exposure from Smart Meters," California Council on Science and Technology, March 31, 2011. This graph is only depicting measurements taken at 3 feet or 10 feet away from the smart meter. No data was reported if someone is standing closer to, or sleeping right on the other side of the wall from the smart meter, or multiple smart meters in close proximity. The study Metropolitan Edison is referencing is a comparison of smart meters to cell phones and other wireless devices. All cell phones come with warnings not to use the phone within 5/8"-1" from the body. Metropolitan Edison has not

tested, nor do they know what the utility customer is exposed to if they are within 3 feet of the smart meter. Metropolitan Edison does not take precautions in warning utility customers to maintain a distance of 3 feet or more from the meter. John Ahr from First Energy testified that they do not test the meters after they are installed to find out if the meters are operating within FCC guidelines. They do not know how much RF radiation utility customers are being exposed to if there are several or more meters within close proximity of each other. The First Energy Fact Sheet is misleading customers that the meters only transmit a few times a day when they may actually be pulsing radiation up to 25,916 times per day. Act 129 only requires transmission of smart meter utility data once per hour. Since these pulsed type of transmissions have not been adequately studied for long term safety on humans, everyone being exposed to the smart meter pulsed radiation is in essence being subjected to an experiment without consent. Smart meters have not been fully studied in real world conditions for their effect on humans, animals, or the environment. In a home, the owner has complete control and can turn off or choose not to own any wireless devices. The smart meter cannot be controlled by the homeowner, who is being forced without consent, to be subjected to the smart meter radiation 24/7. This act is unjust, as would any type of medical procedure without consent would be. The smart meter utilizes a switched mode power supply that creates RFI and EMI interference also referred to as "dirty electricity". Dirty electricity leads to appliance damage and reduced longevity, and can contribute to an increase in utility usage, and William Bathgate also discusses the health implications from dirty electricity. To mitigate this EMI interference can cost thousands of dollars in filtering equipment. Who is responsible for monitoring the RF emissions from this technology and ensuring that utility customers can feel safe in their own home? Why

doesn't Metropolitan Edison know how much RF radiation their utility customers are exposed to in one home, one neighborhood, or one apartment building where there may be dozens of meters on one wall? Why aren't the electric utilities in Pennsylvania required to monitor these devices for FCC compliance after they are installed? Has the Public Utility Code been recently updated to provide requirements to utilities for monitoring their equipment that emits RF radiation? If Metropolitan Edison has not done real world studies of the effects of their meters on humans, or does not monitor the RF radiation output of their meters after installation, the PUC cannot assume they are providing safe service for utility customers. The Mission Statement of the PUC states: "The Pennsylvania Public Utility Commission **balances the needs of consumers and utilities; ensures safe and reliable utility service at reasonable rates; protects the public interest; educates consumers to make independent and informed utility choices; furthers economic development; and fosters new technologies and competitive markets in an environmentally sound manner.**" The PUC has the obligation to protect the public interest and ensure the safe utility service for customers. The definition of safe is "secure from threat of danger, harm, or loss" or "free from harm or risk".

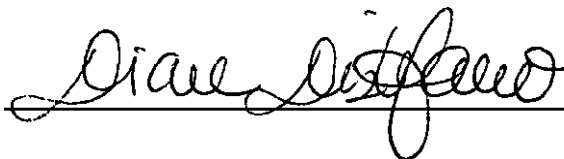
CONCLUSION

1) The Complainant respectfully requests that the Commission compel Metropolitan-Edison to abide by the requirements of Section 1501 and 1502 of the Public Utility Code and Section 57.194 of the Commission's regulations to provide and furnish adequate, efficient, safe, and reasonable service to Complainant by providing a utility meter that does not emit non-ionizing radiation and one that has been proven to provide safe and reliable service without catastrophic failure that could cause bodily harm, injury or death to the occupants of my home.

2) Complainant respectfully requests that the Commission grant Complainant's requested relief from a device the Complainant never requested or agreed to pay for, per § 2807 (f) (2) (i) of Act 129; that is in violation of §1501 of the Public Utility Code; and that violates a number of rights, privileges, and protections and human rights from harm that are afforded to Complainant as a resident of Pennsylvania; and a citizen of the United States, and grant a summary judgment in Complainant's favor, and against the Defendant.

3) If the Commission should find that Met-Ed has not violated the Public Utility Code, the Complainant requests relief in the form of Metropolitan-Edison paying their costs for moving the meter to a new location on Complainant's property.

Dated: November 1, 2019



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Diane Distefano
111 Brittany Court
Red Lion, Pennsylvania 17356

November 1, 2019

VIA FIRST CLASS MAIL

Lauren M Lepkoski
2800 Pottsville Pike
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Reading, PA 19612-6001

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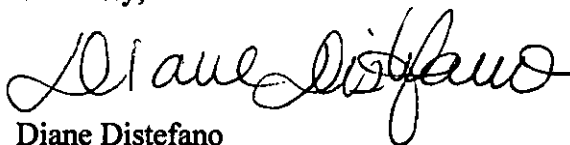
Re: Diane Distefano v. Metropolitan Edison Company
Docket No. C-2017-2631007

Dear Ms. Lepkoski:

Enclosed please find the **MAIN BRIEF OF COMPLAINANT.**

This document has been served as indicated within the Certificate of Service.

Sincerely,


Diane Distefano

Enclosures
C: As Per Certificate of Service
The Honorable Steven K. Haas
Rosemary Chiavetta, Esq, Public Utility Commission

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Diane Distefano

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Docket No. C-2017-2631007

CERTIFICATE OF SERVICE

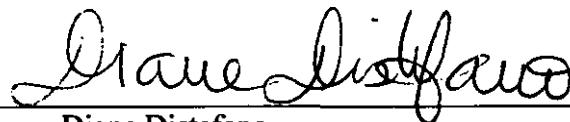
I hereby certify that I have this day served a true copy of the **MAIN BRIEF OF COMPLAINANT** to the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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

Lauren M. Lepkoski
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, Pennsylvania 19612-6001

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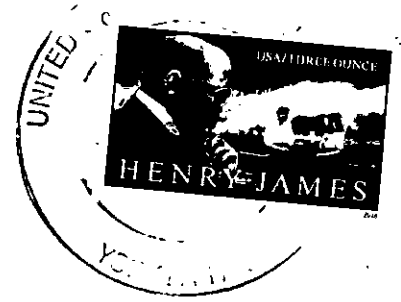
Dated: November 1, 2019



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THIS MAIL HAS BEEN PROPOSED
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