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January 21, 2020

**VIA EMAIL at [jcheskis@pa.gov](mailto:jcheskis@pa.gov) & OVERNIGHT DELIVERY**

Administrative Law Judge Joel H. Cheskis  
Pennsylvania Public Utility Commission  
Office of Administrative Law Judge  
400 North Street 2<sup>nd</sup> Floor West  
Harrisburg, PA 17120

**Re: Judith Hendin v. Metropolitan Edison Company, Docket No. C-2018-3003324**

Dear Judge Cheskis:

Enclosed please find a true and correct copy of Plaintiff's Motion for an Extension of Time and Motion for Leave to File Surrebuttal Testimony in regard to the above-referenced matter. This motion has been served as shown in the Certification of Service enclosed herein.

Should you have any questions or comments, please feel free to contact me directly.  
Thank you.

Respectfully submitted,



Joanna A. Waldron, Esquire  
CURTIN & HEEFNER LLP

cc: Rosemary Chiavetta, Secretary (Cover Letter & Certificate of Service)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Judith D. Hendin

V.

Metropolitan Edison Company

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:  
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C-2018-3003324

**NOTICE TO PLEAD**

YOU ARE HEREBY ADVISED THAT, PURSUANT TO 52 PA CODE 5.103 AND ANY PROCEDURAL ORDER IN THE ABOVE CAPTIONED PROCEEDING, YOU MAY FILE A REPLY TO THE ENCLOSED MOTION WITHIN TWENTY (20) DAYS AFTER THE DATE OF SERVICE. YOUR REPLY SHOULD BE FIELD WITH THE SECRETARY OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION P.O. BOX 3265 HARRISBURG PA 17105-3265. A COPY OF YOUR REPLY SHOULD BE SERVED ON THE UNDERSIGNED COUNSEL.

*s/ Joanna A. Waldron*

Joanna A. Waldron, Esquire

Pa. ID # 84768

CURTIN & HEEFNER LLP

Doylestown Commerce Center

2005 South Easton Road, Suite 100

Doylestown, PA 18901

[jaw@curtinheefner.com](mailto:jaw@curtinheefner.com)

*Attorney for the Complainant*

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Judith D. Hendin

V.

Metropolitan Edison Company

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C-2018-3003324

**ORDER**

AND NOW this \_\_\_\_ day of \_\_\_\_\_, 2020, upon consideration of Plaintiff's Motion for an Extension of Time and Motion for Leave to File Surrebuttal Testimony and any response thereto, it is hereby ordered that said Motion is GRANTED, and the Plaintiff shall have 180 days extension and stay before hearings continue in this matter, and Plaintiff is entitled to file Surrebuttal Testimony of Tania Slawecki on or before that date.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Judith D. Hendin

V.

Metropolitan Edison Company

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C-2018-3003324

**MOTION FOR AN EXTENSION OF TIME AND MOTION FOR LEAVE TO FILE  
SURREBUTTAL TESTIMONY**

Complainant Judith Hendin hereby files this Motion for an Extension of Time and Motion for Leave to File Surrebuttal Testimony. The Motion respectfully requests that Administrative Law Judge Joel Cheskis grant the requested extension of time of 180 days or as reasonable given the pending appeals, and grant her request to file surrebuttal testimony in response as explained herein.

1. Complainant Judith Hendin filed a Complaint in this matter on June 26, 2018.
2. An Interim Order was entered by Administrative Law Judge Watson on October 18, 2018.
3. Ms. Hendin was not represented at the commencement of this action, and Counsel entered appearance on behalf of Ms. Hendin in November 2018.
4. Ms. Hendin served the written testimony of Dr. Kracht on January 18, 2019.
5. Defendant Metropolitan Edison Company (“Met-Ed” or “Company”) and Ms. Hendin submitted status updates on May 9, 2019.
6. A second Interim Order Requiring Proposed Prehearing Conference and Hearing Dates was entered on May 23, 2019.

7. The second Interim Order contemplated hearing dates between September 10, 2019 and October 30, 2019.

8. The parties met to discuss relocation settlement options on June 14, 2019.

9. The parties then submitted additional status updates on July 16, 2019, with potential dates for prehearing conferences before and after July 25, 2019.

10. The parties had proposed a prehearing conference September 12, 2019.

11. On August 13, 2019, Administrative Law Judge Watson ordered that the parties would appear for hearing in December of 2019, and that a prehearing conference should be scheduled after September 30, 2019.

12. On September 5, 2019, a hearing notice was issued for December 19 and December 20, 2019, and on December 19 and December 20, 2019, the parties appeared before Administrative Law Judge Cheskis at the Public Utility Commission (“Commission:”) in Harrisburg.

13. During the pendency of the instant matter, several other Complaints originating at the Commission and challenging smart meter installations have been appealed to the Commonwealth Court: *Hoffman-Lorah v. Pa. Public Utility Commission*, Docket No. 712 C.D. 2019 (Pa. Cmwlth filed June 6, 2019); *Paul v. Pa. Public Utility Commission*, Docket No. 460 C.D. 2019 (Pa. Cmwlth. Filed April 16, 2019); and the consolidated cases, *Povacz v. Pa. Public Utility Commission*, Docket No. 492 C.D. 2019 (Pa. Cmwlth filed April 26, 2019); *Murphy v. Pa. Public Utility Commission*, Docket No. 606 C.D. 2019 (Pa. Cmwlth. Filed May 22, 2019) and *Randall v. Pa. Public Utility Commission*, Docket No. 607 C.D. 2019 (Pa. Cmwlth. Ct. filed May 22, 2019) (collectively, “Povacz Appeals”).

14. The Commonwealth Court has scheduled oral argument for the Povacz Appeals

for March 2020. Tentative Session Date Notice, Docket No. 607 C.D. 2019 (Pa. Cmwlth Ct. issued December 20, 2019). A true and correct copy of the docket sheet is attached hereto as Exhibit “A.”

15. On January 15, 2020, the Commonwealth Court issued an order Granting the December 24, 2019 Application for Relief in the Form of a Motion for Extension of Time, staying the matter pending disposition of *Povacz v. Pennsylvania Public Utility Commission* (Pa. Commw., No. 492 C.D. 2019 ). A true and correct copy of the Court’s Order in McKnight is attached hereto as Exhibit “ B.”

16. In light of the pending oral argument and predicted disposition of the Povacz Appeals, the Commission requested and was granted an extension of briefing deadlines in the Commonwealth Court in the case of *Alexia and Laurence McKnight v. Pa. Public Utility Commission*, No. 1235 C.D. 2019 (Pa. Cmwlth Ct. filed September 6, 2019). A true and correct copy of the January 6, 2020, *Application for Relief of the Pennsylvania Public Utility Commission In the Form of a Motion for Extension of Time* is attached hereto as Exhibit “C.”

17. The Commission cited “the interest of judicial economy and preserving administrative resources” as the basis for the extension, and noted that it had “approval from the utility (PECO)” to seek the extension. *Application for Relief* at ¶ 10.

18. In addition, in the same filing, the Commission represented to the Commonwealth Court that it had filed similar requests for extension of time in *Schmukler v. Pa. Public Utility Commission*, Docket No. 1102 C.D. 2019 (Pa. Cmwlth. Ct. filed August 14, 2019) and that it intended to file such a petition in *Sunstein v. Pa. Public Utility Commission*, Docket No. 1581 C.D. 2019 (Pa. Cmwlth. Ct. November 7, 2019). *Application for Relief* at ¶ 10 n. 2.

19. It appears from the docket that the Commission did file the anticipated request for

an extension of time was filed on January 16, 2019. A true and correct copy of the Sunstein Docket is attached here as Exhibit “D”.

20. The Povcaz Appeals, and the other pending Commonwealth Court appeals involve the installation of smart meters by either PPL (*Hoffman-Lorah*) or PECO (the remaining named appeals), and all involve the same or similar legal issues raised by Ms. Hendin in her Complaint and at the initial hearing dates.

21. In addition, a Declaratory Judgment action was filed in the Commonwealth Court on November 27, 2019, against the Pennsylvania Public Utility Commission, which action alleges, among other things, that application of Act 129 without an opt-out of a smart meter installation violates the substantive due process and privacy rights of the Petitioners. A true and correct copy of the *Haas v. Pa. Public Utility Commission*, Docket No. 658 M.D. 2019 (Pa. Cmwlth. Ct. filed November 27, 2019) Petition is attached hereto as Exhibit “E.”

22. The Haas Petition for Review seeks relief from the Commonwealth Court in the form of a declaration that the Act 129 and its implementing regulations are unconstitutional to the extent that they do not allow an opt out of the installation of wireless smart meters.

#### **LEGAL STANDARD FOR EXTENSION OF TIME**

23. Extensions of time are governed under 52 Pa. Code § 1.15, which provides that Commission may extend that time period “for good cause be extended upon motion made before the expiration of the period originally prescribed or previously extended...” 52 Pa. Code § 1.15.

24. Good cause exists here because Ms. Hendin’s case involves the same or similar legal issues as multiple pending cases, which are about to be heard at oral argument before the Commonwealth Court.

25. Further, the Commission has requested and been granted extensions for briefing at

the Commonwealth Court due to the pendency of similar cases.

26. An extension of time would preserve administrative resources and the interests of judicial economy suggest that a delay is appropriate where the appellate court may resolve pending legal issues.

27. Complaints about the installation of smart meters are brought and maintained by individual customers against the utility seeking to implement the smart meter plan according to the utility's tariff at great expense.

28. The rights of the consumer are paramount in the utilities context; so much so, that the Public Utility Code provides for the establishment of the Office of Consumer Advocate to represent the interests of the consumers as a party. 66 P.S. § 3206.

29. An extension of time will allow Ms. Hendin to conserve her resources in maintaining her case.

30. The December 20, 2019 hearing was cut short due to conflict of Dr. Israel. Transcript, December 20, 2019 at p. 228.

31. The Defendant will not be further prejudiced by an additional delay during which time questions at issues in this matter may be resolved by the Commonwealth Court.

32. Accordingly, Ms. Hendin respectfully suggests that she be granted a 180-day extension coincident with the extension provided the Commission and the utilities in the above discussed appeals, pursuant to 52 Pa. Code § 1.15.

#### **REQUEST FOR SURREBUTTAL TESTIMONY**

33. In addition, or, in the alternative, Ms. Hendin respectfully requests that Your Honor permit Ms. Hendin to submit surrebuttal testimony to the testimony of Defendant's witness Christopher Davis.

34. Surrebuttal testimony is permitted at the discretion of the Administrative Law Judge, pursuant to 52 Pa. Code § 5.438, and is contemplated in the submission of testimony, such as at 52 Pa. Code § 5.412a.

35. The parties in this case did not have an in-person or teleconference prehearing to discuss the scheduling of any surrebuttal testimony.

36. At the hearing on December 19, 2019, Defendant's witness, Dr. Christopher Davis testified about calculations he had made regarding Ms. Hendin's cell phone during the lunch break. See N.T. Davis, Transcript at p. 172 -174.

37. Ms. Hendin respectfully requests that she be permitted to offer surrebuttal in the form of written testimony from Tania Slawecki with respect to testimony of Christopher Davis.

**WHEREFORE**, Complainant Judith Hendin, respectfully requests that she be granted an extension of time pending disposition of the pending Commonwealth Court Povacz Appeals and that she be entitled to provide the surrebuttal testimony of Ms. Tania Slawecki in response to Dr. Davis.

Dated: January 21, 2020

*s/ Joanna A. Waldron*  
\_\_\_\_\_  
Joanna A. Waldron, Esquire  
Pa. ID # 84768  
CURTIN & HEEFNER LLP  
Doylestown Commerce Center  
2005 South Easton Road, Suite 100  
Doylestown, PA 18901  
jaw@curtinheefner.com  
*Attorney for the Complainant*

**EXHIBIT "A"**

**Commonwealth Docket Sheet****Docket Number: 607 CD 2019****Page 1 of 6****January 21, 2020****Commonwealth Court of Pennsylvania****CAPTION**Cynthia Randall and Paul Albrecht,  
Petitioners

v.

Pennsylvania Public Utility Commission,  
Respondent**CASE INFORMATION**

Initiating Document: Petition for Review

Case Status: Active

Case Processing Status: July 1, 2019 Awaiting Petitioner Paperbooks

Journal Number:

Case Category: Administrative Agency Case Type(s): Public Utility Commission

**CONSOLIDATED CASES****RELATED CASES**

Docket No / Reason	Type	Docket No / Reason	Type
492 CD 2019 Same Issue(s)	Consolidated	492 CD 2019 Similar Issue(s)	Related
606 CD 2019 Same Issue(s)	Consolidated	606 CD 2019 Similar Issue(s)	Related

**COUNSEL INFORMATION****Petitioner** **Randall, Cynthia**

Pro Se: No

IFP Status:

Attorney: Harvey, Stephen G.  
 Law Firm: Steve Harvey Law LLC  
 Address: 1880 Jfk Blvd Ste 1715  
 Philadelphia, PA 19103

Phone No: (215) 438-6600

Fax No:

Attorney: Gehring, Michael E.  
 Address: Steve Harvey Law LLC  
 1880 John F Kennedy Boulevard  
 Suite 1715  
 Philadelphia, PA 19103

Phone No: (215) 438-6600

Fax No:

**Commonwealth Docket Sheet**

Commonwealth Court of Pennsylvania

Docket Number: 607 CD 2019

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January 21, 2020

**COUNSEL INFORMATION****Petitioner**      **Albrecht, Paul**

Pro Se:              No

IFP Status:

Attorney:              Harvey, Stephen G.  
 Law Firm:              Steve Harvey Law LLC  
 Address:                1880 Jfk Blvd Ste 1715  
                              Philadelphia, PA 19103  
 Phone No:              (215) 438-6600              Fax No:

Attorney:              Gehring, Michael E.  
 Address:                Steve Harvey Law LLC  
                              1880 John F Kennedy Boulevard  
                              Suite 1715  
                              Philadelphia, PA 19103  
 Phone No:              (215) 438-6600              Fax No:

**Intervenor**      **PECO Energy Company**

Pro Se:              No

IFP Status:

Attorney:              Smith, Ward Lowell  
 Law Firm:              PECO Energy Company  
 Address:                2301 Market Street Box 8699  
                              Philadelphia, PA 19101-8699  
 Phone No:              (267) 324-8426              Fax No:

**Respondent**      **Pennsylvania Public Utility Commission**

Pro Se:              No

IFP Status:

Attorney:              Pankiw, Bohdan R.  
 Law Firm:              Pennsylvania Public Utility Commission  
 Address:                Pa Pa Utility Commission  
                              P.o. Box 3265  
                              Harrisburg, PA 17105-3265  
 Phone No:              (717) 787-5000              Fax No:

Attorney:              Wiedt, Patricia Timmerman  
 Law Firm:              Pennsylvania Public Utility Commission  
 Address:                Pa Public Utility Comm Law Bur  
                              Po Box 3265  
                              Harrisburg, PA 17105-3265  
 Phone No:              (717) 787-5755              Fax No:

Attorney:              McDowell, Christian Alan  
 Law Firm:              Pennsylvania Public Utility Commission  
 Address:                Pa Public Utility Commission  
                              Po Box 3265  
                              Harrisburg, PA 17105-3265  
 Phone No:              (717) 787-7466              Fax No:

## Commonwealth Docket Sheet

Commonwealth Court of Pennsylvania

Docket Number: 607 CD 2019

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January 21, 2020



## FEE INFORMATION

Fee Dt	Fee Name	Fee Amt	Receipt Dt	Receipt No	Receipt Amt
05/22/2019	Petition for Review - Appellate	90.25	05/22/2019	2019-CMW-H-001055	90.25

## AGENCY/TRIAL COURT INFORMATION

Order Appealed From:	May 9, 2019	Notice of Appeal Filed:
Order Type:	Order Dated	
Documents Received:	May 22, 2019	

Court Below:	Public Utility Commission	Division:	Public Utility Commission
County:		OTN:	
Judge:		Judicial District:	
Docket Number:	C-2016-2537666		

## ORIGINAL RECORD CONTENT

Original Record Item	Filed Date	Content Description
Agency Record	July 01, 2019	

Date of Remand of Record:

## BRIEFING SCHEDULE

None

None

## DOCKET ENTRY

Filed Date	Docket Entry / Filer	Representing	Participant Type	Exit Date
<b>May 22, 2019</b>	Petition for Review Filed Randall, Cynthia Albrecht, Paul		Petitioner Petitioner	
<b>May 22, 2019</b>	Notice Exited Commonwealth Court Filing Office			05/22/2019
<b>May 23, 2019</b>	Notice of Intervention Smith, Ward Lowell	PECO Energy Company	Intervenor	
<b>May 28, 2019</b>	Stipulation for Consolidation Harvey, Stephen G. Harvey, Stephen G. Smith, Ward Lowell Wiedt, Patricia Timmerman	Randall, Cynthia Albrecht, Paul PECO Energy Company Pennsylvania Public Utility Commiss	Petitioner Petitioner Intervenor Respondent	
Document Name: Stipulation for Consolidation of Multiple Appeal				
<b>May 29, 2019</b>	Docketing Statement Filed Harvey, Stephen G. Harvey, Stephen G.	Randall, Cynthia Albrecht, Paul	Petitioner Petitioner	

## Commonwealth Docket Sheet

Commonwealth Court of Pennsylvania

Docket Number: 607 CD 2019

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## DOCKET ENTRY

Filed Date	Docket Entry / Filer	Representing	Participant Type	Exit Date
May 31, 2019	Order Granting Application for Consolidation Ceisler, Ellen			06/03/2019
	Document Name: NOW, May 31, 2019, upon review of the parties' "Stipulation for Consolidation of Multiple Appeals," which this Court will treat as an application for consolidation of appeals (Application), and upon review of the Pennsylvania Public Utility Commission's decisions and it appearing that there is one record and the appeals involve a similar issue, the Application is granted.			
June 3, 2019	Consolidated - Same Issue(s) Commonwealth Court			
July 1, 2019	Agency Record Received Wiedt, Patricia Timmerman	Pennsylvania Public Utility Commiss	Respondent	
	Document Name: See briefing schedule at 492 CD 2019.			
July 3, 2019	Entry of Appearance Gehring, Michael E. Gehring, Michael E.	Randall, Cynthia Albrecht, Paul	Petitioner Petitioner	
July 10, 2019	Application for Relief Smith, Ward Lowell	PECO Energy Company	Intervenor	
	Document Name: Joint Application to Modify Briefing Schedule			
July 12, 2019	Order Granting Application for Relief Wojcik, Michael H.			07/15/2019
	Document Name: The briefing schedule is modified as follows: Petitioners' brief shall be filed and served by 9-10-19. Respondent and Intervenor's brief shall be filed and served by 11-12-19. Petitioner's reply brief, if any, shall be filed and served by 12-12-19.			
September 3, 2019	Filed - Other Harvey, Stephen G. Harvey, Stephen G. Wiedt, Patricia Timmerman Smith, Ward Lowell	Randall, Cynthia Albrecht, Paul Pennsylvania Public Utility Commiss PECO Energy Company	Petitioner Petitioner Respondent Intervenor	
	Document Name: Joint Application to Modify Word Count Requirement			
September 5, 2019	Order Filed Cohn Jubelirer, Renee			09/06/2019
	Document Name: NOW, September 5, 2019, upon consideration of the Joint Application to Modify Word Count Requirement, the Application is granted. Petitioners, Respondent and Intervenor may each file a principal brief up to 19,000 words in length. Petitioners may file a reply brief up to 9,000 words in length. The briefs shall be filed and served in accordance with the briefing schedule set forth in the Court's July 12, 2019 order.			
September 6, 2019	Application to Amend Harvey, Stephen G. Harvey, Stephen G.	Randall, Cynthia Albrecht, Paul	Petitioner Petitioner	
	Document Name: Joint Application to Further Modify Briefing Schedule			

## Commonwealth Docket Sheet

Commonwealth Court of Pennsylvania

Docket Number: 607 CD 2019

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January 21, 2020



## DOCKET ENTRY

Filed Date	Docket Entry / Filer	Representing	Participant Type	Exit Date
<b>September 9, 2019</b>	Order Granting Application to Amend Wojcik, Michael H.			09/10/2019
	Document Name: NOW, September 9, 2019, upon consideration of the parties' Joint Comment: Application to Further Modify Briefing Schedule, the Application is granted. The briefing schedule set forth in the Court's July 12, 2019 order is modified as follows: 1. Petitioners' brief ( 4 copies) and Reproduced Record ( 4 copies) shall be filed and served on or before September 17, 2019. 2. Respondent's and Intervenor's briefs (4 copies) shall be filed and served on or before November 19, 2019. 3. Petitioners' reply brief, if any, shall be filed and served on or before December 19, 2019.			
<b>September 26, 2019</b>	Amended Tran, Tiffany Loananh Smith, Ward Lowell Wiedt, Patricia Timmerman	PECO Energy Company Pennsylvania Public Utility Commiss Respondent	Intervenor	
	Document Name: Joint Motion of Respondent PUC and Intervenor PECO Energy Co. to Strike the Amicus Curiae Brief of Comment: Friends of MerryMeeting Bay			
<b>October 23, 2019</b>	Order Filed Covey, Anne E.			10/24/2019
	Document Name: Upon consideration of the Amended Joint Motion of Respondent Pennsylvania Public Utility Comment: Commission and Intervenor PECO Energy Company to Strike the Amicus Curiae Brief of Friends of Merrymeeting Bay (Motion), and the response thereto of Amicus Curiae Friends of Merrymeeting Bay, the Motion is granted in part and denied in part. The Court declines to strike the Amicus Curiae Brief in its entirety. However, to the extent the Amicus Curiae Brief presents issues not raised by Petitioners in their Brief, and were neither raised below nor otherwise preserved for appeal by the parties, the Amicus Curiae Brief will not be considered by the Court. See Pa.R.A.P. 531, Note. To the extent Amicus Curiae has attached Exhibits to its Brief containing information or documents that were not before the agency at the time of its decision and are not part of the certified record, they cannot be considered by this Court on appeal. See Pa.R.A.P. 1951(a); Twp. of Neshannock v. Kirila Contractors, 181 A.3d 467 (Pa. Cmwlth. 2018). Accordingly, Exhibits A, B, D, E and Fare hereby stricken from the Amicus Curiae Brief and will not be considered by the Court. The Prothonotary is directed to place a copy of this order on each copy of the Amicus Curiae Brief of Friends of Merrymeeting Bay.			
<b>November 18, 2019</b>	Entry of Appearance McDewell, Christian Alan	Pennsylvania Public Utility Commiss Respondent		
	Document Name: On behalf of PUC			
<b>December 13, 2019</b>	Application for Relief Harvey, Stephen G. Harvey, Stephen G. Smith, Ward Lowell	Randall, Cynthia Albrecht, Paul PECO Energy Company	Petitioner Petitioner Intervenor	
	Document Name: Joint Application to Further Modify Briefing Schedule			
<b>December 17, 2019</b>	Order Filed Leavitt, Mary Hannah			12/17/2019
	Document Name: NOW, December 17, 2019, upon consideration of the Joint Application Comment: to Modify Briefing Schedule, the Application is granted. Petitioners' Reply Brief (4 copies) shall be filed and served on or before December 24, 2019.			

12:42 P.M.

**Commonwealth Docket Sheet**

**Docket Number: 607 CD 2019**

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**January 21, 2020**

**Commonwealth Court of Pennsylvania**



**DOCKET ENTRY**

Filed Date	Docket Entry / Filer	Representing	Participant Type	Exit Date
<b>December 20, 2019</b>	Tentative Session Date Krimmel, Michael			
	Document Name: March 2020 (Philadelphia)			

**SESSION INFORMATION**

Journal Number:  
Consideration Type: Tentative Session Date  
Listed/Submitted Date: March 16, 2020

**EXHIBIT "B"**


IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Alexia and Lawrence McKnight, :  
Petitioners :  
 :  
v. :  
 :  
Public Utility Commission, :  
Respondent : No. 1253 C.D. 2019

ORDER

NOW, January 15, 2020, upon consideration of Respondent's December 24, 2019 Application for Relief in the Form of a Motion for Extension of Time and Petitioners' Answer in Opposition thereto, and upon review of the Ancillary Petition for Review, the Application is **GRANTED**.

Proceedings in this matter are stayed pending disposition of the matter at *Povacz v. Pennsylvania Public Utility Commission* (Pa. Cmwlth., No. 492 C.D. 2019; 606 C.D. 2019; 607 C.D. 2019). Within seven (7) days of the Court's decision in *Povacz*, Respondent shall provide Petitioners with a copy of the *Povacz* decision and promptly provide proof of service with the Court. Within twenty-one (21) days of service, the parties shall file separate status reports advising the Court whether the Court's decision in *Povacz* disposes of all issues raised in Petitioners' Ancillary Petition for Review.

  
\_\_\_\_\_  
Mary Hannah Leavitt, President Judge

**Certified from the Record**

**JAN 16 2020**

**And Order Exit**

**EXHIBIT "C"**

**IN THE  
COMMONWEALTH COURT OF PENNSYLVANIA**

<b>Alexia and Lawrence McKnight,</b>	:	
<b>Petitioners</b>	:	
	:	
<b>v.</b>	:	<b>Docket No. 1253 C.D. 2019</b>
	:	
<b>Pennsylvania Public Utility</b>	:	
<b>Commission,</b>	:	
<b>Respondent</b>	:	

**APPLICATION FOR RELIEF OF THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
IN THE FORM OF A MOTION FOR EXTENSION OF TIME**

TO THE HONORABLE COURT, PRESIDENT JUDGE, AND JUDGES OF THE  
COMMONWEALTH COURT OF PENNSYLVANIA:

Pursuant to Rule 123 of the Pennsylvania Rules of Appellate Procedure  
(Pa.R.A.P.), Respondent Pennsylvania Public Utility Commission (Commission)  
hereby files this Application for Relief in the form of a Motion for Extension of  
Time, and in support thereof avers the following:

## BACKGROUND

1. On August 8, 2019, the Commission entered its Order disposing of Petitioners' Alexia and Lawrence McKnight (Petitioners) Complaint against PECO Energy Company (PECO) regarding "smart meter" installation.

2. On September 16, 2019, Petitioners, acting *pro se*, filed a Petition for Review with this Court requesting review of the Commission's Order.

3. On September 19, 2019, PECO filed a Notice of Intervention in this proceeding.

4. On October 25, 2019, this Court issued a Briefing Schedule establishing December 4, 2019, as the due date for Petitioners' Brief.

5. On October 30, 2019, PECO and the Commission filed a Joint Application to Modify Briefing Schedule as follows: Petitioners' Main Brief and Reproduced Record due January 17, 2020; PECO and Commission's Main Briefs due March 17, 2020; and Petitioners' Reply Brief due April 16, 2020.

6. The Petitioners were contacted prior to the Joint Application and agreed to the proposed modified briefing schedule.

7. This was the first request made by the Commission to extend the briefing schedule.

6. By Order dated November 1, 2019, this Court granted the parties' first request for an extension. Petitioners' Brief is due on or before January 17, 2020.

## ARGUMENT

7. Petitioners seek review of the Commission’s Order applying the “smart meter” provisions of the Public Utility Code at 66 Pa. C.S. §§ 2801–2815, as amended by Act 129 of 2008. These smart meter issues are being litigated in other pending appeals before this Court, including: *Hoffman-Lorah v. Pa. Public Utility Commission*, Docket No. 712 C.D. 2019 (Pa. Cmlwth. filed June 6, 2019); *Paul v. Pa. Public Utility Commission*, Docket No. 460 C.D. 2019 (Pa. Cmlwth. filed April 16, 2019); and three consolidated cases, *Povacz v. Pa Public Utility Commission*, Docket No. 492 C.D. 2019 (Pa. Cmlwth. filed April 26, 2019), *Murphy v. Pa. Public Utility Commission*, Docket No. 606 C.D. 2019 (Pa. Cmlwth. filed May 22, 2019), and *Randall v. Pa. Public Utility Commission*, Docket No. 607 C.D. 2019 (Pa. Cmlwth. filed May 22, 2019) (collectively, Pending Appeals).

8. *Paul*, *Povacz*, *Murphy*, and *Randall* involve the same or similar legal issues raised by Petitioner regarding PECO’s installation of smart meters. Moreover, although the *Hoffman-Lorah* involves PPL Energy Company’s installation of smart meters rather than PECO’s installation of smart meters, that proceeding nonetheless centers on the same or similar legal issues raised by the Petitioners in the instant appeal.<sup>1</sup>

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<sup>1</sup> While some factual issues will likely vary from case to case, the majority of the legal issues raised by Petitioners are common with the legal issues in the pending cases.

9. Each of the Pending Appeals were fully briefed by the respective parties as of December 24, 2019. The Pending Appeals, with the exception of *Hoffman-Lorah*, involve petitioners represented by counsel. The Court has tentatively scheduled the consolidated *Povacz*, *Murphy*, and *Randall* cases for oral argument in the Court's March 2020 session. See *Povacz*, Tentative Session Date Notice, Docket No. 492 C.D. 2019 (Pa. Cwmlth. issued December 20, 2019). The Commission anticipates that the Court's resolution of the Pending Appeals will precede the outcome of the instant appeal.

10. Therefore, in the interest of judicial economy and preserving administrative resources, and to allow the parties in this and any subsequent smart meter appeals<sup>2</sup> to have the benefit of the Court's decisions in the Pending Appeals, the Commission respectfully requests a 180-day extension of time for the briefing deadlines set forth in this Court's November 1, 2019 Order, making the Petitioners' Brief and Reproduced Record due on or about July 17, 2020, and the Commission's and Intervenor's Briefs due 30 days thereafter, absent further requests for extension.

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<sup>2</sup> As of the date of this Application, additional Petitions for Review of Commission Orders involving smart meters have been filed. Each of these appeals involves *pro se* petitioners and these appeals have not yet been briefed. The Commission filed a similar request for extension of time in *Schmukler v. Pa. Public Utility Commission*, Docket No. 1102 C.D. 2019 (Pa. Cmwlt. filed August 14, 2019), and intends to file requests for extension of time in *Sunstein v. Pa. Public Utility Commission*, Docket No. 1581 C.D. 2019 (Pa. Cmwlt. filed November 7, 2019).

11. PECO has authorized the Commission to represent that PECO does not oppose the Commission's request to extend the briefing deadlines in this matter.

12. The Petitioners have indicated that they do not agree to extend the briefing deadlines.

### **CONCLUSION**

13. Because the same or similar legal issues raised by Petitioners will be addressed by this Court in the Pending Appeals, it is in the interest of judicial economy and preserving administrative resources to extend the briefing deadlines in this matter by 180 days and allow the parties the benefit of having the Court's decision on the primary issues in the Pending Cases prior to briefing in this appeal.

WHEREFORE, for the foregoing reasons, the Respondent Pennsylvania Public Utility Commission respectfully requests that this Honorable Court grant its Application for Relief in the form of a Motion for Extension of Time.

Respectfully submitted,

/s/ Tiffany L. Tran  
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Assistant Counsel  
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Dated: January 6, 2020

**IN THE  
COMMONWEALTH COURT OF PENNSYLVANIA**

<b>Alexia and Lawrence McKnight,</b>	:	
<b>Petitioners</b>	:	
	:	
v.	:	<b>Docket No. 1253 C.D. 2019</b>
	:	
<b>Pennsylvania Public Utility</b>	:	
<b>Commission,</b>	:	
<b>Respondent</b>	:	

**ORDER**

AND NOW this \_\_\_\_\_ day of \_\_\_\_\_, 2020, upon consideration of Respondent's Application for Relief in the Form of a Motion for Extension of Time, it is hereby ordered that said Application is GRANTED. Petitioners' Brief and Reproduced Record shall be filed on July 17, 2020.

\_\_\_\_\_  
J.

**CERTIFICATE OF COMPLIANCE WITH PUBLIC ACCESS POLICY**

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

**EXHIBIT “D”**

12:48 P.M.

Commonwealth Docket Sheet

Docket Number: 1581 CD 2019

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January 21, 2020

Commonwealth Court of Pennsylvania



CAPTION

Willard and Elsbeth Sunstein,  
Petitioners

v.

Public Utility Commission,  
Respondent

CASE INFORMATION

Initiating Document: Pro Se / Defective Communication

Case Status: Active

Case Processing Status: December 16, 2019 Awaiting Petitioner Paperbooks

Journal Number:

Case Category: Administrative Agency Case Type(s): Public Utility Commission

CONSOLIDATED CASES

RELATED CASES

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Commonwealth Docket Sheet

Docket Number: 1581 CD 2019

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## Commonwealth Docket Sheet

Commonwealth Court of Pennsylvania

Docket Number: 1581 CD 2019

Page 3 of 5

January 21, 2020



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## FEE INFORMATION

Fee Dt	Fee Name	Fee Amt	Receipt Dt	Receipt No	Receipt Amt
10/07/2019	Pro Se Letter Received	90.25	11/14/2019	2019-CMW-H-002400	90.25

## AGENCY/TRIAL COURT INFORMATION

Order Appealed From: October 3, 2019 Notice of Appeal Filed:  
 Order Type: Order Dated  
 Documents Received: November 7, 2019

Court Below: Public Utility Commission  
 County: Division: Public Utility Commission  
 Judge: OTN:  
 Docket Number: C-2018-3000078 Judicial District:

## ORIGINAL RECORD CONTENT

Original Record Item	Filed Date	Content Description
Agency Record	December 16, 2019	

Date of Remand of Record:

## BRIEFING SCHEDULE

## Commonwealth Docket Sheet

Commonwealth Court of Pennsylvania

Docket Number: 1581 CD 2019

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January 21, 2020



## BRIEFING SCHEDULE

<b>Petitioner</b>	<b>Respondent</b>
Sunstein, Willard	Public Utility Commission
Brief	Brief
Due: January 27, 2020	Filed:

**Reproduced Record**  
 Due: January 27, 2020      Filed:

## DOCKET ENTRY

Filed Date	Docket Entry / Filer	Representing	Participant Type	Exit Date
October 7, 2019	Pro Se Letter Received Sunstein, Willard Sunstein, Elsbeth		Petitioner Petitioner	
October 10, 2019	Pro Se Letter on How to Appeal Exited Commonwealth Court Filing Office			10/10/2019
November 7, 2019	Ancillary Petition for Review Filed Sunstein, Willard Sunstein, Elsbeth		Petitioner Petitioner	
November 14, 2019	Transferred Case Commonwealth Court Document Name: Case was transferred from 630 XX 2019 Comment: Case was transferred from 630 XX 2019			11/14/2019
November 14, 2019	Notice Exited Commonwealth Court Filing Office			11/14/2019
November 22, 2019	Notice of Intervention Ryan, Devin Thomas Document Name: PPL Electric Utilities Corporation	PPL	Possible Intervenor	
December 9, 2019	Entry of Appearance Dunn, Hayley Eileen Document Name: On behalf of PUC	Public Utility Commission	Respondent	
December 16, 2019	Agency Record Received Dunn, Hayley Eileen	Public Utility Commission	Respondent	
December 16, 2019	Certificate of Service Filed Dunn, Hayley Eileen	Public Utility Commission	Respondent	
December 16, 2019	Briefing Schedule Issued Commonwealth Court Filing Office			
January 2, 2020	Praeipie for Withdrawal of Appearance Pankiw, Bohdan R.	Public Utility Commission	Respondent	
January 16, 2020	Application for Extension of Time to File Brief - First Request Dunn, Hayley Eileen	Public Utility Commission	Respondent	

12:48 P.M.

**Commonwealth Docket Sheet**

**Docket Number: 1581 CD 2019**

**Page 5 of 5**

**January 21, 2020**

**Commonwealth Court of Pennsylvania**



**EXHIBIT “E”**



electromagnetic energy (“RF”) from a metering device known as a wireless smart meter installed on each property, with no “opt-out” or exception or even possibility of non-application, for any reason, including health, safety, or privacy concerns. Customers who will not agree to accept this violation of their privacy and bodily integrity in the sanctity of their homes are punished by complete denial of electric service.

2. Because of Act 129, Petitioners have, against their express wishes, been forced to accept wireless smart meters on certain of their properties; on other properties, they face termination of electric service because of their refusal to accept installation of wireless smart meters. Petitioners believe that they have a right not to be exposed to this physical force. They are also concerned that RF emissions from wireless smart meters are potentially harmful to their health and the health of their friends and family members who stay on their properties. The presence of wireless smart meters causes them psychological distress, makes them uncomfortable in their own homes, and severely limits their right to use their properties free from unreasonable governmental intrusion.

3. Act 129 severely impinges on Petitioners’ fundamental constitutional rights to privacy, bodily integrity, the free use of their property without unreasonable interference by the government, and the protection against unreasonable searches and seizures. It is thus subject to strict scrutiny, and may be deemed constitutional only if it is necessary to vindicate a compelling public interest, and is as narrowly drawn as possible.

4. Act 129, and specifically its “no opt-out” component, is not necessary to vindicate *any* public interest, far less a compelling one. The inability of Petitioners and other persons who object to mandatory RF exposure in their homes to be exempted from forced installation of wireless smart meters at best serves the administrative convenience of certain electric utility companies, which is not even arguably a matter of public concern or interest, far less a compelling one. Moreover, Act 129, by its clear terms, exempts mandatory wireless smart meter installation for customers of electric utility companies with less than 100,000 customers, such that many electric customers in this Commonwealth are, by definition, exempt from its requirements. Therefore, there can be “compelling” public interest in not allowing customers of the larger electric utility companies subject to Act 129’s requirements to be similarly exempt from mandatory smart meter installation.

5. Moreover, Act 129 is not narrowly drawn, but is overly expansive by design, without providing any relief or accommodation to citizens like Petitioners who are merely asserting their right to be free of governmentally mandated intrusion into their homes, properties, and bodies.

6. Virtually every other state that requires smart meters provides for an opt out, which proves that the burden of giving customers the choice could be readily achieved.

7. This case, at its most basic, is about the sanctity of the home. *See Commonwealth v. Shaw*, 383 A.2d 496, 499 (Pa. 1978) (“Upon closing the door of one’s home to the outside world, a person may legitimately expect the highest degree of privacy known to our society.”). That concept is built into the very fabric of the United

States and Pennsylvania constitutions. This matter seeks to vindicate the sacred right to be let alone, free from unwanted governmental intrusion into Petitioners' property, their privacy and, indeed, their very bodily integrity.

8. RF is undeniably a very real physical force. Petitioners do not believe that the government has the right to force this unwanted exposure on them, their family, and their friends through the mandatory installation of an RF-emitting device on their own properties. One cannot think of a similar case where the government *mandates* that citizens accept into their homes a force-emitting device that makes them highly uncomfortable in the sanctity of those very homes, disrupts their peace of mind, and could possibly cause them physical harm.

9. Petitioners realize that many, if not most, other people do not share their concerns about RF exposure. However, those concerns must be respected unless compelling governmental interests exist to override them and there is no narrower way to further those interests. Respondent cannot possibly make such a showing.

10. This Court should therefore declare Act 129 unconstitutional and allow Petitioners, and similarly situated persons, to opt out of mandatory wireless smart meter installation on their properties; and should further enjoin Respondent Pennsylvania Public Utility Commission from requiring public utility companies to install wireless smart meters in all homes, without exception, per its current policies and procedures that it claims are mandated by Act 129.

## II. JURISDICTION AND VENUE

11. This Court has jurisdiction to hear this matter under the Declaratory Judgments Act, 42 Pa. C.S. §§ 7531-7541, *Delaware Valley Apt. House Owner's Ass'n*

*v. Commonwealth, Dep't of Revenue*, 389 A.2d 615, 622 (Pa. Commw. 1978) (Commonwealth Court has jurisdiction to hear declaratory judgment action challenging constitutionality of state law); and under 42 Pa. C.S. § 761(a)(1) (Commonwealth Court's original jurisdiction extends to "all civil actions or proceedings ... [a]gainst the Commonwealth government.").

12. Venue is proper in this Court (Dauphin County) because the Respondent's principal office is located here.

### III. PARTIES

13. Petitioners William and Jean Haas, husband and wife, are the owners of several real estate properties, described below, in Pennsylvania.

14. Petitioners have standing to bring this constitutional challenge because they are suffering a direct harm from Act 129. They have been forced by their electric utility, with the full backing and, indeed, directive, of Respondent, to accept the denial of electric service at several of their properties, including their Pennsylvania primary residence, because they are unwilling to allow forced RF exposure from smart meters installed on these properties. At several other properties they own they have been forced by this same utility with Respondent's backing to accept RF exposure for the people who live or visit at those properties, because it would be too difficult for those same people to do without electric service. But for Act 129, Petitioners would have not suffered this injury. *See Funk v. Wolf*, 144 A.3d 228, 243-44 (Pa. Commw. 2016) (a person has standing if he has a substantial interest in the outcome of the litigation, meaning his interest surpasses that of all citizens in procuring obedience to the law).

15. Respondent is the Pennsylvania Public Utilities Commission, a Pennsylvania administrative agency with its main office in Harrisburg, Pennsylvania.

16. Respondent is the administrative body that is charged with regulating electric utilities in Pennsylvania, including regarding the installation of smart meters pursuant to Act 129. Respondent also is the agency charged with adjudicating consumer complaints that a utility's service violates the Pennsylvania Public Utility Code.

#### IV. FACTUAL ALLEGATIONS

##### Respondent and PPL Forced Mr. and Mrs. Haas to Accept Forced RF Exposure or Face Shutoff of Electric Service

17. Mr. and Mrs. Haas are the owners of several real estate properties in Pennsylvania.

18. All these properties are in the service area of PPL Electric Utilities ("PPL").

19. Mr. and Mrs. Haas live part of the year in one of their Pennsylvania properties.

20. Another property consists of a café, attached apartment, and attached house. They own and frequent the café, and their property manager lives in the apartment with his family. The attached house is used for guests. The remaining properties owned by the Petitioners in Pennsylvania are used by their family and friends, both for short and extended stays.

21. Petitioners receive electric service for all their properties from PPL.

22. Petitioners have six accounts with PPL for electric service at their Pennsylvania properties at issue.

23. PPL until recently had used powerline carrier meters installed on Petitioners' properties to measure electric usage. These are known as analog meters that use power lines as a means of communicating usage data to PPL. These meters emit no RF.

24. In or around August 2018, PPL notified Petitioners that it intended to install new wireless smart meters on all of their properties. Unlike the existing meters, these new meters emit RF, as discussed in more detail below.

25. On October 25, 2018, Petitioner William Haas, acting on behalf of Petitioner Jean Haas as well, filed six complaints with the Respondent against PPL averring that installation of the new meters on their properties violated PPL's duty under 66 Pa. Code §§ 1501 and 1502, which he alleged require safe services to each individual customer based on their unique needs.

26. PPL filed answers to the complaints. In its answers, PPL contended that it was required to install smart meters at Petitioners' properties subject to the requirements of Act 129. PPL thus affirmed that it was proceeding to install wireless smart meters at Petitioners' properties specifically because it was, in its view, required to do so pursuant to Act 129, despite Petitioners' express wish to be exempt from mandatory installation due to their concerns over the health and safety of the smart meters.

27. In January 2019, pursuant to a motion to consolidate filed by PPL, the presiding Administrative Law Judge (“ALJ”), Elizabeth H. Barnes, consolidated the six matters.

28. Petitioner William Haas did not further participate in the litigation and the case was dismissed by ALJ Barnes with prejudice in a decision dated July 1, 2019.

29. Shortly after September 27, 2019, Petitioners received from PPL letters that advised that PPL intended to terminate electric service on October 14, 2019, unless Petitioners gave PPL access to install new meters. The termination notices sent by PPL to Petitioners explicitly stated that PPL was required to install smart meters on his properties “to comply with state regulations....”

30. On October 9, 2019, counsel for Petitioners emailed counsel for PPL and informed him that Petitioners were preparing to file a claim in Commonwealth Court taking the position that the applicable Pennsylvania statutory and regulatory scheme relating to smart meters violates the United States and Pennsylvania Constitutions, and requested that PPL not shut off the electricity or install smart meters at any of the Haas properties until after the conclusion of the litigation.

31. On October 11, 2019, counsel for PPL emailed counsel for Petitioners and refused this request.

32. On that same date, counsel for Petitioners emailed counsel for PPL and stated that, given PPL’s position that it would not agree to hold off on installation of smart meters pending the lawsuit, Petitioners believed that they had no choice to but to accept shutoff of electric service at three of their properties, including their Pennsylvania residence, and to accept installation of smart meters at the remaining

three properties. They chose to accept the smart meters at three properties because it would be too difficult for the people who live at or visit those properties to be without electric service.

33. PPL responded that it would terminate service at two of the properties as requested, that it had already installed a smart meter at one of the properties, and that it would install smart meters at the three other properties. Petitioners replied to PPL that they would prefer to accept termination of electric service rather be forced to accept exposure to a smart meter at any of their properties other than the three where it would be too difficult to be without service.

**Objective Evidence Supports the Conclusion That RF Exposure from Smart Meters Could Be Unsafe**

34. Electromagnetic energy is one of the four physical forces in the universe. It falls across a spectrum by frequency or wavelength. The spectrum includes RF as well as other ranges of frequencies of electromagnetic energy, such as infrared radiation, visible light, ultraviolet radiation, X-rays, and gamma rays.

35. The electromagnetic energy emitted by a smart meter, a wireless device, is in the RF range, just like the energy emitted by a cell phone.

36. Smart meters and cell phones emit a comparable level of RF, approximately one to two watts measured at the source.

37. The actual exposure of any human to RF will vary depending on numerous factors, including the distance between the source of the RF and the human body and how often the device emits RF.

38. In November 2018, the National Toxicology Program (“NTP”), a sub-agency of the U.S. Department of Health and Human Services, published a “Fact Sheet” with information about possible harmful biological effects from RF exposure, based on studies it had conducted. A copy of the NTP Fact Sheet is available at [https://www.niehs.nih.gov/health/materials/cell\\_phone\\_radiofrequency\\_radiation\\_studies\\_508.pdf](https://www.niehs.nih.gov/health/materials/cell_phone_radiofrequency_radiation_studies_508.pdf).

39. The NTP is an agency with primary jurisdiction in the federal government for determining health and safety of RF exposure. According to its website, it is an interagency program composed of, and supported by, three government agencies within the Department of Health and Human Services: the National Center for Toxicological Research of the Food and Drug Administration; the National Institute of Environmental Health Sciences of the National Institutes of Health; and the National Institute for Occupational Safety and Health of the Centers for Disease Control and Prevention.

40. As stated in the Fact Sheet, the NTP conducted studies of rats and mice exposed to RF to clarify potential health hazards. The studies cost \$30 million and took more than ten years to complete, making them “the most comprehensive assessment, to date, of health effects in animals exposed to RFR.” *Id.* at 1.

41. The studies reported “clear evidence” of tumors in the hearts of male rats resulting from exposure to low levels of RF. *Id.*

42. The NTP cautioned that the findings from the studies cannot be directly applied to humans, because of differences in exposure.

43. But the NTP also noted that “the studies question the long-held assumption that radio frequency radiation is of no concern as long as the energy level is low and does not significantly heat the tissues.” *Id.* at 2.

44. This is significant because some people and organizations, usually associated with the electric utility industry, have argued that RF exposure from cell phone and wifi devices like smart meters is safe because it falls below limits for RF exposure that the Federal Communications Commission (“FCC”) set in 1996.

45. The FCC limits were designed to protect against potential harm from levels of RF exposure sufficient to produce heating, based on the assumption that RF exposure at lower levels could not cause heating and therefore could not cause harm.

46. The FCC has noted that the scientific literature contains reports of a wide range of what are known as “non-thermal effects,” i.e., biological effects at low levels of RF exposure that are insufficient to heat tissue, but it decided that the possibility of harm from such low levels of RF exposure was ambiguous and unproven.

47. The statement from the NTP quoted *supra* is directly inconsistent with the premise of the FCC Limits, that low levels of RF are of no concern as long as they do not heat the tissue.

48. Another report by the NTP confirms that there is a basis in scientific literature to state that, at the very least there could be adverse biological effects from low levels of RF exposure below the FCC limits, and that claims that RF exposure at levels below the FCC limits has been proved conclusively safe are therefore wrong.

Dr. Ronald Melnick, a retired NIEHS/NTP toxicologist and one of the original scientists associated with the NTP cell phone RFR studies, spoke on the utility of the NTP data on

cellphone RFR for assessing human health risks. He provided background information about the history of the project, which began with the original nomination in 1999. *The initial objectives were to test the null hypothesis—that cell phone RFR at non-thermal exposure intensities is incapable of inducing adverse health effects—and to provide dose-response data that could be used to assess potential human health risks for any detected adverse effects. The results described in the technical reports “show quite clearly” that the null hypothesis has been disproven, with many adverse effects identified.* Dr. Melnick delineated the adverse effects observed and described their levels of evidence of carcinogenicity. He pointed out that even a small increase in cancer risk could have a serious public health impact due to the widespread use of cell phones.

Draft NTP Technical Reports on Cell Phone Radiofrequency Radiation; March 26-28, 2018, at 20 (available at [https://ntp.niehs.nih.gov/ntp/about\\_ntp/trpanel/2018/march/peerreview20180328\\_508.pdf](https://ntp.niehs.nih.gov/ntp/about_ntp/trpanel/2018/march/peerreview20180328_508.pdf)) (emphasis added).

49. The FCC has acknowledged that its primary jurisdiction does not lie in health and safety and that it relies on other federal agencies for guidance on those subjects.

50. The NTP has publicly advised that it has reported its findings set forth in the November 2018 Fact Sheet to the FCC. The FCC has not yet taken any public action on that report.

51. The NTP has announced the further studies on the possible health effects of low-level RF exposure.

52. Based on these statements by the NTP, as well as other evidence, it is accurate to state that, at the very least, it is scientifically possible that exposure to

levels of RF below the FCC limits could cause harm to humans, just as it caused tumors in the hearts of male rats by a “clear evidence” standard in the NTP studies.

53. This is consistent with the classification of such exposure in 2011 (prior to the most recent NTP findings) as a “possible carcinogen” by the International Agency for Research on Cancer, which is part of the World Health Organization, based on “limited evidence” of carcinogenicity.

54. This is also why the NTP continues to study the effects on humans of RF exposure.

**Respondent Has Consistently Maintained that Act 129 Requires Smart Meters for All. With No Possibility for Opt-Out or Non-application Under Any Circumstances**

55. Respondent has consistently ruled in cases filed by individual customers that Act 129 mandates that wireless smart meters must, *without exception*, be installed in the homes of all electrical consumers in the Commonwealth. Smart Meter Procurement and Installation Implementation Order at 14, No. M-2009-209655 (June 24, 2009) (“The Commission believes that it was the intent of the General Assembly to require all covered EDCs to deploy smart meters system wide when it included a requirement for smart meter deployment ‘in accordance with a depreciation schedule not to exceed 15 years.’”). On this basis, Respondent found in all subsequent cases that have considered the issue that customers may not opt out of wireless smart meter installation. *See, e.g., Susan Kreider v. PECO Energy Co.*, Docket No. C-2015-2469655, Order and Opinion at 23 (Pennsylvania PUC, , Aug. 17, 2016) (“In 2013, the Commission concluded that there is no provision in the Code, the Commission’s Regulations or Orders that allows a PECO customer to ‘opt out’ of smart

installation.”) (citing *Maria Povacz v. PECO Energy Company*, Docket No. C-2012-2317176, Order and Opinion (Pennsylvania PUC, Jan. 24, 2013)).

56. In a “Smart Meter Q&A” publication,<sup>1</sup> Respondent, in response to the question, “Are smart meters required in Pennsylvania?”, states: “Yes. Pennsylvania’s Act 129 of 2008 requires the state’s seven largest electric distribution companies (EDCs) to develop energy efficiency and conservation (EE&C) plans and adopt other methods of reducing electricity used by customers – including the use of smart meters by their customers.” Another section of that publication, in answer to the question, “Can I opt out of the charge if I don’t want a smart meter?”, Respondent states: “No. State law does not allow a customer to ‘opt out’ of their EDC’s smart meter program or surcharge. Installation of a smart meter is a condition of service.” Respondent reinforced that position in its January 15, 2016 Communications Plan, which was submitted as a proposed exhibit in the administrative proceedings before Respondent initiated by Petitioner William Haas. In that document, PPL stated that it was installing “new” meters to “bring us into full compliance with state-mandated regulations on electric meter technology.” It also reinforced that customers cannot opt out of smart meter installation: “State law and regulations mandate this metering technology for all electric utility customers and do not provide for an opt-out option.”

57. Respondent, both in administrative decisions, and in its public statements, has consistently and unwaveringly taken the position that Act 129 requires the installation of smart meters without exception and without any

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<sup>1</sup> [http://www.puc.pa.gov/General/consumer\\_ed/pdf/13\\_Smart%20Meters.pdf](http://www.puc.pa.gov/General/consumer_ed/pdf/13_Smart%20Meters.pdf)

possibility of opting out; and PPL has taken the same position with regard to Petitioners and other customers .

58. Respondent, taking its reasoning even further, has consistently also held that that it lacked authority to order as relief for a proven statutory violation of Section 1501 that an electric utility install an alternative to a smart meter on the homes of electric customers. *See, e.g., Maria Povacz v. PECO Energy Company*, Docket No. C-2015-2475023, Order at 6 (Pennsylvania PUC, June 30, 2015) (“The Commission cannot grant the relief of precluding PECO from installing a smart meter upon the service property as requested by the Complainant.”). Respondent recently reiterated this position. In a brief filed by Respondent before this Court, it stated: “The application of Section 1501 does not eliminate or affect the mandatory installation of smart meters under Section 129.” (Brief of Respondent Pennsylvania Public Utility Commission at 29, *Mary Paul v. Pennsylvania Public Utility Comm’n*, No. 460 C.D. 2019, at 29 (Pa. Commw. Nov. 7, 2019)).

59. In sum, Respondent has at all times maintained: (a) that Act 129 requires the installation of smart meters on the properties of all large utility customers; (b) that Act 129 does not allow customers to opt out of smart meter installation; and, therefore, (c) that a customer may not obtain as relief in a proceeding before Respondent that an alternative to a wireless smart meter be installed, even if the customer establishes a statutory violation of Section 1501.

60. Respondent, in accordance with its view of Act 129, has never allowed a customer to refuse installation of a wireless smart meter in the customer’s home.

61. This Court arguably has concurred with Respondent's interpretation of Act 129, having referred to "Act 129's compulsory installation" requirement. *Romeo v. Pennsylvania Public Utility Comm'n*, 154 A.3d 422, 427-28 (Pa. Commw. 2017).

62. For all these reasons, Petitioners' continuing their action against PPL would have been futile and brought Petitioners no relief. Respondent has consistently found that customers cannot opt out of what it views as Act 129's mandatory installation requirement; and further found that, even if a petitioner established a violation of the Public Utility Code, Respondent nevertheless cannot order as relief in an administrative proceeding that an alternative to a wireless smart meter on their properties.

63. Accordingly, even if Petitioner William Haas had, at great expense, continued with his complaints before Respondent, he would not have obtained the relief he sought.

64. Moreover, Respondent in the administrative proceedings could not have considered or decided the present constitutional challenge to Act 129. *Delaware Valley Apt. House Owner's Ass'n v. Commonwealth, Dep't of Revenue*, 389 A.2d 615, 619 (Pa. Commw. 1978) ("the determination of the constitutionality of enabling legislation is not a function of the administrative agencies thus enabled").

V. CLAIMS

COUNT I

**(Violation of Petitioners' Substantive Due Process  
Rights Guaranteed by the Pennsylvania  
and United States Constitutions)**

65. Petitioners incorporate the foregoing paragraphs as if fully set forth herein.

66. Act 129 violates the substantive due process rights of Petitioners and similarly situated persons who object to the forced installation of wireless smart meters on their property.

67. Act 129 substantially interferes with several of Petitioners' fundamental rights that are guaranteed by the Pennsylvania and United States Constitutions. Specifically, Act 129 causes direct harm to Petitioners' right to privacy; to their right to bodily integrity; to their right to free enjoyment of the use of their property without unreasonable governmental interference; and to their right to be free from unreasonable searches and seizures.

68. PPL, in installing smart meters at Petitioners' properties is doing so because of Act 129, which, as interpreted by Respondent, *mandates* the installation of wireless smart meters with no exceptions or opt-outs. *Barasch v. Pennsylvania Public Utility Comm'n*, 576 A.2d 79, 87 (Pa. Commw. 1990) (Commission's action in approving tariff to allow Caller ID constituted state action, and court considered constitutional challenges to tariff on merits).

69. Pursuant to Act 129, the legislature has, by legislative fiat, ordered PPL, an electric utility with over 100,000 customers, to install smart meters on Petitioners' properties.

70. Respondent has consistently enforced Act 129 by not allowing any electricity consumer covered by its scope to opt out of having a wireless smart meter installed either in consumers' homes, or immediately outside their homes, on the consumers' property.

71. PPL, due directly to Act 129 and Respondent's consistent position that no consumer may opt out of having a wireless smart meter installed on their property, has taken the position that it is required to install wireless smart meters on Petitioners' properties, and has, in fact, done so.

72. PPL has taken its action in installing wireless smart meters on Petitioners' properties over the clear objections of Petitioners, who have consistently asserted that they have real health concerns over the RF emitted by wireless smart meters and do not want them in their homes or on their properties.

73. Under the substantive due process analysis, courts must weigh the rights infringed upon by the law against the interest sought to be achieved by it, and also scrutinize the relationship between the law (the means) and the interest (the end). *Nixon v. Commonwealth*, 839 A.2d 277, 286-87 (Pa. 2003).

74. The Constitutions of both Pennsylvania and the United States guarantee a right to privacy to Petitioners, conferring on them the right to make fundamental decisions regarding their lives and their homes and properties without undue governmental interference. *Bowser v. Blair County Children and Youth*

*Services*, 346 F. Supp.2d 788, 802 (W.D. Pa. 2004); *In re Fiori*, 652 A.2d 1350, 1354 n.3 (Pa. 1995) (“The right to privacy is founded upon both state and federal constitutional guarantees.”); *Commonwealth v. Wiley*, 904 A.2d 905, 909 n.4 (Pa. 2006) (noting that the Pennsylvania constitution offers even greater privacy rights to its citizens than the United States constitution). *See also* *People v. Cook*, 41 Cal. 3d 373, 379 (Cal. 1986) (“we guard with particular zeal an individual’s right to carry on private activities within the interior of a home..., free from unreasonable governmental intrusion”) (citing, *inter alia*, *Vale v. Louisiana*, 399 U.S. 30, 34 (1976)).

75. Under the Pennsylvania Constitution, the right to privacy is “fundamental” and subject to a strict scrutiny analysis. *Id.* at 286 (noting that the fundamental right to privacy flows from the Constitution’s Article 1, Section 1, which confers on citizens “certain inherent and inalienable rights, among which are those of enjoying and defending life and liberty, or acquiring, possessing and protecting property and reputation, and of pursuing their own happiness”). *See also* *Pennsylvania State Educ. Ass’n v. Commonwealth*, 148 A.3d 142, 150-51 (Pa. 2016) (containing extensive discussion of right to privacy under Article 1, Section 1, and noting that, compared to the “golden, diamond-studded right to be let alone... [e]verything else ... is dross and sawdust”) (quoting *Commonwealth v. Murray*, 223 A.2d 102, 109-10 (Pa. 1966)); *Commonwealth v. Brion*, 652 A.2d 287, 287 (Pa. 1995) (“the right to privacy in one’s domain is sacrosanct”); *Commonwealth v. Schaeffer*, 688 A.2d 1143, 1146 (Pa. 1993) (“For the right to privacy to mean anything, it must guarantee privacy to an individual in his own home.”); *Commonwealth v. Shaw*, 383 A.2d 496, 499 (Pa. 1978) (“Upon closing the door of one’s home to the outside world,

a person may legitimately expect the highest degree of privacy known to our society.”) (internal quotations and citation omitted); *Commonwealth v. Bubonovich*, 2007 WL 4967570, 2 Pa. D & C. 5<sup>th</sup> 77, 80 (Pa. Com. Pl. Fayette County) (“both the United States Constitution and the Pennsylvania Constitution place a high priority on protecting an individual’s right to privacy in his own home”). The right to privacy under the federal Constitution is also considered “fundamental.” *Paul P. v. Verniero*, 170 F.3d 396, 399 (3d Cir. 1999).

76. Act 129 impinges on that right, by forcing persons to accept into their homes or on their properties a physical force-emitting device of unproven safety and whose presence causes certain citizens, including Petitioners, unhappiness and mental distress, and possibly physical harm. This severely and negatively impacts these persons’ right to feel safe and secure in their own homes, free from unwanted governmental intrusion.

77. Act 129 also substantially interferes with Petitioners’ fundamental right to bodily integrity in that it imposes a governmentally mandated interference with Petitioners’ bodies through RF. *Rideout v. Hershey Medical Center*, 1995 WL 924561 at \*14, Pa. D & C. 4<sup>th</sup> 57 (Pa. Com. Pl., Dauphin County 1995) (the concept of bodily integrity encompasses “the right of every individual to be let alone, free from unwanted restraint, interference, or touching”) (citing *Cruzan v. Director, Missouri Dep’t of Health*, 497 U.S. 261, 110 S. Ct. 2841, 2846-47 (1990)).

78. Courts also have recognized that “[i]ndividuals have a constitutional liberty interest in personal bodily integrity that is protected by the Due Process Clause of the Fourteenth Amendment.” *Kane v. Barger*, 902 F.3d 185, 192 & n.19 (3d

Cir. 2018) (citing *Phillips v. County of Allegheny*, 515 F.3d 224, 235 (3d Cir. 2008); *Black v. Indiana Area School Dist.*, 985 F.2d 707, 709 n.1 (3d Cir. 1993) (noting that the Fourteenth Amendment protects a liberty interest in bodily integrity)). “The Supreme Court has also specifically observed that ‘the “liberty” interest specially protected by the Due Process Clause includes the right[ ] ... to bodily integrity.’” *Id.* & n.20 (quoting *Washington v. Glucksberg*, 521 U.S. 702, 720 (1997)). The constitutional right to bodily integrity is recognized as “fundamental.” *Washington*, 521 U.S. at 720; *Black*, 985 F.2d at 709 n.1. Governments may violate this right when through their actions (here, through the passage of Act 129) they have created the very condition that causes the violation of bodily integrity. *Morrow v. Balaski*, 719 F.3d 160, 167 (3d Cir. 2013); *Kneipp v. Tedder*, 95 F.3d 1199, 1201 (3d Cir. 1996).

79. It is indisputable that RF is an actual physical force that can come into contact with humans in the same way that the x-rays in the doctor’s office can come into contact with human tissue. The only difference is that x-rays have been proven and are recognized as sources of potential harm, but that should not matter. The government has no right to expose anyone to a physical force in their own home absent some compelling justification and here there is none. There is no exception for forces deemed by the government to be safe or even salutary.

80. Further, RF exposure from smart meters has not been proven safe and is the subject of further study. The long-term health effects from exposure to it are unknown.

81. Just because many or most people willingly accept RF exposure, or cannot avoid it in public places, does not give government the power to *force* it on

people against their wishes by means of a device installed on their homes or properties.

82. Petitioners' right to bodily integrity is clearly violated by the governmentally mandated installation of RF-emitting devices on their properties.

83. Act 129 further violates the rights of utility customers such as Petitioners to the free use and enjoyment of their property without unreasonable governmental interference.

84. Petitioners' right to free use of their property is a "prized and fundamental" constitutional right under the Pennsylvania Constitution. *See Parker v. Hough*, 215 A.2d 667, 669 (Pa. 1966) ("An owner of property in this Commonwealth has a tremendously prized and fundamental Constitutional right to use his property as he pleases, subject to certain [inapplicable] exceptions hereinafter set forth."); *see also Robinson Twp. Washington County v. Commonwealth*, 83 A.3d 901, 948 (Pa. 2013) (Article 1, Section 1 "right to acquire and own property, and to deal with it and use it as the owner chooses, so long as the use harms nobody, is a natural right [that] does not owe its origin to constitutions [but] existed before them") (quoting *Appeal of Lord*, 81 A.2d 533, 537 (1951)).

85. Act 129 constitutes a governmental interference with Petitioners' right in that it forces them to use their property for an unwanted purpose, for the sole apparent benefit of the administrative convenience of a private utility company, and greatly interferes with the free use of their properties.

86. Petitioners further possess under Article 1, Section 8 of the Pennsylvania Constitution ("the people shall be secure in their persons, houses,

papers and possessions from unreasonable searches and seizures....”) a fundamental right against unreasonable searches and seizures of both their persons and their property.

87. This right is similarly guaranteed by the Fourth Amendment to the United States Constitution. The Supreme Court of the United States has made clear in the Fourth Amendment context that the Constitution protects the fundamental right of citizens to be free from governmental intrusion into their homes. *Stanley v. Georgia*, 394 U.S. 557, 564 (1969) (the right to be free, except in limited circumstances, from unwarranted governmental intrusions into the privacy of the home is fundamental to our free society); *Silverman v. United States*, 365 U.S. 505, 511 (1961) (at the core of the Fourth Amendment “stands the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion.”); *Mapp v. Ohio*, 367 U.S. 643, 646 (1961) (Fourth Amendment applies “to all (governmental) invasions ... of the sanctity of a man’s home and the privacies of life.”); *Wolf v. Colorado*, 338 U.S. 25, 27-28 (1949) (security of privacy in the home against arbitrary governmental intrusion is basic to a free society).

88. The area protected Fourth Amendment includes the curtilage, i.e., area immediately surrounding house, “which we have held enjoys protection as part of the home itself.” *Florida v. Jardine*, 569 U.S. 1, 6 (2013). Thus, even where meters are located outside of the four walls of the home, Fourth Amendment and privacy protections apply.

89. Compared to the federal Constitution, the Pennsylvania Constitution provides for “enhanced” protection from unreasonable searches and seizures, based

specifically on that provision's "strong notion of privacy, which is greater than that of the Fourth Amendment." *Commonwealth v. Waltson*, 724 A.2d 289, 292 (Pa. 1998). "As the [Pennsylvania] Supreme Court has stated repeatedly in interpreting Article 1, Section 8, that provision is meant to embody a strong notion of privacy." *Jones v. City of Philadelphia*, 890 A.2d 1188, 1196 (Pa. Commw. 2006). *See also Commonwealth v. Wiley*, 904 A.2d 905, 909 n.4 (Pa. 2006) (Pennsylvania Constitution places greater importance on privacy than the United States Constitution).

90. That right is especially important in one's home. *Brion*, 652 A.2d at 287; *Shaw*, 383 A.2d at 499; *Bubonovich*, 2007 WL 4967570, 2 Pa. D & C. 5<sup>th</sup> at 80; *Schaeffer*, 688 A.2d at 1146.

91. A violation of the right against unreasonable searches and seizures does not require a tangible intrusion into the home. *Kyllo v. United States*, 533 U.S. 27, 41 (2001) (use of thermal imaging device to obtain information about interior of house was a search); *Florida v. Jardines*, 569 U.S. 1 (2013) ("law enforcement officers' use of drug-sniffing dog on front porch of home, to investigate an unverified tip that marijuana was being grown in the home, was a trespassory invasion of the curtilage which constituted a "search" for Fourth Amendment purposes).

92. The emission of RF waves through a governmentally mandated electronic device placed on Petitioners' properties for the purpose of gathering information clearly constitutes a search of Petitioners' homes, and a seizure of their persons through forced exposure to an unwanted physical force that interacts with Plaintiffs' bodies. *See United States v. Karo*, 468 U.S. 705, 715 (1984).

93. Act 129 severely impacts and impinges upon all of these rights, which are fundamental rights accorded the highest level of protection from governmental overreach.

94. Thus, Act 129 is subject to a “strict scrutiny” analysis, and is constitutional only if it is narrowly tailored to a compelling state interest. *Nixon v. Commonwealth*, 839 A.2d 277, 286-87 (Pa. 2003); *Office of Lieutenant Governor v. Mohn*, 67 A.3d 123, 128 (Pa. Commw. 2013) (government’s intrusion into person’s privacy may be constitutionally justified only where the government interest “is significant and there is no alternate reasonable method of lesser intrusiveness to accomplish the governmental purpose”) (quoting *Denencourt v. Commonwealth State Ethics Comm’n*, 470 A.2d 945, 949 (Pa. 1983)); *In re Fiori*, 652 A.2d 1350, 1354 n.3 (Pa. 1995) (“Under the law of this Commonwealth only a compelling state interest will override one’s privacy rights.”).

95. There is no “compelling state interest” to justify the lack of an opt-out provision in Act 129. Whatever the state’s interest in generally upgrading the electrical system through smart meters, there can be no “compelling” need to force a small minority of electrical customers who object to wireless smart meters in their own homes to accept them. This is made clear by the law’s, on its face, exempting from its reach utilities who have fewer than 100,000 customers. If large numbers of electricity customers in Pennsylvania (i.e., all of those served by EDCs with less than 100,000 customers) can be exempted under the terms of the law without damage to the underlying aims of Act 129, there can be no “compelling” reason that small amounts of customers of larger utilities (i.e., those serving over 100,000 households)

cannot be similarly exempted. Further, the lack of an opt-out primarily benefits not the Commonwealth, or its citizens, but instead private utility companies for whom the inability of customers to opt out of coerced wireless smart meter installation may arguably result in administrative convenience to the utility. Such administrative convenience to select private utilities cannot conceivably outweigh the fundamental constitutional rights of customers, including Petitioners, to exclude from their own properties a force-emitting device that they believe can cause them harm.

96. Indeed, any arguable “state interest” in not allowing Petitioners to opt out of forced installation of wireless smart meters on their homes and properties could not conceivably be sufficiently “compelling” as to outweigh the multiple violation of Petitioners’ fundamental rights, and the rights of similarly-situated persons who object to the governmentally-mandated installation of such devices in or near their homes.

97. Moreover, Act 129 is not “narrowly tailored,” as it imposes forced installation of smart meters on all customers of large utilities when there are clearly less intrusive options available, including analog meters; and smart meters where the data collected by the smart meter is transmitted to the utility through means other than RF.

98. It is Petitioners’ constitutional right to make fundamental choices about their homes, properties, bodies, and privacy.

99. The government, absent a compelling state interest, has no right to mandate physical intrusion into these areas. 100. Numerous other jurisdictions

have avoided similar constitutional concerns by allowing consumers who object to wireless smart meters to opt out of their forced installation.

101. Act 129, to the extent that it mandates that all electric utility customers are required to install wireless smart meters on their properties, with no ability to opt out, is unconstitutional.

**VI. PRAYER FOR RELIEF**

WHEREFORE, Petitioners request that this Court enter judgment in their favor and:

a. Declare that Act 129, and its implementing regulations, are unconstitutional to the extent that they do not allow Petitioners and persons similarly situated to opt out of the installation of wireless smart meters on their properties; and

b. Declare that all electric utilities covered by Act 129 may not require the installation of wireless smart meters on the properties of their customers;

c. Permanently enjoin Respondent from requiring electric utilities to install wireless smart meters in the homes of all customers, without the ability to opt out; and

- d. Grant such other relief as may be just and proper.

Respectfully submitted,

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Dated: November 27, 2019

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WILLIAM and JEAN HAAS,  
Petitioners,

v.

PENNSYLVANIA PUBLIC  
UTILITIES COMMISSION,  
Respondents.

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IN THE COMMONWEALTH  
COURT OF PENNSYLVANIA

Docket No.:

**NOTICE TO DEFEND**

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within 20 days after this Petition and Notice are served by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgement may be entered against you by the court without further notice for any claim or relief requested by the Petitioners.

YOU SHOULD TAKE THIS PAPER TO A LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

**DAUPHIN COUNTY BAR ASSOCIATION**

**Lawyer Referral Service**

**213 North Front Street**

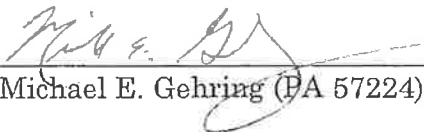
**Harrisburg, PA 17101**

**(717) 232-7536**

**PUBLIC ACCESS POLICY CERTIFICATE OF COMPLIANCE**

It is hereby certified by the undersigned that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Dated: November 27, 2019

  
\_\_\_\_\_  
Michael E. Gehring (PA 57224)

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

Haas, William, et al., Petitioner v. Pennsylvania : New Case  
Public Utilities Commission :  
:

**PROOF OF SERVICE**

I hereby certify that this 27th day of November, 2019, I have served the attached document(s) to the persons on the date(s) and in the manner(s) stated below, which service satisfies the requirements of Pa.R.A.P. 121:

**Service**

Served: Attorney General  
Service Method: eService  
Service Date: 11/27/2019  
Address: Strawberry Square  
16th Floor  
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Phone: (71-7) -787-3391

Served: Pennsylvania Public Utilities Commission  
Service Method: Personal Service  
Third Party:  
Service Date: 11/27/2019  
Address: Commonwealth Keystone Building  
P.O. Box 3265  
Harrisburg, PA 17105  
Phone: --  
Representing: Respondent Pennsylvania Public Utilities Commission

/s/ Stephen G. Harvey

*(Signature of Person Serving)*

Person Serving: Harvey, Stephen G.  
Attorney Registration No: 058233  
Law Firm: Steve Harvey Law LLC  
Address: 1880 Jfk Blvd Ste 1715  
Philadelphia, PA 19103  
Representing: Petitioner Haas, Jean  
Petitioner Haas, William

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Motion for an Extension of Time and For Leave to File Surrebuttal Testimony has been served upon the following persons in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

**Via EMAIL & FIRST CLASS MAIL**

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Dated: January 21, 2020

*s/ Joanna A. Waldron*  
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