

3835 Acorn Street
Pittsburgh, PA 15207

January 31, 2020

VIA ELECTRONIC FILING

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

Re: Miranda Grace Edwards v. Duquesne Light Company
Docket No. C-2018-3002741

Dear Secretary Chiavetta:

Attached please find the **Objection of Miranda Grace Edwards to the Response and Objections of Duquesne Light Company dated January 9, 2020**, regarding my Motion to Stay of Proceedings filed December 20, 2019, in the above-referenced matter.

A copy of this document has been served upon the Respondent's Counsel, Shane Miller, Esq., in accordance with Commission regulations and as shown in the Certificate of Service.

Please feel free to contact me if you have any questions.

Sincerely,



M. Grace Edwards
Complainant
msea.mdew@gmail.com

Attachment

Cc: ALJ Watson
Shane Miller, Esquire, Counsel for Duquesne Light Company (via email) (with attachment)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MIRANDA GRACE EDWARDS,

Complainant,

vs.

DUQUESNE LIGHT COMPANY,

Respondent.

No. C-2018-3002741

**OBJECTION OF MIRANDA GRACE EDWARDS TO THE RESPONSE AND OBJECTIONS OF
DUQUESNE LIGHT COMPANY DATED JANUARY 9, 2020**

Date: January 31, 2020

Dear Honorable Judge Watson,

On January 9, 2020, Duquesne Light Company (DLC) responded to my Motion to Stay of Proceedings. Please allow this letter to serve as my objection to DLC's response and objection.

DLC cited several cases in its argument. I will address these along with points in the argument in the order they were cited by DLC.

- DLC referred to Brunn v. Pa. Power Co., Docket No. C-20066209, 2006 WL 2846261 at *2 (Pa. PUC Sept 29, 2006). I have excerpted two relevant passages below:
 1. *The issues raised in the Commonwealth Court proceeding appear to revolve around whether and to what extent the Commission and/or the township has jurisdiction over the installation of a distribution line. In contrast, the instant proceeding raises questions concerning the scope of the obligation of the Respondent to install underground service lines to a planned development.*

The issues raised in William and Jean Haas, Petitioners v. Pennsylvania Public Utilities Commission, Respondent, Docket No. 658 MD 2019, revolve around whether Act 129 violates the Pennsylvania State Constitution; whether the PUC's interpretation of Act 129 violates the Pennsylvania State Constitution; and whether Act 129 also violates the United States Constitution. I have made this very same argument in the instant proceeding—i.e., my Formal Complaint C-2018-3002741. Should the Commonwealth Court rule in favor of William and Jean Haas, an RF/EMF-emitting, data-collecting and -disseminating, potentially hazardous "smart meter" will not have to be deployed on my property in order for me to avoid having my electricity shut off. The proceedings of my

Formal Complaint C-2018-3002741 will be moot because I can continue to receive electricity from DLC without being forced to accept their “smart meter” on my property. The issues raised in William and Jean Haas, Petitioners v. Pennsylvania Public Utilities Commission, Respondent, Docket No. 658 MD 2019, are directly relevant to my Formal Complaint C-2018-3002741.

2. *The dispute between Mr. Brunn and Penn Power is preventing the development of Mr. Brunn’s property and threatens to unravel his agreement of sale with the developer. (Tr. at 15-16). Interested buyers of the seven lots cannot move forward with plans to buy lots and build homes while this dispute with Penn Power remains unresolved. (Tr. at 34). Although in an ideal, perfectly planned world, the litigation between Penn Power and Pine Township regarding the distribution line would be resolved first, requiring Mr. Brunn to wait for this resolution would be unreasonable.*

The dispute between DLC and me is preventing DLC from shutting off my electricity or installing an RF/EMF-emitting, data-collecting and -disseminating, potentially hazardous “smart meter” on my property. DLC asserts that DLC “will be harmed by the issuance of a stay” because “[it] is required by Act 129 and its Smart Meter Plan (which was filed with the Commission on June 29, 2012 and amended on April 7, 2017) to install smart meters at its customers’ service addresses, which includes [my] residence.” DLC then avers that because Haas is in its early stages, the case could take a long time to reach a resolution. Presumably, DLC is arguing that it will be harmed by running afoul of the PUC’s interpretation of Act 129 during the time it takes for Haas to work its way through the system. However, it is the PUC’s interpretation of Act 129 that is at issue in Haas. Moreover, the PUC is aware of the circumstances preventing DLC from installing the “smart meter” on my property or shutting off my electricity because the PUC is presiding over this case (C-2018-3002741). It seems unlikely that the PUC would penalize DLC for refraining from actions that are prohibited by Pa Code while a Formal Complaint is pending.

I am the party who faces harm from the degradation of my privacy, health, and safety in my own home—or a loss of electricity, an equally substantial harm because electricity is essential for the daily activities of life in our society. The Haas case speaks directly to my claim that either of these outcomes will harm me and that DLC and the PUC have no right to cause me this harm. If the PUC considers protecting a business deal sufficient grounds to rule against a utility company, then it should similarly consider my privacy, health, and safety worthy of overruling DLC’s objection to my motion.

Furthermore, the record shows I have been arguing for the past year that my hearing process has been unfairly and unreasonably rushed because the deadlines established during the holiday season of 2018-2019 were impossible for me to meet.

- DLC referred to Pa. Public Utility Commission, Bureau of Investigation and Enforcement v. Uber Technologies, Inc. Docket No. C-2014242273, 2014 WL 3834558, at *1 (Pa. PUC July

24, 2014) (Long and Watson, ALJ) (finding there were no "compelling reasons" to grant a stay of the proceedings). The relevant document is no longer publicly accessible on the PUC website.

- DLC referred to Pa. Public Utility Commission v. Process Gas Consumers Group, 467 A.2d 805 by way of Brunn, 2006. But the Process Gas criteria DLC uses here are not applicable to this case. In the PUC's own **Application(s) for Relief of the Pennsylvania Public Utility Commission in the Form of a Motion for Extension of Time** in the matter of McKnight v. Pa. Public Utility Commission, Docket No. 1253 C.D. 2019 and others, the PUC itself argues that:

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[sic]. filed June 6, 2019); Paul v. Pa. Public Utility Commission, Docket No. 460 C.D. 2019 (Pa. Cmwth. filed April 16, 2019); and three consolidated cases, Povacz v. Pa Public Utility Commission, Docket No. 492 C.D. 2019 (Pa. Cmwth. filed April 26, 2019), Murphy v. Pa. Public Utility Commission, Docket No. 606 C.D. 2019 (Pa. Cmwth. filed May 22, 2019), and Randall[-Albrecht] v. Pa. Public Utility Commission, Docket No. 607 C.D. 2019 (Pa. Cmwth. filed May 22, 2019) (collectively, Pending Appeals).

8. Paul, Povacz, Murphy, and Randall[-Albrecht] 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.¹

1 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[-Albrecht] 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[sic]. 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 appeals² 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.

2 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. Cmwlth. 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. Cmwlth. filed November 7, 2019).

The PUC did not use the Process Gas criteria in its argument and the Commonwealth Court did not use the Process Gas criteria in its decision.

- DLC referred to Hoffman-Lorah v. PPL, Paul v. PECO Energy Co., Povacz v. PECO Energy Co., Bervinchak v. PPL Elec. Utilities Corp., and Zimmerman v. PPL Elec. Utilities Corp. Except for Bervinchak and Zimmerman, these are the same cases now in Pa. Commonwealth Court for which the PUC itself received an extension of time as detailed above.

Moreover, DLC states, "The presiding ALJ will likely reach the same conclusion in this case [C-2018-3002741] under the rule of *stare decisis*. See Bervinchak v. PPL Elec. Utilities Corp., Docket No. C-2016-2577527 and Docket No. C-2016-2572824, 2018 WL 4185438, at *15 (Pa. P.U.C. Aug. 16, 2018) (Barnes, ALJ) (*stare decisis* precedent at the Commission level requires a finding that Act 129 contains no opt-out); Zimmerman v. PPL Elec. Utilities Corp., Docket No. C-2017-2615038, 2018 WL 4185439, at *15 (Pa. P.U.C. Aug. 16, 2018) (Barnes, ALJ) (same)."

Bervinchak and Zimmerman contain no precedent for a decision in favor of the utility company against a Motion to Stay of Proceedings. At the time of the Bervinchak and Zimmerman Initial Decisions DLC cites above, the relevant cases I have cited were not before the PA Commonwealth Court.

Circumstances have changed and continue to change in regard to the smart meter cases before the PUC court. For example, prior to Kreider v. PECO Energy Company, Docket No. C-2015-2469655, the PUC court routinely dismissed smart meter harm complaints without hearing the cases—including earlier iterations of the same cases DLC cites above that have progressed to the Commonwealth Court. In addition, the Haas case is in the Commonwealth Court. These relatively recent developments would not have influenced earlier cases similar to mine in which an ALJ dismissed a Complainant's Motion to Stay of Proceedings.

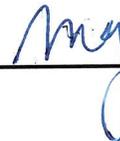
In my research on *stare decisis*, I came across an article defining the term at www.law.cornell.edu/wex/stare_decisis. It states in part: "Despite the legal stability afforded by *stare decisis*, it is not without negative externalities. Critics argue that the doctrine occasionally permits erroneous decisions to continue influencing the law and encumbers the legal system's ability to quickly adapt to change."

I and my fellow petitioners in these smart meter complaints aver that the PUC's interpretation of Act 129 is incorrect and unconstitutional because it allows Pennsylvania residents no opt-out even for health reasons. Therefore, it is important—for judicial economy if for no other reason—that my smart meter harm hearing be postponed at least until the Commonwealth Court has had a chance to opine on the PUC's interpretation of Act 129.

- DLC referred to Re Service Electric Telephone Company, LLC, Docket No. P-2013-2349801; Core Communications, Inc. v. Verizon Pennsylvania, Inc. and Verizon North, LLC, Docket No. P-201102253650; Americus Centre, Inc. v. PPL Electric Utilities Corp., Docket No. C20011727; and SBG Management Services, Inc. v. Phila. Gas Works SBG Management Services, Inc. Docket Nos. C-2012-2304183 and C-2012-02304324, 2019 WL 1506820 (Pa. PUC Mar. 28, 2019). Again, DLC is citing cases where Process Gas criteria were used. Those criteria reflect a higher standard than is applicable in this case.

WHEREFORE, I respectfully request that the Presiding ALJ grant my Motion to Stay of Proceedings and deny DLC's request to deny the Motion to Stay of Proceedings.

Respectfully submitted,



Miranda Grace Edwards

January 31, 2020

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MIRANDA GRACE EDWARDS,

Complainant,

vs.

DUQUESNE LIGHT COMPANY,

Respondent.

No. C-2018-3002741

CERTIFICATE OF SERVICE

I, Miranda Grace Edwards, hereby certify that I have this day served a true copy of my Objection of Miranda Grace Edwards to the Response and Objections of Duquesne Light Company dated January 9, 2020, in accordance with the requirements of 52 PA. Code § 1.54 (relating to service by a participant):

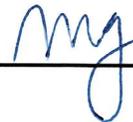
VIA EMAIL:

Paul Shane Miller, Esquire
PA I.D. No. 319174
smiller@tuckerlaw.com
1500 One PPG Place
Pittsburgh, PA 15222
Fax: 412-594-5619

VIA EMAIL AND E-FILING:

Administrative Law Judge Jeffrey A. Watson
Pennsylvania Public Utility Commission
Piatt Place, Suite 220
301 Fifth Ave.
Pittsburgh, PA 15222

Dated this 31st day of January, 2020



Miranda Grace Edwards
msea.mdew@gmail.com
3835 Acorn Street
Pittsburgh, PA 15207