

VIA ELECTRONIC FILING

January 31, 2020

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

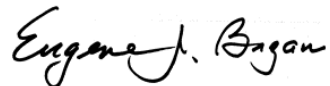
**Brief Requesting Interlocutory Commission Review
and Answer to a Material Question: 52 PA Code § 5.302**

(Eugene J. Bazan v. West Penn Power Company, Docket # C-2017-2640338)

Dear Secretary Chiavetta:

Enclosed is my Brief Requesting Interlocutory Commission Review as per 52 PA Code § 5.302. My certificate of service is attached at the end.

Sincerely,



Eugene J. Bazan
Complainant

Brief for Interlocutory Commission Review and Answer to a Material Question: 52 PA Code § 5.302

Introduction

During a second prehearing conference call held on Wednesday January 22, 2020, ALJ Jeffrey Watson ordered that all documents which parties wish to present for Judicial Notice be submitted in their entireties and properly authenticated by January 29, 2020.

Complainant had planned to submit documents reflecting the legislative history of Act 129. These documents would include Printers Numbers (PNs) of HB 2200 stored on the Pennsylvania General Assembly Bill Information – History website. The particular page in question is here:

https://www.legis.state.pa.us/cfdocs/billinfo/bill_history.cfm?year=2007&sind=0&body=H&type=B&bn=2200

Complainant determined that sometime between March 2019 and December 2019, at least two of these documents had become corrupted and no longer are true.

This corruption may reflect criminal activity, but that is not for me to investigate. The corruption may also extend to other pages on this website. I cannot now present, in my case, correct information on the history and legislative intent of Act 129, to support my case.

The material question is as follows: “What direction will the Commission give ALJ Watson and the parties involved to enable me to proceed with the presentation of the history and legislative intent of Act 129, using correct information from the PA Legislative History Website?”

As a remedy, I propose a stay on my proceeding until the authenticity of the legislative website can be affirmed, and documents returned to their original and true state. Since there are other complainants also using this particular page and PNs for their proceedings, a stay would benefit not just the present complainant, but others.

The plain English meaning of Act 129 is at the core of almost every smart meter Formal Complaint now before the PUC and the Commonwealth Court. This plain English meaning has been obscured by the PUC Implementation Order of 2009 which insinuates “legislative intent” as a vehicle for transforming the Act as written into one mandating universal deployment. As a complainant, I require this review to prevent substantial prejudice against me, and to protect my rights in due process of law in this present proceeding.

Particulars

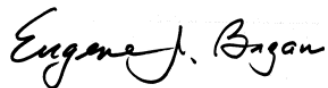
My wife first discovered the problem on November 20, 2019 but we have not been able to figure out what to do about it. Initially we thought we could do without the altered documents (excerpts of which we append below to show the problem), but as our hearing date of February 7 looms, we have been unable to find any satisfactory way to produce these documents in an authenticated form acceptable for our evidentiary hearing. The documents were true and correct in March 2019 when my wife had accessed them earlier for use in our interrogatories to our power company.

It is clear to us that someone has intentionally sought to thwart complainants who have smart meter cases from obtaining the authenticated documents necessary to address the "intent of the General Assembly" which the utility argues as its reason for forcing smart meters on all Pennsylvania electric utility customers. An investigation into the corruption of this website could reveal a criminal offense.

The altering of the documents on the state legislature's history of Act 129 of 2008 website renders all documents posted there as unreliable and untrustworthy, pending a more careful investigation. This makes it impossible to offer these documents in evidence.

I have alerted my state representative, Kerry Benninghoff, and my state senator Jake Corman, and another complainant has alerted his state representative, David Maloney, to the above tampering and we have requested that they also ask for an immediate stay on our smart meter cases before the PUC until this matter is investigated and resolved. I urge that the PUC institute a stay on our cases, and the cases of those similarly situated, until such provisions can be made (without adversely impacting the investigation) to provide us with authenticated true documents for me and others to use in our evidentiary hearings.

Sincerely,

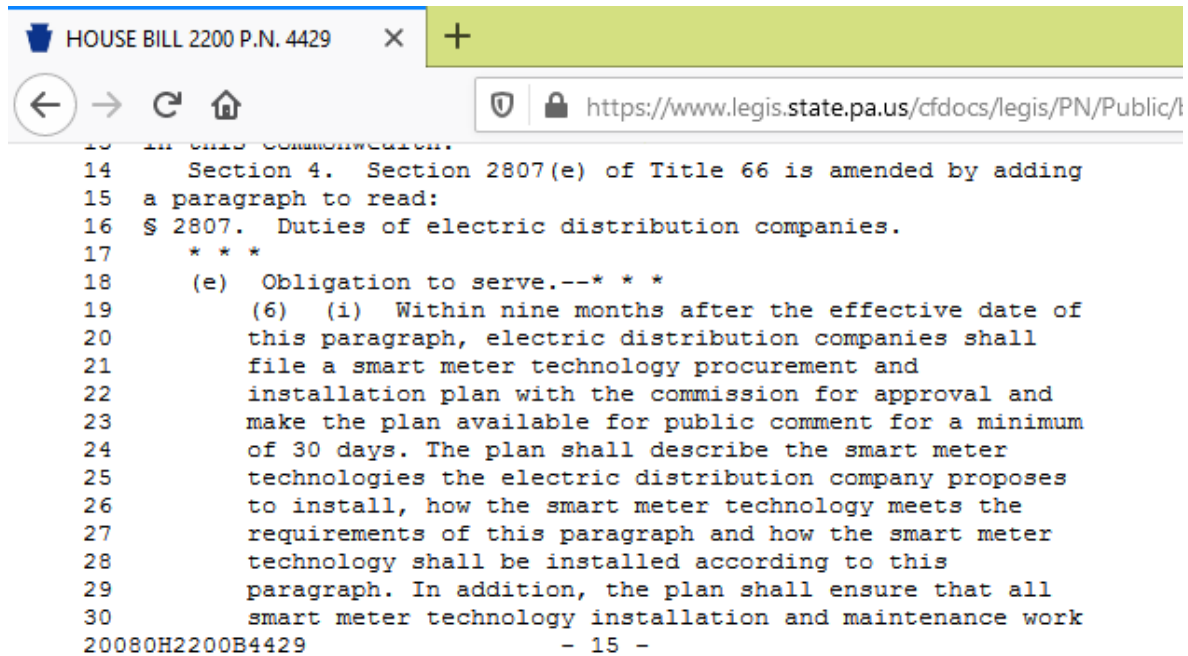
A handwritten signature in cursive script that reads "Eugene J. Bazan".

Gene Bazan
PO Box 24
Lemont, PA 16851
814-234-0836

Enc: Comparison of corrupted with proper copies of HB2200 Printer's Numbers

https://www.legis.state.pa.us/cfdocs/billinfo/bill_history.cfm?year=2007&sind=0&body=H&type=B&bn=2200

PN 4429 Corrupted version, text as it appears in Section 2807 is found on pages 15-16:



1 shall be performed by adequately trained and qualified
2 personnel and that, to the extent practical, such work
3 shall be offered initially to employees of the electric
4 distribution company.
5 (ii) Electric distribution companies shall furnish
6 smart meter technology to:
7 (A) Customers responsible for 40% of the
8 distribution company's annual peak demand within four
9 years after the effective date of this paragraph.
10 (B) Customers responsible for 75% of the
11 distribution company's annual peak demand within six
12 years after the effective date of this paragraph.
13 (C) One hundred percent of its customers within
14 ten years after the effective date of this paragraph.
15 Electric distribution companies shall, with customer
16 consent, make available electronic access to customer
17 meter data to third parties, including electric
18 generation suppliers and providers of conservation and
19 load management services.
20 (iii) Electric distribution companies shall be
21 permitted to recover all reasonable and prudent costs, as
22 determined by the commission, of providing smart meter
23 technology, including annual depreciation and capital

Please note that the ABOVE INCORRECT document cites furnishing smart meters in section 2807(e)(6)(ii) whereas the CORRECT text for PN 4429 cites furnishing smart meters in section 2807(f)(2). The following is a screen image from the PDF version is found on pp. 37-38:

20 (F) SMART METER TECHNOLOGY AND TIME OF USE RATES.--
21 (1) WITHIN NINE MONTHS AFTER THE EFFECTIVE DATE OF THIS
22 PARAGRAPH, ELECTRIC DISTRIBUTION COMPANIES SHALL FILE A SMART
23 METER TECHNOLOGY PROCUREMENT AND INSTALLATION PLAN WITH THE
24 COMMISSION FOR APPROVAL. THE PLAN SHALL DESCRIBE THE SMART
25 METER TECHNOLOGIES THE ELECTRIC DISTRIBUTION COMPANY PROPOSES
26 TO INSTALL IN ACCORDANCE WITH PARAGRAPH (2).
27 (2) ELECTRIC DISTRIBUTION COMPANIES SHALL FURNISH SMART
28 METER TECHNOLOGY AS FOLLOWS:
29 (I) UPON REQUEST TO A CUSTOMER THAT AGREES TO PAY
30 THE COST OF THE SMART METER.

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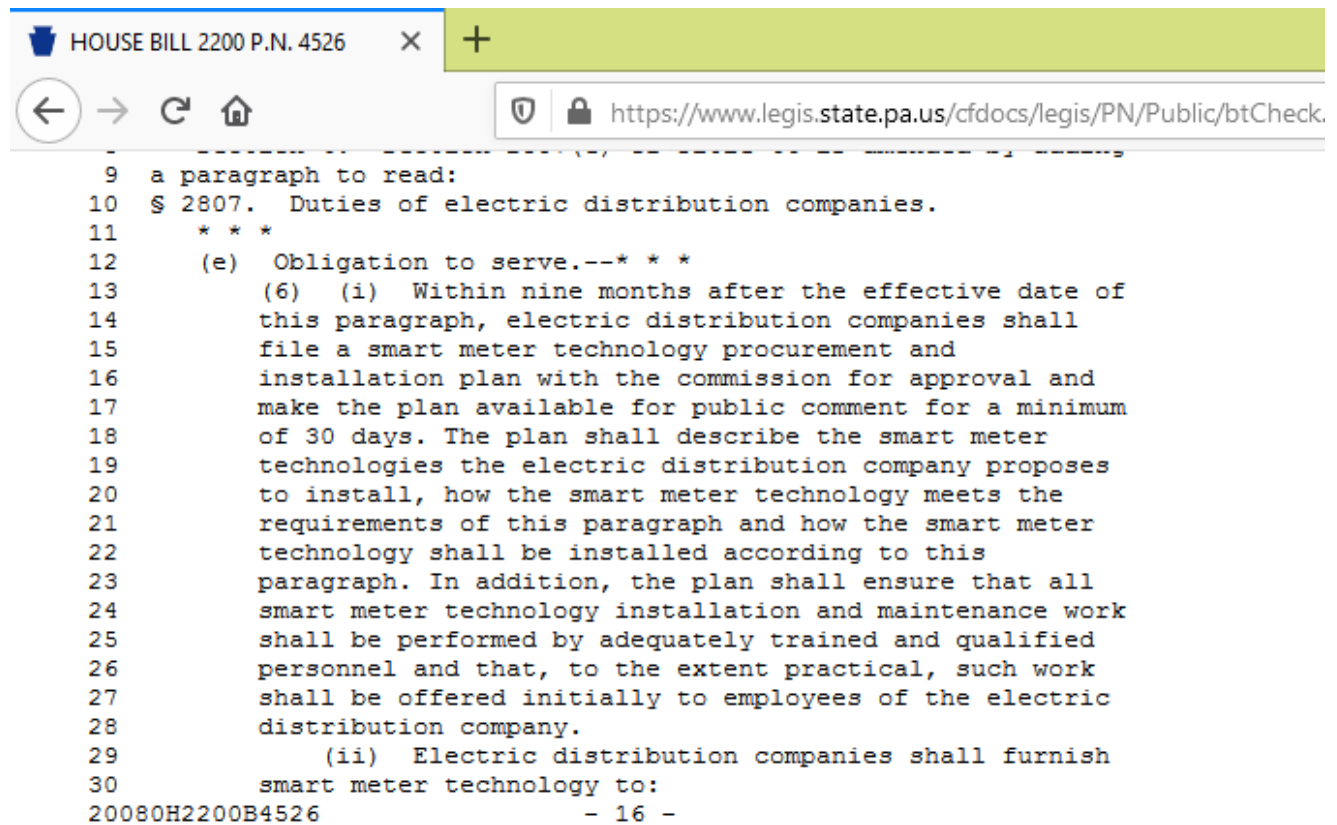
1 (II) IN THE CONSTRUCTION OF A NEW RESIDENCE OR NEW
2 BUILDING TO BE USED BY A COMMERCIAL CUSTOMER.
3 (III) IN ACCORDANCE WITH A SCHEDULE OF REPLACEMENT
4 OF FULL DEPRECIATION OF EXISTING METERS.
5 (3) ELECTRIC DISTRIBUTION COMPANIES SHALL, WITH CUSTOMER

The correct text (shown above) is preserved in the downloadable pdf version of PN 4429 at <https://www.legis.state.pa.us/cfdocs/billinfo/BillInfo.cfm?year=2007&sind=0&body=H&type=B&bn=2200>

However, the downloadable pdfs are not in a format that allows complainants to print out authenticated copies for use as evidence in their cases. The pdfs are also lengthy as they contain the stricken text from earlier versions of the bill. To produce these documents in their entirety as required by our judge is costly and burdensome, so shorter documents are preferable to use than long ones.

https://www.legis.state.pa.us/cfdocs/billinfo/bill_history.cfm?syearch=2007&sind=0&body=H&type=B&bn=2200

PN 4526 Corrupted version, text as it appears in Section 2807 is found on pages 16-17:



1 (A) Customers responsible for 40% of the
2 distribution company's annual peak demand within four
3 years after the effective date of this paragraph.
4 (B) Customers responsible for 75% of the
5 distribution company's annual peak demand within six
6 years after the effective date of this paragraph.
7 (C) One hundred percent of its customers within
8 ten years after the effective date of this paragraph.
9 Electric distribution companies shall, with customer
10 consent, make available electronic access to customer
11 meter data to third parties, including electric
12 generation suppliers and providers of conservation and
13 load management services.
14 (iii) Electric distribution companies shall be
15 permitted to recover all reasonable and prudent costs, as
16 determined by the commission. of providing smart meter

Please note that the ABOVE INCORRECT document cites furnishing smart meters in section 2807(e)(6)(ii) whereas the CORRECT text for PN 4526 cites furnishing smart meters in section 2807(f)(2). The following is a screen image from the correct PDF version found on page 70:

14 EACH CUSTOMER CLASS ARE NOT SUBSIDIZED BY ANY OTHER CLASS.
15 (F) SMART METER TECHNOLOGY AND TIME OF USE RATES.--
16 (1) WITHIN NINE MONTHS AFTER THE EFFECTIVE DATE OF THIS
17 PARAGRAPH, ELECTRIC DISTRIBUTION COMPANIES SHALL FILE A SMART
18 METER TECHNOLOGY PROCUREMENT AND INSTALLATION PLAN WITH THE
19 COMMISSION FOR APPROVAL. THE PLAN SHALL DESCRIBE THE SMART
20 METER TECHNOLOGIES THE ELECTRIC DISTRIBUTION COMPANY PROPOSES
21 TO INSTALL IN ACCORDANCE WITH PARAGRAPH (2).
22 (2) ELECTRIC DISTRIBUTION COMPANIES SHALL FURNISH SMART
23 METER TECHNOLOGY AS FOLLOWS:
24 (I) UPON REQUEST FROM A CUSTOMER THAT AGREES TO PAY
25 THE COST OF THE SMART METER AT THE TIME OF THE REQUEST.
26 (II) IN NEW BUILDING CONSTRUCTION.
27 (III) IN ACCORDANCE WITH A DEPRECIATION SCHEDULE NOT
28 TO EXCEED 15 YEARS.
29 (3) ELECTRIC DISTRIBUTION COMPANIES SHALL, WITH CUSTOMER
30 CONSENT, MAKE AVAILABLE DIRECT METER ACCESS AND ELECTRONIC

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The correct text (shown above) is preserved in the downloadable pdf version of PN 4526 at <https://www.legis.state.pa.us/cfdocs/billinfo/BillInfo.cfm?year=2007&sind=0&body=H&type=B&bn=2200>

However, the downloadable pdfs are not in a format that allows complainants to print out authenticated copies for use as evidence in their cases. The pdfs are also lengthy as they contain the stricken text from earlier versions of the bill. To produce these documents in their entirety as required by our judge is costly and burdensome, so shorter documents are preferable to use than long ones.

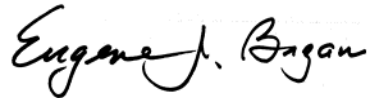
CERTIFICATE OF SERVICE

I certify that I have this day e-filed my letter dated January 31, 2020, **Brief for Interlocutory Commission Review and Answer to a Material Question: 52 PA Code § 5.302** to you, Secretary Chiavetta.

e-FILED with the PUC

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

January 31, 2020

A handwritten signature in black ink that reads "Eugene J. Bazan". The signature is written in a cursive style with a large initial "E".

Eugene J. Bazan
PO Box 24
Lemont, PA 16851
Docket No. C-2017-2640338