

Noreen McCarthy
18 Millstone Lane
Pottstown, PA 19465
contactnoreen1@gmail.com
610-469-2009

February 18, 2020

VIA ELECTRONIC FILING

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

Re: Noreen McCarthy v. Metropolitan Edison Company Docket No. C-2019-3006923

Dear Secretary Chiavetta:

Attached please find Complainant's (my) Motion to Stay of Proceedings in the above-referenced matter. A copy of this document has been served upon the Met-Ed attorney, in accordance with Commission regulations.

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

Sincerely,



Noreen McCarthy

Attachment

Cc: ALJ Watson
Tori L. Giesler (via email) (with attachment)
Lauren M. Lepkoski (via email) (with attachment)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

NOREEN MCCARTHY

v.

METROPOLITAN EDISON COMPANY

:
:
:
:

Docket No. C-2019-3006923

**MOTION TO STAY OF
PROCEEDINGS**

Filed on behalf of Complainant
Noreen McCarthy, Pro Se

NOTICE TO PLEAD

To Metropolitan Edison Company:

Pursuant to 52 Pa. Code § 5.103, you are hereby notified that, if you do not file a written response to the attached **Motion to Stay of Proceedings** of Noreen McCarthy within 20 days of service of this notice, a decision may be rendered against you. Any Response to the Motion to Stay of Proceedings must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to the Complainant and the Administrative Law Judge presiding over the issue.

Dated: February 18, 2020



Noreen McCarthy
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610-469-2009

E-filed with:

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

E-filed with:

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

Service by email, as follows:

Lauren M. Lepkoski
Tori L. Giesler
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, PA 19612-6001
llepkoski@firstenergycorp.com
tgiesler@firstenergycorp.com

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

NOREEN MCCARTHY	:	
v.	:	Docket No. C-2019-3006923
	:	
METROPOLITAN EDISON COMPANY	:	

MOTION TO STAY OF PROCEEDINGS

Pursuant to 52 Pa. Code § 5.103, Noreen McCarthy, Complainant, hereby files this Motion to Stay of Proceedings of Docket Number C-2019-3006923. In support of my motion, I state the following:

I. INTRODUCTION

In light of Pennsylvania Commonwealth Court cases including *Povacz v. Pennsylvania Public Utilities Commission*, Docket No. 492 CD 2019; *Murphy v. Pennsylvania Public Utilities Commission*, Docket No. 606 CD 2019; *Randall-Albrecht v. Pennsylvania Public Utilities Commission*, Docket No. 607 CD 2019; and *Paul v. Pennsylvania Public Utilities Commission*, Docket No. 460 CD 2019-which all center on the same or similar legal issues raised by me in this instant proceeding-it is most prudent to postpone unnecessary and costly activities of this proceeding until after the Commonwealth Court has made a ruling in the above-mentioned Petition/s. Both parties in this proceeding could avoid spending substantial time and resources litigating issues that might ultimately be moot.

For this reason, Noreen McCarthy, Complainant, respectfully requests a stay of proceedings of Docket Number C-2019-3006923 until after the Commonwealth Court's ruling on *Povacz v. Pennsylvania Public Utilities Commission*, Docket No. 492 CD 2019.

II. ARGUMENT

1. Expenditures and time will have been wasted in the event the Commonwealth Court rules in favor of Maria Povacz, et al. and establishes that Act 129 of 2008, 66 Pa.C.C. § 2807(f), violates 66 Pa. C.S. § 1501; 52 Pa. Code§ 57.194. I have no resources or time to waste, as I have a full-time job in addition to numerous family and community obligations.

2. Further, should this matter advance to final hearing, the parties in this hearing will not be hindered in the end by a delay in the proceedings. Metropolitan Edison Company will have ample time to produce rebuttal testimony well in advance of a hearing.

3. The Pennsylvania Public Utilities (PUC) itself has referenced *Povacz et al.* in its requests for stays in numerous other prose cases at the Commonwealth Court level- including *McKnight v. Pennsylvania Public Utilities Commission*, Docket No. 1253 CD 2019 (Exhibit A); *Schmukler v. Pennsylvania Public Utilities Commission*, Docket No. 1102 CD 2019; *Sunstein v. Pennsylvania Public Utilities Commission*, Docket No. 1581 CD 2019; and others. PUC cited judicial economy and the similarities of the cases, and the Commonwealth Court granted PUC the extension of time requested in *McKnight* (Exhibit B) and the other cases.

4. And so, in the interest of judicial economy and fairness to all parties, I request that my case be stayed until at least 21 days after the Commonwealth Court decides the *Povacz et al v. PUC* case.

III. CONCLUSION

Wherefore, Complainant, Noreen McCarthy respectfully requests that the Administrative Law Judge grant her Motion to Stay of Proceedings in *Noreen McCarthy v. Metropolitan Edison Company*, Docket No. C-2019-3006923.

Respectfully Submitted,



Noreen McCarthy
18 Millstone Lane
Pottstown, PA 19465
contactnoreen1@gmail.com
610-469-2009

Dated: February 18, 2020

Exhibit A

**IN THE
COMMONWEALTH COURT OF PENNSYLVANIA**

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

**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.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* 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 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. Cwmlth. 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. Cwmlth. 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
Tiffany L. Tran
Assistant Counsel
Attorney ID No. 314533

Patricia T. Wiedt
Assistant Counsel

Robert F. Young
Deputy Chief Counsel

Renardo L. Hicks
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Harrisburg, PA 17105-3265
(717) 787-5000

Dated: January 6, 2020

**IN THE
COMMONWEALTH COURT OF PENNSYLVANIA**

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

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.

