

Betty & Steve Magill  
265 Shoaf Road  
Smithfield, PA 15478

March 10, 2020

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~~MAR 16 2020~~

~~PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU~~

**COPY TO:**

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

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MAR 11 2020

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Re: Betty & Steve Magill vs. West Penn Power  
Docket No. C-2018-3005818

Dear Secretary Chiavetta:

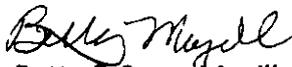
Attached please find Complainants (our) **Motion to Stay of Proceedings** in the above referenced matter.

A copy of this document has been served upon the Respondent's Counsel, Lauren M. Lepkoski, Esq., in accordance with Commission regulations.

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

Sincerely,

/



Betty & Steve Magill

Complainants

sgm265@hotmail.com

Attachment

Copy to: ALJ Watson

Lauren M. Lepkoski, Esq; Counsel for West Penn Power Company

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~~PA PUC  
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BEFORE THE

PENNSYLVANIA PUBLIC UTILITY COMMISSION

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Betty & Steve Magill  
Complainant

v.

Docket No. C-2018-3005818

West Penn Power  
Respondent

### MOTION TO STAY OF PROCEEDINGS

Pursuant to 52 Pa. Code § 5.103, Betty & Steve Magill, Complainants hereby file this **Motion to Stay of Proceedings** of Docket Number C-2018-3005818. In support of our motion we 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 us 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, Betty & Steve Magill, Complainants, respectfully request a stay of proceedings of docket Number C-2018-3002741 until after the Commonwealth Court's ruling on *Povacz v. Pennsylvania Public Utilities Commission*, Docket No. 492 CDE 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. § 1501;

52 Pa. Code § 57.194. We have no resources or time to waste as Steve has a full time job and Betty has businesses to run in which she is the only person available to consult with her clients. In light of the Corona Virus outbreak, many of Betty's clients are coming to her for immune boosting scans. This is expected to increase with the projection from the CDC. Since Betty is a Doctor of Naturopathy, she has an obligation to be there for her clients. We also have 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. West Penn Power will have ample time to produce rebuttal testimony well in advance of a hearing.

3. The Pennsylvania Public Utilities Commission has referenced Povacz et al. in its request for stays and numerous other pro se cases at the Commonwealth Court level—including *McKnight vs. Pennsylvania Public Utilities Commission*, Docket No. 1253 CD 2019 (Exhibit A); *Schmukler vs. Pennsylvania Public Utilities Commission*, Docket No. 1102 CD 2019; *Sunstein vs. Pennsylvania Public Utilities Commission*, Docket No. 1581 CD 2019; and others. PUC cited judicial economy and the similarity 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, we request that our case be stayed until at least one month after the Commonwealth Court decides the Povacz et al. vs. PUC CASE.

### **III. CONCLUSION**

Wherefore, complainants, Betty & Steve Magill respectfully request that the Administrative Law Judge grant their motion to stay of proceedings in *Steve & Betty Magill vs. West Penn Power Company* Docket No. C-2018-3005818.

Respectfully Submitted,



Betty & Steve Magill  
Complainant

**Copy to:**

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

**Copy to:**

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

**Copy to:**

Lauren M. Lepkoski  
First Energy Service Company  
2800 Pottsville Pike  
PO Box 16001  
Reading, PA 19612-6001

Dated this 10<sup>th</sup> Day of March, 2020

**Exhibit A**

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**IN THE  
COMMONWEALTH COURT OF PENNSYLVANIA**

**Alexia and Lawrence McKnight,** :  
**Petitioners** :

v. :

**Docket No. 1253 C.D. 2019**

**Pennsylvania Public Utility** :  
**Commission,** :  
**Respondent** :

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

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**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:

Exhibit B

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Alexia and Lawrence McKnight,  
Petitioners

v.

Public Utility Commission,  
Respondent

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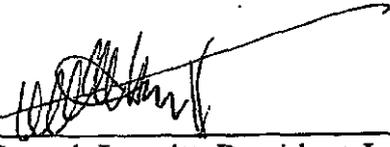
~~PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU~~

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

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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Certified from the Record

JAN 16 2020

And Order Exit

## 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.

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. 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).

MAGILL  
265 Shoaf Rd.,  
Smithfield, PA 15478

*Always moving forward*



PITTSBURGH PA 150

11 MAR 2020 PM 1 L



Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
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Harrisburg, PA 17120

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