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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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March 16, 2020

VIA UPS OVERNIGHT DELIEVERY

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

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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

Dear Secretary Chiavetta:

Attached please find the Main Brief on behalf of Metropolitan Edison Company ("Met-Ed" or the "Company") regarding the above-referenced matter. This document has been served on the all parties as shown in the Certificate of Service.

Please note that a CONFIDENTIAL version of this Main Brief has been hand-filed with the Pennsylvania Public Utility Commission ("Commission"), pursuant to the Protective Order issued in this proceeding on December 26, 2019. The Company requests that the copy of the Main Brief that has been CONFIDENTIAL be given the appropriate, non-public treatment by the Commission. That is, Met-Ed requests that these materials be excluded from the public documents folder and that such copies not be disclosed to the public.

Please contact me if you have any questions.

Very truly yours,

Tori L. Giesler

krak
Enclosures

c: As Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JUDITH HENDIN

v.

METROPOLITAN EDISON COMPANY

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:
:
:

DOCKET NO. C-2018-3003324

**MAIN BRIEF
ON BEHALF OF
METROPOLITAN EDISON COMPANY**

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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Dated: March 16, 2020

TABLE OF CONTENTS

I.	PROCEDURAL HISTORY	1
II.	LEGAL STANDARDS	5
III.	SUMMARY OF ARGUMENT	6
IV.	ARGUMENT	9
	A. The Complainant Failed to Meet her Burden of Proof that Met-Ed Violated the Public Utility Code, a Commission Order, or a Commission Regulation.	9
	1. The Installation of Smart Meters is Required by Law.....	10
	2. The Installation of a Smart Meter Does Not Constitute Unreasonable or Inadequate Service.....	14
	3. The Testimony Of The Complainant’s Witness, Dr. Kracht, Is Not Reliable And Should Be Afforded Little Weight.....	21
	4. All Hearsay and Lay Health and Medical Testimony was Properly Objected to and Excluded and May Not be Relied Upon in this Matter.....	22
V.	CONCLUSION	25

TABLE OF AUTHORITIES

Cases

Frompovich v. PECO Energy Co., Docket No. C-2015-2474602 (Opinion and Order entered May 3, 2018) 6

Gibson v. W.C.A.B., 861 A.2d 938, 947 (Pa. 2004) 8, 23

Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penelec Company For Approval of Their Smart Meter Deployment Plan, Docket Nos. M-2013-2341990, M-2013-2341991, M-2013-2341993, and M-2013-2341994 (Sec. Letter dated June 20, 2014)..... 7, 10

Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company Approval of Smart Meter Technology Procurement and Installation Plan, Docket No. M-2009-2123950 (Order entered June 9, 2010). 11

Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company Approval of Smart Meter Technology Procurement and Installation Plan, Docket No. M-2009-2123950 (Petition dated Aug. 10, 2009)..... 11

Lutherschmidt v. Metropolitan Edison Company, Docket No. C-2010 2200353 (Final Order entered March 25, 2011)..... 12

Negley v. Metropolitan Edison Company, Docket No. C-2010-2205305 (Initial Decision dated January 3, 2011 became final without Commission action on March 3, 2011)..... 12

Norfolk and Western Ry. v. Pa. Pub. Util. Comm'n, 413 A.2d 1037 (Pa. 1980)..... 5

Pa. Bureau of Corrections v. City of Pittsburgh, 532 A.2d 12 (Pa. 1987)..... 5

Pa. Pub. Util. Comm'n v. HIKO Energy, LLC, 2015 Pa. PUC LEXIS 364 (I.D. entered Aug. 21, 2015) 6

Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n, 578 A.2d 600 (Pa. Commw. 1990), alloc. den., 602 A.2d 863 (Pa. 1992). 5, 6

See, e.g., Petition of Columbia Gas of Pennsylvania, Inc. for Approval of its Long-Term Infrastructure Improvement Plant; Petition of Columbia Gas of Pennsylvania, Inc. for Approval of a Distribution System Improvement Charge, Docket No. P-2012-2338282, 2014 Pa. PUC LEXIS 93, at *34-35 (Recommended Decision Feb. 25, 2014) 13

Smart Meter Procurement and Installation, Docket No. M-2009-2092655 (Order entered June 24, 2009)..... 7

Susan Kreider v. PECO Energy Co., Docket No. C-2015-2469655 (Order on Reconsideration entered January 28, 2016). 6

Waldron v. Phila. Elec. Co., 54 Pa. P.U.C. 98 (Order entered Mar. 14, 1980)..... 5

Statutes

66 Pa.C.S. § 101, *et seq.* 10

66 Pa.C.S. § 1501. 6, 15

66 Pa.C.S. § 2806.1, *et seq.*..... 7

66 Pa.C.S. § 2807(f) 10

66 Pa.C.S. § 2807(f)(2) 10

66 Pa.C.S. § 2807(f)(2)(i)..... 13

66 Pa.C.S. § 332(a) 5

PUBLIC VERSION – PROPRIETARY INFORMATION REDACTED

66 Pa.C.S. § 701..... 6

Rules

Pa.R.E. 701..... 9, 23

I. PROCEDURAL HISTORY

On or about June 29, 2018, Judith Hendin (the “Complainant”) filed the above-captioned Formal Complaint against Metropolitan Edison Company (“Met-Ed” or the “Company”) with the Pennsylvania Public Utility Commission (“Commission”) regarding 402 Woodland Road, Easton, PA 18042 (“Service Location”) under Account No. 100017185438 (“Account”), which was electronically served on the Company on July 11, 2018.

On July 31, 2018, the Company filed its Answer and New Matter denying the material allegations. On the same day, the Company also filed Preliminary Objections to the Formal Complaint.

On August 21, 2018, the Complainant filed a Request for Extension of Time to File Reply to Answer, New Matter and Preliminary Objections. The Complainant also filed a Letter Addendum to her Request for Extension of Time on August 22, 2018.

On August 23, 2018, Administrative Law Judge (“ALJ”) Jeffrey A. Watson was assigned as the Presiding Officer in the above-captioned proceeding.

On August 24, 2018, ALJ Watson issued an Interim Order, which granted the Complainant’s request for an extension of time to file responses to the Preliminary Objections and New Matter until September 12, 2018.

On September 14, 2018, in accordance with 52 Pa. Code § 5.341, the Company forwarded to the Complainant interrogatories and document requests (“Company’s Discovery Requests, Set I”) via first class mail. In its Discovery Requests, the Company sought information and documents related to the Complainant’s allegations regarding the Company’s smart meters.

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On October 2, 2018, the Complainant filed a letter requesting a continuance of the proceeding until December 15, 2018.

On October 2, 2018, the Complainant filed a letter indicating she had provided responses to the Company's Discovery Requests, Set I.

On October 18, 2018, ALJ Watson issued an Interim Order, which denied the Company's Preliminary Objections. ALJ Watson also issued an Interim Order Establishing an Initial Litigation Schedule.

On October 25, 2018, ALJ Watson issued a letter returning certain documents, sent to him by the Complainant, to the Complainant.

On October 29, 2018, the Complainant filed her response to the Company's Preliminary Objections.

On November 1, 2018, Joanna Waldron entered a Notice of Appearance on behalf of the Complainant.

On January 17, 2019, the Complainant served certain interrogatories and document requests ("Complainant's Discovery Requests, Set I").

On January 18, 2019, Met-Ed filed a letter identifying the witnesses it intended to offer, consistent with the Interim Order issued by ALJ Watson on October 18, 2018.

On January 29, 2019, the Complainant filed a letter identifying the fact and expert witnesses she intended to call.

On February 11, 2019, the Company served its responses to the Complainant's Discover Requests, Set I.

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On May 9, 2019, the Complainant filed a letter providing the ALJ with a status update, which *inter alia* indicated that the Complainant wished to discuss possible meter relocation options with the Company.

On May 10, 2019, the Company filed a letter providing the ALJ with a status update, which *inter alia* requested a prehearing conference be scheduled to facilitate the parties' discussion regarding meter relocation as well as to make certain revisions to the procedural schedule.

On May 23, 2019, ALJ Watson issued an Interim Order Requiring Proposed Prehearing Conference and Hearing Dates, which set a date for a prehearing conference and established dates for the submission of written testimony.

On July 16, 2019, the parties each submitted their second status update.

On July 26, 2019, the Complainant filed a Motion to Extend the Schedule Pending Prehearing Conference.

On August 13, 2019, ALJ Watson issued an Interim Order, which granted the Complainant's Motion to Extend.

On August 21, 2019, the Company filed a Motion in Limine which requested that the ALJ (a) exclude evidence, (b) preclude the Complainant from presenting the expert testimony of David O. Carpenter, and (c) preclude the Complainant from presenting testimony related to her Formal Complaint. Therein, Met-ED averred that the Complainant had failed to serve her own testimony and failed to timely serve the direct testimony of Dr. David O. Carpenter.

On August 29, 2019, the Complainant filed an additional status report.

On September 3, 2019, Met-Ed filed an additional status report.

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On September 5, 2019, the Complainant filed a letter indicating service of her witness statement upon the Company had been made.

Also on September 5, 2019, the Commission issued a Hearing Notice scheduling evidentiary hearings before Deputy Chief Administrative Law Judge Joel H. Cheskis (the “Presiding Officer”) for December 19-20, 2019.

On September 10, 2019, the Complainant filed an Answer to Met-Ed’s Motion in Limine.

On September 13, 2019, the Presiding Officer issued a Prehearing Order.

On September 19, 2019, the Complainant served an Amended Witness Statement on behalf of Judith Hendin (Confidential and Public versions).

On October 21, 2019, the Company filed written rebuttal testimony of Dr. Christopher C. Davis, Ph.D., Dr. Mark Israel, M.D., and John Ahr on behalf of the Company.

On December 11, 2019, Attorney Curtis Renner filed an Entry of Appearance and Motion for Admission Pro Hac Vice on behalf of the Company.

Evidentiary hearings were held as scheduled on December 19 and 20, 2020. An additional day of hearings was scheduled for January 24, 2020.

A Protective Order was issued on December 26, 2019.

On January 17, 2020, the Company served copies of an additional exhibit to John Ahr’s Direct Testimony. Also on January 17, 2020, the Company resubmitted Confidential and Non-Confidential versions of the testimony and exhibits of Dr. Mark Israel, M.D.

On January 20, 2020, the Complainant resubmitted Confidential and Non-Confidential versions of the Complainant’s Amended Witness Statement, Plaintiff’s Supplement and the Witness Statement of Dr. Kracht.

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On January 22, 2020, the Complainant filed a Motion for Extension of Time and Motion for Leave to file Surrebuttal Testimony.

On January 24, 2020, the additional day of evidentiary hearings was held.

On February 10, 2020, Met-Ed filed its Answer to the Complainant's Motion for Extension of Time and Motion for Leave to file Surrebuttal Testimony.

On February 19, 2020 the Presiding Officer issued an Order Denying Motion for Extension of Time and Leave to File Surrebuttal Testimony. The Presiding Officer also issued a Briefing Order. The Company submits its Main Brief pursuant to this Briefing Order.

II. LEGAL STANDARDS

Under Section 332(a) of the Public Utility Code, the Complainant maintains the burden of proof in this proceeding.¹ The first step in carrying the burden of proof is establishing a *prima facie* case that Met-Ed violated the Public Utility Code, the Commission's regulations, or a Commission order. Only if the Complainant establishes a *prima facie* case does it become the responsibility of the respondent to provide rebuttal evidence.² In order to establish a *prima facie* case, more is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established.³ Mere bald assertions, personal opinions or perceptions, when not substantiated by facts, do not constitute evidence.⁴

Although the factual burden may shift during the course of a proceeding, the Complainant always maintains the overarching burden of proof in the proceeding. It is clearly established that the Complainant's "burden of proof before administrative tribunals as well as

¹ 66 Pa.C.S. § 332(a); *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Commw. 1990), alloc. den., 602 A.2d 863 (Pa. 1992).

² *Waldron v. Phila. Elec. Co.*, 54 Pa. P.U.C. 98 (Order entered Mar. 14, 1980).

³ *Norfolk and Western Ry. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980).

⁴ *Pa. Bureau of Corrections v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987).

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before most civil proceedings is satisfied by establishing a preponderance of the evidence.”⁵ A preponderance of evidence is demonstrated where the evidence presented is more convincing, even by the smallest degree, than the evidence presented by the opposing party.⁶

In order for the Commission to sustain a formal complaint, the Complainant must demonstrate that an “act or thing done or omitted to be done by any public utility [is] in violation, or claimed violation, of any law which the Commission has jurisdiction to administer, or of any regulation or order of the commission.”⁷ Section 1501 of the Public Utility Code states, in relevant part: “every public utility shall furnish and maintain adequate, efficient, safe and reasonable service and facilities.”⁸ As part of formal complaint proceedings, the Commission evaluates the reasonableness of public utility service and facilities pursuant to Section 1501. In complaint proceedings similar to the instant proceeding, the Commission has held that the relevant legal standard is whether the installation of a smart meter constitutes unsafe or unreasonable service in violation of Section 1501 of the Public Utility Code.⁹

III. SUMMARY OF ARGUMENT

The Complainant wholly failed to meet her burden of proof that the installation of a smart meter at her Service Location would constitute unreasonable service in violation of Section 1501 of the Public Utility Code or would otherwise violate the Public Utility Code, a Commission regulation or order.

⁵ *Lansberry*, 578 A.2d at 602.

⁶ *Pa. Pub. Util. Comm'n v. HIKO Energy, LLC*, 2015 Pa. PUC LEXIS 364 (I.D. entered Aug. 21, 2015), *supra*.

⁷ 66 Pa.C.S. § 701.

⁸ 66 Pa.C.S. § 1501.

⁹ *Frompovich v. PECO Energy Co.*, 2018 Pa. PUC LEXIS 160 (Opinion and Order entered May 3, 2018); *Susan Kreider v. PECO Energy Co.*, Docket No. C-2015-2469655 (Order on Reconsideration entered January 28, 2016).

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Met-Ed has an absolute obligation to install smart meters at all of its customers' service locations under Act 129 of 2008 ("Act 129").¹⁰ Neither Act 129 nor subsequent Commission orders related to smart meter installation and deployment permit customers to "opt-out" from smart meter installation.¹¹ Further, both Act 129 and the Commission's Implementation Order require that electric distribution companies ("EDCs") install wireless smart meters with specific functionality.¹² Met-Ed's smart meters adhere to the requirements of Act 129 and the Commission. The smart meter components and deployment of smart meters in the Met-Ed's territory were identified in Met-Ed's Smart Meter Deployment Plan, which was ultimately approved by the Commission on June 20, 2014.¹³ Met-Ed will install a smart meter at the Complainant's Service Location in order to remain in compliance with Act 129, related Commission orders, and its Smart Meter Deployment Plan.

In addition, the Complainant failed to establish that the installation of a smart meter constitutes unreasonable service. The Complainant's statements related to health concerns should be rejected as unsupported allegations. The Complainant offered no credible or convincing evidence to support her allegations.

By contrast, the substantial evidence of record presented by the Company addresses the issues raised in this proceeding. The Company presented three witnesses in this proceeding. Met-Ed Statement No. 1R is the testimony of John C. Ahr. Mr. Ahr is employed by FirstEnergy Service Company with the title Advisor, Regulatory Compliance – Smart Meters. Mr. Ahr's

¹⁰ 66 Pa.C.S. § 2806.1, *et seq.*

¹¹ *Id.*; see *Smart Meter Procurement and Installation*, Docket No. M-2009-2092655 (Order entered June 24, 2009) ("Implementation Order").

¹² Met-Ed St. 1R at 4-5, 7.

¹³ *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company For Approval of Their Smart Meter Deployment Plan*, Docket Nos. M-2013-2341990, M-2013-2341991, M-2013-2341993, and M-2013-2341994 (Sec. Letter dated June 20, 2014) (hereinafter, "Smart Meter Deployment Plan" or "SMDP").

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testimony fully explained the Company's smart meter deployment plan smart meter safety, and the Complainant's efforts to refuse a smart meter. In addition to Mr. Ahr's testimony, Met-Ed St. 2R is the testimony of Dr. Christopher C. Davis. Dr. Davis is professor of electrical and computer engineering at the University of Maryland. Dr. Davis provided testimony on radio frequency ("RF") fields and the safety of the Company's smart meter implementation. Lastly, Met-Ed St. 3R is the testimony of Dr. Mark A. Israel. Dr. Israel, a medical doctor and professor at Dartmouth Medical School, testified that there was no reliable medical basis to support the Complainant's medical claims.

In this proceeding, the Complainant presented two main categories of argument in opposition to the statutorily required installation of smart meters. First, the Complainant argues that Met-Ed is not statutorily required to install smart meters in its service territory. Second, the Complainant argues that smart meters present a threat to her health and safety. The Complainant's arguments are contained in her Amended Witness Statement, her Supplement, and her testimony at the evidentiary hearings in this matter.

The evidence of record weighs heavily against the Complainant's allegations and assertions. In comparison to the Company's expert testimony, the lay testimony and exhibits offered by the Complainant should carry little, if any, weight. Although the Pennsylvania Rules of Evidence are not strictly adhered to at the Commission, the Pennsylvania Supreme Court has unequivocally stated that any relaxation of the rules of evidence in administrative settings cannot allow lay witnesses to testify to technical matters "without personal knowledge or specialized training."¹⁴ Lay witness testimony only carries evidentiary weight where the witness has

¹⁴ *Gibson v. W.C.A.B.*, 861 A.2d 938, 947 (Pa. 2004) (holding Rules of Evidence 602, 701 and 702 generally applicable in agency proceedings).

1. The Installation of Smart Meters is Required by Law.

On October 15, 2008, Act 129 was signed into law and codified as part of the Public Utility Code (“Code”).¹⁶ Act 129 required EDCs with at least 100,000 customers, such as Met-Ed, to file a smart meter technology procurement and installation plan (“SMP Plan”) with the Commission for approval.¹⁷ Specifically, Section 2807(f)(2) of the Code directed EDCs to furnish smart meter technology as follows: 1) upon request from a customer that agrees to pay the cost of the smart meter at the time of the request; 2) in new building construction; and 3) in accordance with a depreciation schedule not to exceed fifteen years.¹⁸

Under Act 129, Met-Ed has an absolute obligation to install smart meters at all of its customers’ service locations. Neither Act 129 nor subsequent Commission orders related to smart meter installation and deployment permit customers to “opt-out” from smart meter installation. Met-Ed’s Smart Meter Deployment Plan, approved by the Commission, explicitly states that no opt-out option is available.¹⁹ As explained by Company witness John C. Ahr, Met-Ed’s Commission-approved Smart Meter Deployment Plan (“SMDP”) calls for 98.5% of the Company’s smart meter installation to be completed by 2019, with the remaining 1.5% of meters being installed by the end of 2022.²⁰ The Commission-approved SMDP mandates 100% of its meters to be replaced with smart meters. Allegations by the Complainant to the contrary should be disregarded.

Pursuant to Section 2807(f) of the Public Utility Code, Met-Ed jointly filed its Petition for Approval of Smart Meter Technology Procurement and Installation Plan with Pennsylvania

¹⁶ 66 Pa.C.S. § 101, *et seq.*

¹⁷ 66 Pa.C.S. § 2807(f); *see also* Met-Ed Exh. JCA 1 at 4-7.

¹⁸ 66 Pa.C.S. § 2807(f)(2).

¹⁹ *Smart Meter Deployment Plan*, at 9.

²⁰ Met-Ed St. No. 1R at 10-11.

PUBLIC VERSION – PROPRIETARY INFORMATION REDACTED

Electric Company, Pennsylvania Power Company and West Penn Power Company on August 14, 2009 (“2009 SMP Plan”).²¹ The Commission issued an Order on June 9, 2010, approving 2009 SMP Plan with certain modifications.²² Subsequent to the filing of the 2009 SMP Plan, Met-Ed (together West Penn Power Company, Pennsylvania Electric Company, and Pennsylvania Power Companies, collectively referred to hereafter as “the Companies”). On December 31, 2012, the Companies filed their Joint Petition for Approval of their Smart Meter Deployment Plan, in which they requested that the Commission: (1) find that their proposed Deployment Plan satisfies the requirements of Act 129 and the Commission’s Implementation Order; (2) approve the Companies’ proposed procurement and deployment of approximately 2.1 million smart meters, over 98% of which should be installed by the end of 2019; (3) authorize the Companies to continue to recover smart meter costs; and (4) authorize the Companies to create a regulatory asset for their investment in their existing meters to be replaced by smart meters.²³ On June 16, 2014, the Companies submitted their revised Smart Meter Deployment Plan,²⁴ which *intra alia* accelerated the smart meter deployment schedule laid out in their original Deployment Plan. Under the Revised Deployment Plan, the FirstEnergy Companies proposed to deploy 170,000 smart meters by the end of 2015.²⁵ In its June 25, 2014 Opinion and

²¹ *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company Approval of Smart Meter Technology Procurement and Installation Plan*, Docket No. M-2009-2123950 (Petition dated Aug. 10, 2009).

²² *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company Approval of Smart Meter Technology Procurement and Installation Plan*, Docket No. M-2009-2123950 (Order entered June 9, 2010).

²³ *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company For Approval of Their Smart Meter Deployment Plan*, Docket Nos. M-2013-2341990, M-2013-2341991, M-2013-2341993, M-2013-2341994 (Petition filed December 31, 2012).

²⁴ See Met-Ed Exhibit JCA-1.

²⁵ Met-Ed Exhibit JCA-1 at 13.

PUBLIC VERSION – PROPRIETARY INFORMATION REDACTED

Order, the Commission recognized the benefits of early deployment of smart meters and approved the revised Smart Meter Deployment Plan, stating:

[T]his Commission has already observed the benefits of early deployment. We find that the use of Penn Power as a case study may help the Companies identify other more cost-effective meter deployment strategies that can then be leveraged by FirstEnergy's other operating companies. If deployment and operational savings prove very positive, FirstEnergy may also be able to further accelerate smart meter deployment, thus enabling an option to enhance customer savings even more.²⁶

In this proceeding, the Complainant requests that she be permitted to “opt-out” of the installation of a smart meter at her Service Location and that she be permitted to keep her existing analog meter.²⁷ At the hearing, the Complainant made reference to the statutory schemes applicable in other states, to argue in favor of her request for an opt-out.²⁸

At the outset, Met-Ed points out that Commission precedent is uniform that the Commission cannot grant exceptions to the statutory directive that smart meters be installed by allowing customers to “opt-out.” Neither the Company's Commission-approved Smart Meter Deployment Plan nor Act 129 permit such opt-outs to occur.²⁹

²⁶ *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company For Approval of Their Smart Meter Deployment Plan*, Docket Nos. M-2013-2341990, M-2013-2341991, M-2013-2341993, M-2013-2341994 (Opinion and Order entered June 25, 2014 at 16).

²⁷ See, e.g., Formal Complaint ¶¶ 4-5.

²⁸ Tr. 52-53.

²⁹ Met-Ed Exh. JCA-1 at 9, 48; see, e.g., *Lutherschmidt v. Metropolitan Edison Company*, Docket No. C-2010-2200353 (Final Order entered March 25, 2011); *Negley v. Metropolitan Edison Company*, Docket No. C-2010-2205305 (Initial Decision dated January 3, 2011 became final without Commission action on March 3, 2011).

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The Complainant's attempted reliance on the statutory provisions of other states should be rejected. The Commission and Pennsylvania courts have made clear the practices and policies of other jurisdictions have little if any relevance for Pennsylvania.³⁰

Furthermore, Section 2807(f)(2)(i) provides:

(2) Electric distribution companies shall furnish Smart Meter technology as follows:

(i) Upon request from a customer that agrees to pay the cost of the Smart Meter at the time of the request.³¹

Company witness Mr. Ahr rebutted Ms. Hendin's attempted reliance on other jurisdictions by testifying that a customer does not have the ability to "opt-out" of having a smart meter installed at his or her home under the Company's Revised Deployment Plan.³² Specifically, Mr. Ahr testified that the Company's Smart Meter Deployment Plan, as approved by the Commission, provides for all customers to receive smart meters on or before December 31, 2022.³³ This full

³⁰ See, e.g., *Petition of Columbia Gas of Pennsylvania, Inc. for Approval of its Long-Term Infrastructure Improvement Plan*; *Petition of Columbia Gas of Pennsylvania, Inc. for Approval of a Distribution System Improvement Charge*, Docket No. P-2012-2338282, 2014 Pa. PUC LEXIS 93, at *34-35 (Recommended Decision Feb. 25, 2014) ("Although the OCA points to the practice of utilities in other states to support its argument to include ADIT in the DSIC, the jurisdictions that the OCA has identified in this proceeding have mechanisms that are dissimilar from the Pennsylvania mechanism. In the instant case, even if a review of the practices of other states in interpreting the Pennsylvania statute was appropriate, the mechanisms in the other states vary significantly from the Pennsylvania DSIC such that that they provide no relevant guidance in judging the reasonableness of the proposed ADIT adjustment."), *adopted*, Docket Nos. P-2012-2338282, et al. (Order entered May 22, 2014); *Performance Metrics & Remedies (PMO III F0013) 2008 Guidelines Updates*, 2008 Pa. PUC LEXIS 1105, at *19-20 (Order entered July 22, 2008) ("[W]hether the NY PSC has adopted a particular change for use in NY (or whether other states in the footprint have adopted a particular change) does not control Pennsylvania's decision to adopt or reject a particular change for use in Pennsylvania. . . . We shall not, however, adopt changes or refrain from adopting changes for use in Pennsylvania based solely on what happens in NY or any other jurisdiction."); *Petition for Declaratory Order Regarding Ownership of Alt. Energy Credits, Associated with Non-Utility Generating Facilities Under Contract to Pa. Elec. Co. and Metro. Edison Co.*, 2007 Pa. PUC LEXIS 7, at *26-27 (Order entered Feb. 12, 2007) (stating that neither the ALJ nor the Commission grounded their decisions on the analysis of the decisions of foreign jurisdictions); see also *Elder v. Orlucky*, 515 A.2d 517, 522 (Pa. 1986) (noting that it was not appropriate to consider another jurisdiction's statute where there was no indication that the General Assembly based Pennsylvania legislation on legislation adopted in other jurisdictions).

³¹ 66 Pa.C.S. § 2807(f)(2)(i).

³² Met-Ed St. IR at 10-11

³³ *Id.*

deployment is broken into two parts. The great majority of customers (98.5%) will receive smart meters by mid-2019, with the remaining 1.5% of customers to receive installation by December 31, 2022.³⁴ Mr. Ahr's testimony is consistent with the FirstEnergy Companies' Commission-approved Smart Meter Deployment Plan, which provides in pertinent part:

The Full-Scale Deployment Stage will commence upon resolution of all problems encountered during the Solution Validation Stage and will continue until all meters are installed on or before December 31, 2022. During this stage, the remainder of the smart meter infrastructure will be concurrently built in each of the Companies' respective service territories, starting with the most populated areas first. All remaining smart meters will be installed during this Stage at an anticipated meter installation rate of 1,900 meters per day, five days per week, and potentially ramping up to 3,000 meters per day if circumstances and conditions warrant. At this pace, the Companies expect to install approximately 98.5% of all meters by mid-2019, with the remaining 1.5% of the meters being installed thereafter through December 31, 2022. The 1.5 % of the installations represent those installations that may require alternative communication solutions or difficult to reach locations such as remote hunting cabins. Any similar situations discovered in Penn Power's service territory are included in the 1.5% estimate and will be addressed in the time frame discussed above.³⁵

As Mr. Ahr explained, there is no provision for less than 100 percent smart meter deployment. Specifically, Mr. Ahr testified that "Clearly, this plan requires Met-Ed to install smart meters at all customer service locations."³⁶

For these reasons, the Complainant has failed to sustain her burden to demonstrate that she can legally be provided an opt-out from the installation of a smart meter under Act 129.

2. The Installation of a Smart Meter Does Not Constitute Unreasonable or Inadequate Service.

³⁴ *Id.*

³⁵ Met-Ed Exhibit JCA-1, pp. 47-48.

³⁶ Met-Ed St. 1R at 10-11.

PUBLIC VERSION – PROPRIETARY INFORMATION REDACTED

Although Ms. Hendin alleged various health and medical concerns related to RF fields and smart meters, she failed to provide any reliable evidence in support of her allegations. By contrast, Met-Ed offered extensive expert testimony to rebut the Complainant's allegations. The Complainant failed to establish her burden of proof to show that the deployment of smart meters is unreasonable or constitutes inadequate utility service.

Pursuant to Section 1501 of the Code, public utilities have a duty to maintain safe, adequate and reasonable service and facilities and to make repairs, changes, and improvements that are necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. Section 1501 of the Code provides, in pertinent part:

§ 1501. Character of service and facilities

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. Such service also shall be reasonably continuous and without unreasonable interruptions or delay. Such service and facilities shall be in conformity with the regulations and orders of the commission.³⁷

The Complainant failed to demonstrate that the installation of a smart meter at her residence would constitute unreasonable or inadequate service under Section 1501.

In response to the Complainant's concerns about smart meter emissions, Met-Ed presented the testimony of Dr. Christopher C. Davis, a Professor of Engineering and Professor of Electrical and Computer Engineering at the University of Maryland, where he teaches in Physics and Electrical Engineering, including Electromagnetics (which includes radio frequency (RF))

³⁷ 66 Pa.C.S. § 1501.

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electromagnetics) and Bioelectromagnetics.³⁸ Among his many research interests and activities, Dr. Davis has served on the Institute of Electrical and Electronics Engineers (“IEEE”) Committee on Man and Radiation and as Chair of its Subcommittee on RF Fields, which consists of experts who examine the scientific research on RF fields and evaluate the IEEE exposure guidelines.³⁹

Dr. Davis’ testimony provided an explanation of RF fields that result from Met-Ed’s smart meters.⁴⁰ Dr. Davis testified that Met-Ed provided him the specifications for its Itron smart meters at issue in this proceeding, and used those specifications to calculate the RF field levels from the meters. The Itron meters have two radios, a LAN radio and a ZigBee radio.⁴¹

As Dr. Davis explained, the RF field levels from the Itron meters more than comply with the FCC safety standards for the radios in the meter. The FCC safety standards are based on the average exposure over 30 minutes. The 30-minute average for the LAN radio is 62,000 times smaller than the FCC’s safety standards and the 30-minute average for the ZigBee radio is 527,000 smaller than the FCC’s safety standards.⁴²

As Dr. Davis explained, RF fields from the Itron meters are the same types of RF fields used for radio communications by many common everyday devices, such as radios, cellphones, garage door openers, baby monitors, Wi-Fi, and other wireless communications devices.⁴³

Dr. Davis concluded his analysis of Met-Ed’s smart meters as follows⁴⁴:

³⁸ Met-Ed St. 2R.

³⁹ *Id.* at 3.

⁴⁰ *Id.* at 6-12.

⁴¹ *Id.* at 11-12.

⁴² *Id.* at 11-12.

⁴³ *Id.* at 13.

⁴⁴ *Id.* at 15-16.

Q. Have you formed any overall expert opinions about the radio frequency fields from Met-Ed's Itron meters?

A. Yes, based on my education, training and experience in physics, biophysics, chemistry, electrical engineering, electromagnetics, bioelectromagnetics, and radio frequency bioelectromagnetics and dosimetry, my review of the scientific research on radio frequency fields, and my calculations of radio frequency field levels, I have formed the following opinions:

The levels of radio frequency fields from Met-Ed Itron meters are extremely low and many times lower than the radio frequency fields people commonly encounter from everyday sources.

There is no reliable scientific basis in physics, biophysics, bioelectromagnetics, or radio frequency bioelectromagnetics to conclude that the very low levels of radio frequency fields from Met-Ed's Itron meters can or will cause any adverse thermal or non-thermal biological effects in people.

Given the extensive testimony provided by Dr. Davis, Met-Ed submits that the Complainant's allegations regarding the health impacts of smart meters must be rejected.

To address the specific medical harms claimed by the Complainant in this proceeding, Met-Ed presented Dr. Mark A. Israel, M.D. Dr. Israel is the Executive Director of the Israel Cancer Research Fund, an international charitable fund supporting medical and scientific research, and a Professor at Dartmouth Medical School.⁴⁵ Dr. Israel reviewed the Complainant's Formal Complaint, exhibits, discovery answers, and testimony to assess the medical claims being made.⁴⁶

Dr. Israel evaluated the Complainant's claims of **[BEGIN HIGHLY CONFIDENTIAL]**

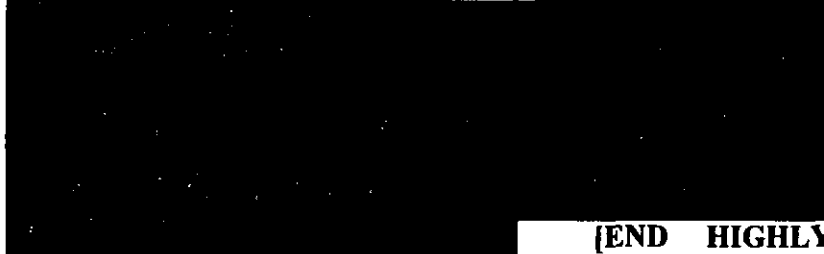
[REDACTED]
[REDACTED] **[END HIGHLY CONFIDENTIAL]** based on well-established research

⁴⁵ Met-Ed St. 3R at 1-5.

⁴⁶ *Id.* at 5-6.

studies. With respect to the Complainant's self-reported conditions, Dr. Israel testified that no medical records were provided to verify those conditions.⁴⁷ Importantly, Dr. Israel further noted that⁴⁸:

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Moreover, after completing his review of the Complainant's claims, medical records and the testimony of Dr. Kracht, Dr. Israel concluded as follows⁴⁹:

There are no studies that report radio frequency fields from smart meters cause, contribute to, or exacerbate mitral valve disorder or heart murmurs in people. There have been a number of studies that have examined whether radio frequency fields at the frequencies used by cell phones affect heart rates (e.g., Tahvanainen 2004; Nam 2006; Nam 2009; Choi 2014). In the Tahvanainen (2004) study, 32 human volunteers were exposed to radio frequency fields and their heart rates were compared to their rates when they were not exposed to radio frequency fields. The study found no significant changes in heart rates whether the subjects received radio frequency field or sham exposures. In another more recent study, the heart rates of the volunteer subjects were compared after exposure to radio frequency fields and after sham exposures (Choi 2014). The researchers found no significant effects on heart rates from the radio frequency field exposures. There are no studies addressing the effect of radio frequency fields from smart meters on heart rate.

Dr. Israel also testified that symptoms claimed to be electromagnetic hypersensitivity ("EHS") are more accurately described as "Idiopathic Environmental Intolerance" ("IEI"), in

⁴⁷ *Id.* at 15

⁴⁸ *Id.*

⁴⁹ *Id.* at 15-16.

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which “idiopathic” means “cause unknown,” rather than EHS. Dr. Israel evaluated the scientific research on IEI and found that “[r]eliable studies dating back to at least 2002 and also recent reviews of the studies by experts and reviews by expert panels of public health authorities have found IEI and the variety of symptoms attributed to it are not caused by exposure to RF fields.”⁵⁰ For example, a systematic review of 46 studies involving 1,175 individuals who claimed IEI symptoms found that people claiming IEI symptoms from RF fields could not replicate the claimed effect under controlled laboratory conditions.⁵¹ Another recent study found that people who claimed IEI symptoms from RF fields reported lower levels of well-being when they knew they were exposed to RF fields, but when they did not know if they were being exposed, their reports of symptoms were not associated with RF fields.⁵² That study concluded that “it is IEI-EMF individuals’ belief that exposure to RF EMFs will cause harm, rather than actual exposure itself, that results in the presence of symptoms in IEI-EMF individuals.”⁵³

In addition, Dr. Israel testified that the research on IEI has been evaluated by credible public health entities and expert groups, including the United Kingdom Health Protection Agency (2012), the Royal Society of Canada (2013), the New Zealand Ministry of Health (2015), and the European Commission’s Scientific Committee on Emerging and Newly Identified Health Risks (2015). Based on their reviews of the scientific research, these entities concluded there is no reliable scientific evidence that exposure to RF fields causes claimed IEI symptoms.⁵⁴ The World Health Organization has found that “There is little scientific evidence to

⁵⁰ *Id.* at 11.

⁵¹ *Id.* at 12.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.* at 13.

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support the idea of electromagnetic hypersensitivity.”⁵⁵ These findings from public health entities and expert panels show that the theory of IEI caused by exposure to RF fields has not been generally accepted in the medical community.⁵⁶

Dr. Israel further reviewed all of the medical claims and found there to be no medical basis to conclude that Met-Ed smart meters were the cause of any such issues.⁵⁷ Upon fully reviewing the medical claims of Ms. Hendin, Dr. Israel concluded⁵⁸:

Q. Have you formed an expert opinion about whether the radio frequency fields from Met-Ed’s smart meter at the Complainant’s house will cause, contribute to, or exacerbate any medical conditions?

A. Yes.

Q. What is that opinion?

A. Based on my medical education, training, and experience, and my evaluation of the scientific studies, in my expert opinion there is no reliable medical basis to conclude that radio frequency fields from Met-Ed’s smart [sic] meters at the Complainant’s house will cause, contribute to, or exacerbate, any medical condition of Ms. Hendin.

Despite failing to support her allegations with any reliable evidence, the Company still rebutted each of the Complainant’s allegations related to the Company’s smart meters. The Complainant wholly failed to demonstrate that the installation of a smart meter at her service locations would constitute unreasonable or inadequate service under Section 1501 of the Public Utility Code.

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.* at 5-19.

⁵⁸ *Id.* at 17-18 (emphasis added).

3. The Testimony Of The Complainant’s Witness, Dr. Kracht, Is Not Reliable And Should Be Afforded Little Weight.

The Complainant also introduced the testimony of Dr. William G. Kracht, a Doctor of Osteopathy.⁵⁹ Although Dr. Kracht purported to testify regarding his treatment of Ms. Hendin’s electromagnetic hypersensitivity, his testimony lack credibility and should be afforded no weight.

At the outset, Dr. Kracht admitted that “there is no known diagnostic test of electromagnetic sensitivity” and, therefore, he has “not conducted any specific testing [of Ms. Hendin] in this regard.”⁶⁰ Therefore, the Complainant’s own expert admits that there is no scientifically valid method to make a medically reliable diagnosis of Complainant’s alleged conditions.

In addition to testifying that there is no known diagnostic test for electromagnetic sensitivity, Dr. Kracht’s how he first “became aware” of the Complainant’s alleged condition on August 24, 2012, before drafting a medical necessity letter for the Complainant that requested the Complainant’s gas service “smart meter” be removed.⁶¹ Dr. Kracht relied on “information gathered by my office” to draft the letter,⁶² which means [BEGIN HIGHLY CONFIDENTIAL] [REDACTED]

⁵⁹ Kracht St. 1 at 1; *see also* Tr. 134.

⁶⁰ Kracht St. 1 at 4.

⁶¹ *Id.* at 3-4.

⁶² *Id.*

⁶³ Tr. 115

⁶⁴ Tr. 117

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Ms. Hendin was not qualified to testify or offer exhibits related to any issues outside of her direct personal knowledge. Therefore, the Complainant's testimony and exhibits regarding health, medical or scientific opinions carry no evidentiary weight and, where applicable, were properly objected to.

According to Pennsylvania Rule of Evidence 701,⁷⁰ a lay witness is limited to giving opinion testimony that is rationally based on the witness's own perceptions. Specifically, Rule 701 provides as follows:

If a witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is: (a) rationally based on the witness's perception; (b) helpful to clearly understanding the witness's testimony or to determining a fact in issue; and (c) not based on scientific, technical, or other specialized knowledge within the scope of R 702.

Although the Pennsylvania Rules of Evidence are not strictly adhered to at the Commission, the Pennsylvania Supreme Court has unequivocally stated that any relaxation of the rules of evidence in administrative settings cannot allow lay witnesses to testify to technical matters "without personal knowledge or specialized training."⁷¹ Lay witness testimony only carries evidentiary weight where the witness has actually perceived the situation, and the opinion is not based on scientific, technical or specialized knowledge.⁷² In this case, the bulk of the Complainant's testimony and exhibits related to issues outside the scope of her personal knowledge and were based on hearsay. All such testimony and exhibits, where objected to, were properly excluded upon objection. To the extent such testimony was not objected to, such

⁷⁰ Pa.R.E. 701.

⁷¹ *Gibson v. W.C.A.B.*, 861 A.2d 938, 947 (Pa. 2004) (holding Rules of Evidence 602, 701 and 702 generally applicable in agency proceedings).

⁷² Pa.R.E. 701.

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testimony should carry insignificant weight that cannot support the Complainant's burden of proof in this proceeding.

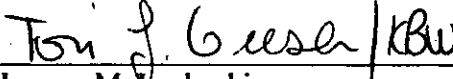
Met-Ed presented extensive expert testimony in support of its position that its smart meter deployment is safe, reasonable and adequate. The Complainant, on the other hand, failed to present any credible evidence to support her allegations that smart meter deployment is unsafe or violates Section 1501 of the Public Utility Code. In view of the Complainant's failure to fulfill her burden of proof, the Complaint should be denied and dismissed with prejudice.

V. CONCLUSION

WHEREFORE, Metropolitan Edison Company respectfully requests that the Deputy Chief Administrative Law Judge Joel H. Cheskis recommend that the Pennsylvania Public Utility Commission dismiss the Formal Complaint of Judith Hendin with prejudice.

Respectfully submitted,

Dated: March 16, 2020



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APPENDIX A

PROPOSED FINDINGS OF FACT

1. Act 129 of 2008 required electric distribution companies with more than 100,000 customers to adopt smart meter deployment plans.⁷³
2. Act 129 provides a list of required smart meter functionality, which was supplemented by Commission order.⁷⁴
3. Met-Ed's Commission-approved Smart Meter Deployment Plan called for 98.5% of the Company's smart meter installation to be completed by 2019, with the remaining 1.5% of meters being installed by the end of 2022.⁷⁵
4. Met-Ed's Smart Meter Technology Procurement and Installation Plan was filed on August 10, 2009.⁷⁶
5. The Commission ultimately approved the smart meter deployment plan, with modifications, on June 9, 2010.⁷⁷
6. On December 31, 2012, the Companies filed their Joint Petition for Approval of their Smart Meter Deployment Plan, in which they requested that the Commission: (1) find that their proposed Deployment Plan satisfies the requirements of Act 129 and the Commission's Implementation Order; (2) approve the Companies' proposed procurement and deployment of approximately 2.1 million smart meters, over 98% of which should be installed by the end of

⁷³ Met-Ed St. 1R at 4; Met-Ed Exh. JCA 1 at 4-7.

⁷⁴ Met-Ed St. 1R at 4-5, 7.

⁷⁵ Met-Ed St. No. 1R at 10-11.

⁷⁶ *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company Approval of Smart Meter Technology Procurement and Installation Plan*, Docket No. M-2009-2123950 (Petition dated Aug. 10, 2009)

⁷⁷ Met-Ed St. 1R at 7; see also *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company Approval of Smart Meter Technology Procurement and Installation Plan*, Docket No. M-2009-2123950 (Order entered June 9, 2010).

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2019; (3) authorize the Companies to continue to recover smart meter costs; and (4) authorize the Companies to create a regulatory asset for their investment in their existing meters to be replaced by smart meters.⁷⁸

7. On June 16, 2014, the Companies submitted their revised Smart Meter Deployment Plan,⁷⁹ which *intra alia* accelerated the smart meter deployment schedule laid out in their original Deployment Plan.

8. The Company presented three witnesses in this proceeding. Met-Ed Statement No. 1R is the testimony of John C. Ahr. Mr. Ahr is employed by FirstEnergy Service Company with the title Advisor, Regulatory Compliance – Smart Meters. Mr. Ahr's testimony fully explained the Company's smart meter deployment plan smart meter safety, and the Complainant's efforts to refuse a smart meter.

9. Met-Ed St. 2R is the testimony of Dr. Christopher C. Davis. Dr. Davis is professor of electrical and computer engineering at the University of Maryland. Dr. Davis provided testimony on radio frequency fields and the safety of the Company's smart meter implementation.

10. Met-Ed St. 3R is the testimony of Dr. Mark A. Israel. Dr. Israel, a medical doctor and professor at Dartmouth Medical School, testified that there was no reliable medical basis to support the Complainant's medical claims.

11. Met-Ed must have a uniform means of reading all customers' meters.⁸⁰

⁷⁸ Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company For Approval of Their Smart Meter Deployment Plan, Docket Nos. M-2013-2341990, M-2013-2341991, M-2013-2341993, M-2013-2341994 (Petition filed December 31, 2012).

⁷⁹ See Met-Ed Exhibit JCA-1.

⁸⁰ Met-Ed St. 1R at 10-11.

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12. Met-Ed provided Company witness Davis with the specifications for its Itron smart meters at issue in this proceeding and used those specifications to calculate the radio frequency field levels from the meters.⁸¹

13. Itron meters have two radios, a LAN radio and a ZigBee radio.⁸²

14. The radio frequency field levels from Itron meters more than comply with the FCC safety standards for the radios in the meter. The FCC safety standards are based on the average exposure over 30 minutes. The 30-minute average for the LAN radio is 62,000 times smaller than the FCC's safety standards and the 30-minute average for the ZigBee radio is 527,000 smaller than the FCC's safety standards.⁸³

15. Radio frequency fields from Itron meters are the same types of radio frequency fields used for radio communications by many common everyday devices, such as radios, cellphones, garage door openers, baby monitors, Wi-Fi, and other wireless communications devices.⁸⁴

16. There is no reliable scientific basis in physics, biophysics, bioelectromagnetics, or radio frequency bioelectromagnetics to conclude that the very low levels of radio frequency fields from Met-Ed's Itron meters can or will cause any adverse thermal or non-thermal biological effects in people.⁸⁵

⁸¹ Met-Ed St. 2R at 9-15.

⁸² *Id.* at 11-12.

⁸³ *Id.* at 13.

⁸⁴ *Id.* at 14.

⁸⁵ *Id.* at 15.

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17. There is no reliable medical basis to conclude that radio frequency fields from Met-Ed's smart meters at the Complainant's house will caused, contribute to, or exacerbate any of the medical conditions identified by the Complainant.⁸⁶

⁸⁶ Met-Ed St. 3R at 5-19.

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APPENDIX B

PROPOSED CONCLUSIONS OF LAW

1. Under Section 332(a) of the Public Utility Code, the Complainant maintains the burden of proof in this proceeding.⁸⁷

2. The first step in carrying the burden of proof is establishing a prima facie case that Met-Ed violated the Public Utility Code, the Commission's regulations, or a Commission order. Only if the Complainant establishes a prima facie case does it become the responsibility of the Company to provide rebuttal evidence.⁸⁸

3. In order to establish a prima facie case, more is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. Mere bald assertions, personal opinions or perceptions, when not substantiated by facts, do not constitute evidence.⁸⁹

4. A party's burden of proof is met by establishing a preponderance of the evidence, which requires proof by a greater weight of the evidence.⁹⁰

5. A preponderance of evidence is demonstrated where the evidence presented is more convincing, even by the smallest degree, than the evidence presented by the opposing party.⁹¹

6. In order for the Commission to sustain a formal complaint, the Complainant must demonstrate that an "act or thing done or omitted to be done by any public utility [is] in

⁸⁷ 66 Pa.C.S. § 332(a); *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950); *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Commw. 1990), alloc. den., 602 A.2d 863 (Pa. 1992).

⁸⁸ *Waldron v. Phila. Elec. Co.*, 54 Pa. P.U.C. 98 (Order entered Mar. 14, 1980); *Replogle v. Pa. Elec. Co.*, 54 Pa. PUC 528 (Order entered Oct. 9, 1980).

⁸⁹ *Pa. Bureau of Corrections v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987); *Mid-Atlantic Power Supply Assoc. v. Pa. Public Utility Comm'n*, 746 A.2d 1196, 1200 (Pa. Commw. Ct. 2000).

⁹⁰ *Lansberry*, 578 A.2d at 602.

⁹¹ *Pa. Pub. Util. Comm'n v. HIKO Energy, LLC*, 2015 Pa. PUC LEXIS 364 (I.D. entered Aug. 21, 2015); see also *Se-Ling Hosiery, supra*.

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violation, or claimed violation, of any law which the Commission has jurisdiction to administer, or of any regulation or order of the commission.”⁹²

7. As part of formal complaint proceedings, the Commission evaluates the reasonableness of public utility service and facilities pursuant to Section 1501 of the Public Utility Code. Section 1501 states, in relevant part: “every public utility shall furnish and maintain adequate, efficient, safe and reasonable service and facilities....”⁹³

8. In similar complaint proceedings, the Commission has held that the relevant legal standard is whether the installation of a smart meter constitutes unsafe or unreasonable service in violation of Section 1501 of the Public Utility Code.⁹⁴

9. Neither Act 129 nor subsequent Commission orders related to smart meter installation and deployment permit customers to “opt-out” from smart meter installation.⁹⁵

10. The Complainant failed to establish that the Company’s installation of a smart meter at the Complainant’s service location would violate Act 129 or any related Commission orders.⁹⁶

11. The Company owns, maintains, furnishes and installs its electric meters. It is within the Company’s sole and exclusive discretion to install the meters and related equipment it deems reasonable and appropriate to provide service to customers.⁹⁷

⁹² 66 Pa.C.S. § 701.

⁹³ 66 Pa.C.S. § 1501.

⁹⁴ *Frompovich v. PECO Energy Co.*, Docket No. C-2015-2474602 (Opinion and Order entered May 3, 2018); *Susan Kreider v. PECO Energy Co.*, Docket No. C-2015-2469655 (Order on Reconsideration entered January 28, 2016).

⁹⁵ 66 Pa.C.S. § 2806.1, *et seq.*; *see Smart Meter Procurement and Installation*, Docket No. M-2009-2092655 (Order entered June 24, 2009).

⁹⁶ *See id.*; *see also Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West West Penn Company For Approval of Their Smart Meter Deployment Plan*, Docket Nos. M-2013-2341990, M-2013-2341991, M-2013-2341993, and M-2013-2341994 (Sec. Letter dated June 20, 2014).

⁹⁷ Electric Pa. P.U.C. No. 81, Original Page 45, issued May 1, 2015; effective May 3, 2015.

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12. The Company has the absolute right to access a customer's premises to remove or exchange any or all Company equipment including a meter.⁹⁸

13. The Company is permitted to terminate a customer's electric service for denying access to the meter.⁹⁹

14. A lay witness may only provide testimony related to his or her direct knowledge or experience.¹⁰⁰

15. Any testimony of a lay witness related to technical or specialized knowledge should be excluded and given no evidentiary weight.¹⁰¹

16. The hearsay evidence presented in this case was properly objected to and excluded and may not support any findings of fact.¹⁰²

17. The Complainant failed to sustain her burden of proof that the installation of a smart meter would constitute unsafe or unreasonable service by the Company.

⁹⁸ *Id.*

⁹⁹ 66 Pa. C.S. § 1406; 52 Pa. Code § 56.81; Electric Pa. P.U.C. No. 81, Original Page 60, issued May 1, 2015; effective May 3, 2015.

¹⁰⁰ Pa.R.E. 701.

¹⁰¹ See *Gibson v. W.C.A.B.*, 861 A.2d 938, 947 (Pa. 2004).

¹⁰² *Walker v. Unemployment Comp. Bd. of Review*, 367 A.2d 366, 370 (Pa Commw. Ct. 1976).

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APPENDIX C

PROPOSED ORDERING PARAGRAPHS

1. The formal complaint of Judith Hendin filed against Metropolitan Edison Company at the above-referenced docket is dismissed with prejudice.
2. This matter shall be marked as closed.

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JUDITH HENDIN

v.

METROPOLITAN EDISON COMPANY

DOCKET NO. C-2018-3003324

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the Main Brief of Metropolitan Edison Company upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

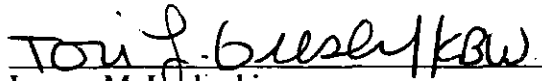
Service by electronic and First Class Mail, postage prepaid, as follows:

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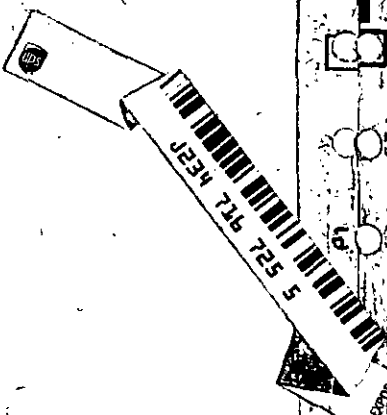
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