

200 Brook Hollow Road  
Mount Pleasant, PA 15666

July 2, 2020

**VIA ELECTRONIC FILING**

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

Re: Michael T. Jennings v. West Penn Power Company  
Docket No. C-2018-3006031

Dear Secretary Chiavetta,

Attached please find my **Motion in Limine of Michael T. Jennings to Exclude Respondent's Experts' Exhibits and Testimonies** in the above-referenced matter. This document has been served on West Penn Power as shown in the Certificate of Service.

Please contact me if you have any questions.

Very Truly Yours,

A handwritten signature in cursive script that reads "Michael T. Jennings".

Michael T. Jennings

ssj  
Enclosures

CC: ALJ Watson  
West Penn Power, as per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>MICHAEL T. JENNINGS</b>	:	
<b>Complainant</b>	:	
<b>v.</b>	:	<b>Docket No. C-2018-3006031</b>
	:	
<b>WEST PENN POWER COMPANY</b>	:	
<b>Respondent</b>	:	

**MOTION IN LIMINE OF MICHAEL T.  
JENNINGS TO EXCLUDE  
RESPONDENT’S EXPERTS’ EXHIBITS  
AND TESTIMONIES**

Filed on behalf of Complainant  
Michael T. Jennings, Pro Se

**NOTICE TO PLEAD**

To Respondent West Penn Power Company:

Pursuant to 52 Pa. Code § 5.103, you are hereby notified that, if you do not file a written response to the enclosed **MOTION IN LIMINE OF MICHAEL T. JENNINGS TO EXCLUDE RESPONDENT’S EXPERTS’ EXHIBITS AND TESTIMONIES** within 20 days of service of this notice, a decision may be rendered against you. Any Response to the Motion in Limine of Michael T. Jennings to Exclude Respondent’s Experts’ Exhibits and Testimonies 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: July 2, 2020

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Michael T. Jennings  
200 Brook Hollow Road  
Mount Pleasant, PA 15666  
724-613-4262  
[Lilmac2@zoominternet.net](mailto:Lilmac2@zoominternet.net)

**E-filed with:**

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

**E-filed and via Electronic Mail to:**

Administrative Law Judge Jeffrey A. Watson  
Pennsylvania Public Utility Commission  
301 5<sup>th</sup> Ave., Piatt Place, Suite 220  
Pittsburgh, PA 15222

**E-filed and via Electronic Mail to:**

Lauren M. Lepkoski  
Tori Giesler  
FirstEnergy Service Company  
2800 Pottsville Pike, P.O. Box 16001  
Reading, Pennsylvania 19612-6001

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>MICHAEL T. JENNINGS</b>	:	
<b>Complainant</b>	:	
	:	
<b>v.</b>	:	<b>Docket No. C-2018-3006031</b>
	:	
<b>WEST PENN POWER COMPANY</b>	:	
<b>Respondent</b>	:	

**July 2, 2020**

**MOTION IN LIMINE OF MICHAEL T. JENNINGS  
TO EXCLUDE RESPONDENT’S EXPERTS’ EXHIBITS AND TESTIMONIES**

**TO ADMINISTRATIVE LAW JUDGE JEFFREY A. WATSON:**

Michael T. Jennings hereby files this Motion in Limine pursuant to the Pennsylvania Public Utility Commission’s regulations at 52 Pa. Code § 5.103 and requests that Administrative Law Judge Jeffrey A. Watson exclude exhibits submitted by John C. Ahr, Dr. Christopher C. Davis, and Dr. Mark A. Israel because they are hearsay and not subject to a hearsay exception under the Pennsylvania Rules of Evidence. Moreover, the exhibits also should be excluded because they are irrelevant, lack authenticity, and are inherently unreliable. Further, written testimonies from John C. Ahr, Dr. Christopher Davis, and Dr. Mark A. Israel should be stricken on similar grounds, including confirmation bias.

In support thereof, the Complainant, Michael T. Jennings states as follows:

## **I. Background**

1. The Complainant, filed a Formal Complaint with the Pennsylvania Public Utility Commission (“Commission”) regarding 200 Brook Hollow Road, Mount Pleasant, Pennsylvania 15666 (“Service Location”) which was served on West Penn on November 15, 2018.
2. On December 5, 2018, the West Penn filed its Answer and New Matter to Formal Complaint.
3. On December 5, 2018, West Penn also filed Preliminary Objections to formal complaint filed by Complainant.
4. On December 15, 2018, Complainant filed Answers to Preliminary Objections.
5. On December 17, 2018, Complainants Answers to Preliminary Objections was filed a second time as the document was also mailed to Secretary Chiavetta.
6. On December 28, 2018, Complainant filed a response to West Penn’s, Answer and New Matter.
7. On January 3, 2019, a Motion Judge Assignment Notice was issued and Administrative Law Judge (“ALJ”) Jeffrey A. Watson was assigned as the Presiding Officer in the above-captioned proceeding.
8. On January 25, 2019, ALJ Watson issued an Interim Order which denied the preliminary objections.
9. On January 25, 2019, an Interim Order Establishing Initial Litigation Schedule was issued which set forth the schedule for discovery, the identification of witnesses, and filing of motions in this proceeding.
10. On January 25, 2019, an Interim Order scheduling a prehearing conference for

February 19, 2019, was also issued.

11. On January 28, 2019, a Call-In Telephone Prehearing Conference Notice was issued.

12. On January 28, 2019, Complainant filed a Request for Cancellation of Pre-Hearing Conference.

13. On February 12, 2019, an Interim Order cancelling the prehearing conference was issued.

14. Also, on February 12, 2019, an Interim Order revising the litigation schedule was issued.

15. On February 12, 2019, West Penn issued to the Complainant interrogatories and document requests for production of documents via first class mail.

16. On February 13, 2019, a Cancellation Notice for the prehearing conference was issued.

17. On March 2, 2019, via first class mail, the Complainant responded to West Penn's Discovery Requests.

18. On March 8, 2019, via first class mail, Complainant issued Interrogatories and Requests for Production of Documents, Set 1, of Michael T. Jennings to West Penn.

19. On March 11, 2019, Complainant e-filed Interrogatories and Requests for Production of Documents, Set 1, of Michael T. Jennings to West Penn Power. Complainant inadvertently forgot to e-file the documents on March 8, 2019.

20. On March 25, 2019, West Penn Power, filed objections to questions (Nos. 8, 10, 11, 16, 26, 27, 31, 36, 37, 55) contained in Complainant's, Set I Discovery Requests.

Complainant received a copy of the objections via first class mail on March 30, 2019. West Penn Power mailed the documents on March 26, 2019.

21. On March 28, 2019, in accordance with the Interim Order Establishing a Litigation Schedule, Michael T. Jennings provided notice and summaries of testimony for his factual and expert witnesses, via first class mail and e-filing (posted on April 1, 2019).

22. On March 29, 2019, in accordance with the Interim Order Establishing a Litigation Schedule, West Penn Power provided notice and summaries of testimony for its factual and expert witnesses.

23. On April 3, 2019, the Complainant filed a Motion to Dismiss West Penn's objections to the Complainant's Set I Discovery Requests. Complainant served a copy of the Interrogatories and Request for Production of Documents, Set I on March 8, 2019 to the attorneys for West Penn via First Class Certified Mail and additionally via Electronic Filing on March 11, 2019. First Energy attorneys for West Penn Power had ten days to file Objections. Even taking into consideration 52 Pa Code §§ 1.56 (5)(b), Date of Service, attorneys for West Penn should have filed their Objections no later than March 21, 2019. Complainant received the Objections of West Penn via E-filing on March 25, 2019. Attorneys for West Penn never asked for an extension of time in which to reply.

24. On April 3, 2019, West Penn Power responded to the Complainant's Interrogatories and Request for Production of Documents, Set 1.

25. On May 10, 2019, the Complainant issued his Set II Discovery Requests to West Penn via first class mail and electronic.

26. On May 27, 2019, the Complainant filed a Petition for an Extension of Time to

Provide Direct Testimony and Expert Witness.

27. On June 3, 2019, the Complainant filed a Petition for Extension of Time to Secure a Replacement Expert Witness.

28. On June 6, 2019, the Complainant filed a Petition for Extension of Time to Provide Direct Testimony of Factual Witness.

29. On June 12, 2019, the Complainant filed his Motion to Compel Discovery Responses Set II Nos 2, 3, 20-29, 35 and 36 because West Penn Power did not file any objections to his Set II Discovery Requests.

30. On June 14, 2019, the Complainant filed a Petition for Extension of Time to File Direct Testimony.

31. On June 17, 2019, West Penn filed their Answer to Motion.

32. On June 25, 2019, the Complainant filed his Reply to Answer, Response to Answer of Motion to Compel.

33. On July 2, 2019, an Interim Order Providing for Second Revised Initial Litigation Schedule was issued.

34. On July 3, 2019, an Interim Order Granting in Part and Denying in Part Complainant's Motion to Compel Discovery Requests was issued.

35. On August 1, 2019, West Penn filed their Response to the Interrogatories OCA Set II No. 23.

36. On August 12, 2019, an Interim Order Providing for Third Revised Initial Litigation Schedule was issued.

37. On August 23, 2019, the Complainant filed a Request for Protective Order.

38. On September 30, 2019, an Interim Order Directing the Parties to Confer Regarding a Proposed Stipulated Protective Agreement or the Filing of a Petition for Protective Order was issued.

39. On October 17, 2019, West Peen Power filed a Petition for Protective Order.

40. On October 18, 2019, the Complainant filed a Petition for Protective Order.

41. On October 24, 2019, Protective Order was issued.

42. On November 5, 2019, the Complainant filed his Signed Acknowledgement of Protective Order.

43. On November 5, 2019, the Complainant filed his Response to the Letter of West Penn Power Company Dated November 1, 2019.

44. On November 13, 2019, West Penn Power filed their Signed Acknowledgement of Protective Order.

45. On November 22, 2019, the Complainant, after receiving the signed protective order from West Penn, filed his Revised Identification of Factual and Expert Witnesses.

46. On November 25, 2019, the Complainant filed his certificate of service for his Direct Testimony and the testimonies of his expert and factual witnesses.

47. On November 29, 2019, the Complainant filed a letter to Secretary Chiavetta on the Improper Handling of Confidential Information.

48. On December 13, 2019, the Complainant filed his Motion to Stay of Proceedings.

49. On December 30, 2019, the Complainant filed his Status Report.

50. On January 1, 2020, the Complainant filed his letter in Response to West Penn's

Status Report, which was a letter sent to Secretary Chiavetta.

51. On January 1, 2020, the Complainant filed his Objection to the Response and Objection of West Penn Power Company Dated December 20, 2019.

52. On January 6, 2020, West Penn filed their Status Report, dated December 31, 2019, which was in the form of a letter to Secretary Chiavetta.

53. On January 14, 2020, an Interim Order Requiring the Parties to File Updated Status Reports was issued.

54. On January 21, 2020, the Complainant filed his Letter to Chief Rainey.

55. On January 27, 2020, the Complainant filed his Updated Status Report with Requests for ADA Accommodations.

56. On February 3, 2020, an In-Person Hearing Notice was filed.

57. On February 4, 2020, the Complainant filed his Letter Requesting to Reschedule In-Person Hearing.

58. On February 7, 2020, the Complainant filed his Letter of Apology and Explanation.

59. On February 3, 2020, West Penn Power filed their Status Report dated January 29, 2020.

60. On March 5, 2020, a Call-Out Prehearing Conference Notice was issued.

61. On March 5, 2020, a Second Interim Order Scheduling Prehearing Conference was issued.

62. On March 9, 2020, the Complainant filed his Response to Second Interim Order Scheduling Prehearing Conference and Notice of New Telephone Number for Prehearing

Conference.

63. On March 9, 2020, the Complainant filed his Motion to Compel Rebuttal Testimony of West Penn's Expert Witnesses.

64. On March 16, 2020, Prehearing Conference teleconference call.

65. On March 17, 2020, Cancellation Notice for the Prehearing Conference call on March 16, 2020 was issued.

66. On March 18, 2020, the Complainant filed his Request for a Subpoena for Christine L. Walker, Sr. Vice President and Chief Human Resources Officer for First Energy Company.

67. On March 19, 2020, West Penn Power filed their Objection to Complainant's Request for Subpoena.

68. On March 23, 2020, the Complainant filed his Reponse to the Objection to Request for Subpoena Propounded by Michael T. Jennings.

69. On April 2, 2020, West Penn Power West Penn propounded Interrogatories and Requests for Production of Documents (Set II) via electronic mail.

70. On April 22, 2020, the Complainant filed his Responses to the Interrogatories and Request for Production of Documents, Set II, Propounded by West Penn Power (WPP).

## **II. MOTION IN LIMINE**

71. The Respondent's experts submitted the following exhibits in advance of the evidentiary hearing. As summarized below, these exhibits, should be excluded from the record because they are objectionable on several grounds, including hearsay, relevance, authenticity, inherent unreliability, and confirmation bias. The testimonies of Respondent's experts should also be stricken.

• **Mr. John C. Ahr's Exhibits and Testimony:**

- **Exhibit JCA – 1, pages 1-80 – Smart Meter Deployment Plan**  
Exhibit is hearsay and irrelevant to Complainant's case on the subject of health effects and the proposed exhibit is not a peer-reviewed research study. This is not scientific information as it a biased document which was prepared by industry itself and proves nothing. Mr. Ahr is guilty of confirmation bias using only one industry generated document.
- **Exhibit JCA -2, pages 1-6 - Current Customer Contact**  
This proposed exhibit is hearsay as Mr. Ahr was not present during the phone conversations and Ms. Pagan and Ms. McDevitt were not called as witnesses for the evidentiary hearing. This document is not scientific information and proves nothing.
- **Testimony of Mr. John C. Ahr**  
Because Mr. Ahr is presented as an expert witness, and is a seasoned expert witness, he should know what is expected. Mr. Ahr's testimony should be based upon peer-reviewed research, but he did not identify any peer-reviewed studies in his preserved, written testimony, only biased industry generated information from West Penn Power. Complainant did not receive Mr. Ahr's Curriculum Vitae. Mr. Ahr states (Testimony, page 1, lines 9-11) he is the Advisor, Regulatory Compliance – Smart Meter.

Mr. Ahr addresses an incorrect issue in his testimony: opt-out. Complainant is not asking for an opt-out. Complainant is asking for an ADA accommodation, as is evident in his letters to FirstEnergy dated October 17, 2018 (mailed October 29, 2018) and West Penn Power dated November 6, 2018. Complainant also requested an ADA accommodation in his PA PUC Formal Complaint which was filed on November 15, 2018. **Even though the PUC does not have jurisdiction to hear ADA claims, as this is the province of federal courts, the PUC and West Penn Power MUST comply with federal ADA, Rehab Act and the Fair Housing Act laws. Complainant seeks to preserve his rights to appeal to the Commonwealth Court. This is the reason Complainant brings this matter to the attention of His Honor, ALJ Watson.**

Mr. Ahr is in charge of regulatory compliance, yet nowhere in Mr. Ahr's testimony does he address West Penn Power's **failure to comply** with Complainant's requests for ADA accommodation. This is the only subject Mr. Ahr should be able to address.

Nowhere in his testimony does Mr. Ahr state that he is a neurologist, epileptologist, biologist, or medical doctor of any kind. Complainant determined

from Mr. Ahr's testimony Mr. Ahr has no medical expertise and is not qualified to diagnose or treat patients.

**“The unauthorized practice of medicine occurs when someone gives medical advice or treatment without a professional license. The prohibition against the unauthorized practice of medicine is a precaution against people who would try to treat others without the proper training, or by using unproven methods which could harm or even kill their supposed patients. As a result, all states make the unauthorized practice of medicine a criminal offense with potentially serious penalties.”<sup>1</sup>**

Mr. Ahr is indeed giving medical advice without a professional license by stating this technology is safe for Complainant's family's medical conditions. Should Mr. Ahr's testimony be allowed, he could be personally liable as this would be considered negligence and possibly result in a criminal offense with potentially serious penalties.

Complainant does not know if Mr. Ahr is paid for his testimony as an expert witness, but he is an employee of First Energy/West Penn Power. Mr. Ahr does not have Complainant's family's best interest at heart as he is not bound to the American Medical Association's Medical Code of Ethics.<sup>2</sup> Mr. Ahr is an employee and expert witness for West Penn Power and has industry's best interest as his mission. This is a glaring conflict of interest and a reason for confirmation bias to occur.

Because Mr. Ahr is an electrical engineer with no medical training whatsoever, is not qualified to make any safety or medical comments, did not provide any peer-reviewed research to substantiate his contentions, is guilty of confirmation bias, and did not address West Penn Power's failure to comply with Complainant's ADA requests, Mr. Ahr should be excluded as a witness of any nature; and, Mr. Ahr's testimony should be stricken.

• **Dr. Christopher C. Davis's Exhibits and Testimony:**

- **Exhibit WPP Exhibit CD-1 – The Electromagnetic Spectrum**  
Relevancy - Exhibit is irrelevant to Complainant's case on the subject of health effects. Hearsay – The proposed exhibit is only a chart and is not peer-reviewed

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<sup>1</sup> What is the Unauthorized Practice of Medicine? (2016, June 21). Retrieved from <https://healthcare.findlaw.com/patient-rights/what-is-the-unauthorized-practice-of-medicine.html>

<sup>2</sup> AMA Principles of Medical Ethics. (n.d.). Retrieved from <https://www.ama-assn.org/about/publications-newsletters/ama-principles-medical-ethics>

research. Inherently Unreliable - There is no identified creator or source listed for the chart making the exhibit unreliable. The chart is produced by biased industry, is not scientific information, and proves nothing. Dr. Davis is guilty of confirmation bias.

- **WPP Exhibit CD-2 – Radio Frequency Fields from WPP Itron Meters Compared to FCC Safety Standard**

Relevancy - Exhibit is irrelevant to Complainant's case on the subject of health effects. Hearsay – The proposed exhibit is only a chart and is not peer-reviewed research. Inherently Unreliable - There is no identified creator or source listed for the chart making the exhibit unreliable. The chart is produced by biased industry, is not scientific information, and proves nothing. Dr. Davis is guilty of confirmation bias.

- **WPP Exhibit CD-3 – Peak Radio Frequency Fields from WPP Itron Meters Compared to FCC Safety Standard**

Relevancy - Exhibit is irrelevant to Complainant's case on the subject of health effects. Hearsay – The proposed exhibit is only a chart and is not peer-reviewed research. Inherently Unreliable - There is no identified creator or source listed for the chart making the exhibit unreliable. The chart is produced by biased industry, is not scientific information, and proves nothing. Dr. Davis is guilty of confirmation bias.

- **WPP Exhibit CD-4 – RF from Common Sources Compared to Exposure Close to AMI Meter**

Relevancy - Exhibit is irrelevant to Complainant's case on the subject of health effects. Hearsay – The proposed exhibit is only a chart and is not peer-reviewed research. Inherently Unreliable - There is no identified creator or source listed for the chart making the exhibit unreliable. The chart is produced by biased industry, is not scientific information, and proves nothing. Dr. Davis is guilty of confirmation bias.

- **WPP Exhibit CD-5 – Comparison of RF from UHF TV to AMI Meter At Jennings Property**

Relevancy - Exhibit is irrelevant to Complainant's case on the subject of health effects. Hearsay – The proposed exhibit is only a chart and is not peer-reviewed research. Inherently Unreliable - There is no identified creator or source listed for the chart making the exhibit unreliable. The chart is produced by biased industry, is not scientific information, and proves nothing. Dr. Davis is guilty of confirmation bias.

- **Testimony of Dr. Christopher C. Davis**

Why didn't Dr. Davis identify any peer-reviewed research in his exhibits to support

his claims? Dr. Davis is another seasoned expert witness, that did not give any peer-reviewed research to substantiate his opinions and calculations. Dr. Davis has 260+ published research articles and did not refer to any of them. Dr. Davis clings to the FDA, EPA and they default to the FCC rules which have not been updated in over 20 years "...while radiation from cell phones, cordless phones, WiFi, and wireless baby monitors has increased exponentially in that time."<sup>3</sup> "Smart" meter radiofrequency radiation will also be factored into total exposure. **While Complainant can turn off some of the above-mentioned sources of RF/EMF, a "smart" meter will be operating 24/7/365, which equals chronic exposure.** The FCC does not claim that their exposure guidelines provide protection for exposures that are chronic, prolonged and non-thermal.<sup>4</sup> Dr. Davis is guilty of confirmation bias.

Dr. Davis provided only five Exhibits which were WPP CD-1 through WPP CD-5. There is a glaring omission: exposure over time. Dr. Davis' exhibits do not provide for exposure to a "smart" meter 24/7/365. Nor do they provide for multiple meters in close proximity or total exposure from all RF/EMF sources.

Dr. Davis did not take measurements at Complainant's property. Not every situation or property is the same and would have different computations for their unique exposure. Dr. Davis' calculations are theory. Dr. Davis' four charts do not refute the biological effects from the peer-reviewed studies Complainant has provided in his testimony and in his exhibits.

Also, Dr. Davis did not provide a Curriculum Vitae, but testifies he is a scientific researcher and teacher in Physics and Electrical Engineering, particularly Electromagnetics. (Testimony p.1, lines 9-12.) Dr. Davis did not mention any medical background, such as neurologist, epileptologist, biologist, or medical doctor of any kind. From Dr. Davis' testimony, Complainant determined Dr. Davis has no medical expertise and is not qualified to diagnose or treat patients.

**"The unauthorized practice of medicine occurs when someone gives medical advice or treatment without a professional license. The prohibition against the unauthorized practice of medicine is a precaution against people who would try to treat others without the proper training, or by using unproven methods which could harm or even kill their supposed patients. As a result, all states make the unauthorized practice of medicine a criminal offense with potentially serious penalties."<sup>5</sup>**

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<sup>3</sup> 5G – The Global Human Experimentation, <https://childrenshealthdefense.org/child-health-topics/known-culprit/electromagnetic/5g-the-global-human-experiment-without-consent/>

<sup>4</sup> [http://www.emrpolicy.org/litigation/case\\_law/docs/noi\\_epa\\_response.pdf](http://www.emrpolicy.org/litigation/case_law/docs/noi_epa_response.pdf) Letter from US EPA to Janet Newton, March 8, 2002.

<sup>5</sup> What is the Unauthorized Practice of Medicine? (2016, June 21)

Dr. Davis is indeed giving medical advice without a professional license in Complainant's case. Because Dr. Davis is an electrical engineer with no medical training whatsoever, and not qualified to make a medical determination in Complainant's ADA accommodation case, he should be excluded as a witness of any nature and his testimony stricken. Should Dr. Davis' testimony be allowed, he could be personally liable as this would be considered negligence and possibly a criminal offense with potentially serious penalties.

**"Dr. Christopher C. Davis, according to his testimony (transcript page 124 through 129) admitted to attending at least 10 trials as a witness, and has 7 or 8 more scheduled. Dr. Davis stated 'I'm Compensated at \$400.00 per hour for his active work in these cases. And I do a great deal of background work in connection with these cases which I receive more compensation.'" <sup>6</sup>**

Dr. Davis is also beholden to industry and his opinions are biased. This is a glaring conflict of interest and a reason for confirmation bias to occur.

Because Dr. Davis is an electrical engineer with no medical training whatsoever, is not qualified to make any safety or medical comments and did not provide any peer-reviewed research to substantiate his contentions, Dr. Davis should be excluded as a witness of any nature; and, Dr. Davis' testimony should be stricken.

- **Dr. Mark A. Israel's Exhibits and Testimony**

- **WPP Exhibit MI-1, pages 1-2, Public Health Reviews RF Fields and Claimed Health Effects**

Hearsay - The document is only a list of quotes, not a peer-reviewed research. The authors of the quotes are not being presented to authenticate the accuracy of the statements within the document. This document is full of hearsay opinions about medical and scientific issues from multiple authors. Authenticity - There is no source listed for who created the chart. The proposed exhibit appears to be a selectively compiled list of statements. Relevance - The proposed exhibit does not address RF from the AMI meters being used by West Penn Power. Inherently Unreliable - This proposed exhibit is inherently unreliable as the document is only selective, incomplete portions of other documents, copied and pasted, and is not official, full copies of each article representing each quote.

This cherry-picked list of quotes proves nothing. Dr. Israel is guilty of confirmation bias.

On page 2 of this page of quotes, the ICNIRP is mentioned, "...exposure within

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<sup>6</sup> Kline v PPL, Docket No. C-2017-2621072, Transcript p. 126 at 12-15. Kline Main Brief, p. 5.

the ICNIRP's reference values." A new report concerning the ICNIRP was released on June 19, 2020, entitled "The International Commission on Non-Ionizing Radiation Protection: Conflicts of interest, corporate capture and the push for 5G."<sup>7</sup> (See Exhibit EEEE.) This report critically analyzes the expertise and the independence of the ICNIRP. The report reveals the ICNIRP has numerous ties to the mobile communications industry whereby most of its members have accepted funding from the industry for their research.

"...the ICNIRP...suspected of having rather close links with the industries whose expansion is shaped by recommendations for maximum threshold values for the different frequencies of electromagnetic fields'...It seems that "a closed circle of like-minded scientists" has turned ICNIRP into a self-indulgent science club, with a lack of bio-medical expertise, as well as a lack of scientific expertise in specific risk assessments. Thereby, creating a situation which might easily lead to 'tunnel-vision' in the organisation's scope...for really independent scientific advice we cannot rely on ICNIRP"<sup>8</sup> [Emphasis added.]

Neither the ICNIRP nor Dr. Israel are unbiased. Dr. Israel's interpretation of the industry funded research references he provided is not consistent with the independent findings of the respected public health agencies Complainant has cited throughout his testimony and his exhibits which are based on thousands of studies not addressed by Dr. Israel. Dr. Israel is guilty of confirmation bias.

- **WPP Exhibit MI-2, pages 1-4, State Health Agency & PUC Reviews of Smart Meters and Health**

Hearsay - The document is only a list of quotes, not a peer-reviewed research. The authors of the quotes are not being presented to authenticate the accuracy of the statements within the document. This document is full of hearsay opinions about medical and scientific issues from multiple authors, some of whom represent biased industry. Authenticity - There is no source listed for who created the chart. The proposed exhibit appears to be a selectively compiled list of statements. Relevance - The proposed exhibit does not address RF from the AMI meters being used by West Penn Power. Inherently Unreliable - This proposed exhibit is inherently unreliable as the document is only selective, incomplete portions of other documents which are copied and pasted, and are not official, full copies of each article representing each quote. This cherry-picked list of quotes proves nothing and Dr. Israel is guilty of confirmation bias.

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<sup>7</sup> The International Commission on Non-Ionizing Radiation Protection: Conflicts of interest, corporate capture and the push for 5G," Klaus Buchner and Michele Rivasi, European Parliament, <https://klaus-buchner.eu/wp-content/uploads/2020/06/ICNIRP-report-FINAL-19-JUNE-2020.pdf>.

<sup>8</sup> Ibid., p. 4, 37, 49.

- **WPP Exhibit MI-3, pages 1-2, Public Health Reviews RF Fields and Claimed Electromagnetic Hypersensitivity**  
Hearsay - The document is only a list of quotes, not a peer-reviewed research. The authors of the quotes are not being presented to authenticate the accuracy of the statements within the document. This document is full of hearsay opinions about medical and scientific issues from multiple authors. Authenticity - There is no source listed for who created the chart. The proposed exhibit appears to be a selectively compiled list of statements. Relevance – The proposed exhibit does not address RF from the AMI meters being used by West Penn Power. Inherently Unreliable - This proposed exhibit is inherently unreliable as the document is only selective, incomplete portions of other documents which are copied and pasted, and are not official, full copies of each article representing each quote. This cherry-picked list of quotes proves nothing. Dr. Israel is guilty of confirmation bias.
  
- **WPP Exhibit MI-4, pages 1-2, Lack of Scientific Objectivity and Reliability In BioInitiative Report**  
Hearsay - The document is only a list of quotes, not a peer-reviewed research. The authors of the quotes are not being presented to authenticate the accuracy of the statements within the document. This document is full of hearsay opinions about medical and scientific issues from multiple authors. Authenticity - There is no source listed for who created the chart. The proposed exhibit appears to be a selectively compiled list of statements. Relevance – The proposed exhibit does not address RF from the AMI meters being used by West Penn Power. Inherently Unreliable - This proposed exhibit is inherently unreliable as the document is only selective, incomplete portions of other documents which are copied and pasted, and are not official, full copies of each article representing each quote. This cherry-picked list of quotes proves nothing. Dr. Israel is guilty of confirmation bias.
  
- **Testimony of Dr. Mark A. Israel**  
Dr. Israel did not provide any exhibits of his research for Complainant to review. Dr. Israel provided only footnotes, which Complainant in turn, had to search out for himself. Complainant was held to a higher standard than the experts and was required to provide exhibits with his testimony, along with full articles, not just abstracts, and certainly not just footnotes.

Complainant finds Dr. Israel’s testimony totally biased as he is a paid industry expert. Each of the studies he documented in his testimony show no effects. Why did he ignore the peer-reviewed research showing biological effects? Complainant’s testimony and exhibits list many peer-reviewed studies which clearly show biological effects. Dr. Israel’s few negative studies do not negate the positive, peer-reviewed studies Complainant provided, nor the thousands that have been

published. Dr. Israel is guilty of confirmation bias.

**“We should be reminded that ‘scientific proof’ is not symmetric (Popper, 1959). One cannot prove that EMF is harmless no matter how many negative results one presents. One single reproducible (significant) harmful effect would outweigh all the negative results.”<sup>9</sup>**

Negative results (no finding of biological effects) are just that, they prove nothing. All of Dr. Israel’s references (no exhibits in his testimony) to research dealt with negative results which prove nothing. Dr. Brian Stein, Radiation Research Trust Chair, confirmed studies with no results of biological effects are just that and states they are confusing. Dr. Stein also confirmed studies with no results of biological effects do **NOT** negate studies with positive results of biological effects. Dr. Stein further stated the studies with positive results of biological effects remain in the journals and are not negated by negative (no results) studies. **(See Appendix A.)**

The research in Dr. Israel’s references is totally biased. 100% of the studies have ties to industry. Examples of the industry funding ties include: Motorola, Mobile Manufacturing Forum, Telecommunications Bureau, TeleDenmark Mobil, Sonofon, Joint Fund for Smart Grid, Ministry of Internal Affairs and Communications (telecommunications), UK Mobile Telecommunications and Health Research Programme, TEKES National Technology Agency (Electronics for the Information Society), etc. Clearly, Dr. Israel, expert or not, does not meet the objectivity criteria. This is further proof Dr. Israel is guilty of confirmation bias.

Dr. Israel’s interpretation of the industry funded research references he provided is not consistent with the independent findings of the respected public health agencies Complainant has cited throughout his testimony and his exhibits which are based on thousands of independent studies not addressed by Dr. Israel. Therefore, for this reason and all the reasons mentioned above, in Complainant’s view, Dr. Israel’s position is not reliable for an objective medical evaluation and Dr. Israel is guilty of confirmation bias.

Dr. Israel’s “medical evaluation” is in actuality an industry evaluation report on what the telecommunication industry wants us to believe is safe. Dr. Israel’s “medical evaluation” is a report filled with confirmation bias. If West Penn Power and the PA PUC allow Dr. Israel to make a **medical decision based on the references he provided**, it would be negligent and a huge liability for all three parties, especially

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<sup>9</sup> Blank, M. 2007. Section 7, pp. 1-40. Evidence for Stress Response (Stress Proteins). In BioInitiative Report A Scientific Perspective on Health Risk of Electromagnetic Fields. Published Online 31 August 2007 Section 7, pp. 1-40. [https://bioinitiative.org/wp-content/uploads/pdfs/sec07\\_2007\\_Evidence\\_for\\_Stress\\_Response.pdf](https://bioinitiative.org/wp-content/uploads/pdfs/sec07_2007_Evidence_for_Stress_Response.pdf)

against the recommendations of Complainant's family physicians. This decision should not reside with West Penn Power or the PA PUC which are clearly not licensed physicians, physician assistants, or nurse practitioners who have the Complainant's best interest at heart.

Another issue of objectivity is the fact that Dr. Israel is a paid witness for West Penn Power. Dr. Israel's compensation is \$500.00 an hour including time in court and all research.<sup>10</sup> Dr. Israel does not have Complainant's best interest at heart, either, as he is being paid by industry. Because of this relationship, Dr. Israel has West Penn Power's best interest at heart. This is a glaring conflict of interest and a reason for confirmation bias to occur.

Dr. Israel is giving medical advice to folks who are not his patients. Dr. Israel is not bound by the Code of Ethics in this case since Complainant and his family are not his patients. Complainant and his family are strangers to Dr. Israel. Even a seemingly innocent medical evaluation can have serious ramifications. Giving this type of advice is akin to an insurance adjustor whose main goal is to save the company money.

Dr. Israel found no studies on Sturge-Weber Syndrome, PANS, and autism, but he **conveniently ignored** the neurological nature of these medical diagnoses. Because "[t]here are no scientific studies," is not a reason to conclude the RF/EMF emissions from the "smart" meter is safe. Again, there is research, Dr. Israel ignored it. Plus, Dr. Israel did not factor in the uniqueness, vulnerability, and susceptibility of Complainant's son's conditions, which makes this even more absurd as he concludes this technology is safe and will not harm him, with no information to back up his claim. Another example of confirmation bias.

Dr. Israel says in his testimony (p. 13, lines 4-9), "The WHO did not refer to RF fields from smart meters as being carcinogenic, probably carcinogenic or even possibly carcinogenic." Dr. Israel ignored a more recent statement by the longtime WHO advisor, Dr. Anthony B. Miller, physician epidemiologist who specializes in cancer etiology, prevention, and screening, which was in a press release on August 16, 2017.

The Press Release stated:

**"An expert cancer researcher and advisor to the World Health Organization International Agency for Research on Cancer (WHO/IARC) has issued his scientific opinion that radiofrequency (RF) radiation from any source – such as the signals emitted by cell phones, other wireless and cordless and sensor devices, and wireless networks – fully meets criteria to be classified as a 'Group 1 carcinogenic to humans' agent, based on scientific**

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<sup>10</sup> Kline v PPL, Docket No. C-2017-2621072, Transcript p. 126 at 12-15. Kline Main Brief, p. 5.

**evidence associating RF exposure to cancer development and cancer promotion'...Miller believes the evidence published since 2011 fulfills the requirements to re-classify RF radiation as a 'Group 1 carcinogenic to humans' agent."**<sup>11</sup>

Dr. Miller's conclusion is based on peer-reviewed research. "Other wireless devices" and "wireless networks" certainly includes a wireless "smart" meter, so Dr. Israel's contention that the WHO was not referring to a "smart" meter is misleading because a "smart" meter is indeed a wireless device in a wireless network, a mesh network to be exact. Studies **have** been performed on the "smart" meters as there are a plethora of peer-reviewed studies, some of which can be found in Complainant's testimony and exhibits, on the emissions of "smart" meters which is RF/EMF, which refute Dr. Israel's misleading contention. Confirmation bias continues.

Because Dr. Israel is not the Complainant's family doctor with his family's best interest at heart, but rather a doctor who is paid by industry; guilty of confirmation bias; did not provide any research exhibits to substantiate his opinions; and the above-mentioned reasons; Dr. Israel should be excluded as a witness of any nature and Dr. Israel's testimony should be stricken.

72. Many of the experts' proposed exhibits lack authenticity, are inherently unreliable, or both because: (a) participants in conversations will not authenticate the statements made in the exhibit; (b) they are not peer-reviewed studies or didn't even provide any peer-reviewed studies, or exhibits at all; (c) they are documents from unknown authors or sources; (d) do not have any medical or scientific basis; and/or (d) are only biased industry generated information from West Penn Power or other industry sources.

73. For these reasons, **all** of West Penn Power's experts' exhibits should be excluded because they are irrelevant, lack authenticity, and are inherently unreliable; and most importantly, confirmation bias abounds in Mr. Ahr's, Dr. Davis' and Dr. Israel's testimonies, references, and exhibits.

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<sup>11</sup> "Cancer Expert Declares Cell Phone and Wireless Radiation as Carcinogenic to Humans," <http://www.sbwire.com/press-releases/pdf/849135>

### **III. CONCLUSION**

**Wherefore**, Michael T. Jennings respectfully requests that Administrative Law Judge Jeffrey A. Watson grant this Motion in Limine and exclude West Penn Power's experts' (Mr. John Ahr, Dr. Christopher C. Davis, and Dr. Mark A. Israel) proposed exhibits and testimonies from the evidentiary record in this proceeding, as explained above. The testimonies should be stricken from the record.

Dated: July 2, 2020

Respectfully Submitted,



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Michael T. Jennings  
200 Brook Hollow Road  
Mount Pleasant, PA 15666  
724-600-9338  
Lilmac2@zoominternet.net

## **Appendix A**

Jennings C-2018-3006031

### **Email from Brian Stein, Radiation Research Trust**

## Appendix A

BS

**From:** Brian Stein brian.stein61@hotmail.com  
**Subject:** Fw: Question about studies with negative results  
**Date:** June 8, 2020 at 4:41 PM  
**To:** oilsofgrace@hotmail.com  
**Cc:** Eileen O'Connor Eileen@radiationresearch.org

Dear Susan

If I understand your question correctly.

No. They simply add confusion.

No. Positive studies are still positive studies.

No. they are still positive peer reviewed studies.

Regards

Brian Stein Chair Radiation Research Trust

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**From:** Eileen O'Connor <Eileen@radiationresearch.org>  
**Sent:** 05 June 2020 14:49  
**To:** brian.stein61@hotmail.com <brian.stein61@hotmail.com>  
**Subject:** FW: Question about studies with negative results

[See email.](#)

[Best wishes](#)  
 Eileen

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**From:** Susan Jennings [mailto:oilsofgrace@hotmail.com]  
**Sent:** 05 June 2020 14:38  
**To:** eileen@radiationresearch.org  
**Subject:** Question about studies with negative results

Hi,

I have a couple of questions about studies, in general, that show no biological effects.

- 1 - Do these studies negate positive studies which show biological effects?
- 2 - If these positive studies are negated, are they removed from your database?
- 3 - Are they removed from the journals in which they were published?

Thanks so much for your help,  
 Susan Jennings BA, MPA  
 Oils of Grace, LLC  
 Silver Wellness Advocate for dōTERRA®  
 WA # - 501975  
 724-613-4262 - H  
 724-600-9338 - C

“...and the leaves of the tree were for the healing of the nations.” Ezekiel 47:12

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**My Website:**

[http://www.oilsofgrace.com/](#)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>MICHAEL T. JENNINGS</b>	:	
<b>Complainant</b>	:	
	:	
<b>v.</b>	:	<b>Docket No. C-2018-3006031</b>
	:	
<b>WEST PENN POWER COMPANY</b>	:	
<b>Respondent</b>	:	

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of my **MOTION IN LIMINE OF MICHAEL T. JENNINGS TO EXCLUDE RESPONDENT’S EXPERTS’ EXHIBITS AND TESTIMONIES** in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant) and timely filed in accordance with 52 PA Code, Chapter 1, Subchapter B, Sections 1.12 (a) and 1.56 (1) (b)

**Service by Efiling and Electronic Mail as follows:**

Tori M. Giesler  
[tgiesler@firstenergycorp.com](mailto:tgiesler@firstenergycorp.com)

ALJ Jeffrey A. Watson  
[jeffwatson@pa.gov](mailto:jeffwatson@pa.gov)

Lauren L. Lepkoski  
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Secretary Rosemary Chiavetta  
[rchiavetta@pa.gov](mailto:rchiavetta@pa.gov)



Dated: July 2, 2020

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