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September 1, 2020

**VIA ELECTRONIC FILING**

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

**Re: John M. Chenosky v. Metropolitan Edison Company**  
**Docket No. C-2019-3007622**

Dear Secretary Chiavetta:

Enclosed please find the Motion of Metropolitan Edison Company to Strike portions of the written direct testimony and exhibits of John M. Chenosky with regard to the above-captioned matter. This document has been served on the Complainant as shown in the Certificate of Service.

Please contact me if you have any questions regarding this matter.

Very truly yours,



Tori L. Giesler

krak  
Enclosures

c: As Per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**JOHN M. CHENOSKY**

v.

**METROPOLITAN EDISON COMPANY**

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**Docket No. C-2019-3007622**

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**NOTICE TO PLEAD**

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TO: John M. Chenosky

Pursuant to 52 Pa. Code § 5.103(c), you are hereby notified that, if you do not file a written response denying or correcting the enclosed Motion to Strike of Metropolitan Edison Company within **twenty (20) days** from the service of the Notice, the facts set forth by Metropolitan Edison Company in the Motion may be deemed to be true, thereby requiring no other proof. All pleadings, such as a Reply to Motion, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy service to counsel for Metropolitan Edison Company, and where applicable, the Administrative Law Judge presiding over the case.

File with:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

With a copy to:

Administrative Law Judge Jeffrey A. Watson  
Pennsylvania Public Utility Commission  
Office of Administrative Law Judge  
Piatt Place, Suite 220  
301 5th Avenue  
Pittsburgh, PA 15222

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

Date: September 1, 2020



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Lauren M. Lepkoski, Esquire  
Tori L. Giesler, Esquire

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**JOHN M. CHENOSKY**

v.

**METROPOLITAN EDISON COMPANY**

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**Docket No. C-2019-3007622**

**MOTION OF METROPOLITAN EDISON COMPANY TO STRIKE PORTIONS  
THE WRITTEN DIRECT TESTIMONY AND EXHIBITS  
SUBMITTED BY JOHN M. CHENOSKY**

TO DEPUTY CHIEF ADMINISTRATIVE LAW JUDGE JOEL H. CHESKIS:

Metropolitan Edison Company (“Met-Ed” or the “Company”) by and through its attorneys, Lauren M. Lepkoski and Tori L. Giesler, and pursuant to 52 Pa. Code § 5.103, hereby files this Motion to Strike portions of John M. Chenosky’s (“Complainant”) written direct testimony and exhibits because they are irrelevant, contain hearsay not subject to a hearsay exemption, constitute improper expert testimony, and contain allegations that are time-barred by Section 3314(a) of the Pennsylvania Public Utility Code, 66 Pa.C.S. § 3314(a). In support thereof, the Company avers as follows:

**I. BACKGROUND**

1. On January 25, 2019, the Complainant filed a Formal Complaint with the Pennsylvania Public Utility Commission (“Commission”) regarding 1000 Huffs Church Road, Alburdis, Pennsylvania 18011 (“Service Location”) which was electronically served on the Company on February 4, 2019.

2. On February 24, 2019, the Company filed its Answer and New Matter denying the material allegations in the Formal Complaint. On that same day, the Company also filed Preliminary Objections to the Formal Complaint.

3. On March 15, 2019, the Complainant filed a request for an extension of time to respond to the Company's Answer and New Matter.

4. On March 20, 2019, a Motion Judge Assignment Notice was issued assigning this matter to Administrative Law Judge ("ALJ") Jeffrey A. Watson for disposition.

5. On March 29, 2019, the Complainant a response to the Company's Answer and New Matter and a response to the Company's Preliminary Objections directly to the Company.

6. On May 3, 2019, ALJ Watson issued an Interim Order, which denied the Company's Preliminary Objections.

7. On July 1, 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.

8. On July 29, 2019, Met-Ed filed a Motion to Compel.

9. On August 19, 2019, the Complainant filed "Objections" to Met-Ed's Motion to Compel.

10. On September 3, 2019, ALJ Watson issued an Interim Order granting in part and denying in part Met-Ed's Motion to Compel.

11. On September 25, 2019, ALJ Watson issued an Interim Order amending his September 3, 2019 Interim Order. In the September 25, 2019 Interim Order, ALJ Watson extended the due date for the Complainant's full and complete answers to Met-Ed's discovery requests and directed the parties to submit an additional status report.

12. On September 26, 2019, a Notice was issued assigning the matter to Deputy Chief Administrative Law Judge Joel H. Cheskis.

13. On December 26, 2019, ALJ Cheskis issued a Scheduling Order, which directed the Complainant to serve written direct testimony on June 1, 2020, Met-Ed to serve written rebuttal testimony on September 1, 2020, and the Complainant to serve written surrebuttal testimony on November 2, 2020.

14. On June 1, 2020, the Complainant served his written direct testimony and exhibits.

15. Met-Ed herein moves to strike portions of the Complainant's written direct testimony and exhibits.

## **II. MOTION TO STRIKE**

16. The Complainant's direct testimony addresses six primary topics: (1) the alleged medical issues he and others allegedly experience from being exposed to radio frequency ("RF") fields and electromagnetic fields ("EMFs"); (2) allegation that the smart meter produces "dirty electricity"; (3) alleged issues concerning Met-Ed's electric service and the electric distribution equipment providing that service to the Complainant's property; (4) his argument that Act 129 of 2008 ("Act 129") does not mandate the installation of smart meters; (5) allegation that the Company's installation of its smart meter would violate the Americans with Disabilities Act ("ADA") and the Fair Housing Act ("FHA"); and (6) allegation that the Company's actions are inconsistent with the "Professional Engineers Act."<sup>1</sup>

17. Met-Ed respectfully requests that portions of the Complainant's pre-served written direct testimony and exhibits be stricken because they are irrelevant, contain hearsay not subject to a hearsay exemption, constitute improper expert testimony, and contain allegations that are time-

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<sup>1</sup> The statutes referenced and quoted by the Complainant are provisions in California's Business & Professions Code. They are not Pennsylvania statutes.

barred by Section 3314(a) of the Pennsylvania Public Utility Code, 66 Pa.C.S. § 3314(a). The Company's objections can be summarized as follows:

a. Complainant's allegations concerning the Americans with Disabilities Act ("ADA"), Fair Housing Act ("FHA"), and California's Professional Engineers Act – Irrelevant;

b. Complainant's allegations regarding cellphones, Bluetooth, Wi-Fi networks, 5G wireless networks, solar arrays, and other electrical equipment – Irrelevant; Hearsay;

c. Complainant's allegations concerning the electric transformer he was required to pay for and other "grievances" he raised in his Formal Complaint filed at Docket No. C-2017-2638380 – Irrelevant; Time-Barred by 66 Pa.C.S. § 3314(a);

d. Complainant's allegations about the medical issues he purportedly experiences from being exposed to RF fields and EMF fields as well as the documents and medical studies that supposedly support his allegations – Lack of Foundation; Improper Expert Testimony; Hearsay;

e. Complainant's allegations about the medical issues other persons purportedly experience from being exposed to RF fields and EMF fields as well as the documents and medical studies that supposedly support his allegations – Lack of Foundation; Improper Expert Testimony; Hearsay;

f. Complainant's claim that his unnamed "electrical consultant" said that "dirty electricity" is "back-fed from the shared transformer into [his] electric service from [his] neighbor's Smart Meter" (Complainant Statement No. 1, p. 7a.) – Hearsay;

g. Complainant’s unmarked exhibit by an unknown author about whether Act 129 mandates the installation of the Company’s smart meter – Hearsay; Lack of Foundation and Authentication;

h. Complainant Exhibit E – Irrelevant; Hearsay;

i. Complainant Exhibit O – Irrelevant; Hearsay;

j. Complainant Exhibit X – Irrelevant; Hearsay; and

k. Complainant Exhibit Z – Irrelevant; Hearsay.

Attached hereto as **Appendix A** is a copy of the Complainant’s direct testimony with the portions to be stricken marked for redaction.

18. Thus, for these reasons, and as further explained in the following sections, the Company respectfully requests that the ALJ grant the instant Motion and strike the identified portions from the Complainant’s direct testimony and exhibits.

**A. THE COMPLAINANT’S WRITTEN DIRECT TESTIMONY AND EXHIBITS CONTAIN IRRELEVANT INFORMATION, ALLEGATIONS, AND MATERIALS**

19. Large portions of the Complainant’s written direct testimony and exhibits are irrelevant to the issues being decided in this proceeding.

20. Under Rule 401 of the Pennsylvania Rules of Evidence, evidence is relevant if: (1) “it has any tendency to make a fact more or less probable than it would be without the evidence”; and (2) “the fact is of consequence in determining the action.” Pa.R.E. 401(a)-(b).

21. The Pennsylvania Supreme Court has declared that “[r]elevant evidence is ‘any evidence that tends to make a fact in issue more or less probable.’” *Commonwealth v. Patterson*, 91 A.3d 55, 74 (Pa. 2014) (emphasis added) (quoting *Commonwealth v. DeJesus*, 880 A.2d 608, 614 (Pa. 2005)).

22. “[R]elevance of a given piece of evidence is a prerequisite to its admissibility.”

*Id.*

23. Therefore, the following irrelevant information, allegations, and materials set forth in the Complainant’s direct testimony and exhibits should be stricken.

**1. The Complainant’s Allegations Concerning the ADA, the FHA, and California’s Professional Engineers Act Are Irrelevant Because the Commission Lacks Jurisdiction to Interpret and Enforce Those Laws**

24. In his written direct testimony, the Complainant claims that the installation of a smart meter contravenes the ADA and FHA. (Complainant Statement No. 1, pp. 2a, 5a.) He also references and quotes portions of California’s “Professional Engineers Act” as alleged support for his challenge to the installation of Met-Ed’s smart meter. (Complainant Statement No. 1, pp. 10a-11a) (citing Cal. Bus. & Prof. Code §§ 6701, 6710.1).

25. None of these allegations are relevant to the issues in this proceeding.

26. It is well-established that as a creature of statute, the Commission “has only those powers which are expressly conferred upon it by the Legislature and those powers which arise by necessary implication.” *Feingold v. Bell*, 383 A.2d 791, 794 (Pa. 1977) (citations omitted).

27. Nothing in the Pennsylvania Public Utility Code grants the Commission the ability to interpret and enforce the ADA, FHA, and California Professional Engineers Act.

28. Indeed, it is well-established that the Commission lacks subject matter jurisdiction to interpret and enforce the ADA. *See Frompovich v. PECO Energy Co.*, 2018 Pa. PUC LEXIS 160, at \*69 (Order entered May 3, 2018). As the Commission, held in *Frompovich*:

[I]t is beyond the jurisdiction of Commission to determine whether the Complainant has a disability or a cause of action under the American with Disabilities Act. See I.D. at 18. If Ms. Frompovich believes that she has a valid ADA claim against PECO, she must work through the federal courts or one of the federal enforcement agencies, which include the Department of Labor, the Equal Employment Opportunity Commission, the Department of

Transportation, the Federal Communications Commission or the Department of Justice, but not this Commission.

*Frompovich*, 2018 Pa. PUC LEXIS at \*69. Therefore, the applicable federal agencies and courts have jurisdiction to interpret and enforce the ADA and FHA, not the Commission.

29. Likewise, the California Professional Engineers Act has no applicability here. What is relevant are the requirements of Pennsylvania Public Utility Code, which the Commission has jurisdiction to interpret and enforce.

30. Therefore, the Complainant's allegations concerning the ADA, FHA, and California Professional Engineers Act should be stricken.

**2. The Complainant's Allegations Regarding Cellphones, Bluetooth, Wi-Fi Networks, 5G Wireless Networks, Solar Arrays, His Electric Transformer, and Other Electrical Equipment Are Irrelevant and Outside the Scope of This Proceeding**

31. The issues that have been properly raised in this proceeding are: (1) whether the installation of Met-Ed's smart meter would constitute a violation of Section 1501 of the Public Utility Code, 66 Pa.C.S. § 1501; and (2) whether Act 129 and the Commission's related Orders require the Company to install the smart meter.

32. Yet, the Complainant's direct testimony contains several irrelevant allegations about the purported issues and health effects caused, contributed to, or exacerbated by cellphones, Bluetooth, Wi-Fi networks, 5G wireless networks, solar arrays, and "multigrounded neutral distribution system[s]." (*See* Complainant Statement No. 1, pp. 1a-11a; Complainant Exhibits E, X, Z.)

33. The Complainant also raises allegations about: (1) the electric transformer that he was required to pay for so that the Company could provide electric service to his property; and (2) other "grievances" that he "has experienced since he constructed his residence and accessory use

building starting in 1998,” which were raised in his prior Formal Complaint filed at Docket No. C-2017-2638380. (*See* Complainant Statement No. 1, pp. 6a-7a.)

34. None of these issues are relevant to the allegations set forth in the Formal Complaint.

35. The Complainant never even attempts to establish that the RF fields produced by cellphones, Bluetooth, Wi-Fi networks, and 5G wireless networks are comparable to the RF fields created by Met-Ed’s smart meter.

36. Moreover, the Complainant contends that “cell towers” and the “inverters” on “big commercial solar arrays” produce “dirty electricity” and that “multigrounded neutral distribution system[s]” can create “stray current[s].” (Complainant Statement No. 1, pp. 7a-11a.)

37. However, even assuming those claims were true, the Complainant never establishes how this information is relevant to determining whether the smart meter would produce such issues.

38. Additionally, the Complainant’s issues the electric transformer he was required to pay for and other “grievances” he raised in his Formal Complaint at Docket No. C-2017-2638380 are not relevant to this proceeding.

39. None of those “grievances” involved the Company’s planned installation of a smart meter.

40. Moreover, the Complainant’s issue with the electric transformer was that he was required to pay for it in order to receive electric service; however, this was entirely consistent with the Company’s Commission-approved tariff.

41. The Complainant cannot revive these claims by simply averring them for the first time in his written direct testimony. He properly should have amended his Formal Complaint, so

that Met-Ed could file an Answer and New Matter and raise any affirmative defenses in response thereto.<sup>2</sup>

42. Thus, the Complainant's allegations regarding cellphones, Bluetooth, Wi-Fi networks, 5G wireless networks, solar arrays, his electric transformer, and other electrical equipment are irrelevant and should be stricken.

**3. Complainant Exhibit O, Which Lists Formal Complaint Proceedings Purportedly Involving Smart Meters, Is Irrelevant**

43. The Complainant also attaches to his direct testimony a list of formal complaint proceedings that have been or are being litigated before the Commission about smart meters. (*See* Complainant Exhibit O.)

44. It is completely irrelevant whether other persons have filed formal complaints about smart meters.

45. The principal issue in this case is whether Met-Ed's installation of a smart meter for the Complainant's electric service account would violate a provision of the Public Utility Code, a Commission regulation, or a Commission order.

46. The fact that other customers may have filed formal complaints against their electric utilities, many of which are not Met-Ed and use different smart meters than the Company, is irrelevant to this proceeding.

47. Therefore, Complainant Exhibit O should be stricken.

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<sup>2</sup> As explained in Section II.D., *infra*, these issues are time-barred by the statute of limitations set forth in Section 3314(a) of the Public Utility Code. *See* 66 Pa.C.S. § 3314(a). Met-Ed raised this affirmative defense to these claims in its January 8, 2018 Answer and New Matter to the Complainant's Formal Complaint at Docket No. C-2017-2638380.

**B. THE COMPLAINANT'S DIRECT TESTIMONY LACKS THE FOUNDATION AND QUALIFICATIONS NEEDED FOR HIM TO PRESENT EXPERT TESTIMONY ABOUT MEDICAL ISSUES**

48. The Complainant also attempts to testify about the medical issues allegedly experienced by him and other people exposed to smart meters, including diagnosing the causes of those medical issues. For example, he avers:

[T]he basis of [the Complainant's] disabilities from medical conditions" was "created by prolonged (27 years) exposure to microwave radiation, EMF, transient frequency and stray current of hazardous multigrounded neutral WYE electrical distribution systems installed and maintained by the Defendant and other Pennsylvania utilities.

...

[T]he overwhelming preponderance of the evidence of the biological scientific harm of the proposed installation of EMF-emitting invoicing tools will deny [his] access and/or interfer[e] with access to Complainant's home.

...

Since the Complainant was fortunate enough to stop the installation of the EMF-INTs on both the residence and the accessory use building at 1000 Huffs Church Road and the negative impact of that technology, he cannot claim any health effects from the EMF-INTs.

...

Numerous studies have shown repeatedly that those same frequencies disrupt the human nervous system. "Nerve Block" is a vernacular term and when the human body is exposed for 12-24 hours there is an accumulative saturation of the body that once side effects occur, there is no recovery and the damage is almost always permanent, as in Complainant's case.

...

Anytime [the Complainant's neighbor] does anything unusual to increase his load, e.g., welding, it produces voltage variants and microwave radiation that impacts [the Complainant's] wife's A-Fib and tinnitus and [his] chronic headaches and nerve block maladies to name a few

(Complainant Statement No. 1, p. 1a-2a, 7a.)

49. Critically absent from his testimony, however, are the foundation and qualifications needed to testify about these issues.

50. Under Pennsylvania Rule of Evidence 702, a witness is qualified as an expert to testify in the form of an opinion or otherwise if: (1) “the expert’s scientific, technical, or other specialized knowledge is beyond that possessed by the average layperson”; (2) “the expert’s scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue”; and (3) “the expert’s methodology is generally accepted in the relevant field.” Pa.R.E. 702.

51. “Scientific evidence is evidence that draws its convincing force from some principle of science, mathematics and the like.” *Commonwealth v. Miller*, 532 A.2d 1186, 1188 (Pa. Super. 1987) (quotation omitted) (internal quotation marks omitted).

52. The Pennsylvania Supreme Court has held that “[t]he admissibility of any experimental or scientific evidence depends upon presenting an adequate foundation.” *Commonwealth v. McGinnis*, 515 A.2d 847, 849 (Pa. 1986).

53. Here, the Complainant fails to present an adequate foundation and lacks the qualifications to present expert opinions on these issues.

54. According to page 6a of his direct testimony, the Complainant has a “Professional Engineering License” and “embark[ed] on a ‘Mission from God’” to undertake “a 2 yearlong [sic] scientific/engineering study of biologically [sic] effects of microwave radiation and dirty electricity.” (Complainant Statement No. 1, p. 6a.)

55. Nevertheless, the Complainant tries to express opinions about: (1) the alleged causes of the health issues he purportedly experiences when exposed to RF fields and EMF fields;

and (2) the alleged health issues other persons can be experience when exposed to RF fields and EMF fields.

56. However, the Complainant is not a medical doctor and does not have any education or work experience in the medical field that is relevant to whether the smart meters cause, contribute to, or exacerbate adverse health effects.

57. In fact, his testimony is based on the unidentified “Scientific Papers” and “books” he has read. (Complainant Statement No. 1, p. 6a.)

58. Thus, the Complainant lacks the foundation and qualifications needed to present expert testimony about medical issues.

59. Accordingly, these portions of his direct testimony and exhibits should be stricken.

**C. THE COMPLAINANT’S DIRECT TESTIMONY AND EXHIBITS CONTAIN HEARSAY THAT IS NOT SUBJECT TO A HEARSAY EXCEPTION**

60. The Complainant’s direct testimony and exhibits also contain hearsay that should be stricken.

61. Hearsay is an out-of-court statement offered to prove the truth of the matter asserted. Pa.R.E. 801; *Bonegre v. Workers’ Compensation Appeal Board (Bertolini’s)*, 863 A.2d 68, 72 (Pa. Cmwlth. 2004). Ordinarily, hearsay evidence is inadmissible unless some exception applies. Pa.R.E. 802. The hearsay rule is somewhat relaxed in proceedings before administrative agencies. *Rox Coal Co. v. Workers’ Comp. Appeal Bd. (Snizaski)*, 570 Pa. 60, 807 A.2d 906 (2002). The Commonwealth Court established what is commonly called the “Walker Rule” to apply to the use of hearsay evidence during administrative proceedings:

(1) Hearsay evidence, properly objected to, is not competent evidence to support a finding;

(2) Hearsay evidence, admitted without objection, will be given its natural probative effect and may support a finding, if it is

corroborated by any competent evidence in the record, but a finding of fact based solely on hearsay will not stand.

*Walker v. Unemployment Comp. Bd. of Review*, 367 A.2d 366, 370 (Pa. Cmwlth. 1976). The “Walker Rule” has been affirmed by the Pennsylvania Supreme Court. *Rox Coal Co. v. Workers’ Comp. Appeal Bd. (Snizaski)*, 570 Pa. 60, 807 A.2d 906 (2002).

62. In this case, the Complainant is trying to introduce the information and materials for the truth of the matter asserted.

63. In support his allegations that the new AMI meters cause, contribute to, or exacerbate any illnesses, the Complainant submitted and relies on various documents, reports, articles, and websites. (See Complainant Statement No. 1, pp. 2a-5a, 7a-11a; Complainant Exhibits E, X, and Z.)

64. He also attaches a document created by an unknown author about whether Act 129 mandates the installation of smart meters. (Complainant Statement No. 1, pp. 5a-6a.)

65. Moreover, Complainant Exhibit O is a list, prepared by an unknown author, of other customers’ formal complaints about smart meters that have been or are being litigated before the Commission. (See Complainant Exhibit O.)

66. Further, the Complainant states that “[a]ccording to [his] electrical consultant, ‘Dirty Electricity’ is back-fed from the shared transformer in [his] electric service from by [sic] neighbor’s Smart Meter,” so “[a]nytime” the neighbor “does anything unusual to increase his load, e.g., welding, it produces voltage variants and microwave radiation that impacts [the Complainant’s] wife’s A-Fib and tinnitus and [his] chronic headaches and nerve block maladies to name a few.” (Complainant Statement No. 1, p. 7a.)

67. All of these out-of-court statements are being submitted for the truth of the matter asserted and should be stricken accordingly.

68. These statements also do not fall under any exception to the hearsay rule.

69. One exception to the hearsay rule is that an expert may express an opinion that is based on material not in evidence, including other expert opinions, where such material is of a type customarily relied on by experts in his or her profession. *See Lower Makefield Twp. v. Lands of Dalgewicz*, 4 A.3d 1114, 1122 (Pa. Cmwlth. 2010), *affirmed*, 67 A.3d 772 (Pa. 2013); *Collins v. Cooper*, 746 A.2d 615, 618 (Pa. Super. 2000); *Primavera v. Celotex Corp.*, 608 A.2d 515, 520-21 (Pa. Super. 1992); Pa.R.E. 703.<sup>3</sup>

70. However, as explained in Section II.B., *supra*, the Complainant is not qualified to testify as an expert witness on medical issues.

71. Therefore, the Complainant cannot introduce and rely on and introduce hearsay related to medical issues in his direct testimony. (*See* Complainant Statement No. 1, pp. 2a-5a, 7a-11a; Complainant Exhibits E, X, and Z.)

**D. THE COMPLAINANT’S ALLEGATIONS ABOUT HIS ELECTRIC TRANSFORMER AND OTHER “GRIEVANCES” RAISED IN HIS PRIOR FORMAL COMPLAINT ARE TIME-BARRED**

72. Through his direct testimony, the Complainant tries to re-raise issues with the electric transformer he was required to pay for and other “grievances” he previously raised in his Formal Complaint at Docket No. C-2017-2638380. (Complainant Statement No. 1, pp. 6a-7a.)

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<sup>3</sup> An expert may base his or her opinion on facts made known to the expert; “[t]hat those facts were in part hearsay does not invalidate the expert’s opinion. *See Steinhauer v. Wilson*, 485 A.2d 477, 479 (Pa. Super. 1984). However, Pennsylvania Rule of Evidence 705 requires an expert to disclose to the fact-finder the facts or data on which the opinion is based. Pa.R.E. 705 (“If an expert states an opinion the expert must state the facts or data on which the opinion is based.”). Moreover, although hearsay statements, such as articles, studies, and treatises, can be relied upon by expert witnesses in forming their opinions, the substance of those hearsay statements is not permitted to be entered into the record to prove the truth of the matter asserted. *See Klein v. Aronchick*, 85 A.3d 487, 503-04 (Pa. Super. 2014) (citing *Aldridge v. Edmunds*, 750 A.2d 292, 297-98 (Pa. 2000)); *Nigro v. Remington Arms Co.*, 637 A.2d 983, 993 (Pa. Super. 1993) (citations omitted).

73. Indeed, he states that his claims from Docket No. C-2017-2638380 are “incorporated here” in his direct testimony “as summited [sic] in total.” (Complainant Statement No. 1, p. 6a.)

74. However, as explained in Met-Ed’s Answer and New Matter filed in response to the prior Formal Complaint, these allegations are barred by the statute of limitations set forth in Section 3314(a) of the Public Utility Code. *See* 66 Pa.C.S. § 3314(a).

75. Specifically, Section 3314(a) provides the following:

No action for the recovery of any penalties or forfeitures incurred under the provisions of this part, and no prosecutions on account of any matter or thing mentioned in this part, shall be maintained unless brought within three years from the date at which the liability therefor arose, except as otherwise provided in this part.

76. Here, the Complainant established his House Account on May 25, 1999, and his Barn Account on November 17, 2004.

77. Importantly, the Complainant was required to pay for a transformer before the Company initiated service to his Barn Account.

78. Therefore, to the extent that the Complainant wanted to challenge his responsibility for the transformer’s costs, he needed to bring that claim by no later than November 17, 2007.

79. Similarly, the Complainant alleges that he has “grievances” about his electric service stretching back to 1998.

80. Any alleged “grievances” that arose three years prior to the filing of the instant Formal Complaint at C-2019-3007622 are barred by Section 3314(a) of the Public Utility Code.

81. Thus, the portions of the Complainant’s direct testimony referencing these time-barred allegations should be stricken.

### III. CONCLUSION

WHEREFORE, Metropolitan Edison Company respectfully requests that the Commission strike the identified portions of the written direct testimony and exhibits of John M. Chenosky. In the alternative, if such testimony and exhibits are not stricken, Metropolitan Edison Company respectfully requests that the Company be afforded with an opportunity to submit additional discovery, modify its previously submitted list of witnesses, as well as provide an opportunity for additional rebuttal testimony to be submitted once discovery has been completed.

Respectfully submitted,

Dated: September 1, 2020



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Counsel for Metropolitan Edison Company

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**John M. Chenosky** :  
 :  
**v.** : **Docket No. C-2019-3007622**  
 :  
**Metropolitan Edison Company** :

**ACCOMODATION OF OPT-OUT OF DIGITAL METERS EMF-EMITTING INVOICING TOOLS FOR PHYSICAL DISABILITY/MEDICAL CONDITION DUE TO PROLONGED EXPOSURE TO EMF MIROWAVE RADIATION AND TRANSIENT FREQUENCY AND STRAY CURRENT OF HAZARDOUS MUTIGROUNDED NEUTRAL OF WYE ELECTRICAL DISTRIBUTION SYTEMS**

**1 – ACCOMODATION BY FEDERAL & STATE GUIDELINES:**

The proposed EMF-emitting invoicing tools (EMF-EIT) proposed by the Defendant, Metropolitan Edison, hereinafter referred to as Met-Ed, the Complainant avers that he is being discriminated against his right to enjoy his home [REDACTED]

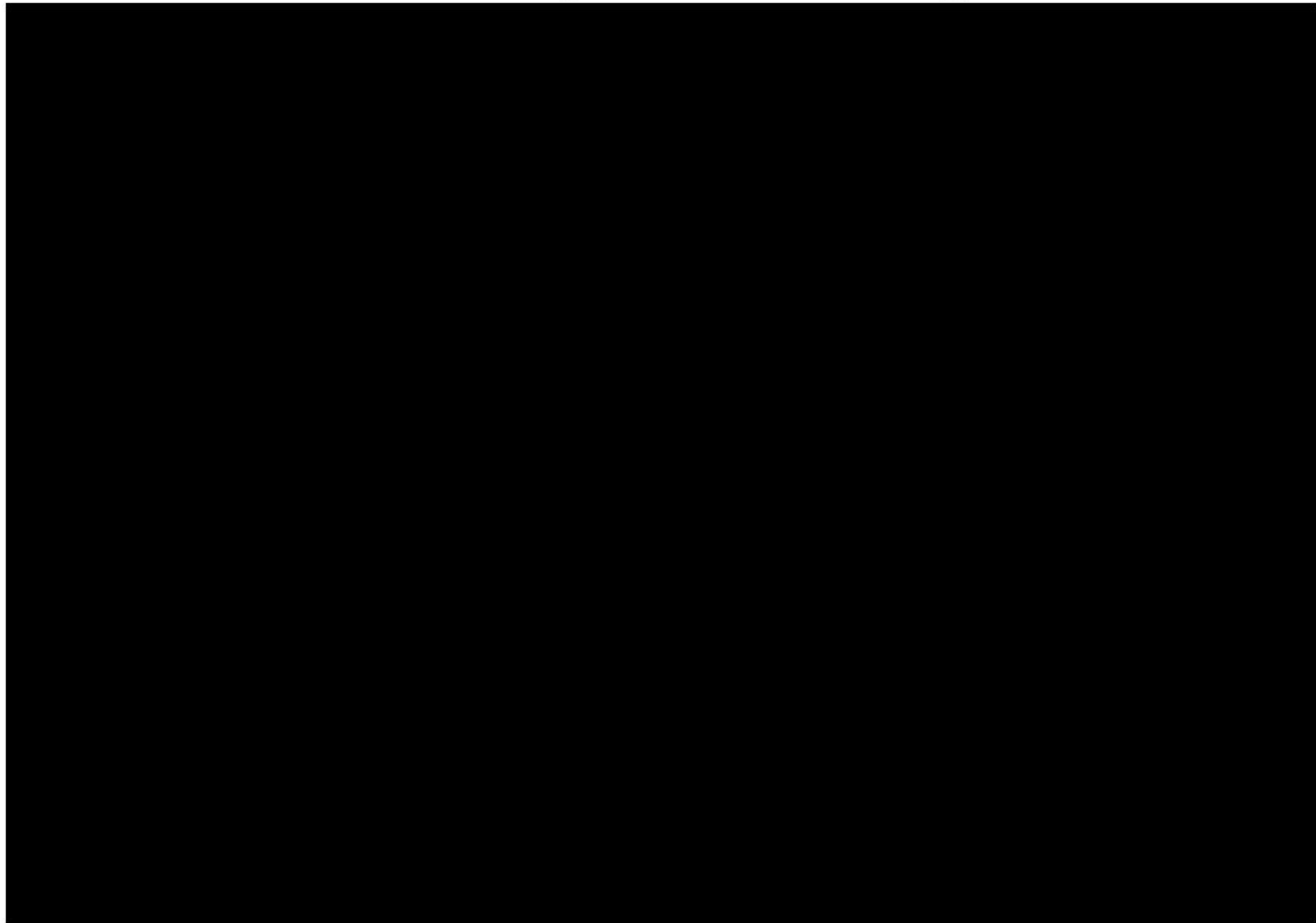
[REDACTED]

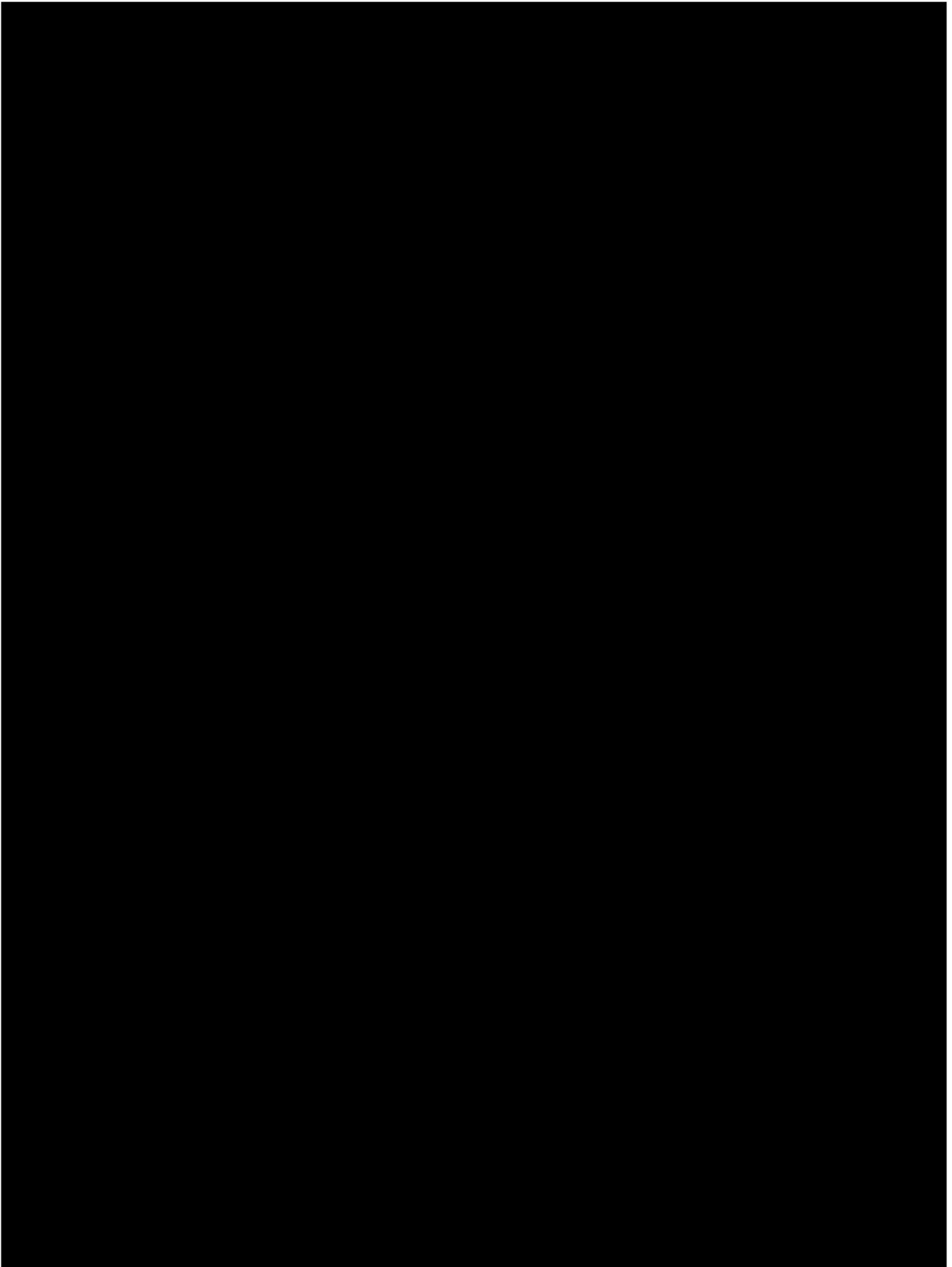
By their own submissions the Defendant and the PA PUC has maliciously feigned any OP-OUT accommodation, not responded to valid requests, or not engaging in any meaningful dialogue for reasonable accommodation. It appears to be the mode of operandi that is supported by the PA PUC and its Administrative Law Judges as the majority of attached list of cases has been denied. See Exhibit # O.



**Since the Complainant was fortunate enough to stop the installation of the EMF-INTs on both the residence and the accessory use building at 1000 Huffs Church Road [REDACTED]**

**[REDACTED] Having said that every competent engineer (Complainant), knows EMF-INT communicate via microwaves. Now it is established that additional frequencies are transmitted in 2-50 kilohertz range and sometime much higher.**





Significant evidence that was previously submitted needs to be included under this portion of the Complaint since the Defendant never answered any allegation.

**IN ORDER OF SUBMISSION THESE DOCUMENTS INCLUDE:**

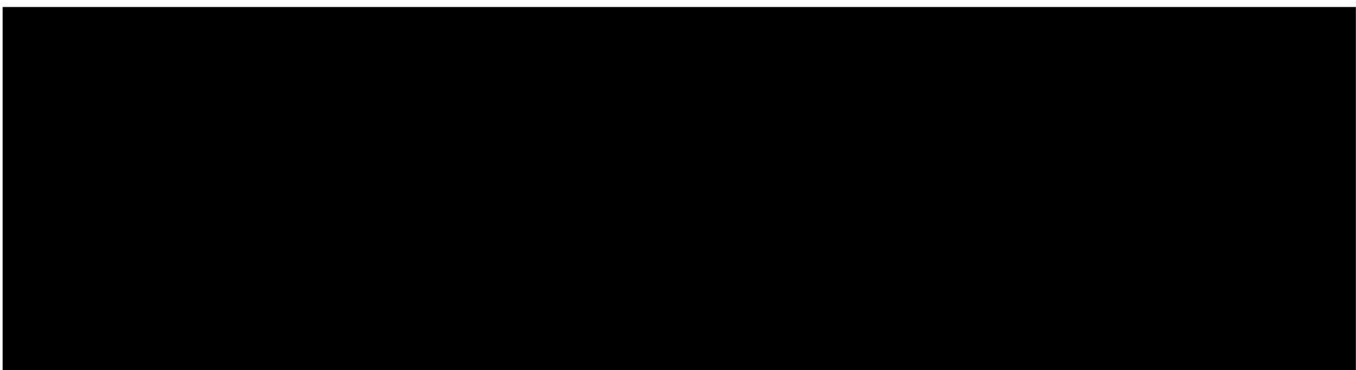
**Formal Complaint completed on PA PUC Standard Complaint Form, 29JAN19 including the following Exhibits:**

- A-1 & 2**      **Reasons for Complaint & Requested Relief**
- B-1, 2 & 3**   **PA PUC Informal Complaint Form Sent 27/DEC18**
- C-1 & 2**      **PA PUC "Smart Meter Q&A" Propaganda**
- D-1**          **Email to Complainant's PA Rep. David A. Maloney Sent 04JAN19**
- E-1**          **Respondent Unspecified Notification Letter**
- F-1**          **Complainant's NO TRESPASS/NO INSTALL SMART METER email/letter**

**Answer and Objection to New Matter & Preliminary Objection of Metropolitan Edison to the Complainant John M. Chenosky to the PA Public Utility Commission Answer to New Matter—Legal Insufficiency, 29MAR19.**

**Objections to Interrogatories and Objections to Requests for Production of Documents of Metropolitan Edison Company to John M. Chenosky, Set 1, 18JUL19.**


**Answer to Set 1 Interrogatories and Production of Documents to Metropolitan Edison Company from John M. Chenosky, 18JUL19.  
Including the following Exhibits:**



**Objections to Metropolitan Edison Company Motion to Compel of July 29, 2019 and Motion to Dismiss Motion to Compel of July 29, 2019 as Submitted by Defendant Metropolitan Edison, 16AUG19.**

**Answers t Interrogatories Posed (ATI) by Defendant Metropolitan Edison to Complainant John M. Chenosky, Set 1 Amended**

Including the following Exhibits:



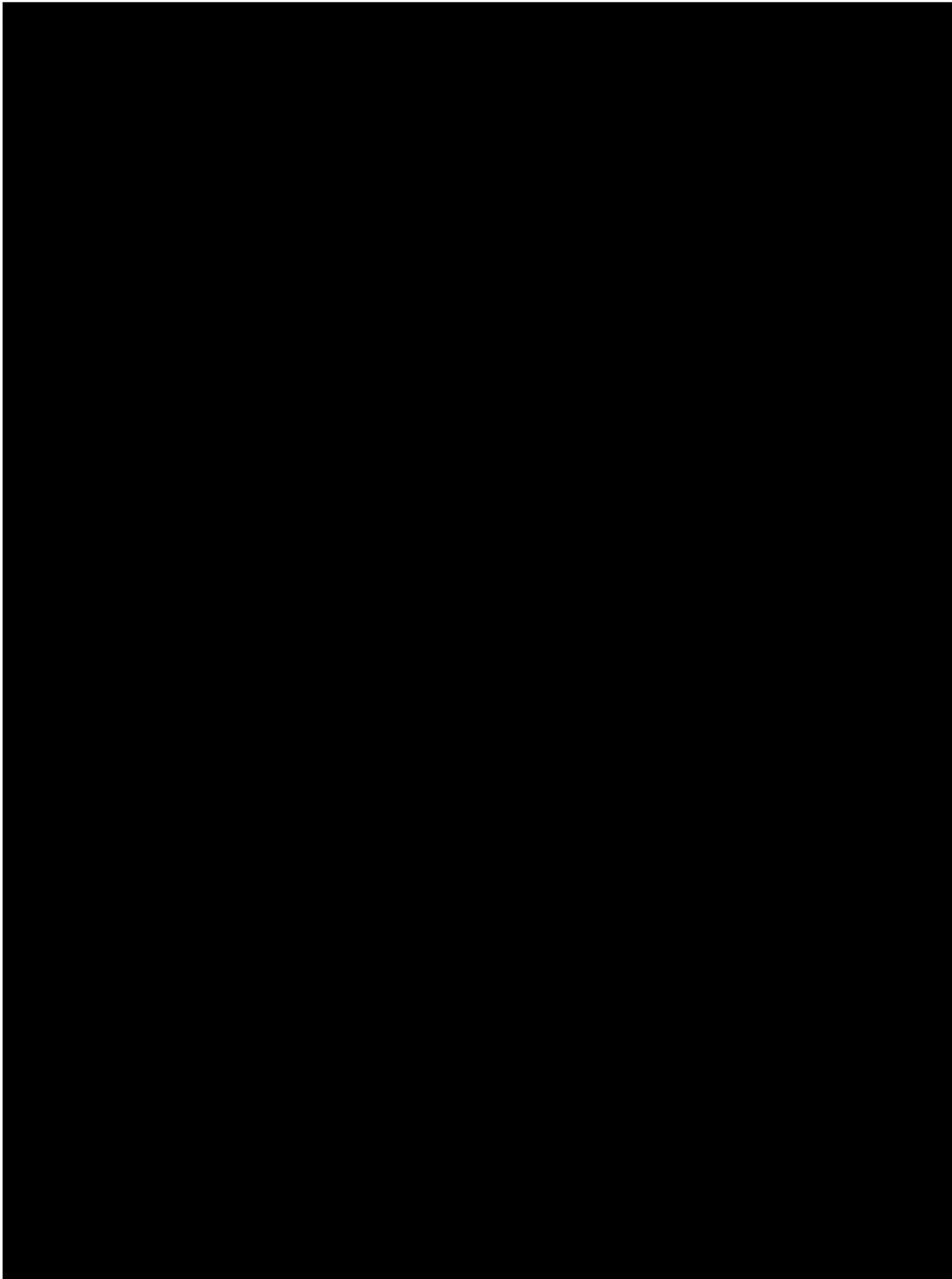
**Motion of the Complainant to Compel Responses from Metropolitan Edison Company to Answer All Scientific Information Provided by the Complainant that Smart Meter Technology is Flawed and Provide Evidence that the PA PUC and Defendant Metropolitan Edison Used to Insure the Safety of the Children and Ratepayers of the Commonwealth, 21SEP19. Certificate of Service was never dated due to inadequate time established by the then ALJ and the Aphasia Limitations of the Complainant.**

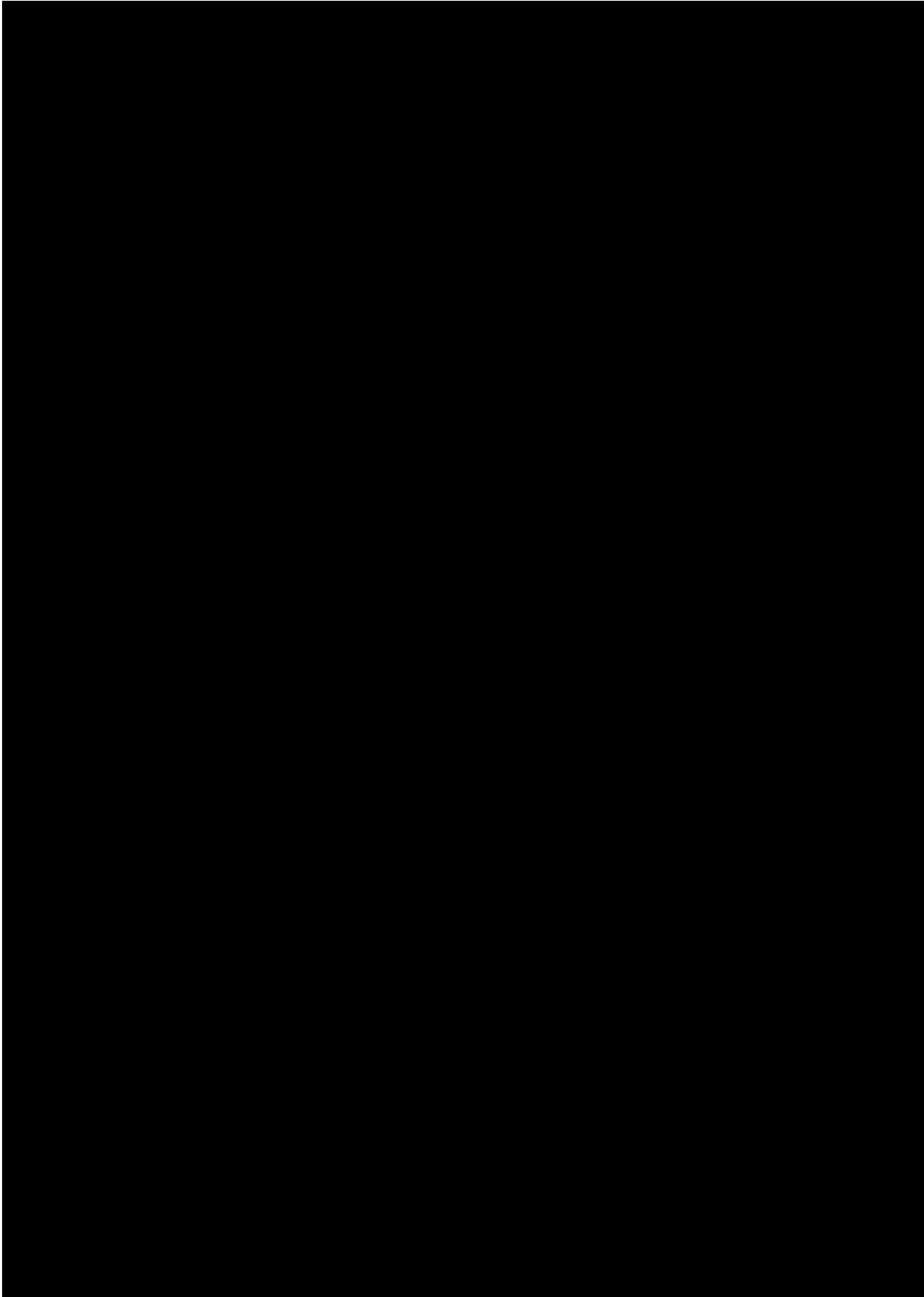
**INADEQUATE LEGAL INTERPRETATION BY THE PA PUC REGARDING ACT 129**

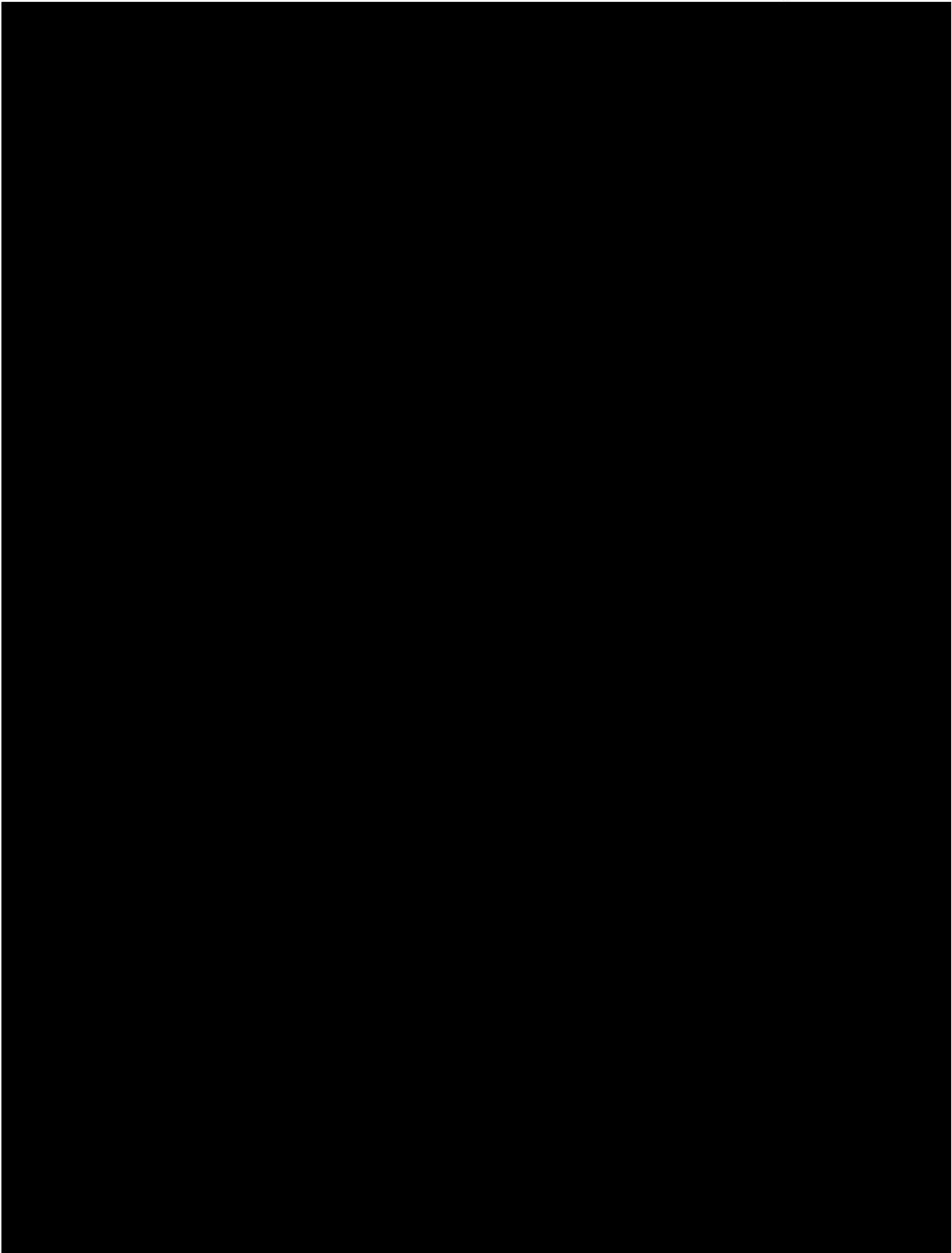
In all of the submissions referenced above the Complainant has provided statements regarding the misinterpretation of the legislation known as HB 2200 and actual quotes by several Representatives and Senators who challenged the resulting interpretation by the PA PUC.

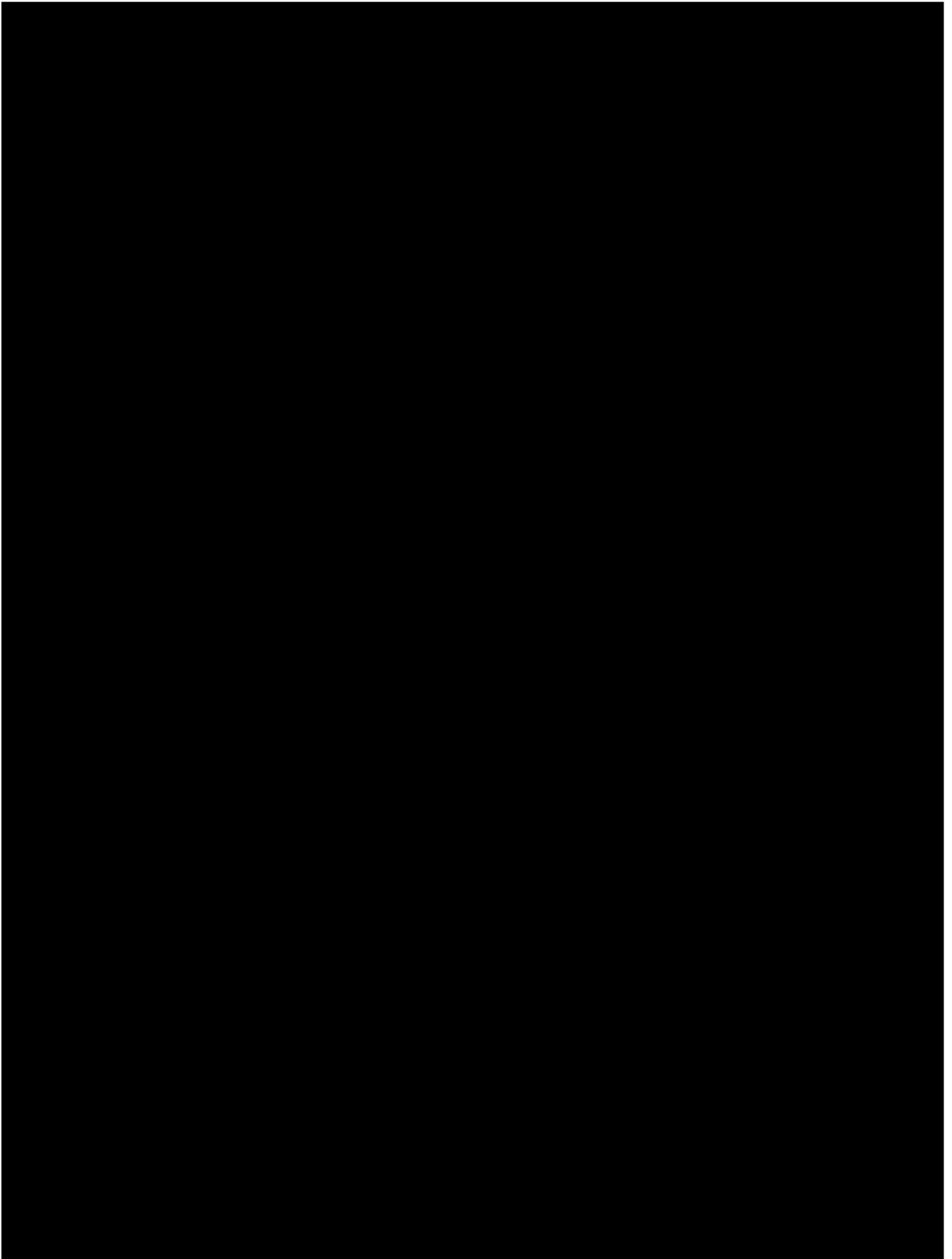
Having minimal interest in the actual boilerplate, as the Act was supposed to be designed as Opt-Out according to information furnished to the populace, it wasn't until December 2018, when Complainant discovered the RUSE perpetrated by Godshall and the PA PUC.

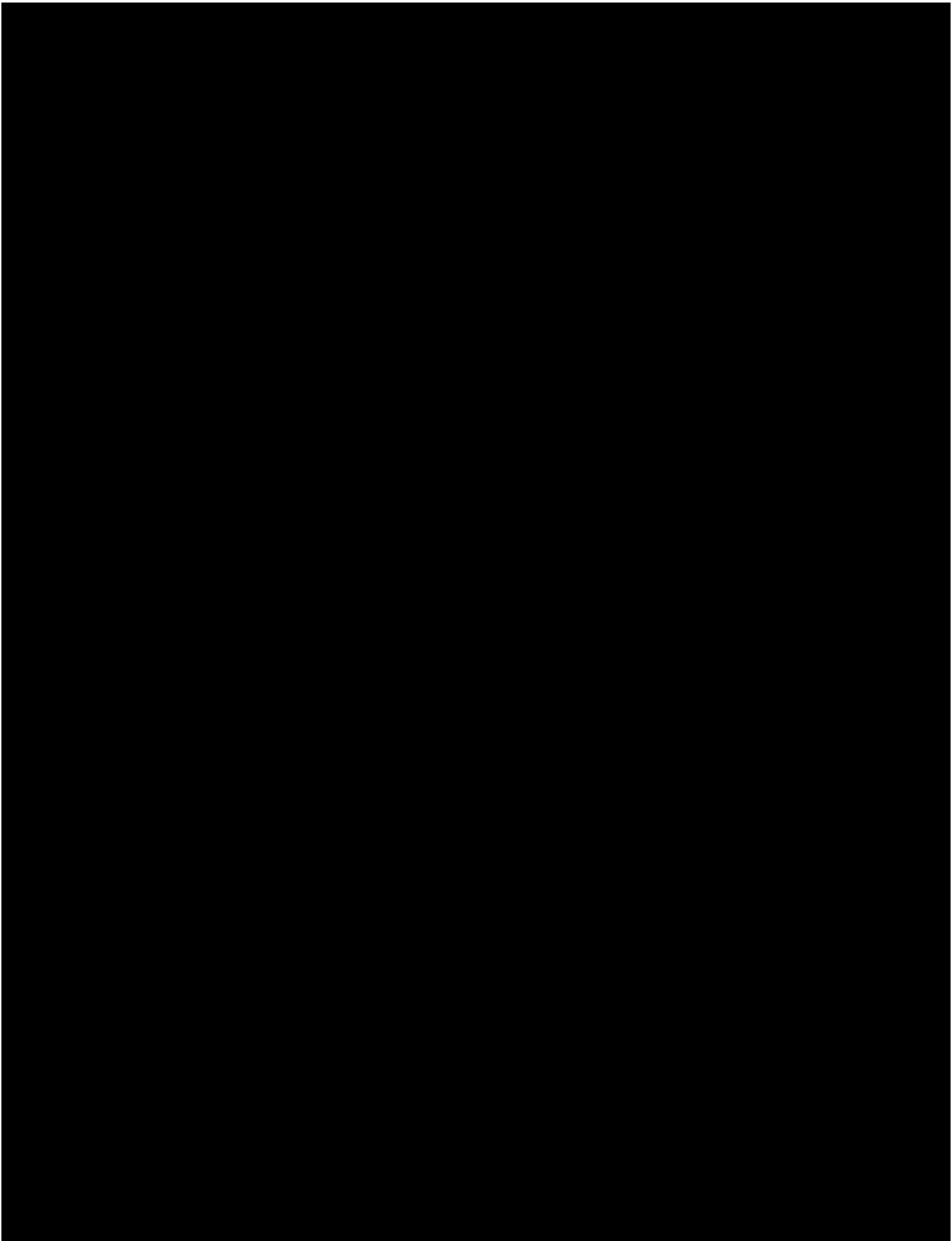
The Complainant was at a loss to engage in a history lesson of legislative procedure and PA PUC internal workings and focused on the Accommodation for Disability and its supporting health issues. WOW! Uniquely describes the across-the-board State of Pennsylvania and its Agencies direct violation of ADA LAW both Federal and State.

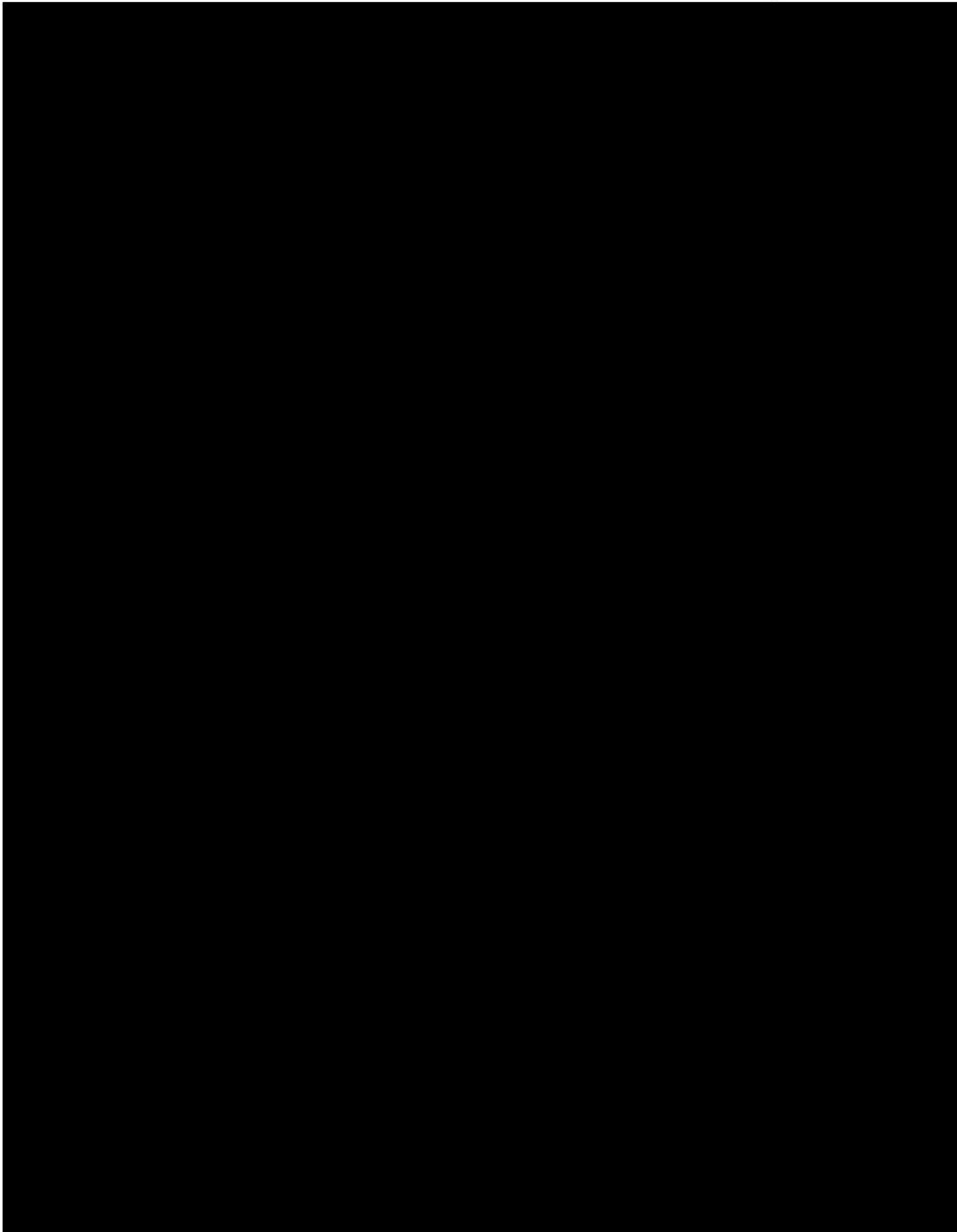


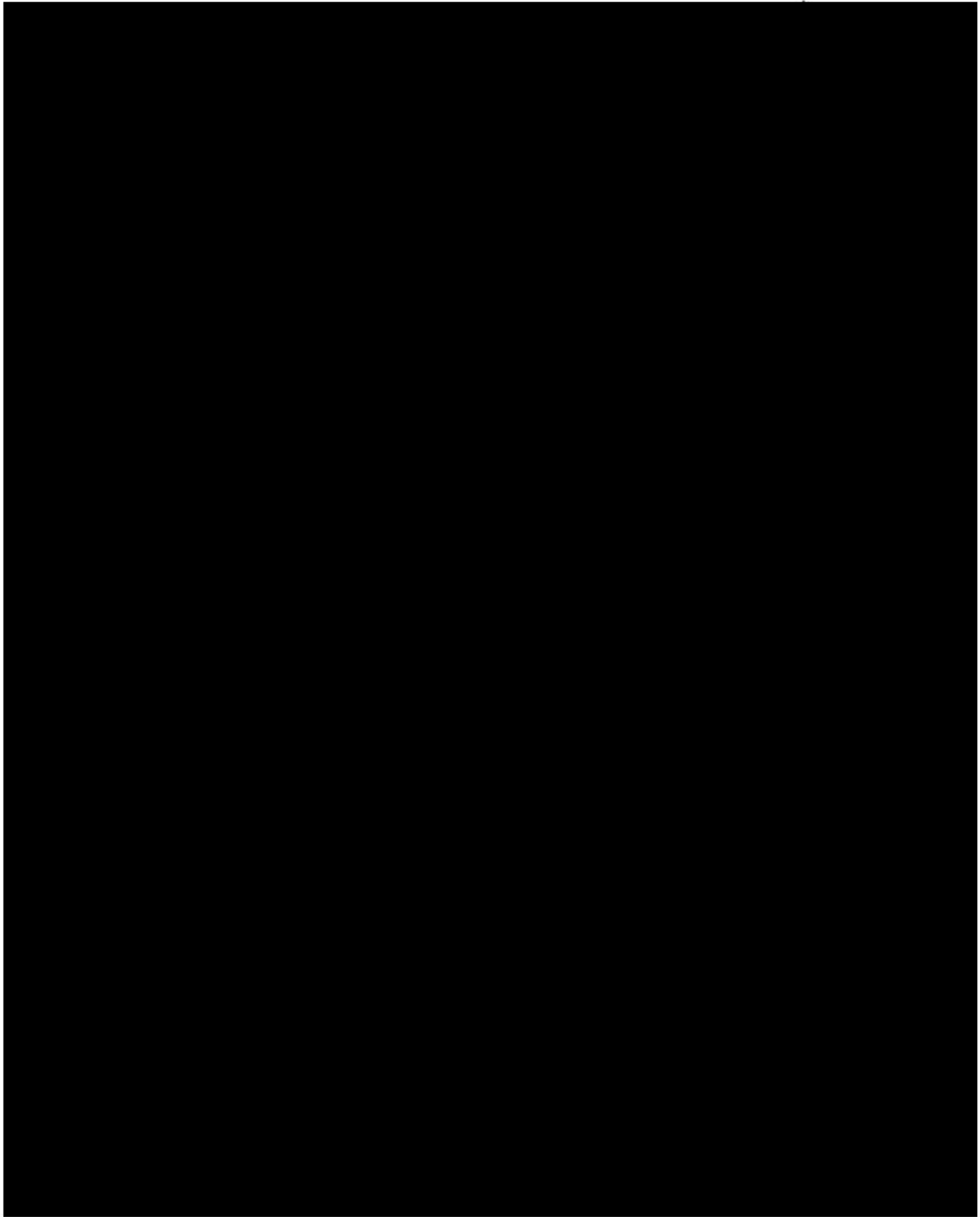


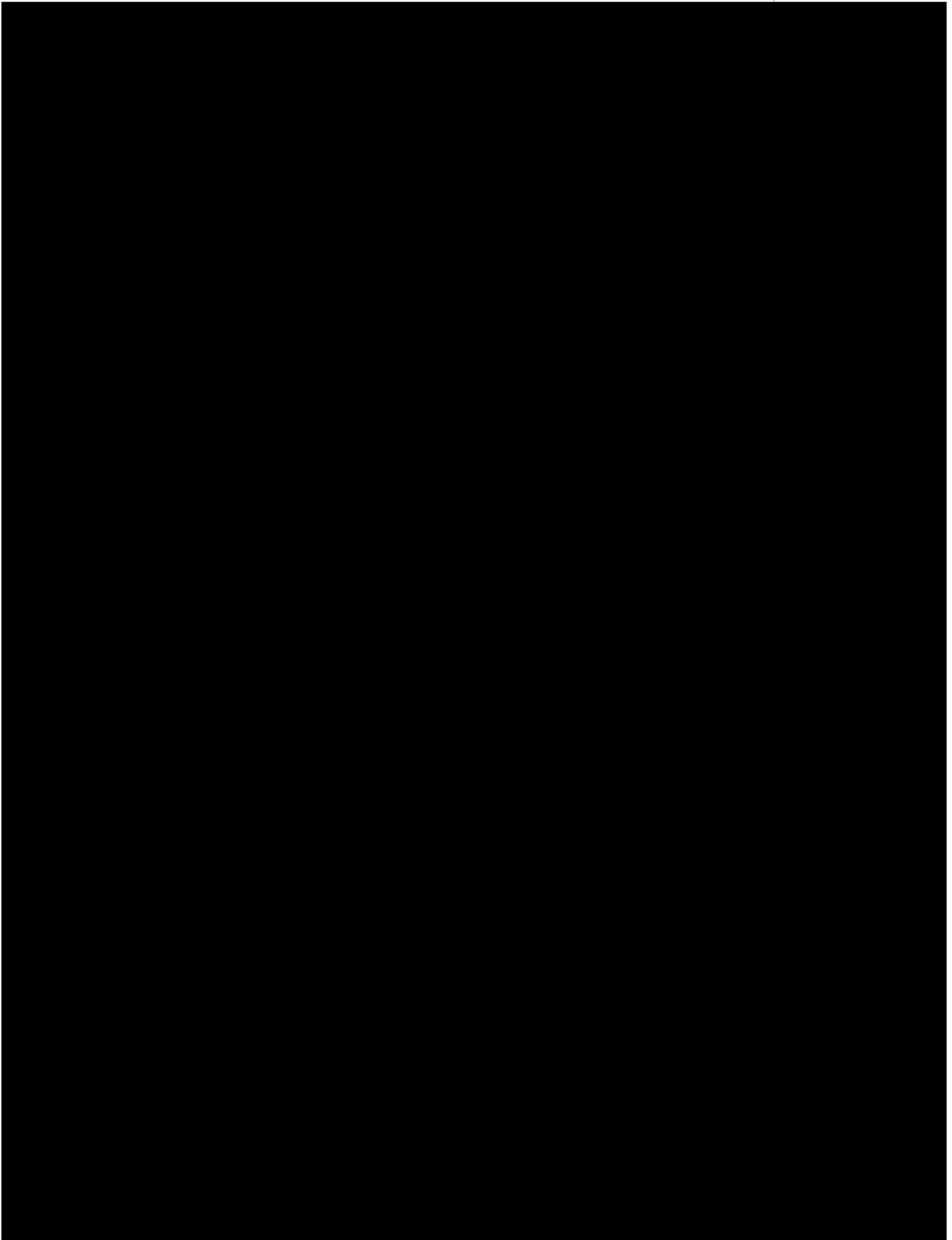


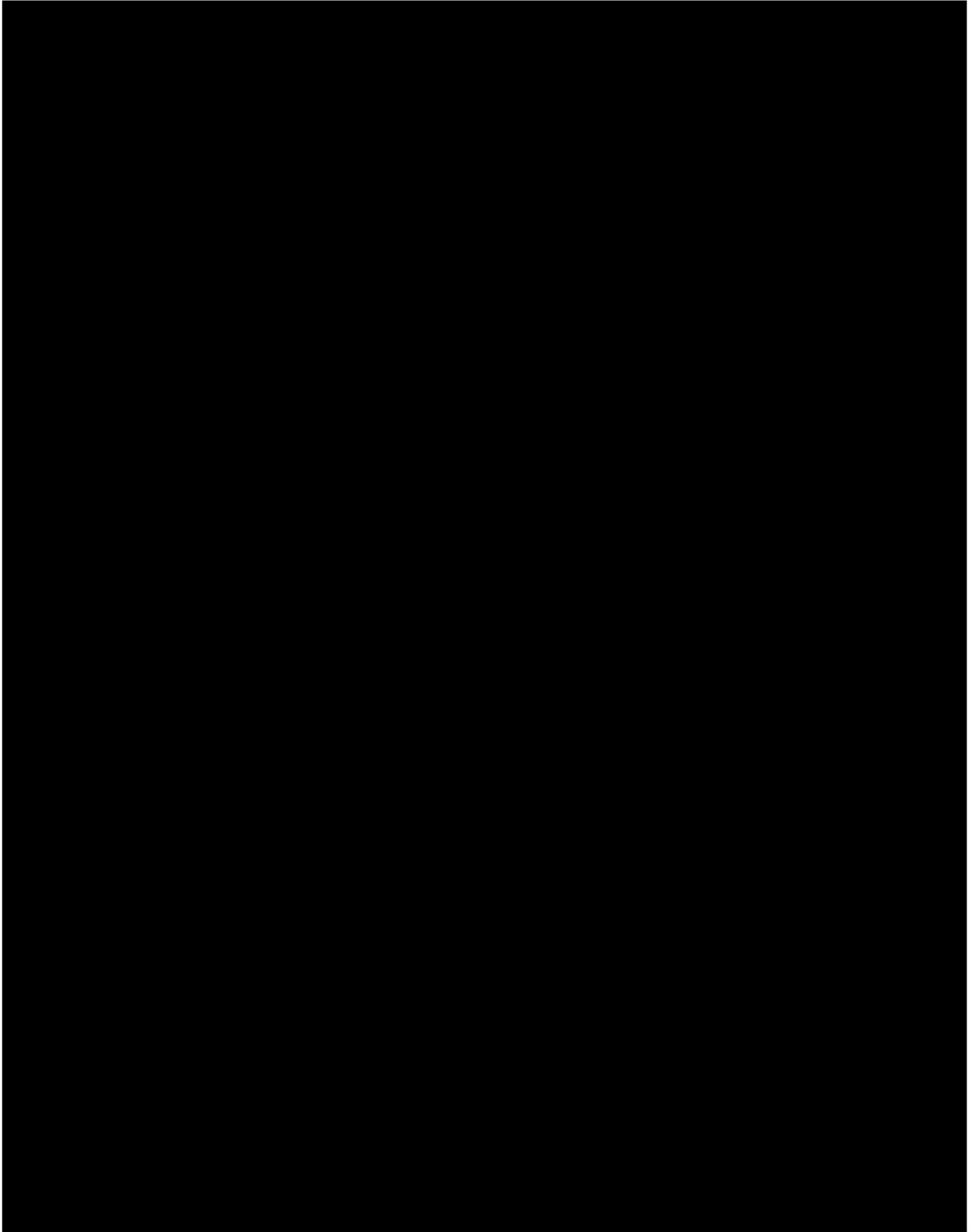


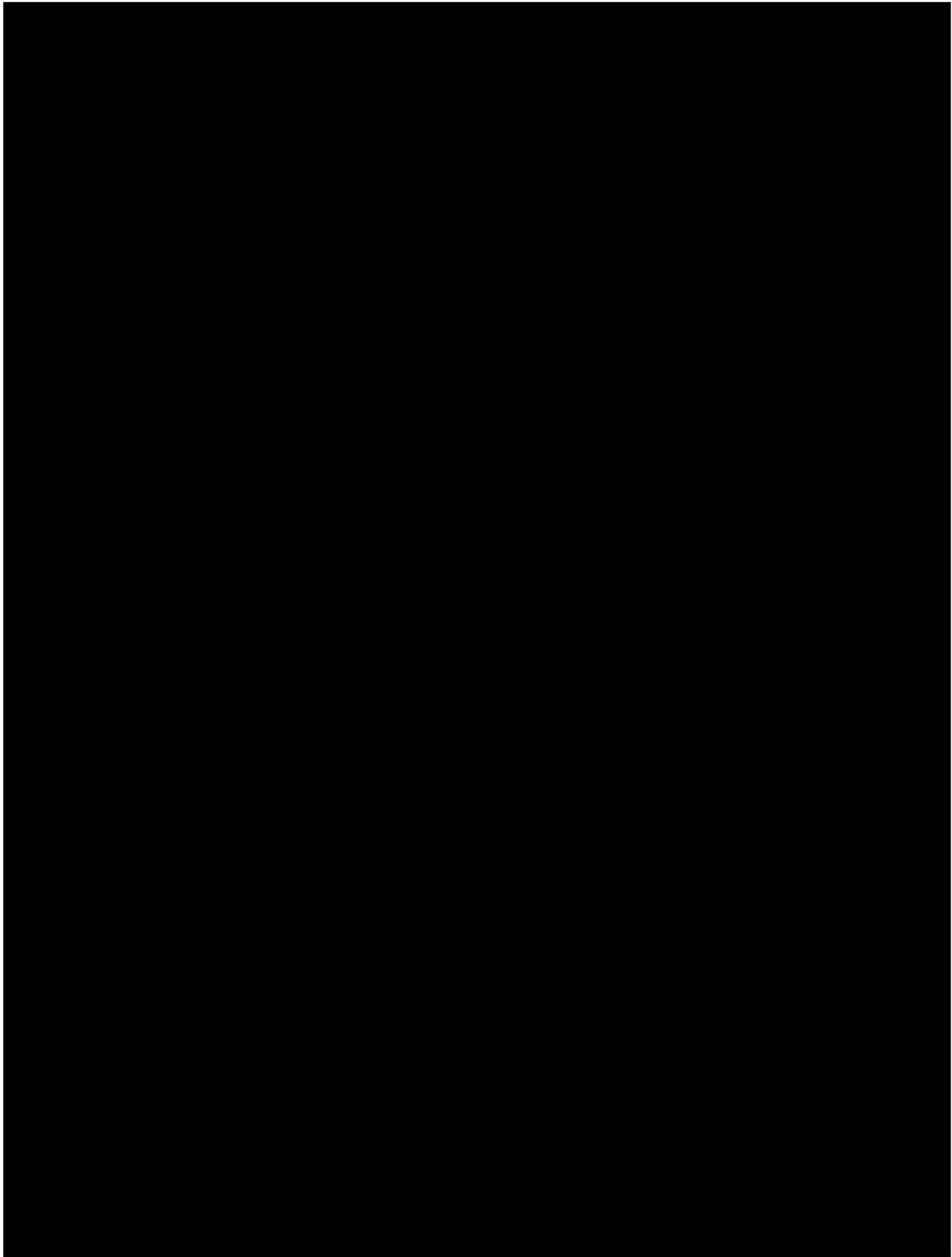


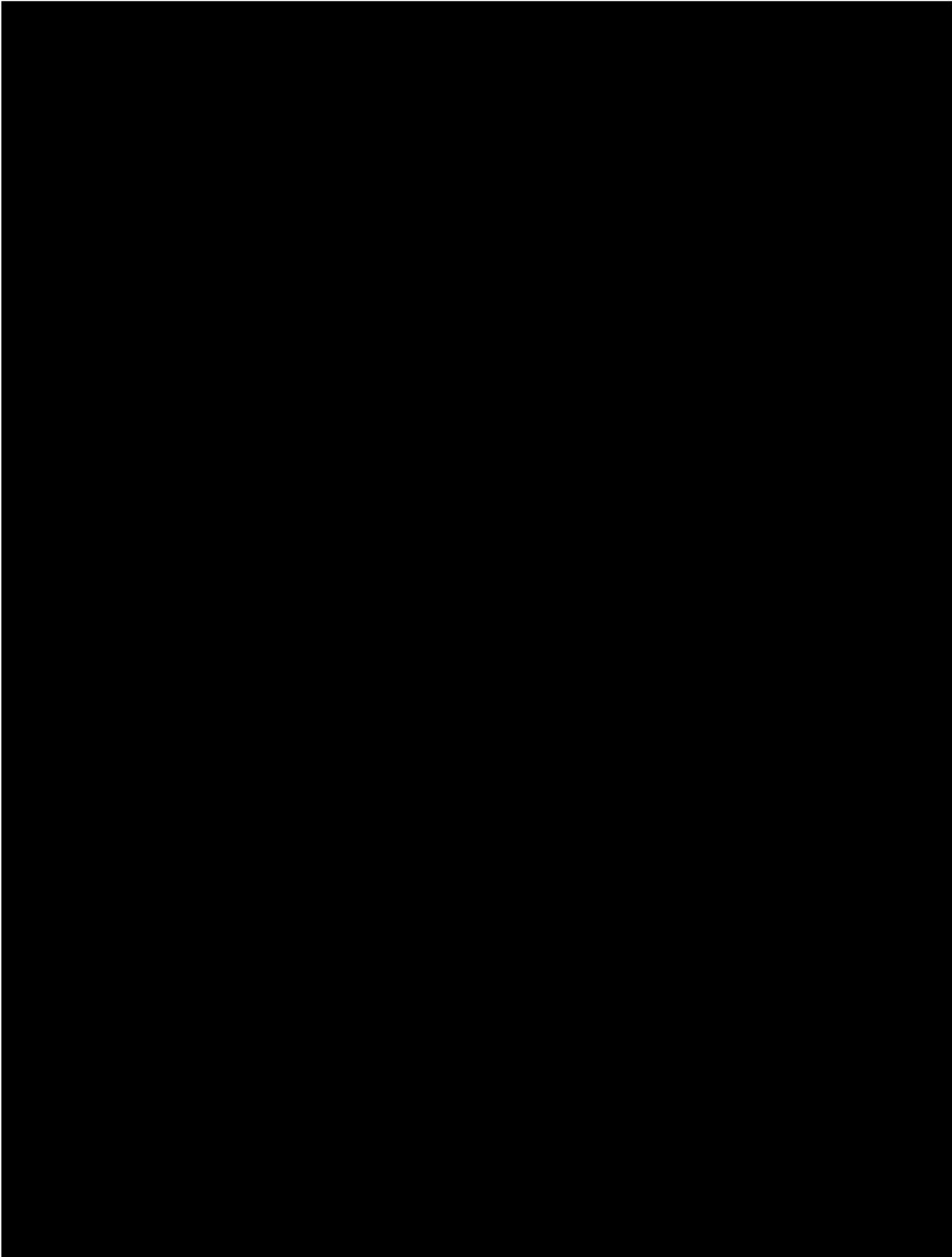


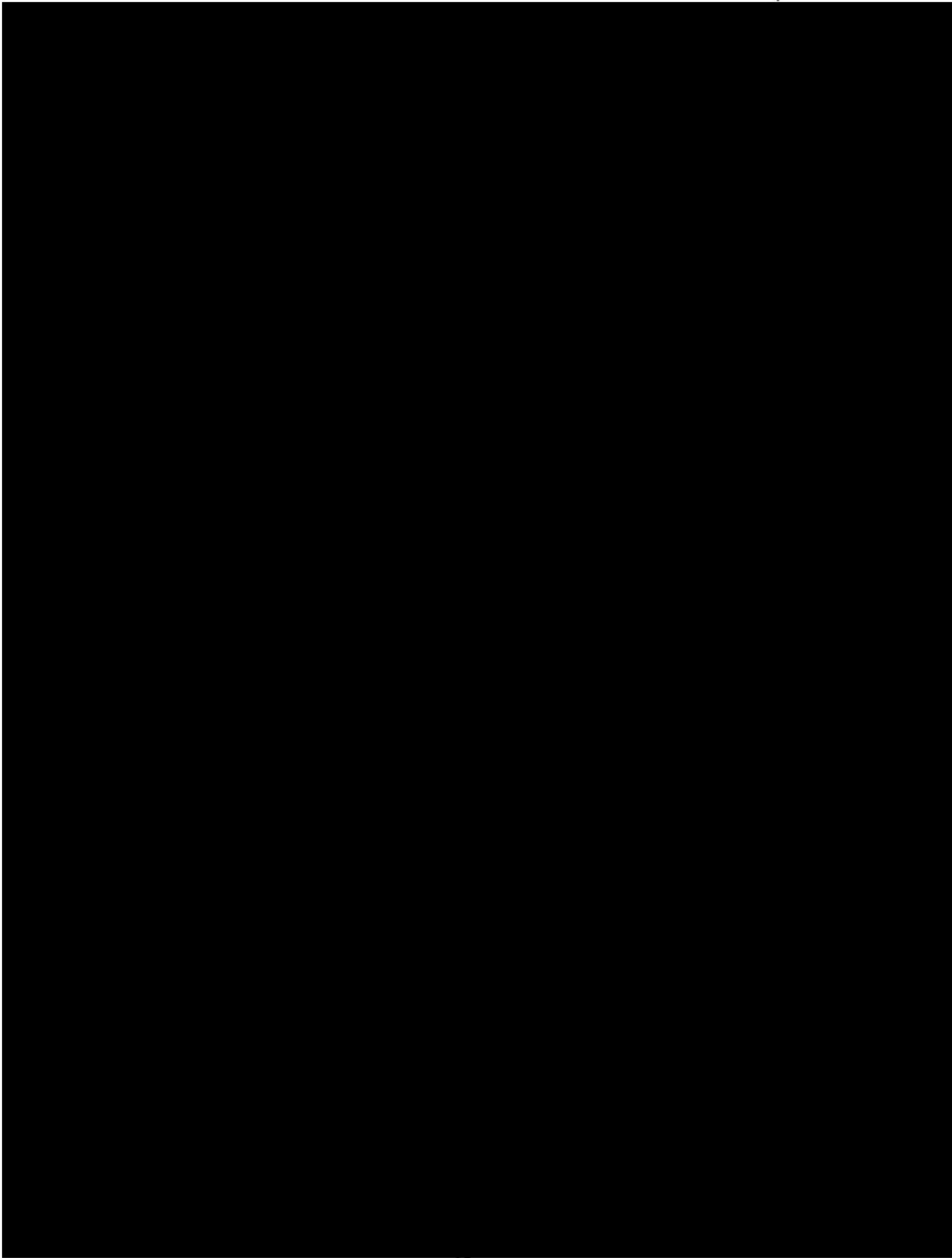


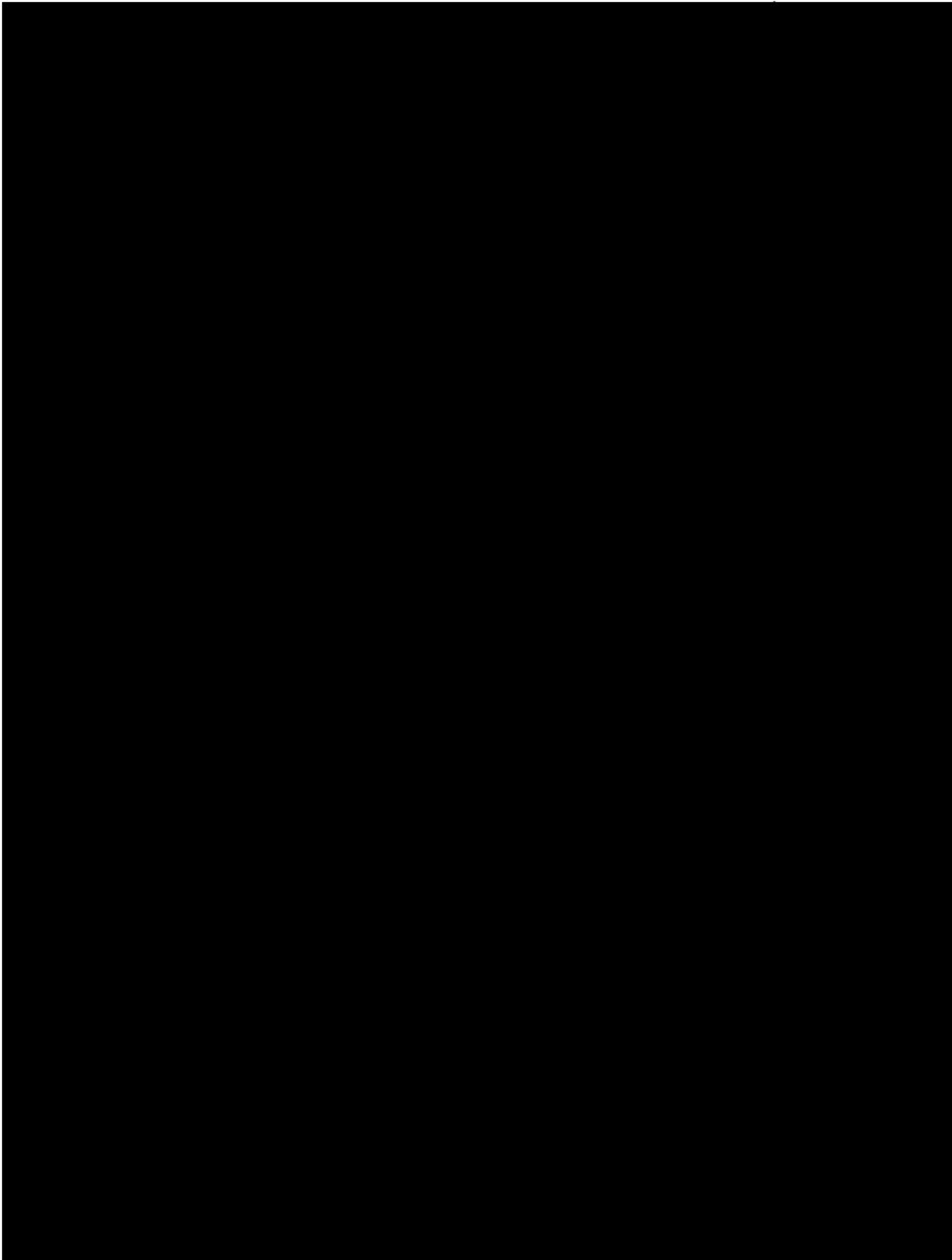


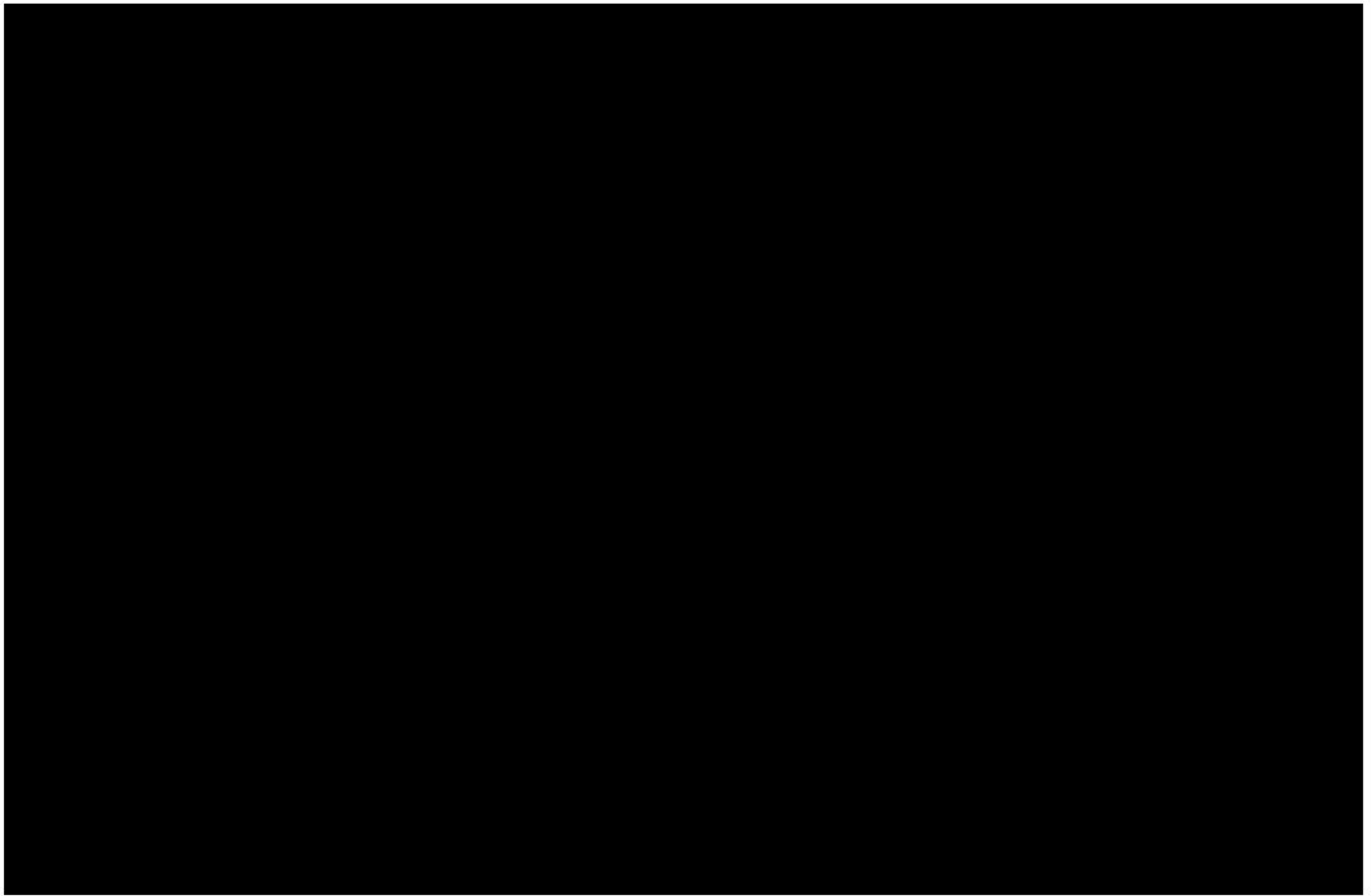












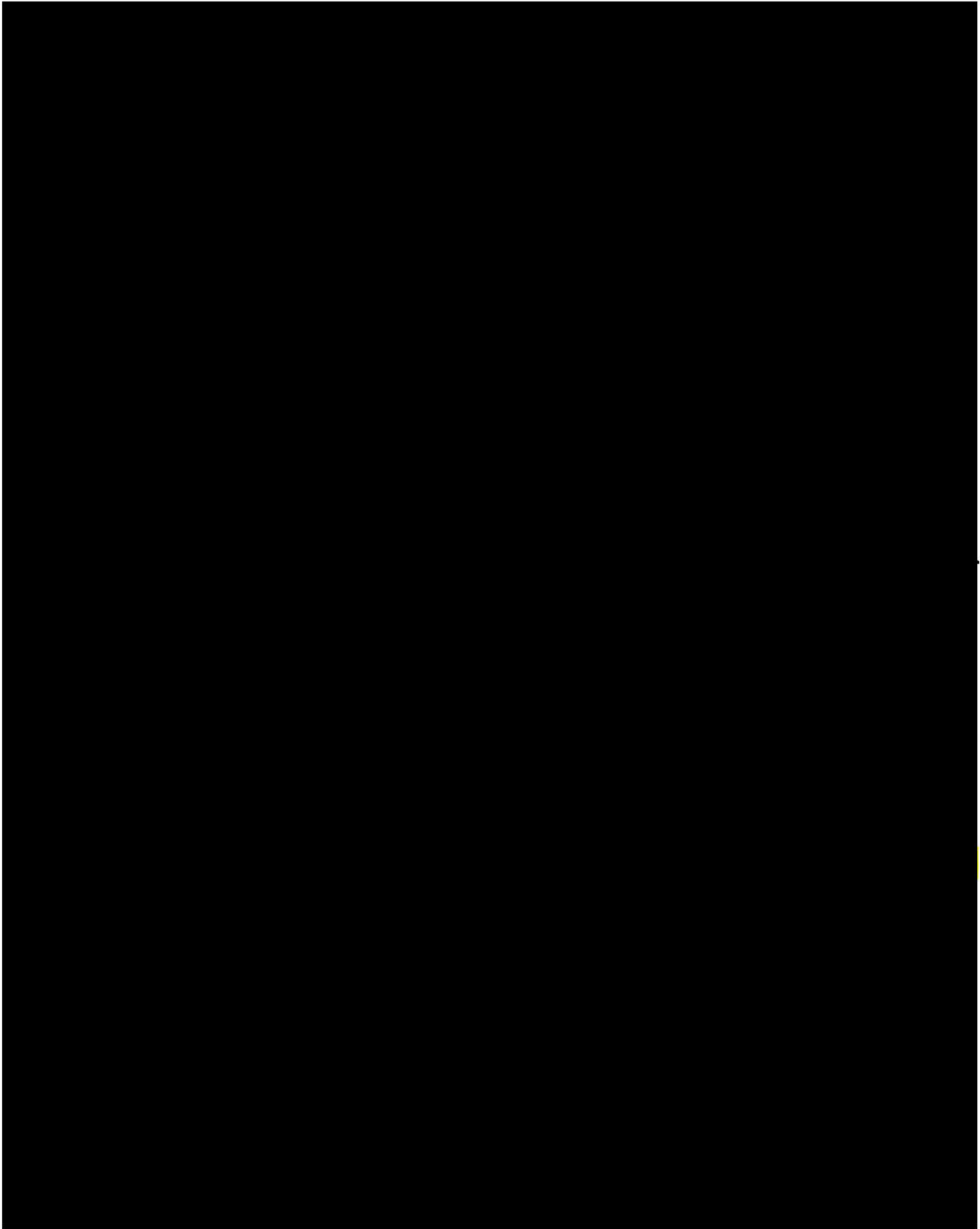
**RE-VISIT DOCKET C-2017-2638380:**

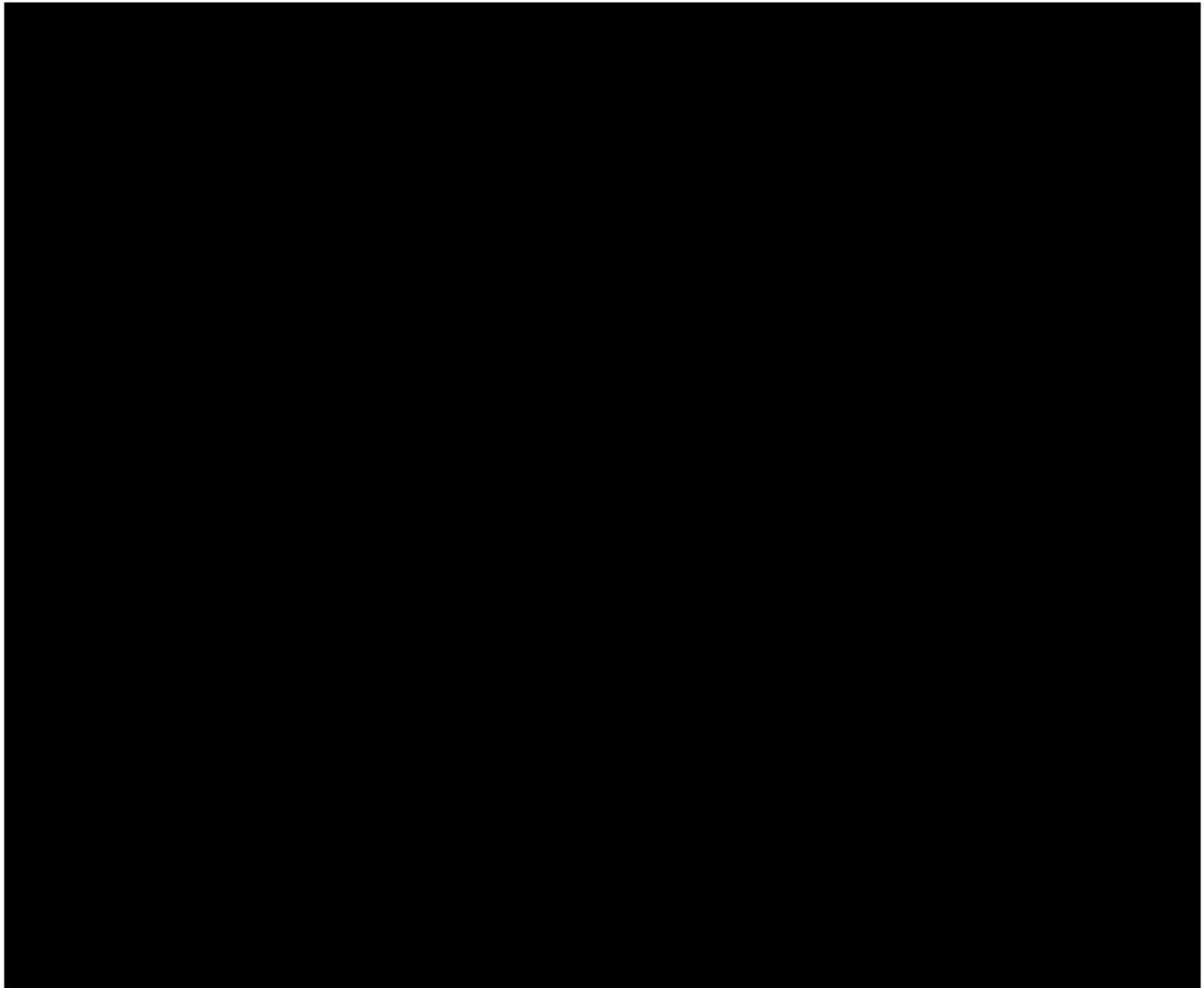
[REDACTED]

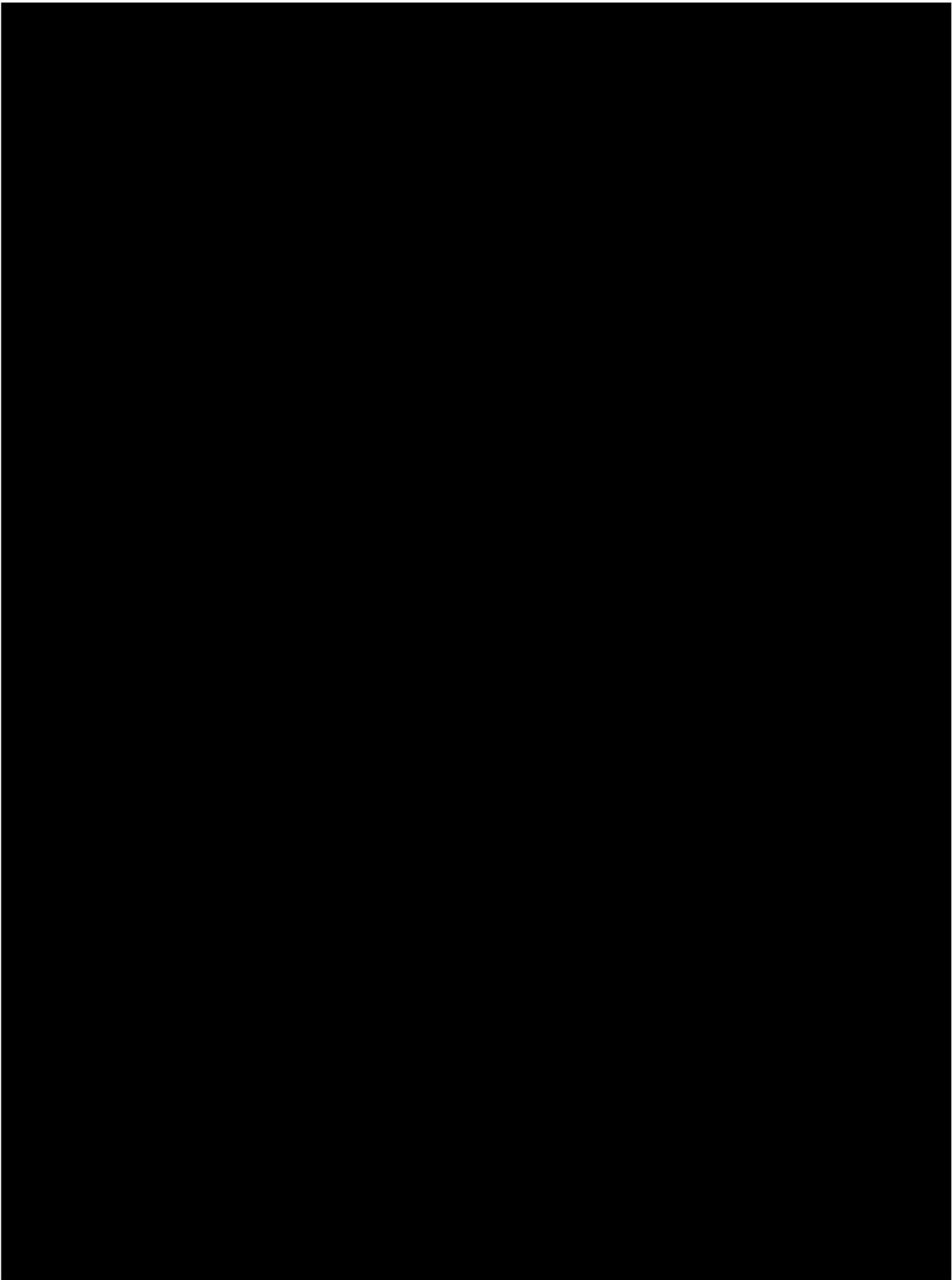
**In December 2019 the Defendant did me a favor by threatening cancellation of my electric service if I didn't install a Smart Meter, embarking on a "Mission from God" (Blues Brothers Film-Akroyd )** [REDACTED]

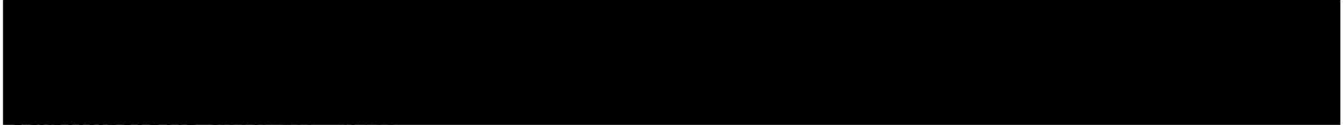
[REDACTED] fulfilling my CPC requirements for my Professional Engineering License in the process. I've read and absorbed at least several hundred Scientific Papers and 10 or more books, which in my view, uniquely qualifies me as an Expert Witness. How does that fit the Judicial Process in this matter?

**How do experts qualify to testify? According to FRE 702?--, "Knowledge, skill, experience, training, or education"; note the conjunction "or." This means that you only need to have one of the above characteristics to testify, not all five, albeit a case can be made that I qualify in all. Apparently this flies in the face of the majority of ALJ's rulings of the PA PUC in EMF-EIT complaints and appeals.**

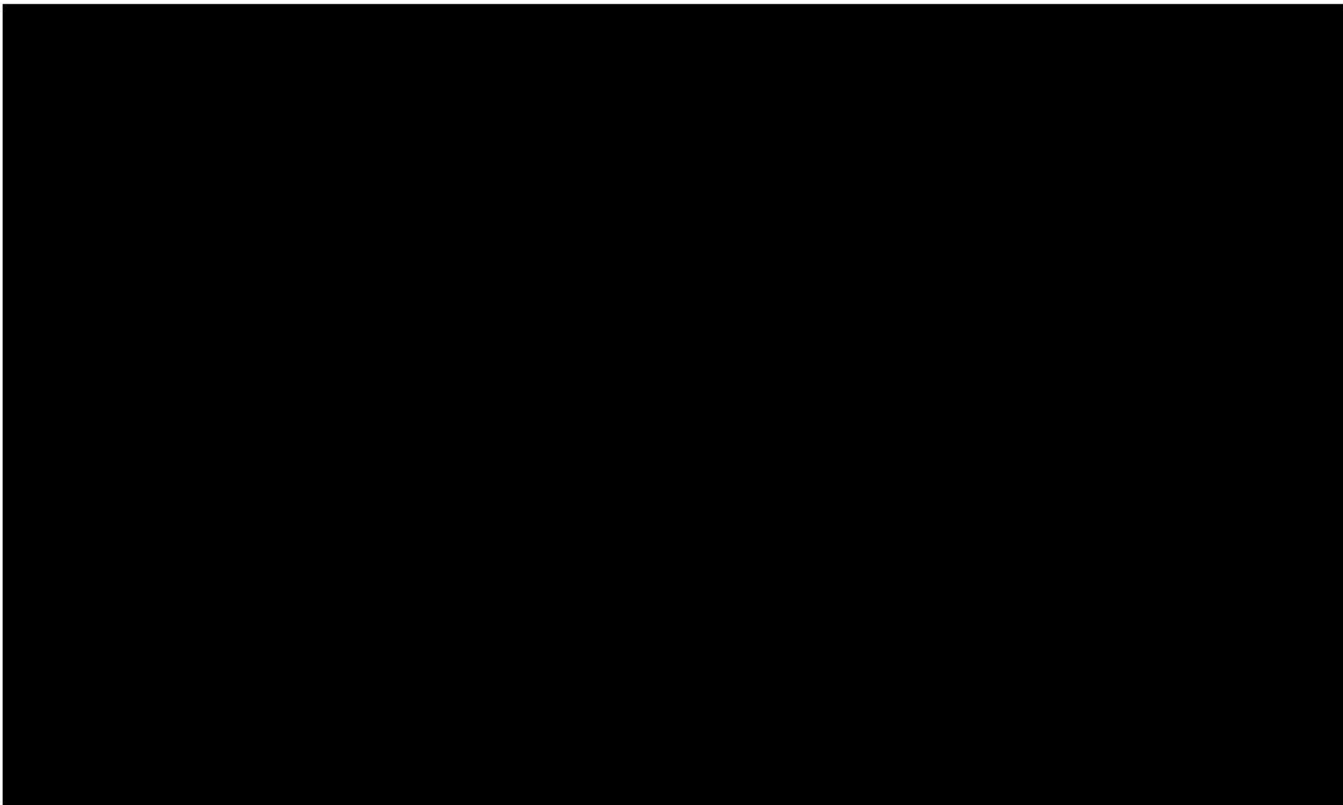


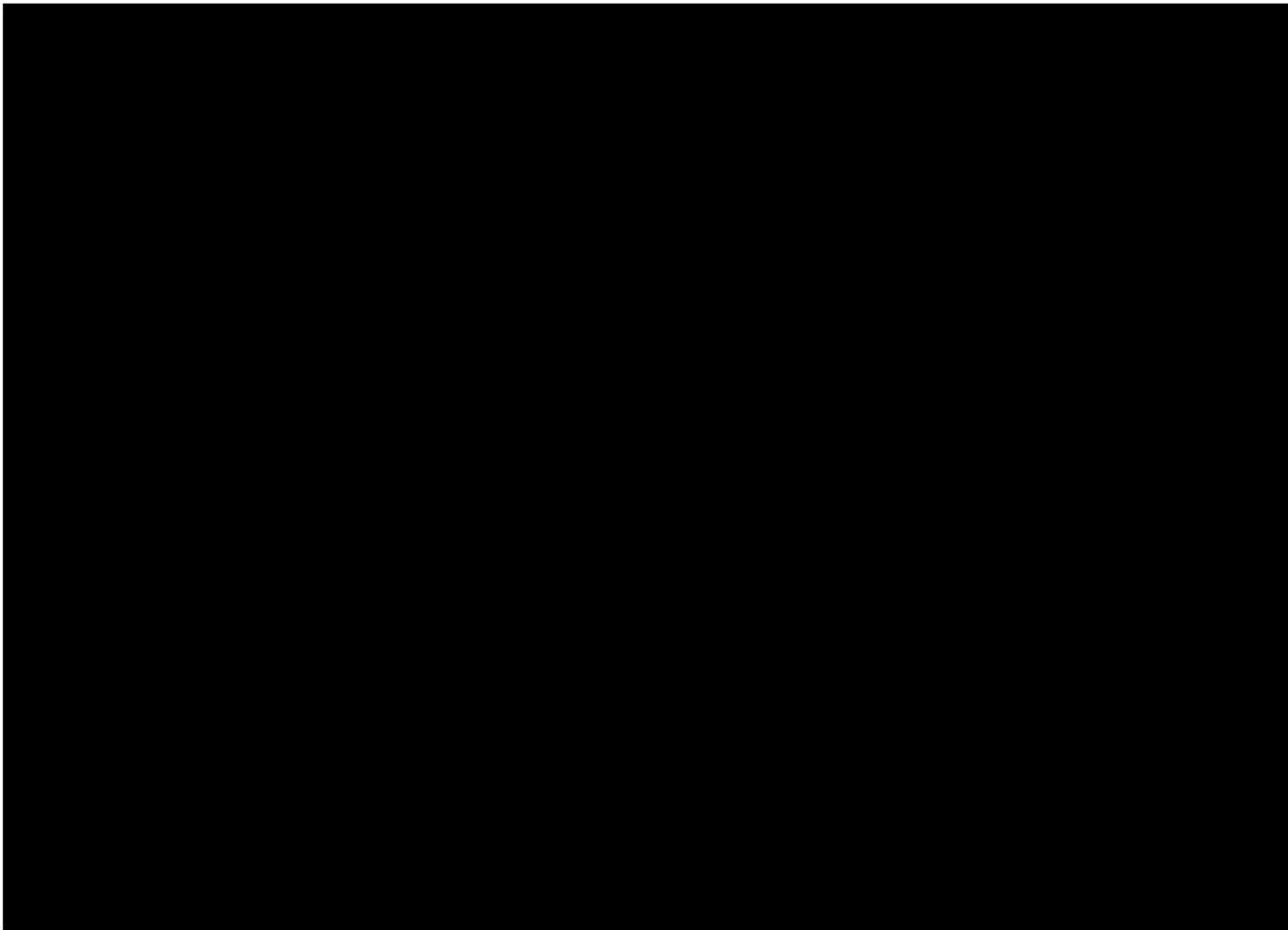






**And the court de tate the Defendant has usurped Complainant's internal wiring system for the enhancement of their electrical system in order to reduce the utility's costs for the benefit of the transformer. The National Electrical Code (NEC) requires the neutral in the service disconnect and overcurrent panelboard to be connected to the earth through the grounding conductor. Now there is a second connection to earth. A parallel connection of the neutral to earth now exists permitting current to flow continuously uncontrolled over the earth.**



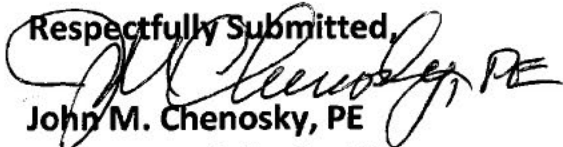


**CONCLUSION:**

Considering that many of the scientific concepts presented are beyond the comprehension of the general population, policy makers and government agencies, how those in position of authority accept studies and reports from Utilities and their manufacturers which have a conflict of interest, without corroborating evidence from Independent Scientists & Engineers, [REDACTED]

So based upon the overwhelming preponderance of the evidence the implementation of the installation of EMF-EITs in Pennsylvania is an unlawful exercise [REDACTED]

Respectfully Submitted,



John M. Chenosky, PE  
Energy Specialist for 50 years

June 1, 2020

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**JOHN M. CHENOSKY**

v.

**METROPOLITAN EDISON COMPANY**

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:

**Docket No. C-2019-3007622**

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the Petition 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 mail, as follows:

John M. Chenosky  
johnsuzy@dejazzd.com

Administrative Law Judge Joel H. Cheskis  
jcheskis@pa.gov

Dated: September 1, 2020



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