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November 2, 2020

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: John Kline v. PPL Electric Utilities Corporation
Docket No. C-2017-2621072

Dear Secretary Chiavetta:

Enclosed for filing is the Answer of PPL Electric Utilities Corporation to the Petition for Reconsideration of John Kline in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,

Devin Ryan

DR/jl
Enclosures

cc: Certificate of Service
Office of Special Assistants (*via Email ra-OSA@pa.gov*)

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA E-MAIL & FIRST CLASS MAIL

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Date: November 2, 2020

Devin T. Ryan

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

John Kline,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2017-2621072
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

ANSWER OF PPL ELECTRIC UTILITIES CORPORATION TO THE PETITION FOR RECONSIDERATION OF JOHN KLINE

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PPL Electric Utilities Corporation ("PPL Electric" or the "Company"), pursuant to 52 Pa. Code §§ 5.61 and 5.572, hereby respectfully submits this Answer to the Petition for Reconsideration filed by John Kline ("Complainant") on October 23, 2020. In his Petition, the Complainant requests reconsideration because, among other things, he allegedly has new evidence and arguments not considered by the Pennsylvania Public Utility Commission ("Commission") in its October 8, 2020 Order dismissing his Complaint ("October 8, 2020 Order").

As explained herein, the Complainant's request for reconsideration is without merit. The Complainant's Petition is largely based on the Commonwealth Court's recent decision in *Povacz v. Pa. PUC*, Docket Nos. 492 C.D 2019, *et al.* (Pa. Cmwlth. 2020) ("*Povacz*"), which found that the Commission has the authority to grant "reasonable" and "appropriate" accommodations to smart meter installations without proof of harm. However, the Complainant completely misreads and misinterprets that decision as *per se* entitling him to his requested accommodation, *i.e.*, having a new analog meter installed at his property. Even if the *Povacz* decision stands,[1] the Complainant must sustain his burden of proof that PPL Electric's installation of the automated metering infrastructure ("AMI") meter would constitute unsafe or unreasonable service under Section 1501 of the Public Utility Code in order for him to be granted relief. The Complainant wholly failed to meet that burden of proof in this proceeding, and none of the arguments and evidence presented in his Petition warrant disturbing that conclusion. Therefore, the Petition for Reconsideration should be denied.

[1] The period for the Commission and PECO Energy Company ("PECO") to appeal that decision to the Pennsylvania Supreme Court has not expired. *See* Pa.R.A.P. 1113(a) (setting for the 30-day deadline for a party to file a petition for allowance of appeal with the Supreme Court). The Supreme Court also has discretion in whether to review the Commonwealth Court's decision. *See* Pa.R.A.P. 1114(a)-(b). Therefore, it is unclear at this time whether the Commonwealth Court's decision will be binding precedent and, if so, what the potential impact of the Court's decision on the instant proceeding would be. Thus, at this time, the Company still takes the position that it is required by Act 129 to install smart meters for all of its customers.

I. INTRODUCTION AND BACKGROUND

PPL Electric is a public utility that provides electric distribution and provider of last resort services in Pennsylvania subject to the regulatory jurisdiction of the Commission. PPL Electric furnishes electric distribution, transmission, and provider of last resort electric supply services to approximately 1.4 million customers throughout its certificated service territory, which includes all or portions of 29 counties and encompasses approximately 10,000 square miles in eastern and central Pennsylvania.

On August 24, 2017, PPL Electric was served with the above-captioned Formal Complaint filed by the Complainant.

On September 13, 2017, PPL Electric filed its Answer to the Complaint.

On October 3, 2017, a Notice was issued scheduling a telephonic hearing for January 31, 2018, before Administrative Law Judge Elizabeth H. Barnes (the "ALJ").

On October 4, 2017, the ALJ issued the First Prehearing Order, which set forth certain procedural rules in this proceeding.

On December 18, 2017, PPL Electric filed a Motion for Admission Pro Hac Vice of Curtis S. Renner, Esquire, as additional counsel on behalf of the Company.

On December 21, 2017, PPL Electric filed a letter requesting that the January 31, 2018 hearing be rescheduled for March 29, 2018, because the Company's expert witnesses were unavailable for the hearing on January 31, 2018.

On December 22, 2017, the ALJ issued the Second Prehearing Order, which, among other things, rescheduled the evidentiary hearing for March 29, 2018, and directed the parties to exchange all exhibits, reports, and statements by March 15, 2018.

On January 8, 2018, the ALJ issued an Interim Order granting the Motion for Admission Pro Hac Vice.

On February 14, 2018, PPL Electric filed a Notice and Withdrawal of Appearance.

On February 20, 2018, PPL Electric filed a letter requesting that any expert testimony and exhibits be presented in written form in advance of the hearing and exchanged by the parties on or before March 15, 2018.

On March 15, 2018, PPL Electric and the Complainant exchanged their exhibits, reports, and statements.

On March 26, 2018, the Complainant sent additional exhibits (*i.e.*, Complainant's Exhibits CCC through FFF) via email to PPL Electric.

On March 27, 2018, the Complainant sent additional exhibits (*i.e.*, Complainant's Exhibits GGG and HHH) via email to PPL Electric.

On March 28, 2018, PPL Electric filed a Motion in Limine to exclude the Complainant's exhibits.

The parties engaged in discovery at various points in the proceeding before the evidentiary hearing.

On March 29, 2018, the telephonic evidentiary hearing was held as scheduled at 10:00 AM.

On March 30, 2018, the ALJ issued a Briefing Order setting forth requirements for the briefs to be submitted in this proceeding.

On May 16, 2018, PPL Electric filed its Main Brief.

On May 17, 2018, the Complainant filed his Main Brief.

On July 9, 2018, PPL Electric filed its Reply Brief.

On July 10, 2018, the Complainant filed his Reply Brief.

The record closed on July 10, 2018.

On August 16, 2018, the ALJ's Initial Decision ("ID") was issued. The ID dismissed the Complaint with prejudice but made certain recommendations to the Company concerning fire safety.

On September 5, 2018, the Complainant filed Exceptions to the ID, and PPL Electric filed an Exception to the ID limited to the fire safety recommendations.

On October 8, 2020, the Commission entered its *Final Order* denying the Complainant's Exceptions, granting PPL Electric's Exception, adopting the ID as modified, and dismissing the Complaint.

The Complainant thereafter filed his Petition for Reconsideration on October 23, 2020.

On October 27, 2020, PPL Electric filed a Motion to Stay the Proceeding and extend all deadlines in the case due to the Commonwealth Court's issuance of its decision in *Povacz v. Pa. PUC*, Docket Nos. 492 C.D. 2019, *et al*. (Pa. Cmwlth. 2020).

On October 29, 2020, the Complainant filed an "objection" to PPL Electric's Motion to Stay the Proceeding.

Also on October 29, 2020, the Commission issued an Order granting the Complainant's Petition for Reconsideration pending further review of and determination on the merits.

As of the filing of this Answer, the Commission has not acted upon PPL Electric's Motion to Stay the Proceeding. Therefore, out of an abundance of caution, the Company is filing the instant Answer to the Petition for Reconsideration.

For the reasons explained below, the Complainant's Petition should be denied.

II. LEGAL STANDARDS

The Commission's standard for reviewing petitions for reconsideration following final orders is set forth in *Duick v. Pennsylvania Gas and Water Co.*, 56 Pa. P.U.C. 553, 559, 1982 Pa.

PUC LEXIS 4 (Opinion and Order Upon Reconsideration dated Dec. 17, 1982) (emphasis added):

> A petition for rehearing, under the provisions of 66 Pa C.S. § 703(f), properly must seek the reopening of the record for the introduction of additional evidence of some sort. As grounds therefore it must allege newly discovered evidence, not discoverable though the exercise of due diligence prior to the close of the record. *Public Utility Commission v Reading Co*. (1975) 21 Pa Cmwlth 334, 338, 345 A2d 311; *Mobilfone v Pennsylvania Pub. Utility Commission* (1975) 24 Pa Cmwlth 243, 355 A2d 611; *Abramson v Pennsylvania Pub. Utility Commission* (1980) 489 Pa 267, 414 A2d 60.
>
> …
>
> A petition for reconsideration, under the provisions of 66 Pa.C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part. In this regard we agree with the Court in the Pennsylvania Railroad Company case, wherein it was said that "[p]arties …, cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them…." What we expect to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission.

Consequently, for a petition to warrant rehearing and reconsideration by the Commission, it must demonstrate new and novel arguments that were raised below by the petitioner, but not previously considered by the Commission. The Commission has cautioned that the last portion of the operative language of the *Duick* standard -- "by the Commission" -- focuses on the deliberations of the Commission, not the arguments of the parties. *See Pa. PUC v. PPL Elec. Utils. Corp.*, Docket No. R-2012-2290597, p. 3 (Order entered May 22, 2014). Therefore, a petition for reconsideration cannot be used to raise new arguments or issues that should have been, but were not, previously raised.

A petition seeking relief under the *Duick* standard may properly raise any matter designed to convince the Commission that it should exercise its discretion to rescind or amend a prior order in whole or part. Importantly, however, the *Duick* standard does not permit a petitioner to raise issues and arguments considered and decided below such that the petitioner obtains a second opportunity to argue properly resolved matters. *Id*. Further, as explained by the Pennsylvania Supreme Court, petitions for reconsideration of a final agency order may only be granted judiciously and under appropriate circumstances because such action results in the disturbance of final agency orders. *City of Pittsburgh v. Pa. Dep't of Transp.*, 490 Pa. 264, 416 A.2d 461 (1980).

As explained below, the Complainant's Petition should be denied.

III. ARGUMENT

A. THE COMPLAINANT'S REQUEST FOR RECONSIDERATION SHOULD BE DENIED

In his Petition, the Complainant claims that the Commission should grant reconsideration and reverse its October 8, 2020 Order dismissing his Complaint because: (1) the Commonwealth Court recently found in *Povacz v. Pa. PUC* that, among other things, Act 129 of 2008 ("Act 129") does not mandate the installation of wireless smart meters, so he should receive an accommodation to the Company's planned installation of its AMI meter and have an analog meter at his property; (2) a study called "Electrohypersensitivity as a Newly Identified and Characterized Neurologic Pathological Disorder: How to Diagnose, Treat, and Prevent It" came out in March 11, 2020; (3) the Complainant has made "[a]dditional mitigation efforts" in his household that have reduced his and his spouse's "minimal health issues"; and (4) his current analog meter, also called a powerline carrier ("PLC"), presents unspecified "safety and health

concerns." (Petition, pp. 3-25.) As alleged support, the Complainant attaches: (1) Exhibit A – a copy of the "Electrohypersensitivity" study dated March 11, 2020: and (2) Exhibit B – a webpage print-out from www.electrahealth.com about an analog meter that he evidently would like installed at his property in lieu of the PLC meter. (Petition, Exhs. A and B.) All of the Complainant's arguments should be rejected.

1. Even if the Commonwealth Court's Decision in *Povacz* Stands, the Complainant Should Not Be Granted His Requested Relief Because He Failed to Sustain His Burden of Proof and to Establish that His Requested Accommodation Is "Reasonable" and "Appropriate"

The Complainant's critical error is that he misreads and misinterprets the Commonwealth Court's *Povacz* decision. Although the Commonwealth Court found that Act 129 does not mandate the installation of wireless smart meters, the Court remanded the cases to the Commission to determine "what, if any, accommodations" that are "appropriate" and "reasonable" should be given to the complainants. *Povacz*, pp. 13, 22 (emphasis added). Nothing in the *Povacz* decision guarantees that a smart meter complainant actually will receive an accommodation. The Complainant, even under the *Povacz* decision, must sustain his burden of proof that the installation of the smart meter would violate Section 1501 the Public Utility Code in order for the Commission to grant him relief.[2] Indeed, the Commonwealth Court in *Povacz* affirmed the Commission's burden of proof applied in smart meter cases as well as the Commission's finding that the complainants failed to sustain their burden of proof that the installation of the smart meters would be unsafe. *See Povacz*, pp. 18-22. Thus, even if the

[2] *See West Penn Power Co. v. Pa. PUC*, 478 A.2d 947, 949-50 (Pa. Cmwlth. 1984) (holding that when presented with a formal complaint alleging a violation of Section 1501, the Commission cannot sustain the complaint or "require any action by the utility" without finding that the utility breached its duty under Section 1501); *see also Peoples Cab Co. v. Pa. PUC*, 137 A.2d 873, 878-79 (Pa. Super. 1958) (holding that the Commission does not have the authority to regulate or control the management decisions of a utility absent a finding that the management decision would adversely affect the public); *Phila. Suburban Water Co. v. Feinstein*, 383 A.2d 997, 998-99 (Pa. Cmwlth. 1978) (holding that the Commission may not allocate the amount of a disputed water bill between the utility and the customer where the complainant had not met the burden of proof).

Povacz decision stands, the Complainant only can be granted relief if he sustains his burden of proof that installing the smart meter constitutes unsafe or unreasonable service under Section 1501 of the Public Utility Code.

Here, the Commission properly held that the Complainant failed to meet his burden of proof that the installation of the AMI meter would constitute unsafe or service in violation of Section 1501 of the Public Utility Code. In its October 8, 2020 Order, the Commission thoroughly analyzed and rejected the Complainant's allegations that the AMI meter raised health and safety concerns, fire safety concerns, and privacy concerns. *See, e.g.*, October 8, 2020 Order, pp. 17-93. The Commission also explained that PPL Electric's system-wide deployment of AMI meters was reasonable because there were sound policy reasons to do so. *See id.*, p. 89.

Furthermore, none of the Complainant's evidence establishes that his requested accommodation is "reasonable" and "appropriate," as required by the *Povacz* decision. As explained previously, the Commission correctly held that nothing in the record demonstrates that the Company's smart meter is unsafe or raises privacy concerns. Also, the AMI meter provides several advantages over the current analog meter, which are designed to enhance the safety and reliability of the Company's electric service.[3] Without the smart meter, the Company loses out on those advantages.

The Commission also found that the installation of the AMI meter was a reasonable condition for PPL Electric's provision of electric distribution service. *See* October 8, 2020 Order, pp. 72-74. As stated on page 73 of the Commission's Order, "it is well-settled in the law that so long as a condition of service is *reasonable*, a utility may not be barred from instituting

[3] *See, e.g., Smart Meter Procurement and Installation*, Docket No. M-2009-2092655, p. 16 (Order entered June 24, 2009) ("*Implementation Order*") (outlining the required minimum capabilities of smart meters under the EDCs' smart meter plans); PPL MB at 32-33, 36 (noting that the AMI meter provides significant data such as outages, voltage, heat alarms, and metering tampering alerts and that the AMI meter is better-equipped and made of more resistant materials to prevent fires).

that condition of service." *Id.*, p. 73 (emphasis in original) (quotation omitted). In fact, the Commission has long held that system-wide deployment is preferred because "deployment of smart meters on a piecemeal or individual basis could involve greater costs than a systematic system-wide deployment."[4] Thus, "to permit customer discretion in this area" by the Complainant "would be, *inter alia*, inefficient and uneconomical." October 8, 2020 Order, p. 73.

In addition, the Company's decision to install a smart meter at the Complainant's address is a business or managerial decision that is within the Company's discretion and is outside the Commission's authority. *See McCarthy v. Metro. Edison Co.*, Docket No. C-2019-3006923, pp. 35-36 (Oct. 15, 2020) (Initial Decision) (citing *Metro. Edison Co. v. Pa. PUC*, 437 A.2d 76 (Pa. Cmwlth. 1981) ("*Met-Ed*")). The Commonwealth Court has explained that "[a]dministrative agencies do not have the authority to order a regulated company to change lawful conduct on the theory that it is in the best interest of their customers." *Phila. Suburban Water Co. v. Pa.* PUC, 808 A.2d 1044, 1056 (Pa. Cmwlth. 2002) (citation omitted). In this case, PPL Electric soundly exercised its discretion and decided to install the smart meter, given: (1) the benefits it provides over the current analog meter; (2) the sheer lack of evidence that the smart meter constitutes unsafe, unreasonable, or inadequate service; and (3) the inefficiencies and increased costs associated with deploying smart meters on a piecemeal or individual basis. Therefore, the Commission should not interfere with this "internal management" decision by PPL Electric. *Metro. Edison Co. v. Pa. PUC*, 437 A.2d 76, 80 (Pa. Cmwlth. 1981) (citations omitted).

[4] *Implementation Order*, pp. 9, 14; *see also Springirth v. Nat'l Fuel Gas Distrib. Corp.*, 1991 Pa. PUC LEXIS 44, at *1-3, 6, 16-17 (Order entered Apr. 12, 1991) (dismissing complaint of customer seeking to make installation of automated meter reading devices optional, noting that the Commission previously found in another case that "[t]he customer should not be given the option of refusing installation of equipment" because "[t]o permit customer discretion in this area would be inefficient and uneconomical") (quoting *Stenker v. The York Water Co.*, Docket No. C-871318 (Order entered July 27, 1987)).

Additionally, the Company already offers a potential accommodation to customers who have issues with the installation of an AMI meter on their properties. Under the Company's Commission-approved tariff, customers can request that the Company relocate the AMI meter to an alternate location, so long as they pay the Company's estimated costs associated with such relocation.[5] The Company's Commission-approved tariff has the force and effect of law and is legally binding on the Company and its customers.[6] Beyond what is already available under the Company's legally binding tariff, however, the Complainant is not entitled to any accommodation related to the AMI meter installation.

Thus, even if the *Povacz* decision stands, the Complainant failed to sustain his burden of proof and, therefore, should not be granted any relief in this proceeding.

2. The Complainant's Other Arguments and Evidence Presented in His Petition for Reconsideration Are Without Merit

The other arguments and evidence presented in the Complainant's Petition are without merit and do not warrant the Commission reversing its October 8, 2020 Order.

First, the Complainant's allegations about the "minimal health issues" that have been reduced through "changes" in his household should be disregarded. (Petition, pp. 19-21.) Specifically, the Complainant asserts that he has made "changes" in his household, such as "eliminat[ing] all Wi-Fi," that have helped his "insomnia" and "headaches" and have helped his spouse's "sleep," "inflammation of joints and sinus," "vision," "tinnitus," "numbness and

[5] *See* Rule 4(I)(2) of PPL Electric's Tariff, Supp. No. 59 to Electric Pa. P.U.C. No. 201, Third Revised Page No. 8E (stating that "[t]he relocation of Company facilities, when done at the request of others, is at the applicant's expense and payment of the Company's estimated cost of the relocation is required in advance of construction. When the request is from an affected property owner and the facilities are on the customer's property, the charges for relocation of distribution system facilities are limited to estimated contractor costs, estimated direct labor and estimated material costs, less an amount equal to any estimated maintenance expense avoided as a result of the relocation.").

[6] *See, e.g.*, *Brockway Glass Co. v. Pa. PUC*, 437 A.2d 1067, 1070 (Pa. Cmwlth. 1981) ("Tariffs, of course, can include schedules of rates, and all rules, regulations, practices or contracts involving rates and have the force of law and are binding on both the utility and its customer.") (citation omitted); *Kossman v. Pa. PUC*, 694 A.2d 1147, 1151 (Pa. Cmwlth. 1997) ("Once approved, the tariff provisions are legally binding on both the utility and its customers.") (citation omitted).

tingling of extremities," and "dizziness." (Petition, pp. 20-21.) However, the Complainant never presented evidence that he has "insomnia" and "headaches" or any medical records to substantiate those claims, even though: (1) the Company requested that information from him in discovery[7]; and (2) he had a full and fair opportunity to present this evidence at the evidentiary hearing, where he presented approximately 60 exhibits[8]. In fact, the Complainant notes in his Petition how he testified at the hearing that they have "some issues," but "don't have anything medically verified." (Petition, p. 19) (quoting Tr. 33). Also, in his Petition, the Complainant never describes these alleged ailments as being newly discovered or as not existing prior to the close of the record. Therefore, the Complainant's allegations about these "changes" in his household and the alleged "minimal health issues" that they have helped reduce do not meet the *Duick* standard for reconsideration. *See Duick*, 56 Pa. P.U.C. 553, 559 (stating that the petition for reconsideration "must allege [the] newly discovered evidence…[was] not discoverable though the exercise of due diligence prior to the close of the record").

Second, Exhibit A and B attached to the Complainant's Petition should be given no weight. Exhibit A (the "Electrohypersensitivity" study) and Exhibit B (the www.electrahealth.com webpage about an analog meter) are uncorroborated hearsay[9] and,

[7] *See* PPL St. No. 2, p. 7 (stating that the Complainant "was sent requests for medical information" but never "provided any medical records").

[8] *See* October 8, 2020 Order, p. 11 (listing the Complainant's hearing exhibits admitted into the record).

[9] 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).

therefore, cannot form the basis of any findings of fact in this proceeding. Although 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,[10] the Complainant readily admits that he is not an expert. On page 15 of his Petition, the Complainant states that he is "not qualified to completely interpret" the data in Exhibit A. (Petition, p. 15.) Therefore, the Complainant cannot rely on Exhibits A and B in support of his arguments. Also, at this stage of the proceeding, PPL Electric does not have the opportunity to present evidence in rebuttal to these exhibits or to cross-examine the Complainant about them. As a result, it would deny the Company due process if the Commission were to rely on them in its disposition of the Petition for Reconsideration.[11] Thus, the Commission should disregard Exhibits A and B and all arguments based thereon.

Even assuming *arguendo* that Exhibits A and B are considered, they do not warrant disturbing the Commission's finding that the Complainant failed to meet his burden of proof. The Complainant relies on Exhibit A to argue that "[e]lectro-hypersensitivity is a newly identified and characterized neurologic pathological disorder." (Petition, pp. 14-19.) However, Exhibit A's authors do not proclaim that "EHS" has been recognized and accepted as such, but rather that it "should" be. (Petition, Exh. A, p. 16.) Unrebutted expert testimony in this proceeding also demonstrates that "electrohypersensitivity" is more properly characterized as idiopathic environmental intolerance ("IEI") and that "the theory of IEI caused by exposure to

[10] *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.

[11] *See Hess v. Pa. PUC*, 107 A.3d 246, 266 (Pa. Cmwlth. 2014) (citations omitted) (stating that "[a]mong the requirements of due process are notice and an opportunity to be heard on the issues, to be apprised of the evidence submitted, to cross-examine witnesses, to inspect documents, and to offer evidence in explanation or rebuttal"); 66 Pa. C.S. § 332(c) (stating that "[e]very party is entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts. The commission may, by rule, adopt procedures for the submission of all or part of the evidence in written form").

RF fields has not been generally accepted in the medical community." October 8, 2020 Order, p. 24; (PPL St. No. 2, pp. 11-14). Even more importantly, Exhibit A is irrelevant because the "Complainant does not aver that he or anyone in his household suffers from a medical ailment that would be negatively affected by an AMI meter." October 8, 2020 Order, p. 23. Thus, Exhibit A has no substantive impact on the Commission's analysis in its October 8, 2020 Order.

Similarly, Exhibit B is a print-out of a webpage from www.electrahealth.com about an analog electric meter apparently made by Electra Health, which the Complainant believes can be used on PPL Electric's distribution system. (Petition, pp. 22-23; Petition, Exh. B.) All of the information the Complainant presents about this analog meter comes directly from Exhibit B. The Complainant is not the author of this webpage, and his Petition fails to demonstrate that he has any personal knowledge about this analog meter, including its specifications and potential for use in the Company's service territory. Simply put, nothing in Exhibit B affirmatively establishes that the Company can use this meter on its distribution system in a safe and reliable manner.

Third, the Complainant's allegations about his existing PLC meter presenting health and safety concerns should be rejected. In his Petition, the Complainant never even tries to establish that his allegations about the PLC meter are "newly discovered evidence" that was "not discoverable though the exercise of due diligence prior to the close of the record." *See Duick,* 56 Pa. P.U.C. 553, 559. Thus, his allegations about the PLC meter failed to meet the *Duick* standard and should be disregarded accordingly.

For these reasons, the Complainant's Petition for Reconsideration is without merit and should be denied.

IV. CONCLUSION

WHEREFORE, for all the foregoing reasons, PPL Electric Utilities Corporation respectfully requests that the Pennsylvania Public Utility Commission deny the Petition for Reconsideration filed by John Kline in its entirety.

Respectfully submitted,

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Date: November 2, 2020

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