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File #: 167945

March 29, 2021

***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: Michele P. White v. PPL Electric Utilities Corporation**  
**Docket No. C-2021-3024463**

Dear Secretary Chiavetta:

Enclosed for filing are the Preliminary Objections of PPL Electric Utilities Corporation to the Complaint of Michele P. White 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

## **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**

Michele P. White  
40 South Groffdale Road  
Leola, PA 17540  
E-mail: [whitebml@comcast.net](mailto:whitebml@comcast.net)

Date: March 29, 2021



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Devin T. Ryan

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Michele P. White,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2021-3024463
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

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**NOTICE TO PLEAD**

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YOU ARE HEREBY ADVISED THAT, PURSUANT TO 52 PA. CODE § 5.101, YOU MAY ANSWER THE ENCLOSED PRELIMINARY OBJECTIONS WITHIN TEN (10) DAYS OF THE DATE OF SERVICE HEREOF. YOUR ANSWER TO THE PRELIMINARY OBJECTIONS MUST BE FILED WITH THE SECRETARY OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION, P.O. BOX 3265, HARRISBURG, PA 17105-3265. A COPY SHOULD ALSO BE SERVED ON THE UNDERSIGNED COUNSEL FOR PPL ELECTRIC UTILITIES CORPORATION.



Kimberly A. Klock (ID # 89716)  
Michael J. Shafer (ID # 205681)  
PPL Services Corporation  
Two North Ninth Street  
Allentown, PA 18101  
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Date: March 29, 2021

Attorneys for PPL Electric Utilities Corporation

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Michele P. White,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2021-3024463
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

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**PRELIMINARY OBJECTIONS OF  
PPL ELECTRIC UTILITIES CORPORATION TO THE  
COMPLAINT OF MICHELE P. WHITE**

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**TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:**

AND NOW, comes PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) and hereby files these Preliminary Objections, pursuant to the regulations of the Pennsylvania Public Utility Commission (“Commission”) at 52 Pa. Code § 5.101, and respectfully requests that the Commission dismiss the above-captioned Formal Complaint (“Complaint”) filed by Michele P. White (“Complainant”) in its entirety and with prejudice.

The instant Complaint challenges PPL Electric’s planned installation of a new automated metering infrastructure (“AMI”) meter at 40 South Groffdale Road, Leola, Pennsylvania 17540, due to allegations that the new AMI meter: (1) is not mandatory; (2) will cause, contribute to, or exacerbate adverse health effects; (3) violates Complainant’s religious beliefs; and (4) violates the federal Fair Housing Act. (Complaint ¶¶ 4-5) (*see* 42 U.S.C. §§ 3601-3619).

As explained herein, the Commission should summarily dismiss the Complaint because the issues regarding the installation of the AMI meter at this property, as well as the alleged concerns of the Complainant, are barred by the Commission’s prior order in *White v. PPL Electric*

*Utilities Corp.*, Docket No. C-2018-3003468 (Order entered May 21, 2020) (“*First Complaint Order*”), pursuant to 66 Pa. C.S. § 316. In addition, or in the alternative, the Commission should strike the Complainant’s claims regarding the federal Fair Housing Act because the Commission lacks jurisdiction to adjudicate claims arising under that Act under 52 Pa. Code § 5.101(a)(1).

In support thereof, PPL Electric states as follows:

**I. BACKGROUND**

1. PPL Electric is a “public utility” and an “electric distribution company” as those terms are defined under the Public Utility Code, 66 Pa. C.S. §§ 102 and 2803, subject to the regulatory jurisdiction of the Commission.

2. 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 twenty-nine counties and encompasses approximately 10,000 square miles in eastern and central Pennsylvania.

3. On March 8, 2021, PPL Electric was served with the above-captioned Complaint, which challenges the Company’s planned installation of a new AMI meter at 40 South Groffdale Road, Leola, Pennsylvania 17540 due to allegations that the new AMI meter: (1) is not mandatory; (2) will cause, contribute to, or exacerbate adverse health effects; (3) violates Complainant’s religious beliefs; and (4) violates the federal Fair Housing Act. (Complaint ¶¶ 4-5.) A true and correct copy of the Complaint is attached hereto as **Appendix A**.<sup>1</sup>

4. PPL Electric herein files these Preliminary Objections to the Complaint. For the reasons explained below, PPL Electric respectfully requests that: (1) the Commission summarily dismiss the Complaint because the issues regarding the installation of the AMI meter at this

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<sup>1</sup> Due to customer privacy concerns, any account numbers in the Complaint have been redacted.

property, as well as the concerns already alleged therein, are barred by the Commission's *First Complaint Order* pursuant to 66 Pa. C.S. § 316; and (2) the Commission lacks jurisdiction to adjudicate claims arising under the federal Fair Housing Act pursuant to 52 Pa. Code § 5.101(a)(1).

## **II. STANDARD OF REVIEW**

5. Pursuant to the Commission's regulations, preliminary objections in response to a pleading may be filed on several grounds, including:

- (1) Lack of Commission jurisdiction or improper service of the pleading initiating the proceeding.
- (2) Failure of a pleading to conform to this chapter or the inclusion of scandalous or impertinent matter.
- (3) Insufficient specificity of a pleading.
- (4) Legal insufficiency of a pleading.
- (5) Lack of capacity to sue, nonjoinder of a necessary party or misjoinder of a cause of action.
- (6) Pendency of a prior proceeding or agreement for alternative dispute resolution.
- (7) Standing of a party to participate in the proceeding.

52 Pa. Code § 5.101(a) (emphasis added).

6. In ruling on preliminary objections, the Presiding Officer must accept as true all well-pled allegations of material facts as well as all inferences reasonably deducible therefrom. *Stilp v. Cmwth.*, 910 A.2d 775, 781 (Pa. Cmwth. 2006) (citing *Dep't of Gen. Servs. v. Bd. of Claims*, 881 A.2d 14 (Pa. Cmwth. 2005)). However, the Presiding Officer need not accept as true conclusions of law, unwarranted inferences from facts, argumentative allegations, or expressions of opinion. *Stanton-Negley Drug Co. v. Dep't of Pub. Welfare*, 927 A.2d 671, 673 (Pa. Cmwth. 2007). Notwithstanding, any doubt must be resolved in favor of the non-moving party. *Stilp*, at 781.

7. In addition, the Presiding Officer must determine whether, based on the factual pleadings, if recovery is possible. *See Rok v. Flaherty*, 527 A.2d 211, 214 (Pa. Cmwlth. 1987). Indeed, for preliminary objections to be sustained, it must appear with certainty that the law will permit no recovery. *See Stilp*, at 781; *Milliner v. Enck*, 709 A.2d 417, 418 (Pa. Super. 1998).

### **III. PRELIMINARY OBJECTIONS**

#### **A. PRELIMINARY OBJECTION NO. 1 – THE COMPLAINT SHOULD BE DISMISSED BECAUSE IT IS BARRED BY SECTION 316 OF THE PUBLIC UTILITY CODE AND, THEREFORE, IS LEGALLY INSUFFICIENT**

8. PPL Electric incorporates by reference Paragraphs 1 through 7 as if fully set forth herein.

9. The Complaint should be dismissed in its entirety because it is barred by Section 316 of the Public Utility Code, 66 Pa. C.S. § 316, and, therefore, is legally insufficient. *See* 52 Pa. Code § 5.101(a)(4).

10. As explained previously, the Complainant challenges PPL Electric’s planned installation of a new AMI meter at 40 South Groffdale Road, Leola, Pennsylvania 17540 due to allegations that the installation of the new AMI meter: (1) is not mandatory; (2) will cause, contribute to, or exacerbate adverse health effects; (3) violates Complainant’s religious beliefs; and (4) violates the federal Fair Housing Act. *See Appendix A ¶¶ 4-5*.

11. On July 18, 2018, PPL Electric was served with the Complaint of Michele P. White (“First Complaint”). The First Complaint was docketed at Docket No. C-2018-3003468. A true and correct copy of the First Complaint is attached hereto as **Appendix B**.<sup>2</sup>

12. By Secretarial Letter dated May 7, 2019, the Commission issued Administrative Law Judge Elizabeth H. Barnes’s (the “ALJ”) Initial Decision at Docket No. C-2018-3003468

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<sup>2</sup> Due to customer privacy concerns, any account numbers in the Complaint have been redacted.

which dismissed the First Complaint because the Complainant failed to prove by a preponderance of the evidence that the installation of the AMI meter constitutes unsafe or unreasonable service under Section 1501 of the Code or that it violates any other provision of the Code, Commission Regulation, Commission Order, or the Company's Commission-approved Tariff. A true and correct copy of that Initial Decision is attached hereto as **Appendix C**.

13. The Complainant filed Exceptions to the Initial Decision dismissing the First Complaint on May 27, 2019.

14. PPL Electric filed Replies to Exceptions on June 7, 2019.

15. On May 21, 2020, the Commission entered an Opinion and Order denying the Complainant's Exceptions, adopting the Initial Decision, and dismissing the First Complaint. *See First Complaint Order*. A true and correct copy of the *First Complaint Order* is attached hereto as **Appendix D**.

16. The Complainant never filed a petition for reconsideration challenging the *First Complaint Order*.

17. The Complainant never filed a petition for review with the Commonwealth Court disputing the *First Complaint Order*.

18. The Complainant resides at 40 South Groffdale Road Place, Leola, PA 17540, the same service address as she resided at during the adjudication of the First Complaint, and receives electric service under the same utility account number.<sup>3</sup> *See Appendix A* ¶ 1; *Appendix B*, ¶ 1.

19. In both the instant Complaint and the First Complaint, the Complainant alleges that the new AMI meter to be installed at 40 South Groffdale Road, Leola, Pennsylvania 17540: (1) is

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<sup>3</sup> Although the account numbers in **Appendix A** and **Appendix B** have been redacted due to customer privacy concerns, it is indisputable that the electric account numbers are the same. The presiding officer can validate this fact by reviewing the un-redacted versions of the formal complaints on file with the Commission at Docket Nos. C-2018-3003468 and C-2021-3024463.

not mandatory; (2) will cause, contribute to, or exacerbate adverse health effects; (3) violates Complainant's religious beliefs; and (4) violates the federal Fair Housing Act.

20. Under Section 5.101(a)(4) of the Commission's regulations, a party may file a preliminary objection for "legal insufficiency." 52 Pa. Code § 5.101(a)(4).

21. Pursuant to 66 Pa. C.S. § 316, the instant Complaint is barred by the *First Complaint Order*. Section 316 states, in relevant part:

Whenever the commission shall make any rule, regulation, finding, determination or order, the same shall be prima facie evidence of the facts found and shall remain conclusive upon all parties affected thereby, unless set aside, annulled or modified on judicial review.

66 Pa. C.S. § 316.<sup>4</sup>

22. Under Section 316 of the Public Utility Code, a complainant is prohibited from raising issues that were previously decided. *See Moore, Jr. v. PECO Energy Co.*, Docket No. C-2012-2309932, 2012 Pa. PUC LEXIS 1251, at \*12 (Initial Decision dated July 18, 2019), *adopted without modification*, Docket No. C-2012-2309932 (Order entered Oct. 24, 2012); *see also Denlinger v. PPL Elec. Utils. Corp.*, Docket No. C-2019-3014786 (Initial Decision issued Feb. 24, 2020), *adopted without modification*, Docket No. C-2019-3014786 (Order entered May 21, 2020).

23. Section 316 precludes a collateral attack upon a Commission order that has not been reversed upon appeal. *See Lehigh Valley Power Comm. v. Pa. PUC*, 563 A.2d 548, 556 (Pa. Cmwlth. 1989) (citing 66 Pa. C.S. § 316).

24. The *First Complaint Order* was not set aside, annulled, or modified by judicial review. In fact, the *First Complaint Order* was not appealed. Therefore, the *First Complaint*

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<sup>4</sup> To the extent that this argument is found to be more appropriately addressed in a motion for judgment on the pleadings, PPL Electric has raised this affirmative defense in its New Matter to the Complaint and respectfully requests that its Preliminary Objections be treated as a Motion for Judgment on the Pleadings in the interest of administrative and judicial efficiency. *See Raintree Farm Solar v. PPL Electric Utilities Corporation*, Docket No. C-2017-2621826 (Initial Decision dated Nov. 9, 2017), *adopted*, Docket No. C-2017-2621826 (Order entered Jan. 16, 2018).

*Order* remains conclusive upon all parties affected thereby. *See Lehigh Valley*, 563 A.2d at 556 (citation omitted).

25. As noted above, the account holder, service address and the account number listed in the instant Complaint are identical to those at issue in the First Complaint. Moreover, to the extent that her issues are any different in the instant Complaint compared to her First Complaint, the Complainant could have and should have raised all of her concerns regarding the installation of an AMI meter at 40 South Groffdale Road, Leola, Pennsylvania 17540 during her first formal complaint proceeding at Docket No. C-2018-3003468, including PPL Electric's authority to terminate her electric service if she continued to refuse the AMI meter's installation. Through the instant Complaint, the Complainant is seeking to litigate the same factual and legal issues, related to the same account holder, service address and service account, which were raised or could have been raised in the First Complaint.

26. Thus, the Complainant's claims and issues are barred by Section 316 of the Public Utility Code, 66 Pa. C.S. § 316.

27. For these reasons, the instant Complaint should be dismissed because the claims and issues raised therein are already subject to a prior Commission order that remains conclusive and binding upon the Complainant.

WHEREFORE, PPL Electric respectfully requests that the above-captioned Complaint be summarily dismissed pursuant to 52 Pa. Code § 5.101(a)(4).

**B. PRELIMINARY OBJECTION NO. 2 – THE ALLEGATIONS CONTAINED IN THE COMPLAINT REGARDING THE FEDERAL FAIR HOUSING ACT SHOULD BE STRICKEN FOR LACK OF COMMISSION JURISDICTION**

28. PPL Electric incorporates by reference Paragraphs 1 through 27 as if fully set forth herein.

29. The Complainant's allegations regarding the federal Fair Housing Act should be stricken pursuant to 52 Pa. Code § 5.101(a)(1) because the Commission does not have jurisdiction to interpret, nor enforce, claims arising under the federal Fair Housing Act.

30. Consistent with the *First Complaint Order*, the Commission "has only those power which are expressly conferred upon it by the Legislature and those power which arise by necessary implication." *Feingold v. Bell*, 383 A.2d 791, 794 (Pa. 1977).

31. Given this limited power, the Commission has held that it does not have jurisdiction to enforce many federal laws, including the federal Fair Housing Act. *See First Complaint Order*, p. 19; *see also Harper v. PPL Elec. Utils. Corp.*, Docket No F-2014-2422449 (Order entered March 12, 2015) (deciding the Commission does not have jurisdiction to find a violation of the federal Americans with Disabilities Act, 42 U.S.C. § 12101 et seq.).

32. Therefore, any allegations regarding the alleged violations of the federal Fair Housing Act should be stricken because the Commission does not have jurisdiction to review or adjudicate claims arising under that Act.

WHEREFORE, PPL Electric respectfully requests that the allegations that PPL Electric has violated the federal Fair Housing Act, contained in Paragraph 5 of the above-captioned Complaint, be stricken pursuant to 52 Pa. Code § 5.101(a)(1).

**IV. CONCLUSION**

WHEREFORE, PPL Electric Utilities Corporation respectfully requests that (a) the above-captioned Formal Complaint filed by Michele P. White at Docket No. C-2021-3024463 be dismissed in its entirety pursuant 52 Pa. Code § 5.101(a)(4); and/or (b) the allegations, relating to the federal Fair Housing Act, contained in Paragraph 5 of the above-captioned Complaint, be stricken pursuant to 52 Pa. Code § 5.101(a)(1).

Respectfully submitted,



Kimberly A. Klock (ID # 89716)  
Michael J. Shafer (ID # 205681)  
PPL Services Corporation  
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Date: March 29, 2021

Attorneys for PPL Electric Utilities Corporation

## **APPENDIX A**

**FORMAL COMPLAINT FILED BY MICHELE P.  
WHITE AGAINST PPL ELECTRIC UTILITIES  
CORPORATION AT DOCKET NO. C-2021-3024463  
(INSTANT COMPLAINT)**

# PENNSYLVANIA PUBLIC UTILITY COMMISSION

## Formal Complaint

*Filing this form begins a legal proceeding and you will be a party to the case.  
If you do not wish to be a party to the case, consider filing an informal complaint.*

To complete this form, please type or print legibly in ink.

### 1. Customer (Complainant) Information

Provide your name, mailing address, county, telephone number(s), e-mail address and utility account number. It is your responsibility to update the Commission with any changes to your address and to where you want documents mailed to you.

Name Michele P White

Street/P.O. Box 40 South Groffdale Road Apt # \_\_\_\_\_

City Leola State PA Zip 17540

County Lancaster

Telephone Number(s) Where We Can Contact You During the Day (required):

(      ) N/A (home) (717) 679-3558 (mobile)

 **\*Please leave a message as I don't answer unrecognized numbers due to telemarketers.**

E-mail Address (required): whitebml@comcast.net

Utility Account Number (from your bill) 

**If your complaint involves utility service provided to a different address or in a different name than your mailing address, please list this information below.**

Name N/A

Street/P.O. Box \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

### 2. Name of Utility or Company (Respondent)

Provide the full name of the utility or company about which you are complaining. The name of your utility or company is on your bill.

PPL Electric Utilities

### 3. Type of Utility Service

Check the box listing the type of utility service that is the subject of your complaint (check only one):

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> ELECTRIC | <input type="checkbox"/> WASTEWATER/SEWER                                     |
| <input type="checkbox"/> GAS                 | <input type="checkbox"/> TELEPHONE/TELECOMMUNICATIONS (local, long distance)  |
| <input type="checkbox"/> WATER               | <input type="checkbox"/> MOTOR CARRIER (e.g. taxi, moving company, limousine) |
| <input type="checkbox"/> STEAM HEAT          |   |

### 4. Reason for Complaint

**What kind of problem are you having with the utility or company?** Check all boxes below that apply and state the reason for your complaint. Explain specifically what you believe the utility or company has done wrong. Provide relevant details including dates, times and places and any other information that may be important. If the complaint is about billing, tell us the amount you believe is not correct. Use additional paper if you need more space. **Your complaint may be dismissed without a hearing if you do not provide specific information.**

- The utility is threatening to shut off my service or has already shut off my service.

\* I received a shutoff notice with only 3 business-day warning. My account is paid in full with a credit balance of \$863.53. **I am overpaid.** See bill attached which does not reflect my latest payment which brought the credit balance to \$863.53. They are shutting off my electric on 03/10/21.

- I would like a payment agreement.
- Incorrect charges are on my bill. Provide dates that are important and an explanation about any amounts or charges that you believe are not correct. Attach a copy of the bill(s) in question if you have it/them.
- I am having a reliability, safety or quality problem with my utility service. Explain the problem, including dates, times or places and any other relevant details that may be important.
- Other (explain).

\* In November, 2020 the Pennsylvania Lower Court invalidated Pennsylvania's smart meter mandate and ruled that Act 129 supports customer choice and is **not** a mandate. This has set a new legal precedent for those of us refusing smart meters.

Note: If your complaint is only about removing or modifying a municipal lien filed by the City of Philadelphia, the Public Utility Commission (PUC) cannot address it. Only local courts in Philadelphia County can address this type of complaint. The PUC can address a complaint about service or incorrect billing even if that amount is subject to a lien.

In addition, the PUC generally does not handle complaints about cell phone or Internet service, but may be able to resolve a dispute regarding voice communications over the Internet (including the inability to make voice 911/E911 emergency calls) or concerns about high-speed access to Internet service.

## 5. Requested Relief

**How do you want your complaint to be resolved?** Explain what you want the PUC to order the utility or company to do. Use additional paper if you need more space.

\* I need the shutoff of my electricity stopped. I am paying more than my estimated usage monthly to be safe.

In November, 2020 the Pennsylvania Lower Court invalidated Pennsylvania's smart meter mandate and ruled that Act 129 supports customer choice and is *not* a mandate. PPL should not be allowed to cut off electric to a paying customer after this court ruling, which sets a new legal precedent.

Additionally, under the Federal Fair Housing Act I am entitled to an accommodation and relief from a smart meter installation as per the HUD information below. I am requesting that PPL *stop* the planned cutoff of my service on 03/10/21 for the reasons listed. They can bill me for my electric usage using my present analog meter. I am overpaid.

Smart technology is a violation of my religious beliefs and to be forced to violate my religious beliefs after a Pennsylvania court has invalidated this mandate has caused an escalation of my mental health condition.

\* Verbatim from the HUD website: *\* Federal Law*

<sup>1</sup>The Act makes it **unlawful** for any person to refuse "to make reasonable accommodations in **rules, policies, practices, or services**, when such accommodations may be necessary to afford ... person(s) [with disabilities] equal opportunity to use and enjoy a dwelling".

<sup>2</sup>Courts have also applied the Act to **state and local governments**.

<sup>3</sup>The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, **emotional illness**, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.

<sup>4</sup>A "reasonable accommodation" is a change, exception, or **adjustment to a rule, policy, practice, or service** that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since rules, policies, practices, and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will sometimes deny them an equal opportunity to use and enjoy a dwelling. The Act makes it unlawful to refuse to make reasonable accommodations to rules, policies, practices, or services when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling.

<sup>5</sup>**Example 2: A housing provider has a policy of requiring tenants to come to the rental office in person to pay their rent. A tenant has a mental disability that makes her afraid to leave her unit. Because of her disability, she requests that she be permitted to have a friend mail her rent payment to the rental office as a reasonable accommodation. The provider must make an exception to its payment policy to accommodate this tenant.**

Note: The PUC can decide that a customer was not billed correctly and can order billing refunds. The PUC can also fine a utility or company for not following rules and can order a utility or company to correct a problem with your service. Under state law, the PUC cannot decide whether a utility or company should pay customers for loss or damages. *Damage claims may be sought in an appropriate civil court.*

6. **Protection From Abuse (PFA)**

Has a court granted a "Protection From Abuse" order that is currently in effect for your personal safety or welfare? The PUC needs this information to properly process your complaint so that your identity is not made public.

Note: You must answer this question if your complaint is against a natural gas distribution utility, an electric distribution utility or a water distribution utility AND your complaint is about a problem involving billing, a request to receive service, a security deposit request, termination of service or a request for a payment agreement.

Has a court granted a "Protection From Abuse" order for your personal safety or welfare?

YES

NO

If your answer to the above question is "yes," attach a copy of the current Protection From Abuse order to this Formal Complaint form.

7. **Prior Utility Contact**

a. **Is this an appeal from a decision of the PUC's Bureau of Consumer Services (BCS)?**

YES

NO

Note: If you answered yes, move to Section 8. No further contact with the utility or company is required. If you answered no, answer the question in Section 7 b. and answer the question in Section 7 c. if relevant.

b. **If this is not an appeal from a BCS decision, have you spoken to a utility or company representative about this complaint?**

I contacted PPL @ 'CustomerService@pplweb.com' (email attached). They no longer have a web contact page and I do not participate in social media due to my religious beliefs. It is unfair to have no contact option other than Facebook, Twitter, etc. I will not contact them by phone regarding a legal situation as there is no proof of contact.

c.

YES

NO

Note: You must contact the utility first if (1) you are a residential customer, (2) your complaint is against a natural gas distribution utility, an electric distribution utility or a water utility AND (3) your complaint is about a billing problem, a service problem, a termination of service problem, or a request for a payment agreement.

**d. If you tried to speak to a utility company representative about your complaint but were not able to do so, please explain why.**

*PPL no longer has a web contact option, only social media options (Twitter, Facebook, etc.) I do not participate in social media due to my religious beliefs. I found an email address to which my email was delivered and acknowledged ('CustomerService@pplweb.com') but stated I would not receive a reply from that email. Not sure what that means? I am fearful of telephone contact due to my anxiety issues, when I break down I have trouble speaking. Since there are legalities involved here I need documentation and proof of contact.*

**Note: Even if you are not required to contact the utility or company, you should always try to speak to a utility or company representative about your problem before you file a Formal Complaint with the PUC.**

**8. Legal Representation**

**If you are filing a Formal Complaint as an individual on your own behalf, you are not required to have a lawyer.** You may represent yourself at the hearing.

*If you are already represented by a lawyer **in this matter**, provide your lawyer's name, address, telephone number, and e-mail address, (all required contact information). Please make sure your lawyer is aware of your complaint. If represented by a lawyer, both you and your lawyer must be present at your hearing.*

Lawyer's Name N/A I was only given 3 business-day notice before cutoff. No time to seek advice or representation.

Street/P.O. Box \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Area Code/Phone Number \_\_\_\_\_

E-mail Address \_\_\_\_\_

**Note: Corporations, associations, partnerships, limited liability companies and political subdivisions are required to have a lawyer represent them at a hearing and to file any motions, answers, briefs or other legal pleadings.**



The Whites

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**From:** The Whites [whitebml@comcast.net]  
**Sent:** Saturday, March 06, 2021 10:38 AM  
**To:** 'CustomerService@pplweb.com'  
**Cc:** 'mcountryfred@netzero.com'  
**Subject:** RE: Account # [REDACTED]

**Importance:** High

Good Morning,

I arrived home on 03/05/21 to a shutoff notice on my front door. You have given me only 3-business days to reply before you cut off my electric on 03/10/21. My account is paid in full, and (in fact) I have a CREDIT balance of \$863.53, so I do not understand this harassment and intimidation.

I have notified you formally in the past that I do not want a smart meter installed on my home due to my religious objections to this technology and the effects of forced use of this technology on my private property (in violation of my religious beliefs) on my mental health condition.

In November, 2020 new developments occurred when the Pennsylvania Lower Court invalidated Pennsylvania's smart meter mandate and ruled that Act 129 supports customer choice and is *not* a mandate.

Additionally, under the Federal Fair Housing Act I am entitled to an accommodation as per the HUD information below. I am requesting that you *stop* the planned cutoff of my service for the reasons listed. You are able to bill me for my electric usage using my present analog meter.

I will be filing a formal complaint with the PUC and will contact you with the complaint number as soon as I have it. As a utility, you are well aware of this recent court decision and should not be threatening your customers with shutoff.

Respectfully,  
Michele White

#### Verbatim from the HUD website:

<sup>1</sup>The Act makes it **unlawful** for any person to refuse "to make reasonable accommodations in **rules, policies, practices, or services**, when such accommodations may be necessary to afford ... person(s) [with disabilities] equal opportunity to use and enjoy a dwelling".

<sup>2</sup>Courts have also applied the Act to **state and local governments**.

<sup>3</sup>The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, **emotional illness**, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.

<sup>4</sup>A "reasonable accommodation" is a change, exception, or **adjustment to a rule, policy, practice, or service** that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since rules, policies, practices, and services may have a different effect on persons with disabilities *than on other persons, treating persons with disabilities exactly the same as others will sometimes deny them an equal opportunity to use and enjoy a dwelling*. The Act makes it unlawful to refuse to make reasonable accommodations to rules, policies, practices, or services when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling.

<sup>5</sup>**Example 2: A housing provider has a policy of requiring tenants to come to the rental office in person to pay their rent. A tenant has a mental disability that makes her afraid to leave her unit. Because of her disability, she requests that she be permitted to have a friend mail her rent payment to the rental office as a reasonable accommodation. The provider must make an exception to its payment policy to accommodate this tenant.**



Pay/Manage your account online at [ppllectric.com](http://ppllectric.com)



Questions? Please contact us by Feb 25.  
1-800-DIAL-PPL  
(1-800-342-5775)

Mon-Fri: 7am to 8pm

Adjusted Bill

Page 1

Bill Acct. No.	Due Date	Amount Due
[REDACTED]		NONE

PPL Electric Utilities

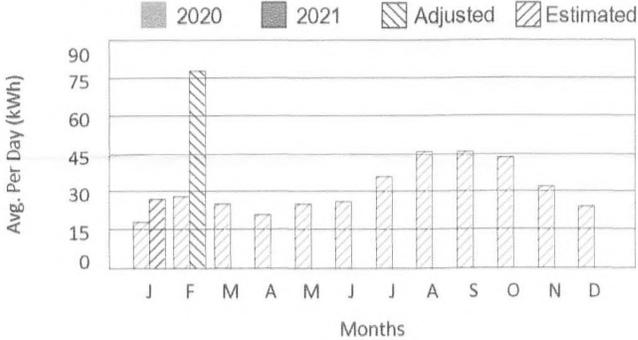
## Your Electric Usage Profile

Service to:  
MICHELE WHITE  
40 S GROFFDALE RD  
LEOLA, PA 17540

Meter: 98916625

Your next meter reading is on or about Mar 4, 2021.

This section helps you understand your year-to-year electric use by month. Meter readings are actual unless otherwise noted.



Monthly Comparison	Days Billed	kWh	Average kWh/Day	Average Temp.
Feb 2021	33	2560	78	34F
Feb 2020	30	829	28	37F

Billing Period	Type	Reading
Feb 2	Adjusted	91297
Dec 31	Estimated	88737
33 Days	kWh Billed	2560

Yearly Comparison	Total Use	Avg. Monthly
Mar 2020 - Feb 2021	13317	1110
Mar 2019 - Feb 2020	11171	931

## Billing Summary

(Billing details on back)

Balance as of Feb 4, 2021 \$0.00

Charges:

Total Distribution Charges	\$121.17
Total Generation & Transmission Charges	\$187.32
Total Other Charges	-\$849.35

Total Current Charges

-\$540.86

Account Balance

-\$540.86

### How To Shop For Electricity

You can choose the company that supplies your electricity. Visit [papowerswitch.com](http://papowerswitch.com) or [www.oca.state.pa.us](http://www.oca.state.pa.us) for supplier offers. If you are shopping, know your contract expiration date.

Here's the information you need to shop:

Bill Account Number: [REDACTED] Rate Schedule: **RS (Residential)**  
Current Supplier: **PPL Electric Utilities**

PPL Electric Utilities price to compare for your rate is \$0.07317 per kWh. This changes the 1st of June and December.

015515 1/2

## Manage Your Account

Pay Your Bill	Online Options ( <a href="http://ppllectric.com">ppllectric.com</a> )
Online: Visit <a href="http://ppllectric.com">ppllectric.com</a> Phone: Call 1-800-342-5775 Mail: Use envelope provided Card: MasterCard, Discover, Visa or debit, call 1-844-278-3310 (service fee applies)	<ul style="list-style-type: none"> <li>- Report an outage/check outage status</li> <li>- Make a payment, view your bill and usage history.</li> <li>- Sign up for alerts.</li> <li>- Enroll in paperless billing, automatic bill pay, budget billing.</li> <li>- View your rate schedule at: <a href="http://ppllectric.com/rates">ppllectric.com/rates</a></li> </ul>

### Correspondence:

Customer Services, 827 Hausman Road, Allentown, PA 18104-9392

Other important information on the back of this bill →



## **APPENDIX B**

**FORMAL COMPLAINT FILED BY MICHELE P.  
WHITE AGAINST PPL ELECTRIC UTILITIES  
CORPORATION AT DOCKET NO. C-2018-3003468  
(FIRST COMPLAINT)**

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Formal Complaint

Filing this form begins a legal proceeding and you will be a party to the case. If you do not wish to be a party to the case, consider filing an informal complaint.

To complete this form, please type or print legibly in ink.

1. Customer (Complainant) Information

Provide your name, mailing address, county, telephone number(s), e-mail address and utility account number. It is your responsibility to update the Commission with any changes to your address and to where you want documents mailed to you.

Name Michele White
Street/P.O. Box 40 South Croftdale Road Apt #
City Leola State PA Zip 17540
County Lancaster

Telephone Number(s) Where We Can Contact You During the Day:

(717) 679-3558 (home) (717) 679-3558 (mobile)

E-mail Address (optional): whitebm1@comcast.net

Utility Account Number (from your bill)

If your complaint involves utility service provided to a different address or in a different name than your mailing address, please list this information below.

Name N/A
Street/P.O. Box
City State Zip

2. Name of Utility or Company (Respondent)

Provide the full name of the utility or company about which you are complaining. The name of your utility or company is on your bill.

PPL Electric Utilities

3. Type of Utility Service

Check the box listing the type of utility service that is the subject of your complaint (check only one):

- ELECTRIC                       WASTEWATER/SEWER  
 GAS                                       TELEPHONE/TELECOMMUNICATIONS (local, long distance)  
 WATER                                       MOTOR CARRIER (e.g. taxi, moving company, limousine)  
 STEAM HEAT

4. Reason for Complaint

What kind of problem are you having with the utility or company? Check all boxes below that apply and state the reason for your complaint. Explain specifically what you believe the utility or company has done wrong. Provide relevant details including dates, times and places and any other information that may be important. If the complaint is about billing, tell us the amount you believe is not correct. Use additional paper if you need more space. Your complaint may be dismissed without a hearing if you do not provide specific information.

- The utility is threatening to shut off my service or has already shut off my service.  
*see attached Declaration of Michele P. White*
- I would like a payment agreement.
- Incorrect charges are on my bill. Provide dates that are important and an explanation about any amounts or charges that you believe are not correct. Attach a copy of the bill(s) in question if you have it/them.
- I am having a reliability, safety or quality problem with my utility service. Explain the problem, including dates, times or places and any other relevant details that may be important.
- Other (explain). *Requesting an opt-out accommodation to keep my analog meter.*

Note: If your complaint is only about removing or modifying a municipal lien filed by the City of Philadelphia, the Public Utility Commission (PUC) cannot address it. Only local courts in Philadelphia County can address this type of complaint. The PUC can address a complaint about service or incorrect billing even if that amount is subject to a lien.

In addition, the PUC generally does not handle complaints about cell phone or Internet service, but may be able to resolve a dispute regarding voice communications over the Internet (including the inability to make voice 911/E911 emergency calls) or concerns about high-speed access to Internet service.

## 5. Requested Relief

**How do you want your complaint to be resolved?** Explain what you want the PUC to order the utility or company to do. Use additional paper if you need more space.

see attached Declaration of Michele P. White requesting accomodation to keep my analog meter on consitutional / health-related grounds.

I believe these meters to be harmful to my health and an infringement of my personal freedom to choose what technology (interactive) is in my home.

This technology has potential to be abused.

Note: The PUC can decide that a customer was not billed correctly and can order billing refunds. The PUC can also fine a utility or company for not following rules and can order a utility or company to correct a problem with your service. Under state law, the PUC cannot decide whether a utility or company should pay customers for loss or damages. Damage claims may be sought in an appropriate civil court.

6. **Protection From Abuse (PFA)**

Has a court granted a "Protection From Abuse" order that is currently in effect for your personal safety or welfare? The PUC needs this information to properly process your complaint so that your identity is not made public.

Note: You must answer this question if your complaint is against a natural gas distribution utility, an electric distribution utility or a water distribution utility AND your complaint is about a problem involving billing, a request to receive service, a security deposit request, termination of service or a request for a payment agreement.

Has a court granted a "Protection From Abuse" order for your personal safety or welfare?

YES

NO

If your answer to the above question is "yes," attach a copy of the current Protection From Abuse order to this Formal Complaint form.

7. **Prior Utility Contact**

a. Is this an appeal from a decision of the PUC's Bureau of Consumer Services (BCS)?

YES

NO

Note: If you answered yes, move to Section 8. No further contact with the utility or company is required. If you answered no, answer the question in Section 7 b. and answer the question in Section 7 c. if relevant.

b. If this is not an appeal from a BCS decision, have you spoken to a utility or company representative about this complaint?

YES

By certified mail and web-contact on their website\*

NO

\*Received no reply to web-contact after 2 weeks or so and followed up with copy via certified mail.

Note: You must contact the utility first if (1) you are a residential customer, (2) your complaint is against a natural gas distribution utility, an electric distribution utility or a water utility AND (3) your complaint is about a billing problem, a service problem, a termination of service problem, or a request for a payment agreement.

c. If you tried to speak to a utility company representative about your complaint but were not able to do so, please explain why.

Received a non-specific response that was generic utility company "assurances" with which I do not agree and there is no proof. They did not address the constitutional or personal rights to limit the interactive technology in my home nor the anxiety issues this unnecessary meter will create.

**Note:** Even if you are not required to contact the utility or company, you should always try to speak to a utility or company representative about your problem before you file a Formal Complaint with the PUC.

## 8. Legal Representation

If you are filing a Formal Complaint as an individual on your own behalf, you are not required to have a lawyer. You may represent yourself at the hearing.

If you are already represented by a lawyer in this matter, provide your lawyer's name, address, telephone number, and e-mail address, if known. Please make sure your lawyer is aware of your complaint. If represented by a lawyer, both you and your lawyer must be present at your hearing.

Lawyer's Name \_\_\_\_\_

Street/P.O. Box \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Area Code/Phone Number \_\_\_\_\_

E-mail Address (if known) \_\_\_\_\_

**Note:** Corporations, associations, partnerships, limited liability companies and political subdivisions are required to have a lawyer represent them at a hearing and to file any motions, answers, briefs or other legal pleadings.

9. **Verification and Signature**

**You must sign your complaint.** Individuals filing a Formal Complaint **must** print or type their name on the line provided in the verification paragraph below and **must** sign and date this form in **ink**. If you do not sign the Formal Complaint, the PUC **will not accept it**.

**Verification:**

I Michele P. White, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Michele P. White \_\_\_\_\_ 07/15/18  
(Signature of Complainant) (Date)

N/A

Title of authorized employee or officer (only applicable to corporations, associations, partnerships, limited liability companies or political subdivisions)

Note: If the Complainant is a corporation, association, partnership, limited liability company or political subdivision, the verification **must** be signed by an authorized officer or authorized employee. If the Formal Complaint is **not signed** by one of these individuals, the PUC **will not accept it**.

10. **Two Ways to File Your Formal Complaint**

**Electronically.** You must create an account on the PUC's eFiling system, which may be accessed at <http://www.puc.pa.gov/efiling/default.aspx>.

**Note:** If you are appealing your Bureau of Consumer Services (BCS) decision, you must file your formal complaint by mail.

**Mail.** Mail the completed form with your original signature and any attachments, by certified mail, first class mail, or overnight delivery to this address:

Secretary  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, Pennsylvania 17120

Note: Formal Complaints sent by fax or e-mail will **not** be accepted.

If you have any questions about filling out this form, please contact the Secretary's Bureau at 717-772-7777.

**Keep a copy of your Formal Complaint for your records.**

### Declaration of Michele P. White

I, Michele P. White, have personal knowledge of all facts set forth in this declaration and am competent to testify thereto if called upon to testify in a court of law. I hereby declare:

1. My name is Michele P. White, and I reside at 40 South Groffdale Road Leola, PA 17540.
2. I am a utility customer of PPL Electric Utilities.
3. I am sensitive to EMF and have a severe anxiety disorder that manifests itself in insomnia when faced with troubling situations. I need to limit my time on cell and cordless phones to prevent headaches, and maintain a corded phone in my home (for lengthy calls) for that reason.
4. It is my belief that smart meter technology is medically harmful to my health due to my inability to limit the use of this invasive technology being forced upon citizens of the State of Pennsylvania.

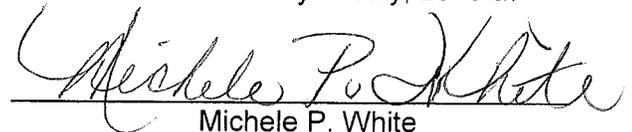
I can control and limit the use of EMF emitting devices within my home. I cannot control and limit the use of an EMF emitting smart meter controlled by a utility company. It is not necessary technology to bill me for the electricity I use.

5. Smart meters (furthermore) open the door to potentially invasive technology which I have a constitutional right to avoid.

Smart appliances are already in existence and I have the constitutional right to prevent meter technology from being installed on my home that has the ability to be used in the future to communicate with appliances within my home and record day-top-day details of my personal usage habits. This technology has the potential to be hacked by those with criminal intentions to determine when I am away from home.

6. I do not trust others (i.e. PPL) to implement security safeguards on my behalf. I maintain and control my own security software on other potentially interactive technology in my home and have the constitutional right to do so.
7. If this meter is installed, I will be unable to sleep and (consequentially) unable to function and work. My severe anxiety disorder prevents me from turning these fearful thoughts off at night in order to sleep. A human cannot function without sleep. I have struggled with this disorder all my life and should not have technology forced upon me which will make my illness worse when the reasonable accommodation of keeping my analog meter is available. A reasonable accommodation is my constitutional rights under the Americans with Disabilities Act.
8. Pennsylvania's smart meter mandate is unconstitutional, a violation of my civil rights, and in conflict with Act 129, which clearly states that smart meters are to made available **upon consumer request**.
9. I am requesting an accommodation allowing me to keep my alternative and adequately functioning analog meter.

I declare under penalty of perjury under the laws of the State of Pennsylvania that the facts set forth above are true and correct to the best of my knowledge. This declaration was executed this 15th day of July, 2018 at 40 South Groffdale Road, Leola, PA 17540.

  
Michele P. White



Home > My Account

### Contact Us

Please choose category of inquiry, fill in all of the fields and click Submit

**Choose Category of Inquiry**

Other

**First Name**

Michele

**Last Name**

Wince

**Day Time Telephone Number**

(717) 696-9384

**Email Address**

mcountryfree@netnet.com

**Account Number (optional)**

23810-97003

**Your Message:**

From: Michele Robert Wince  
To: PPL Electric Utilities  
08/22/17  
Account # [REDACTED]

NOTICE OF NON-CONSENT TO TRESPASSING AND SURVEILLANCE, NOTICE OF LIABILITY AND REFUSAL OF SMART METER INSTALLATION

Dear PPL Electric Utilities and all agents, officers, employees, contractors and interested parties,

**CERTIFIED MAIL**  
PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

<p><b>SENDER: COMPLETE THIS SECTION</b></p> <ul style="list-style-type: none"> <li>Complete Items 1, 2, and 3.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul> <p>1. Article Addressed to:</p> <p><i>PPL Electric Utilities 827 Hausman Rd. Allentown, PA 18104-9392</i></p> <p>9590 9402 2972 7094 7835 74</p> <p>2. A <i>Transfer from service label</i></p> <p><i>7016 3010 0000 7927 4812</i></p>	<p><b>COMPLETE THIS SECTION ON DELIVERY</b></p> <p>A. Signature <input type="checkbox"/> Agent <input checked="" type="checkbox"/> <i>A. Miller</i> <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>A. Miller</i> C. Date of Delivery <i>9/5/17</i></p> <p>D. Is delivery address different from Item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type</p> <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> </table>	<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery
<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®												
<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™												
<input type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery												
<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise												
<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™												
<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery												

PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt

From: Michele/Robert White

To: PPL Electric Utilities

08/22/17

Account # [REDACTED]

**NOTICE OF NON-CONSENT TO TRESPASSING AND SURVEILLANCE, NOTICE OF LIABILITY AND REFUSAL OF SMART METER INSTALLATION**

Dear PPL Electric Utilities and all agents, officers, employees, contractors and interested parties,

If you intend to install a "Smart Meter" or any activity monitoring device at the above address, you and all other parties are hereby **denied** consent for installation and use of all such devices on the above property.

Installation and use of any activity monitoring device is hereby refused and prohibited. Informed consent is legally required for installation of any surveillance device and any device that will collect and transmit private and personal data to undisclosed and unauthorized parties for undisclosed and unauthorized purposes.

Authorization for sharing of personal and private information may only be given by the originator and subject of that information. That authorization is hereby **denied** and refused with regard to the above property and all its occupants.

"Smart Meters" and digital meters violate the law and cause endangerment to residents by the following factors:

1. They individually identify electrical devices inside the home and record when they are operated causing invasion of privacy.
2. They monitor household activity and occupancy in violation of rights and domestic security.
3. They transmit wireless signals which may be intercepted by unauthorized and unknown parties. Those signals can be used to monitor behavior and occupancy and they can be used by criminals to aid criminal activity against the occupants.
4. Data about occupant's daily habits and activities are collected, recorded and stored in permanent databases which are accessed by parties not authorized or invited to know and share that private data by those whose activities were recorded.
5. Those with access to the smart meter databases can review a permanent history of household activities complete with calendar and time-of-day metrics to gain a highly invasive and detailed view of the lives of the occupants.
6. Those databases may be shared with, or fall into the hands of criminals, blackmailers, corrupt law enforcement, private hackers of wireless transmissions, power company employees, and other

unidentified parties who may act against the interests of the occupants under metered surveillance.

7. "Smart Meters" are, by definition, surveillance devices which violate Federal and State wiretapping laws by recording and storing databases of private and personal activities and behaviors without the consent or knowledge of those people who are monitored.
8. It is possible for example, with analysis of certain "Smart Meter" data, for unauthorized and distant parties to determine medical conditions, sexual activities, physical locations of persons within the home, vacancy patterns and personal information and habits of the occupants.
9. Your company has not adequately disclosed the particular recording and transmission capabilities of the smart meter, or the extent of the data that will be recorded, stored and shared, or the purposes to which the data will and will not be put.
10. Electromagnetic and Radio Frequency energy contamination from smart meters exceeds allowable safe and healthful limits for domestic environments as determined by the EPA and other scientific programs.

**I forbid, refuse and deny consent** of any installation and use of any monitoring, eavesdropping, and surveillance devices on my property, my place of residence and my place of occupancy. That applies to and includes "Smart Meters" and activity monitoring devices of any and all kinds. Any attempt to install any such device directed at me, other occupants, my property or residence will constitute trespass, stalking, wiretapping and unlawful surveillance and endangerment of health and safety, all prohibited and punishable by law through criminal and civil complaints. All persons, government agencies and private organizations responsible for installing or operating monitoring devices directed at or recording my activities, which I have not specifically authorized in writing, will be fully liable for a fee of \$100,000.00 for any violations, intrusions, harm or negative consequences caused or made possible by those devices whether those negative consequences are provided by "law" or not. This is legal notice. After this delivery the liabilities listed above may not be denied or avoided by parties named and implied in this notice. Civil Servant immunities and protections do not apply to the installation of smart meters due to the criminal violations they represent.

Notice to principal is notice to agent and notice to agent is notice to principal. All rights reserved.

Signed,  
Michele White

## **APPENDIX C**

# **THE MAY 7, 2019 INITIAL DECISION DISMISSING THE COMPLAINT FILED BY MICHELE P. WHITE AGAINST PPL ELECTRIC UTILITIES CORPORATION**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Michele P. White

v.

PPL Electric Utilities Corporation

:  
:  
:  
:  
:  
:

C-2018-3003468

**INITIAL DECISION**  
**NON-PROPRIETARY VERSION**

Before  
Elizabeth H. Barnes  
Administrative Law Judge

INTRODUCTION

A residential customer filed a complaint seeking to prevent an electric distribution company (EDC) from installing a smart meter a/k/a “Advanced Metering Infrastructure (AMI) meter” or “Radio Frequency (RF) meter” on her residence. The complaint will be dismissed for failure to prove by a preponderance of evidence that the installation of the smart meter constitutes unsafe or unreasonable service under 66 Pa. C.S. § 1501 or violates any other provision of the Public Utility Code, Commission order, regulation, or Commission-approved company tariff.

HISTORY OF THE PROCEEDING

On July 18, 2018, Michele White (Complainant) filed the instant Complaint requesting that PPL Electric Utilities Corporation (PPL or Respondent) be precluded from installing a radio frequency (RF) meter on her residence at 40 South Groffdale Road, Leola, Pennsylvania (account number ending in 003) for health reasons. Complainant requests an accommodation for

her health and religious beliefs under the federal Fair Housing Act to keep an alternative analog meter. Complaint at 3.

The Complaint was served upon PPL on July 18, 2018.<sup>1</sup> On August 7, 2018, Respondent filed an Answer. The Answer admits that the Respondent provides electric service to the Complainant. Respondent contends that it is required to install AMI, or smart meters, for all automatic meter reading (AMR) customers and denies that the new AMI meter has caused, contributed to, or exacerbated any illnesses.

On August 10, 2018, a Telephone Prehearing Conference Notice was issued scheduling a prehearing conference for August 29, 2018 and assigning the case to me as presiding officer. After the prehearing conference, a Protective Order was issued on September 5, 2018. Notice of Initial Telephonic Hearing and a Prehearing Order were issued on September 10, 2018, scheduling a hearing for April 5, 2019. On September 13, 2018, a transcript of the prehearing conference was filed.

At the hearing on April 5, 2019, Complainant appeared *pro se* with one exhibit, the Declaration of Michele P. White and her Notice of Non-Consent to Trespassing and Surveillance, Complainant Exhibit No. 1. Respondent appeared represented by Devin Ryan, Esquire, Michael Shafer, Esquire, and Curtis Renner, Esquire with four written statements, 16 exhibits and four witnesses: Kevin Durkin, Donald Vinciguerra, Christopher Davis, Ph.D., and Mark Israel, M.D. Respondent's Statements 1-4 and Exhibits CD-1 – CD-5; MI-1-MI-4; KD-1-KD-6 and SL-1 were admitted into the record.<sup>2</sup> Tr. 2.<sup>3</sup> A transcript consisting of 30 pages was filed and the record closed on April 25, 2019. This case is ripe for a decision.

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<sup>1</sup> PPL signed a waiver of the Section 702 requirement for registered or certified mail service of formal complaints, 66 Pa. C.S. § 702, and agreed to electronic service under the Commission's waiver of 702 program. *See In Re: Electronic Service of Formal Complaints*, Secretarial Letter Dated December 22, 2014, at Docket Nos. M-2013-2398153 *et al.* Service is listed in the electronic Audit History of the case as entered by the Secretary's Bureau as having been effected on July 18, 2018. Thus, PPL's Answer filed on August 7, 2018 is deemed timely filed.

<sup>2</sup> Donald Vinciguerra adopted the written testimony of Scott Larson and sponsored Exhibit SL-1. Tr. 13.

<sup>3</sup> All transcript citations refer to the hearing transcript dated April 5, 2019.

FINDINGS OF FACT

1. The Complainant in this proceeding is Michele P. White, who resides at 40 South Groffdale Road, Leola, Pennsylvania (service address). Tr. 5-8.
2. Complainant requests PPL be precluded from installing an AMI meter on her service property and directed to continue electric service with an analog meter. Tr. 8-11.
3. Complainant claims to suffer from **BEGIN PROPRIETARY** [REDACTED]  
[REDACTED].
4. [REDACTED]  
[REDACTED]  
[REDACTED]. **END PROPRIETARY**
5. Complainant seeks an opt-out accommodation under the Fair Housing Act. Tr. 28, Complainant Exhibit No. 1.
6. Complainant is employed as a clerk. Tr. 10.
7. The Respondent in this proceeding is PPL Electric Utilities Corporation, an electric distribution company (EDC). Tr. 13.
8. Powerline carrier (PLC) meters do not emit radio frequency (RF) fields and are often referred to by customers as analog meters. PPL Electric Statement No. 4 at 5.
9. A PLC meter uses the power lines as a means of communication with pulses encoded on the 60 Hertz line frequency so that PPL can record the data to the proper account. PPL Electric Statement No. 4 at 5.

10. Complainant has a PLC meter on her service property. PPL Electric Statement No. 3 at 4.

11. On June 30, 2014, PPL filed its new Smart Meter Plan intended to comply with all the requirements of Act 129 and the Commission's Smart Meter Implementation Order. PPL Electric Exhibit No. SL-1, "PPL Smart Meter Technology Procurement and Installation Plan," June 30, 2014.

12. PPL selected Radio Frequency ("RF") Mesh meters and metering system because the Company determined that the RF Mesh system would support the 15 capabilities required by Act 129 and the Smart Meter Implementation Order. PPL Electric Exhibit No. SL-1.

13. The RF Mesh system allows the Company to receive data from the customer's meter wirelessly, unlike PPL's previous PLC system that used the customer's actual wires. PPL Statement No. 3 at 6-7.

14. Under the Smart Meter Plan, the RF Mesh meters are to be deployed by the end of 2019. PPL Electric Statement No. 4 at 6.

15. PPL intends to install a Landis + Gyr E350 Focus AXR-SD meter at Complainant's service property. PPL Electric Statement No. 3 at 6, PPL Exhibit No. SL-1.

16. The Landis + Gyr Focus AXR-SD meter is certified by the Underwriters Laboratories at UL 2735. PPL Statement No. 4 at 8-11.

17. The Landis + Gyr Focus AXR-SD meter is compliant with the American National Standards Institute (ANSI) C12.10. PPL Statement No. 4 at 8.

18. PPL Witness Davis has a Ph.D. in Physics and is a fulltime Professor with an endowed Chair at the University of Maryland, where for over 30 years he has taught Physics,

Electrical Engineering, Electromagnetics, and RF Electromagnetics to undergraduate and graduate students. PPL Electric Statement No. 1 at 1-5.

19. In addition to his teaching, Dr. Davis is an active scientific researcher in the fields of Physics, Biophysics, Electrical Engineering, Bioelectromagnetics and RF Bioelectromagnetics, conducting many scientific studies in these fields and publishing over 250 studies in peer-reviewed scientific journals. PPL Electric Statement No. 1 at 1-5.

20. Dr. Davis conducted a substantial amount of research on RF fields of the type produced by the AMI meters being used by PPL. PPL Electric Statement No. 1 at 3.

21. RF fields are part of the lower energy, non-ionizing portion of the electromagnetic spectrum which consists of lower frequency signals that do not have enough energy to break chemical bonds in cells or DNA. PPL Electric Statement No. 1 at 5-6.

22. RF fields come from many sources in our everyday environments, including AM/FM radio, television broadcast, cell phones and their communication networks, portable phones, garage door openers and Wi-Fi networks. PPL Electric Statement No. 1 at 5-7, 12.

23. "Dirty electricity" is a non-scientific term that sometimes is used to refer to electrical characteristics (harmonics and transients) that can be found on household wiring. Tr. 75-76, PPL Electric Statement No. 1 at 8.

24. AMI meters do not generate electricity, do not generate harmonics and transients that are significant compared to the harmonics and transients already present on the 60 Hz power coming into the home and do not interfere with the operation of household wiring. Tr. 8-9.

25. The Federal Communications Commission (FCC) has determined safe public exposure levels for RF fields from devices that transmit RF signals, such as the AMI meters. PPL Electric Statement No. 1 at 9-10.

26. The FCC safe public exposure limits are based on evaluations of the body of scientific research on RF fields and were adopted in consultation with other federal agencies, including the Food and Drug Administration (FDA) and the Environmental Protection Agency (EPA). PPL Electric Statement No. 1 at 9-10.

27. The levels of RF fields from the Landis + Gyr Focus AX-SD AMI meters are 98,000 times lower than the RF exposure safety limits established by the FCC. PPL Electric Statement No. 1 at 15, PPL Electric Exhibit CD2.

28. RF signals from the AMI meter are of very short duration and will occur for only a total of 84 seconds over a 24-hour period. PPL Electric Statement No. 1 at 7.

29. The RF field exposure 30 feet from a person using a cell phone are three times larger than the RF fields from the AMI meter. PPL Electric Statement No. 1 at 14, PPL Electric Exhibit CD4.

30. RF fields from using cell phones near the head can be over 260,000 times higher than the RF fields from the AMI meter. Tr. 14, PPL Electric Exhibit CD4.

31. There are ten television broadcast towers within a 50-mile radius of Complainant's location in Leola, Pennsylvania. PPL Electric Statement No. 1 at 15.

32. Based on the locations of each tower and their RF power outputs, the constant background level of RF fields at Complainant's residence are 10.9 times higher than the RF signals from the AMI meter. PPL Electric Statement No. 1 at 15, PPL Electric Exhibit CD-5.

33. The level of RF fields from AMI meters being used by PPL is far too low to cause a thermal or heating effect. PPL Electric Statement No. 1 at 13-14.

34. PPL Witness Israel received his undergraduate degree from Hamilton College and his medical degree from the Albert Einstein College of Medicine, and he completed his medical training at Harvard Medical School. PPL Electric Statement No. 2 at 1.

35. Dr. Israel is a Professor of Medicine, Pediatrics, and Molecular and Systems Biology at the Dartmouth Medical School and the Executive Director of the Israel Cancer Research Fund in New York, an international charitable fund for medical and scientific research programs. PPL Electric Statement No. 2 at 1.

36. Dr. Israel is board certified and licensed to practice medicine. PPL Electric Statement No. 2 at 3.

37. Dr. Israel has conducted medical research for 40 years in a wide variety of areas, including systems biology, biochemistry, cell biology, cancer, molecular biology, and molecular genetics and has published over 245 medical research studies in leading peer-reviewed scientific journals. PPL Electric Statement No. 2 at 3-4.

38. Dr. Israel also has taught medicine and science for more than 30 years to medical students, graduate students, interns, residents, and practicing physicians in a number of fields, including endocrinology, immunology, hematology, neurology, cardiology, biochemistry, cell biology, genetics, molecular genetics, medical oncology, and radiation oncology. PPL Electric Statement No. 2 at 3.

39. Claimed symptoms related to Electromagnetic Hypersensitivity (EHS) are more accurately described as "Idiopathic Environmental Intolerance" ("IEI"), in which "idiopathic" means "cause unknown," rather than electromagnetic hypersensitivity. PPL Electric Statement No. 2 at 13.

40. There are no established medical criteria for the diagnosis or treatment of IEI. PPL Electric Statement No. 2 at 15-16.

41. IEI and the variety of symptoms attributed to it are not caused by exposure to RF fields. PPL Electric Statement No. 2 at 15-16.

42. The World Health Organization and a number of other public health authorities have concluded that the scientific research on RF exposures from cell phone use, which are far higher than the RF from PPL's smart meters, has not shown that RF fields cause adverse health effects. PPL Electric Statement No. 2 at 10-16, PPL Electric Exhibit MI-1.

43. Several state public health authorities in the United States have also investigated claims about health effects from smart meters and have concluded that there is no credible scientific evidence that RF fields from smart meters will cause or contribute to any adverse health effects. PPL Electric Statement No. 2 at 11, PPL Electric Exhibit MI-2.

44. There is no reliable medical basis to conclude that RF fields from the AMI meters being used by PPL will cause or contribute to the development of illness or disease. PPL Electric Statement No. 2 at 17-18.

45. There is no reliable medical basis to conclude that RF fields from the AMI meters being used by PPL would cause, contribute to, or exacerbate any of the symptoms claimed by the Complainant, or any other adverse health effects. PPL Electric Statement No. 2 at 15-16.

46. As a part of its Smart Meter Plan proceeding, PPL filed a detailed AMI Customer Privacy Policy, which sets forth the data PPL will collect through the new smart meter, the steps the Company will take to protect the data, and the ways in which PPL will use the data. PPL Electric Exhibit No. SL-1.

47. PPL uses firewalls to prevent anyone from obtaining unauthorized access to the AMI network. PPL Statement No. 4 at 7-8.

48. Customer data is encrypted to make the data readable to only PPL personnel who can decode the encryption. PPL Statement No. 4 at 7-8.

49. PPL's cybersecurity and data privacy policies are consistent with the national standards for the industry. PPL Statement No. 4 at 8.

## DISCUSSION

### Legal Standards

Under Section 332(a) of the Public Utility Code, 66 Pa. C.S. § 332(a), “the proponent of a rule or order has the burden of proof.” It is well-established that “[a] litigant’s burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible.” *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm’n*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990). The preponderance of evidence standard requires proof by a greater weight of the evidence. *Commonwealth v. Williams*, 557 Pa. 207, 732 A.2d 1167 (1999). This standard is satisfied by presenting evidence more convincing, by even the smallest amount, than that presented by another party. *Brown v. Commonwealth*, 940 A.2d 610, 614 n.14 (Pa. Cmwlth. 2008).

If the party seeking a rule or order from the Commission sets forth a *prima facie* case, then the burden shifts to the opponent. *MacDonald v. Pa. R.R. Co.*, 348 Pa. 558, 36 A.2d 492 (1944). Establishing a *prima facie* case requires either evidence sufficient to make a finding of fact permissible or evidence to create a presumption against an opponent which, if not met, results in an obligatory decision for the proponent. Once a *prima facie* case has been established, if contrary evidence is not presented, there is no requirement that the party seeking a rule or order from the Commission must produce additional evidence to sustain its burden of proof. See *Replogle v. Pa. Elec. Co.*, 54 Pa. PUC 528, 1980 Pa. PUC LEXIS 20 (Order entered Oct. 9,

1980); *see also Dist. of Columbia's Appeal*, 21 A.2d 883 (Pa. 1941); *Application of Pennsylvania-American Water Co. for Approval of the Right To Offer, Render, Furnish or Supply Water Serv. to the Pub. in Additional Portions Of Mahoning Twp., Lawrence County, Pa.*, Docket No. A-212285F0148, 2008 Pa. PUC LEXIS 874 (Order entered Oct. 29, 2008).<sup>4</sup>

In addition, a person does not sustain his or her burden of proof in an electric and magnetic field exposure case when the record evidence, “taken as a whole, leads to the ultimate finding and conclusion that the scientific studies at present are inconclusive.” *Letter of Notification of Phila. Elec. Co. Relative to the Reconstructing and Rebuilding of the Existing 138 kV Line to Operate as the Woodbourne-Heaton 230 kV Line in Montgomery and Bucks Counties*, 1992 Pa. PUC Lexis 160, at \*210-11 (June 29, 1992) (Initial Decision) (“*Woodbourne-Heaton*”). Rather, the person must demonstrate by a preponderance of the evidence that such exposure actually causes adverse health effects. *Id.* at \*211. Specifically, in AMI meter-related matters, the Commission has held that “[t]he Complainant will have the burden of proof during the proceeding to demonstrate, by a preponderance of the evidence, that [the utility] is responsible or accountable for the problem described in the Complaint.” *Kreider v. PECO Energy Co.*, Docket No. P-2015-2495064, p. 18 (Order entered Sept. 3, 2015) (*Kreider*); *see also Romeo v. Pa. Pub. Util. Comm'n*, 154 A.3d 422, 429 (Pa. Cmwlth. 2017) (*Romeo*) (finding that the smart meter complainant should have a hearing to try to prove his claim through “the testimony of others as well as other evidence that goes to that issue”).

Section 701 of the Public Utility Code provides that “any person . . . having an interest in the subject matter . . . may complain in writing, setting forth any act or thing done or omitted to be done by any public utility in violation, or claimed violation, of any law which the commission has jurisdiction to administer, or of any regulation or order of the commission.”

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<sup>4</sup> In addition, any finding of fact necessary to support an adjudication of the Commission must be based upon substantial evidence. *Met-Ed Indus. Users Grp. v. Pa. Pub. Util. Comm'n*, 960 A.2d 189, 193 n.2 (Pa. Cmwlth. 2008) (citing 2 Pa.C.S. § 704). Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Borough of E. McKeesport v. Special/Temporary Civil Serv. Comm'n*, 942 A.2d 274, 281 n.9 (Pa. Cmwlth. 2008) (citation omitted). Although substantial evidence must be “more than a scintilla and must do more than create a suspicion of the existence of the fact to be established,” *Kyu Son Yi v. State Bd. of Veterinary Med.*, 960 A.2d 864, 874 (Pa. Cmwlth. 2008) (citation omitted), the “presence of conflicting evidence in the record does not mean that substantial evidence is lacking.” *Allied Mech. and Elec., Inc. v. Pa. Prevailing Wage Appeals Bd.*, 923 A.2d 1220, 1228 (Pa. Cmwlth. 2007) (citation omitted).

66 Pa. C.S. § 701. Therefore, a complainant must generally demonstrate that the public utility violated the Public Utility Code or a Commission regulation or order.

The Commission has exclusive jurisdiction to adjudicate “issues involving the reasonableness, adequacy, and sufficiency” of a public utility’s facilities and services. *See Elkin v. Bell of Pa.*, 420 A.2d 371, 374 (Pa. 1980) (citations omitted). Section 1501 of the Public Utility Code states, in pertinent part, that:

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. Such service also shall be reasonably continuous and without unreasonable interruptions or delay. Such service and facilities shall be in conformity with the regulations and orders of the commission. Subject to the provisions of this part and the regulations or orders of the commission, every public utility may have reasonable rules and regulations governing the conditions under which it shall be required to render service. . .

66 Pa. C.S. § 1501.

When presented with a challenge to an AMI meter installation, the Commission has pronounced that “[t]he ALJ’s role . . . will be to determine based on the record in this particular case, whether there is sufficient evidence to support a finding that the Complainant was adversely affected by the smart meter or whether [the utility’s] use of a smart meter will constitute unsafe or unreasonable service in violation of Section 1501 under the circumstances in this case.” *Kreider* (citing *Woodbourne-Heaton*, 1992 Pa. PUC Lexis 160, at \*12-13). *Frompovich v. PECO Energy Co.*, Docket No. C-2015-2474602 at 10 (Opinion and Order entered May 3, 2018).

### Health and Safety Concerns

Complainant requests PPL be precluded from installing an AMI meter on her service property for health reasons and be directed to continue electric service with her current

meter. Tr. 8-12. Conversely, Respondent contends that any health symptoms described by Complainant will not be exacerbated by the installation of an RF Mesh meter at the service property. Tr. 27-28.

Disposition

Complainant resides at 40 South Groffdale Road, Leola, Pennsylvania (service address). Tr. 5-8. Complainant requests PPL be precluded from installing an AMI meter on her service property and continue electric service with an analog meter replacement. Tr. 8-11. To support her claim, Complainant contends that she suffers from **BEGIN PROPRIETARY**

[REDACTED]

[REDACTED]

[REDACTED] . **END PROPRIETARY**

Complainant seeks an opt-out accommodation under the Fair Housing Act. Tr. 28, Complainant Exhibit No. 1.

Recently, in *Povacz v. PECO*, C-2015-2475023 (Opinion and Order entered March 28, 2019), the Commission held Ms. Povacz failed to prove she suffered from electromagnetic hypersensitivity syndrome as she had self-diagnosed the illness. *Id.* at 59-60. Without independent diagnostic evidence to corroborate a Complainant's self-diagnosis, Complainant failed to prove that she was electromagnetically hypersensitive. *Id.* at 60. Specifically, the Commission held:

Based on the foregoing analysis and discussion, we believe the Complainant's evidence is not sufficient to establish a *prima facie* case under 66 Pa. C.S. § 332(a) in demonstrating that the RF exposure levels from a PECO smart meter will cause adverse health effects for the Complainant.

*Id.* at 60.

Similarly, in the instant case, I find Complainant has not established a *prima facie* case to show her complained of diagnosis is caused by or exacerbated by the current PLC meter

or that any RF exposure levels from a Landis + Gyr Focus AXR-SD meter will cause adverse health effects to Complainant. The assertions of Complainant that she suffers from **BEGIN PROPRIETARY [REDACTED] END PROPRIETARY** that will become exacerbated by radiofrequency fields emitted by an AMI meter are bald assertions, which do not constitute evidence. *Bervinchak v. PPL Electric Utilities Corporation*, Docket No. C-2016-2572824 (Final Order entered on October 2, 2018). *See also, Pa. Bureau of Corrections v. City of Pittsburgh*, 532 A.2d. 12 (Pa. 1987).

Complainant's demeanor (including inflections and intonations in her voice while she testified) indicates her testimony was credible regarding **BEGIN PROPRIETARY [REDACTED] END PROPRIETARY**; however, no corroborative medical evidence was proffered to support her testimony. Even if I were to find she has this diagnosis, there is insufficient evidence to show that an AMI meter will cause her to suffer deleterious health effects.

Complainant's testimony was refuted by the credible testimony of PPL's Witness Mark Israel, a Professor of Medicine, Pediatrics, and Molecular and Systems Biology at the Dartmouth Medical School and the Executive Director of the Israel Cancer Research Fund in New York, an international charitable fund for medical and scientific research programs. PPL Electric Statement No. 2 at 1. Dr. Israel is board certified and licensed to practice medicine. PPL Electric Statement No. 2 at 3. Dr. Israel has conducted medical research for 40 years in a wide variety of areas, including systems biology, biochemistry, cell biology, cancer, molecular biology, and molecular genetics and has published over 245 medical research studies in leading peer-reviewed scientific journals. PPL Electric Statement No. 2 at 3-4. Dr. Israel also has taught medicine and science for more than 30 years to medical students, graduate students, interns, residents, and practicing physicians in a number of fields, including endocrinology, immunology, hematology, neurology, cardiology, biochemistry, cell biology, genetics, molecular genetics, medical oncology, and radiation oncology. PPL Electric Statement No. 2 at 3.

Claimed symptoms related to EHS are more accurately described as "Idiopathic Environmental Intolerance" ("IEI"), in which "idiopathic" means "cause unknown," rather than

electromagnetic hypersensitivity. PPL Electric Statement No. 2 at 13. There are no established medical criteria for the diagnosis or treatment of IEI. PPL Electric Statement No. 2, p. 16, lines 8-9. IEI and the variety of symptoms attributed to it are not caused by exposure to RF fields. PPL Electric Statement No. 2 at 16.

The World Health Organization and a number of other public health authorities have concluded that the scientific research on RF exposures from cell phone use, which are far higher than the RF from PPL's smart meters, has not shown that RF fields cause adverse health effects. PPL Electric Statement No. 2 at 10-15, PPL Electric Exhibit MI-1.

Several state public health authorities in the United States also have investigated claims about health effects from smart meters and have concluded that there is no credible scientific evidence that RF fields from smart meters will cause or contribute to any adverse health effects. PPL Electric Statement No. 2 at 11, PPL Electric Exhibit MI-2. There is no reliable medical basis to conclude that RF fields from the AMI meters intended for installation by PPL will cause or contribute to the development of illness or disease. PPL Electric Statement No. 2 at 17-18. There is no reliable medical basis to conclude that RF fields from the AMI meters being used by PPL would cause, contribute to, or exacerbate any of the symptoms claimed by the Complainant, or any other adverse health effects. PPL Electric Statement No. 2 at 15-16.

I also find credible PPL Witness Davis, who has a Ph.D. in Physics and is a fulltime Professor with an endowed Chair at the University of Maryland, where for over 30 years he has taught Physics, Electrical Engineering, Electromagnetics, and RF Electromagnetics to undergraduate and graduate students. PPL Electric Statement No. 1 at 1-5. In addition to his teaching, Dr. Davis is an active scientific researcher in the fields of Physics, Biophysics, Electrical Engineering, Bioelectromagnetics and RF Bioelectromagnetics, conducting many scientific studies in these fields and publishing over 250 studies in peer-reviewed scientific journals. PPL Electric Statement No. 1 at 1-5.

Dr. Davis conducted a substantial amount of research on RF fields of the type produced by the AMI meters being used by PPL. PPL Electric Statement No. 1 at 3. RF fields are part of the lower energy, non-ionizing portion of the electromagnetic spectrum which consists of lower frequency signals that do not have enough energy to break chemical bonds in cells or DNA. PPL Electric Statement No. 1 at 5-6. RF fields come from many sources in our everyday environments, including AM/FM radio, television broadcast, cell phones and their communication networks, portable phones, garage door openers and Wi-Fi networks. PPL Electric Statement No. 1 at 5-7, 12.

“Dirty electricity” is a non-scientific term that sometimes is used to refer to electrical characteristics (harmonics and transients) that can be found on household wiring. PPL Electric Statement No. 1 at 8. AMI meters do not generate electricity, do not generate harmonics and transients that are significant compared to the harmonics and transients already present on the 60 Hz power coming into the home and do not interfere with the operation of household wiring.

The FCC has determined safe public exposure levels for RF fields from devices that transmit RF signals, such as the AMI meters. PPL Electric Statement No. 1 at 9-10. The FCC safe public exposure limits are based on evaluations of the body of scientific research on RF fields and were adopted in consultation with other federal agencies, including the Food and Drug Administration (FDA) and the Environmental Protection Agency (EPA). PPL Electric Statement No. 1 at 9-10.

The levels of RF fields from the Landis + Gyr Focus AX-SD AMI meters are 98,000 times lower than the RF exposure safety limits established by the FCC. PPL Electric Statement No. 1 at 15, PPL Electric Exhibit CD2. RF signals from the AMI meter are of very short duration and will occur for only a total of 84 seconds over a 24-hour period. PPL Electric Statement No. 1 at 7.

The RF field exposure 30 feet from a person using a cell phone are three times larger than the RF fields from the AMI meter. PPL Electric Statement No. 1 at 14, PPL Electric

Exhibit CD4. RF fields from using cell phones near the head can be over 260,000 times higher than the RF fields from the AMI meter. PPL Electric Exhibit CD4.

Additionally, there are ten television broadcast towers within a 50-mile radius of Complainant's location in Stroudsburg, Pennsylvania. PPL Electric Statement No. 1 at 15. Based on the locations of each tower and their RF power outputs, the constant background level of RF fields at Complainant's residence are 10.9 times higher than the RF signals from the AMI meter. PPL Electric Statement No. 1 at 15, PPL Electric Exhibit CD-5. Thus, given the background RF exposure to the service property compared to the minimal RF exposure from the AMI meter, I am not persuaded to conclude the PLC or AMI meter will cause a deleterious health effect to Complainant. This holding is consistent with recent caselaw precedent including: *Benhayon v. PPL Electric Utilities Corporation*, C-2018-3003491 (Final Order entered April 29, 2019, adopting Initial Decision issued March 25, 2019) and *Lesniewski v. PPL Electric Utilities Corporation*, C-2018-3004594 (Final Order entered April 29, 2019, adopting Initial Decision issued March 25, 2019).

#### Data Privacy

Complainant contends it is unreasonable that the new AMI meter invades her privacy because the meter is able to check how often she uses electricity and which appliances are being used. Complainant is not comfortable with sharing that information. Complainant Exhibit No. 1, Tr. 10. Conversely, PPL argues its meter complies with its AMI Customer Privacy Policy. PPL Electric Statement No. 4 at 6-8.

#### Disposition

As a part of its Smart Meter Plan proceeding, PPL filed a detailed AMI Customer Privacy Policy, which sets forth the data PPL will collect through the new smart meter, the steps the Company will take to protect the data, and the ways in which PPL will use the data. PPL Electric Exhibit No. SL-1. PPL uses firewalls to prevent anyone from obtaining unauthorized access to the AMI network. PPL Statement No. 4 at 6-8. Customer data is encrypted to make

the data readable to only PPL personnel who can decode the encryption. PPL Statement No. 4 at 6-8. PPL's cybersecurity and data privacy policies are consistent with the national standards for the industry. PPL Statement No. 4 at 8. Additionally, if Complainant is concerned about the AMI meter's connection to smart appliances in her home, she can decline to have the ZigBee radio activated. *See Lesniewski, Id.* at 24, wherein the Commission found in favor of PPL regarding the same data privacy issue. Specifically, the Commission held that Ms. Lesniewski had an option to decline activation of the ZigBee radio device located within the AMI meter. For these reasons, I find in favor of PPL on the privacy issue.

#### Accommodation under the Federal Housing Act

Complainant requests an accommodation for her emotional health and pursuant to her right to religious freedom under the Fair Housing Act, 42 U.S.C. §§ 3601-3619, which makes it unlawful for any person to refuse to make reasonable accommodations in the rules, policies, practices or services when such accommodations may be necessary to support persons with disabilities equal opportunities to use and enjoy a dwelling. Tr. 10-12. Conversely, PPL argues the Commission has no jurisdiction to enforce the Fair Housing Act.

#### Disposition

It is well settled that the Commission may not exceed its jurisdiction and must act within it. *City of Pittsburgh v. Pa. Pub. Util. Comm'n.*, 43 A.2d 348 (Pa. Super 1945). Jurisdiction may not be conferred by the parties where none exists. *Roberts v. Martorano*, 235 A.2d 602 (Pa. 1967). Subject matter jurisdiction is a prerequisite to the exercise of the power to decide a controversy. *Hughes v. Pa. State Police*, 619 A.2d 390 (Pa. Cmwlth 1992). As a creation of the legislature, the Commission possesses only the authority that the state legislature has specifically granted to it in the Public Utility Code. 66 Pa.C.S. §§ 101, et seq. Its jurisdiction must arise from the express language of the pertinent enabling legislation or by strong and necessary implication therefrom. *Feingold v. Bell*, 383 A.2d 791 (Pa. 1977).

The Commission is not a court and it has no jurisdiction over alleged violations of the Fair Housing Act.<sup>5</sup> *See, Harper v. PPL Electric Utilities Corporation*, F-2014-2422449 (Final Order entered March 12, 2015, adopting Initial Decision issued February 3, 2015) (wherein the Commission did not have jurisdiction to find a violation of the federal Americans With Disabilities Act.)<sup>6</sup> *See also, Mid-Atlantic Power Supply Assoc. v. PECO Energy Co.*, Docket No. P-00981615, 1999 Pa. PUC LEXIS 30 (May 19, 1999) (wherein the Commission did not have jurisdiction to find a violation of the Pennsylvania Unfair Trade Practices and Consumer Protection Law).

Additionally, the Commission has no jurisdiction to determine whether the installation of a smart meter violates Complainant's religious beliefs and right to religious freedoms under the first amendment of the United States Constitution. Ms. White has not shown a violation of Public Utility Code, Commission order or regulation or Commission-approved company tariff. *Pace v. PECO Energy Company*, Docket No. F-2016-2538084 (Final Order entered Jan. 31, 2017, adopting Initial Decision dated Nov. 16, 2016). Accordingly, I find in favor of Respondent on this issue.

### CONCLUSION

For all of these aforementioned reasons, the complaint will be dismissed for failure to prove by a preponderance of evidence that the installation of a smart meter constitutes unsafe or unreasonable service under 66 Pa. C.S. § 1501 or violates any other provision of the Public Utility Code, Commission order or regulation or Commission-approved company tariff. Although the Complainant is genuine in her concerns, the Commission's decisions cited above are controlling.

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<sup>5</sup> The Fair Housing Act, 42 U.S.C. § 3601 *et seq.*, is a federal act intended to protect the buyer or renter of a dwelling from seller or landlord discrimination. Its primary prohibition makes it unlawful to refuse to sell, rent to, or negotiate with any person because of that person's inclusion in a protected class.

<sup>6</sup> The Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq.* (ADA), prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation.

## CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and the subject matter in this proceeding. 66 Pa. C.S. § 701.

2. PPL Electric Utilities Corporation's smart meter procurement and installation plan, which was approved by Commission Order in the case of *Petition of PPL Electric Utilities Corp. for Approval of Its Smart Meter Technology Procurement and Installation Plan*, Docket No. M-2014-2430781, p. 24 (Order Entered Sept. 3, 2015) does not contain a provision for customers to opt out of smart meter installation.

3. Under Section 332(a) of the Pennsylvania Public Utility Code, the proponent of a rule or order has the burden of proof. 66 Pa. C.S. § 332(a). It is well established that "[a] litigant's burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible." *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990).

4. The preponderance of evidence standard requires proof by a greater weight of the evidence. *Commonwealth v. Williams*, 557 Pa. 207, 732 A.2d 1167 (1999). This standard is satisfied by presenting evidence that makes the existence of a contested fact more likely than its nonexistence. *Brown v. Commonwealth*, 940 A.2d 610, 614 n.14 (Pa. Cmwlth. 2008).

5. A person does not sustain his or her burden of proof in an electric and magnetic field exposure case when the record evidence, "taken as a whole, leads to the ultimate finding and conclusion that the scientific studies at present are inconclusive" rather, the person must demonstrate by a preponderance of the evidence that such exposure actually causes adverse health effects. *Letter of Notification of Phila. Elec. Co. Relative to the Reconstructing and Rebuilding of the Existing 138 kV Line to Operate as the Woodbourne-Heaton 230 kV Line in*

*Montgomery and Bucks Counties*, 1992 Pa. PUC Lexis 160, at \*210-11 (June 29, 1992) (Initial Decision).

6. In AMI meter-related matters, the Commission has held that “[t]he Complainant will have the burden of proof during the proceeding to demonstrate, by a preponderance of the evidence, that [the utility] is responsible or accountable for the problem described in the Complaint.” *Kreider v. PECO Energy Co.*, Docket No. P-2015-2495064, p. 18 (Order entered Sept. 3, 2015).

7. Section 701 of the Public Utility Code provides that “any person . . . having an interest in the subject matter . . . may complain in writing, setting forth any act or thing done or omitted to be done by any public utility in violation, or claimed violation, of any law which the commission has jurisdiction to administer, or of any regulation or order of the commission.” 66 Pa. C.S. § 701.

8. The Commission has exclusive jurisdiction to adjudicate “issues involving the reasonableness, adequacy, and sufficiency” of a public utility’s facilities and services. See *Elkin v. Bell of Pa.*, 420 A.2d 371, 374 (Pa. 1980).

9. When presented with a challenge to an AMI meter installation, the Commission has pronounced that “[t]he ALJ’s role . . . will be to determine based on the record in this particular case, whether there is sufficient evidence to support a finding that the Complainant was adversely affected by the smart meter or whether [the utility’s] use of a smart meter will constitute unsafe or unreasonable service in violation of Section 1501 under the circumstances in this case.” *Kreider v. PECO Energy Co.*, Docket No. P-2015-2495064, p. 23 (Order entered Jan. 28, 2016) (citing *Woodbourne-Heaton*, 1992 Pa. PUC Lexis 160, at \*12-13).

10. Complainant has failed to sustain her burden of proof that installing the new AMI meter would violate the Public Utility Code or any Commission regulation or order. See 66 Pa. C.S. §§ 332(a), 701.

11. PPL is legally required to install the RF Mesh meter on the Complainant's property by Act 129 and Commission orders. See 66 Pa. C.S. § 2807(f); Smart Meter Procurement and Installation, Docket No. M-2009-2092655, pp. 9, 14 (Order entered June 24, 2009).

12. Nothing in Act 129 permits a customer to "opt-out" of a smart meter installation. See, e.g., *Starr v. PECO Energy Co.*, Docket No. C-2015-2516061, p. 11 (Order Entered Sept. 1, 2016).

13. The Commission previously determined that the Company's existing PLC meters are not compliant with Act 129 and the Commission's Smart Meter Implementation Order. See *Petition of PPL Electric Utilities Corporation for Approval of Smart Meter Technology Procurement and Installation Plan*, Docket No. M-2009-2123945, p. 24 (Order entered June 24, 2010).

14. Under the Company's Commission-approved Smart Meter Plan, PPL must replace all of the PLC meters with the RF Mesh meters, which the Commission declared as meeting all of the requirements of Act 129 and the Commission's Smart Meter Implementation Order. See *Petition of PPL Electric Utilities Corp. for Approval of Its Smart Meter Technology Procurement and Installation Plan*, Docket No. M-2014-2430781, p. 24 (Order Entered Sept. 3, 2015).

15. The Complainant has failed to demonstrate that the new AMI meter causes, contributes to, or exacerbates any adverse health effect.

16. The Complainant has failed to sustain her burden of proof that installing the new AMI meter would constitute unsafe or unreasonable service in violation of 66 Pa. C.S. § 1501.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint filed by Michele P. White against PPL Electric Utilities Corporation at Docket No. C-2018-3003468 is denied and dismissed.
2. That the docket in this proceeding be marked closed.

Date: May 6, 2019

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/s/  
Elizabeth H. Barnes  
Administrative Law Judge

**APPENDIX D**

**THE MAY 21, 2020 *FIRST COMPLAINT ORDER*  
DENYING THE COMPLAINANT'S EXCEPTIONS  
AND DISMISSING HER FIRST COMPLAINT  
AGAINST PPL ELECTRIC UTILITIES  
CORPORATION**

**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17120**

Public Meeting held May 21, 2020

Commissioners Present:

Gladys Brown Dutrieuille, Chairman  
David W. Sweet, Vice Chairman  
John F. Coleman, Jr.  
Ralph V. Yanora

Michele White

C-2018-3003468

v.

PPL Electric Utilities Corporation

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are the Exceptions of Michele P. White (Complainant or Ms. White) filed on May 27, 2019, to the Initial Decision (I.D. or Initial Decision) of Administrative Law Judge (ALJ) Elizabeth H. Barnes, served on the Parties on May 7, 2019, in the above-captioned proceeding. On June 7, 2019, PPL Electric Utilities Corporation (PPL or the Company) filed Replies to Exceptions. The Initial Decision denied the Formal Complaint (Complaint) filed by Ms. White on July 18, 2018, at this docket. For the reasons discussed below, we shall deny the Complainant's Exceptions,

adopt the Initial Decision of ALJ Barnes and dismiss the Complaint, consistent with this Opinion and Order.

### **Background**

This case involves a Complaint concerning the safety of the advanced metering infrastructure (AMI), or smart meter, that PPL proposes to install at the Complainant's residence and use in the ordinary course of business to measure the Complainant's electricity consumption. The Complainant refuses to permit PPL to install a smart meter at her residence due to her concerns regarding her health related to exposure to the level of radiofrequency (RF) fields, or electromagnetic fields (EMFs), from the smart meter and due to privacy and religious concerns.

PPL is an electric distribution company (EDC) subject to the jurisdiction of the Commission. PPL furnishes, owns, and maintains the meters in its distribution system. PPL's Tariff Electric Pa. P.U.C. No. 201, Section 8.A at 12.

The Complainant is a PPL customer who has been notified of PPL's intent to install a smart meter at her residence.

Act 129 of 2008 (Act 129 or Act), *inter alia*, amended Chapter 28 of the Public Utility Code (Code) and required EDCs with more than 100,000 customers to file smart meter technology procurement and installation plans for Commission approval and to furnish smart meter technology within its service territory in accordance with the provisions of the Act. Section 2807(f) of the Code provides as follows:

(f) *Smart Meter technology and time of use rates.*

(1) Within nine months after the effective date of this paragraph, electric distribution companies shall file a

Smart Meter technology procurement and installation plan with the commission for approval. The plan shall describe the Smart Meter technologies the electric distribution company proposes to install in accordance with paragraph (2).

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

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

(ii) In new building construction.

(iii) In accordance with a depreciation schedule not to exceed 15 years.

66 Pa. C.S. § 2807(f). The General Assembly found that it was “in the public interest” to implement the measures set forth in Act 129 and that the universal installation of smart meters would enhance the “health, safety and prosperity” of Pennsylvania’s citizens through the “availability of adequate, reliable, affordable, efficient and environmentally sustainable electric service at the least cost.” *See* H.B. 2200, 192d Gen. Assemb., Reg. Sess. (Pa. 2008).

By Order entered in 2009, the Commission directed all EDCs subject to Act 129’s smart meter requirements, including PPL, to universally deploy smart meter technology within their respective service territories in the Commonwealth in accordance with a depreciation schedule not to exceed fifteen years and in accordance with other guidelines established therein. *See Smart Meter Procurement and Installation*, Docket No. M-2009-2092655 (Implementation Order entered June 24, 2009) (*Smart Meter Procurement and Installation Order*). PPL sought and obtained the Commission’s approval to complete the installation of AMI meters with substantially all customers to receive an AMI meter by late 2019. *See Petition of PPL Electric Company for Approval*

*of Its Smart Meter Deployment Plan*, Docket Nos. M-2014-2430781 (Order entered September 3, 2015) (*2015 Smart Meter Order*) at 24.

### **History of the Proceeding**

On July 18, 2018, Ms. White filed the instant Complaint requesting that PPL be prevented from installing an AMI meter on her residence for health reasons related to the meter's RF fields. The Complainant requested an accommodation for her health and religious beliefs under the Federal Fair Housing Act to utilize an analog meter at her residence. I.D. at 1-2; Complaint at 2-3.

On August 7, 2018, the Company filed an Answer, admitting that PPL provides electric service to the Complainant but contending that it is required to install AMI, or smart meters, for all automatic meter reading (AMR) customers. However, PPL denied that the new AMI meter has caused, contributed to, or exacerbated any illnesses. I.D. at 2; Answer at 1-4.

On April 5, 2019, an evidentiary hearing was held. The Complainant appeared *pro se*, testified on her behalf, and presented one exhibit, which was admitted into the record as Complainant Exhibit No. 1. The Company was represented by counsel and presented the testimony of four witnesses: (1) Kevin Durkin; (2) Donald Vinciguerra; (3) Christopher Davis, Ph.D.; and (4) Mark Israel, M.D. PPL also offered sixteen exhibits which were admitted into the record as follows: PPL's Statements 1-4 and Exhibits CD-1 – CD-5; MI-1-MI-3; KD-1-KD-6 and SL-1.<sup>1</sup> The hearing produced a transcript of thirty pages and the record was closed on April 25, 2019.

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<sup>1</sup> Donald Vinciguerra adopted the written testimony of Scott Larson and sponsored Exhibit SL-1. I.D. at 2, n. 2 (citing Tr. at 13).

In the Initial Decision issued on May 7, 2019, the ALJ dismissed the Complaint for failing to prove by a preponderance of the evidence that the installation of the smart meter constitutes unsafe or unreasonable service under Section 1501 of the Code or that it violates any other provision of the Code, Commission Regulation, Commission Order or Commission-approved Company tariff. I.D. at 1, 18, 22.

As previously noted, the Complainant filed Exceptions on May 27, 2019, and PPL filed Replies to Exceptions on June 7, 2019.

## **Discussion**

### **Legal Standards**

As the party seeking affirmative relief from the Commission, the complainant in a formal complaint proceeding has the burden of proof. 66 Pa. C.S. § 332(a). The evidence necessary to meet that burden must be substantial. 2 Pa. C.S. § 704. “Substantial evidence” is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. *Consolidated Edison Company of New York v. National Labor Relations Board*, 305 U.S. 197, 229, 59 S.Ct. 206, 217 (1938). More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. Co. v. Pa. PUC*, 489 Pa. 109, 413 A.2d 1037 (1980).

To establish a sufficient case and satisfy the burden of proof, the Complainant must show that the respondent utility is responsible or accountable for the problem described in the Complaint. *Patterson v. The Bell Telephone Company of Pennsylvania*, 72 Pa. P.U.C. 196 (1990). The offense must be a violation of the Code, a Commission Regulation or Order or a violation of a Commission-approved tariff. 66 Pa. C.S. § 701. Such a showing must be by a preponderance of the evidence. *Samuel J.*

*Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. denied*, 529 Pa. 654, 602 A.2d 863 (1992). That is, the Complainant's evidence must be more convincing, by even the smallest amount, than that presented by the respondent. *Se-Ling Hosiery, Inc. v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950).

The burden of proof is comprised of two distinct burdens: the burden of production and the burden of persuasion. *Hurley v. Hurley*, 2000 Pa. Super. 178, 754 A.2d 1283 (2000). The burden of production, also called the burden of going forward with the evidence, determines which party must come forward with evidence to support a particular claim or defense. *Scott and Linda Moore v. National Fuel Gas Distribution*, Docket No. C-2014-2458555 (Initial Decision issued May 11, 2015) (*Moore*). The burden of production goes to the legal sufficiency of a party's claim or affirmative defense. *See Id.* It may shift between the parties during a hearing. A complainant may establish a *prima facie* case with circumstantial evidence. *See Milkie v. Pa. PUC*, 768 A.2d 1217, 1220 (Pa. Cmwlth. 2001) (*Milkie*). If a complainant introduces sufficient evidence to establish legal sufficiency of the claim, also called a *prima facie* case, the burden of production shifts to the utility to rebut the complainant's evidence. *See Moore*.

If the utility introduces evidence sufficient to balance the evidence introduced by the complainant, that is, evidence of co-equal value or weight, the complainant's burden of proof has not been satisfied and the burden of going forward with the evidence shifts back to the complainant, who must provide some additional evidence favorable to the complainant's claim. *See Milkie*, 768 A.2d at 1220; *see also Burlison v. Pa. PUC*, 443 A.2d 1373 (Pa. Cmwlth. 1982), *aff'd*, 501 Pa. 433, 461 A.2d 1234 (Pa. 1983).

Having produced sufficient evidence to establish legal sufficiency of a claim, the party with the burden of proof must also carry the burden of persuasion to be

entitled to a favorable ruling. *See Moore*. While the burden of production may shift back and forth during a proceeding, the burden of persuasion never shifts; it always remains on a complainant as the party seeking affirmative relief from the Commission. *See Milkie*, 768 A.2d at 1220; *see also, Riedel v. County of Allegheny*, 633 A.2d 1325, 1328, n.11 (Pa. Cmwlth. 1993); *see also, Burlison*, 443 A.2d at 1375. It is entirely possible for a party to carry the burden of production but not be entitled to a favorable ruling because the party did not carry the burden of persuasion. *See Moore*. In determining whether a complainant has met the burden of persuasion, the fact-finder<sup>2</sup> may engage in determinations of credibility, may accept or reject testimony of any witness in whole or in part, and may accept or reject inferences from the evidence. *See Moore*, citing *Suber*.

The Commission has determined that there is no provision in Act 129 or in the Code, the Commission's Regulations or Orders that permits a customer to "opt-out" of smart meter installation. *See Maria Povacz v. PECO Energy Company*, Docket No. C-2012-2317176 (Order entered January 24, 2013) (*2013 Povacz Order*); *see also Catherine J. Frompovich v. PECO Energy Co.*, Docket No. C-2015-2474602 (Order entered May 3, 2018) (*Frompovich*). However, the Commission has determined that a customer's formal complaint can raise a claim under Section 1501 of the Code, 66 Pa. C.S. § 1501, related to the safety of a utility's installation and use of a smart meter at the customer's residence and, if such a claim is raised, it is legally sufficient to proceed to an evidentiary hearing before an ALJ. *See Susan Kreider v. PECO Energy Company*, Docket No. P-2015-2495064 (Order entered January 28, 2016) (*Kreider*). At the hearing, a complainant may prove his/her claim through the complainant's own personal

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<sup>2</sup> In formal complaint proceedings, the Commission, not the ALJ, is the ultimate fact-finder; it weighs the evidence and resolves conflicts in testimony. When reviewing the initial decision of an ALJ, the Commission has all the powers that it would have had in making the initial decision except as to any limits that it may impose by notice or by rule. *Milkie*, 768 A.2d at 1220, n. 7 (citing, *inter alia*, 66 Pa. C.S. § 335(a)).

testimony and/or “the testimony of others as well as other evidence that goes to that issue.” *Romeo v. Pa. PUC*, 154 A.3d 422, 430 (Pa. Cmwlth. 2017) (*Romeo*).

Pursuant to Section 1501 of the Code, a public utility has a duty to maintain “adequate, efficient, safe, and reasonable service and facilities” and to make repairs, changes, and improvements that are necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. *See* 66 Pa. C.S. § 1501. Section 1501 of the Code, 66 Pa. C.S. § 1501, provides, in pertinent part, as follows:

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public . . . Such service and facilities shall be in conformity with the regulations and orders of the commission.

The term “service” is defined broadly under Section 102 of the Code to include any and all acts done or rendered, or performed and any and all things furnished or supplied and any and all facilities, used, furnished or supplied by public utilities, *See*, 66 Pa. C.S. § 102. The statutory definition of “service” is also to be broadly construed by the Commission and the courts. *Country Place Waste Treatment Co., Inc. v. Pa. PUC*, 654 A.2d 72 (Pa. Cmwlth. 1995).

Pursuant to Section 57.28(a)(1) of our Regulations,<sup>3</sup> an EDC must use reasonable efforts to properly warn and protect the public from danger and to exercise reasonable care to reduce the hazards to which customers may be subjected to by reason

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<sup>3</sup> *See Final Rulemaking Order, Rulemaking Re: Electric Safety Regulations, 52 Pa. Code Chapter 57, Docket No. L-2015-2500632 (Order entered April 20, 2017) (Electric Safety Final Rulemaking Order).*

of the EDC's provision of electric utility service and its associated equipment and facilities. *See* 52 Pa. Code § 57.28(a)(1).

As we ruled in *Maria Povacz v. PECO Energy Company*, Docket No. C-2015-2475023 (Order entered March 28, 2019) (*2019 Povacz Order*), in order to prevail in a Section 1501 claim against an EDC alleging that an AMI meter caused or will cause adverse health effects or harm to human health, the Complainant must demonstrate by a preponderance of the evidence a “conclusive causal connection” between the harm to human health and the RFs from the AMI meter. *See 2019 Povacz Order* at 28-29 (citing *Letter of Notification of Philadelphia Electric Company Relative to the Reconstructing and Rebuilding of the Existing 138 kV Line to Operate as the Woodbourne-Heaton 230 kV Line in Montgomery and Bucks Counties*, 1993 WL 855896 (Pa. P.U.C. 1993), Docket No. A-110550F0055 (Order entered November 12, 1993) (*Woodbourne-Heaton Final Order*) at 11).

Finally, we note that any argument or Exception that we do not specifically delineate shall be deemed to have been duly considered and denied without further discussion. The Commission is not required to consider expressly or at length each contention or argument raised by the parties. *Consolidated Rail Corp. v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); *see also, generally, University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

### **Initial Decision**

In the Initial Decision, ALJ Barnes made forty-nine Findings of Fact and reached sixteen Conclusions of Law. I.D. at 3-9, 19-21. The Findings of Fact and Conclusions of Law are incorporated herein by reference and are adopted without comment unless they are either expressly or by necessary implication rejected or modified by this Opinion and Order.

The ALJ first addressed the Complainant's request that electric service be maintained with an analog meter for health and safety reasons. I.D. at 11-12 (citing Tr. at 8-12). The ALJ noted Ms. White's testimony that she suffers from a pre-existing mental health condition that will become exacerbated by RF fields emitted by an AMI meter. I.D. at 12-13 (citing Tr. at 8-11). The ALJ also acknowledged the Company's argument that the Complainant has failed to meet her burden of proof of a conclusive causal connection between low-level RF fields from a PPL smart meter and any adverse health effects. I.D. at 12.

The ALJ rejected the Complainant's claims for unreasonable service based on her health and safety concerns related to PPL's installation of a smart meter at the residence. In support, the ALJ cited to our decision in the *2019 Povacz Order* noting the similarities to Ms. White's claims. In the *2019 Povacz Order*, we held that the complainant failed to prove she suffered from electromagnetic hypersensitivity (EHS) syndrome as she had self-diagnosed the illness. The ALJ explained our prior rationale in which we stated that, without independent diagnostic evidence to corroborate the self-diagnosis, the complainant failed to prove that she was electromagnetically hypersensitive. I.D. at 12 (citing *2019 Povacz Order* at 59-60).

Similarly, the ALJ found that Ms. White did not establish a *prima facie* case to show that any RF exposure levels from a Landis + Gyr Focus AXR-SD meter will cause adverse health effects to Complainant. According to the ALJ, the assertions of the Complainant that her health will deteriorate because of RF fields emitted by an AMI meter are bald assertions, which do not constitute evidence. I.D. at 13 (citing *Bervinchak v. PPL Electric Utilities Corporation*, Docket No. C-2016-2572824 (Order entered October 2, 2018); *Pa. Bureau of Corrections v. City of Pittsburgh*, 516 Pa. 75, 532 A.2d 12 (1987)).

Further, the ALJ stated that the Complainant's demeanor (including inflections and intonations in her voice while she testified) indicated her testimony was credible regarding a pre-existing mental health condition; however, the ALJ reasoned that the Complainant proffered no corroborative medical evidence to support her testimony to show that an AMI meter will cause her to suffer deleterious health effects. Noting that even if she were to find that the Complainant has this diagnosis, there is insufficient evidence to show that an AMI meter will cause her to suffer deleterious health effects. I.D. at 13.

Noting that Ms. White is neither a medical expert nor an engineer, the ALJ found that the Complainant's testimony as to the deleterious health effects of an AMI smart meter was refuted by the credible testimony of PPL's expert witnesses, Dr. Israel, M.D., and Dr. Davis, Ph.D. I.D. at 13, 14 (citing PPL St Nos. 1, 2).

The ALJ summarized Dr. Israel's testimony that claimed symptoms related to EHS are more accurately described as "Idiopathic Environmental Intolerance" (IEI), in which "idiopathic" means "cause unknown," rather than electromagnetic hypersensitivity. I.D. at 13-14 (citing PPL St. 2 at 13). Dr. Israel testified that there are no established medical criteria for the diagnosis or treatment of IEI and that the variety of symptoms attributed to it are not caused by exposure to RF fields. I.D. at 14 (citing PPL St. 2 at 16).

Additionally, the ALJ referenced Dr. Israel's testimony pertaining to the conclusion of public health authorities that scientific research on RF exposures from cell phone use, which are far higher than the RF exposures from PPL's smart meters, has not shown that RF fields cause adverse health effects. Moreover, Dr. Israel testified about additional investigations of state public health authorities and the lack of credible scientific evidence that RF fields from smart meters will cause or contribute to any adverse health effects. I.D. at 14 (citing PPL St. 2 at 10-15, PPL Exhs. MI-1 and MI-2).

According to Dr. Israel, there is no reliable medical basis to conclude that RF fields from the AMI meters intended for installation by PPL will cause or contribute to the development of illness or disease or would cause, contribute to, or exacerbate any of the symptoms claimed by the Complainant, or any other adverse health effects. I.D. at 14 (citing PPL St. 2 at 15-18).

The ALJ also summarized the testimony of PPL's expert witness Dr. Davis, who testified about his substantial amount of research on RF fields of the type produced by the AMI meters being used by PPL. According to Dr. Davis, RF fields are part of the lower energy, non-ionizing portion of the electromagnetic spectrum which consists of lower frequency signals that do not have enough energy to break chemical bonds in cells or DNA. RF fields come from many sources in our everyday environments, including AM/FM radio, television broadcast, cell phones and their communication networks, portable phones, garage door openers and Wi-Fi networks. I.D. at 15 (citing PPL St. 1 at 3, 5-7, 12).

The ALJ further referenced Dr. Davis's testimony about the electrical characteristics (harmonics and transients) (sometimes referred to as the non-scientific term of "dirty electricity") that can be found on household wiring. According to Dr. Davis, PPL AMI meters do not generate electricity, do not generate harmonics and transients that are significant compared to the harmonics and transients already present on the 60 Hz power coming into the home and do not interfere with the operation of household wiring. I.D. at 15 (citing PPL St. 1 at 8).

Moreover, the ALJ cited to Dr. Davis's testimony about the determinations of the Federal Communications Commission (FCC) related to the safe public exposure levels from devices that transmit RF signals such as the AMI meters. I.D. at 15 (citing PPL St. 1 at 9-10). The levels of RF fields from the Landis + Gyr Focus AX-SD AMI meters are 98,000 times lower than the RF exposure safety limits established by the FCC.

In addition, the RF signals from the AMI meter are of short duration and occur for a total of only 84 seconds over a 24-hour period. I.D. at 15 (citing PPL St. 1 at 7, 15, and PPL Exh. CD2).

In further summary of the expert evidence, the ALJ stated that regarding cell phone use: the RF field exposure thirty feet from a person using a cell phone is three times larger than the RF fields from the AMI meter; and the exposure from using cell phones near the head can be over 260,000 times higher than the RF fields from the AMI meter. I.D. at 15-16 (citing PPL St. 1 at 14 and PPL Exh. CD4).

The ALJ also referenced Dr. Davis's testimony that there are ten television broadcast towers within a 50-mile radius of the Complainant's location in Stroudsburg, Pennsylvania. According to Dr. Davis, the locations of each tower and their RF fields result in a constant background level of RF fields at Ms. White's residence that are 10.9 times higher than the RF signals from the AMI meter. I.D. at 16 (citing PPL St. 1 at 15 and PPL Exh. CD-5).

In comparing the RF exposure at the service address with the minimal RF exposure from the AMI meter, the ALJ determined that she was not persuaded to conclude the AMI meter will cause a deleterious health effect to the Complainant. According to the ALJ, rejecting the Complainant's health related claims is consistent with recent Commission precedent. I.D. at 16.

Moving to the data privacy allegations, the ALJ summarized the Complainant's argument that PPL's installation of the meter constitutes unreasonable service. According to Ms. White, the AMI meter would invade her privacy because the meter is able to check how often she uses electricity and which appliances are being used. The Complainant contended that she is not comfortable sharing that information. I.D. at

16 (citing Exh. No. 1, Tr. at 10). PPL argued its AMI meter complies with its AMI Customer Privacy Policy. I.D. at 16 (citing PPL St. 4 at 6-8).

Upon review, the ALJ discussed the Company's AMI Customer Privacy Policy, which sets forth the data PPL will collect through the new smart meter, the steps the Company will take to protect the data, and the ways in which PPL will use the data. I.D. at 16 (citing PPL Exh. SL-1). The ALJ highlighted PPL's use of firewalls to prevent anyone from obtaining unauthorized access to the AMI network and how customer data is encrypted to make the data readable to only PPL personnel who can decode the encryption. I.D. at 16-17 (citing PPL St. 4 at 6-8). Moreover, the ALJ noted PPL's testimony that its cybersecurity and data privacy policies are consistent with the national standards for the industry. I.D. at 17 (citing PPL St. 4 at 8).

According to the ALJ, if the Complainant is concerned about the AMI meter's connection to smart appliances in her home, she can decline to have the ZigBee radio activated. I.D. at 17 (citing *Lesniewski v. PPL Electric Utilities Corporation*, Docket No. C-2018-3004594 (Final Order entered April 29, 2019) (*Lesniewski*)). The ALJ explained that in *Lesniewski* the Commission found in favor of PPL regarding the same data privacy issue and held that the complainant in that case had an option to decline activation of the ZigBee radio device located within the AMI meter. I.D. at 17 (citing *Lesniewski* at 24). Accordingly, the ALJ found in favor of PPL on the privacy issue in this case. I.D. at 17.

Finally, moving to the Complainant's request for accommodation under the federal Fair Housing Act, 42 U.S.C. §§ 3601-3619, the ALJ summarized the Complainant's argument and request. I.D. at 17. The Complainant requests an accommodation for her mental health and pursuant to her right to religious freedom under the Fair Housing Act, which makes it unlawful for any person to refuse to make reasonable accommodations in the rules, policies, practices or services when such

accommodations may be necessary to support persons with disabilities to equal opportunities to use and enjoy a dwelling. I.D. at 17 (citing Tr. at 10-12). In response, PPL argues the Commission has no jurisdiction to enforce the Fair Housing Act. I.D. at 17.

Upon review, the ALJ determined that the Commission has no jurisdiction over alleged violations of the Fair Housing Act. I.D. at 18. The ALJ explained that the Fair Housing Act is a federal act intended to protect the buyer or renter of a dwelling from seller or landlord discrimination and that it primarily makes it unlawful to refuse to sell, rent to, or negotiate with any person because of that person's inclusion in a protected class. I.D. at 18, n. 5 (citing 42 U.S.C. § 3601 *et seq.*). The ALJ explained that it is well-settled that the Commission may not exceed its jurisdiction and must act within it. I.D. at 17 (citing *City of Pittsburgh v. Pa. PUC*, 43 A.2d 348 (Pa. Super. 1945)). As a creation of the state legislature, the Commission possesses only the authority that the state legislature has specifically granted to it in the Code. I.D. at 17 (citing 66 Pa. C.S. §§ 101, *et seq.*). The ALJ explained that the Commission's jurisdiction must arise from the express language of the pertinent enabling legislation or by strong and necessary implication therefrom. I.D. at 17 (citing *Feingold v. Bell*, 383 A.2d 791 (Pa. 1977) (*Feingold*)).

The ALJ explained that her determination that the Commission has no jurisdiction over alleged violations of the Fair Housing Act is consistent with prior Commission decisions. I.D. at 18 (citing *Harper v. PPL Electric Utilities Corporation*, Docket No F-2014-2422449 (Order entered March 12, 2015) (deciding the Commission does not have jurisdiction to find a violation of the federal Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*); *Mid-Atlantic Power Supply Association v. PECO Energy Co.*, Docket No. P-00981615, 1999 Pa. PUC LEXIS 30 (May 19, 1999) (ruling the Commission does not have jurisdiction to find a violation of the Pennsylvania Unfair Trade Practices and Consumer Protection Law)).

Finally, the ALJ stated that the Commission has no jurisdiction to determine whether the installation of a smart meter violates the Complainant's religious beliefs and right to religious freedoms under the first amendment of the United States Constitution. I.D. at 18.

For all of the foregoing reasons, the ALJ found that the Complainant failed to prove by a preponderance of the evidence that the installation of a smart meter constitutes a violation of PPL's duty to provide safe and reasonable service under 66 Pa. C.S. § 1501 or a violation of any other provision of the Code, a Commission Order or Regulation or Commission-approved, Company tariff. The ALJ stated that although the Complainant is genuine in her concerns, the Commission's decisions cited above are controlling here. Accordingly, the ALJ ruled to dismiss the Complaint. I.D. at 18.

### **Exceptions and Replies**

The Complainant's Exceptions<sup>4</sup> are not numbered but she raises two main Exceptions to the Initial Decision, arguing the ALJ erred as to her rulings regarding: (1) the Commission's lack of jurisdiction to enforce the federal Fair Housing Act (citing to I.D. at 4, FOFs 11-14); and (2) the Complainant's failure to sustain her burden of proof that PPL's installation of a new AMI meter would violate Section 1501 of the Code (citing to I.D. at 4-8, FOFs 15-45). Exc. at 1-2. According to the Complainant, the "Fair Housing Act grants accommodations to those with disabilities including mental health accommodations." Exc. at 1. Also, according to the Complainant, the ALJ erred in

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<sup>4</sup> We acknowledge that the format of the Complainant's Exceptions does not strictly comply with Section 5.533(b) of our Regulations, 52 Pa. Code § 5.533(b), which requires that exceptions be numbered, identify the finding of fact and conclusions of law to which exceptions is taken, and cite to the relevant pages of the Initial Decision. Nevertheless, particularly because the Complainant is appearing *pro se*, we will accept the Exceptions as filed pursuant to Section 1.2(a) of our regulations, 52 Pa. Code § 1.2(a), in order to secure a just, speedy, and inexpensive determination.

finding that there is no reliable scientific or medical basis to conclude that RF field exposure can cause or contribute to adverse health effects. Exc. at 1-2. The Complainant avers that she testified about her health-related concerns about the new AMI meter and claims that the meter “would aggravate a pre-existing mental-health condition.” Exc. at 1-2. Finally, the Complainant argues in her Exceptions that the Initial Decision violates both the federal Fair Housing Act and the American Disabilities Act (ADA), and that the Commission lacks the jurisdiction to permit PPL to attach a meter to her residence that goes against her wishes and religious beliefs. Exc. at 2.

In Replies, PPL submits that the ALJ did not err in her ruling regarding the federal Fair Housing Act. PPL first submits that the ALJ was correct in ruling that the Commission lacks jurisdiction to enforce the Fair Housing Act, as the Commission “has only those power which are expressly conferred upon it by the Legislature and those power which arise by necessary implication....” and nothing in the Code or any other law grants the Commission jurisdiction to enforce the Fair Housing Act. R. Exc. at 2 (citing *Feingold*, 383 A.2d at 794). Next, PPL submits that none of the provisions of the Fair Housing Act, which generally prohibit discrimination in the sale or rental of housing, discrimination in residential real estate-related transactions, and discrimination in the provision of brokerage services, apply to the Company installing the new AMI meter at the Complainant’s service address. R. Exc. at 2 (citing 42 U.S.C. §§ 3604-3606).

In addition, PPL submits that the ALJ properly found that the Complainant failed to sustain her burden of proof that installing the new AMI meter would violate Section 1501 of the Code. R. Exc. at 2. PPL submits that the ALJ properly concluded that there was no reliable scientific or medical basis to conclude that the AMI meter will cause or contribute to any adverse health effects. R. Exc. at 3 (citing I.D. at 12-16). In support, PPL cites to and recounts the record evidence it presented through expert witnesses Dr. Davis and Dr. Israel. R. Exc. at 3-7. The Company summarized the evidence presented by Dr. Israel, the only medical expert to present testimony in this

case, pertaining to the evaluation of scientific research on RF fields and adverse health effects. R. Exc. at 5-7. According to PPL, it has presented overwhelming evidence through its scientific and medical expert witnesses, Dr. Davis and Dr. Israel, to support the ALJ's findings of there being no reliable basis to conclude that the new AMI will cause or contribute to any adverse health effects. R. Exc. at 7.

Regarding the Complainant's allegations that the Initial Decision violates the ADA, PPL argues that the Commission lacks jurisdiction to determine whether the Complainant has a disability defined by the ADA and to enforce the ADA's provisions. PPL R. Exc. at 7 (citing *Frompovich* at 43).

Finally, concerning the Complainant's alleged religious beliefs opposing the AMI meter's installation, PPL argues there is no religious exemption under Act 129's mandate for PPL and other EDCs to install the AMI meters. Moreover, for there to be a deprivation of constitutional rights, two elements must be met: (1) "the deprivation must be caused by the exercise of some right or privilege created by the state;" and (2) "the party charged with the deprivation must be a person who may fairly be said to be a state actor." Here, PPL argues that it is a public utility corporation, not a state actor. R. Exc. at 7-8 (citing *Jackson v. Metropolitan Edison Co.*, 419 U.S. 345, 351-53 (1974)). Therefore, according to PPL, PPL's actions, including its installation of the new AMI meter, cannot violate the Complainant's constitutional rights. R. Exc. at 8.

## **Disposition**

In considering the record evidence and arguments before us, along with the Exceptions and Reply Exceptions of the Parties, we find that the Complainant's

Exceptions lack merit. Based on the record evidence, we do not find error in any of the ALJ's findings, analysis or conclusions.

We agree with the well-reasoned analysis in the Initial Decision and the ALJ's conclusion that the Complainant did not meet her burden of proof regarding the claim that the smart will cause adverse health effects for the Complainant. Specifically, we affirm the ALJ's finding that the Complainant failed to demonstrate a conclusive causal connection between the low-level RF fields from a PPL smart meter and any adverse health effects for the Complainant. Similarly, the Complainant failed to assert any competent evidence of record to establish the claim that PPL's installation of a smart meter will pose a safety risk due to RF exposure. Moreover, the Company presented overwhelming evidence through its scientific and medical expert witnesses, Dr. Davis and Dr. Israel, respectively, to support the ALJ's finding that there is no reliable basis to conclude that the new AMI meter will cause or contribute to any adverse health effects. Upon review of the record, we conclude that the ALJ's underlying discussion, rationale, Findings of Fact and Conclusions of Law are supported by substantial evidence of the record and consistent with prior Commission and Commonwealth Court decisions, as cited in the Initial Decision. *See* I.D. at 12-17 (citations omitted).

Additionally, we agree with the ALJ and Company's arguments that we lack jurisdiction to enforce the federal Fair Housing Act and ADA. *See* I.D. at 17-18; *see also Frompovich* at 43.

Moreover, we note the Complainant's objection to the installation of a new AMI meter based on her bald assertions that PPL's installation and use of a smart meter at her residence for the purpose of measuring electricity consumption in the ordinary course of business will violate her "religious beliefs" and, therefore, will violate her first Amendment right under the United States Constitution. However, she has failed to proffer any evidence, assert an actual argument, or cite to any legal authority to support her claim.

Without evidence and a proper argument tying appropriate legal authority to this matter, we see no grounds to consider her claim. Therefore, we shall deny her assertion that she has the constitutional right to be exempted from the installation of a new AMI meter at her residence based on her religious beliefs.

Finally, the Commission has previously held that, under the existing iteration of Section 2807(f) of the Code, no “opt out” provision exists. *See generally 2013 Povacz Order; Frompovich; Kreider*. We have concluded that we do not have the authority, absent directive in the form of legislation, to prohibit an EDC from installing a smart meter where a customer does not want one simply due to the customer’s preference. *See 2013 Povacz Order; see also 2019 Povacz Order*. Because there is no provision in Pennsylvania law to allow a customer to opt-out of the installation of an AMI meter, the Complainant’s request to “opt out” of a smart meter installation must be denied.

Based on the foregoing, we shall deny the Complainant’s Exceptions and dismiss the Complaint.

### **Conclusion**

Based upon our review of the record and the applicable law, we shall deny the Complainant’s Exceptions and adopt the Initial Decision, consistent with this Opinion and Order; **THEREFORE,**

### **IT IS ORDERED:**

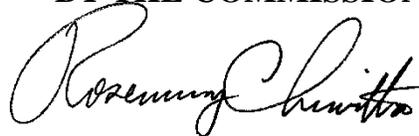
1. That the Exceptions filed by Michele P. White on May 27, 2019, are denied.

2. That the Initial Decision of Administrative Law Judge Elizabeth H. Barns, issued on May 7, 2019, is adopted, consistent with this Opinion and Order.

3. That the Formal Complaint filed by Michele P. White on July 18, 2018, at this docket, is dismissed.

4. That this proceeding shall be marked closed.

**BY THE COMMISSION,**

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta", written in a cursive style.

Rosemary Chiavetta  
Secretary

(SEAL)

ORDER ADOPTED: May 21, 2020

ORDER ENTERED: May 21, 2020

## VERIFICATION

I, DAVID QUADE, being the Manager – Regional Metering at PPL Electric Utilities Corporation, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect PPL Electric Utilities Corporation to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: March 29, 2021

*David Quade*

David Quade (Mar 29, 2021 09:04 EDT)

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David Quade