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May 25, 2022

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

RE: Siddhartha Banerjee v. PECO Energy Company
PUC Docket No. F-2022-3032337

Dear Ms. Chiavetta:

Enclosed for filing with the Commission is *PECO Energy Company's Motion to Stay the Proceedings*.

I have enclosed a Certificate of Service showing that a copy of the above document was served on the interested parties. Thank you for your time and attention on this matter.

Very truly yours,

A handwritten signature in blue ink that reads "Khadijah Scott".

Khadijah Scott, Esquire
Assistant General Counsel, Exelon BSC
Encl.

Cc: Not Recommended for Call of Docket

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

SIDDHARTHA BANERJEE	:	
Complainant	:	
v.	:	DOCKET NO. F-2022-3032337
	:	
PECO ENERGY COMPANY	:	
Respondent	:	

NOTICE TO PLEAD

Pursuant to 52 Pa. Code §5.61, you are hereby notified that, if you wish to file a reply to PECO Energy Company's Motion to Stay Proceeding, as set forth below, you must file and serve that reply within 20 days (unless the presiding officer sets a different time for reply). If you do not file a reply, the Motion to Stay may be granted without further action by or notice to you. If you choose to file a reply, you must serve it on counsel for PECO Energy Company and file a copy with the Commission and the Administrative Law Judge.

File with:
Rosemarie Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120

With a copy to:
Khadijah Scott, Esq.
PECO Energy Company
2301 Market Street, S-23
Philadelphia, PA 19103

Dated: May 25, 2022



Khadijah Scott
Counsel for PECO Energy Company
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PECO ENERGY COMPANY’S MOTION TO STAY THE PROCEEDINGS

Now come the Respondent, PECO Energy Company (“Respondent” or “PECO Energy”), by its attorney, Khadijah Scott, and moves the Administrative Law Judge (“ALJ”) and the Pennsylvania Public Utility Commission (“Commission”) to stay these proceedings pursuant to 52 Pa. Code §5.103, and in support thereof states:

1. On May 5, 2022, PECO Energy was served with a Formal Complaint filed by Siddhartha Banerjee, hereafter (“Complainant”).
2. In the Complaint, the Complainant states that he needs written proof that PECO Energy’s AMI smart meter will not cause him health problems, interfere with his privacy or damage his appliances, before he will agree to the installation.
3. In his request for relief, the Complainant states:

There are alternatives to what PECO is effectively forcing upon us. We are requesting that PAPUC review our situation and consider some solutions to resolve these matters fairly and responsibly, taking into account our rights as consumers under Act 129.

4. On May 25, 2022, PECO Energy filed an Answer to the Complainant’s Complaint, arguing that the company is required to install the AMI meter pursuant to Act 129 and there is no legislation permitting the Complainant to “opt out” of meter installation.

5. On October 8, 2020, the Commonwealth Court of Pennsylvania (Court) issued an Opinion in the first of several appeals before it that involve an electric distribution company’s (EDC) deployment of smart meter technology pursuant to Act 129 of 2008 (Act 129), codified at 66 Pa. C.S. § 2807(f). In this consolidated opinion, the Court partially affirmed, and partially reversed and remanded, the Commission’s March 28, 2019 and May 9, 2019 Orders in *Maria Povacz v. PECO Energy Co.*, C-2015-2475023; *Laura Sunstein Murphy v. PECO Energy Co.*, C-2015-2475726, and *Cynthia Randall and Paul Albrecht v. PECO Energy Co.*, C-2016-2537666. *Povacz, et al. v. Pa. Public Utility Commission*, 492 C.D. 2019 (Slip Op. filed October 8, 2020) (*Povacz*).

On November 4, 2020, the Commission entered an Order in its Smart Meter Procurement and Installation proceeding, Docket No. M-2009-2092655, staying certain formal complaint proceedings presently before the Commission involving challenges to EDC deployment of smart meter technology, pending the outcome of the *Povacz* appeal. In that Order, the Commission directed (pp. 1-2) that: “Furthermore, the Commission directs that this stay shall apply to any new formal complaints filed with the Commission claiming that EDC deployment of smart meter technology is in violation of Section 1501.”

6. As the *Smart Meter Procurement and Installation* Order issued a stay until resolution of the *Povacz* appeal and remand to the Commission for further proceedings, and the outcome of the decision will affect the procedural disposition of the Complainant’s matter, PECO Energy respectfully requests a continuance of any scheduled hearing and that this matter be held in abeyance until the appellate court rules on the *Povacz* appeal and any Commission remand proceeding is concluded

7. The request to continue and stay the Complainant's AMI health claims pending the outcome or until resolution of the *Povacz* appeal and remand is for good cause. If a hearing on health claims goes forward in this proceeding, PECO Energy (and potentially the Complainant) will need to retain and present testimony of scientific and/or medical experts to address those health claims. If the appellate court then later reconsiders and materially alters the *Povacz* ruling, the effort of the parties to prepare for the health-based hearing will have been wasted. A stay until the appellate court issues a final determination in *Povacz* will thus conserve administrative and party resources and further the interest of justice.

8. The Commission has already ordered that proceedings such as the instant proceeding shall be stayed.

WHEREFORE, for the reasons set forth above, PECO Energy Company respectfully requests that your Honorable Commission stay this matter until the appellate court issues a final determination in *Povacz*.

Respectfully Submitted,



Khadijah Scott
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VERIFICATION

I, Khadijah Scott, hereby declare that I am counsel for PECO Energy Company; that as such I am authorized to make this verification on its behalf; that the facts set forth in the foregoing Pleading are true to the best of my knowledge, information and belief, and that I make this verification subject to the penalties of 18 Pa. C.S. §4904 pertaining to false statements to authorities.

Date: May 25, 2022



Khadijah Scott

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CERTIFICATE OF SERVICE

I, Khadijah Scott, hereby certify that I have this day served a copy of PECO Energy Company's Motion to Stay in the above matter upon all interested parties by E-mailing a copy to:

SIDDHARTHA BANERJEE
121 ROCKY GLEN RD
OXFORD PA 19363
Via email: siddharthaban@gmail.com

Dated: May 25, 2022



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