

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Nancy Colbert,  
Complainant

v.

DOCKET NO. C-2022-3036933

PECO ENERGY COMPANY (PECO),

DATE OF DEPOSIT

and

PENNSYLVANIA PUBLIC UTILITY COMMISSION (PA PUC)

DEC 20 2022

Respondents

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**NOTICE TO PLEAD**

TO PECO "ANSWER" AS THE DOCUMENT TITLE WITH COVER LETTER STATING "MAY  
INCLUDE NEW MATTER" on December 13

Note:

TO PECO "ANSWER WITH NEW MATTER" AS WRITTEN IN CERTIFICATE OF SERVICE AT  
THE VERY END OF THE FILING

Wait, on December 16 "NEW MATTER" actually provided this time

Comes now Nancy Colbert (hereafter "Colbert"), filing complaint on both PECO and the PA PUC for subverting the Rule of Law, involving the Pennsylvania Supreme Court, especially given these officials' oaths to the Pennsylvania and United States Constitutions. As we all are bound together in community by our words, even more so are these officials tasked with serving the public interest. These oaths are publicly-held contracts to be enforced in affirmation of faithful performance of the duties these officials have undertaken to perform. Otherwise, officials have breached their contract. When they do in fact exceed their jurisdiction and do anything injurious to the Constitution which would subvert its protections and corrupt its design, leading to the abusive "rule of men" assuming an authority they do not have over non-commercial, non-nexus citizens, and proceeding to deceptively monopolize the market, extremely prejudice equity, and criminally force numerous harms, damages, and barratrous offenses against the public interest be it known, with right reserved to amend:

**I. CONDITIONS OF ADMINISTRATIVE DUE PROCESS**

1. This formal complaint moves the administrative court to stipulate that all terms used in this proceeding, and all subsequent proceedings, shall have the meaning consistent with the common usage by the general public unless a specialized meaning is designated at the time of use. As eloquently stated in Plain English Justification File=Smart Meters/PUC 2020 Hearing/Hearing Docs March 10/Plain English Justification:

*Our elected officials are ordinary people without special degrees or credentials, and it is those elected officials who make and pass our laws. Our PA laws are written in Plain English so that ordinary citizens can read and understand them at their face value. Similarly our legal system was set up so that ordinary persons - without special credentials- can represent themselves, pro se, and are entitled to present evidence and to cite the PA law. If so many special credentials are required to understand this material in my present case before the PUC, which our ordinary-person lawmakers set into motion with the passage of Act 129 of 2008, then there*

1/out of  
23

*can be no judges on these matters unless they, too, have the credentials to understand this oh-so-complicated legal, technical and scientific information that I - an ordinary citizen - am able to grasp, but am being questioned and denied on the basis of "credentials" which our legal system does not say I have to have. In other words, if I, an ordinary citizen, am denied the right to present my case and evidence on the basis of my lack of credentials, then we have to go back to the lawmakers who passed the law and demand that they have the credentials needed to better understand what the heck it was they were voting on! And Judge, you are not in a position to judge technical or scientific material presented by "experts" because you, too, are not credentialed and unable to make fine distinctions in this field which is outside your area of expertise. In other words, you can be easily duped by so-called "experts" because you have no real training in technical or scientific matters. What is deemed beyond my capabilities by the power company attorneys must clearly then be beyond your capability as well, so you are not in a position to judge my case.*

2. Likewise, this formal complaint demands that the adjudication of law be consistent, thus, its substantive and procedural due process consistent with the rule of law, just as consistency with the plain-English meaning of words be maintained. Executive and judicial branches of government were designed to be consistent. To be consistent, adherence to logic and objective fact is necessary. The judge is there to maintain decorum in the court, to take notice of facts and law properly put before it, then apply the law to the facts in accordance with the intent of the Legislature as explained by the appellate and other higher court decisions. The goal is sane reasonableness.

3. This formal complaint demands that officials perform their duties according to the Rule of Law. No one is above the law, state and federal, and certainly not above the Supreme Law of the Land. Specific laws were provided in the formal complaint, but are not limited to that list for proper adjudication of the "smart meter" agenda. While a state administrative court such as the PA PUC does not have subject matter jurisdiction over Constitutional and federal laws, including federal penal codes, nevertheless, it is bound to adherence of them from which it derives its lawful authority and knowledge of its limits. Additionally, its legislatively-delegated authority derives from the Pennsylvania Administrative Procedure Act which must conform to the principles of the federal Administrative Procedure Act, which must conform to the Constitution. Likewise, in instances of its operation:

*Public service commissions are administrative agencies whose power is derived from the legislature and whose functions are legislative functions. They perform, by delegation, legislative functions, and they are subject to state administrative procedure acts unless statutes specifically provide otherwise. Thus, it is for the legislature, and not the public utility commission or the courts, to determine what business activity comes within the purview of the commission, and the legislature may narrow or redefine a public utility commission's jurisdiction as it sees fit. **64 Am. Jur. 2d Public Utilities § 143 Generally***

*A public service commission has no inherent or common-law power; all its power and jurisdiction, and the nature and extent of the same, must be found within the statutory or constitutional provisions creating it. Thus, a public utilities commission must act within its jurisdiction and may exercise only that jurisdiction conferred by a statute or constitutional provision. **64 Am. Jur. 2d Public Utilities § 145 Generally***

*It creates only procedural rights and imposes only procedural duties. An administrative procedure statute thus does not create substantive legal rights on which a claim for relief can be based; rather, such substantive legal rights must exist either by statutory language, by the agency's rules and regulations, or by some constitutional command. **2 Am. Jur. 2d Administrative Law § 14***

*Absent constitutional constraints or extremely compelling circumstances, administrative agencies should be free to fashion their own rules of procedure though those regulations must be reasonably related to the purposes of the enabling legislation **2 Am. Jur. 2d Administrative Law § 144***

## II. FACTS PRIOR TO THE ADMINISTRATIVE PROCEEDING

4. Colbert received an email on December 13, 2022 at 8:47 AM from Khadijah Scott (hereafter “Scott”), posing as PECO legal counsel to provide an “Answer” to Colbert’s formal complaint (received by PA PUC on November 23, 2022 at 11:01 AM; Colbert had called 717-772-7777 first, as directed by Informal Complaint Intaker “Amanda” after filing an informal complaint with her, but there was no answer; Colbert left a voicemail anyways for filing a formal complaint also being sure to keep the informal complaint issue separate as Amanda directed to avoid cancelling the informal complaint, although no PUC representative ever returned the call, so Colbert filed by mail...and the informal complaint of a shut off notice for “you did not give us access to inspect our meter 107303501” was rendered moot somehow). This email arrived just after the December 12, 2022 PECO attempt at forced installation failed to moot it (the contractor said PECO told him “customer requested it” as shown to Colbert on his computer screen), and after a PECO representative (Erika) later that day reported that she had “no knowledge” of the formal complaint status – less than 4 business hours later of an extensive PECO document filed with exhibits.

**Exhibit A** provides a reminder of non-consent to any life activity-monitoring, trespassing device installation, after a PECO contractor appeared at Colbert’s non-commercial, non-situs property on December 12, 2022 to install one, despite that Colbert was forced under duress by PECO agents (Guinevere, Irida) to make an appointment to avoid shut off, but more importantly, despite that a formal complaint had already been received by the PUC on November 23, 2022, in what appears its SECOND attempt to subvert statutory process. *Notice to principal is notice to agent; notice to agent is notice to principal.*

5. In the cover letter of Scott’s email, she wrote: “PECO’s response may include a New Matter, Motion or Preliminary Objection” (underline added) but then she proceeded NOT to entitle anywhere in her paperwork to both Colbert and Rosemary Chiavetta as well (as in the upload cover page) that a new matter had been entered -- not until Scott filed a Certificate of Service: “I, Khadijah Scott, hereby certify that I have this day served a copy of PECO Energy Company’s **Answer with New Matter** to Complainant’s Complaint in the above matter upon all interested parties by E-mailing a copy to...”. Since New Matter requires a response by Complainant within 20 days to be considered but is no where indicated, it appears that Scott is attempting to again deceive Colbert and render the complaint dismissed.

6. Hear ye, hear ye: on December 16 at 3:47 PM, Scott sent email with “New Matter” which is addressed herein as Scott makes more legal determinations, hearsay, false statements, and barratry found in her December 13 document, but at least the December 16 documents this time contains a “Notice to Plead” as is proper for administrative due process.

### **III. PLEADING TO SCOTT “ANSWER” OR IS IT REALLY “ANSWER WITH NEW MATTER”...yes, the latter, just vexatiously delayed**

7. Scott as a legal counsel appears to not know law, in violation of the Codes of Professional Responsibility,” due to her statement that the subversion of the Rule of Law is “unintelligible.” Later, her response to paragraph 8 Legal Representation appears unintelligible: “without knowledge or information sufficient to form a belief as to the truth of this averment AND then immediately thereafter denying the allegations when Colbert did not aver anything in paragraph 8 but left blank so there was nothing to deny – it’s as if she is really responding to paragraph 5 Requested Relief instead (listing federal and state laws). Furthermore, assuming Scott is referring to the federal and state laws listed in paragraph 5, it appears she believes she is above the Rule of Law, especially as her reasons for denying them in her Answer violate the Rule of Law and due process.

Let Scott be aided in her understanding with just one of multitude subversions of the Rule of Law (e.g., at the state level: **PA Code Title 52 Section 57.257 Disputes concerning advanced**

**metering**) caused by PECO by further underscoring its FIRST attempt to subvert the statutory process of formal complaints when an agent (Irida) called Colbert on November 23 in the late afternoon to threaten Colbert with “we’re coming after you” and that her formal complaint (which arrived at the PUC at 11:01 AM that day) was already decided and installation “will” occur on November 26 “by law” (we won’t mention yet that Godshall and his son had anything to do with some kind of subversion in the not too distant past.)

8. Scott may do well to avoid making legal determinations and remember, along with the PA PUC officials, to further understand how the Rule of Law works beginning at the top of the hierarchy of law (as well as take a field trip from the 23<sup>rd</sup> block down to the 6<sup>th</sup> block of Market Street towards the National Constitution Center and Independence Mall):

a. A Pennsylvania lawyer, like a judge and public official, takes an oath to support and defend the U.S. and Pennsylvania Constitutions.

[https://www.americanbar.org/groups/young\\_lawyers/publications/tyl/topics/mentoring/the-burden-of-our-privilege/](https://www.americanbar.org/groups/young_lawyers/publications/tyl/topics/mentoring/the-burden-of-our-privilege/)

[https://www.americanbar.org/groups/young\\_lawyers/publications/after-the-bar/professional-life/anatomy-of-our-oath/](https://www.americanbar.org/groups/young_lawyers/publications/after-the-bar/professional-life/anatomy-of-our-oath/)

[https://www.americanbar.org/groups/crsj/events\\_cle/recent/speaking-truth-to-power/](https://www.americanbar.org/groups/crsj/events_cle/recent/speaking-truth-to-power/)

b. **The Ninth Amendment** (“*enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people*”) protects an American Citizen’s right and duty to demand that his government officers uphold their oaths to the Constitution(s) and abide by all Constitutionally-imposed mandates of their oaths.

c. No oath taker has the authority to defy and deny the very document to which he swore his oath and to which he owes his *limited*, delegated authority. The oath taker must act within the lawful scope of his duties and authority. Pursuant to the Delegation of Powers Clause of the **Tenth Amendment**, no power is delegated to any oath taker to deny, defy, or oppose the very document to which he swore his oath. For that reason **18 USC Section 241 and 242** exist, backed by the **Fourteenth Amendment**, for remedy of state actors’ deprivation and conspiracy.

Correspondingly, “...the question here is whether the statute at issue is protecting another life. *That is the question Justice Alito almost reached, but to do that he would have needed to flip the presumptions, consistent with the basic theory of the Constitution: to ask not whether the plaintiff can find his right “in” the Constitution—the question that has ever distracted conservatives fearing liberal judicial activism—but whether the state, once a plaintiff has made a prima facie case showing that the statute at issue restricts his liberty, can justify its statute as a proper exercise of its power to protect rights. Not only do many such statutes fail to protect rights, but they violate rights that violate no other rights in turn. The Constitution rests on a presumption of liberty. Those in the founding generation who demanded that a bill of rights be added meant for each of those amendments to be respected, especially those that speak to the very foundations of our Constitution, the Ninth and Tenth Amendments. [bold added]*

[https://www.realclearmarkets.com/articles/2022/12/15/on\\_bill\\_of\\_rights\\_day\\_lets\\_not\\_forget\\_the\\_9th\\_and\\_10th\\_amendments\\_870290.html](https://www.realclearmarkets.com/articles/2022/12/15/on_bill_of_rights_day_lets_not_forget_the_9th_and_10th_amendments_870290.html)

Allow the Ninth and Tenth Amendments to suffer, then the executive, legislative, and judicial branches cease to function properly; the “rule of men” will dictate.

d. Specifically addressing the smart meter agenda in relation to the Constitution:

i. The Ninth Amendment (“*enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people*”) makes clear that promulgated and adjudicated laws are limited by the people retaining their citizen rights unenumerated in the Constitution.

ii. Neither Constitutions allow any legal entity, or any private-public policymakers, to regulate the life needs of human beings having no commercial nexus with the state. The only lawful regulations apply if that non-commercial non-nexus human being fails to pay for services used and goods purchased or commits crime given due process. Colbert has no commercial nexus with the state for electricity, Colbert has caused no harms, and Colbert pays electric bills since 2003 on time each month.

iii. Both Constitutions allow legal entities, or any private-public policymakers to regulate commercial needs arising from a nexus with the state. Colbert’s property and electric usage therein is and always has been non-commercial and non-situs; Colbert contracts electric service at her home to eat, sleep, shit-shower-shave, stay warm, rather than conduct a business nexus. Colbert has no “legal residence”, nor “residential property” which apply commercially.

Thus a vital principle of American Jurisprudence, *it is true that* :

*“no public policy of a state can be allowed to override the positive guarantees of the U.S. Constitution.” Am. Jur. (2<sup>nd</sup>), Const. Law, Sect. 70 page 392.*

iv. Likewise, **Amendments Fourth** (*secure in persons, houses, papers and effects, against unreasonable search and seizures...*) and **Fifth** (*...nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation*) as well cannot be violated under the Rule of Law.

Naturally, any human being has a clear right not to be harmed by any actions violating the Supreme Law of the Land and the Rule of Law which, of course, harms public interests at greater costs. No reasonable, sane human being wants to suffer harms and damages, just as no law that is true can force any risk of harms and damages.

v. Scott can also increase her understanding of the Rule of Law by reading the next level in the hierarchy of law, the **Pennsylvania Constitution: Article 1 §1, §8, §26, and Article 10 §2**, which mirror the U.S. Constitution.

9. Scott, with second hand knowledge to create hearsay, claims that Colbert failed to state health assertions which is true, but, more to the point, which Colbert questions why spend any time claiming what PECO and PA PUC officials repeatedly deny through paid-for “experts”, while denying the harms to their own health because it very well appears that great corporate profit matters more, and given its officials’ continuing criminal treatment of people with disabilities by contorting Section 1501, not to mention its repeated denial of the federal government’s recognition of the “Havana Syndrome” from microwaved pulses emitted by the life activity-monitoring, trespassing smart meter up to 190,000 times daily (but nor will they admit that fact either). <https://www.livescience.com/havana-syndrome-caused-microwave-energy-government-report.html>

10. Scott avers *res judicata* with second hand knowledge to create hearsay, when instead the four elements for applying it cannot be met. In fact, this formal complaint presents in subsequent sections IV. THE NEW ISSUE, V. THE NEW PARTIES, VI. NEW CAUSES OF ACTION, and VI. NEW QUALITY AND CAPACITY OF THE PARTIES since 2015, unrelated to any previous complaint and since similar is not the same. This complaint goes to the very heart of the public interest which has been egregiously violated on many levels, so no wonder Scott avers “a hearing is not necessary to the public interest.” As PECO continues to willfully and knowingly ignore laws it doesn’t like so that its legal counsel produces vexatious litigation upon the public citizenry, the public citizenry continues its efforts for the Rule of Law upon which this nation was founded...just down the street from PECO.

11. Scott, with second hand knowledge to create hearsay, avers that Colbert received a 10-day shut off notice “for failure to provide access to the meter for a meter exchange of the AMR meter to an AMI meter,” but as the evidence shows instead: “you did not give us access to inspect our meter 107303501” – NO mention of replacing it (just as Peco agent (Guinevere) told Colbert on November 21 that PECO “may” replace the meter, she was not sure). PECO has always had access to inspect meter 107303501 upon notice and a scheduled appointment with notice of arrival to avoid trespass.

12. Scott, with second hand knowledge to create hearsay, avers that Colbert “did not want an AMI meter for personal reasons” but really the PECO agent (Guinevere) would not allow “for legal reasons” (aka, subversion of the rule of law beginning at the state level alone: **PA Title 52 Section 57.259 Customer education on advance metering and Section 57.256 EDC responsibilities regarding network deployment**) and forced Colbert’s statements into “personal reasons” that were given no meaning. Likewise, Colbert filed formal complaint to defend liberty and justice upon which this nation was founded just down the street from PECO, and to have on record another usual criminal treatment of yet another non-commercial, non-situs, non-legal entity electric customer so that corporate profit from a 5G IoT system prevails over public interest, knowing the PUC’s myriad opinions that support this agenda.

13. Scott avers that Colbert’s informal complaint was dismissed because of a formal complaint when the informal complaint provided record of PECO’s egregious deception and criminal tactics against non-commercial, non-situs, non-legal entity electric customers – an issue separate from the formal complaint which should not have cancelled the informal complaint according to “Amanda”, the Informal Complaint Intake Coordinator.

14. Scott avers that PECO avers it “is required to install AMI meters for the company’s electric distribution customers subject to the requirements of Act 129” when it has violated and/or been allowed to violate the Rule of Law to suit its purposes against public interests.

15. Scott avers that Colbert “has failed to seek an accommodation” when PECO willfully and knowingly forbids its allowance especially for people with medical disabilities, as egregiously witnessed in the Povacz case she cited. The criminal disdain for humanity is appalling beyond words, very well appearing to subvert the Rule of Law through a technocratic dictatorship seeking all the gains.

16. Scott avers that the “Court further held that the authority to select and install a certain type of electric meter rests solely with EDSs...not the customer.” Such opinion violates not only **PA Code Title 52 Section 57.251 and other statutory sections as provided in Section IV THE NEW ISSUE**, but also federal laws as provided below in **Section V. NEW CAUSES OF ACTION**, and Constitutional Laws provided above in this Section, such is the hierarchical Rule of Law. Likewise, the majority of States in this nation have opt-out plans for non-commercial, non-situs customers (despite the deception of “disabled” chips), as witnessed:

Electric utility company was authorized to assess a \$21.53 monthly "smart meter refusal charge" against customers who refused to allow utility to install advanced metering infrastructure (AMI) meters, having the ability to measure a customer's electricity usage and to communicate these measurements wirelessly to the utility; Commerce Commission approved utility's AMI plan to deploy smart meters in accordance with General Assembly's policy of improving delivery and measurement of electric service to the public, Commission approved tariff establishing a \$21.53 charge after considering the cost associated with reading nonAMI meter, and tariff fell within legislative policy to upgrade service, and refusal fee was not an improper "additional metering." **220 Ill. Comp. Stat. Ann. 5/16-108.6, 5/16-124. Wade v. Illinois Commerce Commission, 2017 IL App (1st) 171230, 418 Ill. Dec. 682, 91 N.E.3d 383 (App. Ct. 1st Dist. 2017).**

Furthermore, Colbert contracted with PECO in 2003 under the lawful assumption that PECO would never be allowed to install devices that subvert the Rule of Law. In 2014, PECO changed the contract hoping for consent through silence and deceptive promotionals of their smart meter, in collusion with the PA PUC. As these joined entities continues their course, they have provided accumulative prima facie evidence of conspiracy involving corporate, administrative and judicial players.

#### **IV. THE NEW ISSUE SINCE AUGUST 2022**

##### **Constitutional red flags, inconsistent interpretation, imbalance of equity, precautionary principle from shift to IoT/5G**

##### **17. In Alden v. Maine 527 US 706 1999:**

*The constitutional privilege of a State to assert its sovereign immunity in its own courts does not confer upon the State a concomitant right to disregard the Constitution or valid federal law. The States and their officers are bound by obligations imposed by the Constitution and by federal statutes that comport with the constitutional design. We are unwilling to assume the States will refuse to honor the Constitution or obey the binding laws of the United States. The good faith of the States thus provides an important assurance that "[t]his Constitution, and the Laws of the United States which shall be made in Pursuance thereof... shall be the supreme Law of the Land." U.S. Const., Art. VI. Sovereign immunity, moreover, does not bar all judicial review of state compliance with the Constitution and valid federal law. Rather, certain limits are implicit in the constitutional principle of state sovereign immunity.*

*The general rule is that an unconstitutional statute, though having the form and name of law, is in reality no law, but is wholly void, and ineffective for any purpose; since unconstitutionality dates from the time of its enactment, and not merely from the date of decision so branding it. "No one is bound to obey an unconstitutional law and no courts are bound to enforce it." 16 Am Jur 2d, Section 177, late 2d Section 256*

18. The new issue stems from the unfortunate August 16, 2022 PA Supreme Court opinion handed over like a silver platter to a federally-funded administrative-corporate partnership, but quite tarnished by logical inconsistencies, omissions, and ignorance of facts. In the assertion of "whole-context", it not only failed to provide consistency for proper adjudication of the law, it also violated the hierarchy of law, beginning with the Supreme Law of the Land – its protection of inalienable right, its limits of government and the government's authority to regulate commerce only that leads to federal laws. Specifically, as to a new issue, its opinion can only address retail customers, not non-commercial customers who have no nexus with the state for electric service to allow for any regulation of electric usage unless payment is not received or crime occurred – as is established in the United States and Pennsylvania Constitutions;

If only applied to commercial nexus customers, the still woeful analysis assumed the authority to rely on Section 2807 (f) pulled out of context and on the apparent contortion of Title 66 Section 1501 for pretension of its application to non-commercial customers and in so doing committed unlawful errors,

included but not limited to the main violation of reading into a statute by intentment or implication 64  
**Am. Jur. 2d Public Utilities § 17 Construction and interpretation of statutes regulating utilities :**

- a. riddling its analysis with conflicting, logically inconsistent meanings and inappropriate excuses that changed the scope and operation of the statute which is a no-no that it claimed the Commonwealth Court committed; its interpretation of Act 129 § 2807 (f)(2) failed to mirror the state code to concur and obey the Pennsylvania Constitution which places limits on the government and its agencies;
- b. omitting the full, plain-English wording of subsections of PA Title 66 in context;
- c. never addressing Section 2807 (f) (3) and (7 "offered")
- d. never addressing the corresponding PA Code Title 52, such as 57.255 "upon written request"
- e. ignoring the context of the corresponding administrative PA Code 52 Chapter 57 Subchapter O which included the responsibility to provide before installation the disadvantages of "smart meters" that PA PUC literature never offered to the non-commercial customer, in light of the fact that 52 Pa. Code §57.251(a) specifically states that it "**does not require the public to participate** in an advanced metering program," and the subsequent provision of 52 Pa. Code §57.255 EDC responsibilities regarding advanced metering: "(a) **Upon written request** from both a customer and the EGS of that customer, the EDC shall make available and install for use a qualified advanced meter or meter-related device [emphasis added];
- f. using two different references for the meaning of "depreciation" to suit its fake "in context" conclusion made even more apparent by its further ignorance of Section 2807 (f) (7) while admitting the "although not optimally worded" of f (2) (iii), to attempt to disguise the trick and justify replacing legacy meters, thus destroying validity of opinion;

Ejusdem Generis: **Adams, 532 U.S. 105 (2001)**, the Supreme Court defined ejusdem generis as a situation in which "general words follow specific words in a statutory enumeration, the general words are construed to embrace only objects similar in nature to those objects enumerated by the preceding specific words."

**N. & W. Ry. v. Train Dispatchers, 499 U.S. 117 (1991)**  
<https://supreme.justia.com/cases/federal/us/499/117/>

"There is a canon of statutory construction which, on first impression, might seem to dictate a different result. Under the principle of ejusdem generis, when a general term follows a specific one, the general term should be understood as a reference to subjects akin to the one with specific enumeration. See **Arcadia v. Ohio Power Co., 498 U. S. 73, 498 U. S. 84-85 (1990)**. The canon does not control, however, when the whole context dictates a different conclusion."

- g. criminally attacking the public interest while insulting its own integrity with its assertion of an sassy excuse for denying opt-out: "requires an EDC to have a crystal ball to conjure up the number of customers desiring a smart meter."
- h. criminally attacking the public interest while insulting its own integrity with its assertion of an lying dismissal of ALL the public citizenry's yearly multitudinous efforts to specifically clarify Act 129 that were deliberately-crushed by a senator whose son manages(d) the deployment of

PECO's "smart meters" (evidences on files of Pennsylvanian citizens); it had the unspcakable audacity in an attempt to exonerate criminal behaviors by declaring:

"Moreover the General Assembly has had decades during which it could have changed the language of Act 129 to include an opt-out provision. Its silence speaks volumes in support of our conclusion that the PUC's interpretations of Act 129 has been and is consistent with the legislative intent to impose a mandate."

i. demonstrating probable cause of an unlawful bait-and-switch agenda to force IoT/5G instead, such that it betrayed the legislative reference to "reliable electric service 'is of the utmost importance to the health, safety and welfare of the citizens' of Pennsylvania..." There being no way to demonstrate how the General Assembly intended Act 129 to accomplish "energy efficiency and conservation" for non-commercial customers and to render a "competitive market" by the force of smart meters when the truth is smart meters are necessary for IoT/5G, the Supreme Court had to subvert "customer choice" language by ignoring "request" and "consent" throughout the whole context of the statute and code.

j. providing evidence of unlawful behaviors and misapplication in its statement: "It is apparent that in order to develop and file its Procurement and Installation Plan, an EDC would need to rely on its existing customer base, not parts of it...[quoting the Office of Small Business Advocate] "...regardless of how many of those customers will actually be able to save money by using those smart meters to adjust their consumption profile."

j. making its opinion even more so null and void by the Supreme Law of the Land, leading to numerous violations of federal (See Section VI below) and case laws (e.g. *Marbury v. Madison*, 5 US (2 Cranch), 137 174, 176, (1803); *Miranda v. Arizona* 384 US 436 p. 491; *Norton v. Shelby County* 118 US 425, p. 442)

***19. Consequently, at the heart of the matter: under what authority does PECO and the PA PUC presume when the PA Supreme Court's egregiously flawed analysis violates the Supreme Law of the Land and the Pennsylvania Constitution itself, not to mention forces an even stricter threshold for proving harm, especially after willfully and knowingly ignoring non-corporate-funded science, as if inflicting cruel and unusual punishment forbidden by the Amendment VIII, which even Justice Dougherty concluded is not the usual standard of law?***

A reasonable person -- like PA Supreme Court Justice Dougherty demonstrated when he dissented from the court's majority rule of extending proof beyond the traditional preponderance of the evidence standard -- would not require a plaintiff to provide "conclusive" proof in the face of traditional law.

20. True authority is further established by our Legislature which designed the corpus juris (body of law) to promote fairness. As a fundamental principle of American Jurisprudence, fairness addresses the equity of all sides, and where there is ambiguity, to favor the greater suffering party, as in the ordering of injunctions, or as in a dispute between taxpayer and municipality where the interpretation and court ruling then favors the taxpayer. In this case:

Because a public utilities statute is in derogation of the common law, it is to be construed strictly in favor of the persons sought to be subjected to its provisions.

Because the utility company drafts a tariff, it is generally accepted that language in a tariff, especially exculpatory language, is to be strictly construed against the utility company and in favor of the customer.

**Adams v. Northern Illinois Gas Co., 211 Ill. 2d 32, 284 Ill. Dec. 302, 809 N.E.2d 1248 (2004).**

Colbert expects the law to be properly adjudicated to produce a fair and just result. If it does not, then we need to change the law, not trust in the individual actors to juxtapose their concepts of fairness and the right of things onto the law. So far all benefits lie with PECO profits all at the expense of the non-commercial, non-situs customer in myriad ways so that an unlawful imbalance of equity for the public interest results which further vitiates true authority. Just as equity is afforded to the utility regarding:

Rates fixed by public authorities that are not sufficient to yield a fair or reasonable return to a public utility are unjust, unreasonable, and confiscatory, and their enforcement deprives the public utility company of its property *in violation of the United States Constitution*. In this respect, *the Fifth Amendment and 14th Amendment safeguard private property against a taking for public use*, and neither the nation nor the state may take such property of a public utility by means of the fixing of rates or charges that do not allow the utility a reasonable rate of return upon the value of that property. **64 Am. Jur. 2d Public Utilities § 134 Necessity for Reasonable Rate or Fair Return**

all the more so for the public interest whose members consist of non-commercial, non-nexus customers with inalienable rights which smart meters violate, even when commercial applicability exists.

21. Furthermore, real law, upon which true authority rests and which rests on “reasonableness”, does not shun reason and willfully/knowingly ignore valid scientific research (going all the way back to the 1950’s US NAVY’s as just one of myriad valid and reliable resources) to inflict and coerce any harms upon the public interest which is a crime; real law also accounts for the reasoning of the Precautionary Principle and for the science that can never be “settled by experts” and that has not been corrupted by monied interests. Not only do those benefits create imbalance, they also significantly reveal an insidiously purposeful harm to humanity.

Likewise, “public utilities do not enjoy a general tort immunity; instead, they owe a duty of care to the general public. Thus, if a utility company recognizes that its conduct under certain circumstances creates an unreasonable risk of harm to another, it has a duty to take reasonable precautions to prevent that risk of harm from occurring. A utility’s violation of a statute prohibiting it from performing any unlawful act may establish that utility’s negligence as a matter of law.” **64 Am. Jur. 2d Public Utilities § 14**

Even “properly filed and approved tariffs have the force and effect of law, so long as they satisfy the basic requirement of reasonableness. **Maryland Cas. Co. v. NSTAR Elec. Co., 30 N.E.3d 105 (Mass. 2015), 64 Am. Jur. 2d Public Utilities § 61 Tariffs**

**A. Smart meter agenda unfolds its underlying deep-state plan:**

As Mary Bauer, 29-years as an RF Engineer and contractor for the federal **Department of Defense** included other sources of research to testify in <https://rumble.com/vlyio1c-informed-consent-implicates-wireless-so-smart-meters-need-an-opt-out.html> that:

i. Another layer of non-ionizing radiation network for 5G is underway (fast military-like “deployment” during 2020) requiring smart meters (also quickly deployed like a military operation). The plan is to complete by 2024 an array of IoT via 5G towers and/or private mesh network of a layered mesh of bubbles, immersing humanity into the IoT cloud for a commonwealth data trust, no more wired devices, so that **life activity can be completely controlled by a militarized and weaponized space controlled by the B(6)uild B(6)ack B(6)etter crew [Colbert adds: such as the Nazis could only have dreamed but the technocratic dictatorship is unfolding since Operation Paperclip and beyond (bang, bang Kennedys)**. Likewise, PECO and PUC during PA Supreme Court hearings switched the

agenda from the originally-sold “energy efficiency and conservation” objective to IoT and 5G necessity as the real agenda.]

ii. **saving money is a provable oxymoron:** the smart meter technology is an “obsolete energy-hog” because of the dirty electricity and excess voltage on the line, so that customer cost is at least 10% more, up to 40% more depending upon property circuitry which then defeats whole purpose of having this “expensive mistake”. As then-president Obama admitted as he initiated deployment: “electric rates will skyrocket.” Furthermore, the customer has to pay for the meter’s own usage of electricity to serve the utility which will only increase as planned, a perfect bait and switch practice and a false advertising campaign made even more apparent during the PA Supreme Court hearings.

Colbert adds on IoT, 5G: <https://www.datacenter-forum.com/datacenter-forum/5g-will-prompt-energy-consumption-to-grow-by-staggering-160-in-10-years>

Pennsylvania Children’s Health Defense Fund emailed reference:

In the section of the PA Smart Meter article the data on exponential GHG emissions growth from wireless energy is mentioned below, which will get worse with IoT/5G. If Nancy signs up to download the report, she can see the chart below that the majority of emissions come from the wireless network structure....By 2030, global wireless energy consumption is expected to grow by a staggering 160% to 51.3 Mtoe. Connected devices will grow exponentially as enterprises begin wide-scale deployment of IoT and 5G-enabled devices.

iii. The smart meter contains a zigbee chip is the most invasive component to communicate with house devices and collect data on usage for time of use plans (Colbert adds: **e.g. 5-7 PM no cooking your supper – you cannot eat – if you need a cheaper rate because you are scrambling to pay your inflated electric bills for kilowatts the utilities uses to maintain its system**).

iv. Utilities do not want to admit that smart meters also contain a 910 mega-hz antenna which sends and receives specific electric usage data from its storage component to the utility. The near future plan is for the **data to bypass the utility and be sent directly to third parties, with no customer contract, thus no customer consent (Colbert adds: in outright defiance of Constitutional, commercial and statutory law for the sake of billions of corporate profits from BIG DATA, a taking of the private all at customer expense)**.

v. The switch mode power supply component produces **dirty electricity that affects the quality and resilience of the entire grid**, and while there exists a \$2 filter part (in 2018) for prevention, utilities refuse and allow dirty electricity to radiate into a property’s power line.

vi. The smart meter contains a **network interface card** which has never been tested **with the switch mode power supply in the meter itself because it would fail FCC compliance**.

vii. **The FCC, DPOR, and PUC, the triad of regulatory agencies, all have failed in providing safe devices.**

viii. A utility does not implement the National Electric Safety Code that requires turning off electricity before installation. Building inspectors do not recognize this practice because FCC does not regulate 60 hz power, and DPOR does not recognize jurisdiction over this issue. **So the customer and his property is left without protection.**

ix. Installation should take an hour with electricity off to protect consumer (Colbert

witnessed installation contractors rushing from house to house on her street in October, 2014, as if it were some military operation of deployment), let alone to protect the installer who, if he should get hurt on property, can sue the property owner for liability (Colbert spoke to many neighbors who had no awareness that a smart meter had been installed on their property under trespass; one neighbor freaked out suddenly seeing a strange man at her property's meter; another neighbor turned the corner of her home to find an installer exposed, peeing on her rosebushes). **So the customer (all appalled) and his property is left without protection again.**

x. Smart meters run hot, things melt or leak inside, surges happen which all increase risk and can set house on fire, even UL certified models. Arcing, faulty remote disconnection switch, overheating from inferior materials like resin, lack of surge protection, interference with AFCI/GFCI (disables them with a false trip event), moisture, heat, flammable lithium batteries (can leak in 1-2 years) but no utility maintenance for inside the meter exists. **For the third time, the customer and his property is left without protection.**

xi. **Hacking is easy.**

a. During the Texas Icestorm in 2021, a hacker named Hash determined who had power during that event: Dallas banks experienced no interruptions during an entire 2021 year, but not non-commercial, non-situs customers during the icestorm.

<https://www.dailydot.com/debug/hacker-smart-meter-texas-snowstorm/>

*In a technique known as war driving, Hash—complete with a laptop in the passenger seat and antennas on the hood of his vehicle—reproduced his findings on a larger scale in late May. Driving along a 30-mile stretch of U.S. Route 75 from Dallas to the city of McKinney, Hash was able to siphon data off of more than 7,000 smart meters operated by Oncor, the largest energy delivery company in the state. Like Austin Energy, Oncor, which has also declined to release outage data from the snowstorm, uses smart meters produced by Landis+Gyr.*

*Hash's own experience during the catastrophic weather event, which may have killed four to five times more people than the 151 deaths acknowledged by the state, is what ultimately prompted him to bring his discovery forward.*

*In a statement to the Daily Dot, a representative with Oncor declined to address Hash's findings and instead defended the company's smart meters as "safe, secure and encrypted."*

*Continuing his work, Hash is now analyzing the smart meter mechanism responsible for remotely disconnecting a home's power. If vulnerable, Hash warns, such a discovery in the wrong hands could potentially lead to devastating outcomes similar to those seen during the snowstorm.*

b. cyber security expert David Chalk *"There is not a power meter or device on the grid that is protected from hacking – if not already infected – with some kind of Trojan horse that can cause the grid to be shut down or completely annihilated."* See

<https://www.youtube.com/watch?v=WscwujFBUl>

xii. **Business over non-commercial, non-situs customers is obvious**, and worse, the agenda becomes apparent as it leads to only the "socially equitable" high scoring entities being provided service while those deemed not worthy will not when grid transformation completes in 2024; the utility can shut off at its facility those customers and/or regions who have been profiled as unworthy (already PECO wastes money mailing monthly reports to non-commercial, non-situs customers of "great" "good" "using more than average" usage compared to "your neighbors").

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xiii. Utilities will not admit that, using the customer's electricity, smart meters pulse up to 190,000 daily; 95% of the pulses are just for the utility's maintenance, and that these pulses create adverse neurostimulation.

xiv. As every affected person knows and the federal government acknowledges as the "Havana Syndrome," utilities repeatedly deny that smart meters cause two different biological problems (for everyone) via switch mode power supply (low frequency), affecting heart and brain; the other through radio frequency radiation to create adverse neurostimulation.

**B. Contrasted marketing in collusion with deceptive business practices**, including but not limited to:

i. In contradistinction to June 26, 2014 Senator Robert Godshall letter (which cites several of the public's efforts to address Act 129 without mentioning his son's PECO smart meter deployment which Pennsylvanian citizens have as evidence on file), there is zero mention of disadvantages as required by PACode Title 52, and asserts that the fire disadvantage has been solved. Instead are outright lies:

"...smart meters are equipped with security features which will ensure that information transmitted from the meter to the customer or the utility cannot be intercepted and read (stated in next paragraph also). Customer must give their consent prior to any (stated in next paragraph also)...smart meter technology will not allow the utility to control how or when your appliances operate, or to turn off your electric service after a certain amount of electricity has been used....smart meters are not intended to invade or infringe upon consumer privacy....Regarding the safety of this technology, all meters installed by any utility must meet safety requirements and standards established by the National Electric Safety Code..."

ii. PUC literatures including but not limited to: PA Children's Health Defense Fund: PUC didn't state "smart" meters would reduce consumer consumption (per benefits listed in attached flyer for 'smart' meter 'mandate' [— See [https://www.puc.pa.gov/General/consumer\\_cd/pdf/EEC\\_Home-FS.pdf](https://www.puc.pa.gov/General/consumer_cd/pdf/EEC_Home-FS.pdf)] and PECO's semi-annual reports to PUC to monitor energy reduction, on the consumer side only (excludes transmission & distribution), shows demand reduction from appliance recycling, rebates offered to buy energy-efficient appliances, and new building construction - no mention of any smart meter benefits. There are unrealistic claims that some consumers will monitor their usage 24/7 to reduce their consumption. Then, despite its own website admission "one size fits all" is not best (especially since it cannot regulate non-commercial life needs), not only is there no statutorily-required education of any disadvantages, but May 2013 literature states the smart meter will work efficiently when properly maintained, while NO maintenance schedule has been communicated to customers which would only cost the utility more expense they were trying to eliminate from employing meter readers.

So far, PA PUC has failed to abide by the principles of American Jurisprudence, in cohorts with legislative members like Godshall, to promote deception and prohibit due process instead:

Because a state may, under the police power, regulate a business affected with a public interest, and because the prime characteristic of a public utility is that of public use or service, a state may regulate and control a public utility to protect the public interests and to promote the health, comfort, safety, and welfare of the people. In the exercise of its police power, the legislature has the discretion to determine not only what the interests of the public require but also what measures are necessary for the protection of those interests. **64 Am. Jur. 2d Public Utilities § 15 Generally**

## V. THE NEW PARTIES

22. Nancy and Jim Colbert filed formal complaint: Nancy and Jim Colbert v. PECO Energy Company, Docket No. 2015-2515607.

23. PECO created another formal complaint with just Nancy Colbert: Docket No. C-2016-2561993 despite repeated communication by Nancy and Jim Colbert to cease and desist, and to make the necessary correction.

24. PECO continued to refuse to make the necessary correction and continued to confuse and hinder the administrative process which PA PUC allowed.

25. PECO was granted dismissal with prejudice for the 2016 docket as should be, because Nancy Colbert never completed and filed another formal complaint alone in 2016.

26. The dirty play worsened; soonafter Ward Smith, PECO counsel, mixed up the numbers and years to create four more docket numbers in his documents, continuing more confusion and hindrance, such that Nancy and Jim Colbert had to drive to appear in person at PA PUC in Harrisburg and PECO in Philadelphia to cancel any and ALL dockets PECO created and PA PUC allowed.

27. The confusion and hindrance created by a prejudiced administrative process, again switching from and between Docket No. 2015-2515607 and Docket No. C-2016-2561993 in a dizzying array of nonsense and vexatious litigation created by PECO and allowed by PA PUC, caused Nancy and Jim Colbert to end the injustice, and could have filed bar grievances and judicial and criminal complaints. They had assumed PA PUC provided a fair and just regulatory function, but discovered it did not.

28. This formal complaint is filed by Nancy Colbert alone as a “new party”, DOCKET NO. C-2022-3036933, but PECO continues its deceptive tactics to attempt to dismiss this complaint, in outright defiance of due administrative process.

29. Scott continues the confusion and hindrance in her “NEW MATTER” by switching between “Nancy and Jim Colbert” to “Nancy Colbert” in reference to Docket No. C-2016-2561993 , in an attempt to prejudice due administrative process in this new matter with new causes of action and new quality and capacity of parties as well. Still PECO cannot keep matters straight.

30. Furthermore, this present formal complaint which arises from the Pennsylvania Supreme Court’s violation of the Rule of Law on August 2022, addresses the PA PUC itself as a new party also to the matter, causes of action and quality/capacity of parties, for allowing the PA Supreme Court opinion which violates the Rule of Law to which PUC officials are also responsible as oath-takers to the Constitutions and since no one is above the law. The PA PUC needs to consider whether to proceed in collusion under such unlawful opinion.

## **VI. NEW CAUSES OF ACTION and CRIMINAL ALLEGATIONS**

**Arising from/Reasons for, but not limited to**

### **A. ANTI-TRUST, FEDERAL POWERS ACT, FEDERAL TRADES COMMISSION, PUBLIC LAW, PURPA**

**Underscoring the inapplicability of commercial to non-commercial when even the commercial laws are violated**

31. As of July 01, 2022 <https://www.fortunebusinessinsights.com/blog/top-smart-electric-meter-companies-10691> “In August 2021, Exelon [owns PECO] unveiled the 2050 Net-Zero Emission Target.

According to this project, the company aims to boost investments in smart grid technology and grid modernization. As part of this plan, Exclon has deployed more than 8.8 million smart power meters and 1.3 million smart gas meters.”

32 . In <https://www.justice.gov/atr/file/800691/download> :

The Sherman Antitrust Act has stood since 1890 as the principal law expressing our national commitment to a free market economy in which competition free from private and governmental restraints leads to the best results for consumers. An unlawful monopoly exists when only one firm controls the market for a product or service, and it has obtained that market power, not because its product or service is superior to others, but by suppressing competition with anticompetitive conduct.

Sherman Act violations involving agreements between competitors usually are punished as criminal felonies. The Department of Justice alone is empowered to bring criminal prosecutions under the Sherman Act. Individual violators can be fined up to \$1 million and sentenced to up to 10 years in Federal prison for each offense, and corporations can be fined up to \$100 million for each offense. Because they are by their nature secret, price-fixing, bid-rigging, and customer-allocation conspiracies are difficult to detect and prove. For that reason, law enforcement officials rely on complaints and information from consumers and competitors. A large percentage of all Federal antitrust investigations results from complaints received from consumers or people in business by phone or mail or in person. Suspicious statements from a seller suggesting that only one firm can sell to a particular customer or type of customer.

Effective antitrust enforcement requires public support. Whether you are a businessperson or a consumer, if you encounter business behavior that appears to violate the antitrust laws, do not hesitate to inform the enforcement authorities of your suspicions. That is often the only way violations can be uncovered, and failing to uncover and punish antitrust violations not only penalizes consumers and taxpayers but also the vast majority of honest businesspeople who scrupulously observe the antitrust laws

33. The **Federal Trade Commission Act** which prohibits unfair methods of competition in interstate commerce, and created the Federal Trade Commission to police violations of the Act, is authorized to take notice that today, monopolistic power companies have tried to invert the customer/provider relationship so that corporations rather than the public drive market forces unlawfully.

34. In 1935, Congress passed the Public Utility Act (PUA) seeking to end the abuses of market power evident at that time. Title II of the PUA created the **Federal Power Act**. Part II of the FPA addressed the regulation of electric utilities engaged in interstate commerce, delineating federal and state jurisdiction, respectively, with respect to wholesale and retail sales. The Federal Energy Regulatory Commission’s (FERC’s) regulatory authority derives from the FPA..... Other concerns involve the use of market power and price manipulation. FERC was tasked by the **Energy Policy Act of 2005 (P.L. 109-58)** with prohibitions. <https://www.everycrsreport.com/reports/R44783.html>

35. Specific prohibitions in that legislation, EPACT 2005 PURPA, Public Law No: 109-58 (08/08/2005) <https://www.acq.osd.mil/eie/Downloads/IE/EPACT%202005%20pdf.pdf> underscore that the consent and protections for commercial situs legal entity customers would be all the more necessary for non-commercial, non-situs non-legal entity customers with inalienable rights, including but not limited to:

Subtitle E: Amendments to PURPA –

(Sec. 1251) Amends the Public Utility Regulatory Policies Act of 1978 (PURPA) to require each electric utility to make available upon request net metering and time-based (smart) metering service, including credits for consumers with large loads who enter into pre-established peak load reduction agreements that reduce a utility’s planned capacity obligations.

(Sec. 1254) Requires each electric utility to make available, upon customer request, interconnection service to any electric consumer it serves (under which an onsite generating facility on the consumer’s premises is connected to local distribution facilities).

(Sec. 1283) Prohibits the use of any manipulative or deceptive device or contrivance in contravention of FERC rules and regulations in connection with the purchase or sale of electric energy or the purchase or sale of transmission services subject to FERC jurisdiction.

(Sec. 1287) Authorizes the Federal Trade Commission (FTC) to issue rules: (1) protecting the privacy of electric consumers from the disclosure of consumer information in connection with the sale or delivery of electric energy to an electric consumer; (2) prohibiting the change of selection of an electric utility without the electric consumer's informed consent (slamming); and (3) prohibiting the sale of goods and services to an electric consumer without express authorization by law or the electric consumer (cramming).

These sections not only mirror Pennsylvania Title 66 and Pennsylvania Code Title 52, but also forbid monopolistic controls that facilitate false business practices, the forcing of unsafe and ineffective products, and egregious imbalance of equity. And:

A public utility cannot, however, arbitrarily dictate to consumers exactly what appliances they must use or direct what selection they must make as between appliances in common practical use. **64 Am. Jur. 2d Public Utilities § 32 Fixtures for service**

“...rules and regulations, to be effective, must be included in a contract for public service by express or implied adoption at its inception and cannot be engrafted upon a contract complete in itself and independent of them except by the assent of both parties.” **64 Am. Jur. 2d Public Utilities § 31 Generally**

36. In <https://www.nrdc.org/experts/mark-szybist/pennsylvanias-competition-act> :

“Third, the Competition Act effectively outsourced planning for Pennsylvania’s electricity generation sector to PJM Interconnection, LLC, the Montgomery-County-based regional transmission organization (RTO) that runs the electricity grid in Pennsylvania, 13 other states, and the District of Columbia, under the regulation of the Federal Energy Regulatory Commission (FERC). Under the Federal Power Act (FPA), PJM’s job is to manage the electricity system and ensure its reliability. PJM does this in part by creating and designing “wholesale” electricity markets that determine what power plants are generating electricity at any given time, as well as the price of that electricity. So far, so good. Increasingly, however, PJM is designing its markets so that they effectively choose the *types* of power supply—usually gas—serving Pennsylvanians, something that FPA never intended.

## **B. IN LIGHT OF STATUTORY REQUIREMENTS UNDER PA CONSUMER PROTECTION LAW**

37. PA Code Title 52 and PA Title 66 naturally underscore the Unfair Trade Practices Consumer Protection Law highlighted.pdf which officials have violated in promoting and forcing smart meters, including but not limited to:

“Unfair methods of competition” and “unfair or deceptive acts or practices” mean any one or more of the following: (i) Passing off goods or services as those of another; (ii) Causing likelihood of confusion or of misunderstanding as to the source, sponsorship, approval or certification of goods or services; (iii) Causing likelihood of confusion or of misunderstanding as to affiliation, connection or association with, or certification by, another (v) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that he does not have; (vi) Representing that goods are original or new if they are deteriorated, altered, reconditioned, reclaimed, used or secondhand;

(vii) Representing that goods or services are of a particular standard, quality or grade, or that goods are of a particular style or model, if they are of another; (viii) Disparaging the goods, services or business of another by false or misleading representation of fact; (ix) Advertising goods or services with intent not to sell them as advertised (xi) Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions; (xii) Promising or offering prior to time of sale to pay, credit or allow to any buyer, any compensation or reward for the procurement of a contract for purchase of goods or services with another or others, or for the referral of the name or names of another or others for the purpose of attempting to procure or procuring such a contract of purchase with such other person or persons when such payment, credit, compensation or reward is contingent upon the occurrence of an event subsequent to the time of the signing of a contract to purchase; (xxi) Engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding.

### C. IN LIGHT OF PROTECTION OF RIGHTS SECURED BY OUR CONSTITUTIONS

38. Essential elements of facts and law for a 42 USC § 1983, encompassing § 1981 **Equal rights under the law**, §1985 **Conspiracy to interfere with civil rights**, and demanding Grand Jury for criminal allegations can be pleaded from provision of the Fourteenth Amendment.

Federal courts may enjoin bad-faith law enforcement tactics if federally guaranteed constitutional rights are involved, and an "irreparable injury" will result. **Spiegel v. City of Houston**, 636 F.2d 997 (5th Cir. 1981); **Morales v. Trans World Airlines, Inc.**, 504 U.S. 374, 112 S. Ct. 2031, 119 L. Ed. 2d 157 (1992).

An injunction is available when a state attempts to enforce a statute or regulation that on its face irreconcilably conflicts with federal law. **Rice v. Norman Williams Co.**, 458 U.S. 654, 102 S. Ct. 3294, 73 L. Ed. 2d 1042 (1982); **Bank One, Utah v. Guttau**, 190 F.3d 844 (8<sup>th</sup> Cir. 1999).

The 11th Amendment permits suits for prospective injunctive relief against state officials acting with PECO in violation of federal law whose members swore oaths to the Constitutions. See **Frew ex rel. Frew v. Hawkins**, 540 U.S. 431, 124 S. Ct. 899, 157 L. Ed. 2d 855 (2004).

An injunction can also be granted if the administrative process does not comply with statutory requirements. **Alabama-Tombigbee Rivers Coalition v. Department of Interior**, 26 F.3d 1103 (11th Cir. 1994) (rejected on other grounds by, **Cargill, Inc. v. U.S.**, 173 F.3d 323 (5th Cir. 1999)).

Courts will control public service and other corporations in the use of their property only so far as is necessary to secure a proper discharge of the corporations' duty to individuals or to the public.... an injunction may, under proper circumstances, be available to keep a public utility within the scope of its authority and to compel its obedience to the laws. **64 Am. Jur. 2d Public Utilities § 20 Control by Courts; Injunctions**

39. Equity will exercise jurisdiction to restrain acts or threatened acts of public corporations or of public officers, boards, or commissions that are ultra vires and beyond the scope of their authority or that constitute a violation of their official duty, if the execution of such acts would cause irreparable injury to or destroy the rights and privileges of the complainant, which are cognizable in equity, and for protection of which he would have no adequate remedy at law. **Wilson v. Pulaski Ass'n of Classroom Teachers**, 330 Ark. 298, 954 S.W.2d 221, 122 Ed. Law Rep. 334 (1997).

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## **VI. NEW QUALITIES AND CAPACITIES:**

40. This formal complaint, for the first time, brings new qualities:

A. Non-commercial, non-situs non-legal entity Colbert in regards to her contract for electric service, retains the inalienable right to demand consistent law subjected to its hierarchy, a balance of equities, and federal protections for the public interest which incorporate the prevention of deceptive and inappropriately monopolistic business practices, and of unsafe and ineffective products -- such that life activity-monitoring, trespassing, energy-guzzling installation of a device that creates grid-burdening dirty electricity and emits radiation with FCC non-compliant construction must require the written request and consent by non-commercial, non-situs, non-legal entity customers to choose such regulation at their premises as if a commercial, situs, legal entity customer, as mirrored in Pennsylvania statutory law --- a right that has been denied to millions of unaware customers who cannot believe officials would commit such crime.

B. Allegations of criminal behaviors as defined by Pennsylvania and the United States' penal codes can be named, since Colbert capacity increased to understand the Rule of Law – its hierarchy and its constitutional basis which forbids placing non-commercial into commercial at every turn. Officials responsible for the law in its three functions allowed lack of consistency, ignorance of federal industry laws, corporate profits over public interest, imbalance of equity, and conspiracy which included the repetitive impediment of the right to due administrative process.

For official actions taken to date, Colbert addresses these players' accountability through proper channels most notably for action with culpable intent, whether by performing an act or failing to act, when there was a duty to act otherwise and, in the process, created a harm for which there is a specific remedy. Without proper remedy, the demand for the Rule of Law will move forward and prevail according to the next step in the hierarchy of justice.

1. CORPORATE LAWYERS – Rules of Professional Responsibility in relation but not limited to “this verification subject to the penalties of 18 Pa. C.S. §4904 pertaining to false statements to...” The evidence of barratry throughout this administrative process is quite abundant.

2. CORPORATE EXECUTIVES – state and federal criminal complaints, including FBI and DOJ/FTC complaints; criminal allegations include but are not limited to trespass, stalking, wiretapping, unlawful surveillance, and endangerment of health and safety as the real agenda forces its way and unfolds its deception for all to see.

3. ALL STATE AGENCIES AND ITS OFFICERS, including Administrative Law Judges and PUC Chair – Rules of Professional Conduct, state and federal criminal complaints including FBI and DOJ/FTC complaints, judicial complaints, adding the criminal allegation of treason for broken oaths.

“When a state officer acts under a state law in a manner violative of the Federal Constitution, he comes into conflict with the superior authority of that Constitution, and he is in that case stripped of his official or representative character and is subjected in his person to the consequences of his individual conduct. The State has no power to impart to him any immunity from responsibility to the supreme authority of the United States”. U.S. Supreme Court, in *Scheuer v. Rhodes*, 416 U.S. 232, 94 S. Ct.1683, 1687 (1974)

4. PENNSYLVANIA SUPREME COURT JUSTICES – Rules of Professional Responsibility, state federal criminal and judicial complaints: did not have jurisdiction over the Supreme Law of the Land, nor PA Constitution's protection of inalienable rights, allegation of treason for broken oaths.

*“Although judges are absolutely immune from all “judicial acts” within their jurisdiction, absolute immunity may be denied when a judge acts in a non-judicial capacity.” See Forrester v. White, 484 U.S. 219 (1988).*

*“Second, a judge is not immune for actions, though judicial in nature, taken in the complete absence of all jurisdiction.” Id., at 356-357; Bradley v. Fisher, 13 Wall., at 351.*

*“Moreover, even if the act is judicial, judicial immunity does not attach if the judge is acting in the clear absence of all jurisdiction. Stump v. Sparkman, 435 U.S., at 357 (quoting Bradley v. Fisher, 13 Wall. 335, 351 (1872)).*

*Cooper v. Aaron, 358 U.S. 1, 78 S. Ct. 1401 (1958) Note: Any judge who does not comply with his oath to the Constitution of the United States wars against that Constitution and engages in acts in violation of the supreme law of the land. The judge is engaged in acts of treason.*

*The U.S. Supreme Court has stated that “no state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it”. See also In Re Sawyer, 124 U.S. 200 (188); U.S. v. Will, 449 U.S. 200, 216, 101 S. Ct. 471, 66 L. Ed. 2d 392, 406 (1980); Cohens v. Virginia, 19 U.S. (6 Wheat) 264, 404, 5 L. Ed 257 (1821).*

<https://www.courthousenews.com/11th-circuit-considers-renewing-smart-meter-lawsuit-against-honeywell/>

Monday, December 19, 2022

DATE OF DEPOSIT

DEC 20 2022

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Nancy Colbert ,  
Complainant

v.

DOCKET NO. C-2022-3036933

PECO ENERGY COMPANY ,

**and**


PENNSYLVANIA PUBLIC UTILITY COMMISSION

Respondents

**VERIFICATION**

I, Nancy Colbert, hereby declare that I make this verification; 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: December 20, 2022

1st Nancy Colbert 

DEC 20 2022

EXHIBIT A

December 12, 2022

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

From: Nancy and James Colbert, owners  
c/o 142 Pennsylvania Avenue  
Phoenixville, Pennsylvania [19460]

To: PECO, Mike Innocenzo, CEO  
2301 MARKET STREET  
PHILADELPHIA, PA 19103

**NOTICE OF NO CONSENT TO TRESPASS AND SURVEILLANCE, NOTICE OF LIABILITY**

*Notice to principal is notice to agent and notice to agent is notice to principal.*

Dear CEO Innocenzo, PECO counsel, agents, officers, employees, contractors and interested parties:

On December 12, 2022, a PECO contractor arrived at our non-commercial, non-situs property to install a "smart meter" because, as he told us, he had been told by PECO that we "requested" it. Be it reminded:

If you intend to install a "Smart Meter" or any life activity-monitoring, trespassing device at our above address, you and all other parties are hereby denied consent for installation and use of all such devices on the above non-commercial, non-situs property. Installation and use of any activity-monitoring device is hereby refused and prohibited. **Informed consent is lawfully 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 non-commercial, non-situs property and all its owners.** As more and more of the public realize, especially from the subsequent 5G agenda now unveiled with force and coercion: "smart meters" violate the Supreme Law of the Land and cause endangerment to humanity by the following factors, including but not limited to:

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 radiation from smart meters has been classified by the World Health Organization as a Class 2B carcinogen. It can even exceed the inadequate FCC standards, which do not take into account health effects from non-thermal radiation emitted from wireless devices such as smart meters, and are based on acute heat exposure only.
11. They lack surge protection, contain a problematic switch mode power supply combined with the network interface card which render them noncompliant with FCC regulations, with problematic lithium batteries but without any scheduled

*maintenance which would raise costs, especially in light of their short shelf life, and which expose life-threatening risk to customers that the utility ignores and blames as the customer's fault.*  
*12. They will contribute to a 160% in electric usage by 2030 to support the 5G network which is the real intention for control, while raising non-commercial, non-situs customer billing up to 40%.*

We forbid, refuse and deny consent of any installation and use of any monitoring, eavesdropping, and surveillance devices on our non-commercial, non-situs property. That refusal applies to and includes "Smart Meters" and activity-monitoring, trespassing devices of any and all kinds. **A third attempt by PECO and/or the PA PUC threatening shut-off of electricity to inflict emotional distress and coerce us under duress to an installation of any such life activity-monitoring, trespass device at our non-commercial, non-situs property (and without proper notice of arrival of a certified technician at the premises to allow circuit breaker in off position), will constitute further criminal activity, all prohibited and punishable by law through criminal and civil complaints.**

All persons, government agencies and private organizations responsible for installing or operating life activity-monitoring trespass devices directed at or recording our activities, which we have not specifically authorized in writing, will be fully liable for any violations, intrusions, harm or negative consequences caused or made possible by those devices whether those negative consequences are justified by "law" or not, especially in light of the Pennsylvania Supreme Court opinion wracked and invalidated by logical inconsistencies, omissions, and ignorance of all the public efforts denied and prohibited by former senator Godshall whose son manage(s)(ed) the "deployment" of smart meters for PECO – all in violation of the Supreme Law of the Land.

This document is lawful and 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.

/s/ Nancy Colbert

Nancy Colbert

/s/ James Colbert

James Colbert

*All rights reserved.*

Cc: Gladys Brown Dutrieuille, Chair  
PA PUC  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

DATE OF DEPOSIT

DEC 20 2022

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Nancy Colbert,  
Complainant

v.

DOCKET NO. C-2022-3036933

PECO ENERGY COMPANY

and

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Respondents

**CERTIFICATE OF SERVICE**

I, Nancy Colbert, hereby certify that I have this day served a copy of my NOTICE TO PLEAD in response to the "PECO Energy Company's Answer with New Matter to Complainant's Complaint" in the above matter upon all interested parties by sending a copy to:

Via email with esignature

Khadijah Scott  
Counsel for PECO Energy Company  
2301 Market Street, S23-1  
Philadelphia, PA 19103  
(215) 841-6841  
Fax: 215.568.3389  
[Khadijah.scott@exeloncorp.com](mailto:Khadijah.scott@exeloncorp.com)

Via overnight mail with wet signature

PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Rosemary Chiavetta, Secretary  
400 North Street  
Harrisburg, PA 17120

DATE OF DEPOSIT

DEC 20 2022

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

December 20, 2022

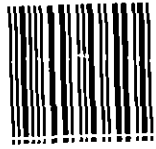
/s/ Nancy Colbert Nancy Colbert

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Nancy Colbert  
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Phoenixville, Pennsylvania  
[19460]

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Rosemary Chiavetta  
PAPUC - Commonwealth Key store  
400 North Street, 2nd Fl,  
Harrisburg, PA

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PA PUBLIC UTILITY COMMISSION

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Date Accepted (MM/DD/YY) <u>12/20/22</u>	Scheduled Delivery Time <u>8:00 PM</u>	Insurance Fee <u>\$ -</u>
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Special Handling/Fragile <u>\$</u>	Sunday/Holiday Premium Fee <u>\$</u>	Live Animal Transportation Fee <u>\$ -</u>
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PEEL FROM THIS CORNER

LABEL 11-B, MAY 2021

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