

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

Public Meeting held December 21, 2023

Commissioners Present:

Stephen M. DeFrank, Chairman, Statement
Kimberly Barrow, Vice Chair
Ralph V. Yanora
Kathryn L. Zerfuss
John F. Coleman, Jr.

Ethan Habrial

C-2018-3005907

v.

Metropolitan Edison Company

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are the Exceptions of Ethan Habrial (Complainant or Mr. Habrial) filed on July 13, 2020, to the Initial Decision (I.D. or Initial Decision) of Deputy Chief Administrative Law Judge (DCALJ) Joel H. Cheskis, served on the Parties on June 30, 2020, in the above-captioned proceeding. On July 30, 2020, Metropolitan Edison Company (Met-Ed or the Company) filed Replies to Exceptions. For the reasons discussed below, we shall deny the Complainant's Exceptions, adopt the Initial Decision of DCALJ Cheskis, and dismiss the Complaint, consistent with this Opinion and Order.

I. Background

This case involves a Formal Complaint (Complaint) concerning the safety of the advanced metering infrastructure (AMI), or smart meter, that Met-Ed 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 requested that Met-Ed not install a smart meter at his residence due to his concerns regarding safety, health, and privacy concerns. Attachment No. 1 to Complaint at 1-2.

Met-Ed is an electric distribution company (EDC) subject to the jurisdiction of the Commission. Met-Ed furnishes, owns, and maintains the meters in its distribution system. *See Met-Ed's Tariff Electric Pa. P.U.C. No. 52 at 40.*

The Complainant is a Met-Ed customer who has been notified of Met-Ed's intent to install a smart meter at his residence. The Complainant currently has a powerline carrier (PLC) meter installed at his residence that provides the function of automatic meter reading (AMR).

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 Met-Ed, 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 Implementation Order*). Met-Ed sought and obtained the Commission’s approval to complete the installation of AMI meters with substantially all customers to receive an AMI meter by mid-2019. *See, Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company for Approval of Its Smart Meter Deployment Plan*, Docket Nos.

M-2013-2341990, M-2013-2341991, M-2013-2341993, M-2013-2341994 (Order entered June 25, 2014) (*2014 Smart Meter Order*).

II. History of the Proceeding

On November 7, 2018, Mr. Habrial filed the instant Complaint stating that Met-Ed is threatening to, or already has, shut off electric service at his residence. Complaint at 1-2. Mr. Habrial noted that Met-Ed threatened to turn off his electric service. The Complainant explained that he does not want a smart meter installed at his home because: (1) his severe tinnitus will be affected by radio and microwave radiation; and (2) his “electric bill will go up with all the transmissions that are taking place every 15 seconds or less.” Attachment No. 1 to Complaint at 1; I.D. at 1-2. The Complainant also questioned the safety and security of smart meters, citing to documents attached to the Complaint and several YouTube videos. Attachment No. 1 to Complaint at 1-2. As relief, Mr. Habrial requested to keep his current meter. Complaint at 3.

On November 29, 2018, the Company filed an Answer and New Matter (Answer and New Matter), essentially denying the material allegations of the Complaint. Met-Ed admitted that it provides electric service to the Complainant but denied that it has “active intent” to terminate service at the Complainant’s home, noting that its termination efforts ceased upon receipt of the Complaint. Answer at 1. Met-Ed explained that it lawfully issued a pre-disconnection notice and service termination notice to the Complainant and that it is legally required to install a smart meter at the Complainant’s residence. Met-Ed added that it can lawfully terminate Mr. Habrial’s service for his refusal to permit the installation of a smart meter at his residence. The Company noted that its actions during this proceeding have been reasonable and performed in accordance with all applicable laws and Commission Regulations and Orders. Answer at 1-2; I.D. at 2. Attached to the Answer was a Notice to Plead, requiring the Complainant to

file a response within twenty (20) days of service. *See*, Notice to Plead attached to Answer.

Also, on November 29, 2018, Met-Ed filed a Preliminary Objection in response to the Complaint, repeating its legal argument that, in accordance with Act 129, the Company is required to install smart meters throughout its service territory. Met-Ed argued that the Complaint is legally insufficient because the Complainant failed to allege that the Company committed or omitted an act in violation of its tariff or a Commission Statute, Regulation or Order. Preliminary Objection at 1, 7. Attached to the Preliminary Objection was a Notice to Plead, requiring the Complainant to file a response within ten (10) days of service. *See*, Notice to Plead attached to Preliminary Objection.

On December 10, 2018, the Complainant filed a request for an extension of time to file a response to the Company's Answer and Preliminary Objection (Petition for Extension of Time to Reply to Answer and Preliminary Objection).

On December 13, 2018, the Complainant filed a response to Met-Ed's Preliminary Objection (Answer to Preliminary Objection).¹

On December 14, 2018, a Motion Judge Assignment Notice was issued assigning the proceeding to ALJ Jeffrey Watson.

¹ Pursuant to Sections 5.61(a)(2) and 1.56(b) of the Code, answers to preliminary objections were due on December 12, 2018 (*i.e.*, within ten days after the date of service; whenever a party is required to act within a prescribed period after service of a document upon the party and the document is served by first-class mail, the "mailbox rule" applies by adding three days to the prescribed period). *See*, 52 Pa. Code §§ 5.63(a); 1.56(b). Nevertheless, pursuant to Section 1.2(a) and (d) of our Regulations, in order to secure a just, speedy, and inexpensive determination, particularly because the Complainant is appearing *pro se*, we shall accept the Complainant's Answer to Preliminary Objection as timely filed. *See*, 52 Pa. Code § 1.2(a) and (d).

On December 21, 2018, the Complainant filed a reply to Met-Ed's Answer and New Matter (Reply to Answer and New Matter).²

On January 2, 2019, an Interim Order was entered granting the Complainant's Petition for Extension of Time to Reply to Answer and Preliminary Objection until February 1, 2019.

On or about January 28, 2019, the Commission received an additional response from the Complainant to Met-Ed's Answer and New Matter (Additional Response to Answer and New Matter).³

On June 10, 2019, ALJ Watson issued an Interim Order Denying Met-Ed's Preliminary Objections and allowing Mr. Habrial to proceed with his Complaint (Interim Order Denying Preliminary Objections).

² Pursuant to Sections 5.63(a) and 1.56(b) of the Code, replies to answers were due on December 21, 2018 (i.e., within twenty days after the date of service; whenever a party is required to act within a prescribed period after service of a document upon the party and the document is served by first-class mail, the "mailbox rule" applies by adding three days to the prescribed period). *See*, 52 Pa. Code §§ 5.63(a); 1.56(b). Accordingly, we shall accept the Complainant's Reply to Answer and New Matter as timely filed.

³ We note that the Additional Response to Answer and New Matter is stamped multiple times: twice indicating "RECEIVED OFFICE OF O.A.L.J." on January 28, 2019; and once indicating "RECEIVED Pittsburgh Office of A.L.J." on January 31, 2019.

On August 13, 2019, Met-Ed filed a Motion to Compel Responses to Interrogatories and Document Requests (Motion to Compel).⁴ On October 15, 2019, ALJ Watson issued an Interim Order Granting Motion of Met-Ed to Compel Responses to Interrogatories and Document Requests (Order Granting Motion to Compel).

On December 23, 2019, ALJ Watson issued an Interim Order Requiring Status Report from the Parties. On December 31, 2019, the Complainant filed a Status Report in which he stated the items provided in response to the Order Granting Motion to Compel and requested, *inter alia*, that the in-person hearing be held in Harrisburg, Pennsylvania. On January 16, 2020, Met-Ed provided a Status Report stating, *inter alia*, that discovery between the Parties is complete and the Company agrees with the Complainant's request for an in-person hearing to be held in Harrisburg, Pennsylvania.

By Corrected Hearing Notice dated January 21, 2020 (Hearing Notice) and duly served on the Parties, an Initial Telephonic Hearing was scheduled for March 2, 2020, at 10:00 a.m. The Hearing Notice included the date, location, and time of the hearing. The Hearing Notice further stated: "If you intend to file exhibits, 2 copies of all hearing exhibits to be presented into evidence must be submitted to the reporter. An additional copy must be furnished to the Presiding Officer. A copy must also be provided to each party of record." (emphasis in original).

On March 2, 2020, an evidentiary hearing was held as scheduled. The Complainant appeared *pro se*, testified on his behalf, and presented "multiple exhibits that were admitted into the record." I.D. at 3; Tr. at 36; Complainant Exhibit No. 1. The

⁴ On June 17, 2019, Met-Ed filed Interrogatories and Requests for Production of Documents (Set 1) to Ethan Habrial (Interrogatories and Requests). According to Met-Ed's Motion to Compel, as of the date of Motion to Compel, no response to the Interrogatories and Requests or a telephone call has been received from the Complainant. Motion to Compel at 2. A copy of Met-Ed's Interrogatories and Requests is attached to the Motion to Compel. *See*, Exhibit A to Motion to Compel.

Company was represented by counsel and presented the testimony of one witness, John Ahr. I.D. at 2, 7. Met-Ed also offered sixteen exhibits, which were admitted into the record as follows: Met-Ed's Exhibits JCA-6 – JCA-7.

The hearing produced a transcript consisting of sixty pages. The record was closed on May 1, 2020. I.D. at 3.

In the Initial Decision issued on June 30, 2020, the ALJ dismissed the Complaint for failure to demonstrate that the Company violated the Code, a Commission Regulation, a Commission Order or a Commission-approved Company tariff. I.D. at 1, 10, 12.

As previously noted, the Complainant filed Exceptions on July 13, 2020, and Met-Ed filed Replies to Exceptions on July 30, 2020.

On November 4, 2020, the Commission entered an Order and Notice, at Docket No. M-2009-2092655, pursuant to 66 Pa. C.S. § 501, instituting a stay of certain formal complaint proceedings then pending before the Commission involving challenges to EDC deployment of smart meter technology as being in violation of Section 1501 of the Code (*November 2020 Stay Order*). The *November 2020 Stay Order* also directed that the stay would apply to any new formal complaints filed with the Commission claiming that EDC deployment of smart meter technology was a violation of Section 1501, and that the stay would remain in place until it was lifted by further Commission action.

By Order entered November 14, 2023, at Docket No. M-2009-2092655, the Commission lifted the stay of pending smart meter complaints. Notice was provided on November 14, 2023, informing the Complainant of the lifting of the stay and their procedural rights and obligations under the Commission's regulations.

III. Discussion

A. Legal Standards

1. General Burden of Proof for Complaint Proceeding

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. 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*, 413 A.2d 1037 (Pa. 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: (1) the burden of production; and (2) 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, Burleson v. Pa. PUC*, 443 A.2d 1373 (Pa. Cmwlth. 1982), *aff'd*, 501 Pa. 433, 461 A.2d 1234 (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, Burleson*, 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-finder⁵ 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 v. Pa. Com'n on Crime and Delinquency*, 885 A. 2d 678, 682 (Pa. Cmwlth. 2005) (Suber).

2. Burden of Proof Applied to Section 1501⁶ Complaint Challenging Smart Meter Installation

In *Povacz, et al. v. Pa. PUC*, 280 A.3d 975 (Pa. 2022) (*Povacz II*), which dealt with consolidated appeals involving the deployment of smart meters by PECO Energy Company, the Supreme Court of Pennsylvania (Supreme Court) reversed the Commonwealth Court's October 8, 2020 decision in *Povacz v. Pa. PUC* (241 A.3d 481) (*Povacz I*), and thereby affirmed the Commission's March 28, 2019 and May 9, 2019 Orders in *Maria Povacz v. PECO Energy Company*, C-2015-2475023 (Povacz 2019 Order); *Laura Sunstein Murphy v. PECO Energy Company*, C-2015-2475726 (Laura Sunstein Murphy); and *Cynthia Randall and Paul Albrecht v. PECO Energy Company*, C-2016-2537666 (Cynthia Randall). By *Povacz II*, the Supreme Court affirmatively established that there is no "opt-out" provision for installation of a smart meter pursuant

⁵ 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)).

⁶ The applicable Commission Regulation governing an EDC's provision of safe service is codified at 52 Pa. Code § 57.28(a)(1). Pursuant to Section 57.28(a)(1), 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 of the EDC's provision of electric utility service and its associated equipment and facilities. *See*, 52 Pa. Code § 57.28(a)(1). *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*).

to Act 129 and that to raise a viable challenge to smart meter installation, a customer must satisfy the preponderance of evidence standard for a violation of Section 1501 of the Code. *Povacz II* at 280 A. 3d at 983-984.

Pursuant to Section 1501 of the Code, all public utilities have a duty to maintain “adequate, efficient, safe, and reasonable service⁷ 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, 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.

66 Pa. C.S. § 1501

As previously noted, in *Povacz II*, the Pennsylvania Supreme Court not only affirmed the Commission’s determination that there is no “opt-out” provision for smart meter installation in either Act 129, the Code, Commission Regulations, or Orders,

⁷ 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).

but also confirmed that challenges to smart meter installation, other than an “opt-out,” may arise under Section 1501 of the Code.⁸ Therein, the Supreme Court stated:

[W]e conclude that Act 129 does mandate that EDCs furnish smart meters to all electric customers within an electric distribution service area and does not provide electric customers the ability to opt out of having a smart meter installed. An electric customer with concerns about smart meters may seek an accommodation from the PUC or EDC, but to obtain one the customer must establish by a preponderance of the evidence that installation of a smart meter violates Section 1501 [of the Code].

Povacz II, at 983-984; *See, Povacz 2013 Order*; *see also, Frompovich v. PECO Energy Co.*, Docket No. C-2015-2474602 (Opinion and Order entered May 3, 2018) (*Frompovich*).

In applying Section 1501 to a complaint challenging the installation of smart meter technology, the Supreme Court affirmed the Commission’s Opinion and Order in the *Povacz 2019 Order*, stating:

A customer seeking affirmative relief from the [Commission] must prove by a preponderance of the evidence that the named utility was responsible or accountable for the problem described in the complaint and that the offense was a violation of the Code, a [Commission] regulation or [o]rder, or a violation of a [Commission]-approved tariff. [*See*] 66 Pa.C.S. §§ 332(a), 701; *Samuel J. Lansberry, Inc. v. Pa. Pub.*

⁸ The Commission has also determined that if a customer’s formal complaint raises a claim under Section 1501, related to the safety of a utility’s installation and use of a smart meter at the customer’s residence, such a claim is legally sufficient to proceed to an evidentiary hearing before an ALJ. To satisfy the burden of proof a complainant may be required to present medical documentation and/or expert testimony demonstrating that the installation of a smart meter constitutes unsafe or unreasonable service. *Povacz II* at 1000, citing *Susan Kreider v. PECO Energy Company*, P-2015-2495064, 2016 WL 406549, at *14 (Pa. P.U.C. January 28, 2016) (*Kreider*).

Util. Comm'n, . . . 134 Pa. Commw. 218, 578 A.2d 600 ([Pa. Cmwlth.] 1990)[.] . . .

Although Act 129 does not provide an electric customer [] with the right to opt-out of the installation of a smart meter at their residence, they [sic] may file a complaint raising a claim that installation of a smart meter violates Section 1501 of the Code.

. . . .

Pursuant to [S]ection [1501 of the Code], an EDC (as a public utility) must provide service that is, inter alia, both safe and reasonable. *To carry their burden of proof on a Section 1501 [of the Code] claim, a smart meter challenger may be required to present medical documentation and/or expert testimony demonstrating that the furnishing of a smart meter constitutes unsafe or unreasonable service in violation of Section 1501 [of the Code] under the circumstances presented. Susan Kreider v. PECO Energy Co., P-2015-2495064, 2016 WL 406549, at *14 (Pa. P.U.C. Jan. 28, 2016).*

Povacz II, 280 A. 3d at 999-1000 (emphasis added; footnote omitted).⁹

In applying the standard of proof to scientific or expert medical evidence in support of alleged adverse health effects, the Commission ruled in the *Povacz 2019 Order*, and was subsequently affirmed by the Supreme Court in *Povacz II*, that 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

⁹ With respect to the evidence necessary to support a challenge to smart meter installation under Section 1501, the Commonwealth Court has held that at the hearing, a complainant may prove his/her claim through the complainant's own personal 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*).

by a preponderance of the evidence a “conclusive causal connection” between the harm to human health and the radio frequency fields (RFs)¹⁰ from the AMI meter ¹¹.

3. Other Relevant Legal Standards

In addition to establishing that a complaint challenging the installation of a smart meter may arise under Section 1501, the Supreme Court’s decision in *Povacz II* also established that there is no constitutional claim for exemption from smart meter installation. The Supreme Court affirmed the Commonwealth Court’s denial of a claim under the Fourteenth Amendment noting:

The Commonwealth Court rejected Customers’ constitutional arguments, persuaded by the reasoning of *Naperville Smart Meter Awareness v. City of Naperville*, 69 F. Supp. 3d 830 (N.D. Ill. 2014) (“*Naperville I*”). Therein, a federal district court rejected the customers’ “Fourteenth Amendment bodily integrity argument because their complaint failed to identify an arbitrary deprivation of a recognized liberty or property interest” and to aver that the city’s decision to employ smart meters was arbitrary. *Id.* at 839 (internal quotations marks omitted).

Povacz II at 985, fn. 8.

Further, the Supreme Court noted that a customer must be connected to the distribution system to receive electric service confirming that EDCs operate in a universal

¹⁰ RF is an abbreviation for radio frequency and is also used here to denote RF fields or RF signals.

¹¹ See, *Povacz 2019 Order* slip op., 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 (Final Order entered November 12, 1993) (*Woodbourne-Heaton Final Order*), slip op. at 11).

basis. *Povacz II* at 993. As such, the Court concluded that by obtaining service from their incumbent EDC, customers contractually accept the EDC's Commission-approved Tariff, including the installation of smart meter technology. *Id.* at 994. Therefore, the Supreme Court found that "the authority to select and install a certain type of electric meter rests solely with the EDCs, [...] not the customer." *Id.*

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).

B. ALJ's Initial Decision

In his Initial Decision, DCALJ Cheskis made fourteen Findings of Fact (FOF) and reached eighteen Conclusions of Law (COL). I.D. at 4-5, 10-12. The FOF and COL 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 DCALJ addressed several of the Complainant's claims regarding smart meters, including: (1) the impact of smart meters on Mr. Habrial's tinnitus; (2) phone, microwave, and Wi-Fi interference; (3) Mr. Habrial's suffering as a result of his neighbor's smart meter, installed approximately 50-75 feet from his home; (4) smart meters reduced the amount of birds in his backyard; and (5) the ability of smart meters to be hacked and control home appliances. I.D. at 7 (citing Tr. 11-12, 14-22). The DCALJ also noted that Mr. Habrial presented multiple exhibits in support of his testimony, including, *inter alia*, various reports, articles, websites, and a House Bill. I.D. at 7.

The DCALJ also acknowledged that the Company's witness, Mr. Ahr, testified that: (1) Met-Ed is unable to see the usage of individual appliances through the smart meter; (2) Met-Ed's Commission-approved customer privacy policy states that customer information will not be shared with third parties; (3) various methods are used by Met-Ed to secure customer information; (4) there are no concerns regarding the safety of smart meter use and, although a customer may choose to activate such a feature, smart meters are unable to control a customer's appliances. I.D. at 7-8 (citing Tr. 41-46). The DCALJ also noted that Mr. Ahr "sponsored Met-Ed's customer privacy policy and the Commission Secretarial Letter approving it as exhibits." I.D. at 8.

The DCALJ found that because Mr. Habrial failed to present substantial record evidence demonstrating that Met-Ed violated the Code, a Commission Order or Regulation, or the Company's Commission-approved tariff, the Complainant failed to satisfy his burden of proof and, therefore, his Complaint must be dismissed. According to the DCALJ, the evidence presented by the Complainant in support of his complaint, which is comprised of personal opinions and perceptions, is outweighed by the evidence presented in response by Met-Ed. I.D. at 8 (citing *Se-Ling Hosiery; Milkie, Susan Kreider v. PECO Energy Company*, Docket No. P-2015-2495064 (Order entered September 3, 2015) (*2015 Kreider*) at 18). Further, the ALJ noted that bald assertions, personal opinions, or perceptions do not constitute substantial evidence sufficient to permit complainants to sustain their burden of proof.

Moreover, the DCALJ explained that the Complainant did not present any evidence to support his claims that smart meters: (1) will worsen his tinnitus; (2) prevented birds from returning to his backyard; and (3) will be able to control his appliances. I.D. at 8 (citing *Rivera v. Philadelphia Gas Works*, Docket No. C-2010-2164222 (Order entered January 12, 2012) (*Rivera*); *see also, Kirby v. PPL Electric Utilities Corporation*, Docket No. C-20066297 (Final Order entered

November 16, 2006) (citing *Pennsylvania Bureau of Corrections v. City of Pittsburgh*, 516 Pa. 75, 532 A.2d 12 (1987) (*City of Pittsburgh*))).

Similarly, the DCALJ found that the Complainant's exhibits, including, *inter alia*, various reports, articles, websites, and a House Bill, are not corroborated by other evidence and do not support granting his Complaint. The DCALJ further found that Mr. Habrial's documents are hearsay and can be afforded little weight in determining whether Met-Ed has violated the Code. The DCALJ noted that hearsay is an out-of-court statement offered for the truth of the matter asserted and, although the rules of evidence in an administrative setting are relaxed, hearsay evidence, when properly objected to, is not acceptable evidence to support a finding. I.D. at 8-9 (citing Pa. R.E. 801; *Walker v. Unemployment Compensation Board of Review*, 367 A.2d 366, 370 (Pa. Cmwlth. 1976)).

With respect to the relative weight of the evidence presented, the DCALJ found that the Complainant's exhibits are outweighed by the testimony of the Company's witness, Mr. Ahr. Specifically, the DCALJ noted that Mr. Ahr testified that: (1) Mr. Ahr is employed by Met-Ed's parent company, FirstEnergy Service Corporation (FirstEnergy), as a regulatory compliance advisor for smart meters and has worked for Met-Ed for 35 years; (2) Met-Ed's privacy policy does not allow the sharing of private customer information; and (3) each of the Complainants concerns are unfounded. Further, the DCALJ stated that, because the Complainant did not present witnesses (*i.e.*, his personal physician) or exhibits demonstrating how smart meters specifically affect him, Mr. Habrial's testimony that smart meters cause or exacerbate his tinnitus lacks credibility. Moreover, the DCALJ noted that, because the authors of the articles presented by the Complainant were not present for cross-examination by Met-Ed, the Complainant's documents are hearsay and, accordingly, will be given little weight. I.D. at 9.

The DCALJ concluded that, when the record evidence is considered and given the burden associated with smart meter cases, Mr. Habrial failed to meet his burden of proof that smart meters cause him adverse health effects. The DCALJ explained that, although the Complainant has raised several concerns that he believes are true, he did not raise any concerns regarding the service specifically as it applies to him. I.D. at 9 (citing *Se-Ling Hosiery*).

The DCALJ further noted that, 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.” I.D. at 9-10 (citing *2015 Kreider*). Therefore, the DCALJ found that the Complainant’s arguments concerning the environment, fire safety, security, and privacy of smart meters are non-persuasive and were outweighed by Mr. Ahr’s testimony and thirty-five (35) years of industry experience. Moreover, the DCALJ found that the Complainant’s evidence is, essentially, comprised of his own perceptions and hearsay, and were “made in passing at the conclusion of his testimony during the hearing.” I.D. at 10 (citing Tr. at 23-24).

Based on all of the above, the DCALJ dismissed the Complaint for the failure of the Complainant to prove, by a preponderance of evidence, that Met-Ed violated the Code, a Commission Order or Regulation or the Company’s Commission-approved tariff, or that Met-Ed’s use of the AMI smart meters creates the issues raised in the Complaint. I.D. at 10.

C. Exceptions¹²

The Complainant's Exceptions consist of five typed pages that generally challenge the DCALJ's rulings and conclusions regarding burden of proof and the credibility of Met-Ed's witness, Mr. Ahr.

The Complainant argues that contrary to the DCALJ's conclusions, he met his burden of proof that smart meters will adversely affect his health and the environment. Specifically, Mr. Habrial claims that the evidence of his personal experience and the research of others: (1) is overwhelming, substantial, and outweighs Mr. Ahr's testimony; (2) does not constitute hearsay, personal opinions or perceptions; (3) demonstrates that smart meters are unsafe; and (4) proves that smart meters violate Act 129 and House Bill 2200. Exc. at 2-5 (citing I.D. at 11-12). Further, the Complainant contends that government research represents sufficient evidence of first-hand experience "without harming humans in court." Exc. at 2-4 (citing I.D. at 11).

Moreover, Mr. Habrial asserts that based on his personal experience with the electric/magnetic component of tinnitus, the installation of a smart meter on his home will worsen his tinnitus affliction. Furthermore, Mr. Habrial notes that the proximity of his neighbor's smart meters resulted in the disappearance of birds and bees from his property. Exc. at 2-5 (citing I.D. at 12). Additionally, the Complainant contends that COL No. 7, which states that the Commission's decision must be supported by substantial evidence, conflicts with COL No. 4, which states that the burden of proof is

¹² 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) and (d) of our Regulations, 52 Pa. Code § 1.2(a) and (d), in order to secure a just, speedy, and inexpensive determination.

established by evidence that is more convincing than the other party's evidence "by even the smallest degree." Exc. at 4 (citing I.D. at 11, COL No. 4 (citing *Se-Ling Hosiery*, 364 Pa. 54, 70 A.2d 854 (1950)); COL No. 7 (citing 2 Pa. C.S. § 704)).

The Complainant also contends that the ALJ erred in finding Mr. Ahr a credible witness, arguing that Mr. Ahr: (1) is biased towards Met-Ed and FirstEnergy; (2) failed to provide any supporting documentation or scientific proof; (3) failed to prove that smart meters are incapable of communicating with or controlling a customer's appliances without a customer's approval; and (4) was not truthful regarding his knowledge and understanding of health issues, customer billing, smart meter security, and information that can be obtained from smart meters.¹³ Exc. at 1-4 (citing I.D. at 4-5, 8; Tr. at 45-46). Further, Mr. Habrial questions the reliability of Met-Ed's security protocols and customer privacy policy, citing his personal experience of working for a corporation that was hacked and several instances of witnessing policies that were broken, changed, ignored, and mocked. Exc. at 1-2, 4 (citing I.D. at 4-5; Exhs. JCA-6 and JCA-7; Tr. at 42-44, 49).

Finally, the Complainant offers a clarification regarding the following statement in the Initial Decision: "Mr. Habrial testified regarding various problems he believes are associated with smart meters. This includes interference with his phone, microwaves and Wi-Fi and the impact of smart meters on health, including tinnitus which he suffers." Exc. at 2 (citing I.D. at 7). The Complainant clarifies that "pulses" from smart meters have slowed his Wi-Fi, but he has not experienced problems with his phone or microwave. Exc. at 2.

¹³ To the extent Mr. Habrial's Exceptions include commentary regarding Mr. Ahr's character, such commentary is deemed to be immaterial, impertinent, and otherwise irrelevant to the disposition of this matter. Therefore, pursuant to 52 Pa. Code § 1.4(e), we shall strike such statements from our consideration of the Complainant's Exceptions.

D. Replies to Exceptions

In its Replies to Exceptions, Met-Ed counters that the Complainant's Exceptions should be denied and the Commission should adopt the Initial Decision without modification. The Company explains that Mr. Habrial's Exceptions do not demonstrate that the DCALJ erred in concluding that the Complainant failed to carry his burden. Specifically, the Company notes that the DCALJ correctly determined that the Complainant: (1) did not support or provide testimony or exhibits demonstrating his health claims; (2) was ineffective at corroborating his non-specific and non-expert opinion because Mr. Habrial failed to call any of the authors of any of his exhibits as witnesses for cross-examination; and (3) failed to satisfy his burden with regard to his concerns on smart meters. R. Exc. at 2 (citing I.D. at 8-9). Met-Ed adds that, although the Complainant's concerns were "essentially comprised of his own perceptions and hearsay," Mr. Ahr credibly testified and rebutted the Complainant's claims. R. Exc. at 2.

The Company argues that contrary to the Complainant's assertion that he should have a smart meter exemption, in accordance with Act 129, Met-Ed is obliged to install smart meters at all of its customers' service locations and neither Act 129 nor subsequent Commission Orders related to smart meter installation and deployment allow customers to opt-out. R. Exc. at 3 (citing Exc. at 1; *Smart Meter Implementation Order*; 66 Pa. C.S. § 2806.1). Further, Met-Ed contends that, in compliance with Act 129 and the *Smart Meter Implementation Order*, EDCs are required to install wireless smart meters with specific functionality. Moreover, the Company notes that Commission precedent is consistent that the Commission is unable to grant exceptions to the statutory directive that smart meters be installed by allowing customers to opt-out. *Id.* at 3.

Met-Ed also counters that Mr. Habrial failed to demonstrate that the weight of the substantial evidence does not support the DCALJ's findings. Specifically, the Company notes that the Complainant, despite not presenting or citing to any record

evidence, challenges and/or questions, *inter alia*: (1) Mr. Ahr’s testimony and credibility as a witness; (2) the Company’s customer privacy policy; (3) the finding that Met-Ed’s smart meters comply with the American National Standards (ANS); (4) the capability of a smart meter to communicate with and control a customer’s smart appliances;¹⁴ and (5) Met-Ed’s smart meter security protocols. R. Exc. at 3-4 (citing Exc. at 1-2; Tr. at 39, 49-51). Met-Ed notes that some of the Complainant’s assertions are speculative or based on extra-record evidence. *Id.*

The Company also argues that contrary to Mr. Habrial’s references to government research and “first hand” evidence, the Complainant’s Exceptions regarding hearsay evidence composed of government research or others’ experiences should be denied. R. Exc. at 5 (citing Exc. at 2). Met-Ed notes that because the Complainant was not certified as an expert witness, his testimony is limited to that of a lay witness or someone limited to giving opinion testimony that is rationally based on the witness’s own perceptions under Pennsylvania Rule of Evidence 701. R. Exc. at 5 (citing Pa.R.E. 701). Here, the Company asserts that the bulk of the Complainant’s testimony and exhibits are related to issues that are outside the scope of his personal knowledge and are based on hearsay. Met-Ed notes that all such testimony, where objected to, were properly excluded upon objection or the DCALJ afforded little or no weight to the testimony. *Id.* at 5.

Additionally, the Company argues that, because the Complainant is not a doctor or scientist and did not consult with such to testify regarding his health or the effects of the smart meter, the DCALJ properly concluded that the Company’s evidence outweighed the Complainant’s evidence. R. Exc. at 5 (citing I.D. at 8-9). Further,

¹⁴ We note that in its Replies, the Company states that “Mr. Ahr presented and cites to no evidence in support of his claim that Met-Ed...” R. Exc. at 4. Given the context of this statement, we believe the Company intended to refer to the Complainant. Accordingly, we find that the Company’s reference here to Mr. Ahr to be an inadvertent misstatement.

Met-Ed notes the DCALJ’s finding that, although Mr. Habrial primarily relied on hearsay articles and reports” and cited to general concerns, he failed to prove that the Company’s smart meter would result in unreasonable service to himself. R. Exc. at 5-6 (citing I.D. at 9-10).

The Company also notes that the DCALJ correctly recognized that, despite the Complainant being directed to testify or present evidence specifically regarding himself, he failed to do so and “repeatedly testified regarding his general beliefs and concerns.” R. Exc. at 5-6 (citing I.D. at 9-10; Tr. at 15, 18, 21). Further, Met-Ed submits that Mr. Habrial failed to present credible evidence demonstrating that the Company’s smart meters cause or exacerbate his alleged medical condition. Moreover, Met-Ed challenges the Complainant’s argument that the DCALJ erred in concluding that Mr. Habrial failed to carry his burden of proof to demonstrate that birds and bees no longer return to his backyard. The Company contends that the Complainant’s claim is irrelevant to the question of whether “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.” R. Exc. at 6-7 (citing Exc. at 3; *Romeo*).

E. Disposition

1. Extra-Record Material Not Considered

As a preliminary matter, we note that the Complainant has included and made use of extra-record materials in his Exceptions. We will disregard the extra-record materials – specifically: (1) the unnamed individuals that Mr. Habrial refers to regarding high customer bills and tinnitus; (2) the website link that the Complainant refers to as support for the AMI industry’s collection and selling of individual smart meter appliance information; (3) the website link that the Complainant refers to as the “American National Standards highly flawed report;” and (4) the Complainant’s comments

regarding the stated website links – as the use of this extra-record information by the Commission would violate Met-Ed’s due process rights. Exc. at 1-2.

It is well-established that parties cannot introduce new evidence at the exceptions stage. *Application of Apollo Gas Co.*, 1994 Pa. PUC Lexis, at *8-14 (Order entered February 10, 1994) (*Apollo Gas*). As noted earlier, the record closed on May 1, 2020. I.D. at 3. The individuals and website links referenced by the Complainant, as well as Mr. Habrial’s commentary regarding those individuals and the websites, are introduced for the first time in his Exceptions and are not in the record. Exc. at 1-2. The Complainant’s extra-record evidence cannot be admitted into the record at this current procedural stage of the case. Therefore, we must reject this extra-record evidence introduced by the Complainant in his Exceptions. *Apollo Gas*.

2. Substance of the Exceptions

As a general matter, in cases involving a challenge to smart meter installation, the standard burden of proof applicable in complaint proceedings applies. However, case law addressing the specific claims raised in challenges to smart meter installation has also developed. Claims challenging the installation of a smart meter can generally be categorized as claiming one or more of the following: (1) a right to opt out of the smart meter installation; (2) a Section 1501 violation of the provision of reasonable and safe service based on either alleged adverse health effect or unsafe technology; (3) a constitutional right to refuse the installation; and/or, (4) a right to choose which type of technology to install. *See, generally, Povacz II*.

In the present case, the Complainant alleges that smart meter installation will cause unreasonable and adverse effects to both the Complainant’s health and the surrounding environment, and that the smart meter technology creates an unreasonable risk to the Complainant’s fire safety, security, and privacy. Exc. at 2-4. Therefore, each

of the Complainant's claims arise, if at all, as a claim under Section 1501 asserting unreasonable or unsafe provision of service. 66 Pa. Code § 1501.

As noted *supra*, in affirming the Commission's 2019 *Povacz Order*, the Pennsylvania Supreme Court held in *Povacz II* that, in order to prevail in a Section 1501 claim involving the safety of smart meters, and specially, 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, Povacz II* at 999-1000. In that context, the lay opinion of the Complainant does not provide a conclusive, causal connection between the harm to human health and the RFs from the AMI meter. *Id.*

The Supreme Court reiterated that complainants seeking relief from the Commission must satisfy their burden of proof by a preponderance of the evidence. The Court explained that inconclusive evidence – evidence that does not lead to a conclusion of a definite result one way or the other – does not meet even the minimal requirements of the preponderance of the evidence standard. *Id.* at 1005. The Court further opined that while a customer's evidence does not need to prove their assertion beyond any doubt, evidence of a mere possibility that harm could result is insufficient to satisfy the preponderance of the evidence standard. *Id.* at 1008.

The Supreme Court further instructed that the burden of proof is two-fold for Section 1501 claims involving the safety of smart meters and RF emissions. First, a customer must present expert opinion rendered to a reasonable degree of scientific certainty that radio frequency emissions from smart meters cause adverse health effects. Next, a customer must present expert opinion rendered to a reasonable degree of medical certainty that RF emissions from the smart meters, either alone or cumulative to other

sources of RF emissions, caused them harm.¹⁵ The utility may then refute the customer's evidence by providing scientific and/or medical expert testimony that, within a reasonable degree of certainty, the RF emissions from smart meters did not cause the alleged harm. *Id.* Once the parties have presented their evidence, the onus then falls on the fact-finder to weigh the evidence and determine whether it is more likely than not that the smart meter caused the customer harm. *Id.* at 1006¹⁶.

In the present case, the DCALJ's analysis and disposition turned on the relative weight of the evidence presented by the Complainant to establish that installation of a smart meter would constitute a violation of the Code, a Commission Regulation or Order or a violation of a Commission-approved tariff, versus the weight of the evidence presented by the Company in opposition to the Complaint. The DCALJ concluded that the evidence presented by the Company outweighed the evidence presented by the Complainant on all issues. We concur. Upon review, we agree with the DCALJ's well-reasoned analysis in the Initial Decision and the DCALJ's conclusion that the Complainant did not meet his burden of proof regarding his claim that the AMI smart meter will cause, or contribute to, adverse health effects for the Complainant, or the environment, or negatively and/or unreasonably impact the Complainant's property's fire safety, security, and privacy. I.D. at 8-9.

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

¹⁵ Notably, the Supreme Court concluded that neither fear nor inconclusive scientific research was sufficient to prove that smart meter technology constitutes unsafe service under Section 1501. *Id.* at 1005.

¹⁶ The Supreme Court held that if a customer establishes by a preponderance of the evidence, based on the totality of the circumstances, that smart meter service violates Section 1501, they are entitled to an accommodation to the extent allowed by Act 129 and a utility's tariff. However, given that Act 129 mandates smart meter deployment, the Supreme Court clarified that such accommodation may not rise to the level of an opt-out from smart meter installation. *Id.* at 1015

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*. Here the DCALJ properly concluded that the lay opinion of the Complainant does not provide a conclusive, causal connection between the alleged harm to human health and the RFs from the AMI meter. *Id.*

Specifically, we affirm the DCALJ’s finding in COL No. 15, that the Complainant failed to show that the proposed AMI meter causes, contributes to, or exacerbates any adverse health effect. I.D. at 12. Similarly, the Complainant failed to offer any competent evidence of record to support a finding that his health, the environment, fire safety or privacy will be adversely affected by installation of a smart meter. I.D. at 10. We find nothing in the Complainant’s Exception to refute the DCALJ’s conclusions that the Company’s use of a smart meter to measure the electric usage at the Complainant’s property will not constitute unsafe or unreasonable service, in violation of Section 1501.

On Exception, the Complainant asserts that the DCALJ erred in the analysis of the weight of the evidence. Specifically, the Complainant challenges the DCALJ’s acceptance of and finding of credibility of Met-Ed’s witness, Mr. Ahr, as outweighing the Complainant’s personal testimony. Exc. at 2-4. However, we find no fault with either the DCALJ’s finding of credibility of the Company’s witness or the DCALJ’s conclusion that the Company’s witness’ testimony outweighed the personal observations and lay testimony of the Complainant. I.D. at 10.

The Company presented credible evidence through its expert witness, Mr. Ahr, to support the DCALJ’s finding that there is no reliable basis to conclude that the new AMI meter will cause, or contribute to, any adverse health or environmental effects. Specifically, we concur in the DCALJ’s finding that the Complainant’s arguments concerning the environment, fire safety, security, and privacy of smart meters are

unpersuasive and were outweighed by Mr. Ahr's testimony and thirty-five (35) years of industry experience. *Id.*

Therefore, upon review of the record, and based on the foregoing discussion, we find the Complainant's claim fails to establish that the Company violated any provision of the Code, a Commission Regulation or Order, or a Commission-approved tariff. Therefore, for all the foregoing reasons, we shall deny the Complainant's Exceptions.

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 Ethan Habrial on July 13, 2020, are denied, consistent with this Opinion and Order.
2. That the Initial Decision of Deputy Chief Administrative Law Judge Joel H. Cheskis, issued on June 30, 2020, at Docket No. C-2018-3005907, is adopted, consistent with this Opinion and Order.
3. That the Formal Complaint of Ethan Habrial against Metropolitan Edison Company, filed on November 7, 2018, at Docket No. C-2018-3005907, is dismissed.

4. That this proceeding at Docket No. C-2018-3005907 be marked closed.

BY THE COMMISSION,

A handwritten signature in black ink, reading "Rosemary Chiavetta". The signature is written in a cursive, flowing style.

Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: December 21, 2023

ORDER ENTERED: December 21, 2023