

Before the
Pennsylvania Public Utility Commission

Orpheus and Kimberly Hanley
Complainants.

v.
FirstEnergy, Pennsylvania Power Company,
Respondent.

Docket No. C-2023-3041147

Certificate of Service

We certify that we have served a true copy of response to the attorneys of FirstEnergy - Pennsylvania Power Company.


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Rosemary Chiavetta, Secretary, PA PUC

Daniel A. Garcia, et al

February 27, 2024

DATE



Kimberly Hanley

Orpheus Hanley

**Before the
Pennsylvania Public Utility Commission**

Orpheus and Kimberly Hanley :
Complainants. :
v. :

Docket No. C-2023-3041147

FirstEnergy Corporation, Pennsylvania Power Company :
Respondent.

EXCEPTIONS to CASE DISMISSAL and the DENIED RIGHT to a HEARING

We Do Not Agree with the Ruling on February 7, 2023

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

INTRODUCTION

Complainants hold that the ruling regulatory body of electric distribution companies is the federal government’s Public Utility Regulatory Policies Act (PURPA) of 1978, which laid the groundwork for advanced metering devices, or smart meters. As a result, Pennsylvania’s ACT 129 of 2008, “the Electricity Generation Customer Choice and Competition Act” (§ 2801), followed suit at the state level to comply with PURPA. Despite Complainants’ quoting verbatim codes and sections of each Act, Respondents and the Public Utility Commission have turned a blind eye and decided to Dismiss Complainants’ Formal Complaint. Complainants instead are told they may no longer pursue their Civil and Constitutional rights and liberties against this potentially life-affecting unrequested technology: The reason cited as *res judicata* or claim preclusion, which bars Complainants from litigation, and *collateral estoppel* or issue preclusion against the factual

quoting of code verbatim. Thus, the net effect of this decision under color of state regulation severely encroaches upon the rights and securities of United States Citizens.

HISTORY

Since November 2015, the Complainants have repeatedly declined the installation of a smart meter and have never agreed to pay for its installation. In effect, Complainants have *NEVER OPTED-IN* to participate in the advanced metering program initiated by federal PURPA and supported by state Act 129. Furthermore, Complainants propose that the language written in Respondents' "Smart Meter Deployment Plan" (SMDP) page 6 under Assumptions is the cause of such confusion.

Federal laws, acts, regulations, and statutes **take precedence** over any state law, which is why Pennsylvania's ACT 126 must also NOT REQUIRE customer participation in the smart meter program; otherwise, the state of Pennsylvania and its officers and legal representatives are all in violation of over-reaching their authority against Civil and Constitutional liberties of United States Citizens.

PURPA and Act 126 both state that a customer does not have to participate in the smart meter program. They state that the utility company, however, **DOES HAVE TO MAKE A PLAN that will offer** a customer the OPTION to participate in a smart meter program, if the customer requests participation and agrees to pay installation expenses. The area Pennsylvania utility companies, collectively called "PA Companies," filed a "Smart Meter Technology Procurement and Implementation Plan ("SMIP") with the Pennsylvania Public Utility Commission (PUC) by August 14, 2009. On June 9, 2010, the PUC approved the plan was with minor changes, as stated in the Smart Meter Deployment Plan, originally dated December 31, 2012, page 1.

This means that the PA Companies fulfilled their obligations per Act 129 § 2807(f)(1): Smart meter technology and time of use rates.-- **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).*

Despite fulfilling PURPA and ACT 129 requirements, sometime around November 2015, two unidentified men came to the Complainants' property and were about to install a smart meter without permission. They did not offer to install a smart meter AS IS REQUIRED BY LAW! Rather they assumed they had a right to enter the premises without permission to install an unrequested smart meter, despite federal and state regulations explicitly stating that a customer has to request the installation and agree to pay the installation fee at the time of the request (Act 129 § 2807(f)(2)(i)). This was the first encounter the Complainants had regarding this matter. Moreover, the contact felt odd and suspicious and the men had nothing linking them officially to FirstEnergy Corporation, Pennsylvania Power Company (FE_PP), i.e. Respondents. Had the Complainants not been at the property, the smart meter technology would have been illegally installed, without the customers' consent to participate in the smart meter program.

The Complainants exercised their right to not participate in the advanced metering program as it is laid out to be allowed to do so in both the federal PURPA and in the state regulatory ACT 129. A customer's decision not to participate in the advanced metering program was never intended to force CITIZENS OF THE UNITED STATES OF AMERICA into involuntary participation, and as the federal regulation is the supreme regulation over the state regulatory body, Act 129 could never lawfully administrate against federal PURPA, as the Respondents would have all to believe.

A Stay Order was set mid-July 2023 and only recently lifted, after which, this case was dismissed as frivolous and reporting the same information that was purported to result in the same conclusion. However, the previous case was slated for a video hearing, which never occurred; but later, the case was dismissed, citing the decision was voting upon at the PUC hearing. No video evidence proves the Complainants' case was discussed.

Even though PURPA and Act 129 do not require an explanation for not participating in the advanced metering program, in the first Case against the Respondents' aggression involving the mandatory participation in a federally initiated voluntary program, Complainants cited the following concerns in their formal complaint:

“FORMAL COMPLAINT:

- Shut-off threats due to Complainants refusal to accept smart meter for concerns that the World Health Organization (WHO), and others, classifies such devices as **KNOWN 2B CARCINOGEN AGENTS**,
- That the device **VIOLATES PRIVACY RIGHTS** (including those listed in Privacy Act 1974, USA & PA Constitutions),
- For **SAFETY ISSUES** that include potential **THREAT** not only **TO HEALTH** but also **PROPERTY**, which **ISSUES** include **FIRES** and **SECURITY VULNERABILITY** concerns – all causes linked to smart meter technology.” (See Docket No. C-2016-2557487).

During the previous Docket No. C-2016-2557487, Complainants appealed to the Public Utility Commissions board and the PUC scheduled a video hearing. At that video hearing, the PUC failed to discuss or hear any evidence related to Docket No. C-2016-2557487 and instead decided upon another case. Later, the PUC sent the Complainants a dismissal letter. Complainants reached out to the PUC and informed it that Complainants' case was never discussed.

FACTS of the LAW

The intent of PA Act 129 is inherent in its title: § 2801. **Short title of chapter. This chapter shall be known and may be cited as the Electricity Generation Customer Choice and Competition Act.**

Evidence shows that in 2008, the inception year of Act 129, at least three **Pennsylvania senators were against mandating the installation of smart meters**, but electric companies used their influence over the PUC to disregard what was voted upon.

“The Electric Companies simply submitted a Smart Meter Deployment Plan (SMDP) and used a section titled ASSUMPTIONS (see page 6 in the following link) when filing with the PUC, who then rubber stamped this document and adopted the NO-OPT OUT verbiage, which overrode the Senators vote. How is that possible, that a Commission can create law?” (See included attachments.)

PURPA: Title 1 -- Section 111(d)(11) NET METERING.—Each electric utility **shall make available upon request net** metering service to any electric consumer that the electric utility serves. -- Section 111(d)(14): TIME-BASED METERING AND COMMUNICATIONS.—(A) Not later than 18 months after the date of enactment of this paragraph, each electric utility **shall offer each of its customer** classes, and **provide individual customers upon customer request**, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance, if any, in the utility’s costs of generating and purchasing electricity at the wholesale level.

The “PA Companies” fulfilled PURPA Title 1, Section 111(d)(14), and Act 129 § 2807(f)(1) by filing its SMIP on August 14, 2009 and the PUC approving the plan with minor modifications on June 9, 2010.

However, the Respondents have not met their obligation to offer smart meter technology to customers, per PURPA and Act 129: Both regulations require the electric company to OFFER EACH CUSTOMER class the opportunity to participate. Moreover, nothing in either regulation mandates customer participation in the smart meter program, though the Respondents SMDP 1.3.2 Assumptions states otherwise. So, instead of offering smart meter technology, Respondents have told all customers that installation of a smart meter is obligatory and “There will be no opt-out for customers.”

U.S. Public law 109-58: Energy Policy Act (EPACT) of 2005: Section 1251. Net metering and additional standards: (a)(11))—Each electric utility shall **make available upon request** net metering service to any consumer that the electric utility serves. (a)(14)—“shall **offer each of its customer classes, and provide individual customers upon customer request...**” Sec 1252(a)(14 (B)(i))— “... electricity at the wholesale level **for the benefit of the consumer.** Prices paid... shall be... known to consumers...” Sec. 1252(a)(14)(C)— Each electric utility subject to subparagraph (A) shall provide each **customer requesting** a time-based rate....” Sec. 1252(a)(14)(E)—In a State that permits third-party marketers to sell... such *consumers shall be entitled to receive...*

But instead of offering each customer class a smart meter and instead of waiting for each customer class to request a smart meter and for the requesting customer to agree to pay the installation fee at the time of the request, the Respondents directed the PA PUCs attention to the [“Smart Meter Deployment Plan 1.3.2¹”](#):

The development of this Deployment Plan was based on the following **ASSUMPTIONS**:

¹ Smart Meter Deployment Plan – URL: <https://www.puc.pa.gov/pcdocs/1292199.pdf>

(1) Act 129 **calls for 100% customer deployment** of smart meters with an implementation timeline of up to 15 years from the date of approval of the SMIP Plan. There will be **no opt-out for customers**.

(4) After their grace period, the Companies will install smart meters in all new construction and upon customer request, provided that the latter pays for the incremental cost of such meters and related installation.

However, the Respondents has also installed these meters on old constructions, stating that the law mandatorily requires the installation and they call the forced installation at a new service address of an old building, a new construction.

Respondents fulfilled the Implementation Plan, SMIP, for PURPA as noted in the Smart Meter Deployment Plan (SMDP), pg 1.

However, FirstEnergy Corporation and its subsidiary Pennsylvania Power Company has NEVER *offered* the Complainants an advanced metering device (smart meter), but instead has coerced and bullied and threatened Complainants to accept a smart meter. NOR have the Complainants ever requested a smart meter! Therefore, the electric utility company has not complied with the law! But has overstepped its powers of authority going against the rule of law, both federally and state-wise.

Title 52 PA Code: § 54.121. Purpose. The purpose of these competitive safeguards is to assure the provision of direct access on equal and nondiscriminatory terms to all customers and generation suppliers, prevent discrimination in rates, terms or conditions of service by electric distribution companies, prevent the cross subsidization of service amongst customers, customer classes or between related electric distribution companies and electric generation suppliers, to

forbid unfair or deceptive practices by electric generation companies and electric generation suppliers, and to establish and maintain an effective and vibrant competitive market in the purchase and sale of retail electric energy in this Commonwealth.

§ 57.251. Purpose. The purpose of this subchapter is **to facilitate the deployment of advanced metering equipment** and the associated development of generation services based on these technologies. This subchapter **establishes a procedure** for identifying and **providing for customer selection** of qualified **advanced meters**, meter-related devices or deployment of automatic meter reading network equipment from the EDC **while maintaining** the **safety** and reliability of the electric system in this Commonwealth. This subchapter **does not require the public to participate in an advanced metering program.**

§ 57.253 (b) (1) Customers using a qualified advanced meter or meter-related device may be assessed a bill surcharge by the EDC to cover any net incremental cost associated **with the choice to use an advanced meter.**

Title 66 PA Code: Act 129 – Summary Overview¹ -- “Governor Edward Rendell signed Act 129 of 2008 (“the Act” or “Act 129”) into law on October 15, 2008. The Act took effect 30 days thereafter on November 14, 2008. Among other things, **the Act** specifically **directed** that within nine months of its effective date, electric distribution companies (“**EDCs**”) are **to file**, with the Commission for approval, a smart meter technology procurement and installation **plan**. 66 Pa.C.S. **§ 2807(f)(1)**. **Each** EDC smart meter **plan must describe** the smart meter **technologies** the EDC *proposes to install*, **upon request from a customer** at the customer’s expense, in new construction and in accordance with a depreciation schedule not to exceed 15 years. 66 Pa.C.S. §§ 2807(f)(1) and (2). The Act **also** establishes a requirement for EDCs to ***make available*** to third

parties direct meter access and electronic access to meter data by third parties, **upon customer consent.** 66 Pa.C.S. § 2807(f)(3).”

§ 1411. Automatic meter readings. -- All readings by an automatic meter reader device shall be deemed actual readings for the purposes of this title. **Upon a customer request,** the public utility shall secure an in-person meter reading to confirm the accuracy of an automatic meter reading device when a customer disconnects service or a new service **request is received.**

§ 2801. Short Title: “Electricity Generation **Customer Choice** and Competition Act”.

A preponderance of evidence exists within not only Pennsylvania Code but also the United States PURPA Code that these regulations were never intended to take away individual freedoms of United States Citizens nor our rights, as these regulations consistently state **that no action may be taken regarding fulfilling policies unless and until the consumer/the customer/the client gives consent.** The compilation of language involved in the relevant Code sections play out the following words:

*Customer Choice Upon A Customer Request Upon A Customer’s Request With
Customer Consent Upon Request From A Customer That Agrees... Request Is Received
Upon Written Request From Both A Customer And... Subject to Customer Privacy
or Confidentiality Constraints — § 2801, § 1411, § 57.255 (a), § 2807(f)(3), § 2807(f)(2)(i),
§ 54.122, Smart Meter Deployment Plan 1.3.2 (4.)*

Although law laymen, by Chapter 15’s title alone the Complainants read this section as not having anything to do with customers as it relates to smart meter service and its regulatory requirements. It does not affect Respondents ability to offer smart meter technology to customers

and furnishing smart meters to those customers who request the technology and who agree to pay for the cost of the smart meter at the time of the request (§ 2807(f)(2)(i)). Section § 1501 does not have any words that affect the Respondents ability to furnish smart meters to those customers who **request such service and upon request also agree to pay for the smart meter’s cost.**

Chapter 15 Service and Facilities. Subchapter (A.) General Provisions. (B.) Discontinuance of Service to Leased Premises § 1501. **Character of service and facilities:** “Every public utility shall furnish and maintain ... service and facilities, and shall make ... in or to such service and facilities.... Such service also shall be reasonably continuous and without unreasonable interruptions or delay. Such service and facilities shall be in conformity with the regulations and orders of the commission. ..., every public utility may have reasonable rules and regulations governing the conditions under which it shall be required to render service. Any public utility service being furnished or rendered by a municipal corporation ..., with the same force and in like manner as if such service were rendered by a public utility. The commission shall have sole and exclusive jurisdiction to promulgate rules and regulations for the allocation of natural or artificial gas supply by a public utility.²

OPINION

Complainants hold as truth that the “Electricity Generation Customer Choice and Competition Act” (Act 129, § 2801), is based on the federal PURPA. Therefore, the Respondents changing of federal and state regulation in its SMDP 1.3.2 Assumptions: ***Items 1***, which in application is in conflict with ***Item 4***. Respondents cannot demand 100% customer deployment with “no opt-out for customers” (Item 1) and then add “upon customer request” (Item 4).

² § 1501. Character of service and facilities. URL: [Title 66 - PA General Assembly \(state.pa.us\)](https://legis.state.pa.us)

While on the surface Item 4 correctly shows that a customer must first request the installation of a smart meter, the Respondents have used the SMDP 1.3.2 ASSUMPTIONS to wrongly force customers to mandatorily accept a smart meter on their properties. This, whether intentionally done or done as an oversight, either way comes across as deceptively influencing customers to ask to opt-out and then stating that there is no opt-out option. This causes customers to think they had somehow opted-in and now cannot get out, or opt-out. This is manipulative language, whether intentional or not.

Customers' confusion over terminology seems so pervasive that the Respondents and PUC have taken advantage of this confusion, emphasizing the difference between "opt-out" and "opt-in", as though that distinction really matters against the letter of federal law. Complainants believe that Respondents have subtly suggested the idea of opting-out and have intentionally focused on customers' word choices when requesting a solution that does not need opting out – and when all-actions-speak-louder-than-words – that customers do not want a smart meter.

Both federal and state laws are clear that a utility company **must** offer each customer the option to participate in the advanced meter program. Yet, Respondents "pitch" customers who are highly opposed to such technology ... are initially told they have no choice in the matter, the regulation is mandatory on customers, and then customers who are highly opposed to such technology request to opt-out -- when Nowhere in the law does it mandate that a customer must participate in the smart meter program. **COMPLAINANTS NEVER AGREED and therefore NEVER OPTED-IN** to participate in the program!

Complainants believe that Respondents have abused fiduciary trust in many ways, including using their degrees and knowledge of the law with opportunistic manipulative legal

exploits that appear to have hidden agendas in a calculative deceptive manner to force state-wide enrollment into the smart meter program, as stated in the SMDP, 1.3.2 Assumptions (1).

The federal PUBLIC UTILITY REGULATORY POLICIES ACT (PURPA) of 1978 **explicitly** states that **CUSTOMERS DO NOT HAVE TO PARTICIPATE** in the smart meter plan.

It seems that legal trickery is at play here with the Respondents' holding up the stick that one cannot opt out. However, the true issue here is regarding the rights of customers to opt-in or not: to willing participate in the smart meter program and agree to pay for the installation of the smart meter at the time the customer requests a smart meter VS. the customer simply not taking action to receive a smart meter or has been actually asked by the utility company if each customer would like a smart meter! That is a big difference. It is like telling a person s/he is no longer free because he cannot opt-out of servitude, but the person actually never opted into servitude! Or a person on a date not consenting to progress a relationship further, but is being forced by the stronger perpetrator who states that it was an automatic opt-in by virtue of going out to dinner together and thereby the other, weaker, person has no choice in the matter.

FirstEnergy Corp and its subsidiary Penn Power Co are forcing customers into a non-consensual relationship that IS PROHIBITED by the law! Meanwhile, by the actions of the PA Public Utility Commission, the sheriff is willfully standing aside and turning a blind-eye, watching these non-consensual transgressions take place!

As legal trickery is at play here, Complainants exhaustively repeat that they have **NEVER OPTED-IN to participate!!!!!!**

CONCLUSIONS OF LAW

1. Complainants strongly believe that as pro se representatives Complainants have rationally laid out written testimony in a clear and factual manner that is based on the information available to the general populous. (Rule 701. Opinion Testimony by Lay Witnesses. If a witness is *not testifying as an expert*, **testimony in the form of an opinion is limited to** one that is: (a) **rationally based** on the witness's perception; (b) helpful to clearly understanding the witness's testimony or to determining a fact in issue; and (c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702.)

CONCLUSION

Even though the Complainants have made known to the Respondents ever since that first encounter that Complainants have no desire to participate in the program, the Respondents have harassed Complainants, even to this day. These legal battles to force Complainants into a program that **Complainants never requested participation in and never agreed to pay for the installation of the device** is uncalled for and unfair. Respondents have used tactics such as trying to get Complainants to agree to pay for the installation of the device during Complainants early attempts at reaching a compromise; but no compromise efforts were made by the Respondents – only an attempt to enforce its creed through trickery so that the Complainants would unwillingly give in and accept paying for the installation of a smart meter that the Complainants have never wanted. (Case 1)

Since the start of the harassment by FE_PP to install a smart meter, Complainants have felt that their lives are held hostage, not able to comfortably leave home or take a vacation without fear of the Respondents invading Complainants privacy and breaching the security of their sanctity and environment.

Contrary to the writings of the federal and state regulations, the Respondents developed the SMDP “Section 1.3.2 Assumptions” with statements that are not in the federal or state regulation act, stating the following:

(1) Act 129 calls for 100% customer deployment of smart meters with an implementation timeline of up to 15 years from the date of approval of the SMIP Plan. **There will be no opt-out for customers.**

In effect, Respondents have created their own “regulation standards,” which *broke* the elegance of the actual law and impeded upon every United States Citizen’s liberties, who did not want to participate in the smart meter program and who did not agree to pay for the cost of said installation. Meanwhile, the Public Utility Commissioners stood back and handed the Respondents the keys to civil liberties and constitutional protections.

Marbury v. Madison (1803): Chief Justice Marshall stated, “***IT IS EMPHATICALLY THE PROVINCE AND DUTY OF THE JUDICIAL DEPARTMENT TO SAY WHAT THE LAW IS.***”

At that initial encounter, and thereafter, no FE_PP company official has ever asked if Complainants wanted a smart meter. They only demanded that Complainants accept and pay for its installation, whether Complainants wanted a smart meter or not. FE_PP began using the full weight of its power to force Complainants into submission by threatening shut-off if Complainants did not comply—THE DEMAND: To install on Complainants’ premises, without consent, an unauthorized advanced metering device.

The electric company was to have a plan presented within nine months and it fulfilled this obligation as stated in the SMDP (pg. 1), filing the Smart Meter Technology Procurement and Installation Plan with the PUC by August 14, 2009 and getting approved with minor modifications

on June 9, 2010. However, Respondents have failed to fulfill the requirements of § 2807(f)(2)(i)—furnishing smart meter technology upon request from customers that agree to pay the cost of the smart meter at the time of the request. Respondents have instead chosen to embark on a compulsory campaign that continuously smacks down the rights of the non-consenting citizens of the United States of America.

Moreover, the Respondents are basing today’s formal complaint on the previous request to “opt-out”, but as then is now, Complainants never requested to participate in the advanced metering program; therefore, there is no need to request an opt-out: Complainants have not opted-in! Moreover, in hopes of expediting this case, at the onset of its start, while beginning the informal complaint, Complainants made FE_PP employees aware of the previous case and provided them with the case number.

This is tiresome and aggravating and feels like a bullying spirit that goes beyond the requirements of PURPA and Act 129. Complainants are concerned about not only the abuse against Complainants civil and constitutional rights, but also privacy, safety, security, and health concerns. The concerns remain the same as they always have been. **We do not want a smart meter and have never requested the installation of a smart meter.**

As with previous Docket No. C-2016-2557487, Complainants feel that the formal complaint has been lightly considered and therefore has again been dismissed shortly after a roughly eight month Stay Order was lifted.

Additionally, the previous case was appealed to the Public Utility Commissions board and the PUC scheduled a video hearing. At that video hearing, the PUC failed to discuss or hear any evidence related to Docket No. C-2016-2557487 and instead decided upon another case. Later, the

PUC sent the Complainants a dismissal letter stating that it was a board decision. Complainants reached out to the PUC and informed it that Complainants' case was never discussed. Instead, another Docket number was discussed.

In addition to other included attachments, some pages from the 2020 Brief are included.

February, 27, 2024_____

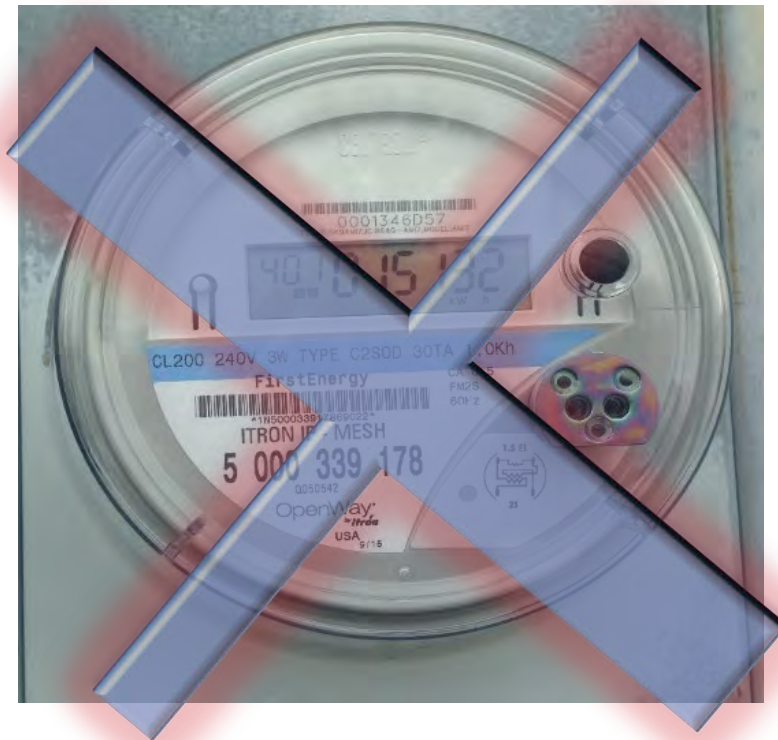
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Kimberly Hanley

Orpheus Hanley

ⁱ Smart Meter Procurement and Installation Plan. Docket No. M-2009-2092655. Respondents' Exhibit 2. Page 2.



COMPLAINANTS' BRIEF

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Docket No. C-2016-2557487

Abstract

In the case of Orpheus and Kimberly Hanley v. FIRSTENERGY CORPORATION — PENNSYLVANIA POWER COMPANY: Since November 2015, the Hanleys have repeatedly declined the installation of a smart meter, which by not requesting nor agreeing to pay is in effect in compliance with ACT 129 – “Electric distribution companies shall furnish smart meter technology ... **Upon Request from a Customer that Agrees to Pay the Cost of the Smart Meter at the Time of the Request.**” (§ 2807(f)(2)(i)) Moreover, the decision not to participate is in accordance with § 57.251(a) – “This subchapter **does not require the public to participate in an advanced metering program.**”

FORMAL COMPLAINT: Shut-off threats due to Hanleys refusal to accept smart meter for concerns that the World Health Organization (WHO), and others, classifies such devices as KNOWN 2B CARCINOGEN AGENTS, that the device VIOLATES PRIVACY RIGHTS (including those listed in Privacy Act 1974, USA & PA Constitutions), for SAFETY ISSUES that include potential THREAT not only TO HEALTH but also PROPERTY, which ISSUES include FIRES and SECURITY VULNERABILITY concerns – all causes linked to smart meter technology.

While the Hanleys are not experts but rather laymen, their decisions to navigate their own lives and “opt-out” and/or not partake in the option to “opt-in” and/or not to request smart meter were rationally reasoned through research of facts found in scientific and/or technical documents and/or articles and/or news outlets, and/or laws/codes/regulations, as well as direct contact with people affected by this device. Opinion Testimony by Lay Witnesses and evidence herein are based on Rule 701.

PROPOSED RESOLVE: FIRST CHOICE – Adjudicate according to the TRUE text of Act 129 & PURPA: UPON CUSTOMER REQUEST. SECOND CHOICE – Allow OPT-OUT per current House and Senate OPT-OUT Bills (or postpone until supposed ambiguity resolved) and on the dutiful bases that the forced implicit consent method is deceitful & breaches Articles of the USA & PA Constitutions and violates the Public Utility Code surrounding health & safety of end-users. THIRD CHOICE – Allow Hanleys to WAIT UNTIL 2025 (or latest demand date) before installation FOR MORE DATA to be gathered regarding smart meter effects upon humans and animals, big data collection policy sorted out, and vulnerabilities better sured up.

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Preamble: 2008, OCTOBER 15, P.L.1592, NO.129

The General Assembly recognizes the following public policy findings and declares that **the following objectives of the Commonwealth** are served by this act:

(1) The **health, safety and prosperity of all citizens** of this Commonwealth are inherently dependent upon the availability of adequate, reliable, affordable, efficient and **environmentally sustainable** electric service at the least cost, taking into account any benefits of price stability over time and the impact on the environment.

§ 1411. Automatic meter readings.

All readings by an automatic meter reader device shall be deemed actual readings for the purposes of this title. **Upon a customer request**, the public utility shall secure an in-person meter reading to confirm the accuracy of an automatic meter reading device when a customer disconnects service or a new service **request is received**.

§ 2801. Short Title

“Electricity Generation **Customer Choice** and Competition Act”.

§ 2806.1. Energy efficiency and conservation program.

The commission shall, by January 15, 2009, adopt an energy efficiency and conservation program to require electric distribution companies to adopt and implement cost-effective energy efficiency and conservation plans to reduce energy demand and consumption within the service territory of each electric distribution company in this Commonwealth. The program shall include:

- (2) An evaluation process, including a process to monitor and verify data collection, quality assurance and results of each plan and the program.
- (3) An analysis of the cost and benefit of each plan submitted under subsection (b) in accordance with a total resource cost test approved by the commission.
- (4) An analysis of how the program and individual plans will enable each electric distribution company to achieve or exceed the requirements for reduction in consumption under subsections (c) and (d).
- (5) Standards to ensure that each plan includes a variety of energy efficiency and conservation measures and will provide the measures equitably to all classes of customers.

§ 2802. Declaration of policy.

The General Assembly finds and declares as follows:

(3) Because of advances in electric generation technology and Federal initiatives to encourage greater competition in the wholesale electric market, it is now in the public interest to permit retail customers to obtain direct access to a competitive generation market as long as safe and

affordable transmission and distribution service is available at levels of reliability that are currently enjoyed by the citizens and businesses of this Commonwealth.

(8) In moving toward greater competition in the electricity generation market, the Commonwealth must resolve certain transitional issues in a manner that is fair to customers, electric utilities, investors, the employees of electric utilities, local communities, nonutility generators of electricity and other affected parties.

(9) Electric service is essential to the health and wellbeing of residents, to public safety and to orderly economic development, and electric service should be available to all customers on reasonable terms and conditions.

§ 2804. Standards for restructuring of electric industry.

The following interdependent standards shall govern the commission's assessment and approval of each public utility's restructuring plan, oversight of the transition process and regulation of the restructured electric utility industry: (1) The commission shall ensure continuation of safe and reliable electric service to all consumers in the Commonwealth,

§ 2807(d)

(d) Consumer protections and customer service.--The electric distribution company shall continue to provide customer service functions consistent with the regulations of the commission, including meter reading, complaint resolution and collections. Customer services shall, at a minimum, be maintained at the same level of quality under retail competition.

§ 2807(e)(1)

A default service provider's obligation to provide electric generation supply service following the expiration of a generation rate cap specified under section 2804(4) (relating to standards for restructuring of electric industry) or a restructuring plan under section 2806(f) is revised as follows: (1) While an electric distribution company collects either a competitive transition charge or an intangible transition charge or until 100% of its customers have choice, whichever is longer, the electric distribution company shall continue to have the full obligation to serve, including the connection of customers, the delivery of electric energy and ...

§ 2807(f)(1)

(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)*.

§ 2807(f)(2)(i).

(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**.

§ 2807(f)(3)

*Electric distribution companies shall, **with customer consent**, make available direct meter access and electronic access to customer meter data to third parties, including electric generation suppliers and providers of conservation and load management services.*

Title 225 PA Code

Chapter 6 Article VI. Witnesses

Rule 602. Need for Personal Knowledge.

A witness may testify to a matter only if evidence is introduced sufficient to support a finding that the **witness has personal knowledge of the matter**. **Evidence to prove** personal knowledge may consist of the **witness's own testimony**. This rule does not apply to a witness's expert testimony under Rule 703.

Rule 607. Who May Impeach a Witness, Evidence to Impeach a Witness.

(b) Evidence to Impeach a Witness. The credibility of a witness may be impeached by any evidence relevant to that issue, except as otherwise provided by statute or these rules.

Chapter 7 Article VII. Opinions and Expert Testimony

Rule 701. Opinion Testimony by Lay Witnesses.

If a witness is *not testifying as an expert*, **testimony in the form of an opinion is limited to one that is:**

- (a) **rationally based** on the witness's perception;
- (b) helpful to clearly understanding the witness's testimony or to determining a fact in issue; and
- (c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702.

Rule 702. Testimony by Expert Witnesses.

A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if:

- (a) the expert's scientific, technical, or other specialized knowledge is beyond that possessed by the average layperson;

(b) the expert’s scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue; and

(c) the expert’s methodology is generally accepted in the relevant field.

Rule 703. Bases of an Expert’s Opinion Testimony.

An expert may base an opinion on facts or data in the case that the expert has been made aware of or personally observed. If experts in the particular field would reasonably rely on those kinds of facts or data in forming an opinion on the subject, they need not be admissible for the opinion to be admitted.

Rule 704. Opinion on an Ultimate Issue.

An opinion is not objectionable just because it embraces an ultimate issue.

Rule 705. Disclosing the Facts or Data Underlying an Expert’s Opinion.

If an expert states an opinion the expert must state the facts or data on which the opinion is based.

U.S. Code

18 U.S. Code § 2381 - Treason

› Title 18 › Part I › Chapter 115 › § 2381 – Treason

Whoever, owing allegiance to the United States, levies war against them or adheres to their enemies, giving them aid and comfort within the United States or elsewhere, is guilty of treason and shall suffer death, or shall be imprisoned not less than five years and fined under this title but not less than \$10,000; and shall be incapable of holding any office under the United States.

(June 25, 1948, ch. 645, 62 Stat. 807; Pub. L. 103–322, title XXXIII, § 330016(2)(J), Sept. 13, 1994, 108 Stat. 2148.)

Constitutions

PA Constitution, Article 1, Declaration of Rights:

Section 1

*“All men [and women] are born equally free and independent, and have **certain inherent and inalienable rights, among which are those of impacting enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness.**” – PA Constitution, Article 1, Declaration of Rights: Section 1.*

Section 8

*“The **people shall be secure in their persons, houses, papers and possessions from unreasonable searches and seizures, and no warrant to search any place or to seize any person or things shall issue without describing them as nearly as may be, nor without probable cause,***

supported by oath or affirmation subscribed to by the affiant.” – PA Constitution, Article 1, Declaration of Rights: Section 8.

Section 9. Rights of accused in criminal prosecutions.

In all criminal prosecutions the accused hath **a right to be heard** by himself and his counsel, to demand the nature and cause of the accusation against him, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and, in prosecutions by indictment or information, a speedy public trial by an impartial jury of the vicinage; *he cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty or property*, unless by the judgment of his peers or the law of the land. The use of a suppressed voluntary admission or voluntary confession to impeach the credibility of a person may be permitted and shall not be construed as compelling a person to give evidence against himself.

Section 25

“To guard against transgressions of the high powers which we have delegated, we declare that everything in this article is excepted out of the general powers of government and shall forever remain inviolate.” – PA Constitution, Article 1, Declaration of Rights: Section 25.

U.S. Constitution

Article VI -

All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, **shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby**, any Thing in the Constitution or Laws of any state to the Contrary notwithstanding.

The **Senators and Representatives** before mentioned, and the **Members of the several State Legislatures**, and **all executive and judicial Officers**, both of the United States and of the several States, **shall be bound by Oath or Affirmation, to support this Constitution**; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

4th Amendment

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.” – 4th Amendment

14th Amendment

*“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. **No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.**” – 14th Amendment*

The Nuremberg Code

1. The *voluntary consent of the human subject is absolutely essential*. This means that the person involved should have legal capacity to give consent; should be so situated as to be **able to exercise free power of choice, without the intervention of any element of force, fraud, deceit, duress, over-reaching, or other ulterior form of constraint or coercion**; and should have sufficient knowledge and comprehension of the elements of the subject matter involved, as to enable him to make an understanding and enlightened decision. This latter element requires that, before the acceptance of an affirmative decision by the experimental subject, there should be made known to him the nature, duration, and purpose of the experiment; the method and means by which it is to be conducted; all inconveniences and hazards reasonably to be expected; and the **effects upon his health or person, which may possibly come from his participation** in the experiment. The duty and responsibility for ascertaining the quality of the consent rests upon each individual who initiates, directs or engages in the experiment. It is a personal duty and responsibility which may not be delegated to another with impunity.

Privacy

Redaction code:

Privacy Act 1974 -- § 552a (a)(4), (b), (d)(5)

Title 5 USC § 552, Public Law 93-579—Privacy Act of 1974

"(a) The Congress finds that—

"(1) the privacy of an individual is directly affected by the collection, maintenance, use, and dissemination of personal information by Federal agencies;

"(2) the **increasing use of computers and sophisticated information technology**, while essential to the efficient operations of the Government, **has greatly magnified the harm to individual privacy** that can occur **from any** collection, maintenance, use, or dissemination of **personal information**;

"(3) the opportunities for an individual to secure employment, insurance, and credit, and his right to due process, and other **legal protections are endangered by the misuse of certain information systems**;

(4) **The right to privacy is a personal and fundamental right protected by the Constitution of the United States.**

"(5) in order to protect the privacy of individuals identified in information systems maintained by Federal agencies, it is necessary and proper for the Congress to regulate the collection, maintenance, use, and dissemination of information by such agencies.

"(b) The **purpose of this Act** [enacting this section and provisions set out as notes under this section] is **to provide** certain **safeguards** for an individual **against an invasion of personal privacy** by requiring Federal agencies, except as otherwise provided by law, to—

"(1) permit an individual to determine what records pertaining to him are collected, maintained, used, or disseminated by such agencies;

"(2) permit an individual to prevent records pertaining to him obtained by such agencies for a particular purpose from being used or made available for another purpose without his consent;

"(3) permit an individual to gain access to information pertaining to him in Federal agency records, to have a copy made of all or any portion thereof, and to correct or amend such records;

"(4) collect, maintain, use, or disseminate any record of identifiable personal information in a manner that assures that such action is for a necessary and lawful purpose, that the information is current and accurate for its intended use, and that adequate safeguards are provided to prevent misuse of such information;

§ 552a (d)(5) **nothing in this section shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.**

P.L. 93–579, Approved December 31, 1974 (88 Stat. 1896)³⁹

Of the privacy codes under Title 5 USC:

- § 552(a)(E)
(E) a general index of the records referred to under subparagraph (D); ... To the extent required to prevent a **clearly unwarranted invasion of personal privacy**, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, staff manual, instruction, or copies of records referred to in subparagraph (D). However, in each case the justification for the deletion shall be explained fully in writing ...
- § 552(b)(6) and (7)
(6) personnel and medical files and similar files the disclosure of which would constitute a **clearly unwarranted invasion of personal privacy**;
(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) **would deprive a person of a right to a fair trial or an impartial adjudication**, (C) **could reasonably be expected to constitute an unwarranted invasion of personal privacy**, (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a

confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) **could reasonably be expected to endanger the life or physical safety of any individual**;

- Reduction for properties from apple that we're all lists **US Privacy Act**: sections b, d5, j1, j2, k1, k2, k3, k4, k5, k6, k7.

United States Constitution

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." – 4th Amendment

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." – 14th Amendment

Pennsylvania Constitution

"All men [and women] are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of impacting enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness." – PA Constitution, Article 1, Declaration of Rights: Section 1.

"The people shall be secure in their persons, houses, papers and possessions from unreasonable searches and seizures, and no warrant to search any place or to seize any person or things shall issue without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation subscribed to by the affiant." – PA Constitution, Article 1, Declaration of Rights: Section 8.

§ 25. Reservation of powers in people.

"To guard against transgressions of the high powers which we have delegated, we declare that everything in this article is excepted out of the general powers of government and shall forever remain inviolate." – PA Constitution, Article 1, Declaration of Rights: Section 25.

Plans

Smart Meter Deployment Plan 1.3.2 (4)

The development of this Deployment Plan was based on the following assumptions: after their grace period, the Companies will install smart meters in all new construction and **upon customer request**, *provided that the latter pays for the incremental cost of such meters and related installation.*

¹ Complainants Exhibits submitted on time prior to May 2 Hearing in electronic format with Set 1 on DVD and Set 2 on CD with duplicate copies provided at

<https://drive.google.com/drive/folders/1PIHpztOw6LCIJDqi2EByRXcjxvwesaCo>

² Ibid. EXHIBIT-021_Scan0001_.pdf and EXHIBIT-022_2016_Recreate decline letter to Penn Power_May 17.docx

³ Commonwealth of PA Constitution, Declaration of Rights: Section 1, Article 1, 8 & 25; Constitution of the United States of America, Amendments 4, 14; the Common Law; and G-d's law

⁴ Email. Complainants' DVD Set 01, EXHIBIT-008_dana_healthIssues.pdf.

⁵ The World Research Foundation. Preventive Health Care Helps Everyone.

“Learning about and practicing preventive healthcare, i.e. maintaining your body and good health throughout your entire lifetime, is properly the best Method to prevent disease from happening in the first.”

Complainants' DVD Set 01, EXHIBIT-018_Preventive Health Care Helps Everyone _ Preventive Healthcare _ World Research Foundation.pdf

Public Doc URL: <http://www.wrf.org/preventive-healthcare/preventive-healthcare.php>

⁶ Cloud Version of All Submitted Digital Exhibits.

Doc URL: <https://drive.google.com/drive/folders/1PIHpztOw6LCIJDqi2EByRXcjxvwesaCo>

⁷ IARC Classifies Radiofrequency Electromagnetic Fields As Possibly Carcinogenic To Humans. International Agency for Research on Cancer—World Health Organization. Page 2.

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CHRIS POTTER. Washington Times. Smart meters pose personal surveillance risks, experts say. Washington Times (2015)

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Public Access URL: <https://www.washingtontimes.com/news/2015/aug/11/smart-meters-pose-personal-surveillance-risks-expe/>

⁸ Complainants' DVD Set 01, EXHIBIT-021_Scan0001_.pdf

⁹ Bibliography of Reported Biological Phenomenon ('Effects') and Clinical Manifestations Attributed to Microwave and Radio-Frequency Radiation (1972). Naval Medical Research Institute (NMRI). U.S. Department, of Commerce. Chapter 1. Page 10.

Complainants' DVD Set 01, EXHIBIT-010_Glaser_1972_shortened.pdf.

Public Access URL: http://www.magdahavas.com/wordpress/wp-content/uploads/2011/06/Glaser_1972_shortened.pdf

¹⁰ ABC 30 Action News Live At Six: Smart Meters Under Fire.

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EXHIBIT-043_Smart Meter Fire -Home Owner Paid \$5000 In Damages.mp4

Public Access URL: <http://abc30.com/lawsuits-claim-faulty-pg-e-smart-meters-started-house-fires/2657513/>

<https://www.facebook.com/CollectiveEvolutionPage/videos/10155080623863908/>

¹¹ Complainants' Exhibit 007 (DVD Set 01), EXHIBIT-007_catherine__privacyIssues.pdf.

¹²U.S. GPO. EXHIBIT-058_GPO_privacy_awareness.pdf

Public Access URL: https://www.gpo.gov/docs/default-source/accessibility-privacy-coop-files/privacy_awareness.pdf

¹³ Belmont Report. Public Access URL: <https://hso.research.uiowa.edu/summary-belmont-report>

Nuremberg Code. Complainants' DVD Set 02, EXHIBIT-059_nuremberg.pdf

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Universal Declaration of Human Rights. Complainants' DVD Set 02, EXHIBIT-063_UN_humanRights_eng.pdf

Public Access URL: HHS.gov. Office for Human Research Protections. Public Access URL:

<https://www.hhs.gov/ohrp/international/ethical-codes-and-research-standards/index.html>

¹⁴ US DOE NETL SEPF Grants (CFDA #81.041). 5.1 Conditions to be Met to Receive ARRA Funding. Page 25.

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- ¹⁵ Energy Independence and Security Act of 2007. Pages 136, 176, 298. Smartgrid.gov.
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- ¹⁶ Dr. Debra Green. Smart Meters - What They Don't Want You to Know. (2017).
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- ¹⁷ Risk Based Securities. Data Breach QuickView Report: 2016 Data Breach Trends – Year In Review (2017) Pg 1.
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<https://cdn2.hubspot.net/hubfs/614666/Reports/2016/2016%20Year%20End%20Data%20Breach%20QuickView%20Report.pdf>
- ¹⁸ Houston Chronicle. “How long can the U.S. keep hackers at bay and the lights on?”
Complainants' CD Set 02, EXHIBIT-052_How long can the U.S. keep hackers at bay and the lights on_ - Houston Chronicle.pdf
Public Access URL: <https://www.houstonchronicle.com/business/article/How-long-can-the-U-S-keep-hackers-at-bay-and-the-11816492.php>
- ¹⁹ Idaho National Laboratory. Cyber Threat and Vulnerability Analysis of the U.S. Electric Sector. (2016) PAGE 3.
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- ²⁰ Id. Page 19
- ²¹ Siemens Industry. Causes of electrical fires The hidden danger of arc faults. (2011) Page 1.
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- ²² GreenWave.
Public Access URL: <https://greenwavefilters.com/dirty-electricity/>
- ²³ If permissible, see Respondents' Exhibit 20. Public Access URL: <http://database.ul.com/cgi-bin/XYV/template/LISEXT/1FRAME/showpage.html?name=P>.
- ²⁴ See cover page for picture taken by Complainants of an Itron meter. Public Access URL:
<https://www.itron.com/na/technology/devices>.
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- ²⁶ Camcode. Big Data Reshapes the Utility Industry (2018)
Public Access URL: <https://www.camcode.com/asset-tags/big-data-reshapes-utility-industry/>
- ²⁷ [Chiarella v. United States, 445 U.S. 222, 230, 100 S.Ct. 1108, 63 L.Ed.2d 348 \(1980\)](#) and [Moore v. Regents of University of California \(1990\) 51 Cal.3d 120\(271 Cal. Rptr. 146, 793 P.2d 479\)](#)
- ²⁸ [Chiarella v. United States, 445 U.S. 222, 230, 100 S.Ct. 1108, 63 L.Ed.2d 348 \(1980\)](#)
[Moore v. Regents of University of California \(1990\) 51 Cal.3d 120\(271 Cal. Rptr. 146, 793 P.2d 479\)](#)
- ²⁹ Petition of PECO Energy Company for Approval of Smart Meter Technology Procurement and Installation Plan. Page 11. Docket No. M-2009-2123944.
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- ³⁰ Smart Meter Radio Frequency Fact Sheet. Produced by FirstEnergy's Communications Department. Page 2, Question 2. Complainants' DVD Set 01, EXHIBIT-025_1e_SM_rfactsheet.pdf.
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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**METROPOLITAN EDISON COMPANY
DOCKET NO. M-2013-2341990**

**PENNSYLVANIA ELECTRIC COMPANY
DOCKET NO. M-2013-2341994**

**PENNSYLVANIA POWER COMPANY
DOCKET NO. M-2013-2341993**

**WEST PENN POWER COMPANY
DOCKET NO. M-2013-2341991**

SMART METER DEPLOYMENT PLAN

**ORIGINAL DECEMBER 31, 2012
REVISED MARCH 19, 2014
REVISED JUNE 16, 2014**

CHAPTER 1. EXECUTIVE SUMMARY

1.1 Overview

1.1.1 History

On October 15, 2008, former Governor Edward G. Rendell signed House Bill 2200 into law as Act 129 of 2008 (“Act 129”). Among other things, Act 129 directed each electric distribution company (“EDC”) with more than 100,000 customers to file a Smart Meter Technology Procurement and Implementation Plan (“SMIP”) with the Pennsylvania Public Utility Commission (“Commission”) by August 14, 2009. On June 24, 2009, the Commission entered an Implementation Order in which it provided general guidance as to the information to be included in the SMIP. On August 14, 2009, Metropolitan Edison Company (“Met Ed”), Pennsylvania Electric Company (“Penelec”), and Pennsylvania Power Company (“Penn Power”) (collectively “PA Companies”) submitted their SMIP, which was approved with minor modifications in an Order entered on June 9, 2010 (“SMIP Order”). As part of their SMIP, the PA Companies presented both a short term and long term plan, indicating that they would use the first 24 months of the 30-month Grace Period provided for by the Commission in its Implementation Order (the “Assessment Period”) to assess their needs, select the necessary technology, secure vendors, train personnel, install and test support equipment, and establish a detailed meter deployment schedule consistent with the statutory requirements.¹ The PA Companies indicated that at the end of the Assessment Period they would submit to the Commission a Smart Meter Deployment Plan that included: (i) a detailed long term timeline, with key milestones; (ii) a smart meter solution; (iii) the estimated costs of such a solution, along with an assessment of benefits; (iv) a network design solution; (v) a communications architecture design solution; (vi) a training assessment and proposed curriculum; (vii) a cost recovery forecast; (viii) a transition plan including communications plan for employees and consumers; and (ix) a detailed, tiered roll-out plan.²

Subsequent to the filing of the PA Companies’ SMIP, FirstEnergy Corp. (“FirstEnergy”), the PA Companies’ parent company, announced its intent to merge with Allegheny Energy Inc. (“Allegheny”). Allegheny owned West Penn Power (“West Penn”) which submitted its own smart meter implementation plan to the Commission on August 14, 2009 in Docket No. M-2009-2123951 (“WPP SMIP”). Subsequent to making its filing, West Penn and interested parties,

¹ SMIP Order at 13-14.

² SMIP Order at 6-7. Upon receiving the SMIP Order, the PA Companies commenced their Assessment Period which, based upon the PA Companies’ representations, would make their Deployment Plan due in June 2012.

1.3 Objectives and Assumptions

1.3.1 Objectives

The objectives surrounding the development of this Deployment Plan were as follows:

1. Submit a plan that complies with Act 129, the Implementation Order, and the various commitments made by any of the Companies.
2. Minimize the likelihood of stranded investment through obsolescence by performing robust evaluation and analysis and adhering to evolving national smart metering guidelines and policies.
3. Present a plan that provides the Companies with full cost recovery, including fair returns for any capital employed, while allowing them sufficient financial flexibility to provide for their other not-insubstantial capital requirements and obligations to shareholders.
4. Develop a strategic and cost effective deployment plan that will maximize early benefits taking into account risk and related costs.
5. Develop a workable process to track, measure and verify benefits arising from the implementation of this Deployment Plan.

1.3.2 Assumptions:

The development of this Deployment Plan was based on the following assumptions:

1. Act 129 calls for 100% customer deployment of smart meters with an implementation timeline of up to 15 years from the date of approval of the SMIP Plan. There will be no opt-out for customers.
2. Time-of-Use (“TOU”) and Real-Time-Pricing (“RTP”) rates will be in place consistent with Pennsylvania law and the Commission’s Implementation Order.
3. Full and timely cost recovery of all costs associated with the evaluation, development, deployment and operation of a smart metering system will be approved.
4. After their grace period, the Companies will install smart meters in all new construction and upon customer request, provided that the latter pays for the incremental cost of such meters and related installation.

approved plan that are consistent with this section, and the commission shall issue a decision whether to approve or disapprove the proposed amendments within nine months of the date that the amendments are filed. If the commission fails to issue a final order within nine months, the amendments shall be deemed to be approved and the default service provider may implement the amendments as filed.

(7) The default service provider shall offer residential and small business customers a generation supply service rate that shall change no more frequently than on a quarterly basis. All default service rates shall be reviewed by the commission to ensure that the costs of providing service to each customer class are not subsidized by any other class.

(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.

(3) Electric distribution companies shall, with customer consent, make available direct meter access and electronic access to customer meter data to third parties, including electric generation suppliers and providers of conservation and load management services.

(4) In no event shall lost or decreased revenues by an electric distribution company due to reduced electricity consumption or shifting energy demand be considered any of the following:

(i) A cost of smart meter technology recoverable under a reconcilable automatic adjustment clause under section 1307(b), except that decreased revenues and reduced energy consumption may be reflected in the revenue and sales data used to calculate rates in a distribution rate base rate proceeding filed under section 1308 (relating to voluntary changes in rates).

(ii) A recoverable cost.

(5) By January 1, 2010, or at the end of the applicable generation rate cap period, whichever is later, a default service provider shall submit to the commission one or more proposed time-of-use rates and real-time price plans. The commission shall approve or modify the time-of-use rates and real-time price plan within six months of submittal. The default service provider shall offer the time-of-use rates and real-time price plan to all customers that have been provided with smart meter technology under paragraph (2)(iii). Residential or commercial customers may elect to participate in time-of-use rates or real-time pricing. The default service provider shall submit an annual report to the price programs and the efficacy of the programs in affecting energy demand and consumption and the effect on wholesale market prices.

(6) The provisions of this subsection shall not apply to an electric distribution company with 100,000 or fewer customers.

(7) An electric distribution company may recover reasonable and prudent costs of providing smart meter technology under paragraph (2)(ii) and (iii), as determined

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August 29, 2017

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Teresa K. Harrold, Esquire
FirstEnergy
2800 Pottsville Pike
P.O. Box 16001
Reading, PA 19612-6001

Re: Docket No. C-2017-2608014
Catherine LaMagna v. Pennsylvania Electric Company
Interim Order Extending Deadline For Complainant To File Response To [The]
Preliminary
Objections and Cancelling Hearing

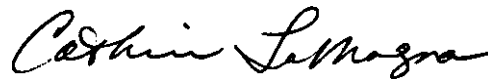
Dear Teresa K. Harrold:

Attached for filing is a response to the Interim Order to Pennsylvania Electric Company (Penelec's) Claims in response to my original Preliminary Objection. Complainant under Account No. 100075075448.

A copy of this response has been mailed to the PA Public Utility Commission Secretary Rosemary Chiavetta and the Administrative Law Judge Jeffrey A. Watson.

If there are any questions regarding this matter, please contact me.

Respectfully Yours,



Catherine LaMagna

Attachment/Pg. 1 Doc. No. C-201702608014

cc: PA PUC Secretary Rosemary Chiavetta

PA Administrative Law Judge Jeffrey A. Watson
Senator Lisa Baker

In support of my preliminary objections to FirstEnergy (Penelec's) rebuttal are as follows.

1. See attached Time Extension submittal paper.
2. Oct. 7, 2008 the PA Senate had passed a Smart Meter bill which is now called Act 129. Then, 8 days later the Senate issued what is known as Act of Oct. 15, 2008, P.L. 1529, No. 129 Cl. 66 - PUBLIC UTILITY CODE (66 PA.C.S.) - OMNIBUS AMENDMENTS. See

§2807 (f) (2) (i) which is located at this link:

<http://www.legis.state.pa.us/WU01/LI/LI/US/HTM/2008/0/0129..HTM>

3. I found decrees made by at least three Senators stating that the "Smart Meters are not mandated" Senator Tomlinson, Senator Boscola and Senator Fumo made this point very clear in the Legislative Journal - Senators Oct. 08, 2008

Senator Fumo stated:

"In addition, we did not mandate smart meters, but we made them optional. We did say in new construction, where they really are practical, they will be put in." (ref: pg 11 of 32 in pdf, or pg 2629 of the actual Legislative Journal)

<http://www.legis.state.pa.us/WU01/LI/SJ/2008/0/Sj20081008.pdf>

4. Here is where the Electric Companies jumped over the Senate's head and had the Public Utilities Commission (PUC) disregard what was voted upon. The Electric Companies simply submitted a Smart Meter Deployment Plan (SMDP) and used a section titled ASSUMPTIONS (see page 6 in the following link) when filing with the PUC, who then rubber stamped this document and adopted the NO-OPT OUT verbiage, which overrode the Senators vote. How is that possible, that a Commission can create law? RE:

<http://www.puc.pa.gov/pcdocs/1292199.pdf>

Note Flawed Specifics here:

1.3.2

Assumptions:

The development of this Deployment Plan was based on the following assumptions:

1. Act 129 calls for 100% customer deployment of smart meters with an implementation timeline of up to 15 years from the date of approval of the SMIP Plan. There will be no opt-out for customers.

So without having access to previous SMDP's there is no way that I can physically see what happen prior to the June 16, 2014 when the PUC approve June 2014's SMDP ...as you can see by the dates below, Dec. 2012 and Mar. 2014 are not available on line to compare and contrast to the last revision:

ORIGINAL DECEMBER 31, 2012

REVISED MARCH 19, 2014

REVISED JUNE 16, 2014

To make matters worse the PUC has a little notice on their formal complaint form that states, should any damage occur by any utility - the issue is not a matter that PUC handles, which forces people to seek restitution through the civil courts.

5. Additionally, I would like to make it known that there was a decision in a Washington County Court of Common Pleas on March 30, 2013, establishing that Corporations are not people and are not entitled to the same rights nor are their rights elevated over that of humankind.

<https://celdf.org/2013/03/celdf-statement-a-new-civil-rights-movement-liberating-our-communities-from-corporate-control-2/>

6. A recent article in a Business/Investor news media disclosed that Smart Meters are vulnerable to hacking due to the rising number of users in Demand Response (DR) exposing these meters to unauthorized access. See link for the article:

<http://www.prnewswire.com/news-releases/global-demand-response-dr-market-to-grow-at-a-cagr-of-158-by-2021---key-players-are-abb-cpower-enemroc-honeywell-international-iron-schneider-electric--siemens-300491705.html>

Phone Cloning of data and home burglaries allows sensitive personal codes to be swiped by hackers who can infiltrate one's home computer and other devices, which places at risk a homeowners privacy, safety and security. Furthermore Justice Debbie O'Dell-Seneca made it very clear (see ref. link in #5 above) that a person's privacy is protected under Pennsylvania's own Constitution.

In conclusion, I am declaring my right to OPT-OUT of the Smart Meter Program.

Respectfully Submitted,

Date: August 29, 2017


Catherine LaMagna

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