

April 29, 2024

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: Orpheus and Kimberly Hanley v. FirstEnergy Pennsylvania Electric Company –
Pennsylvania Power Company: Docket No. C-2023-3041147

Dear Secretary Chiavetta:

Enclosed, please find the Hanley Reply to the Reply of FirstEnergy Pennsylvania Electric Company – Pennsylvania Power Company regarding the above referenced matter.

Respectfully,



Kimberly Hanley

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

I certify that I have served a true copy of response to the attorneys of FirstEnergy - Pennsylvania Power Company on behalf of all Complainants involved. Service is via Electronic Filing.

SERVICE VIA ELECTRONIC FILING

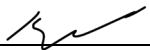
Rosemary Chiavetta, Secretary, PA PUC

SERVICE VIA ELECTRONIC FILING and EMAIL

Daniel A. Garcia, et al

April 26, 2024

DATE



Kimberly Hanley

Orpheus Hanley

1. INTRODUCTION

Make no mistake about it: **This case is regarding Customer Choice!** And whether or not Complainants have a right to decide to participate “IN” the Advanced Net Metering program, also called smart meter program — or to NOT participate. The law clearly states that the CUSTOMER HAS THE CHOICE IF s/he wants an advanced net metering installed on his/her property and that s/he must agree to pay for the installation of that requested smart meter at the time of that request. It also states that the request must be in writing.¹ Is it so ironic that the state Regulatory Act is titled “ELECTRICITY GENERATION **CUSTOMER CHOICE** AND COMPETITION ACT.”² Also, FirstEnergy Pennsylvania Electric Company³ and its subsidiary Pennsylvania Power Company (FE/PP) have not followed the rule “to *offer*” per PURPA guidelines,⁴ but rather the Respondents have mandated that 100% of Pennsylvania customers within its territory must receive a smart meter, whether forcibly, surreptitiously, or voluntarily requesting participation in the smart meter program. Additionally, Respondents have never presented accurate, non-biased, truthful⁵ educational information to Complainants regarding the disadvantages of Advanced Net Metering. Moreover, Complainants have never presented a verbal or written request to participate in the smart meter program.⁶

STATE:

Title 66 § 280: “Electricity Generation **Customer Choice** and Competition Act”. Act 129: Governor Edward G. Rendell signed Act 129... Among other things the Act specifically directed ... that EDCs ...file...a...plan...to describe ... technologies... EDC proposes to install, *upon request from a customer*.... 66 PA Code § 2807[f][2][i]:

¹ § 57.255 (a) — EDC responsibilities regarding advanced metering. “Upon written request from ... a customer...”

² Title 66 § 2801 — ELECTRICITY GENERATION **CUSTOMER CHOICE** AND COMPETITION ACT

³ Formerly known as FirstEnergy Corporation (FirstEnergy Corp.).

⁴ PURPA Section 1252(a)(14)

⁵ § 57.259. Customer Education on Advanced Metering (b) “... shall ensure that a customer is informed as to ... advantages and disadvantages...” (c) “... shall provide, as part of the customer education program, information addressing the ... disadvantages of advanced metering...” (d) The informational and promotional materials are required to: (1) Comply with applicable requirements of the act and existing truth-in advertising requirements.

⁶ See Footnote 1.

Duties of Electric Distribution Companies. — *Electric distribution companies shall furnish smart meter technology as follows: Upon request from a customer that agrees to pay the cost of the smart meter at the time of the request.*

Title 52 § 57.251. Purpose. (a) This subchapter establishes a procedure for ... providing *for customer selection*.... **This subchapter DOES NOT REQUIRE THE PUBLIC TO PARTICIPATE IN AN ADVANCED METERING PROGRAM.**

Title 52 § 54.1. Purpose. — (a) The purpose of this subchapter is to **require that electricity providers ENABLE CUSTOMERS TO MAKE INFORMED CHOICES** ... of electricity SERVICES OFFERED by PROVIDING ADEQUATE AND ACCURATE CUSTOMER INFORMATION. Information shall be provided to customers in an understandable format ... on a uniform basis.

FEDERAL:

EPA Act 2005⁷: Subsection E — Amendment to PURPA, Sec. 1251(a)(11) — Each electric utility *shall make available upon request* net metering service to any consumer that the electric utility serves. Sec 1252(a)(14) — “... *shall offer* each of its customer classes, and PROVIDE **INDIVIDUAL CUSTOMERS upon customer request**...” Sec 1252(a)(14) (B)(i) —“... wholesale level for the benefit of the consumer.” (C) Each electric utility subject to subparagraph (A) shall provide **each customer requesting** a time-based rate with a time-based meter capable

Complainants have repeatedly stated that Complainants have **GRANTED NO PERMISSION NOR REQUESTED orally nor in writing**⁸ for the Respondents to install a smart meter on Complainants’ property. Complainants at **NO TIME** has ever reached out to the FE/PP to request participation in the Advanced Net Metering program (smart meter).

Complainants’ actions at every interaction with the Respondents and its representatives has indicated and demonstrated the Complainants’ intent to not participate in the Advanced Net Metering program (ANMP). By definition such words as “we don’t want one,” “NEVER REQUESTED,” “NO,” and **NEVER OPTING IN**, demonstrates the Complainants exercising their Customer Choice rights, which by federal and state law is **a legal right for consumers NOT**

⁷ 16 U.S. Code Chapter 46

⁸ See Footnote 1.

to participate in the smart meter program. Therefore, the Respondents have repeatedly abused its power under the Color of Law in ignoring the Complainants' rights. Moreover, if a state law does not comply with a federal law, then the Federal law usurps the state law in authority.⁹

LAW REQUIREMENTS

Federal and State laws **do not require the public to participate in the smart meter program.**^{10 11} **It only requires:** After a specific period stated in PURPA paragraph's enactment that each electric utility company present a plan on how it shall offer a smart meter to each customer class; and actions it will take to provide **individual customers who have actually asked** for this technology¹² — not forcing customers into receiving a smart meter, nor forcing a customer to pay for the installation of a smart meter when the customer never requested participation in the

⁹ U.S. Constitution: *Article VI* — "... This Constitution, and the Laws 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; ..."

¹⁰ FEDERAL LAW: 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.

U.S. Public law 109-58: Energy Policy Act (EPACT) of 2005: Section 1251. (a)(11) —Each electric utility shall make available upon request net metering service to any consumer that the electric utility serves. Sec.

1251(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 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...

Energy Independence and Security Act of 2007: SEC. 3. RELATIONSHIP TO OTHER LAW. Except to the extent expressly provided in this Act or an amendment made by this Act, nothing in this Act or an amendment made by this Act supersedes, limits the authority provided or responsibility conferred by, or authorizes any violation of any provision of law (including a regulation), including any energy or environmental law or regulation.

¹¹ STATE LAW: Title 52 § 57.251. Purpose. (a) 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.

¹² FEDERAL LAW: PURPA: Title 1 *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.

ANM program. The Respondents and subsidiaries have already confirmed that they met all requirements to present a plan to the PUC.¹³ Respondents erroneously assert that to fulfill federal and state law requirements, they must also force 100% deployment on customers who do not want a smart meter.

BACKGROUND HISTORY

This battle of unconstitutional force has continued for nearly nine years to violate Complainants' civil rights of feeling safe and secure within the bounds of Complainants' property, causing unnecessary mental and physical stress, frustration, and economic hardship to the Complainants. Instead of focusing on growing financially, time is stolen because of the Respondents' persistent demand to pursue 100% compliance by any and all means available through their billion dollar advantages.

To reiterate an interrupted TESTIMONY from the May 2, 2018 Hearing:

Sometime around November 2015 two men came to our property saying they were going to install a new meter. This was the first contact we had ever received regarding this matter; the contact felt odd and suspicious and the men had nothing linking them officially to FirstEnergy Companies—Penn Power. Had we not been at the property they would have installed a smart meter device without consent. (NOTE: As we recall, a second installer arrived around July 2016 and again threatened shut-off if we did not comply. This second non-scheduled in-person contact, *inter alia*, is what prompted the Formal Complaint.)

At that initial encounter, and thereafter, no one official ever asked if we wanted a smart meter. They only demanded that we accept and pay for its installation, whether we wanted a smart meter or not. FirstEnergy/Penn Power (FE/PP) began using the full weight of its power to force us into submission by threatening shut-off if we did not comply. 0THE DEMAND: To install on our premises without consent an unauthorized 2B CARCINOGEN surveillance device that without permission collects the detailed mundane ebb and flow characteristics of our personal data multiple times a minute

¹³ Smart Meter Deployment Plan

throughout the day, transporting this information to/or through an unauthorized third-party storage station¹⁴.

Upon contacting the Respondents' Customer Service department, we were advised that smart meter technology was no different than smart phones or microwaves. Although we had already known of the dangers of smart meters because of firsthand accounts of exposure effects on a coworker and on a personal friend, however, up until that point we had not personally researched the topic. But after doing our own examination of scholarly reports, government papers, news articles, et seq., on smart meter technology as well as smart phones and microwave technologies, it has become painfully apparent to us how dangerous and invasive smart meter technology is: And our concerns grow more fixed. We repeatedly shared with Respondents' Customer Support personnel all this information and several times asked FirstEnergy/Penn Power agents and complaint investigators if FE/PP would guarantee that the installation of a smart meter would cause no harm to our health, safety and/or privacy, and asked in unanswered interrogatories who would be responsible should a fire break out at the meter box after installation. Not one person would or could give us this guarantee, not even Respondents' attorneys, not even PUC agents—that is *on the record*. Only one, who initially planned to “*chat*” on the record but decided to rather go off the record upon ... then preferred to call again on an “*off the record*” phone line.

At some point we received a letter notice taped to our door again threatening to shut off our service sometime on or after July 20, 2016 if we did not comply with permitting a designated 2B Carcinogenic device that also without permission invaded privacy through big data collection. Also in July 2016, we received correspondence from PUC stating, “PA ACT 129 *requires* smart meters be installed for *all* Pennsylvania customers. If a customer refuses installation on the premises, the customer service may be terminated by the utility.”¹⁵ At each step of the way we have consistently and continually stated that “We Do Not Want a Smart Meter, period!” We have told this to PENN POWER, FIRSTENERGY's attorneys, and the PUC. Our biggest concerns have been because the World Health Organization (WHO), as well as other science and government bodies, have classified this device as a 2B Carcinogen.

As pro se legal representatives, we should be afforded more latitude than only witnesses to our own case for presenting our argument. Still, again, we proceed with caution that our Evidence is not dismantled as during the Hearing. Thus, we hope to be careful to couch our testimony that we may clarify how our untrained perceptions have been shaped against any non-ionizing, low-energy EMF radio device being installed as a

¹⁴ IARC Classifies Radiofrequency Electromagnetic Fields As Possibly Carcinogenic To Humans. International Agency for Research on Cancer—World Health Organization. Page 2.; Public Access URL: http://www.iarc.fr/en/media-centre/pr/2011/pdfs/pr208_E.pdf

CHRIS POTTER. Washington Times. Smart meters pose personal surveillance risks, experts say. Washington Times (2015). Public Access URL: <https://www.washingtontimes.com/news/2015/aug/11/smart-meters-pose-personal-surveillance-risks-expe/>

¹⁵ Complainants' DVD Set 01, EXHIBIT-021_Scan0001_.pdf presented in Docket No. C-2016-2557487.

permanent fixture, and always on, as FirstEnergy and others have described Advanced Metering Technology.

Every pro has a con but none seems to exist in corporate literature. Even at Hearing, company manager John Ahr claimed there were no harmful factors to the smart meter; to our direct question, he gave not one! Safety and reliability cannot be honestly measured when the one component of interest is missing: The human factor. Not just bottom-line dollars.

2. REPLY TO RESPONDENTS ACCUSATIONS

In response to Respondents accusations:

Rebutting Respondents' accusation that Complainants did not serve the Respondents with Exceptions: Complainants did indeed serve the company, as a PUC Secretarial staff member told Complainants that PUC officials would handle serving Respondents and that Complainants fulfilled their delivery obligation and did not have to do anything else. However, Complainants still emailed Respondents that same day, February 27, 2024, notifying both FE/PP attorneys Tori Giesler and Daniel Garcia with an attachment of what Complainants uploaded to the Office of Special Assistants' portal.

Res Judicata: In the matter of *res judicata*, Complainants appeal to PUC on Docket No. C-2016-2557487 never had a final hearing before the PUC; therefore, PUC did not properly finalize the case. Complainants do contend that the Commission never properly closed the case, as the scheduled hearing before the Commissioners never addressed the case; therefore, *res judicata* in this case is not a relevant argument. All conditions relating to *res judicata* were indeed met:

(1) while both cases do indeed involve Complainants having never requested in writing or verbally the installation of a smart meter and never agreeing to pay for such installation, Respondents phone representative years ago suggested to Complainants that what Complainants had described was a request to opt-out of the program and, as Consumers of FE/PP, Complainants used the terminology that was first "fed" to FE/PP consumers. Respondents have since continued to use the side-track phrase "opt-out" as a whipping post to beat Complainants through threats and strong-armed tactics into

submission. However, regardless – PURPA and ACT 129 both are Consumer Choice Acts and therefore the consumer has a right to request or forego installation of a smart meter. As mentioned elsewhere, Opt-In and Opt-Out ARE NOT LEGAL TERMS: CONSUMER CHOICE IS THE LEGAL TERM. **Complainants are coming before the justice system seeking justice.** Complainants have a right to feel secure at their property. (2) The causes of action is firmly planted in the LEGAL rights of Complainants to exercise “CUSTOMER CHOICE” as both federal and state Regulatory Acts demand throughout.¹⁶ Per contra to Respondents misdirection with the usage of the non-legal term “*opt-out*,” which will not be found anywhere in either PURPA or ACT 129: Complainants hold firmly that the law stands with Complainants understanding that the installation of a smart meter is in fact the Choice of the Consumer! Respondents continuing to intentionally use the term “*opt-out*” in Docket No. C-2023-3041147 is per contra to Regulatory Acts and language. No one will find this term in either Acts; however, everyone will find the term “Customer Choice” and “the public does not have to participate,” and the request to participate in the smart meter program must be “in writing.”¹⁷ As for § 1501, pro se Complainants at this time sets aside any past usage of this section as it may only relate to FE/PP facilities directly and not at consumers’ properties. If this section, however involves Title 52 § 54.73(b)(1)¹⁸, then this may still be relevant. Respondents’ licensed legal team however would certainly understand the full intent of Complainants, as since the beginning, the Complainant’s have repeatedly asserted that Complainants have NEVER REQUESTED THE INSTALLATION OF A SMART METER IN WRITING OR OTHERWISE AND COMPLAINANTS HAVE NEVER AGREED TO PAY FOR THE INSTALLATION OF A SMART METER! However, this in no wise is a victory for Respondents, as this case is specific to the customer’s choice.¹⁹ (3) As for identicalness of parties, this is holding that identical parties can never have another case against each other and this would be unlawful. Moreover, the previous case, though stated that Complainants never requested a smart meter nor agreed to pay for its installation, per the legal terms of PURPA and Act 129, Complainants strongly hold that Respondents hi-jacked the case persisting to state there is no “*opt-out*” option. Complainants have not requested an opt-out in this new case. Complainants are stating the right as customers to choose whether to participate in the smart meter program or not. Make no mistake: This case is about the letter of the law and not some *Assumptions* that the Respondents dreamt up and included in a “*PLAN*”. The Argument is over what is Actually written in Regulatory Acts. Nothing more. Nothing less. Both federal and state Regulatory Acts state that customers have a choice to participate or not, a choice to request in writing or not. Respondents persistent usage of the non-legal term “*opt-out*” is attempting to Color the actual Law to their advantage. Respondents are using an “*Assumption*” from a plan of action that they desire to illegally impose against the freewill and choice of

¹⁶ See Footnotes 1, 4, 5, 7-12, ID, at 1, 3, 4, 6-11, 21; pp 2-3, 11-13; Section 5) Appendix: Table of Authorities.

¹⁷ See Footnote 1; pp. 16, 18; § 2801, § 1411, § 57.255 (a), § 2807(f)(3), § 2807(f)(2)(i), § 54.122.

¹⁸ Title 52 § 54.73(b) The general goals of universal service and energy conservation programs include the following: (1) To protect consumers’ health and safety by helping low-income customers maintain electric service.

¹⁹ See page 1, Section 1, paragraph 1.

Complainants, FE/PP customers. If judicial efficiency is desired by Respondents, then this case must be evaluated in the light of legal terms, which “Customer Choice” IS a legal term in both federal PURPA and state Act 129. And the term “Opt-Out” IS NOT a legal term but rather **an assumption from a plan**.²⁰ By definition, assumption means arrogance and pretension, which defines the actions of the Respondents when it comes to forcing declining customers to accept a device that they clearly do not want – is the rule of law by . Assuming a thing as a fact is not a fact: As my mother used to say, “*You know what assume means don’t you?* Making an A... (donkey) out of U and ME.” Not reviewing the Regulation at its face value is doing just that. The federal and state Regulatory Acts both tout Customer Choice. Nowhere will one find the in either Regulatory Acts the word “*opt-out*.” I will only be found in the Respondents implementation and deployment plans that they presented to the PUC – this does not make the *assumptions* a legal rule, only an assumptive desire. Again, the law of the land holds supreme authority and it says the *customer has a choice*. (4) As for the quality and capacity being identical, other than Respondents’ approach being the same – they are not, as this case from the Complainants suit leans entirely upon Regulatory language that is found in both federal and state energy regulations – that language states “Customer Choice,” whereas the Respondents persists in their erroneous language usage of “opt-out,” which is not a legal term in the Regulations, only a wishful assumption on the Respondents’ part. As for Respondents’ footnote 10 “ID, pp. 11-12.” on their page 6 of “Reply Exceptions,” there is no page 12 and page 11 footnote 18 references removal, relocation or change of Company facilities, etc.” This case has nothing to do with such things. Make no mistake: This case is about Customer Choice as to whether or not we have a legal right to decide to participate in the smart meter program or not. Therefore, Respondents have failed in all points in its res judicata claim against Complainants. This case has significant merit and must proceed.

Collateral Estoppel: In the matter of collateral estoppel, Respondents accusation is invalid, as every action of Complainants has screamed that Complainants have NEVER REQUESTED a smart meter. But the Respondents initial contact with Complainants manipulated the usage of a term that has no legal merit, “opt-out,” whether intentional or not is not the point: that seemed to have shifted all focus on these two hyphenated words that are not in legal use in either the federal or state Regulatory Acts, but is only found in a corporate action plan present by the FirstEnergy conglomerate to the PUC as part of its mandatory fulfillment requirements to simply present a plan

²⁰ See Footnote 21

of action by a certain end date. That is it. Somehow though, Respondents have held their assumptions higher than the highest laws of the land – an act that is illegal. The Complainants have NEVER agreed to “OPTED-IN,” which is also a term without legal merit. Make no mistake: This case is about the legal term of “Customer’s Choice,” which is the only term that should be recognized in this case. According to both federal and state Regulatory Acts, the customer has a choice to decide whether or not to participate in the smart meter program, which decision the customer has already made. Furthermore, that decision has been evidenced by Respondents never receiving a written request from Complainants to install any such device, nor have Complainants agreed to pay for that installation cost, which is a requirement by law – which also is the reason why in case #1 Respondents attorneys in a conversation with Complainants stated that in order to do any kind of agreement, the customer would have to agree to pay for the installation of a smart meter – a smart meter that Complainants NEVER REQUESTED. If it is not understood yet: These customers (Complainants) have repeatedly reject participation in FE/PP’s smart meter program. Every interaction with Respondents and their representatives has been consistent without contradiction of intent. However, because of the preponderance of deception, Respondents has shown a narrow focus on the words “opt-out,” even suggesting the usage of those words upon first contact. Regardless, the supreme law of the land states that the CUSTOMER HAS A CHOICE whether to participate in the ANMP or not. At every interaction, the Complainants have stated verbally and in writing that they do not wish to participate in the smart meter program. Therefore, if there is a case of relitigation of an issue, it is with the Respondents refusing to acknowledge that the customer has at all times maintained in this case and the previous case that the Customer has the Choice whether or not to participate in FE/PP’s deployment plans.²¹ Yet, the Respondents

²¹ SMART METER DEPLOYMENT PLAN, Revised June 16, 2014: DOCKET NUMBERS M-2013-2341990, M-2013-2341994, M-2013-2341993, and M-2013-2341991.

persists in clouding the issue with erroneous *Assumptions* from its SMDP Assumptions section, which is contrary to PURPA and Act 129 and therefore Respondents are in violation of the supreme law of the land.²² If Complainants seem repetitive, it is only because the Respondents are pretending that the emperor has new clothes – but Complainants can clearly see through searching Regulatory Acts that “opt-out” phrase has no “clothes” in the game.

3. LEGAL RIGHTS TO DEFEND LIFE, LIBERTY, & HAPPINESS

Respondents, with its team of professional paid legalists, is seeking to take advantage of pro se Consumers who have continually exercised their rights to **NOT REQUEST** a SMART METER. Moreover, in the opinion of Complainants, the Respondents have resorted to legal trickery, knowing that there is no such thing as “opting out” when no one has opted-in: one must first opt-in before he could opt-out! By definition of Customer Choice, it means the customer has the right and choice to “opt-in” or not! NOTE: “Opt-out” is not a legal term in PURPA or Act 129, nor is “opt-in,” for that matter: You won’t find either in either Regulatory Act. But you will find rather that “Customer Choice” is the legal terminology of the language of both federal and state Acts. By federal and state laws, acts, regulations: The Choice belongs to the Consumer. *Not the other way around.* Moreover, the Respondents, as a utility company providing a service, has breached its fiduciary duties, which were previously addressed and includes Respondents not addressing real concerns of the dangers, *or disadvantages*, posed by such technology as ANM and its capability of being invasive, potentially opening a gateway for an unexpected and unaccepted breach in safety, security, privacy, and health, which violates many laws.²³

²² See Footnotes 9, 1, 4, 5, 7-12 ID, at 8, 1, 3, 4, 6, 7, 8, 9, 10, 11

²³ The Nuremberg Code. Title 52 § 54.73(b)(1). Per a 2018 survey, an estimated 1,735,350 new cases of cancer would be diagnosed in the US and 609,640 people would die of the disease. Surveys of 2020 report 1,603,844 new cancer cases with 602,347 deaths.

Respondents portray the inclusion of C-2016-2557487 as evidence of some form of consent by Complainants to be contending for the words opt-in versus opt-out; and therefore, with the trickery of Respondents catapulting their usage of the words “opt-out” in their *Assumptions* to a higher level than federal Regulations. Commencing in legal sparring as though the utility company’s SMDP plan and particularly assumptions therein is licensed to go against federal law, for Respondents claim 100% no opt-out for customers in a Customer Choice Act! While Complainants are not arguing the “opt-out” terminology that has no Regulatory footing, by definition of the phrase “Customer Choice” a Customer indeed has the Choice to participate (opt-in to participate) or not. Still, Complainants have declined to voluntarily or involuntarily request a smart meter! The Complainants hold that the supreme law states that the Customer has a Choice to NOT PARTICIPATE.

Respondents have violated consumer trust, through false representation of PURPA and ACT 129, as the intent of both Acts are clearly stated in Title 66 § 2801 — “ELECTRICITY GENERATION **CUSTOMER CHOICE** AND COMPETITION ACT”! Instead of acknowledging that Complainants have carefully outlined that customers **MUST** consent to the installation of a smart meter before FE/PP is permitted to install advanced net metering on Complainants’ property, Respondents have for over nine years harassed and bullied Complainants through legal sparring that repeatedly costs Complainants their Civil, Constitutional, and Privacy Rights; and threatens their peace-of-mind, security, safety, and health; and strains their finances and power to focus on their own economics; and greatly dampens the ability to take a trip anyway, thereby, in-prisoning Complainants’ movements for fear of a forced installation of what Complainants state through an abundance of evidence that smart meter technology is potentially very dangerous.

As for Respondents' quoting of Povacz cases (See Respondents Reply Exceptions section), Respondents have incorrectly asserted Complainants' complaint as being the same: **FOR COMPLAINANTS HAVE NEVER REQUESTED** a smart meter, and since Complainants **NEVER "opted-in"** to participate in the advanced net metering program nor ever requested to receive a smart meter nor agreed to pay for its installation, verbally or in writing — Respondents in fact have no legal standing to enforce a smart meter upon Complainants!²⁴ Therefore, Respondents have erroneously concluded PURPA and Act 129 as a need that consumers must seek an "*opt-out*" (a non-legal term) avenue of an event in which one has NEVER opted-in. For, if Complainants have never opt-in to participate in the smart meter program, then indeed one could certainly not opt-out of something that he is not participating in; moreover, federal and state Acts do not state that the Customer's Choice is a one-time event, but Respondents seem to be hedging their bets by including such an *Assumptive* "PLAN" in their Smart Meter Deployment Plan *Assumptions* and going about to enforce it among 100% of the population, regardless of consumer choice. We believe that is how FE/PP has gotten away with stating no "opt-out" in their program. **COMPLAINANTS HAVE NOT "OPTED-IN" TO PARTICIPATE IN THE SMART METER PROGRAM: A "CONSUMER'S CHOICE" — PERIOD. FULL STOP!**

4. RESPONDENTS LEGAL RESPONSIBILITIES FAILED CONSUMERS

FirstEnergy is a \$57.47 million recipient of the U.S. DOE "Smart Grid Modernization Initiative" grant (monies from the American Recovery and Reinvestment Act)^{25 i} and other funding incentive programs.ⁱⁱ Commonly when a company receives government grant funds they are required to follow the mission of that grant maker, and when dealing with the Federal government

²⁴ See Footnotes 5-8, 15 ID, at 4, 5, 6, 7, 14

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

they are to adhere to Federal laws and regulations to stay in the program. Federal laws and regulations by law **cannot** conflict with the Constitution of the United States per [Article VI](#). Both Federal and State Constitutions have clauses to guard citizens from such transgressions as we now face — an attempt by the oligarchy to badger and to bully us out of our inherent, indefeasible, inviolable privileges, to break the UNBREAKABLE Reservation of Powers (§25) of Citizens: Rights to Privacy (§1) and Rights of Security from Search and Seizures (§8) — which is directly the intent of Big Data collections, search and seizure to market and sell. Let’s throw in the potential for health issues and privacy violations for good measure.

Per Respondents have a legal obligation to properly educate consumers regarding all factors related to smart meters: Which includes the DISADVANTAGES surrounding the installation of a smart meter.²⁶ Respondents have failed in its obligatory requirements.

5. CONCLUSION

Per contra to Respondents misdirection with the usage of the non-legal term “*opt-out*,” Complainants hold firmly that the regulatory law stands with Complainants understanding that the installation of a smart meter is in fact the Choice of the Consumer!

Per contra to Respondents claim that they have satisfactorily educated consumers, they have not discussed any disadvantages and have only offered one device, which is not a choice; they have not complied with truth-in advertising showing pros and cons and all evidence positive and negative to allow customers to make an informed decision. Respondents fight through legal avenues under the Color of Law to remove USA citizen rights and other consumer rights as written

²⁶ See Footnote 5.

in PURPA and Act 129, which Regulatory Acts both state that customers have a choice and they can freely choose to not participate in the smart meter program.²⁷

Respondents have used strong-armed tactics to bully Complainants through fear and intimidation despite [PURPA Standards](#), which uses such language as “*encourage energy efficiency* for each customer class” and “the incentive a utility *may have to OFFER or ENCOURAGE* customer participation.” [PURPA Sec. 111\(d\)\(11\) and \(14\)](#). That encouragement or offer or incentive does not mean forcing a customer accept the smart meter installation or else electrical services will be shut off! Nor should it resort to customers having to take Respondents to court to defend their regulatory rights of choice!

CUSTOMER CHOICE

A preponderance of evidence exists within not only Pennsylvania Code but also the United States PURPA Code that the law has never intended to take away individual freedoms and rights as it consistently states that no action may be taken regarding fulfilling policies **unless** and **until** the consumer/the customer/the client — the Complainants — 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 Constraints²⁸*

If Act 129 is wearing the Emperor’s new clothes, that is, allows oversight committees and such companies as Respondents to use the ASSUMPTION that they have adjudicated “*correctly*” in the false premise that companies have the right by law to force unwilling and/or unsuspecting

²⁷ See Footnotes 1, 2, 4

²⁸ § 2801, § 1411, § 57.255 (a), § 2807(f)(3), § 2807(f)(2)(i), § 54.122, Smart Meter Deployment Plan 1.3.2.

customers into receiving dangerous technology without written consent or informed education at their properties, which technology invasively secretly disrupts their lives — then Act 129 is a law that is in direct violation of the highest laws of the State (§1, §8, §25), the highest laws of the land upon which we stand (Article VI, and Amendments 4 & 14), and International laws against subjecting humans to long term tests particularly without consent and without an end date (Nuremberg Code, Belmont Report, and others). And as such, it is the Courts duty under Oath of Office and the standards of the Supremacy Clause (and not under the Color of Law) to set aside such injustices, and to set a new precedent with the PUC to put an end to this farce of interpreting Act 129 (an Act driven by PURPA) as an Act that does not allow for Customer Choice!

Complainants contend that the previous ALJ did not take into consideration that Complainants never provided a verbal nor written request to participate in the smart meter program, but rather Complainants have presented an abundance of verbal and written statements that Complainants have never requested a smart meter nor ever agreed verbally or in writing to pay for the installation of such dangerous advanced net metering technology. Moreover, Complainants contend that the PUC itself has yet to address Complainants final concerns regarding the previous ALJ's erroneous decision that never acknowledge the Customer's Choice both federally and state-wise.

Because of Respondents continued pursuit of injustice against Complainants, the Complainants pursuit of happiness²⁹ has been greatly affected as with their feelings of safety, security, and privacy, as well as health concerns, and the stripping away of the freedom of choice.

²⁹ 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.

Moreover, Respondents have not practiced truth-in advertising, as outlined and overlooked in C-2016-2557487.

TO FINALIZE: The only outcome to preserve justice is to allow justice to be served in this Customer's Choice Act. Complainants move to request that the PUC remember the true writings and intent of both PURPA and Act 129:

§ 57.251. Purpose. (a) The purpose of this subchapter is to *facilitate the deployment* of advanced metering equipment **THIS SUBCHAPTER DOES NOT REQUIRE THE PUBLIC TO PARTICIPATE IN AN ADVANCED METERING PROGRAM.** PURPA SEC. 1252. SMART METERING. (a) IN GENERAL.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following: (14)(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**, (C) Each electric utility subject to subparagraph (A) shall *provide each customer REQUESTING*

IT IS A CUSTOMER'S CHOICE — NO MEANS NO! Complainants have never requested verbally nor in writing the installation of a smart meter.

Complainants move to request that the court moves in favor of the Complainants and rule that the Complainants have a right to not participate in the smart meter program.

6. APPENDIX: TABLE OF AUTHORITIES

COURT CASES

Chiarella v. United States, 445 U.S. 222, 230, 100 S.Ct. 1108, 63 L.Ed.2d 348 (1980).

Fiduciary duty

The question in this case is whether a person who learns from the confidential documents of one corporation that it is planning an attempt to secure control of a second corporation violates § 10 (b) of the Securities Exchange Act of 1934 if he fails to disclose the impending takeover before trading in the target company's securities.

Moore v. Regents of University of California (1990) 51 Cal.3d 120(271 Cal. Rptr. 146, 793 P.2d 479)

A cause of action against his physician and other defendants for using his cells 125*125 in potentially lucrative medical research without his permission.

Commonwealth v. Walzack, 468 Pa. 210, 360 A.2d 914 (1976).

Once it is determined that the proffered evidence was both relevant and competent, due process requires its admission. Article I, Section 9 of the Pennsylvania Constitution sets forth the rights of an accused in criminal prosecutions.

"Even the most myopic interpretation of this clause would necessarily concede the right to offer relevant evidence to challenge a material issue of fact." Commonwealth v. Graves, supra, at 334 A.2d at 665, n. 7.[20]

It is inconsistent with fundamental principles of American jurisprudence to preclude an accused from offering relevant and competent evidence to dispute the charge against him. This, of course, includes any of the elements that comprise that charge.

A. Romeo v. PA PUC (Pa. Commw. Ct. 2017)

Oncor Electric Delivery Compan v. NLRB, 16-1278 (D.C. Cir. 2018)

During his brief testimony, Reed said he represented the local union in Dallas and had consulted its equivalent in Houston. He testified that "the **work orders** that I went out on were beginning to be **increasingly of** the meters burning up and **burning up the meter bases.**" J.A. 14. Reed reiterated that this occurrence was becoming more frequent, and had begun "**when they started installing the AMS** [Advanced Metering System, or smart] meters." Id. When **asked** by a senator **whether the burning could be attributed to the power line**, Reed was emphatic, "**No, it's the meter.**"

STATUTES & REGULATIONS

PURPA: Title 1

Section 111(d)(11)

(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)

(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.

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 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*...

Energy Independence and Security Act of 2007

SEC. 3. RELATIONSHIP TO OTHER LAW.

Except to the extent expressly provided in this Act or an amendment made by this Act, **nothing in this Act** or an amendment made by this Act **supersedes**, limits the authority provided or responsibility conferred by, or **authorizes any violation of any provision of law** (including a regulation), including any energy or environmental law or regulation.

Title 1 PA Code

§ 35.161. Form and admissibility of evidence.

In a proceeding before the agency head or a presiding officer, **relevant and material evidence shall be admissible**, but there shall be excluded evidence that is repetitious or cumulative, or evidence that is not of the kind which would affect reasonable and fair-minded men in the conduct of their daily affairs.

§ 35.165. Public documents.

Whenever there is offered in evidence (in whole or in part) a public document, such as an **official report, decision, opinion or published scientific or economic statistical data issued by any of the executive departments** (or their subdivisions), **legislative agencies or committees, or administrative agencies of the Federal Government** (including Government-owned corporations) **or a similar document issued by a State or its agencies, and such document** (or part thereof) has been **shown by the offerer to be reasonably available to the public, such document need not be produced or marked for identification**, but may be offered in evidence **as a public document** item by specifying the document or relevant part thereof **without regard to the requirements of § 35.169** (relating to copies to parties and agency).

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.

§ 54.122. Code of conduct.

Electric generation suppliers and electric distribution companies shall comply with the following requirements:

(3) An electric distribution company or electric generation supplier **may not engage in false or deceptive advertising to customers** with respect to the retail supply of electricity in this Commonwealth.

§ 57.251. Purpose.

(a) 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)

(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.**

§ 57.255 (a)— EDC responsibilities regarding advanced metering.

Upon **written request from both a customer** and the EGS of that customer the EDC shall make available and install for use of qualified in advanced meter or meter-related device. The qualified advanced meter shall be the customers billing meter and shall meet certain standards established by the commission in section 57.254 (relating to advance meters standards).

§ 57.259. Customer Education on Advanced Metering

(a) An EDC shall provide an initial summary statement to its customers which **describes the availability and general uses** of advanced metering. The initial summary statement may be distributed as part of a regularly scheduled customer electric usage bill or other regularly scheduled customer communications as applicable.

(b) The EGS shall **ensure that a customer is informed as to** the capabilities, advantages and **disadvantages** of a qualified advanced meter prior to installation or participation in a generation service program utilizing advanced metering. An EGS shall provide to the customer a terms of service disclosure statement that addresses advanced metering.

(c) An EDC shall provide, as part of the customer education program, information addressing the use of an advanced meter, basic meter operations and capabilities, advantages **and disadvantages of advanced metering, including qualified advanced meter options**, applicable costs/surcharges and methods to obtain additional information.

(d) The informational and promotional materials are **required** to:

(1) Comply with applicable requirements of the act and **existing truth-in advertising requirements**.

Title 66 PA Code

Act 129 – Summary Overviewⁱⁱⁱ

“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).”

§ 315. Burden of Proof

(a) Reasonableness of rates.--In any proceeding upon the motion of the commission, involving any proposed or existing rate of any public utility, or in any proceedings upon complaint involving any proposed increase in rates, the **burden of proof to show** that the rate involved is *just and reasonable shall be upon the public utility*. The commission shall give to the hearing and decision of any such proceeding preference over all other proceedings, and decide the same as speedily as possible.

§ 332(a) procedures in general. BURDEN OF PROOF.--

(a) Except as may be otherwise provided in section 315 (relating to burden of proof) or other provisions of this part or other relevant statute, **THE PROPONENT OF A RULE OR ORDER HAS THE BURDEN OF PROOF**. (b) Admissibility of evidence

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 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.

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)^{iv}

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.**

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

ⁱⁱ Energy Independence and Security Act of 2007. Pages 136, 176, 298. Smartgrid.gov.

Public Access URL: https://www.smartgrid.gov/project/firstenergy_smart_grid_modernization_initiative.html
<https://www.gpo.gov/fdsys/pkg/BILLS-110hr6enr/pdf/BILLS-110hr6enr.pdf>

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

^{iv} Compilation of the Social Security laws.

Public Access URL: https://www.ssa.gov/OP_Home/comp2/F093-579.html