

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Jan Kiefer	:	
	:	
v.	:	C-2018-3006172
	:	
West Penn Power Company	:	

**INTERIM ORDER  
CLOSING HEARING RECORD**

On June 30, 2020, the evidentiary hearing was concluded in this proceeding and the parties were subsequently provided with a briefing deadline of September 4, 2020. Respondent filed a main brief on September 4, 2020. Complainant did not file a brief.

On October 8, 2020, the Commonwealth Court of Pennsylvania (Commonwealth Court) issued an Opinion in *Povacz, et al. v. Pa. Public Utility Commission*,<sup>1</sup> (*Povacz I*), the first of several appeals involving PECO Energy Company’s (PECO) deployment of smart meter technology pursuant to Act 129 of 2008 (Act 129), codified at 66 Pa. C.S. § 2807(f). In the *Povacz I* consolidated opinion, the Commonwealth Court partially affirmed, and partially reversed and remanded, the Commission’s March 28, 2019, and May 9, 2019 Orders in Maria Povacz, Laura Sunstein Murphy, and Cynthia Randall. *Povacz I* at 495.<sup>2</sup>

In light of the Commonwealth Court’s decision in *Povacz I*, the Commission entered an Order and Notice, at Docket No. M-2009-2092655, on November 4, 2020, pursuant to 66 Pa. C.S. § 501, instituting a stay of certain formal complaint proceedings then-pending before the Commission involving challenges to EDC deployment of smart meter technology as being in violation of Section 1501 of the Code (*November 4, 2020, Stay Order*). *The November 4, 2020,*

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<sup>1</sup> *Povacz, et al. v. Pa. Public Utility Commission*, 241 A.3d 481 (Pa. Cmwltth. 2020).

<sup>2</sup> *Id.* at 490, 491, 493-495.

*Stay Order* also directed that the stay would apply to any new formal complaints filed with the Commission claiming that EDC deployment of smart meter technology was a violation of Section 1501, and that the stay would remain in place until it was lifted by further Commission action. The *November 4, 2020, Stay Order* applied to and was docketed at the instant case.

The Commission, as well as all other parties in *Povacz I* subsequently sought and were granted review of the Commonwealth Court's *Povacz I* decision by the Supreme Court of Pennsylvania.

On August 16, 2022, the Supreme Court issued its Opinion in *Povacz II*, affirming the Commission's determinations in all respects. Given the Supreme Court's decision in *Povacz II*, the Commission lifted the stay implemented by the *November 4, 2020, Stay Order* on November 9, 2023. The Commission entered an Order at Docket No. M-2009-2092655, explaining that cases pending before the Office of Administrative Law Judge, such as the instant case, would proceed as directed by the assigned presiding officer.

In the instant case, the Respondent filed a brief following the evidentiary hearing. Complainant did not file a brief. Subsequently, the Commission entered an Order and Notice, at Docket No. M-2009-2092655, staying the proceeding, on November 4, 2020. The stay was lifted by Order of the Commission on November 9, 2023.

On December 6, 2023, an Interim Order was entered permitting the parties to file supplemental briefs and other requests for relief, on or before February 5, 2024. Respondent filed a supplemental brief on February 5, 2024. No other briefs or requests for relief have subsequently been filed by either party in this proceeding.

Under the circumstances, the following order will be entered.

THEREFORE,

IT IS ORDERED:

1. That the evidentiary hearing record in this proceeding filed at Docket No. C-2018-3006172 is closed.
2. That an Initial Decision will be entered in this proceeding.

Date: June 3, 2024

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/s/  
Jeffrey A. Watson  
Administrative Law Judge

**C-2018-3006172 - JAN KIEFER v. WEST PENN POWER COMPANY**

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