

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Jessica Janosek	:	
	:	
v.	:	C-2019-3010124
	:	
West Penn Power Company	:	

**INTERIM ORDER
CLOSING THE HEARING RECORD**

On February 6, 2020, the evidentiary hearing was concluded in this proceeding and the parties were provided a deadline of August 7, 2020, to file briefs in this proceeding. Respondent filed a main brief on August 7, 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*,¹ (*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.

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, Stay Order* applied to and was docketed at the instant case.

¹ *Povacz, et al. v. Pa. Public Utility Commission*, 241 A.3d 481 (Pa. Cmwlth. 2020).

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.

Previously, the Commonwealth Court stayed the proceedings in several other unconsolidated appeals that raised the same, or similar, smart meter issues pending its disposition of *Povacz I*. Upon application by the Commission, the Commonwealth Court continued the stay of these appeals pending the Supreme Court's disposition of *Povacz II*. Since the Supreme Court's issuance of its *Povacz II* decision, the Commonwealth Court has lifted the stays on the remaining unconsolidated smart meter appeals and directed the parties to submit briefs, supplemental briefs, and other appropriate filings as warranted.

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, Complainant did not file a brief. Although a significant time passed after the deadline to file briefs had expired, 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. Under the circumstances, an interim order was entered on December 28, 2023, re-opening the evidentiary hearing record in the case of *Jessica Janosek v. West Penn Power Company* at Docket No. C-2019-3010124. In addition, the Parties were permitted to file any briefs or supplemental briefs and any other appropriate requests for relief, on or before February 1, 2024.

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