

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

LARRY R. KRAMER AND
ELLEN M. KRAMER

v.

METROPOLITAN EDISON COMPANY

:
:
:
:
:

C-2017-2630621

**INTERIM ORDER
EXTENDING DEADLINE TO FILE BRIEFS**

A telephonic evidentiary hearing was held in this matter on June 29, 2020. At the hearing, the Parties were advised that they may, but were not required to submit briefs, and a deadline to submit briefs of September 30, 2020, was established.

On September 21, 2020, Complainants submitted an email requesting an extension of the briefing schedule.

On September 30, 2020, an Interim Order was entered extending the deadline to submit briefs to November 9, 2020.

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.

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

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* 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 deadline to file briefs was extended by the undersigned presiding officer at Complainant's request, until November 9, 2020. However, 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 November 27, 2023, once again extending the deadline to file briefs and to consider appropriate requests for relief, if any, and to proceed with the disposition of this proceeding consistent with the Commonwealth Court and Supreme Court rulings discussed above. The deadline was extended to January 10, 2024.

On November 27, 2023, Complainants provided the undersigned presiding officer with a request to extend the briefing deadline once again. Complainants requested an additional extension of 120 days.

On December 13, 2023, the undersigned presiding officer received a response from counsel for Respondent objecting to Complainant's request for an additional extension. Respondent noted that Complainants have had the benefit of numerous extensions of deadlines throughout this litigation. Respondent argued that Complainants brief should have been substantially completed by the time of the stay issued on November 4, 2020, given that it was to be due only 5 days later. Respondent further argued the request for an additional 120 days is extreme and, paired with the prior history of repeated requests, appears to be another effort to delay deployment of the smart meter rather than properly pursuing their complaint pursuant to Commission rules.

On December 20, 2023, an interim order was entered requiring that the parties file their briefs and any other appropriate requests for relief, if any, on or before February 1, 2024. On February 1, 2024, Respondent filed its main brief. On February 6, 2024, Complainant's filed a request for an extension of the briefing schedule. Complainants explained that Mrs. Kramer was suffering from medical issues and requested an extension of 180 days to file their brief.

Under the circumstances, the following Interim Order will be entered.

THEREFORE,

IT IS ORDERED:

1. That the deadline for Complainants to file their brief is extended until 4:30 p.m. on July 1, 2024. No further extensions will be granted.

2. That the Respondent may but shall not be required to file a reply brief in this proceeding, not later than 4:30 p.m. on July 31, 2024. No extensions will be granted.

3. That the Parties may but shall not be required to file briefs as provided in the ordering paragraphs above.

4. Any briefs permitted in the ordering paragraphs above shall also be provided to the undersigned Presiding Officer in written and electronic form on or before the deadlines set forth above. The electronic form of the briefs shall be submitted to the undersigned Presiding Officer in WORD format. In addition, the briefs should, but will not be required to include proposed findings of fact, conclusions of law or proposed ordering paragraphs. In addition, briefs should, but will not be required to include specific references to the testimony or exhibits from the evidentiary hearing. The briefs may include a discussion of the legal argument of the parties as well as any legal authority and citations to support such argument or discussion.

5. A copy of all briefs and documents that you file or any request for relief must be sent to my legal assistant by email to Mary Swarner, Legal Assistant at mwarners@pa.gov with a copy of the email transmission and attachments to be copied by email to every other party.

6. No further extensions to file briefs will be granted to either party in this proceeding.

Date: June 4, 2024

/s/
Jeffrey A. Watson
Administrative Law Judge

C-2017-2630621 - LARRY R AND ELLEN M KRAMER v. METROPOLITAN EDISON COMPANY

LARRY R KRAMER
ELLEN M KRAMER
101 SOUTH COLLEGE STREET
MYERSTOWN PA 17067
717.866.5425
-E-SERVE-
kramer101@comcast.net

LAUREN MARISSA LEPKOSKI ESQUIRE
TORI L GIESLER ESQUIRE
TERESA K HARROLD ESQUIRE
FIRSTENERGY SERVICE CO
2800 POTTSVILLE PIKE
PO BOX 16001
READING PA 19612
610.921.6203
610.921.6658
610.921.6783
-E-SERVE-
tgiesler@firstenergycorp.com
llepkoski@firstenergycorp.com
tharold@firstenergycorp.com