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July 9, 2024

VIA ELECTRONIC FILING

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

Re: Miranda Grace Edwards v. Duquesne Light Company Docket No. C-2018-3002741

Dear Secretary Chiavetta:

Attached please find Complainant's (my) "Exceptions to the Initial Decision of Administrative Law Judge Jeffrey A. Watson issued on June 24, 2024" in the above-referenced matter. A copy of this document has been served upon all parties, including the Office of Special Assistants, in accordance with Commission regulations.

Please feel free to contact me if you have any questions.

Sincerely,



M. Grace Edwards
Attachment

Cc: ALJ Watson (via U.S. mail)
Jeremy V. Farrell, Esq. (via email) (with attachment)
Office of Special Assistants (via email) (with attachment)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Miranda Grace Edwards	:	
	:	
v.	:	
	:	Docket No. C-2018-3002741
	:	
Duquesne Light Company	:	

**EXCEPTIONS OF
COMPLAINANT MIRANDA GRACE EDWARDS, *PRO SE*
TO THE INITIAL DECISION OF
ADMINISTRATIVE LAW JUDGE JEFFREY A. WATSON
ISSUED ON JUNE 24, 2024**

Dated: July 9, 2024

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I. Introduction

Pursuant to Section 5.533 of the Commission's regulations, 52 Pa. Code § 5.533, Complainant Miranda Grace Edwards hereby submits these Exceptions to the Initial Decision of administrative law judge Jeffrey A. Watson dated June 24, 2024.

Administrative agency actions that eviscerate Complainant's right to refuse to consent to the installation of a device that will compromise her safety cannot stand.

The courts, in deciding actual cases, have ruled that any contract that is obtained or imposed through undue influence is invalid. No contract can be rightfully formed unless there has been a "meeting of the minds"—and, concerning smart meters, there has been none between Pennsylvania electric distribution companies and ratepayers. There are legal protections that stipulate no one can be forced to comply with an unrevealed contract between private corporations to which they were never a party and of which they had no knowledge.

Complainant's refusal to consent to the installation of a smart meter on her home is an exercise of her constitutional rights over which neither Duquesne Light Company (DLC), Respondent in this complaint, nor the Pennsylvania Public Utility Commission (PUC) have been delegated authority.

The PUC's interpretation of Act 129 violates the *Statutory Construction Act of 1972*, 1 Pa.C.S. §§1501-1991, and tramples the Article I constitutional rights of customers who resist the installation of smart meters.

Complainant avers that she has never consented to provide her personal information to Itron, maker of the Itron SK9AMI7 HW 3.1 OpenWay CENTRON Singlephase Smart Meter DLC seeks to forcibly install on Complainant's house. Nor has Complainant consented to have her daily activities monitored by Itron, and DLC has no right to enter her into such an arrangement. There is no sound or rational legal basis that establishes otherwise.

Furthermore, per the Pennsylvania Supreme Court's Opinion in *Povacz v. Pa. Pub. Util. Comm'n* (2022) (*Povacz II*) included a footnote on page 7: "See 66 Pa.C.S. §§ 1505 (requiring the PUC to prescribe remedial action upon finding a violation of Section 1501 'as shall be reasonably necessary and proper for the safety, accommodation, and convenience of the public') and 1501 (requiring utility to take remedial action 'as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public'). This holding does not preclude an electric utility from providing a reasonable accommodation to an electric customer in the absence of a Section 1501 violation pursuant to a customer service policy"—DLC can and should grant an accommodation in its customer service policy to customers who suffer ill effects from radiofrequency electromagnetic energy or who, for protection of their privacy and personal safety, do not consent to provide intimate details of their daily lives to smart meter companies.

Mandating universal installation of so-called smart "meters" would not only compromise Complainant's health, privacy, and safety, it would force the Complainant's property to be used by DLC for purposes other than the collection of electricity usage information necessary for accurate billing. That is, PUC's policy would allow DLC to forcibly use its AMI wireless smart

meter on Complainant's home as a relay point to transmit data that does not originate from Complainant's property.

By enforcing its policy of universally mandating smart meters, the PUC, clearly a state actor, has insinuated itself directly into, and has become participatory in, the violation of Complainant's property rights protected under the Fourth, Fifth, Ninth and Fourteenth Amendments to the Constitution of the United States.

Electricity is a basic utility that is essential for a reasonable quality of life in today's world. As such, Complainant requires uninterrupted (to the extent physically possible) electricity service at her home. If DLC terminates electricity service to Complainant's residence, this action would make it impossible for Complainant to live in her own home. Neither DLC nor PUC have been delegated the right or authority to threaten Complainant's physical safety or cause property damage to Complainant's home as punishment for Complainant declining to consent to the installation of a smart meter on her property.

Complainant, attempted to submit evidence demonstrating risks associated with smart meters at the evidentiary hearing in this matter on February 27, 2020, pursuant to the Order of ALJ Jeffrey A. Watson. The PUC need not resolve the scientific disagreement between the parties to resolve this case. The evidence at the very least shows potential harm to Complainant and other ratepayers from RF exposure such as that emitted from smart meters.

But although Complainant brought forth highly relevant, highly credible and reliable evidence of definite probative value which would constitute a preponderance of evidence acceptable to any reasonable mind that that DLC's AMI wireless smart meters pose substantive risks to health, privacy, and safety, ALJ Watson prevented all such evidence from being submitted into the evidentiary record. ALJ Watson's conduct does not negate the existence of the evidence Complainant presented.

By continuing the pattern followed in other smart meter cases, of misplacing the burden upon complainants such that they are required to conclusively prove harm by producing a preponderance of evidence that wireless smart meters are unsafe, ALJ Watson has failed to consider the FACT that there is absolutely no established guideline or standard of safety that would protect against any of the nonthermal mechanisms of interaction for RF that are known to exist. This fact, among others, directly speaks, pursuant to 66 Pa. C.S. § 1501, to the unreasonableness of forcing Complainant to endure chronic, long-term exposure to the RF radiation and fields produced by DLC's AMI meters as a condition of her continuing to receive electric service.

ALJ Watson's actions and statements throughout the proceedings of C-2018-3002741 demonstrate a self-evident bias that has made it impossible for Complainant to receive a fair and impartial hearing on the facts. ALJ Watson's belittling attitude culminated in his abusive behavior

toward Complainant during the 11+-hour initial telephonic hearing in this matter.

ALJ Watson's actions have abridged and denied Complainant of her due process right to fully and properly challenge, pursuant to 66 Pa. C.S. § 1501, the safety and reasonableness of DLC's AMI smart meters. As such, and for the reasons detailed elsewhere in these exceptions, Complainant filed a motion for recusal on January 19, 2024.

ALJ Watson denied Complainant's motion for recusal on March 29, 2024.

Because Complainant lacked access to the evidentiary hearing transcript (see discussion in Exception No. 6), she could not reference it in these exceptions or other documents she filed as part of C-2018-3002741. Instead, she has relied on her recollections of and notes on the 11+-hour hearing, which was memorable for its unpleasantness.

II. Evidentiary Standards and Criteria

Evidence is relevant if it tends to establish facts in issue. *LeRoi v. Pa. State Civil Service Commission*, 382 A.2d 1260 (Pa. Cmwlth. 1978).

“Commonwealth agencies shall not be bound by technical rules of evidence at agency hearings, and **all relevant evidence of reasonably probative value may be received.**” 2 Pa. C.S. § 505. (emphasis added)

The Pennsylvania Public Utility Commission, a Commonwealth agency, is not bound by technical rules of evidence at agency hearings and therefore may receive all relevant evidence of reasonably probative value. If the evidence is relevant to the issues before the agency and of reasonable probative value, the agency may receive it. 2 Pa. C.S. § 505.

Hearsay evidence may generally be received and considered during an administrative proceeding. *See A.Y. v. Commonwealth, Dep't of Pub. Welfare, Allegheny County Children & Youth Serv.*, 537 Pa. 116, 641A.2d 1148, 1150 (1994).

Under the relaxed evidentiary standards applicable to administrative proceedings, as provided under 2 Pa. C.S. § 505, it is well-settled that simple hearsay evidence, which otherwise would be inadmissible at a trial, generally may be received into evidence and considered during an administrative proceeding. *D'Alessandro v. Pennsylvania State Police*, 937 A.2d 404, 411, 594 Pa. 500, 512 (2007).

Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Borough of E. McKeesport v. Special/Temporary Civil Serv. Comm'n*, 942 A.2d 274, 281 n.9 (Pa. Cmwlth. 2008).

Substantial evidence must be “more than a scintilla and must do more than create a suspicion of the existence of the fact to be established.” *Kyu Son Yi v. State Bd. of Veterinary Med.*, 960 A.2d 864, 874 (Pa. Cmwlth. 2008).

In order for evidence relied upon in an administrative proceeding to be considered “substantial evidence,” the “. . . information admitted into evidence must have sufficient indicia of reliability . . .” *Gibson v. W.C.A.B.*, 861 A.2d 938, 944, 580 Pa. 470, 480 (Pa. 2004).

To satisfy the requirement of authenticating or identifying an item of evidence ... “the proponent must produce evidence sufficient to support a finding that the item is what the proponent claims it is.” Pa. R.E., Rule 901.

Evidence which is corroborated by any competent evidence in the record must be given its “natural probative” effect.

Complainant has brought forth a voluminous amount of highly relevant, highly credible and reliable evidence of definite probative value that certainly meets the above criteria, and which would constitute a preponderance of evidence acceptable to any reasonable mind, that forced, chronic, long-term exposure, even at very low levels, to the radiofrequency radiation and RF fields produced by DLC’s AMI wireless smart meters poses a substantive risk to health and safety.

Although the Complainant admittedly is not an expert in the fields of medicine or radiation biophysics, she is sufficiently educated and has expertise enough to understand the public documents and the conclusions published in peer-reviewed scientific studies that are written in plain English such that any reasonably well-educated school student could understand.

However, despite the evidentiary standards and criteria listed above, in the course of the proceedings of C-2018-3002741, ALJ Watson failed to apply careful judicial scrutiny to Complainant’s evidentiary exhibits in light of those standards and criteria. Purely on the basis of overly technical rules, all of Complainant’s evidentiary exhibits concerning RF safety were denied admission into the record.

III. Exceptions

A Exception No. 1: The ALJ erred in ignoring Complainant’s legal arguments concerning the Act of October 15, 2008, P.L. 1592, No. 129 (“Act 129”) and using the Pennsylvania Supreme Court’s faulty decision in *Povacz v. Pa. Pub. Util. Comm’n*, 280 A.3d 975 (Pa. 2022) to dismiss Ms. Edwards’s complaint regarding DLC’s threat to terminate her service for refusing installation of a smart meter on her home.

In his Initial Decision, ALJ Watson states that smart meters “must be installed at each metered service premises pursuant to Act 129 and Duquesne Light’s Smart Meter Plan and that customers cannot refuse the installation of a smart meter for any reason.” (I.D., p. 27)

Throughout the formal complain process, Complainant has averred, and continues to aver, that there is no universal smart meter mandate under Act 129. Complainant’s assertion is

corroborated by Act 129's clear and unambiguous language in Section 2807(f)(2), by the legislature's intentional refusal to mandate smart meters for every ratepayer (as cited by Complainant and as recorded in the *Senate Journal* on October 8, 2008, pages 2626-2631¹), and by the Commonwealth Court of Pennsylvania's opinion in *Povacz et. al. v. Pa. Pub. Util. Comm'n*, No. 492 C.D. 2019, No. 606 C.D. 2019 and No. 607 C.D. 2019 (*Povacz I*).

Therefore it is false that during Complainant's evidentiary hearing, "Respondent established that Act 129 of 2008 requires it to install smart meters throughout its service territory" (I.D., p. 37) and that "Complainant failed to present any evidence or cite any authority to establish that Respondent was not required to install a smart meter at her residence." (I.D., p. 38)

In Act 129, PA C.S. § 2807(f)(2) states: "(f)(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 request.
- (ii) In new building construction.
- (iii) In accordance with a depreciation schedule not to exceed 15 years.

Complainant avers that, as she has never requested or agreed to pay for a smart meter, she is in complete compliance with Act 129 as it was written and passed by the General Assembly, as it was intended by the Legislators, and as it was signed by Governor Rendell.

Furthermore, based on the definition of "depreciation" and "useful life" as used in *Black's Law Dictionary*², Internal Revenue Code (IRC) § 167(a) and Treasury Regulation (Treas. Reg.) § 1.167(a)-1(a)³, and the Federal Energy Regulatory Commission (FERC)⁴, the plain statutory language of § 2807(f)(2)(iii) must be interpreted as follows—using terms synonymous with depreciation to aid in interpretation:

Electric distribution companies shall furnish smart meter technology as follows ... in accordance with a wear and tear, exhaustion, or obsolescence schedule not to exceed 15 years.

In other words, § 2807(f)(2)(iii) establishes the maximum service life of smart meters. This paragraph of Act 129 makes no reference to a mandatory rollout of smart meters.

1 <https://www.legis.state.pa.us/WU01/LI/SJ/2008/0/Sj20081008.pdf#page=13>

2 <https://thelawdictionary.org/depreciation>

3 Internal Revenue Code of 1986, as amended

4 The Federal Energy Regulatory Commission (FERC) is an agency that regulates the interstate transmission of electricity, natural gas, and oil. FERC also administers accounting and financial reporting regulations of regulated companies—such as EDCs.

In order to overturn the Commonwealth Court of Pennsylvania's decision in *Povacz I* and side with the PA PUC and utility companies, the Pennsylvania Supreme Court:

- Violated the *Statutory Construction Act* by construing Section 2807 (f)(2) of Title 66 of the Pennsylvania Consolidated Statutes, enacted by Act 129, as requiring the installation of smart meters by an electric distribution company for all of its existing customers, notwithstanding the express objection, or refusal to consent to such installation, by one (or more) of its customers.
- Committed an error of law when it used the criteria of 66 Pa.C.S. §1501 to interpret the language of 66 Pa.C.S. §2807(f) (2).
- Trampled the individual rights expressed in the Pennsylvania Constitution as provided in Article I, Section 1, Inherent Rights of Mankind, and in Article I, Section 25, Reservation of Power in People.

B Exception No. 2: The ALJ erred in brushing off Complainant's privacy- and security-related objections to smart meters in a perfunctory manner, even to the point of ignoring statements by a DLC witness that substantiated Complainant's concerns. The ALJ cited *Naperville Smart Meter Awareness v. City of Naperville* (I.D., p. 44) and failed to take into consideration important fundamental differences between circumstances in the Naperville case and the conditions concerning the privacy of smart meter data as they currently exist in Pennsylvania.

Although the Appeals Court in Naperville also found that the municipality's "search" was reasonable, it explicitly cautioned that its holding depended "on the particular circumstances of this case."

In reaching its opinion in Naperville, the Court took into account the following fundamental facts: 1) Naperville's utility, which is publicly-owned, had adopted a clarifying "Smart Grid Customer Bill of Rights" policy pledging that customers' data will not be provided to third parties, including law enforcement, without a warrant or court order; and 2) The collection interval of customer data by the use of smart meters in that case was not less than 15 minutes.

The Court in Naperville additionally admonished: "Were a city to collect the data at shorter intervals, [its] conclusion could change."

That Court also asserted that its "conclusion might change if the data was more easily accessible to law enforcement or other city officials outside the utility."

The PUC has directed that the smart meter technology of covered EDCs, including DLC, must support at least the following capabilities:

1. Ability to provide 15-minute or shorter interval data to customers,

EGSs, third parties and the regional transmission organization (“RTO”) on a daily basis, consistent with the data availability, transfer and security standards adopted by the RTO.

2. Ability to upgrade these minimum capabilities as technology advances and becomes economically feasible.
3. Ability to remotely program the meter.

The PA PUC has given DLC and the state’s other electric utilities free rein to collect customer data at sub-15-minute intervals with no lower limit to granularity. The level of vulnerability of customers’ privacy and the potential for misuse and abuse of the data collected from them by DLC also differ radically from the circumstances in the Naperville case, where customers’ data was not to be provided to third parties, including law enforcement, without a warrant or court order.

According to DLC, and accepted as fact by ALJ Watson in his initial decision, “Duquesne Light **currently** takes two consumption readings per day” (I.D., p. 28) that measure the aggregate consumption in a customer’s home. (emphasis added)

However, other information collected by the Itron SK9AMI7 HW 3.1 OpenWay CENTRON Singlephase Smart Meter DLC seeks to forcibly install on Complainant’s house includes **60-minute interval data** voltage information. (I.D., p. 28) (emphasis added)

Although shy of the 15-minute threshold put forth in *Naperville*, 60-minute interval data transferred via DLC’s smart meter is sufficient to yield detailed information about an individual ratepayer’s daily routine, including absences from the home. Per the PUC, DLC is *required* to have the capability to increase the collection rate to 15-minute intervals or shorter. And DLC’s privacy policy⁵ is opaque in many respects, containing no mention of consumption readings or interval data. If DLC changed their rate of consumption readings or interval data at a future date, that information would not be readily available to their customers.

Aggregated data is not an obstacle to future privacy breaches, either. Itron excitedly boasts of its ability “to deploy load disaggregation in real time with no special equipment at the customer premise.”⁶ In other words, load disaggregation could be turned on without the customer’s knowledge or consent.

Unlike the City of Naperville, DLC “may share Customer Information (not including Customer telephone numbers) with Business Partners for the purposes of offering products, services, or

5 <https://duquesnelight.com/customer-support/policies-forms/privacy-policy>

6 <https://apac.itron.com/w/real-time-load-disaggregation>

benefits to DLC Customers related to their energy usage, which the Customer may be interested in, or for which the Customer may be eligible.” DLC does not specify whether they receive financial compensation from their “Business Partners” for this information.

If the Court in Naperville had been given to scrutinize the same set of circumstances as presently exist in Pennsylvania with regard to widespread third-party access to, and the vulnerabilities and potential abuses of, utility customers’ data, there is little doubt that the Court would have found the nonconsensual collection and transmission of such data, via wireless smart meters and pursuant to DLC’s privacy policy and Commission-approved, WPWG Technical Implementation Standard, as not being among the “few exceptions” sufficient to pass Fourth Amendment muster as a reasonable, warrantless search of one’s home. (*See Kyllo v. United States*, 533 U.S. at 31.)

DLC’s collection, through the use of smart meter technology, of aggregate quantities of more of Complainant’s usage data than is customary and minimally necessary for generating a monthly bill, constitutes a search under the Fourth Amendment. DLC’s 24/7 collection of Complainant’s data, which is mandated to have the ability to occur at intervals of 15 minutes or less with no lower limit, and such that, without Complainant’s consent, her data may be shared by DLC with third parties who may de-anonymize and disaggregate that data, constitutes an abridgement and deprivation of Complainant’s Fourth Amendment right to a reasonable expectation of privacy.

The manner and degree to which DLC uses smart meters to collect and transmit customer data constitutes electronic surveillance as defined and expounded under 50 U.S.C. 36, Subchapter I, §§ 1801(f), 1809(a), 1810, and 1812.

If, pursuant to the PUC’s policy mandating smart meters, and thus acting under color of law as a state actor or agent of an agency of the State, DLC proceeds—by means of threatening to terminate Complainant’s access to vital electric service—to coerce Complainant’s consent to the installation on her home of an AMI wireless smart meter device, DLC’s subsequent use of that device, in perpetually collecting and transmitting from Complainant’s home more data with content of a personal and private nature than is customary and minimally necessary for generating a monthly bill, shall be without Complainant’s consent and shall constitute electronic surveillance as defined and expounded under 50 U.S.C. 36, Subchapter I, §§ 1801(f), 1809(a), 1810, and 1812.

Additionally, ALJ Watson heard testimony at Complainant’s evidentiary hearing from Mr. Wright, an employee of Itron. Mr. Wright testified that the Itron SK9AMI7 HW 3.1 OpenWay CENTRON Singlephase Smart Meter DLC seeks to forcibly install on Complainant’s house has a mechanism that emits an LED flicker which indicates rate of consumption. Mr. Wright testified that the LED light changes frequency in real time with the amount of energy used. With this feature enabled (and there is no way for a DLC customer to know for sure whether or not it is

enabled), any person with harmful intentions and night-vision goggles could surveil a target's residence to determine whether the target is currently at home.

C Exception No. 3: The ALJ erred in failing to consider the FACT that PUC's policy mandating universal installation of smart meters would force the Complainant's property to be used by DLC for purposes other than the collection of Complainant's electricity usage data. That is, PUC's policy would allow DLC to forcibly use its AMI wireless smart meter on the Complainant's home as relay points to transmit data that does not originate from the Complainant's property.

In his initial decision ALJ Watson states as fact, "Duquesne Light's smart meters send communications through the Company's "mesh network" to a collection point, which was previously a cell relay but is now a router." (I.D., p. 27)

In other words, DLC is using customers' homes and properties for purposes other than measuring their customers' electric power usage so that they are able to bill according to the actual amount of electricity used. PUC's policy would permit DLC to collect additional customer information for its own profit and use its AMI wireless smart meters on customers' homes as relay points to transmit data that does not originate from the customers' properties.

DLC'S VIOLATION OF PROPERTY RIGHTS PURSUANT TO PUC'S POLICY-MANDATED INSTALLATION OF SMART METER DEVICES

ASSERTIONS of FACT and MATTERS of LAW:

1. Private property rights are a fundamental and preeminent part of citizens' rights protected under the state and federal constitutions.
2. Neither 52 Pa.C.S. §56.81(3), nor 66 Pa.C.S. § 1406(a)(4), nor does Act 129 or any other statute, regulation or policy relevant to the matter brought forth in this Complaint preempt, supervene, supersede or take precedence over citizens' private property rights.
3. There is no law, statute, official rule, regulation, or right of easement which permits, or would permit, DLC to install any device other than a meter, only a meter, and nothing but a meter on customers' homes or properties without their consent.
4. In their original intent and as written, 52 Pa.C.S. §56.81(3) and 66 Pa.C.S. § 1406(a)(4) apply to meters, only to meters, and to nothing but meters.
5. In the instant case, 52 Pa.C.S. §56.81(3) and 66 Pa.C.S. § 1406(a)(4) apply to meters, only to meters, and to nothing but meters—devices with the functional capability of doing nothing more or other than to measure electric power usage such that electric utility companies are able

to bill according to the actual amount of electricity used.

6. Given the capability specified in ¶ 5 above, no other functionality of an electric power meter is necessary in order for an electric utility company to receive full and proper remuneration for its services.

7. Given the capability specified in ¶ 5 above, no other functionality of an electric power meter is necessary in order for DLC to enjoy fully the original single purpose for which it was granted an easement.

8. 52 Pa.C.S. §56.81(3) and 66 Pa.C.S. § 1406(a)(4) do not apply to commercial-use, radiofrequency broadcasting antennas and transmitters.

9. 52 Pa.C.S. §56.81(3) and 66 Pa.C.S. § 1406(a)(4) do not apply to data communications devices used as relay points to transmit data that does not originate from the customers' homes or properties.

10. 52 Pa.C.S. §56.81(3) and 66 Pa.C.S. § 1406(a)(4) do not apply to computers.

11. 52 Pa.C.S. §56.81(3) and 66 Pa.C.S. § 1406(a)(4) do not apply to devices such as "switched mode power supplies" (SMPS), which produce high-frequency voltage transients of conducted emissions and/or which introduce, add to, or propagate such emissions through the electrical wiring of homes and buildings.

12. 52 Pa.C.S. §56.81(3) and 66 Pa.C.S. § 1406(a)(4) do not apply to devices which produce and/or augment emanation of electromagnetic fields (EMFs) from the electrical wiring of homes and buildings.

13. There is no law, statute, official rule, regulation, or right of easement which permits, or would permit, DLC to install powerful, FCC-regulated, RF-radiating, radio-transmission antennas on Complainant's home or property without her consent.

14. There is no law, statute, official rule, regulation, or right of easement which permits, or would permit, DLC to install FCC-regulated computer and data communications devices on Complainant's home or property without her consent.

15. DLC has never been authorized or given permission or the right, either by easement or by siting license or permit, to install or operate powerful, FCC-regulated, RF radiation-emitting, radio-transmission and data communications devices on Complainant's home or property.

16. "A 'seizure' of property occurs when there is some meaningful interference with an individual's possessory interests in that property..." (*See United States v. Place*, 462 U.S. 696 [1983]; *id.*, at 716

[BRENNAN, J., concurring in result]; *Texas v. Brown*, 460 U.S. 730, 747 -748 [1983] [STEVENS, J., concurring in judgment]; see also *United States v. Chadwick*, 433 U.S. 1, 13 -14, n. 8 [1977]; *Hale v. Henkel*, 201 U.S. 43, 76 [1906].) ... “[T]his definition follows from our oft-repeated definition of the ‘seizure’ of a person within the meaning of the Fourth Amendment—meaningful interference, however brief.” (*United States v. Jacobsen* 466 U.S. 109, 113)

In *Lugar v. Edmondson Oil*, 457 U.S. 922, 942 (1982), the Court stated: “[W]e have consistently held that a private party’s joint participation with state officials in the seizure of disputed property is sufficient to characterize that party as a ‘state actor’ for purposes of the Fourteenth Amendment.” The rule in these cases is the same as that articulated in *Adickes v. S.H. Kress & Co.*, supra, at 152, in the context of an equal protection deprivation:

“Private persons, jointly engaged with state officials in the prohibited action, are acting ‘under color’ of law for purposes of the statute. To act ‘under color’ of law does not require that the accused be an officer of the State. It is enough that he is a willful participant in joint activity with the State or its agents,’ quoting *United States v. Price*, 383 U.S., at 794.”

The operation of an FCC-regulated, RF radiation-emitting, radio-transmission device that is owned by a party other than the owner of the home to which the device is attached is, ipso facto, a use by the operating party in the property of the homeowner. The operation of an FCC-regulated, data communications/data relay device that is owned by a party other than the owner of the home to which the device is attached is, ipso facto, a use by the operating party in the property of the homeowner.

17. There is no law, statute, official rule, regulation, or right of easement which permits, or would permit, DLC to use Complainant’s home as a site for DLC’s AMI smart meters to function partly as relay points to transmit data that does not originate from Complainant’s home or property.

18. The PUC’s policy of mandating the installation of smart meters would force Complainant’s property to be used by DLC for purposes other than the collection of the Complainant’s electricity usage data. That is, PUC’s policy would allow the electric utility to forcibly use its AMI wireless smart meters on Complainant’s home as relay points to transmit data that does not originate from Complainant’s property. DLC, acting with the imprimatur either of the Commission or of the State itself, thus would be given usage of Complainant’s property without such usage having been granted either by the existing easement or by Complainant’s informed consent. PUC’s policy pursuant to Act 129 therefore violates Complainant’s property rights protected under the Fourth, Fifth, Ninth and Fourteenth Amendments to the Constitution of the United States.

19. DLC does not have the statutory authority or right to site powerful, radiofrequency radiation-producing, RF-transmitting, data communications devices on Complainant’s properties and to thereby physically affect or cause physical alteration to the interior environment of Complainant’s home by means of the production of RF electromagnetic fields, and/or conducted emissions (high-frequency voltage transients) and/or frequent transmissions of modulated radiofrequency radiation that would add to the already-existing RF radiation burden from other outside sources, including area cell phone towers, other smart meters, and facilities in DLC’s AMI mesh network, etc.

20. Without customer consent, DLC does not have the statutory authority or right, pursuant to Act 129 and/or 52 Pa.C.S. §56.81(3) and/or 66 Pa.C.S. § 1406(a)(4), to use customers’ homes in such a

way as to irradiate them in perpetuity from their own premises with what has been found conclusively, according to clear scientific evidence, to be likely more dangerous than a Group 2B possible human carcinogen.⁷

21. Without customer consent, DLC does not have the statutory authority or right, pursuant to Act 129 and/or 52 Pa.C.S. §56.81(3) and/or 66 Pa.C.S. § 1406(a)(4), to use customers' homes, and by and through such direct use of customers' own premises, physically alter customers' living environments in any way which possibly could increase customers' risk of sustaining biological or adverse health effects.

22. Without customer consent, DLC does not have the statutory authority or right, pursuant to Act 129 and/or 52 Pa.C.S. §56.81(3) and/or 66 Pa.C.S. § 1406(a)(4), to use customers' homes and from the customers' own premises, irradiate them in perpetuity as a condition of their continuing to have access to electric service.

23. Without customer consent, DLC, acting pursuant to Act 129 and/or 52 Pa.C.S. §56.81(3) and/or 66 Pa.C.S. § 1406(a)(4), has no statutory authority or right, by company use of customers' homes or properties, to increase customers' risk—to any degree—of biological or adverse health effects as a condition of their having access to electric service.

24. Without customer consent, the PUC, acting pursuant to Act 129 and/or 52 Pa.C.S. §56.81(3) and/or 66 Pa.C.S. § 1406(a)(4), has no statutory authority or right, through state-regulated electricity providers' use of customers' homes or properties, to increase customers' risk—to any degree—of biological or adverse health effects as a condition of customers having access to electric service.

25. Without customer consent, the State of Pennsylvania, acting pursuant to Act 129 and/or 52 Pa.C.S. §56.81(3) and/or 66 Pa.C.S. § 1406(a)(4), has no statutory authority or right, through state-regulated electricity providers' use of customers' homes or properties, to increase customers' risk—to any degree—of biological or adverse health effects as a condition of their having access to electric service.

26. The PA PUC has jurisdiction over Pennsylvania's public electric utilities.

27. The PA PUC does not have statutory authority or jurisdiction over the public's inherent right to deny consent.

28. The PA PUC has authority to mandate that the state's electric utility companies offer AMI wireless smart meters for use by the public, but the PUC cannot, especially given the absence of specific direction set forth by the Pennsylvania Legislature, mandate or require that the utilities install smart meters on the private properties of persons who do not want or do not consent to them.

29. Act 129 does not compel citizens or the public to submit or give consent to the installation of AMI wireless smart meter devices on their homes or properties.

30. Act 129 does not confer authority upon the electric utility companies to compel persons to submit

7 https://www.iarc.who.int/wp-content/uploads/2018/07/pr208_E.pdf

or give consent to the installation of AMI wireless smart meter devices on their homes or properties.

31. Act 129 does not compel the state's electric utility companies to act so as to compel persons to submit or give consent to the installation of AMI wireless smart meter devices on their homes or properties.

32. Act 129 does not compel the state's electric utility companies to terminate electric service to customers who do not give consent to the installation of AMI wireless smart meter devices on their homes or properties.

33. 52 Pa.C.S. §56.81(3), and/or 66 Pa.C.S. § 1406(a)(4), separately or in combination, do not compel any state-regulated electric utility company to terminate customers' electric service. These regulations simply authorize such companies to do so in accordance with certain provisions.

34. 52 Pa.C.S. §56.81(3), and/or 66 Pa.C.S. § 1406(a)(4), separately or in combination, do not compel citizens or the public to submit or give consent to the installation of AMI wireless smart meter devices on their homes or properties.

35. 52 Pa.C.S. §56.81(3), and/or 66 Pa.C.S. § 1406(a)(4), and/or Act 129, separately or in combination, do not confer statutory authority upon the PUC or any state-regulated electric utility company to compel persons to submit or give consent to the installation of AMI wireless smart meter devices on their homes or properties.

36. 52 Pa.C.S. §56.81(3) and/or 66 Pa.C.S. § 1406(a)(4) and/or Act 129, separately or in combination, do not compel any state-regulated electric utility company to act so as to compel persons to submit or give consent to the installation of AMI wireless smart meter devices on their homes or properties.

37. 52 Pa.C.S. §56.81(3) and/or 66 Pa.C.S. § 1406(a)(4) and/or Act 129, separately or in combination, do not compel any state-regulated electric utility company to terminate electric service to customers who do not give consent to the installation of AMI wireless smart meter devices on their homes or properties.

38. Neither the PUC nor the state's electric utility companies have, on the basis of a complete, objective, unbiased, nonselective accounting of the available scientific evidence, ever properly established the safety specifically of AMI wireless smart meter devices and technology with regard to their production of modulated radiofrequency radiation, RF electromagnetic fields, and conducted emissions of high-frequency voltage transients.

39. The PUC has never required or obtained, in accordance with 66 Pa.C.S. §315 (c), definitive proof, by means of the production of independent, unbiased, entirely nonselective and conclusive scientific evidence, that the modulated RF radiation, RF electromagnetic fields and/or conducted emissions produced specifically by the operation of AMI wireless smart meters and smart meter network technologies do not, could not, cannot and will not cause biological or adverse health effects.

40. "Utility service is a necessity of modern life; indeed, the discontinuance of water or heating for even short periods of time may threaten health and safety." (*Memphis Light, Gas & Water Div. v.*

Craft, 436 U.S. 1.) “Electrical service, being a necessity of life ..., is an entitlement which under our decisions may not be taken without the requirements of procedural due process. *Fuentes v. Shevin*, 407 U.S. 67, 80 (1972); *Goldberg v. Kelly*, 397 U.S. 254 (1970); *Palmer v. Columbia Gas of Ohio, Inc.*, 479 F.2d 153 (CA6 1973).”

41. Under 52 Pa.C.S. § 56.81(3) and 66 Pa.C.S. § 1406(a)(4), a termination of service is authorized for a customer’s “[f]ailure to permit access to meters, service connections or other property of the public utility for the purpose of replacement, maintenance, repair or meter reading.”

42. DLC, pursuant to PUC’s policy-mandated, smart meter implementation orders, has threatened to terminate Complainant’s access to electricity, sending a notice-of-termination letter with the “Reason for Termination” given as “Non-Access to Meter.”

43. Complainant has never denied DLC access to DLC’s meter for any purpose that is properly proven to be safe and which would not be in violation of Complainant’s fundamental rights. This includes access for the purpose of replacement of the meter. Complainant’s has simply denied DLC permission to install a device that includes functions far broader in scope than a meter and for which there is no reliable medical or scientific evidence upon which to conclude that chronic, long-term exposure to the radiofrequency radiation and RF fields produced as a result of the installation of such metering devices could not, cannot, would not and will not cause, exacerbate or contribute to biological or adverse health effects.

44. It is not permissible for DLC to terminate or withhold electric service or to in any way penalize Complainant solely on the basis of Complainant not giving consent to DLC’s installation of AMI wireless smart meter devices on Complainant’s home.

ARGUMENTS:

An electric meter is simply a device which measures electric power usage such that electric utilities are able to bill according to the actual amount of electricity used—nothing more. No other functionality is necessary for the meter to accomplish this sole purpose. No other functionality is necessary in order for an electric utility company to receive full and proper remuneration for its services so as to enjoy fully the original single purpose for which it was granted an easement.

In their original intent and as written, 52 Pa.C.S. §56.81(3) and 66 Pa.C.S. § 1406(a)(4) apply to meters, only to meters, and to nothing but meters having the functionality just described. The provisions specified in these regulations do not apply to computers, and they do not apply to commercial-use radiofrequency broadcasting antennas and transmitters, and they do not apply to devices which demonstrably produce high-frequency voltage transients of RF conducted emissions and which in fact propagate such emissions into and through the electrical wiring of homes and buildings.

Nevertheless, pursuant to PUC’s policy-mandated smart meter implementation orders, Complainant’s electric service provider, DLC, is not seeking to replace Complainant’s present functionally analog meter with simply another meter which likewise would be dedicated solely to the measurement of electricity usage. DLC is seeking instead to install additional equipment consisting of an assemblage of other devices—euphemistically called a “smart meter”—in the guise of a “meter.” This composite collection of additional devices includes a computer and powerful, modulated radiofrequency

radiation-producing devices—that is, dual-antenna radio receivers and transmitters. By invoking 52 Pa.C.S. §56.81(3) and/or 66 Pa.C.S. § 1406(a)(4) in threatening to terminate Complainant’s access to electric service, DLC, with the imperative, impetus and complicity of the PA PUC, is thus seeking to completely alter and misapply the very definition and meaning of the term “meter.”

Under such a broad definition of the term “meter,” a utility could include any assortment of equipment or set of devices as long as such could be integrated, consolidated or compacted into a unitary assemblage the size of a standard analog electric meter and could be plugged into a standard meter socket.

The operation of a powerful, FCC-regulated, RF radio-transmission device owned by a party other than the owner of the home to which the device is attached constitutes, and is, a use by the operating party in the property of the homeowner. DLC has never been given permission, authority, or the right—by means of easement, license, permit, or any other contractual legal instrument or agreement—to install or operate such equipment on Complainant’s home or property. Moreover, neither Act 129, nor 52 Pa.C.S. §56.81(3), nor 66 Pa.C.S. § 1406(a)(4), separately or in combination, confer upon the electric utility the statutory authority or right to install or operate this equipment on Complainant’s home or property without her consent. DLC, therefore, is not entitled to such use of Complainant’s home or property without her consent.

Furthermore, in consequence of the fact that AMI wireless smart meter devices produce RF conducted emissions of high-frequency voltage transients and frequent, pulsed transmissions of modulated radiofrequency radiation—both of which could increase the risk of biological and/or adverse health effects even at low levels—the technology which utilizes these devices comes highly safety-impugned and therefore cannot be conclusively relied upon as a “safe” and “reasonable” use.

Over Complainant’s objections, DLC, pursuant to the company’s acting under color of law as an agent of the State, has acted in complete disregard of the original terms and intent of the existing easement, as if the company were lawfully empowered to unilaterally change these terms so as to use Complainant’s private property in the service of DLC’s own commercial interests, that is, to use Complainant’s home as a site for one of DLC’s AMI smart meters to function within its mesh network partly as a relay point to transmit data that does not originate from Complainant’s property.

The Fourteenth Amendment to the U.S. Constitution prohibits the State from enforcing Act 129 insofar as Act 129 would be used to restrict or deprive Complainant of her fundamental liberties and rights to protect herself and her property. Even if Act 129 were a law which had been enacted to further a compelling governmental interest, it would have to have been narrowly constructed or tailored, employing the least restrictive measures possible to achieve that interest.

In accordance with the Overbreadth Doctrine, a statute or statutory provision which regulates actions or activities that are not constitutionally protected must not be written or applied so broadly as to restrict or adversely affect actions, activities, rights, privileges or immunities that are constitutionally protected.

Forcing Complainant to endure chronic, long-term exposure to biologically interactive, modulated radiofrequency radiation and RF electromagnetic fields, produced by the wireless devices and facilities which DLC would use on her home, likely could adversely affect her health and safety. Act

129, insofar as it is being construed and applied by PUC as a means of enforcement in compelling Complainant to give consent to DLC to so use Complainant's home as a condition of her having access to electric service, is therefore overbroad in its application and manifestly unconstitutional.

No law in this nation was ever written or intended to be used to justify or permit the forcible subjection of citizens to increased risk of harm as a condition of having access to a vital necessity—in this case, electricity.

“Certainly, an act passed by a state legislature that directs a discriminatory result is state action and would violate the first section of the Fourteenth Amendment.” *United States v. Raines*, 362 U.S. 17, 25 (1960).

“Pennsylvania Act 129, passed into law in 2008, requires electric utilities with more than 100,000 customers to provide those customers with advanced meters that have specific capabilities.” Because Act 129 exempts electric distribution companies with fewer than 100,000 customers from the requirements of implementing AMI smart meter technology, the customers of these companies are protected from having to suffer abridgement and violation of their constitutionally secured rights by the enforcement of such policy as has been mandated on the basis of PUC's misconstruction of the law.

Enforcement of Act 129, as accomplished under PUC's policy by making smart meters mandatory and not optional, contrary to the explicitly expressed intent of the Pennsylvania General Assembly, and by applying this mandate to affect only select customers, denies those select citizens, including Complainant, the equal protection of the laws.

If, pursuant to Act 129 and/or 52 Pa.C.S. §56.81(3) and/or 66 Pa.C.S. § 1406(a)(4), separately or in combination, PUC permits DLC—by means of the provider's threatening to terminate Complainant's access to electric service—to coerce Complainant's consent to the use of her home and property for the installation and operation of an AMI wireless smart meter device, such action, usurpation, and use shall be in direct violation of Complainant's due process and property rights established under easement and under the Pennsylvania Constitution and the Constitution of the United States.

SUMMARY and CONCLUSION:

The State is prohibited by the Fourteenth Amendment to the Constitution of the United States not only from making any law which shall violate or deprive Complainant's of her fundamental rights, it also is precluded from enforcing such a law—Act 129, in the instant case.

The PUC and DLC, when acting in their capacities as agents of the State, are bound by the laws and statutes of the Commonwealth of Pennsylvania and by the laws, statutes and Constitution of the United States, and as such, PUC and DLC are prohibited from abridging or violating the rights, including property rights, of citizens of the United States. There is no state or federal statute, law, regulation or rule that would permit DLC, when acting in a capacity as an agent of the State, to act in a way that would encroach upon Complainant's rights protected under the laws, statutes, and Constitution of the United States.

D Exception No. 4: The ALJ erred in failing to acknowledge the full depth and scope of

DLC's responsibility to its customers pursuant to Pa. C.S. § 1501 and regarding DLC's threat to terminate Complainant's service for refusing installation of a smart meter on her home.

Pa. C.S. § 1501 provides that:

“Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public.”

In his initial decision, ALJ Watson states, “A utility **may issue written notice of termination** to a customer if a customer does not permit access to meters, service connections, or other property of the public utility for the purpose of replacement, maintenance, repair, or meter reading, including the installation of a smart meter. 66 Pa.C.S. § 1406(a)(4); 52 Pa. Code § 56.81(3).” (I.D., p. 47) (emphasis added)

Neither 66 Pa.C.S. § 1406(a)(4) nor 52 Pa. Code § 56.81(3) specifically reference not permitting “the installation of a smart meter” as grounds for terminating a customer's electricity service.

Complainant has never denied DLC access to DLC's meter for any purpose that is properly and conclusively proven to be safe and which would not deprive or be in violation of Complainant's fundamental rights. This includes allowing DLC access for the purpose of replacement of the meter.

Complainant has simply denied DLC permission to install a powerful, FCC-regulated, RF radiation-emitting and RF signal-transmitting device that is far more than merely a meter and for which there is no reliable medical or scientific evidence upon which to conclude that chronic, long-term exposure to the radiofrequency radiation and RF fields produced as a result of the installation of such metering devices could not, cannot, would not and will not cause, exacerbate, or contribute to biological or adverse health effects.

When ALJ Watson states that “a utility may issue written notice of termination to a customer” who does not consent to the installation of a smart meter, he stops short of acknowledging the logical consequences of such action by the utility (in this case, DLC) and the harm it would cause to Complainant.

ALJ Watson ignored PROPOSED FINDINGS OF FACT 5–12 in Complainant's Supplemental Brief and Proposed Findings of Fact, Conclusions of Law, and Order filed January 19, 2024, which are self-evident and have direct relevance to the instant case. The proposed findings of fact referenced are as follows:

5. Complainant's home is heated by a gas furnace that does not function without electricity. Without electricity, the house will lack heating during the cold winter months. A lack of heating would cause Complainant to suffer (potentially fatal) physical harm if she remained in her residence. A lack of heating combined with sub-freezing temperatures would cause water pipes to freeze and burst, which in turn would cause severe damage to Complainant's home.

6. Complainant's home is cooled by an air conditioner that does not function without electricity. Without electricity, Complainant's home will lack cooling during the hot summer months. A lack of air conditioning could cause Complainant to suffer physical harm when temperatures become extremely high.

7. Complainant's home contains a gas stove with electronic ignition that does not function safely without electricity. Without electricity, Complainant will be unable to cook food in her residence.

8. Complainant's home contains a refrigerator that does not function without electricity. Without electricity, Complainant will be unable to store perishable foods in her residence.

9. Complainant's home contains computers that Complainant uses to, among other things, perform her job duties remotely. Without electricity, Complainant will be unable to work from home. Since March 2020, Complainant has worked from home 100% of the time. If DLC terminates Complainant's electricity service, it will interfere with Complainant's ability to perform her job.

10. DLC seeks to terminate electricity service to Complainant's home as soon as possible.

11. Electricity is a basic utility that is essential for a reasonable quality of life in today's world. As such, Complainant requires uninterrupted (to the extent physically possible) electricity service at her home. If DLC terminates electricity service to Complainant's residence, this action would make it impossible for Complainant to live in her own home.

12. Complainant's account is consistently in good standing. The only reason DLC seeks to shut off Complainant's electricity service is that Complainant will not consent to the installation of a smart meter on her property.

In the years since her evidentiary hearing, Complainant has encountered another way DLC would cause harm to her by terminating electricity service at her home. Complainant's home contains two dehumidifiers (one of which is continuously in use) that do not function without electricity. Complainant experienced physical symptoms from what her physician and mold

remediation professionals determined to be mold exposure originating from mold in her basement. Complainant paid to remediate the mold in her basement and must keep the environment in her home below 50% humidity. Without electricity, Complainant will be unable to run any dehumidifiers that prevent mold from returning and causing the same physical symptoms she previously suffered.

ALJ Watson does not state that *Povacz II* grants DLC the authority to cause physical harm to its customers or prevent its customers from living in their own homes because they do not consent to installation of a smart meter. Nor does ALJ Watson state that any law grants DLC the power to compel their customers to accept any and all equipment or devices designated by DLC as a “meter” under threat of the physical harm and significant financial losses termination of electricity service would cause.

Furthermore, **DLC is not absolved by the Pennsylvania Supreme Court from offering an opt-out as a customer service policy.** In *Povacz II*, the Pennsylvania Supreme Court stated, “This holding does not preclude an electric utility from providing a reasonable accommodation to an electric customer in the absence of a Section 1501 violation pursuant to a customer service policy.”

The vast majority of electricity providers in other states offer opt-outs, even when their PUC does not require them to do so. Recent examples include: As of 2023 Rhode Island Energy offered an opt-out with an analog meter for \$13 a month; Con Edison and Long Island Gas both offer opt-outs in New York City.

In his initial decision, ALJ Watson states, “Rule 9B of Duquesne Light’s Tariff states that meter relocation is the sole remedy for customers who do not wish to receive a smart meter from Duquesne Light and that customers are responsible for paying the costs associated with meter relocation ... Duquesne Light made meter relocation available to Complainant.” (I.D., p. 27)

For several reasons, DLC’s provision of meter location as “the sole remedy” for customers who do not consent to installation of a smart meter fails as a “reasonable accommodation” as prescribed by the Pennsylvania Supreme Court. DLC makes a pure admission of harm with its offer of relocation by tacitly acknowledging that closer proximity to their smart meters can cause more harm. Instead, they direct customers to harm their neighbors who will be closer to the customer’s smart meter upon relocation. The cost of relocating one of DLC’s smart meters is several thousand dollars and the customer is responsible for the wiring to their home. And this “accommodation” does not address in any way the inherent violations of privacy, safety, and security referenced elsewhere in these exceptions and throughout Complainant’s formal complaint.

The living area of Complainant’s home measures 1,356 square feet and has no yard. The

property is too small to accommodate moving the electricity meter away from the house, even if Complainant considered relocation a reasonable solution and agreed to pay the cost of moving the meter.

By offering only one accommodation that—to the limited extent it can address a customer’s objections to the installation of a smart meter on their property—is unavailable to a large portion of their customers, DLC denies those citizens, including Complainant, the equal protection of the law. In effect, DLC discriminates against customers who live in dense housing and/or are unable to afford the cost of the “accommodation.”

E Exception No. 5: The ALJ erred in dismissing Complainant’s Complaint on the basis of concluding that Complainant “presented no medical or expert evidence to establish her claims.” (I.D., p. 40–41)

Complainant has shown copiously and conclusively by having brought forth public documents, findings of multiple peer-reviewed scientific studies, and even a definitive medical handbook on the biological effects of electromagnetic fields, all demonstrating a preponderance of evidence that:

1. It is incontrovertibly the case that the FCC safety guidelines for RF exposure do NOT account for all possible mechanisms of interaction of RF with biological structures and systems, and
2. The science is settled beyond reasonable doubt that such interactions in fact can and do occur which do *not* involve thermal mechanisms or acute exposure to RF.

ALJ Watson’s treatment of Complainant’s exhibits (none of which he permitted into evidence except for two that were both communications from DLC) was unreasonable, unjust, unjustified, and contrary to the relaxed evidentiary standards applicable to administrative proceedings, as provided under 2 Pa. C.S. § 505.

During Complainant’s evidentiary hearing on February 27, 2020, ALJ Watson refused the introduction of *any* evidence contrary to the DLC position that smart meters are safe—even factual, easily verifiable information about opt-out provisions in other states and studies written by and backed by established scientists researching potential biological harm.

“A document filed **pro se** is to be liberally construed, and a **pro se** complaint, however inartfully pleaded, must be held to **less stringent standards than formal pleadings drafted by lawyers...**” *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (emphasis added)

DLC should no longer be permitted, on procedural grounds and at the expense of Complainant's rights to discovery and due process, to escape the legal ramifications following from the FACTS (most of which PUC and the Administrative Law Court certainly are aware) that:

1. Based upon sufficiently strong evidence for increased risk of certain cancers, RF radiation and fields have been classified by the WHO/IARC as a possible human carcinogen (Group 2B). This classification applies to all RF radiation and fields, regardless of source.
2. In its intensively peer-reviewed final report, the National Toxicology Program (NTP) of the National Institute of Environmental Health Sciences (NIEHS) and National Institutes of Health (NIH) published findings of "clear evidence" of cancer causation in animal test subjects exposed to RF radiation at 900 megahertz, which is equal to the frequency transmitted by DLC's AMI meters. (I.D., 27)
3. On September 25, 2008, at a U.S. House subcommittee hearing on cell phone radiation, Dr. Julius Knapp, then-Director of the Office of Engineering & Technology, Federal Communications Commission, testified that "The FCC staff is not sufficiently qualified to speak with authority to the science of health effects of RF absorption in the bodies—body." He further testified, "The FCC doesn't have the expertise to evaluate whether the standard is appropriate protection level for the cases that were discussed here."
4. The FCC safety guidelines pertaining to RF exposure do *not* account for causal mechanisms of interaction that do not involve tissue heating or acute exposures such as electric shock. On the basis of overwhelming evidence, science has established beyond reasonable doubt that, with respect to interactions of RF with biological structures and systems, there definitely are causal mechanisms active with RF exposure other than ones that involve tissue heating or electric shock, and the FCC safety guidelines simply do NOT apply to these other mechanisms.
5. There currently is no guideline or set standard of safety that applies to any of these other nonheating (nonthermal) and nonacute mechanisms of interaction such that there are established levels or durations of exposure of humans to RF below which such exposures can be considered safe.
6. According to testimony given on October 6, 1987 at a subcommittee hearing of the U.S. House of Representatives by Sheldon Meyers, then-Director of the Office of Radiation Programs of the U.S. Environmental Protection Agency: "empirically, **it is not possible to assign a low intensity limit or threshold below which the exposures are without effect.**" ... "The research information now available, both from EPA and others, **demonstrates that biological systems do respond** when exposed to ELF fields." (emphasis added)
7. AMI wireless smart meter devices (and AMI wireless mesh networks) have never been tested for safety specifically with regard to the potential hazards and risks posed by the forms and manner in which they produce radiofrequency radiation and RF fields. (Note: A study in New Zealand, referenced in a previous Commission hearing and entitled *Health and Safety Aspects of Electricity Smart Meters*, is an industry-sponsored report focusing primarily on a relative comparison between smart meters and cell phones with regard to RF emission levels.

In fact, it is reported in this paper that “research papers continue to be published concerning nonthermal, biological effects of SARs **much lower than those specified in the standards**, including by well respected teams and individuals [Salford et al]. Many more such papers are listed in the WHO EMF project database.” (emphasis added)

8. There have been no proceedings initiated by a motion of the Commission pursuant to 66 Pa.C.S. §315(c) requiring regulated electric utilities, including the Respondent, to prove or show specifically that their AMI wireless smart meter devices and facilities are in fact safe, particularly with regard to the forms and manner in which they emit, transmit and/or otherwise produce radiofrequency radiation and RF fields.

It is ludicrous to expect, given the preceding facts, that chronic, long-term, forcible exposure to even low levels of RF radiation and fields produced by AMI wireless smart meters, which have never been tested specifically for safety, should be accepted in any way as “reasonable.”

F Exception No. 6: The ALJ erred in depriving Complainant of her due process right to fully and properly challenge, pursuant to 66 Pa. C.S. § 1501, the safety and reasonableness of DLC’s AMI smart meters. Accordingly, the ALJ further erred in denying Complainant’s MOTION TO RECUSE ADMINISTRATIVE LAW JUDGE JEFFREY A. WATSON, dated January 19, 2024.

Complainant filed her motion to recuse because throughout the proceedings of this formal complaint, C-2018-3002741, ALJ Watson ignored PA Code and PUC rules to weight this case against Complainant and in favor of DLC.

As one example, on October 24, 2018, ALJ Watson issued an interim order regarding this matter. In the Procedural Background section of the order, he stated: “Complainant also averred that Respondent provided her with a termination notice after she filed a formal complaint.” ALJ Watson’s statement was factually incorrect. Complainant stated on multiple occasions, including her original and amended complaints, that DLC served a 72-hour termination notice to Complainant on June 12, 2018. Complainant filed her original formal complaint on June 14, 2018. In his order, ALJ Watson misinterpreted Complainant’s claim that PUC itself actively prevented her from filing an informal complaint on June 1, 2018, and that by doing so PUC acted in violation of PA Code §56.92, §56.142, §56.151, and §56.162-§56.166.

From PA Code §56.92:

“A public utility may not mail or deliver a notice of termination if a notice of initial inquiry, dispute, **informal or formal complaint** has been filed and is unresolved and if the subject matter of the dispute forms the grounds for the proposed termination. A notice mailed or delivered in contravention of this section is void.” (emphasis added)

On March 4, 2019, Complainant filed an amended formal complaint that noted—among other

matters—the PUC’s violation of PA Code §56.92 and ALJ Watson’s misinterpretation of Complainant’s original formal complaint in his Interim Order of October 24, 2018.

The issue is significant because if the PUC had adhered to PA Code §56.92, §56.142, §56.151, and §56.162-§56.166 and allowed Complainant to file an informal complaint, Complainant would not have been forced (by threat of losing electricity service at her home) into a rushed, three-day timeline for filing her formal complaint that was assigned to ALJ Watson.

In the five years since Complainant brought the issue to his attention, ALJ Watson failed to correct his misinterpretation of Complainant’s statement or acknowledge her correction to the misinterpretation. He referenced the issue only in his initial decision of June 24, 2024, apparently in response to Complainant’s Motion for Recusal of Administrative Law Judge Jeffrey A. Watson.

In his initial decision, ALJ Watson characterized the PUC’s violation of PA Code §56.92 and his own misinterpretation of Complainant’s original formal complaint as “a harmless typographical error, as both the filing and service of a formal and informal complaint would preclude Respondent from terminating service, in this proceeding, pending resolution of the dispute.”

But the fact of the matter is that Complainant was actively prevented by PUC from filing an informal complaint on June 1, 2018, and that by doing so PUC acted in violation of PA Code §56.92, §56.142, §56.151, and §56.162-§56.166. Contrary to ALJ Watson’s assertion, an informal complaint *did not* preclude DLC from terminating service at Complainant’s home—an action that would demonstrably have caused great harm to Complainant.

Any confusion ALJ Watson claims to have experienced over whether Complainant did or did not file an informal complaint with the PUC on June 1, 2018, would only be relevant to the instant case if he was trying to determine whether DLC or PUC violated PA Code. If Complainant did file an informal complaint (which Complainant never averred was the case), DLC violated PA Code by serving a termination notice to Complainant before the informal complaint was resolved. If, as occurred, Complainant was prevented from filing an informal complaint by a PUC representative, the PUC representative violated PA Code by mischaracterizing the Code as it relates to this matter.

ALJ Watson abused Complainant throughout her “initial telephonic hearing” and showed favoritism toward Respondent. The aforementioned hearing took place on February 27, 2020. During the 11+-hour hearing, ALJ Watson routinely made rude and sarcastic comments to Complainant and shouted at her on multiple occasions. When Complainant pointed this out, ALJ Watson said that he’s “very soft-spoken” and just wanted to make sure he was being heard.

After that exchange, he was careful not to raise his voice but continued to exhibit a disparaging

attitude toward Complainant. He frequently noted the time of day and duration of the hearing after Complainant stumbled, paused, or finished questioning a witness. When Complainant fell silent for too long he would say, "Take your time."

Complainant was sitting in her kitchen throughout the hearing, trying to take notes while participating in the proceedings and surrounded by stacks of DLC's paper exhibits that took time to sort through.

At around 4:30 p.m., when Complainant started asking if the court would consider finishing the hearing on another day, ALJ Watson said, "Let's just do the highest priority witnesses and then we'll revisit it." Two and a half hours later ALJ Watson decided, as noted on page 12 of his initial decision, to keep pushing through to the end without giving Complainant the chance to express an objection. ALJ Watson said that the DLC witnesses' schedules had to be accommodated and some of them had been sitting there all day. But DLC's eight industry-paid witnesses did not have to be present for the entire hearing, while Complainant had to remain present for more than 11 hours.

By contrast, ALJ Watson complimented DLC counsel on their huge stacks of exhibits. The lawyer chuckled and apologized in response to ALJ Watson's comment. ALJ Watson replied, "I meant that in a good way, heh heh."

Complainant was not prior informed of and never consented to the extreme length of the hearing.

By other accounts, ALJ Watson's conduct toward Complainant is not unique. For example, the complainant in C-2019-3006923, Ms. Noreen McCarthy, stated in her exceptions filed on November 4, 2020⁸:

To prepare herself for her own hearing, Ms. McCarthy listened in on other public hearings for smart meter cases for which her ALJ, Judge Jeffrey Watson, was presiding, and Ms. McCarthy became so distraught with the manner in which Mr. Watson conducted his court, which was both confusing to her and emotionally distressing, that she requested a change in ALJ, which she was granted as of March 31, 2020.

Complainant could not access her hearing transcript; purchasing the transcript would have cost \$1,400 because of large number of pages in the transcript, a result of the hearing's extreme length. (The PUC purchased the transcript with Pennsylvanians' rate-paying dollars. Why is it not in the public domain?)

Complainant learned from Audley Brown and Shirley Spunaugle of the PUC that because the

8 <https://www.puc.pa.gov/pcdocs/1683547.pdf>

PUC offices had closed indefinitely due to COVID-19, transcripts were not available to view in person. They said contracts with the transcription services prevented the PUC from providing transcripts for complainants by any method other than in-person viewing.

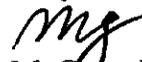
Therefore, for a period of time unknown to Complainant, she had no way to reference the transcript pages noted in DLC's brief as required by PUC regulations. No notice was given to Complainant when PUC offices reopened and the option for in-person viewing of the transcript again became available.

Exercising her right to view the transcript in person would have required Complainant to take time off work to travel to Harrisburg at her own expense. This was not a reasonable option, either.

III. Conclusions

For the reasons set forth above, Complainant Miranda Grace Edwards respectfully requests that the Commission grant these Exceptions and issue a Final Order that rejects the ALJ's Initial Decision of June 24, 2024, and orders Duquesne Light Company to grant Complainant's request to retain the functionally electromechanical analog meter presently on her home without loss of service and to refrain from installing a smart meter or any wired or wireless transmitting device, including any such meter that includes a switched mode power supply that can cause conducted emissions or voltage transients in the house wiring, on their house or property.

Respectfully submitted,



M. Grace Edwards
3835 Acorn St.
Pittsburgh, PA 15207
Pro Se Complainant

Dated: July 9, 2024

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MIRANDA GRACE EDWARDS

V.

DUQUESNE LIGHT COMPANY

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:
:
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DOCKET NO. C-2018-3002741

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of my “Exceptions to the Initial Decision of Administrative Law Judge Jeffrey A. Watson issued on June 24, 2024” upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Mailed to:

Administrative Law Judge Jeffrey A.
Watson
Pennsylvania Public Utility Commission
Office of Administrative Law Judge
301 5th Ave., Piatt Place, Suite 220
Pittsburgh, PA 15222

Emailed to:

Jeremy Farrell, Esq.
Duquesne Light Company
1500 One PPG Place
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Emailed to:

Office of Special Assistants (OSA)
ra-OSA@pa.gov

Dated: July 9, 2024

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