VIA ELECTRONIC DELIVERY

Administrative Law Judge Mary D. Long
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Deborah Engisch-Platt and Kim Platt **C- 2019-3013745**
v. Metropolitan Edison Company

MOTION FOR RECUSAL of ALJ In light of US Supreme Court Ruling SEC v. Jarkesy in light of the June 28th 2024 thirty-eight page ruling by the US Supreme Court against the abuse of powers wielded by administrative law judges in SEC v. Jarkesy.

Judge Long and other administrative law judges must recuse themselves in favor of a jury trial for Kim Platt and Deborah Engisch-Platt

Justice John Roberts wrote "A defendant… has the right to be tried by a jury of his peers before a neutral adjudicator" There is absolutely nothing neutral about the administrative law court system. Even before the administrative law court lost in SEC versus Jarkesy, The National Review pythonically predicted the US Supreme Court proper outcome.

To quote from the National Review: "At least one form of government abuse might end soon. The use Supreme Court heard oral arguments this term for Securities and Exchange Commission v. Jarkesy, which challenges the unlawful powers wielded by Administration Law Courts. These are courts inside agencies that do not afford civilians the same protections as independent courts. The ALC Defendants typically do not get the right to a jury trial. The judges are employed by the agency that also pays their salaries. The agency also sets the ALCs' procedural rules, has different evidence sharing standards that favor the agency and stacks the deck against defendants in ways regular courts never could.

The Jarkesy case challenges some of these excesses. The Supreme Court already ruled unanimously against the SEC and FTC's ALCs in Axon v. FTC (2023). The 5th Circuit Court issued a 2- 1 ruling in Jarkesky's favor, asserting that the SEC's ALJs violated three provisions of the Constitution…" Judges possess immunity unless they are out of their jurisdiction.
See Stump v. Sparkman 98 S. Ct. 1099 (1978). It should be self-evident that given the aforementioned excessive powers and abuses of the ALCs as well as US Supreme Court rulings, any Administrative Law Judge making decisions about a complainant's grave health consequences from a forced smart meter is out of her jurisdiction---thereby lacking immunity and potentially liable for a toxic tort action. Judge Long must abide by these two US Supreme Court rulings: Axon versus FTC (2023) and the recent SEC v Jarkesy. The ALC must recuse itself.

Judge Long has already proven that she has stacked the deck against the complainants.
After all, the PUC pays her salary. Met Ed and the ALJ, Judge Long refuses to be the Finder of Fact. In her prehearing order she quotes Met Ed's writings as if they are true.

Judge Long quotes Met Ed's false narrative claiming that Mister Platt is 63 years old when he is actually 68 years old.

The ALJ quotes "The Complaint was assigned to Deputy Chief Administrative Law Judge Joel Cheskis. On August 18th, 2020, Judge Cheskis issued an order which among other things, set a procedural schedule for the exchange of written testimony". What both Met Ed and Judge Long failed to mention is that Complainants Kim Platt and Deborah Engisch-Platt won against a motion for summary judgement filed by Met Ed.

Judge Long and Met Ed write "The Platts averred that Mister Platt is "63" years old and has an irregular heart rate that is compounded by electromagnetic sensitivity and their daughter also has a sensory disorder affected by high pitched electrical humming sounds and pulsation".

What Judge Long and Met Ed fail to account for is that Mr. Platt experiences grave and severe consequences from exposure to smart meters. In fact, his heart condition is fairly stable unless he is exposed to either an extreme pharmaceutical drug reaction or a smart meter with it's accompanying electromagnetic radio frequency radiation.

KIM PLATT HAD SEVERE HEALTH REACTIONS WHEN EXPOSED TO A SMART METER, ON OR AROUND OCTOBER 19, 2019. MR. PLATT WAS SITTING IN THE HOUSE OF A NEIGHBOR FOR UNDER AN HOUR (IT SHOULD BE NOTED THAT MR. PLATT AVOIDS USING A CELL PHONE BECAUSE IT ELICITS SICKENING REACTIONS AS WELL – ESPECIALLY SEARING PAIN AND RINGING IN HIS EARS – ALTHOUGH NOT AS SEVERE AS A SMART METER).

MR. PLATTS EARS STARTED TO BURN WITH TERRIBLE PAIN AND RINGING. HE BEGAN TO FEEL DIZZY; HIS EYELIDS AND LIPS FELT A TERRIBLE BURING SENSATION. HIS HEART STARTED TO POUND AND SKIP BEATS WITH STABBING PAIN IN HIS CHEST. HE LEFT THE NEIGHBOR'S HOUSE BECAUSE HE WAS BECOMING SICKER. HE BEGAN TO WALK TOWARD HIS HOME. HE WAS FEELING DIZZY, BUT REALIZED HIS LEGS WERE GIVING WAY AND HE WAS VERY WEAK. HE LAY FOR PROBABLY TWO HOURS ON THE GROUND, CONTINUING TO FEEL THE PAIN OF BURNING SENSATIONS IN HIS EARS, LIPS AND EYELIDS AND RINGING IN HIS EARS. AFTER APPROXIMATELY TWO HOURS, KIM'S WIFE DEBORAH FOUND HIM OUTSIDE AND HAD TO ASSIST HIM INTO THE HOUSE! (A SECOND UNFORTUNATE ENCOUNTER WITH A SMART METER AT THE HOUSE OF A RELATIVE EVOKED THE SAME REACTION, THOUGH MR. PLATT LEFT IN A HURRY SO AS TO MINIMIZE THE DAMAGE).

AFTER MR. PLATT'S DANGEROUS EXPOSURE TO HIS NEIGHBOR'S SMART METER, HE WAS UNABLE TO WORK FOR TWO DAYS. ANY INSTALLATION OF A SMART METER ON THE PLATT'S HOME WOULD DECIMATE MR. PLATT'S HEALTH AND RISK HIS LIFE.

HOWEVER, MET ED AND THE PUC ARE EXECRABLY RELENTLESS IN THEIR MARCH OF GREED. HUMANS ARE EXPENDABLE IN THEIR DEGENERATE ACTIONS.

Again, Judge Long plays into the propaganda of Met Ed, by quoting them. "Met Ed denied that the Platts are having a reliability, safety, or quality problem with their utility service". There are 20,000 studies, proving that smart meters are unsafe. Met Ed, Judge Long and the PUC cannot deny these studies and the effect in real life on Mr. Platt's health. Judge Long continues in her false narrative. "The company has not violated the Public Utility Code or the order or regulations of the Commission, since the company is required to install smart meters".

This is a sick bastardization of the law. Slavery was the law. Apparently Judge Long would support that law? Women could not be lawyers nor judges. Would Judge Long support that law?
The fact is that Kim Platt is human collateral within the ALC system, the PUC and Met Ed.
Also, regarding the rules of the Commission, this is tantamount to the fox guarding the hen house.

The Platts submitted various exhibits. And Judge Long failed to file an order admitting the exhibits.

In fact, one of the exhibits was the DC court whereby the Environmental Health Trust and Children's Health Defense won over the FCC as the FCC had not updated its safety standard for radiation in many years. THE PUC AND MET ED ARE IN VIOLATION OF PA. HEALTH AND SAFETY STATUTE TITLE 66 SECTION 1501. The DELETERIOUS effect of smart meters is scientifically proven.

SMART METERS ARE NOT SAFE. IN FACT, THE ENVIRONMENTAL HEALTH TRUST PRODUCED 11,000 (ELEVEN THOUSAND) PAGES OF DOCUMENTS PROVING THE DANGERS OF SMART METERS AND WIFELESS RADIATION TO THE DC COURT OF APPEALS IN ENVIRONMENTAL TRUST V. FCC. THE FCC LOST AND THE JUDGE RULED THAT THE FCC WAS IN ERROR IN NOT REVISING WHAT CONSTITUDED DANGEROUS LEVELS OF RADIATION FROM WIRELESS RADIATION INCLUDING SMART METERS. SEE EXHIBIT D ON LIABILITY. ALL OF THIS VIOLATION and trespass is not the right domain of the PUC and its partner in crime Met Ed.

THESE ARE NOT AUTOCRATIC FIEFDOMS THAT GET TO SICKEN AND KILL PEOPLE AND PETS. THE CORRUPTION IS STAGGERING. THE ALC IS NOT THE PROPER JURISDICTION FOR ANY ISSUE REGARDING SMART METERS. See HUD Smart meter settlement.

However, Mr. Platt's life is expendable. He is human collateral to Met Ed's corporate system that openly disregards his health and safety in the march of greed among the ALC, PUC and Met Ed.
Also, the Platts reserve the right to submit an affidavit from Mr. Platts physician. However, anyone's personal physician is disregarded because greed must prevail.

Attorney Michael Giles and Attorney William Most were quite eloquent in elucidating the various laws that were being broken by forced smart meter deployment in their legally comprehensive amicus brief excerpted here:

1. The Americans with Disabilities Act.

The ADAA prohibits discrimination against persons disabilities by places of public accommodation and by public entities. Title II of the Act protects persons with disabilities from discriminatory practices by state or local governments or public transportation system. 42 U.S.C. §§ 12131-85. Title III of the ADA prohibits discrimination against the disabled in the full and equal enjoyment of public accommodations. 42 U.S.C. § 12181-89: see Spector v. Norwegian Cruise Line Ltd., 545 U.S. 119, 128 (2005).
Under Section 12184 (a) (2) of the ADA, discrimination includes the failure of an entity to "make reasonable modifications "when such modification is "necessary to afford such goods, services… or accommodations to individuals with disabilities."

2. The Rehabilitation Act.

Section 504 of the Rehabilitation Act provides that "no otherwise qualified individual with a disability shall, solely by reason of her or his disability, be excluded from the participation in,

be denied the benefits of, or be subjected to do discrimination under any program or activity receiving Federal Financial assistance." 29 U.S.C. § 794. The Rehabilitation Act extends relief to "any person aggrieved" by discrimination in violation thereof. 29 U.S.C. § 794a (a) (2). Under Section 504, companies receiving federal funds must provide "the opportunity for handicapped individuals to participate in and benefit from programs receiving federal assistance."

Alexander v. Choate, 469 U.S. 287, 304 (1985)

3. **The Fair Housing Amendments Act.**

The Fair Housing Amendments Act (FHA) outlaws' discrimination *in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap* of an individual. 42 U.S.C. § 3604 (f)(2). "By its express terms. Section 3604 applies to the provision of services or facilities* to a dwelling, such as sewer service, * Community Services Inc. v. Wind Gap Mun. Auth., 421 F. 3d 170, 184 (3rd Cir. 2005)

Electricity is among the services that are essential to a safe living environment, and so is included in the" provision of services" 24 C.F.R. §§ 982.401 (e)(1), (f)(1). (i). Like the Rehabilitation Act and the ADA, the FHA defines discrimination to include a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling." 42 U.S.C. § 3604 (f)(3)(B). Together, these three laws provide a robust analytical framework for assessing matters of accommodation. Reasonableness.

These laws and the resolutions interpreting them provide concrete criteria for breaking down questions of what kinds of accommodations are readily achievable (e.g.28 C.F.R. § 36.104), and explain what kinds of practices must be modified to achieve accommodation (e.g.28 C.F.R. § 36.302) and explain the conceptual reasoning behind these rules (e.g.28 C.F.R. Appendix A to Part 36).

B. Pennsylvania's Statutory Construction Act requires consideration of the legal background in which Act 129 was passed, including the federal anti-discrimination law.

In interpreting Act 129, this Court will be guided by the Statutory Construction Act. See Berner v. Montour Twp. Zoning Hearing Bd. /''217 A. 3d 238 (Pa. 2019), citing 1 Pa. C.S. §1501 et seq. Under the Statutory Construction Act, it is presumed that "the General Assembly does not intend a result that is absurd, impossible of execution or unreasonable, "that "the General Assembly intends the entire statute to be effective and certain, "and that the "General Assembly does not intend to violate the Constitution of the United States." 1 Pa. C.S. § 1992(1)-(3).

Given the Supremacy Clause of the United States Constitution, it is therefore presumed that the General Assembly did not intend for Act 129 to have effects that would be impossible of execution or ineffective due to federal anti-discrimination law.
See Commonwealth v. Jemison. 626 PA. 489. 98 A. 3d 12554, 1257 (2014) (Pursuant to the Supremacy Clause of the United States Constitution.
This Court, like all state courts, is bound by decisions of the U.S. Supreme Court with respect to the federal Constitution and federal substantive law") Furthermore, federal anti-discrimination law would have informed what the General Assembly intended as "unreasonable."

See 1 Pa. C.S. § 1992 (1). Given those principles, it is useful to assess the state of federal

anti-discrimination law had been long established. The Rehabilitation Act of 1973 – "commonly known as the civil rights bill of the disabled" – had been law for thirty-five years.
ADAPT v. Skinner, 881 F.2d 1184, 1187 (3d Cir. 1989).

The Fair Housing Amendments Act of 1988, which extended fair housing protections to persons with disabilities, had been in place for twenty years. And the ADA. Signed into law in 1990, had been law for eighteen years.

And in the immediate run-up to Act 129's passage, there was a significant development in federal disability law. On September 25, 2008 just 3 weeks prior to Act 129's passage, the President signed the ADA Amendments Act of 2008 into law.
In the findings and purpose of that law, Congress explained that it explicitly intended to overturn the holdings of the Supreme Court in Sutton v. United Air Lines, Inc. 527 U.S. 471 (1999) and Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 534 U.S. 184 (2002), two cases which had "narrowed the broad scope of protection intended to be afforded by the ADA" P.L.110-325 § 2.

The law explained it was the "intent of Congress that the primary object of attention in cases brought under the ADA. should be whether entities covered under the ADA have complied with their obligations, and to convey that the question of whether an individual's impairment is a disability under the ADA should not demand extensive analysis." Ld., § 2(b)(5). Accordingly, this Court should interpret Act 129 in light of the long-standing federal anti-disability-discrimination laws, and the reaffirmation of those laws by Congress in the weeks leading up to Act 129's passage. C. Courts have applied federal anti-discrimination law to matters surrounding smart meters, without requiring proof of harm.

The Commonwealth Court held that "in considering accommodation to Consumers on remand the PUC should consider whether accommodations are appropriate without proof of harm, so that Consumers may choose to avoid RF emissions from wireless smart meters, while allowing PECO to comply with Act 129's mandate concerning availability of smart meter technology." Povacz at 17 (emphasis in original). That holding is consistent with federal anti-discrimination law.

Federal Courts have analyzed smart meter matters in the context of the ADA, the FHA, and the Rehabilitation Act. And some courts have held that the need for accommodation can flow from a risk of future harm, rather than proof of past harm.
Once recent example is Fredman v. CMP, 20 cv-0023, R. Doc. 26 (D. Me. March 31, 2021).
In that case, Plaintiff Ed Friedman had a form of lymphoma that his oncologist opined could have exacerbated his symptoms if exposed to excess radiation. Mr. Friedman therefore opted-out of the smart meter program offered by Central Maine Power, the state's electric utility.

Person opting-out of the smart meter program to pay a monthly fee in perpetuity to not have a smart meter on their home. Mr. Friedman sued, arguing that such a surcharge was a violation the ADA, the FHA, and the Rehabilitation Act when applied to a person with a disability like himself. Id., R. Doc. 1. Specifically, he argued that he was denied equal access to the utility's services because he was charged more due to his disability than his non-disabled neighbor must pay.

The federal court denied CMP's motion to dismiss, holding that "it is the plausible risk to Friedman's health, not a probably physical toll, that makes a fee waiver 'necessary' to afford him equal access to CMO's services. "Friedman, supra at *7-8. Accordingly, the court held that Mr. Fredman had stated a claim for "discrimination under the ADA, Rehabilitation Act, and FHA." Id. At *9.1

In Maine, the state's Public Utilities Commission ordered CMP to allow customers to opt out of the smart meter program. See Boxer-Cook et al. v. Maine Public Utilities Commission, Docket No. 2010-345 Order (Part 1) (Me. P.U.C. May 19, 2011) and (Part ll) (Me. P.U.C. June 2011).

CMP, however, required all shortly after the federal court's denial of the motion to dismiss, CMP sought 45 (M.D.Fl., Sept. 1, 2015) involved a plaintiff with electromagnetic hypersensitivity who opted out of the Orlando Utilities Commission's smart meter program after the meter caused him to suffer "many physical and emotional problems." Id at *2. He sued in federal court after the OUC charged him an ongoing monthly fee to not have the smart meter on his home.

The court assessed the smart meter matters under the ADA, and found "the Court can reasonably infer that OUC has placed impermissible surcharges on equipment and services that are required for OUC to comply with Metallo's ADA rights. As a result, Metallo has sufficiently alleged a connection between OUC's fees and Metallo's alleged disability. "Id. At *7.

Other federal entities have likewise recognized the intersection between electromagnetic sensitivities and the ADA. For example, the Access Board "is an independent Federal agency established by section 502 of the Rehabilitation Act whose primary mission is to promote accessibility for individuals with disabilities. "67 Fed. Reg. 56352, fn. 1 (Sept. 3, 2002). In 2002, the Access Board 2.

Below, the Commonwealth Court suggested that "if Consumers obtain the relief they seek, it is difficult to imagine that large numbers of other PECO customers will then flood the utility with requests to avoid RF emissions at increased cost. "Povacz at *18. This is corroborated by the proceedings in Friedman, in which CMP disclosed that it only had three customers total "who expressed concerns about both the health effects of smart meters and the requirement that they pay an opt-out fee."

Similarly, Metallo v. Orlando Utilities Commission, 14-cv-01975, R. Doc. Recognized "that multiple chemical sensitivities" and electromagnetic sensitivities may be considered disabilities under the ADA if they so severely impair the neurological, respiratory or other functions of an individual that it substantially limits one or more of the individual's major life activities." 67 Fed. Reg. 56353.

Likewise, The National Institute of the Building Sciences, an entity established by the U.S. Congress in the Housing and Community Development Act of 1974, found that "according to the Americans with Disabilities Act (ADA) and other disability laws, for those disabled by chemical, and/or electromagnetic sensitivities." NIBS IEQ Final Report at *52 (July 14, 2005).

And most recently, on August 13, 2021, the U.S. Court of Appeals for the D.C. Circuit Court ruled that the Federal Communications Commission failed to provide a reasoned explanation for its determination that its current guidelines adequately protect against harmful effects of exposure to radiofrequency radiation.
Environmental Health Trust, et al. v. FCC. 20-1025 (D.C. Cir., Aug. 16, 2021)

The court found the FCC violated the Administrative Procedure Act by acting in an "arbitrary and capricious" manner regarding its assessment of those health impacts. It ordered the FCC to "address the impacts of RF radiation on children, the health implications of long-term exposure to RF radiation. the ubiquity of wireless devices, and other technological developments that have occurred since the

Commission last updated its guidelines and to address the impacts of RF radiation on the environment." Ld. At *31

Given that federal disability anti-discrimination law forms the backdrop against which the General Assembly passed Act 129, it is difficult to imagine how the PUC's interpretation of "no accommodations" can be upheld."

Pennsylvania is the only state that does not allow opt-out, as citizens are required to become sick. By the attempted deployment of smart meters per the constructive eviction and deracination of Complainants' civil rights forced by the PUC, ALJs and Met Ed.

The Platts are attempting to flee smart meter land and move to Maine. But they still need to install septic, drill a well and build a house, although they have secured a property. However, they are indefatigable in that the incestuous bedfellows will not ruin Mr. Platt's health.

If Complainants are not out of Pennsylvania by the time they are continued to be harassed by Met Ed, PUC and the ALC, they will take this to the federal level with legal representation pursuant to a tort lawsuit. Think Love Canal, Think Camp Lejeune, Think mesothelioma.

It should be known that the movement against forced smart meters is burgeoning. The movement against the unadulterated evil that is Met Ed, PUC and the ALCs system is burgeoning. The violation against civil rights of people like the Platts is reaching critical mass.

Since Judge Long ignored the Platts exhibits, including an exhibit of famed electrical engineer Bill Bathgate's measurement of a colleague's house – which emitted huge amounts of radiation and conducted emissions – some of these exhibits shall be resubmitted. Again, Mr. Platt's physician's affidavit shall be submitted later.

However, even one's own physician's affidavit means nothing because the PUC, ALC and Met Ed ignore their customers rights to health and safety.

In summary, ALJ Long must recuse herself in light of the recent Supreme Court ruling on June 28th against the administrative law court system in SEC v. Jarkesy and precedent of Axon v. FEC.

All parties of record have been served.

These digital signatures serve as true and authentic signatures. August 26, 2024

Kim E. Platt **Deborah Engisch-Platt**

CERTIFICATE OF SERVICE

Woodlands Healing Research Center
Family, Environmental & Preventive Medicine

07/12/2024

RE: Kim Platt
P O Box 175
Point Pleasant, PA 18950-

To whom it may concern,

The patient presents with electromagnetic sensitivity (EMF) sensitivity which causes association with multiple migratory joint pain, cognitive issues and heightened sensitivity issues.
Patient has been sensitive to these forms of electromagnetic frequencies since he was a child. In fact to this day the patient does not use any wireless Wi-Fi or Bluetooth transmitters in his home and does not use computers in his home.
His symptoms have worsened in recent years. He is exquisitely sensitive around transmitting smart meters and is concerned about one being installed in his house.
I feel his concern is warranted and hopefully can be avoided with his electrical usage being metered by some other method. This would help him diminish his frequent recurrent symptoms in the future.
In my medical opinion, to a reasonable degree of medical certainty, Mr. Platt has electromagnetic sensitivity. His proximity to smart meters has consistently caused his symptoms to flare and would benefit dramatically from avoidance measures.

Please feel free to contact our office if you have any further questions.

Sincerely,

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