

**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17120**

Public Meeting held January 8, 2025

Commissioners Present:

Stephen M. DeFrank, Chairman  
Kimberly Barrow, Vice Chair  
Kathryn L. Zerfuss  
John F. Coleman, Jr.  
Ralph V. Yanora

Jeannette and Craig Pavlick

C-2018-3002723

v.

West Penn Power Company

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are the Exceptions<sup>1,2</sup> filed by Jeannette and Craig Pavlick

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<sup>1</sup> The Initial Decision was issued on June 5, 2024. Exceptions were due by June 26, 2024. We will exercise our discretion and accept the Exceptions pursuant to Section 1.2(a) of our Regulations, 52 Pa. Code § 1.2(a), in order to secure a just, speedy, and inexpensive determination in this proceeding.

<sup>2</sup> We note that the Complainants marked their Exceptions as “Confidential.” There is no medical or other sensitive information in the Exceptions or in the record. While the Complainants have objected to the Protective Order filed by West Penn, this Opinion and Order contains no medical or sensitive information regarding the Complainants.

(the Complainants or Pavlicks) on June 28, 2024, in response to the Initial Decision (Initial Decision or I.D.) of Administrative Law Judge (ALJ) Mary D. Long, which was issued on June 5, 2024, in the above-captioned proceeding. Replies to Exceptions were filed by West Penn Power Company (West Penn or the Company) on November 18, 2024.<sup>3,4</sup> In her Initial Decision, ALJ Long recommended that the Commission dismiss the Formal Complaint (Complaint) filed by the Complainants on June 14, 2018, as amended on February 20, 2020 (Amended Complaint). For the reasons discussed below, we shall deny the Complainants' Exceptions, adopt the Initial Decision of ALJ Long, and dismiss the Complaint, consistent with this Opinion and Order.

## I. Background

This case involves a Complaint concerning the safety of the advanced metering infrastructure (AMI), or smart meter, that West Penn proposes to install at the Complainants' residence and use in the ordinary course of business to measure the Complainants' electricity consumption. The Complainants refuse to have a smart meter installed for health, safety, privacy, and cost reasons. Complaint at 3-4. In their

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<sup>3</sup> By Secretarial Letter dated November 7, 2024 (*November 2024 Secretarial Letter*), the Commission's Secretary issued a notice to the Parties advising that the Commission was perfecting service of the Complainants' Exceptions which may not have been properly served. Along with the *November 2024 Secretarial Letter*, the Commission included the Complainants' Exceptions in order to constitute service under 52 Pa. Code §§ 1.54, 1.57-1.58. *November 2024 Secretarial Letter*. Therefore, pursuant to 52 Pa. Code § 5.535, *Replies*, West Penn was given ten days, excluding holidays, or until November 18, 2024, to make a responsive filing. West Penn's Replies to Exceptions were accepted on November 18, 2024 by the Commission.

<sup>4</sup> On December 6, 2024, the Complainants filed a Motion to Strike the Company's Replies as untimely filed. However, given that the Company was served by the Exceptions via the *November 2024 Secretarial Letter*, and in an exercise of our discretion, we will accept the Replies pursuant to Section 1.2(a) of our Regulations, 52 Pa. Code § 1.2(a), in order to secure a just, speedy, and inexpensive determination in this proceeding. Accordingly, the Complainants' Motion to Strike is denied.

Amended Complaint, the Complainants revised their Complaint to remove any reference to health issues. Amended Complaint at 1. The Complainants requested, *inter alia*: (1) that the Commission grant the Complainants “an accommodation from the deployment of the weapon so-called smart meter”; and (2) that the Commission grant the Complainants “an accommodation of retaining the analog meter currently on the residence...” Amended Complaint at 3.

West Penn, now a part of FirstEnergy Pennsylvania Electric Company (FirstEnergy PA),<sup>5</sup> is an electric distribution company (EDC) subject to the jurisdiction of the Commission, furnishes, owns and maintains the meters in its distribution system. *See* FirstEnergy Pennsylvania Electric Company Tariff Electric Pa. P.U.C. No. 1, (FirstEnergy PA Tariff), Rule 8 at Original Page No. 44, effective January 1, 2024 (FirstEnergy PA Tariff Rule 8).

The Complainants, Jeannette and Craig Pavlick, are West Penn customers who have been notified of West Penn’s intent to install a smart meter at the service address. Answer to Amended Complaint at 1-3.

Act 129 of 2008 (Act 129 or Act), *inter alia*, amended Chapter 28 of the Public Utility Code (Code) and required EDCs with more than 100,000 customers to file smart meter technology procurement and installation plans for Commission approval and

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<sup>5</sup> At the time of initiation of the instant proceeding, FirstEnergy PA consisted of four separate companies: Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn. However, these companies have since been merged into a single entity, known as FirstEnergy Pennsylvania Electric Company. *See Joint Application of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, West Penn Power Company, Keystone Appalachian Transmission Company, Mid-Atlantic Interstate Transmission, LLC, and FirstEnergy Pennsylvania Electric Company, et al.*, Docket Nos. A-2023-3038771, *et al.* (Final Order entered December 7, 2023). Nonetheless, in this Opinion and Order, we shall refer to the Company as West Penn.

to furnish smart meter technology within its service territory in accordance with the provisions of the Act. Section 2807(f) of the Code provides as follows:

(f) *Smart Meter technology and time of use rates.*

(1) Within nine months after the effective date of this paragraph, electric distribution companies shall file a Smart Meter technology procurement and installation plan with the commission for approval. The plan shall describe the Smart Meter technologies the electric distribution company proposes to install in accordance with paragraph (2).

(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 the request.

(ii) In new building construction.

(iii) In accordance with a depreciation schedule not to exceed 15 years.

66 Pa.C.S. § 2807(f). The General Assembly found that it was “in the public interest” to implement the measures set forth in Act 129 and that the universal installation of smart meters would enhance the “health, safety and prosperity” of Pennsylvania’s citizens through the “availability of adequate, reliable, affordable, efficient and environmentally sustainable electric service at the least cost.” *See* H.B. 2200, 192d Gen. Assemb., Reg. Sess. (Pa. 2008).

By Order entered in 2009, the Commission directed all EDCs subject to Act 129’s smart meter requirements, including West Penn, to universally deploy smart meter technology within their respective service territories in the Commonwealth in accordance with a depreciation schedule not to exceed fifteen years and in accordance with other guidelines established therein. *See Smart Meter Procurement and Installation,*

Docket No. M-2009-2092655 (Implementation Order entered June 24, 2009) (*Smart Meter Installation Order*). West Penn sought and obtained the Commission's approval to complete the installation of AMI meters for substantially all customers within its service territory by mid-2019. *See Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company for Approval of their Smart Meter Deployment Plan*, Docket No. M-2013-2341990 (Opinion and Order entered March 6, 2014) (*2014 Smart Meter Order*).

## II. History of the Proceeding

On June 14, 2018, the Pavlicks filed their Complaint against West Penn with the Commission at Docket No. C-2018-3002723 seeking to prevent the installation of a smart meter at the service address due to alleged health, safety, privacy, and cost concerns. I.D. at 1, Complaint at 3-4.

On July 5, 2018, West Penn filed an Answer and New Matter to the Complaint. West Penn admits that it provides residential retail electric service to the Complainants. West Penn denied that it previously issued a service termination notice to the Complainants. West Penn further averred that the Complainants have refused to allow the Company access to install a smart meter which constitutes legal grounds to terminate electric service. West Penn denied the remaining material allegations set forth in the Complaint. West Penn further averred that it is required by Act 129 of 2008<sup>6</sup> (Act 129), to install a smart meter. I.D. at 2.

On July 5, 2018, West Penn also filed preliminary objections. On August 7, 2018, the Commission assigned the matter to ALJ Jeffrey A. Watson. On

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<sup>6</sup> 66 Pa.C.S. §§ 2806.1-2807.

August 29, 2018, ALJ Watson issued an Interim Order which denied West Penn's Preliminary Objections. I.D. at 2.

Over the ensuing twenty-seven months, ALJ Watson issued numerous orders on discovery and scheduling motions. He also conducted a prehearing conference on June 25, 2019. A one-day evidentiary hearing was held on September 29, 2020. I.D. at 2.

The Complainants appeared at the September 29, 2020, hearing representing themselves. Both Mr. and Mrs. Pavlick offered their own testimony in support of their Amended Complaint. ALJ Watson took official notice of a portion of the legislative history of Act 129, part of which the Complainants had labelled as Exhibit 1-A. West Penn was represented by Tori Geisler, Esq. and Lauren Lepkoski, Esq. West Penn offered the testimony of Mr. John Ahr. West Penn offered four exhibits which were admitted into the record as JCA-1 through JCA-4. ALJ Watson also took official notice of five items offered by West Penn labelled as PD-1, PD-2, PD-3, PD-4 and PD-5. I.D. at 2-3.

The transcript and exhibits were filed on November 2, 2020. I.D. at 3.

On November 4, 2020, the Commission entered an Order and Notice, at Docket No. M-2009-2092655, pursuant to 66 Pa.C.S. § 501, instituting a stay of certain formal complaint proceedings then pending before the Commission involving challenges to EDC deployment of smart meter technology as being in violation of Section 1501 of the Code (*November 2020 Stay Order*). The *November 2020 Stay Order* also directed that the stay would apply to any new formal complaints filed with the Commission claiming that EDC deployment of smart meter technology was a violation of Section 1501, and that the stay would remain in place until it was lifted by further Commission action. By Order entered November 14, 2023, at Docket No.

M-2009-2092655, the Commission lifted the stay. Notice was provided on November 14, 2023, informing the Complainants of the lifting of the stay and their procedural rights and obligations under the Commission’s Regulations.

By notice dated November 17, 2023, the Office of Administrative Law Judge reassigned this matter to ALJ Long. I.D. at 3.

ALJ Long directed the Complainants to file a brief on or before February 7, 2024, and West Penn to file a reply brief by March 7, 2024. Both Parties filed timely briefs, and the ALJ closed the record by order entered on March 8, 2024. I.D. at 3.

On June 5, 2024, the Commission served ALJ Long’s Initial Decision in *Jeannette and Craig Pavlick v. West Penn Power Company*, Docket No. C-2018-3002723.

As noted above, on June 28, 2024, the Complainants filed Exceptions to the Initial Decision. On November 18, 2024, West Penn filed Replies to Exceptions.

### **III. Discussion**

#### **A. Legal Standards**

##### **1. General Burden of Proof for Complaint Proceeding**

As the party seeking affirmative relief from the Commission, the complainant in a formal complaint proceeding has the burden of proof. 66 Pa.C.S. § 332(a). The evidence necessary to meet that burden must be substantial. 2 Pa.C.S. § 704. “Substantial evidence” is such relevant evidence that a reasonable mind might

accept as adequate to support a conclusion. *Consolidated Edison Company of New York v. National Labor Relations Board*, 305 U.S. 197, 229, 59 S.Ct. 206, 217. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. Co. v. Pa. PUC*, 413 A.2d 1037 (Pa. 1980).

To establish a sufficient case and satisfy the burden of proof, the complainant must show that the respondent utility is responsible or accountable for the problem described in the Complaint. *Patterson v. The Bell Telephone Company of Pennsylvania*, 72 Pa. P.U.C. 196 (1990). The offense must be a violation of the Code, a Commission Regulation or Order or a violation of a Commission-approved tariff. 66 Pa.C.S. § 701. Such a showing must be by a “preponderance of the evidence.” *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. denied*, 529 Pa. 654, 602 A.2d 863 (1992). That is, the Complainant’s evidence must be more convincing, by even the smallest amount, than that presented by the respondent. *Se-Ling Hosiery, Inc. v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950).

The burden of proof is comprised of two distinct burdens: (1) the burden of production; and (2) the burden of persuasion. *Hurley v. Hurley*, 2000 Pa. Super. 178, 754 A.2d 1283 (2000). The burden of production, also called the burden of going forward with the evidence, determines which party must come forward with evidence to support a particular claim or defense. *Scott and Linda Moore v. National Fuel Gas Distribution*, Docket No. C-2014-2458555 (Initial Decision issued May 11, 2015) (*Moore*). The burden of production goes to the legal sufficiency of a party’s claim or affirmative defense. *See Id.* The burden of production may shift between the parties during a hearing. A complainant may establish a *prima facie* case with circumstantial evidence. *See Milkie v. Pa. PUC*, 768 A.2d 1217, 1220 (Pa. Cmwlth. 2001) (*Milkie*). If a complainant introduces sufficient evidence to establish legal sufficiency of the claim, also called a *prima facie* case, the burden of production shifts to the utility to rebut the complainant’s evidence. *See Moore*.

If the utility introduces evidence sufficient to balance the evidence introduced by the complainant, that is, evidence of co-equal value or weight, the complainant's burden of proof has not been satisfied and the burden of going forward with the evidence shifts back to the complainant, who must provide some additional evidence favorable to the complainant's claim. *See Milkie*, 768 A.2d at 1220; *see also*, *Burleson v. Pa. PUC*, 443 A.2d 1373 (Pa. Cmwlth. 1982), *aff'd*, 501 Pa. 433, 461 A.2d 1234 (1983).

Having produced sufficient evidence to establish legal sufficiency of a claim, the party with the burden of proof must also carry the burden of persuasion to be entitled to a favorable ruling. *See Moore*. While the burden of production may shift back and forth during a proceeding, the burden of persuasion never shifts; it always remains on a complainant as the party seeking affirmative relief from the Commission. *See Milkie*, 768 A.2d at 1220; *see also*, *Riedel v. County of Allegheny*, 633 A.2d 1325, 1328, n.11 (Pa. Cmwlth. 1993); *see also*, *Burleson*, 443 A.2d at 1375. It is entirely possible for a party to carry the burden of production but not be entitled to a favorable ruling because the party did not carry the burden of persuasion. *See Moore*. In determining whether a complainant has met the burden of persuasion, the fact-finder<sup>7</sup> may engage in determinations of credibility, may accept or reject testimony of any witness in whole or in part, and may accept or reject inferences from the evidence. *See Moore*, citing *Suber v. Pennsylvania Com'n on Crime and Delinquency*, 885 A. 2d 678, 682 (Pa. Cmwlth. 2005) (*Suber*).

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<sup>7</sup> In formal complaint proceedings, the Commission, not the ALJ, is the ultimate fact-finder; it weighs the evidence and resolves conflicts in testimony. When reviewing the initial decision of an ALJ, the Commission has all the powers that it would have had in making the initial decision except as to any limits that it may impose by notice or by rule. *Milkie*, 768 A.2d at 1220, n. 7 (citing, *inter alia*, 66 Pa.C.S. § 335(a)).

## 2. Burden of Proof Applied to Section 1501<sup>8</sup> Complaint Challenging Smart Meter Installation

In *Povacz, et al. v. Pa. PUC*, 280 A.3d 975 (Pa. 2022) (*Povacz II*), which dealt with consolidated appeals involving the deployment of smart meters by PECO Energy Company, the Supreme Court of Pennsylvania (Supreme Court) reversed the Commonwealth Court’s October 8, 2020 decision in *Povacz v. Pa. PUC* (241 A.3d 481) (*Povacz I*), and thereby affirmed the Commission’s March 28, 2019 and May 9, 2019 Orders in *Maria Povacz v. PECO Energy Company*, C-2015-2475023 (*Povacz 2019 Order*); *Laura Sunstein Murphy v. PECO Energy Company*, C-2015-2475726 (*Laura Sunstein Murphy*); and *Cynthia Randall and Paul Albrecht v. PECO Energy Company*, C-2016-2537666 (*Cynthia Randall*). By *Povacz II*, the Supreme Court affirmatively established that there is no “opt-out” provision for installation of a smart meter pursuant to Act 129 and that to raise a viable challenge to smart meter installation, a customer must satisfy the preponderance of evidence standard for a violation of Section 1501 of the Code. *Povacz II*, 280 A. 3d at 983-984.

Pursuant to Section 1501 of the Code, all public utilities have a duty to maintain “adequate, efficient, safe, and reasonable service<sup>9</sup> and facilities” and to make

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<sup>8</sup> The applicable Commission Regulation governing an EDC’s provision of safe service is codified at 52 Pa. Code § 57.28(a)(1). Pursuant to Section 57.28(a)(1), an EDC must use reasonable efforts to properly warn and protect the public from danger and to exercise reasonable care to reduce the hazards to which customers may be subjected to by reason of the EDC’s provision of electric utility service and its associated equipment and facilities. See 52 Pa. Code § 57.28(a)(1). See *Final Rulemaking Order, Rulemaking Re: Electric Safety Regulations, 52 Pa. Code Chapter 57*, Docket No. L-2015-2500632 (Order entered April 20, 2017) (*Electric Safety Final Rulemaking Order*).

<sup>9</sup> The term “service” is defined broadly under Section 102 of the Code to include any and all acts done or rendered or performed and any and all things furnished or supplied and any and all facilities, used, furnished or supplied by public utilities. See 66 Pa.C.S. § 102. The statutory definition of “service” is also to be broadly construed by the Commission and the courts. *Country Place Waste Treatment Co., Inc. v. Pa. PUC*, 654 A.2d 72 (Pa. Cmwlth. 1995).

repairs, changes, and improvements that are necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. *See* 66 Pa.C.S. § 1501. Section 1501 of the Code, provides, in pertinent part, as follows:

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 . . . Such service and facilities shall be in conformity with the regulations and orders of the commission.

66 Pa.C.S. § 1501.

As previously noted, in *Povacz II*, the Supreme Court not only affirmed the Commission’s determination that there is no “opt-out” provision for smart meter installation in either Act 129, the Code, Commission Regulations, or Orders, but also confirmed that challenges to smart meter installation, other than an “opt-out,” may arise under Section 1501<sup>10</sup> of the Code. Therein, the Supreme Court stated:

[W]e conclude that Act 129 does mandate that EDCs furnish smart meters to all electric customers within an electric distribution service area and does not provide electric customers the ability to opt out of having a smart meter installed. An electric customer with concerns about smart meters may seek an accommodation from the PUC or EDC,

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<sup>10</sup> The Commission has also determined that if a customer’s formal complaint raises a claim under Section 1501, related to the safety of a utility’s installation and use of a smart meter at the customer’s residence, such a claim is legally sufficient to proceed to an evidentiary hearing before an ALJ. To satisfy the burden of proof a complainant may be required to present medical documentation and/or expert testimony demonstrating that the installation of a smart meter constitutes unsafe or unreasonable service. *Povacz II* at 1000, citing *Susan Kreider v. PECO Energy Company*, P-2015-2495064, 2016 WL 406549, at \*14 (Pa. P.U.C. January 28, 2016) (*Kreider*).

but to obtain one the customer must establish by a preponderance of the evidence that installation of a smart meter violates Section 1501 [of the Code].

*Povacz II*, at 983-984; *See Povacz v. PECO Energy Company*, Docket No. C-2012-2317176 (Opinion and Order entered January 24, 2013) (*Povacz 2013 Order*); *see also, Frompovich v. PECO Energy Co.*, Docket No. C-2015-2474602 (Opinion and Order entered May 3, 2018) (*Frompovich*).

In applying Section 1501 to a complaint challenging the installation of smart meter technology, the Supreme Court affirmed the Commission's Opinion and Order in the *Povacz 2019 Order*, stating:

A customer seeking affirmative relief from the [Commission] must prove by a preponderance of the evidence that the named utility was responsible or accountable for the problem described in the complaint and that the offense was a violation of the Code, a [Commission] regulation or [o]rder, or a violation of a [Commission]-approved tariff. [See] 66 Pa.C.S. §§ 332(a), 701; *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, . . . 134 Pa. Commw. 218, 578 A.2d 600 ([Pa. Cmwlth.] 1990)[.] . . .

Although Act 129 does not provide an electric customer [] with the right to opt-out of the installation of a smart meter at their residence, they [sic] may file a complaint raising a claim that installation of a smart meter violates Section 1501 of the Code.

. . . .

Pursuant to [S]ection [1501 of the Code], an EDC (as a public utility) must provide service that is, *inter alia*, both safe and reasonable. **To carry their burden of proof on a Section 1501 [of the Code] claim, a smart meter challenger may be required to present medical documentation and/or expert testimony demonstrating that the furnishing of a smart meter constitutes unsafe or unreasonable service** in violation of Section 1501 [of the Code] under the circumstances presented. *Susan Kreider v.*

*PECO Energy Co.*, P-2015-2495064, 2016 WL 406549, at \*14 (Pa. P.U.C. Jan. 28, 2016).

*Povacz II*, 280 A. 3d at 999-1000 (emphasis added; footnote omitted).<sup>11</sup>

In applying the standard of proof to scientific or expert medical evidence in support of alleged adverse health effects, the Commission ruled in the *Povacz 2019 Order*, and was subsequently affirmed by the Supreme Court in *Povacz II*, that in order to prevail in a Section 1501 claim against an EDC alleging that an AMI meter caused or will cause adverse health effects or harm to human health, the complainant must demonstrate by a preponderance of the evidence a “conclusive causal connection” between the harm to human health and the radio frequency fields (RFs)<sup>12</sup> from the AMI meter.<sup>13</sup>

### **3. Other Relevant Legal Standards**

In addition to establishing that a complaint challenging the installation of a smart meter may arise under Section 1501, the Supreme Court’s decision in *Povacz II* acknowledged the Commonwealth Court’s rejection of a constitutional claim for exemption from smart meter installation predicated on a violation of “bodily integrity.”

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<sup>11</sup> With respect to the evidence necessary to support a challenge to smart meter installation under Section 1501, the Commonwealth Court has held that at the hearing, a complainant may prove his/her claim through the complainant’s own personal testimony and/or “the testimony of others as well as other evidence that goes to that issue.” *Romeo v. Pa. PUC*, 154 A.3d 422, 430 (Pa. Cmwlth. 2017) (*Romeo*).

<sup>12</sup> RF is an abbreviation for radio frequency and is also used here to denote RF fields or RF signals.

<sup>13</sup> See *Povacz 2019 Order* slip op., at 28-29 (citing *Letter of Notification of Philadelphia Electric Company Relative to the Reconstructing and Rebuilding of the Existing 138 kV Line to Operate as the Woodbourne-Heaton 230 kV Line in Montgomery and Bucks Counties*, 1993 WL 855896 (Pa. P.U.C. 1993), Docket No. A-110550F0055 (Final Order entered November 12, 1993) (*Woodbourne-Heaton Final Order*), slip op. at 11).

The Supreme Court noted the Commonwealth Court’s denial of a claim under the Fourteenth Amendment, stating:

The Commonwealth Court rejected Customers’ constitutional arguments, persuaded by the reasoning of *Naperville Smart Meter Awareness v. City of Naperville*, 69 F. Supp. 3d 830 (N.D. Ill. 2014) (“*Naperville II*”). Therein, a federal district court rejected the customers’ “*Fourteenth Amendment* bodily integrity argument because their complaint failed to identify an arbitrary deprivation of a recognized liberty or property interest” and to aver that the city’s decision to employ smart meters was arbitrary. *Id.* at 839 (internal quotations marks omitted).

*Povacz II* at 985, n. 8. As the Supreme Court denied allocatur as to any constitutional claims, the Commonwealth Court’s holding stands.

Further, the Supreme Court noted that a customer must be connected to the distribution system to receive electric service confirming that EDCs operate in a universal basis. *Povacz II* at 993. As such, the Court concluded that by obtaining service from their incumbent EDC, customers contractually accept the EDC’s Commission-approved Tariff, including the installation of smart meter technology. *Id.* at 994. Therefore, the Supreme Court found that “the authority to select and install a certain type of electric meter rests solely with the EDCs, [...] not the customer.” *Id.*

Finally, we note that any argument or Exception that we do not specifically delineate shall be deemed to have been duly considered and denied without further discussion. The Commission is not required to consider expressly or at length each contention or argument raised by the parties. *Consolidated Rail Corp. v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); *see also, generally, University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

## **B. ALJ's Initial Decision**

In the Initial Decision, ALJ Long made seven Findings of Fact (FOF) and reached eight Conclusions of Law (COL). I.D. at 4, 12. The Findings of Fact and Conclusions of Law are incorporated herein by reference and are adopted without comment unless they are either expressly or by necessary implication rejected or modified by this Opinion and Order.

In her disposition, ALJ Long addressed, *inter alia*, the Complainants' (1) burden of proof; (2) Section 1501; (3) compliance with 52 Pa. Code § 57.259 regarding information provided by the Company; and (4) due process. I.D. at 5-11.

### **1. Complainants' Burden of Proof**

The ALJ provided that the Complainants had the burden of proof to show that the Company is in violation of the law by requiring them to accept the installation of a smart meter. I.D. at 5 (citing 66 Pa.C.S. § 701; 66 Pa.C.S. § 332(a)). The ALJ explained that the Complainants must prove facts by a preponderance of the evidence, to show that the Company violated the Code or Commission Regulations. I.D. at 5.

While the Complainants' argument rests largely on their position that they should be permitted to retain their analog meter, the ALJ explained that in *Povacz II* the PA Supreme Court has found that customers have no right to refuse smart meter installation. I.D. at 5-6. The ALJ dismissed the Complainants' claim that the law does not require the Company to install a smart meter. I.D. at 6.

## **2. Complainants' Safety Concerns Regarding the Smart Meter**

The ALJ explained that the Complainants did not offer any admissible evidence to support the allegation that smart meters are unsafe. The ALJ noted that in the Amended Complaint, the Complainants removed their claim from the original Complaint that smart meters posed a health risk. I.D. at 6. The ALJ provided that the Company's witness testified that smart meters are safe and comply with all applicable requirements and standards for smart meters adopted by the Federal Communications Commission and the American National Standards Institute Tests. The ALJ dismissed the Complainants' claim that smart meters are unsafe. I.D. at 6-7.

## **3. Information Provided by the Company in Accordance with 52 Pa. Code § 57.259**

The ALJ noted that the Complainants contended that the Company violated 52 Pa. Code § 57.259 because the information the Company provided was incomplete or deceptive. I.D. at 7-8 (citing Complainants' Brief at ¶ 44, Tr. at 166-67). The ALJ explained that because the Complainants did not produce the materials they alleged were incomplete or deceptive, the ALJ dismissed their claim. I.D. at 8.

## **4. Due Process**

The ALJ provided that the Complainants asserted that they were treated unfairly in the hearing process because they are self-represented. I.D. at 8. The ALJ noted that "an administrative law judge must be fair and impartial to all parties." The ALJ explained that "[a]ny reasonable accommodations extended to one party without legal training cannot be at the expense of the part that is represented. Commission proceedings must be fair to *both* parties." I.D. at 10.

ALJ Long noted that ALJ Watson issued numerous orders that explained procedures, accommodated the Complainants, and attempted to secure their compliance with his orders. ALJ Long provided that at least three orders directed the Complainants to file and serve full and complete answers to the Company's discovery, rather than sanctioning the Complainants for failing to comply.<sup>14</sup> I.D. at 10.

ALJ Long provided that ALJ Watson spent an extensive amount of time at the prehearing conference explaining (1) evidentiary requirements, (2) how to present evidence, and (3) hearing procedures and discovery requirements. I.D. at 10 (citing Tr. at 15-32). ALJ Long reviewed the transcript for the Prehearing Conference and the Evidentiary Hearing and noted that the Complainants were granted significant leeway as they were permitted to ask procedural questions, offer explanations for their failure to comply with discovery orders, and present their evidence. I.D. at 11. While the Complainants argued that ALJ Watson did not allow breaks during the hearing, ALJ Long noted that ALJ Watson provided several breaks during the hearing. I.D. at 11 (citing Tr. at 170, 183, 245, 258). The ALJ concluded that the Complainants failed to prove that their due process rights were violated. I.D. at 12 COL 8, (citing *McKnight v Pa. PUC*, A.3d (1253 C.D. 2019 decided March 20, 2024) (due process is not violated by the absence of counsel in civil litigation)).

Based on all the above, the ALJ recommended that the Commission deny and dismiss the Amended Formal Complaint for failure by the Complainants to meet their burden of proof. I.D. at 1, 12.

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<sup>14</sup> See Interim Orders entered November 28, 2019, October 1, 2019, and January 4, 2020. See also interim order entered February 3, 2020, where ALJ Watson held the Company's motion to dismiss in abeyance and provided the Complainants an additional opportunity to comply with discovery. I.D. at 10 n. 32.

### C. Exceptions, Replies, and Disposition

The Complainants' Exceptions consist of an Introduction, a five-page Legal Standards section, four Exceptions, a Summary, a Conclusion section, and three attachments. The Exceptions repeat arguments from the Complainants' brief. Much of the Complainants' arguments have already been addressed by the Supreme Court in *Povacz II*, or in other recent cases that have been before the Commission. The Complainants' Exceptions<sup>15</sup> generally pertain to the following: (1) Act 129, an opt-out and constitutional claims; (2) procedural issues, allegations of favoritism, and due process; and (3) the burden of proof.

To the extent the Complainants' Exceptions include commentary alleging bias without foundation, such commentary is deemed to be immaterial, impertinent, and otherwise irrelevant to the disposition of this matter. Therefore, pursuant to 52 Pa. Code § 1.4(e), we shall strike such statements from our consideration of the Complainants' Exceptions.

To the extent the Complainants used extra-record materials in their Exceptions, such materials will be disregarded. It is well-established that parties cannot introduce new evidence following the close of the record. *Application of Apollo Gas Co.*, 1994 Pa. PUC Lexis, at \*8-14 (Order entered February 10, 1994) (*Apollo Gas*).

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<sup>15</sup> We acknowledge that the format of the Complainants' Exceptions does not strictly comply with Section 5.533(b) of our Regulations, 52 Pa. Code § 5.533(b), which requires that exceptions be numbered, identify the finding of fact and conclusions of law to which exception is taken, and cite to the relevant pages of the Initial Decision. Nevertheless, particularly because the Complainants are appearing *pro se*, we will accept the Exceptions as filed pursuant to Section 1.2(a) of our Regulations, 52 Pa. Code § 1.2(a), in order to secure a just, speedy, and economical determination. The Complainants' Exceptions, in some cases, repeat arguments or overlap. Where appropriate, we have grouped the Exceptions by topic in our Dispositions.

Accordingly, any extra-record information the Complainants used in their Exceptions will not be considered. *Apollo Gas*.

Where the Complainants have offered new arguments in their Exceptions not previously addressed in the record, we note that these arguments cannot be considered after the record has been closed. 52 Pa Code § 5.431.

**1. Complainants' Argument Regarding Act 129, an Opt-out and Constitutional Rights**

**a. Exception Nos. 1 and 2**

In their Exception No. 1, the Complainants disagree with the Conclusions of Law relating to Act 129 and the “Commission’s no-opt-out policy.” Exc. at 11 (citing I.D. at 12, COL 3 and 4). The Complainants argue that the Supreme Court’s decision in *Povacz II* is incorrect, because, according to the Complainants, it ignores the legislative intent in the development of Act 129. Exc. at 11-25.

Additionally, the Complainants argue that the installation of a smart meter is unconstitutional. Exc. at 4, 19, 25.

In their Exception No. 2, the Complainants repeat their argument that the installation of a smart meter is unconstitutional. The Complainants also provide several new arguments not presented at the hearing, or in their Complaint, regarding health, safety, data privacy, and termination of service. Exc. at 26-37.

**b. Replies**

West Penn argues that through their Exceptions, the Complainants are attempting to relitigate the PA Supreme Court’s decision in *Povacz II*. R. Exc. at 2 (citing Exc. No. 2 at 11-25). West Penn avers that the Company is required to install smart meters at all of its customers’ service locations under Act 129 and *Povacz II*. R. Exc. at 3. In addition, West Penn stresses that it is required to install smart meters with specific functionality in accordance with the Code, the Commission’s orders, and the Company’s Smart Meter Deployment Plan. R. Exc. at 3. West Penn avers that *Povacz II* resolves the Complainants’ claim that the Company would violate their constitutional rights by installing a smart meter at the service address. R. Exc. at 5. The Company further avers that it is not a state actor. R. Exc. at 6 (citing *Povacz I*, 241 A.3d 481, 486 n. 9).

**c. Disposition**

In *Povacz II*, the PA Supreme Court expressly concluded that the complainant’s assertion of the right to “opt-out” of Act 129 was unfounded. The Supreme Court further found that a customer may seek an accommodation to smart meter installation, provided the customer first established a violation under Section 1501 of the Code. Therein, the Supreme Court stated:

[W]e conclude that Act 129 does mandate that EDCs furnish smart meters to all electric customers within an electric distribution service area and does not provide electric customers the ability to opt out of having a smart meter installed. An electric customer with concerns about smart meters may seek an accommodation from the PUC or EDC, but to obtain one the customer must establish by a

preponderance of the evidence that installation of a smart meter violates Section 1501 [of the Code].

*Povacz II*, at 983-84.

Therefore, by establishing that there is no “opt-out” permitting a customer to refuse smart meter installation, the Supreme Court’s holding in *Povacz II* is controlling on the question. In the present case, the Complainants’ Exceptions fail to establish any violation by the utility under Section 1501 of the Code, as a prerequisite to seeking an accommodation. To the extent the Complainants’ arguments challenge the Supreme Court’s holding in *Povacz II*, that there is no opt out from smart meter implementation, we reject the Complainants’ arguments. *Povacz II* is settled law, and we find no merit in the Complainants’ argument that *Povacz II* was wrongly decided. Accordingly, to the extent the Complainants assert a right to opt out of Act 129 to refuse smart meter installation, we shall deny the Complainants’ Exception No. 1.

We further note that the Complainants have made several new claims in their Exceptions regarding health and safety, termination of service and constitutional rights. Exc. at 26-37. ALJ Watson advised the Complainants at the hearing that the only evidence and testimony that would be considered was that which was entered into evidence. Tr. at 105-06. The Complainants did not provide evidence or testimony related to a Section 1501 violation or to support the request for an accommodation under Section 1501. I.D. at 6.

We disagree with the Complainants’ argument that the Company cannot lawfully terminate their electric service for failure to provide access to the meter. See Exc. at 29-30, 32, 33. The Commission has stated that “[i]t is well-settled that where a customer refuses a utility access to its meter, the utility may terminate service after required notice is provided.” *Frompovich*. Accordingly, the Complainants’ Exceptions

regarding termination of service where the customer prevents access for installation of the meter are denied.

Further, we agree with West Penn's argument that the Company is not a state actor, and therefore, the Complainants fail to assert a constitutional claim. *Commonwealth v. Corley*, 491 A.2d 829, 832 (Pa. 1985) (additional citations omitted). In *Povacz II*, the Supreme Court noted the Commonwealth Court's conclusion that the assertion of a constitutional right to refuse installation of a smart meter was unfounded. *See Povacz II* at 985, n. 8. As previously noted, *supra*, the Commonwealth Court's decision is binding on the question. Accordingly, to the extent the Complainants assert a constitutional right to refuse smart meter installation, we shall deny the Complainants' Exception Nos. 1 and 2 on this issue without further discussion.

**2. Complainants' Arguments Regarding Procedural Issues, Favoritism and Due Process**

**a. Exception No. 3**

In their Exception No. 3, the Complainants contend that ALJ Long erred in her statement that "Judge Watson was required to be fair to both the Complainant and Respondent." Exc. at 38 (citing I.D. at 10, 11). The Complainants argue that ALJ Long erred by not considering the "unprofessional case management by [West Penn] and the favoritism towards respondent by Judge Watson." Exc. at 38.

The Complainants provide that discovery documents from West Penn cited a different party. Exc. at 38. Additionally, the Complainants note that they objected to the Protective Order, but their objection was not recognized by ALJ Watson. Exc. at 39.

The Complainants concluded that their “due process rights were violated by ALJ Watson.” *Id.* at 40.

**b. Replies**

West Penn argues that none of the procedural concerns related to discovery requests warrant modifying or reversing the Initial Decision and they are inappropriately raised at this late stage in the proceeding. The Company avers that any alleged errors in the discovery requests that are not in the record in this proceeding are irrelevant to the Initial Decision’s determination that the Complainants failed to carry their burden of proof. West Penn contends that it complied with the Commission’s discovery rules. Regarding the Protective Order, the Company notes that the Complainants have not identified a single piece of evidence in this proceeding that they believe should have been, but was not, afforded proprietary information, pursuant to the Protective Order. R. Exc. at 6-7.

**c. Disposition**

We will first address the Complainants’ assertions regarding a discovery document sent to them from West Penn. The discovery document had a typo indicating a different party’s name below the bolded heading, which clearly identified the document as pertaining to the Pavlicks and the document included the Docket number for this proceeding. Tr. at 60, 69, 86. The Company acknowledged that this was a typo, appearing in one location, that the Complainants only indicated they were confused by on February 26, 2019. Tr. 46-49. There was a lengthy discussion of the discovery document and the typo at the Prehearing Conference. Tr. at 34-70, 79-91. The Pavlicks contended that they did not comply with discovery because this typo indicated to them that the interrogatories were not applicable to them. Tr. at 48, 53. The Pavlicks filed objections to the discovery request but these objections did not mention the typo.

Tr. at 46. ALJ Watson noted that the Complainants filed objections to the discovery requests which indicated that the Complainants considered that the discovery requests applied to them regardless of the typo. Tr. at 66, 69. The matter was addressed fully by ALJ Watson at the prehearing conference and merited no further consideration by ALJ Long. We shall deny the Complainants' Exceptions regarding the typo in the discovery document that was fully addressed by ALJ Watson at the Prehearing Conference.

The Complainants aver that ALJ Watson did not require West Penn to reply to the Complainants' discovery request dated May 28, 2019. Tr. at 84. The Interim Order entered on October 15, 2018 stated that discovery was to be completed by April 5, 2019. West Penn's discovery request dated September 14, 2018, was timely, the Complainants' discovery request was not. We do not find any evidence that ALJ Watson showed favoritism towards West Penn as alleged by the Complainants regarding discovery. We shall deny the Complainants' Exceptions regarding the Complainants' late-filed discovery request.

The Complainants allege that their objection to the Protective Order was ignored by ALJ Watson and this should have been considered by ALJ Long. The Interim Order entered October 15, 2018 included the following regarding a Protective Order:

Request For Protective Order

The Commission's regulations (52 Pa.Code § 5.423) specifically provide for the protection of "confidential" information in order to ensure that adequate procedural safeguards are put in place to make certain that sensitive information is not improperly disclosed to the public. In the event that any Party is desirous of entering into an agreement with regard to a protective order or wishes that a protective order be entered by the undersigned Presiding Officer, the Parties shall confer and discuss a possible agreement or protective order to address the disclosure and

use of the discovery materials and other sensitive information in this proceeding. *In the event the Parties are unable to reach an agreement, any Party may request the entry of a protective order consistent with the Commission's rules and regulations.*

Interim Order Establishing Initial Litigation Schedule entered October 15, 2018 at 5 (emphasis added).

The Interim Order clearly indicates that West Penn could request the Protective Order without the Complainants' agreement. The Protective Order was entered on October 24, 2019. We note that the Amended Complaint removed any reference to health issues and there was no testimony or evidence submitted at the Evidentiary Hearing related to medical issues or other matters that the Complainants deemed confidential, consequently the need for a Protective Order is now moot. There is no error by ALJ Watson or ALJ Long here. The Protective Order has caused no harm to the Complainants case and has not harmed their ability to present their claim. The Complainants' Exceptions regarding the Protective Order are denied.

Now we will address the Complainants' argument that they were denied due process. In the Commission's decision in *Lucey v. Metropolitan Edison Co.*, Docket No. C-2018-3003679 (Opinion and Order entered October 8, 2020) (*Lucey*), the Commission provided the following regarding due process:

As an administrative agency of the Commonwealth, the Commission is required to provide due process to the parties appearing before it. *Schneider v. Pa. PUC*, 479 A.2d 10, 15 (Pa. Cmwlth. 1984) (*Schneider*), citing *Fusaro v. Pa. PUC*, 382 A.2d 794 (Pa. Cmwlth. 1978). Due process is satisfied when the parties are afforded notice and the opportunity to appear and be heard. *Schneider*, 479 A.2d at 15 (Pa. Cmwlth. 1984), citing *Township of Middleton v. The Institute District of the County of Delaware*, 293 A.2d 885 (Pa. Cmwlth. 1972), *aff'd* 450 Pa. 282, 299 A.2d 599

(Pa. Cmwlth. 1973). The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner. *Montefiore Hospital Ass'n of Western Pennsylvania v. Pa. PUC*, 421 A.2d 481, 484 (Pa. Cmwlth. 1980).

*Lucey* at 17.

In the present case, the Complainants were given notice of the pre-hearing conference, the evidentiary hearing, and other procedural matters throughout the case. The Complainants were given the opportunity to be heard at the hearing. Both Mr. and Mrs. Pavlick participated in the hearing. Tr. at 123, 186. During the hearing, the Pavlicks explained why they filed the Complaint and what relief they were seeking. Tr. at 181-82, 186. The Complainants were offered the opportunity to cross-examine West Penn's witnesses. Tr. at 233, 236. The Pavlicks were given the opportunity to present a closing argument. Tr. at 268-269. The Complainants were free to seek expert testimony and submit exhibits at the hearing to be entered into the record. The Complainants chose not to seek expert testimony. ALJ Watson granted several requests by the Complainants to extend deadlines throughout the proceeding. The Complainants' due process rights were exercised throughout the proceeding. The record reflects that the Complainants were afforded due process consistent with *Lucey*. Accordingly, we find that the Complainants' arguments in their Exceptions that ALJ Watson exhibited favoritism towards the Company, or that they were not afforded due process, are without merit. The Complainants' Exception No. 3 is denied.

### **3. Complainants' Arguments Regarding the Burden of Proof**

#### **a. Exception No. 4**

In their Exception No. 4, the Complainants disagree with COL No. 7, which states, as follows:

COL No. 7: Complainants failed to sustain their burden of proving that a smart meter would cause harm. *Povacz v. Pub. Util. Comm'n*, 280 A.3d 975 (Pa. 2022).

I.D. at 12.

The Complainants contend that the burden of proof has been misplaced on the Complainants to conclusively prove harm by producing a preponderance of evidence. Exc. at 41. The Complainants also include extra record materials and new arguments in Exception No. 4 to support their claim that the proposed smart meter is unsafe. Exc. at 41-43.

#### **b. Replies**

West Penn provides that while the Complainants contend the burden of proof was “misplaced” in this proceeding, the Supreme Court’s holding in *Povacz II* unequivocally explained that the “conclusive causal connection” evidentiary standard is correct here. *Povacz II* at 1007. West Penn explains that the Complainants did not meet the preponderance of the evidence that installation of a smart meter violates Section 1501 as required by *Povacz II*. R. Exc. at 8 (citing *Povacz II* at 983-84). In addition, West Penn provides that the Complainants’ arguments based on extra-record evidence or evidence properly excluded during the Evidentiary Hearing, should not be considered by the Commission in evaluating the Complainants’ Exceptions. R. Exc. at 8.

**c. Disposition**

The Complainants' burden of proof was made clear early on in this proceeding. The Interim Order entered October 15, 2018 clearly indicated that the Complainants had the burden of proof and described the burden of proof as follows:

Complainants bear the burden of proof and must demonstrate by a preponderance of the evidence that Respondent violated its tariff, the Public Utility Code or a Commission order or regulation, and that they are entitled to the relief requested in the Complaint.

Interim Order at 2. Similarly, the Complainants were told at the prehearing conference that they have the burden of proof. Tr. at 22.

As noted, *supra*, in affirming the Commission's 2019 *Povacz Order*, the Pennsylvania Supreme Court held in *Povacz II* that, in order to prevail in a Section 1501 claim involving the safety of smart meters, and specifically, against an EDC alleging that an AMI meter caused, or will cause, adverse health effects or harm to human health, the Complainant must demonstrate, by a preponderance of the evidence, a "conclusive causal connection" between the harm to human health and the RFs from the AMI meter. *See Povacz II* at 1006. In that context, the lay opinion of the Complainant does not provide a conclusive, causal connection between the harm to human health and the RFs from the AMI meter. *Id.*

The Pennsylvania Supreme Court reiterated that complainants seeking relief from the Commission must satisfy their burden of proof by a preponderance of the evidence. The Court explained that inconclusive evidence – evidence that does not lead to a conclusion of a definite result one way or the other – does not meet even the minimal requirements of the preponderance of the evidence standard. *Id.* at 1005. The Court further opined that while a customer's evidence does not need to prove their assertion

beyond any doubt, evidence of a mere possibility that harm could result is insufficient to satisfy the preponderance of the evidence standard. *Id.* at 1008.

The Pennsylvania Supreme Court further instructed that the burden of proof is two-fold for Section 1501 claims involving the safety of smart meters and RF emissions. First, a customer must present expert opinion rendered to a reasonable degree of scientific certainty that RF emissions from smart meters cause adverse health effects. Next, a customer must present expert opinion rendered to a reasonable degree of medical certainty that RF emissions from the smart meters, either alone or cumulative to other sources of RF emissions, caused them harm. The utility may then refute the customer's evidence by providing scientific and/or medical expert testimony that, within a reasonable degree of certainty, the RF emissions from smart meters did not cause the alleged harm. *Id.* Once the parties have presented their evidence, the onus then falls on the fact finder to weigh the evidence and determine whether it is more likely than not that the smart meter caused the customer harm. *Id.* at 1006.

To prevail in a Section 1501 claim against an EDC alleging that an AMI meter caused, or will cause, adverse health effects or harm to human health, the Complainant must demonstrate, by a preponderance of the evidence, a "conclusive causal connection" between the harm to human health and the RFs from the AMI meter. *See 2019 Povacz Order.* Here the ALJ properly concluded that the Complainants have failed to carry their burden of proof that a smart meter would cause harm. I.D. at 12.

In the present case, the Complainants did not offer the testimony of any expert witnesses. In *Povacz II*, the Supreme Court opined that while a customer's evidence does not need to prove their assertion beyond any doubt, evidence of a mere possibility that harm could result is insufficient to satisfy the preponderance of the evidence standard. *Povacz II* at 1008. We agree with the ALJ's well-reasoned analysis in the Initial Decision and the ALJ's conclusion that the Complainants failed to sustain

their burden of proving that a smart meter would cause harm. I.D. at 12, COL No. 7 (citing *Povacz II* at 975). We find nothing in the Complainant's Exceptions to refute the ALJ's conclusion that the Complainants failed to meet their burden of proof. Therefore, we shall deny the Complainant's Exception No. 5 challenging the ALJ's dismissal of the Complaint for failure to satisfy the burden of proof.

Finally, we note that, while our above disposition references our agreement with the positions argued by the Company in its Replies, our disposition and finding against the Complainants' position turns on the existing controlling legal precedent and our finding that the record lacks substantial evidence to support the Complainants' position, which established sufficient basis to deny the Exceptions, without reliance upon the arguments raised in the Replies.

#### **IV. Conclusion**

In light of the above discussion, we shall: (1) deny the Complainants' Exceptions; (2) adopt the ALJ's Initial Decision; and (3) dismiss the Complaint, consistent with this Opinion and Order; **THEREFORE,**

#### **IT IS ORDERED:**

1. That the Exceptions filed by Jeannette and Craig Pavlick on June 28, 2024, to the Initial Decision of Administrative Law Judge Mary D. Long issued on June 5, 2024, at Docket No. C-2018-3002723, are denied, consistent with this Opinion and Order.

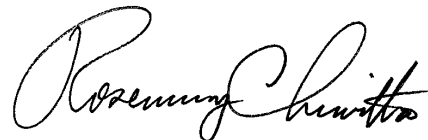
2. That the Initial Decision of Administrative Law Judge Mary D. Long, issued on June 5, 2024, at Docket No. C-2018-3002723, is adopted, consistent with this Opinion and Order.

3. That the Motion to Strike filed by Jeanette and Craig Pavlick on December 6, 2024, is denied.

4. That the Formal Complaint filed by Jeannette and Craig Pavlick, on June 14, 2018, and amended on February 20, 2020, at Docket No. C-2018-3002723, is dismissed.

5. That this proceeding be marked closed.

**BY THE COMMISSION,**

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta". The signature is written in a cursive, flowing style.

Rosemary Chiavetta  
Secretary

(SEAL)

ORDER ADOPTED: January 8, 2025

ORDER ENTERED: January 8, 2025