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February 6, 2025

VIA ELECTRONIC FILING

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

Re: Laura Farina v. Metropolitan Edison Company
Docket No. C-2022-3030803

Dear Secretary Chiavetta:

Enclosed for filing please find the Replies of FirstEnergy Pennsylvania Electric Company, (“Met-Ed Rate District¹”) to the Exceptions of Laura Farina regarding the above-referenced matter. This document has been served on all parties as shown in the Certificate of Service.

Please contact me if you have any questions regarding this matter.

Respectfully submitted,

James Austin Meehan

JAM/mlr

Enclosures

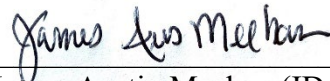
c: As Per Certificate of Service
Office of Special Assistants (via email at ra-OSA@pa.gov)

¹ On January 1, 2024, FirstEnergy Corp.'s Pennsylvania operating companies (i.e., Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company) merged into FirstEnergy Pennsylvania Electric Company (“FE PA”). Due to the merger transaction, FE PA became successor in interest to all matters previously belonging to the individual Pennsylvania operating companies. As such, the customers of the former Metropolitan Edison Company have their own separate and distinct rate district under FirstEnergy Pennsylvania Electric Company’s tariff.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Laura Farina,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2022-3030803
	:	
Metropolitan Edison Company,	:	
	:	
Respondent	:	

**REPLY EXCEPTIONS OF METROPOLITAN EDISON COMPANY TO THE
EXCEPTIONS OF LAURA FARINA**



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Company (Met-Ed Rate District)

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I. INTRODUCTION.

FirstEnergy Pennsylvania Electric Company, on behalf of its Met-Ed Rate District² (the “Company”) hereby file its Replies to the Exceptions of Laura Farina (“Complainant”). The Company was served with the Complainant’s Exceptions on January 24, 2025. Through the Exceptions, the Complainant takes issue with much of the well-reasoned Initial Decision (“ID”) issued by the Administrative Law Judge John Coogan (hereinafter, the “ALJ”) on January 7, 2025. The ID dismissed the Complaint, holding that Act 129³ mandates the systemwide installation of smart meters (ID, at 10, 15), and that the Complainant failed to establish a *prima facie* case that the Company’s smart meter installed at her residence is unsafe or in violation of the Public Utility Code (“Code”), 66 Pa.C.S. § 1501. (ID, at 13-14.)

Additionally, the ID noted several other reasons supporting dismissal of the Complaint, including the Court’s holding in *Povacz II*, which concluded that a customer may not “opt-out” of the installation of a smart meter.⁴ (ID, at 13, fn. 4.) Moreover, the ID explained the Court’s holding in *Povacz II* as applied to the Complainant’s alleged health concerns related to smart meters. In turn, the ID held that “the second prong for Ms. Farina to establish her Section 1501 claim involving the safety of smart meters and RF emissions requires her to provide expert testimony regarding health.” (ID, at 14.) The Complainant did not offer any such testimony, thus, could not and did not carry her burden of proof.

² On January 1, 2024, FirstEnergy Corp.'s Pennsylvania operating companies (i.e., Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company) merged into FirstEnergy Pennsylvania Electric Company. Due to the merger transaction, the affected operating companies' tariffs were consolidated into a single tariff, with each former operating company's rates becoming its own rate district. As such, the customers of the former Metropolitan Edison Company have their own separate and distinct rate district under FirstEnergy Pennsylvania Electric Company’s tariff.

³ 66 Pa.C.S. §§ 2806.1–2807 (the “Act” or “Act 129”).

⁴ *Povacz v. Pa. Pub. Util. Comm’n*, 280 A.3d 975 (Pa. 2022) (“*Povacz II*”).

Preliminarily, the Company notes that the Complainant’s Exception(s) do not adhere to the requirements regulations governing the same. Section 5.533 of the Commission’s regulations provides that each exception must be numbered and identify the finding of fact or conclusion of law to which exception is taken. 52 Pa. Code § 5.533(b). The Complainant’s narrative letter filed with the Pennsylvania Public Utility Commission (“Commission”) is not numbered, and does not identify a single specific finding of fact or conclusion of law within the ID to which exception is taken to. As such, the Company submits that the January 24, 2025 letter filed by the Complainant should not be treated as an Exception(s) for failure to adhere to the Commission’s regulations. To the extent that they are, the Company responds in kind below, and submits that the Complainant’s Exception(s) are without merit and should be denied. Accordingly, the Company respectfully requests that the Pennsylvania Public Utility Commission (“Commission”) adopt the ID without modification.

II. REPLIES TO SPECIFIC EXCEPTIONS

A. REPLY TO EXCEPTION 1: THE COMPLAINANT FAILED TO CARRY HER BURDEN OF PROOF AND THE ID SHOULD BE ADOPTED WITHOUT MODIFICATION

In her letter, the Complainant makes a series of vague and unsubstantiated averments with respect to the Complaint. These arguments are meritless and should be denied.

First, the Complainant argues that she “included in [her] evidential [sic] letters/mailings/correspondence” several items purported to be constitutional case law and related materials. (Complainant’s Letter, at 2.) The Complainant also argues that the law cited in the ID “should have been brought up before hearing or during the hearing.” (Complainant’s Letter, at 2.) Second, the Complainant attempts to shift the burden of proof to the Company by arguing that that it did not present the testimony of a medical expert witness. (Complainant’s Letter, at 2-3.) These arguments are addressed in kind below, *infra*.

(a) The Complainant's constitutional concerns are meritless.

In contending that Act 129 does not mandate the installation of smart meters for all of the Company's customers, the Complainant sidesteps the clear holding in *Povacz II*. As held in *Povacz II*, the Court explained 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 1501.⁵

The Complainant goes on to continue various claims her letter as to the constitutionality of the installation of smart meters. These claims are meritless and should be rejected.

The *Povacz I* and *II* decisions resolve the Complainant's claim that the Company would violate her rights by installing the smart meter at the Service Address. The Commonwealth Court previously found that "[c]onstitutional protections apply against state actors," and "PECO is not a state actor in relation to its installation of smart meters and provision of electricity to its customers."⁶ This finding was not disturbed by the Supreme Court's *Povacz II* decision. Therefore, because PECO and the Company are similarly-situated electric distribution companies ("EDCs"), the Company is not a state actor that can violate the Complainant's constitutional rights. As such, the Complainant's constitutional argument(s) should be rejected.

Similarly, the Complainant argues in her letter that the ID improperly "added" law "months after the hearing." This claim is baseless. To the extent that the Complainant is arguing that the Commission is not bound by the Pennsylvania Supreme Court's holding in *Povacz II*, such contention is incorrect. To the extent that the Complainant takes umbrage with the ID's reference

⁵ *Povacz II*, at 983-984.

⁶ *Povacz v. Pa. PUC*, 241 A.3d 481, 486, n. 9 (Pa. Cmwlth. 2020) ("*Povacz I*").

to existing, well-established law, such claim is also baseless. The ID correctly applied relevant law in its analysis of the Complainant's factual arguments presented at hearing, and rejected the same.

(b) The Complainant's attempts to shift the burden of proof to the Company should be rejected.

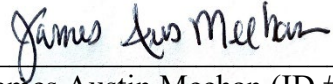
Despite the Complainant's protestations otherwise, the Complainant failed to carry her burden of proof in this proceeding. The Complainant's burden of proof in this case is two-fold under *Povacz II*. First, the Complainant must present expert opinion rendered to a reasonable degree of scientific certainty that radio frequency emissions from smart meters cause adverse health effects. Next, the Complainant must be required to 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.⁷ The Complainant did neither.

In order to carry her burden under *Povacz II*, the Complainant must first have provided testimony to a reasonable degree of scientific certainty that radio frequency emissions from smart meters cause adverse health effects. (ID, at 13.) As the ID correctly explained, the Complainant failed this prong under *Povacz II*, as the Complainant's presentation of her witness, Mr. Klein, provided "no underlying evidence or detailed explanations to support his opinions." (ID, at 14.) Second, the ID correctly held that the Complainant failed the second prong under *Povacz II*, requiring expert medical testimony regarding health. The ID correctly found that Mr. Klein's testimony "referencing doctors that he claims opine that smart meters are dangerous is unsupported." (ID, at 14.) Moreover, the ID correctly noted that "Mr. Klein did not purport to be an expert in health. (ID, at 14.) Therefore, the Company submits that it is a legal impossibility for the Complainant to have met her burden as confirmed by *Povacz II*, and her arguments to the contrary should be rejected.

⁷ *Povacz II*.

III. CONCLUSION

WHEREFORE, for the foregoing reasons, and those set forth in the Initial Decision, the Exceptions of Laura Farina should be denied.



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Date: February 6, 2025

Counsel for FirstEnergy Pennsylvania
Electric Company (Met-Ed Rate District)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

LAURA FARINA

v.

METROPOLITAN EDISON COMPANY

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Docket No. C-2022-3030803

CERTIFICATE OF SERVICE

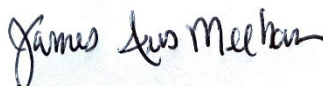
I hereby certify that I have this day served a true copy of the foregoing document upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Service by First-Class mail and electronic mail as follows:

Laura Farina
PO Box 1223
Bushkill, PA 18324

Administrative Law Judge John M. Coogan
jcoogan@pa.gov

Respectfully submitted,



Dated: February 6, 2025

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