

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

Public Meeting held May 22, 2025

Commissioners Present:

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

Liza Mousios

C-2019-3007989

v.

Metropolitan Edison Company

Roy Cumming

C-2019-3007995

v.

Metropolitan Edison Company

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Petition for Reconsideration (Petition), jointly filed by Ms. Liza Mousios and Mr. Roy Cumming (Petitioners, Complainants or Ms. Mousios

and Mr. Cumming) on May 5, 2025, seeking reconsideration of the Commission’s Opinion and Order at Docket Nos. C-2019-3007989 and C-2019-3007995 entered April 24, 2025 (*April 2025 Order*). No Answer to the Petition was filed. For the reasons discussed below, we shall deny Ms. Mousios’ and Mr. Cumming’s Petition.

I. Background

This case involves two consolidated Formal Complaints (Complaint) concerning the safety of the advanced metering infrastructure (AMI), or smart meter, that Metropolitan Edison Company (Met-Ed or the Company) proposes to install at the Complainants’ service address in the ordinary course of business to measure the Complainants’ electricity consumption. Met-Ed, an electric distribution company (EDC) subject to the jurisdiction of the Commission, furnishes, owns, and maintains the meters in its distribution system.¹ Mr. Cumming is a Met-Ed electric customer at the service address and Ms. Mousios resides at the service address. The Petitioners object to the installation of a smart meter at the service address due to health and safety concerns. Complaint at 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

¹ 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). We also clarify that at the time of initiation of the instant proceeding, FirstEnergy consisted of four separate companies: Met-Ed, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power. 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 Met-Ed.

smart meter technology procurement and installation plans for Commission approval and 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 Met-Ed, 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 Implementation Order*). Met-Ed sought and obtained the Commission's approval to complete the installation of AMI meters with substantially all customers to receive an AMI meter by mid-2019. *See Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company for Approval of Its Smart Meter Deployment Plan*, Docket Nos. M-2013-2341990, M-2013-2341991, M-2013-2341993, M-2013-2341994 (Opinion and Order entered June 25, 2014) (*2014 Smart Meter Order*).

In our *April 2025 Order*, we, *inter alia*, denied the Petitioners' request to prevent the installation of a smart meter at the service address, finding that there is no specific provision in the Code or the Commission's Regulations or Orders that provides for customers to opt-out of smart meter installation; and that the Complainants failed to meet the burden of proving that Met-Ed has violated Section 1501 of the Code, 66 Pa.C.S. § 1501. *April 2025 Order* at 47-48, 50.

II. History of the Proceeding

On February 21, 2019, Ms. Mousios filed a Formal Complaint (Complaint) against Met-Ed, which was docketed at C-2019-3007989. Also on that date, Mr. Cumming filed a virtually identical Complaint on his own behalf, which was docketed at C-2019-3007995.

The Complainants indicated that a reliability, safety, or quality problem existed with Met-Ed's service. Complaints at 3. In further explanation, the Complainants each indicated, as follows: "Met-Ed is threatening to install smart meters, which have known health and safety and fire hazards. I am submitting a claim [sic] under title 66, Section 1501 and 1502 health and safety violations. I am also requesting

an accommodation under the Americans with Disabilities Act.” Complaints at 3. For relief, the Complainants’ request indicated as follows: “no smart meters at this address and in our neighborhood! The analog meter works fine. We refuse the deleterious smart meters!” *Id.*

On March 13, 2019, Met-Ed responded to each Complaint by filing both an Answer and New Matter and Preliminary Objections (Preliminary Objections or POs).

In its Answer and New Matter, Met-Ed denied, *inter alia*, that reliability, safety, or quality problems with the electric service existed at the service address. Answer and New Matter at ¶ 4. Additionally, Met-Ed denied that the smart meter it was attempting to install at the service address has known health, safety, and fire hazards. Met-Ed also denied that installation of a smart meter at the service address would be a violation of 66 Pa.C.S. §§ 1501 and 1502. *Id.*

In its New Matter, Met-Ed alleged that the Complaints were legally insufficient, warranting dismissal, with prejudice. In support, Met-Ed indicated that on February 5, 2019, Ms. Cumming² contacted the Company to refuse installation of a smart meter at the service address. Met-Ed also averred that, in compliance with Act 129 and its Commission-approved Smart Meter Deployment Plan, it was in the process of deploying smart meters in its service territory. Accordingly, Met-Ed argued that neither its Smart Meter Deployment Plan nor Act 129 would enable the Commission to grant the Complainant’s requested relief; thus, the Complaints should be dismissed, with prejudice. Answer and New Matter at ¶¶ 14-16, 9.

Additionally, Met-Ed claimed that the Complainants’ requested relief, that no smart meters should be provided in the neighborhood, failed to meet the requisite

² Met-Ed asserted a belief that Ms. Cumming and Complainant Mousios are the same person. Answer and New Matter at 6, n. 9.

standard that the Complainants must have a direct, immediate, and substantial interest in the subject matter of the proceeding to have standing. Answer and New Matter at ¶¶ 20-24. Met-Ed requested that the Complaint be dismissed, with prejudice, or, alternatively, that the Commission schedule the matter for a prehearing conference. *Id.* at 9.

In its Preliminary Objections, Met-Ed alleged that the Complaints should be dismissed, with prejudice, for two reasons: (1) pursuant to 52 Pa. Code §5.104(a)(4), the Complainants failed to state a claim upon which the Commission could grant relief; and (2) pursuant to 52 Pa. Code 5.101(a)(7), the Complainants lacked standing to pursue relief on behalf of the Complainants ‘neighbors. POs at 5-10; *Id.* at ¶¶ 27-32.

On March 28, 2019, the Complainants issued a Reply to New Matter.³ The Complainants *inter alia*, generally denied Met-Ed’s averments that the Complaints were legally insufficient and specifically denied that a lack of standing existed. Reply to New Matter at 1-2. Additionally, the Complainants opposed the prehearing conference and indicated that they wanted media coverage of any hearing. *Id.* at 2.

³ We acknowledged that the Complainants’ post-Complaint filings did not strictly comply with our Regulations which require, *inter alia*, that paper filings made with the Commission must be typewritten with 1-inch margins. 52 Pa. Code § 1.32(a)(1). Nevertheless, particularly because the Petitioners are appearing, *pro se*, we will accept all the Complainants’ handwritten filings pursuant to Section 1.2(a) and (d) of our Regulations, 52 Pa. Code § 1.2(a) and (d), to secure a just, speedy, and inexpensive determination. However, while best efforts were made to accurately present the Complainants’ averments, legibility issues existed. Additionally, because all the Complainants’ filings were submitted via the U.S. Postal Service, the dates that the Complainants identified on each of their filings preceded the date that the Commission’s Secretary’s Bureau received the document. Consistent with our regulation at 52 Pa. Code § 1.11, *Date of filing*, the filing dates for each document referenced in this Opinion and Order represent the date that each of those documents was received by the Commission’s Secretary’s Bureau. 52 Pa. Code § 1.11(a)(1).

On April 20, 2019,⁴ Complainant Mousios and Complainant Cumming each submitted virtually identical documents titled as “Response and Preliminary Objections to Metropolitan Edison Company” (Answer to POs). In their respective Answers to POs, the Complainants responded, in corresponding paragraphs, to each of the thirty-two (32) averments made in Met-Ed’s POs by way of objecting to almost all paragraphs. The crux of the Complainants’ objections were that: (1) mandatory smart meter installation is not required because Act 129 is an opt-in statute; (2) Met-Ed is violating, *inter alia*, 66 Pa. C.S. 1501 and the Americans with Disabilities Act (ADA); (3) smart meters subject Pennsylvania residents to health damages, fires, and invasion of privacy; and (4) the Complainants have health issues for which exposure to smart meters is contraindicated. Answers to POs at 1-7. The Complainants concluded the Answers to POs by requesting that Met-Ed’s Preliminary Objections be stricken and that the Complainants’ objections be upheld. *Id.* at 7.

Additionally, in their Answers to POs, the Complainants asserted their own Preliminary Objections pursuant to 52 Pa. § Code 5.101(a)(2), alleging Met-Ed’s inclusion of a scandalous or impertinent matter and 52 Pa. § Code 5.101(a)(4), alleging the legal insufficiency of Met-Ed’s Preliminary Objections. Answer to POs at ¶ 10 (citing 52 Pa. § Code 5.101(a)(2) and 52 Pa. § Code 5.101(a)(4)). Specifically, the Complainants alleged that the scandalous aspect of Met-Ed’s Preliminary Objections were, *inter alia*, “comprised to subjecting Pennsylvania residents to health damages, fires which have resulted in fatalities and have been ascribed to smart meters by fire chiefs and invasion of privacy.” *Id.* Additionally, the Complainants also alleged that Met-Ed’s Preliminary Objections were legally insufficient because the Complainants claimed that

⁴ Each Complainant initially submitted an Answer to Met-Ed’s Preliminary Objections prior to April 20, 2019; however, on April 9, 2019, the Commission’s Secretary’s Bureau issued each Complainant a letter directing that identified document defects be addressed within ten (10) days. The Complainants complied.

Met-Ed was violating the law, including violating “the original Act 129” and the ADA. *Id.*

On April 23, 2019, ALJ Emily I. DeVoe (ALJ DeVoe) was assigned as a Motion Judge to rule on matters arising in the preliminary phase of the proceedings. On May 14, 2019, ALJ DeVoe issued an Interim Order Consolidating Complaints (*Interim Order Consolidating Complaints*) ordering that the Complaints filed by Ms. Mousios and Mr. Cumming be consolidated for the purposes including, *inter alia*, disposing of the Preliminary Objections, evidentiary hearing, and decision. *Interim Order Consolidating Complaints* at 5.

On May 15, 2019, ALJ DeVoe issued a Corrected Interim Order Granting in Part and Denying in Part Respondent’s Preliminary Objections (*Interim Order on Met-Ed’s POs*).⁵ In the *Interim Order on Met-Ed’s POs*, the ALJ granted Met-Ed’s preliminary objection asserting that the Complainants lacked standing to raise issues on behalf of anyone other than themselves or in relation to any property other than the service address. *Interim Order on Met-Ed’s POs* at 7-10. However, the ALJ denied Met-Ed’s preliminary objection that asserted that the Complaints were legally insufficient, thereby affording the Complainants an opportunity to proceed with their Complaints. *Id.* at 8-10.

On May 16, 2019, ALJ DeVoe issued an Interim Order Dismissing Complainants’ Preliminary Objections (*Interim Order on Complainants’ POs*). In the *Interim Order on Complainants’ POs*, the ALJ dismissed the Complainants’ Preliminary Objections because: (1) the Commission’s Regulations do not permit parties to file preliminary objections in response to preliminary objections; and (2) the issues that the

⁵ The ALJ initially issued an Interim Order for POs dated May 14, 2019, but to account for a correction of an incorrect date on page 10, the corrected version was issued on May 15, 2019.

Complainants raised in their preliminary objections regarding health risks and the legality of smart meter installation, involved issues of fact and/or law that required resolution through discovery and the administrative hearing process. *Interim Order on Complainants' POs* at 4-5.

On May 20, 2019, a Call-In Telephone Pre-Hearing Conference Notice was issued establishing July 23, 2019 at 10 a.m. as the date and time for the telephonic hearing to begin. On May 22, 2019, ALJ DeVoe issued an *Interim Order Scheduling Pre-Hearing Conference (Interim Prehearing Order)* establishing the process and procedures for the telephonic hearing on July 23, 2019. *Interim Prehearing Order* at 2-4. On May 22, 2019, ALJ DeVoe also issued an *Interim Order Establishing Litigation Schedule (Scheduling Order)* establishing deadlines for parties to submit information, identify expert witnesses, and to file a status report. *Scheduling Order* at 1-2.

On July 24, 2019, the ALJ issued an Interim Order (*Deadline Extension Order*), which identified, *inter alia*, extended deadlines established at the prehearing conference for the submission of the Complainants' witness information and status report. *Deadline Extension Order*; Tr. at 40-42, 44, and 75.

On October 1, 2019, a Call-In Evidentiary Hearing Notice was issued and it established October 28- October 29, 2019 as the dates for the telephonic evidentiary hearings. On October 4, 2019, ALJ DeVoe issued a *Prehearing Order (Prehearing Order)*. ALJ DeVoe's *Prehearing Order* established the process and procedures for the telephonic evidentiary hearing, including, *inter alia*, presentation of exhibits, presentation of oral testimony, and submission of motions prior to the hearing. *Prehearing Order* at 1-7.

On October 7, 2019, the Complainants filed a Status Report indicating, *inter alia*, a request for an in-person hearing rather than a telephonic hearing. *Complainants' October 7 Status Report*.

On October 21, 2019, the Commission issued a Hearing Reschedule/Judge Change Notice setting January 14 and January 15, 2020 as the dates for in-person evidentiary hearings at the Commission's Philadelphia office and indicating that ALJ Darlene D. Heep would preside.

On November 20, 2019, the Complainants filed a Motion to Delay the Hearing (*Complainants' Hearing Delay Motion*). In the *Complainants' Hearing Delay Motion*, the Complainants averred, *inter alia*, that the in-person evidentiary hearings should be delayed pending the outcome of smart meter cases on appeal. *Complainants' Hearing Delay Motion* at 1.

On December 13, 2019, ALJ Heep issued an order denying the *Complainants' Hearing Delay Motion (December 2019 Order)*. Additionally, the *December 2019 Order* established January 7, 2020, as the deadline for parties to provide one another with a final witness list and copies of all exhibits and statements to be presented at the hearing. The Parties were also directed to provide five copies of any exhibits to be presented at hearing, with each exhibit being properly marked for identification. *December 2019 Order* at 2-3.

On January 3, 2020, the Complainants filed a Motion to Stay Hearing (*Complainants' Motion to Stay*) alleging, *inter alia*, that in November of 2019, their expert witness, Mr. William Bathgate, was prevented from performing an evaluation of the service address due to poor weather conditions. *Complainants' Motion to Stay* at 5.

On January 7, 2020, Met-Ed’s counsel filed a letter and certificate of service (*Met-Ed Exhibit Service Letter*) certifying that it was providing ALJ Heep and the Complainants with three copies of the hearing exhibits that Met-Ed intended to present at the evidentiary hearing. *Met-Ed Exhibit Service Letter* at 1.

On January 8, 2020, Complainant Mousios called the Commission and verbally requested that the hearing be conducted in writing due to illness. *See* ALJ Heep’s Order issued on January 9, 2020 (*January 9 Order*). During the call,⁶ Complainant Mousios averred that Complainant Cumming did not object to a hearing in writing. *See January 9 Order* at 2.

In the *January 9 Order*, the ALJ denied the Complainants’ Motion for Stay, but modified the procedural schedule and case deadlines to accommodate the Complainants’ presentation of written testimony by expert witness Mr. Bathgate. *January 9 Order* at 3-4. The in-person hearings set for January 14 and January 15, 2020 were rescheduled to March 30, 2020 for purposes limited to cross-examination and pending matters at the ALJ’s discretion. *Id.* at 4-5.

On January 29, 2020, the Complainants filed a pleading labeled as both a (1) “Motion for Judge Heep to Vacate Her Own Violation of Complainants’ Right to Due Process and Right to Preserve Their Issues on Appeal In Her Preventing Their Use of an Expert Witness;” and (2) a “Motion and Request to Deputy Chief Administrative Law Judge Christopher Pell for a Different Judge Such as Administrative Law Judge DeVoe Who We Previous Had” (collectively, the *Complainants’ ALJ Motion*). On

⁶ On February 12, 2020, the Complainants also submitted a written request for a “hearing in writing” styled as a “Motion for Judge Heep to abide by her decision to allow Mr. Cumming and Ms. Mousios to do their hearing in writing as opposed to Judge Heep ordering a telephone hearing expofacto [sic].”

January 30, 2020, Met-Ed submitted a letter in opposition to the *Complainants' ALJ Motion (Met-Ed's Response to the ALJ Motion)*.

By Order dated January 31, 2020 (*January 31 Order*), the ALJ denied the *Complainants' ALJ Motion. January 31 Order* at 12. Applying the Commission's regulation for disqualification of a presiding officer, 52 Pa. Code § 5.482, the ALJ determined that the Complainants' right to due process had not been violated. *January 31 Order* at 9-10 (citing 52 Pa. Code § 5.482). However, the ALJ also determined to reschedule the call-in telephonic cross-examination date to afford the Complainants additional time to submit evidence and testimony from expert witnesses. The deadlines for service of the Complainants' Direct Testimony and exhibits were extended until February 28, 2020. *January 31 Order* at 9-10.

On March 19, 2020, Met-Ed filed a letter (*Met Ed's March 19 Letter*) indicating that the Complainant failed to submit Direct Testimony in accordance with the extended litigation schedule. *Met Ed's March 19 Letter* at 1.

On April 20, 2020, in recognition of the stay-at-home order related to the COVID-19 pandemic, the ALJ issued an order revising the litigation deadlines for the proceeding (*April 2020 Order*). The *April 2020 Order* extended the deadline for, *inter alia*, written testimony and submission of exhibits.⁷ *April 2020 Order* at 1-2.

On June 4, 2020,⁸ the Complainants filed a single document entitled both "*Motion to Stay*" and "*Motion for Recusal*" (collectively, the *Complainants' June 4*

⁷ The extensions, *inter alia*, provided the Complainants with an extension for filing the testimony and exhibits of Mr. Bathgate until July 9, 2020.

⁸ Although the Complainants dated the document for June 4, 2020, they did not file the document with the Commission's Secretary's Bureau. As a result, the document was not filed with the Commission until ALJ Heep received it, identified it as unfiled, and acted to have the Commission file it on July 6, 2020.

Motions). The Complainants alleged that they should be entitled to a stay of proceeding during the pendency of eleven appellate proceedings related to smart meters and to accommodate the quarantine of their expert witness, Mr. Bathgate. *Complainants' June 4 Motions* at 1. On June 5, 2020, Met-Ed filed a letter opposing the *Complainants' June 4 Motions*. On June 15, 2020, the ALJ issued an Order denying the *Complainants' June 4 Motions*.

On June 24, 2024, the Complainants made two filings containing substantially similar averments and derogatory statements. See *Complainants' Motion for Disqualification* dated June 24, 2020 and the *Complainants Motion to Dismiss* dated June 24, 2020. Met-Ed opposed both filings and, in an Order dated July 2, 2020 (*July 2020 Order*) the ALJ dismissed the Motions. *July 2020 Order* at 1-2. The ALJ's *July 2020 Order* also directed that the Parties email all testimony and exhibits to be considered to a designated email address in accordance with the procedural schedule. *Id.* at 2.

On July 10, 2020, the Complainants submitted a Main Brief (Complainants' M.B.).

On July 22, 2020, Met-Ed's counsel filed a letter (*Met Ed's July 22 Letter*) indicating that the Complainants failed to present Direct Testimony in accordance with the litigation schedule despite numerous extensions. As a result, Met-Ed indicated that it would not be serving Rebuttal Testimony. *Met Ed's July 22 Letter* at 1.

On August 10, 2020, the ALJ issued a Briefing Order (*August 2020 Briefing Order*) which, *inter alia*, established the deadlines and basis requirements for parties Main Briefs and Reply Briefs. *August 2020 Briefing Order* at 1-2. Met-Ed submitted a Main Brief (Met-Ed M.B.) on September 9, 2020 and a Reply Brief

(Met-Ed R.B.) on September 30. The Complainants, who had submitted a Main Brief on July 10, 2020, did not submit a Rely Brief.

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 of pending smart meter complaints. 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. *I.D.* at 6.

On December 13, 2023, the ALJ issued a Briefing Order and Order Regarding Objections to Discovery (*December 2023 Order*), which identified revised deadlines consistent with the lifting of the stay. *December 2023 Order* at 1-6. While prior deadlines were not modified, the Parties were afforded the opportunity to submit the following: Supplemental or Amended Direct Testimony by February 6, 2024, Supplemental or Amended Rebuttal Testimony by February 20, 2024, Supplemental Main Briefs by March 12, 2024 and Supplemental Reply Briefs by March 19, 2024. *Id.* at 5-6. Finally, by January 16, 2024, any party not submitting Supplemental or Amended Testimony was required to provide the other party and the ALJ with a copy of any previously exchanged testimony that the party would like to be considered or offered into evidence. *Id.*

On January 16, 2024, Met-Ed filed a letter (*Met-Ed Letter of January 16*) indicating that no testimony was served in the proceeding; accordingly, Met-Ed was unable to provide previously exchanged testimony. *Met-Ed Letter of January 16* at 1.

The record in this case closed on March 22, 2024. I.D. at 7.

By Order dated June 5, 2024 (*Order Admitting Exhibits*),⁹ the ALJ admitted all submitted exhibits into the record and directed Met-Ed to file the exhibits with the Secretary's Bureau by June 10, 2024. *Order Admitting Exhibits* at 1-3.

The Complainants' admitted exhibits included the following:

(1) Complainants Exhibit 1—CNX Effects-Enzymes Article; (2) Complainants Exhibit 2---Millimeter Waves Power Active Control Weapon Flyer; (3) Complainants Exhibit 3---Letter from Woodlands Healing Research Center; (4) Complainants Exhibit 4---Resume of William Bathgate; (5) Complainants Exhibit 5—Self-Reporting of Symptom Development From Exposure to Radiofrequency Fields of Wireless Smart Meters in Victoria, Australia: A Case Series Article; (6) Complainants Exhibit 6-Document “Cell Phone Tower Tinnitus;” and (7) Complainants Exhibit 7-Electrohypersensitivity as a Newly Identified and Characterized Neurologic Pathological Disorder: How to Diagnose, Treat, and Prevent It Article. *Order Admitting Exhibits* at 1-2.

Met-Ed's admitted exhibits included the following: (1) JCA-1: 66 Pa.C.S. Section 2807; (2) JCA-2: Smart Meter Procurement and Installation, Docket No. M-2009-2092655; (3) JCA-3: Joint Petition of Metropolitan Edison Company, Pennsylvania Power Company for Approval of its Smart Meter Technology Procurement

⁹ The ALJ initially issued an Order Admitting Exhibits on June 4, 2024; however, the *Order Admitting Exhibits* was issued on June 5, 2024 to correct ministerial errors.

and Installation Plan, Docket No. M-2009-2123950 (Order dated June 9, 2010); (4) JCA-4: 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, Dockets Nos. M-2013-2341990, M-2013-2341991, M-2013-2341993, and. M-2013-2341994 (Order entered June 25, 2014); (5) JCA-5: Metropolitan Edison Company's Approved Deployment Plan; (6) JCA-6: Smart Meter Privacy Policy, dated March 18, 2015; (7) JCA-7: Smart Meter Customer Privacy Policy for Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company, Docket Nos. M-2013-2341990, M-2013-2341991, M-2013-2341993, and M-2013-2341994 (Secretarial Letter dated May 1, 2015); and (8) JCA-8: Customer Contacts. *Order Admitting Exhibits* at 2-3.

On June 13, 2024, the Commission issued the Initial Decision of ALJ Heep, wherein the ALJ recommended that the Complaints be denied.

Thereafter, the Complainant filed: (1) a Concise Statement of Errors with Brief (Statement of Errors) on June 18, 2024;¹⁰ Exceptions on June 26, 2024; an Addendum to Exceptions and Motion for Recusal on July 1, 2024; and an Errata to Exceptions on July 8, 2024.¹¹ Met-Ed filed Reply Exceptions on July 15, 2024.

¹⁰ Because the Complainants' Statement of Errors and the Errata to Exceptions did not include certificates of service, it appeared that service may not have been executed; therefore, to ensure due process, the Commission's Secretary served them upon Met-Ed's counsel on June 18, 2024 and July 8, 2024, respectively.

¹¹ Because the Complainants are appearing *pro se* and because the Statement of Errors, Exceptions, Motion for Recusal and Errata to Exceptions contained common claims and arguments, we exercised our discretion pursuant to 52 Pa Code § 1.2(a) to consider them simultaneously in the context of Exceptions.

As previously noted, on April 24, 2025, the Commission issued its *April 2025 Order, inter alia*, denying the Complainants' Exceptions and adopting the ALJ's Initial Decision, without modification.

Also as previously noted, Ms. Mousios and Mr. Cumming jointly filed their Petition on May 5, 2025, seeking reconsideration of the Commission's *April 2025 Order*, and no Answer to the Petition was filed.

III. Discussion

A. Legal Standards

With respect to petitions for rehearing, reconsideration, rescission, and amendment of Commission orders, the Code establishes a party's right to seek relief within fifteen days following the service of a Commission order pursuant to Subsection 703(f). 66 Pa.C.S. § 703(f) (relating to rehearing).¹² Upon the filing of a petition for relief pursuant to Section 703(f), the Commission may affirm, rescind, or modify its original order. 66 Pa.C.S. § 703(f). The Code further provides that the Commission may, at any time, after notice and opportunity to be heard by all affected parties, rescind, or amend any order made by the Commission, pursuant to Section 703(g). 66 Pa.C.S. § 703(g) (relating to rescission and amendment of orders). A request for relief pursuant to § 703(f) or § 703(g) must be brought as a petition for relief consistent with Section 5.572 of Commission Regulations. 52 Pa. Code § 5.572 (relating to petitions for relief).

¹² Petitions under this section which do not allege new evidence are typically treated as petitions for reconsideration. Petitions for rehearing pursuant to Section 703(f) of the Code typically include an allegation of new evidence. 66 Pa. Code § 703(f); *see West Penn Power Co. v. Pa. PUC*, 659 A. 2d 1055 (Cmwlth. 1995).

Petitions for relief predicated upon Sections 703(f) and 703(g) of the Code, whether brought under Section 5.572(c) of Commission Regulations as a petition for reconsideration, rehearing, reargument, clarification, supersedeas or others within fifteen days of the service of a Commission order, or under Section 5.572(d) as a petition for rescission or amendment filed at any time following service of a Commission order, are reviewed by the Commission under the same standard.

In exercising Commission authority to amend or rescind an order pursuant to Section 703(g) of the Code, the Supreme Court of Pennsylvania has stated: “Because such relief may result in disturbance of final orders, it must be granted judiciously and only under appropriate circumstances.” *See City of Pittsburgh v. Pennsylvania Department of Transportation*, 490 Pa. 264, 416 A.2d 461 (1980); *see also West Penn Power Co. v. Pa. PUC*, 659 A.2d 1055, 1056 (Pa. Cmwlth. 1995) (*West Penn Power*); *see also Richard Feleccia v. PPL Electric Utilities Corporation, d/b/a PPL Utilities and Barbara A. Lima*, Docket No. C-20016210 (Opinion and Order entered March 7, 2003) (*Feleccia*).

The Commission’s application of the standard for granting a petition for amendment, reconsideration, or rescission is set forth in *Duick v. Pennsylvania Gas and Water Company*, 56 Pa. P.U.C. 553 (Order entered December 17, 1982) (*Duick*) as follows:

A petition for reconsideration, under the provisions of 66 Pa.C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part on the grounds that the decision or ruling of the Commission on a matter or issue was either unwise or in error.

In this regard we agree with the Court in the *Pennsylvania Railroad Company* case, wherein the Court said,

[b]ut the grounds for reconsideration should be restricted to the new matters and new or changed conditions set up in the joint petition, which had arisen since and were not presented in the several petitions of these appellants ... and dismissed by the Commission ... and not appealed from. Parties, ..., cannot be permitted, by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them and not appealed from. ...

Pennsylvania Railroad Co. v. Public Service Commission, 118 Pa. Super. 380 (1935).

What we expect to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission. Absent such matters being presented, we consider it unlikely that a party will succeed in persuading us that our initial decision on a matter or issue was either unwise or in error.

Duick at 559; *see also, AT&T v Pa. PUC*, 568 A.2d 1362 (Pa. Cmwlth. 1990). With respect to petitions for rescission, specifically, we have stated that in order “[t]o establish a proper basis for rescission, a petitioner must first establish the existence of newly discovered evidence, a substantial change in circumstances, or an error of fact or law.” *Feleccia*, slip op. at 3 (citing *Duick* at 559).

A Commission decision to deny a petition for rescission or amendment is a matter squarely within the Commission’s discretion, subject to being overturned only where a reviewing court finds “the agency’s decision demonstrates evidence of bad faith, fraud, capricious action or abuse of power.” *West Penn Power*, 659 A.2d at 1065.

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. The April 2025 Order

In the *April 2025 Order*, we, *inter alia*, denied the Complainants' Exceptions, adopted ALJ Heep's Initial Decision, and denied and dismissed the Complaints, with prejudice. Specifically, we agreed with the ALJ that there is no specific provision in the Code or the Commission's Regulations or Orders that provides for customers to opt-out of smart meter installation; and that the Complainants failed to meet the burden of proving that Met-Ed has violated Section 1501 of the Code, 66 Pa.C.S. § 1501. *April 2025 Order* at 47-48, 50.

Further, after our comprehensive review and consideration of both the Complainants' Exceptions and Met-Ed's Reply Exceptions, we concluded that: (1) the ALJ did not err in determining that the Commission does not have jurisdiction to hear claims brought under the ADA; (2) the Complainants' assertion of procedural errors were without merit; (3) the ALJ did not err on the evidentiary determinations and that the Complainants failed to meet their burden of proof; (4) *inter alia*, the Complainants' reliance on various Federal Communications Commission (FCC) rulings were unsupported and thus the ALJ did not err by failing to consider those rulings as the cases cited by the Complainants are inapplicable; (5) the ALJ did not err in determining that Met-Ed is required to install a smart meter at the service address in compliance with its approved Smart Meter Deployment Plan; (6) the Complainants' allegations regarding the ALJ's lack of jurisdiction were without merit, as the Commission has jurisdiction over

the Act 129 subject matter of the Complaints as well as the Complainants' safety and health allegations related to the smart meters under Section 701 of the Code, 66 Pa.C.S. § 701; and (7) the Complainants' general allegations regarding Constitutional rights violations were unsupported. *Id.* at 39-50.

Accordingly, we found no error in the ALJ's determination that the Complainants cannot opt out of smart meter installation and that they have not met the burden of proof set by the Pennsylvania Supreme Court with respect to a claim that Met-Ed has violated Section 1501 of the Code, 66 Pa.C.S. § 1501. *April 2025 Order* at 47-48, 50.

C. The Petition¹³

The Petition is a thirty-four (34) page document comprised of: (1) a Motion for Reconsideration; (2) a Concise Statement of Errors with Brief¹⁴; and (3) pictures,

¹³ We acknowledge that the Petitioners styled the Petition as a "Motion for Reconsideration" and also that the format of the Petition does not strictly comply with Section 5.572(a) of our Regulations, 52 Pa. Code § 5.572(a), which requires that petitions "specify, in numbered paragraphs, the findings or orders involved and the points relied upon by the petitioner, with appropriate record references and specific requests for findings or orders desired." 52 Pa. Code § 5.572(a). Nevertheless, particularly because the Petitioners are appearing *pro se*, we will accept the Petition as filed, pursuant to Section 1.2(a) and (d) of our Regulations, 52 Pa. Code § 1.2(a) and (d), to secure a just, speedy, and inexpensive determination.

¹⁴ Upon review, the Concise Statement of Errors with Brief is virtually identical to the Statement of Errors that the Petitioners filed on June 18, 2024, which we already considered in the context of Exceptions. The only identifiable difference in the Concise Statement of Errors with Brief is its inclusion of several new paragraphs of allegations that are either already encompassed in the Motion for Reconsideration, or which are unsupported and derogatory commentary regarding the ALJ, the Company's representatives, and Commission staff, which, as explained *infra*, we will strike from consideration. *See* Petition at 7-9.

publications, and a list of “evidence of harm files” that collectively appear to be extra-record evidence that the Complainants proffer in support of the Petition.¹⁵

In the Petition, the Petitioners repeatedly assert that ALJ Heep, the Commission, and Met-Ed¹⁶ engaged in conduct designed to both deprive the Petitioners of a proper hearing and to tamper with and disregard the Petitioners’ evidence. Specifically, the Petitioners allege that they never received a “proper hearing” and therefore, the Commission’s order is invalidated.” Petition at ¶¶ 2, 13. Additionally, the Petitioners dispute that they failed to serve Dr. Natalie Sadler’s and Dr. William Kracht’s written testimony and to move for that testimony to be admitted into the record. On this issue, the Petitioners allege that both “Dr. Sadler’s report” and “Dr. Kracht’s notarized medical report” had been “submitted to defendants via e-filing and PUC [sic]” and the Petitioners also argue that the Commission references Dr. Sadler’s report on page 32 of its order.¹⁷ *Id.* at ¶¶ 7-8. Finally, the Petitioners contend that that their admitted exhibits were mislabeled¹⁸ in a manner that amounted to “the criminal illegality of tampering with

¹⁵ In our *April 2025 Order*, we indicated that the Commission would disregard the over 300 pages of extra-record evidence that the Petitioners submitted with their Exceptions. *April 2025 Order* at 33, n.27. To the extent that the Petitioners relied upon extra-record materials in their Petition, 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).

¹⁶ In their Petition, the Petitioners indicate that they collectively refer to the ALJ, Met-Ed, and the Commission as “defendants.” Petition at ¶ 1.

¹⁷ The Commission’s *April 2025 Order* does reference “Dr. Sadler’s Report” but only in the context of acknowledging that the report was not admitted into the record and that there was no indication that the Complainants moved for its admission. *April 2025 Order* at 32.

¹⁸ The Petition alleges that the mislabeled exhibits include, *inter alia*, Exh. 1, CNX Effects—Enzymes Article; Complainants’ Exh. 2, Millimeter Waves Power Active Control Weapon Flyer, Complainants’ Exh. 4, Resume of William Bathgate, Complainants’ and Complainants’ Exh. 6, Cell Phone Tower Tinnitus.

evidence” and that the mislabeling operated as a failure to consider the Petitioners’ legitimate arguments. *Id.* at 3-4, ¶¶ 14-1[5].

The Petitioners also restate many of the arguments made in their Exceptions. Namely, the Petitioners reiterate their claims that Act 129 did not require the deployment of smart meters, and that it instead contained an opt-in measure. Petition at ¶¶ 9, 14. Additionally, the Petitioners reassert that smart meters are unsafe and that the installation of their neighbor’s smart meter caused Petitioner Mousios to become severely ill. *Id.* at ¶¶ 4, 10, 12, 14. Finally, the Petitioners repeat their arguments that by citing two 2021 D.C. Circuit cases ruling against the FCC,¹⁹ the Petitioners provided “damning evidence about the dangers of radiofrequency radiation, including from smart meters” which were ignored in this case. *Id.* at 3, ¶ 1[5].

To the extent that Ms. Mousis and Mr. Cumming’s Petition includes derogatory commentary regarding the ALJ, the Company’s representatives, and the Commission, 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 Petition.

D. Disposition

Before we address our disposition of the Petition, we note, as stated previously, that Petitions for Reconsideration are governed by *Duick*, under which the Commission applies a two-step analysis. First, we determine whether a party has offered

¹⁹ While the Petitioners do not identify the two cases, it is believed that they are referring to the following rulings: *Children’s Health Defense v. Federal Comm’n Comm’n*, 25 F.4th 1045 (D.C. Cir. 2022) (*Children’s Health*); and *Environmental Health Trust v. FCC*, 9 F.4th 898 (D.C. Cir. 2021) (*Environmental Health Trust*). We note that our *April 2025 Order* determined that neither *Children’s Health* nor *Environmental Health Trust* were applicable to this case. *April 2025 Order* at 46-47.

new and novel arguments or identified considerations that appear to have been overlooked or not addressed by the Commission in its previous Order. We will generally not reconsider our previous decision based on arguments that have already been expressly considered and rejected by our prior Opinion and Order. The second step of the *Duick* analysis, therefore, is to evaluate the new or novel argument, or overlooked consideration, to determine whether to exercise our discretion to modify our previous decision. However, we will not necessarily modify our prior decision just because a party offers a new and novel argument or identifies a consideration that was overlooked or not addressed by the Commission in its previous Order. Further, we note that *Duick* held that a petition for rehearing under Subsection 703(f) of the Code must allege newly discovered evidence not discoverable through the exercise of due diligence prior to the close of the record. *Duick* at 558. Based upon our evaluation of the record and the parties' positions in each particular case, we will determine if there is a sufficient basis which persuades us to exercise our discretion to amend or rescind a prior Order, in whole or in part.

Upon consideration of the Petition and the record evidence in this proceeding, we will deny the Petition on the grounds that it fails to persuade us that reconsideration is warranted. *Duick*.

We find no merit in the Petitioners' claims that the ALJ, the Commission, and Met-Ed engaged in conduct designed to both deprive the Petitioners of a proper hearing and to tamper with their evidence because those claims are in direct conflict with the facts and procedural history of this case.²⁰ As a threshold matter, we note that in

²⁰ We incorporate the full "History of the Proceeding" section of our *April 2025 Order*, which provides a fuller recitation of the ALJ's consideration, disposition, and grant of several of the Petitioners' multiple motions, petitions, letters, and telephonic requests seeking extensions of time and procedural modification over the five-year period for which the record of this case remained open. *April 2025 Order* at 5-17.

asserting these claims, the Petitioners have not engaged with the facts outlined in the *April 2025 Order*, which highlight some of the many ways in which the ALJ modified the format of evidentiary hearings, modified the procedures for this case, and extended the litigation schedule for this case multiple times at the Petitioners' request. *See April 2025 Order* at 41-46. As explained, *supra*, grounds for reconsideration should be limited to new and novel arguments, which were not previously heard, or considerations that appear to have been overlooked or not addressed by the Commission. We find that all of the Petitioners' claims purporting to warrant reconsideration fail to meet this standard.

1. The Evidentiary Hearings

At the outset, while the Commission originally scheduled telephonic evidentiary hearings in this case for October 28 and October 29, 2019, on October 7, 2019, the Petitioners requested in writing that an in-person hearing be held instead. *October 7 Status Report*.²¹ On October 21, 2019, the ALJ granted the Petitioners' request for an in-person evidentiary hearing to be held on January 14 and 15, 2020. *April 2025 Order* at 10, 45 (citing *January 9 Order* at 1-5). Thus, the ALJ accommodated not only the Petitioners' hearing format preference, but the ALJ also afforded the Petitioners with several months of additional time before the hearing would take place.

After the ALJ granted the Petitioners' request for an in-person evidentiary hearing, the Petitioners subsequently made a second request to again alter the format of their evidentiary hearing. In their second request, made first by telephone on January 8, 2020 and again in writing on February 12, 2020, the Petitioners asked that the evidentiary hearing be converted from an in-person hearing and instead be conducted as a "hearing in

²¹ While the Petitioners allege that they never requested an in-person hearing, the Petitioners' "refus[al] [of] the telephone hearing and demand [for] an in-person hearing" was made in writing to Commission in a hand-written letter filed on October 7, 2019, which is part of the record in this case. *See* Petition at ¶ 13; *October 7 Status Report* at 2.

writing.” The ALJ granted the Petitioners’ second modification request and ordered, *inter alia*, that the evidentiary hearing would be conducted in writing. *April 2025 Order* at 11-12, 45-46 (citing *January 9 Order* at 1-5).

Furthermore, as part of the ALJ’s determination to grant the Petitioner’s request for a hearing in writing, the ALJ also modified the procedural schedule and case deadlines to accommodate the Petitioners’ presentation of written testimony by their expert witness, Mr. Bathgate. *April 2025 Order* at 12, 45-46 (citing *January 9 Order* at 1-5). As a result, the ALJ ordered, *inter alia*: (1) that the Petitioners’ direct testimony would be due on February 14, 2020; (2) that a further hearing for the cross examination of expert witnesses *regarding written testimony*, and any pending matter at the discretion of the presiding officer, would be scheduled for March 30, 2020; and (3) that the record would close on March 31, 2020. *January 9 Order* at 3-5 (emphasis added).

Despite multiple accommodations, and despite further extensions of the litigation schedule in this case resulting from both the COVID-19 pandemic, and a stay of certain formal complaint proceedings involving challenges to EDC deployment of smart meter technology,²² the Petitioners never submitted written testimony in this case in accordance with the deadlines set in any of the extended litigation schedules. Accordingly, at no point in this case did Met-Ed receive written testimony from the Petitioners from which it could respond. *See April 2025 Order* at 13-15; I.D. at 3-7;

²² The stay was imposed on November 4, 2020 whereby 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* was lifted by Order entered on November 14, 2023, after which time the ALJ issued a Briefing Order to identify revised deadlines consistent with the lifting of the stay, including, *inter alia*, the opportunity to submit supplemental or amended direct testimony and supplemental briefs, and the operative deadlines for such submissions. *See April 2025 Order* at 15 (citing December 2023 Order at 1-6).

Met-Ed Letter of January 16 at 1. Thus, when the record of this case closed on March 22, 2024, the Petitioners had never submitted supported their direct case with written testimony. I.D. at 6-7. Despite the Petitioners' failure to submit written testimony, the ALJ nevertheless honored the Petitioners' request for a hearing in writing, and by *Order Admitting Exhibits* issued on June 5, 2024, the ALJ admitted all submitted exhibits into the record.²³ *April 2025 Order* at 15 (citing *Order Admitting Exhibits* at 1-3).

Accordingly, the facts of this case do not comport with the Complainants' claims that the Commission deprived them of "a proper hearing" because "there was no telephone final hearing" and [t]here was no final hearing on writing." *See* Petition at ¶¶ 2, 13. Instead, we find that the facts of this case demonstrate that the ALJ and the Commission went to considerable lengths to accommodate the Petitioners' multiple requests for significant modifications to the timing and format of the evidentiary hearings, including their ultimate request for a "hearing in writing." To be sure, the ALJ afforded the Petitioners with an opportunity to submit evidence in writing, as set forth in the *Order Admitting Exhibits*, despite the fact that the Petitioners continually disregarded the timelines, processes and procedures in this case.²⁴ Ultimately, the "hearing in writing" concluded with the admission of evidence submitted by the Petitioners, which the ALJ considered and analyzed in the Initial Decision issued in this case. *See* I.D. at 13-16 (citing Complainant Exhs. 1-3, 5-7; COL No. 5). Thus, we find no merit to the Petitioners' claims that they were deprived of a final hearing in this case.

²³ We address the Petitioners' contentions regarding the evidence submitted in our discussion below.

²⁴ The Petitioners were also afforded opportunities to submit pleadings and briefs in support of their requests and in support of their Complaints, and the procedural history of this case establishes that the Complainants fully availed themselves of such opportunities.

2. Evidentiary Allegations

Likewise, we also find no merit to the Petitioners' claims that the ALJ, Met-Ed, and the Commission tampered with and disregarded the Petitioners' evidence. *See* Petition at ¶¶ 7-8. Instead, these claims are not only unsupported in the record, but they are also contradicted in the record.

In the Petition, the Petitioners argue that the ALJ erred by not admitting certain unadmitted documents into the record, including “Dr. Kracht’s notarized December 2023 report,” “Dr. Sadler’s report,” “the 2021 0813 DC circuit case,” the “exhibit of Doctor Sadler,” and “Holder’s Reply Exceptions” (collectively, the unadmitted documents). Petition at ¶¶ 7, 14-1[5]. In our *April 2025 Order*, we noted that there is nothing in the record to support that the Petitioners moved the unadmitted documents into evidence. *April 2025 Order* at 45. In the Petition, the Petitioners offer nothing more than claims that they “have sent a plethora of health and safety documentation proving the dangers of smart meters” and that the unadmitted documents were submitted along with the other exhibits that were submitted. Petition at ¶¶ 7, 14-1[5]. These claims are insufficient to warrant reconsideration, especially when viewed in light of the fact that the ALJ educated the Petitioners about procedural requirements for the service of documents and for submitting evidence. *See April 2025 Order* at 45 (citing *Tr.* at 17-26; *December 2019 Order* at 2-3; *Scheduling Order* at 1-6; *Prehearing Order* at 1-7; *December 2023 Order* at 2-3; *January 9 Order* at 1-5; *January 31 Order* at 10-13).

Of particular relevance to the Petitioners' claims is the fact that the ALJ specifically explained to the Petitioners, during a telephonic Prehearing Conference held on July 23, 2019, that merely sending documents to the Commission did not constitute the submission of evidence, as follows: “[o]nly documents you present at the hearing are eligible to be admitted into evidence” and that “documents you have previously

submitted to me [the ALJ], the Commission, Respondent, or any other organization or individual are not in evidence.” Tr. at 18. Thus, the Petitioners’ claims that they sent a plethora of documents does not translate into admission of those documents into evidence, and the Petitioners were on notice of that fact early in this case.²⁵

Moreover, the Petitioners fail to identify when and how they moved the unadmitted documents into evidence. Despite the extensive procedural guidance provided to the Petitioners, and the several timing extensions and procedural modifications that were granted to accommodate the Complainants’ submission of evidence, the record does not reflect that the unadmitted documents were served upon Met-Ed and the ALJ for purposes of being moved into evidence at a hearing. Thus, instead of offering new facts or evidence, the Petition simply offers unsupported claims that Met-Ed, the ALJ, and the Commission tampered with and disregarded the Petitioners’ evidence. We will reject these claims because they have no merit.

We will also reject the Petitioners’ contentions that the ALJ and the Commission’s alleged mislabeling of exhibits is somehow tantamount to criminally tampering with evidence and that it reflects the Commission’s failure to consider legitimate arguments. *See* Petition at 3-4, ¶¶ 14-1[5]. As we previously explained in our *April 2025* Order, while the Petitioners may be dissatisfied with the labeling of exhibits, they did not demonstrate that the labeling was erroneous, nor did they explain why their mere dissatisfaction provided a viable basis for exception. *April 2025* Order at 41. The Petition offers nothing new or novel for us to consider, as while the Petitioners’ claims cast aspersions upon Met-Ed, the ALJ, and the Commission, they are devoid of support.

²⁵ When the ALJ explained the instructions for presenting evidence, Ms. Mousios acknowledged the instructions but characterized the process as “a trap.” Tr. at 21.

3. Remaining Claims

After careful consideration of the content of the remaining arguments contained in the Petition, we find that the Petitioners do not allege any new or novel arguments that would persuade us to reverse, modify, or amend the *April 2025 Order*, and we perceive no grounds on which to rescind or reconsider the dismissal of the Petitioners' Complaints. Indeed, the Petitioners have largely repeated prior assertions that they are constitutionally permitted to opt-out of smart meter installation. Additionally, the Petitioners reiterated unsubstantiated claims that smart meters are unsafe and that the installation of their neighbor's smart meter has caused them to experience health issues²⁶ to justify reconsideration of the *April 2025 Order*. As the Petitioners' arguments on these claims have been previously considered and rejected, we find that the Petitioners have failed to raise any new or novel arguments that would persuade us to reverse, modify, or amend the *April 2025 Order*.

Therefore, we shall deny Ms. Mousios and Mr. Cumming's Petition, as it raises neither any meritorious arguments, nor any new or novel arguments or other basis that persuades us to rescind the *April 2025 Order*. Accordingly, we believe that it is reasonable to deny the Petition under the circumstances in this case.

²⁶ The Petitioners' neighbor is not a party to this proceeding; therefore, we denied the Petitioners' Exceptions to the extent that they sought removal of the Petitioners' neighbor's smart meter. *April 2025 Order* at 39-40. Nevertheless, the Petitioners continue to assert that their health issues have been caused by the installation of a smart meter at their neighbor's residence. Petition at ¶¶ 10, 14. Thus, we reiterate here that our determination is limited to the Petitioners' opposition to having a smart meter installed at the service address. To the extent that the Petitioners continue to seek removal of the neighbor's smart meter as a remedy, such relief remains unavailable in this case.

Therefore, we find that the Petitioners' averments fail to provide any persuasive basis upon which to grant reconsideration of the *April 2025 Order*. Accordingly, we shall deny the Petition.

IV. Conclusion

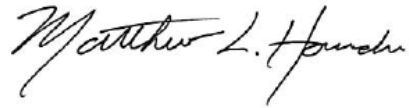
For the reasons set forth above, we shall deny the Petition for Reconsideration filed by Liza Mousios and Roy Cumming, consistent with this Opinion and Order; **THEREFORE,**

IT IS ORDERED:

1. That the Petition for Reconsideration, filed by Liza Mousios and Roy Cumming on May 5, 2025, seeking Reconsideration of the Opinion and Order, entered on April 24, 2025, at Docket Nos. C-2019-3007989 and C-2019-3007995, is denied, consistent with this Opinion and Order.
2. That the proceeding, at Docket No. C-2019-3007989, be marked closed.

3. That the proceeding, at Docket No. C-2019-3007995, be marked closed.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Matthew L. Homsher". The signature is written in a cursive style with a large initial "M".

Matthew L. Homsher
Secretary

(SEAL)

ORDER ADOPTED: May 22, 2025

ORDER ENTERED: May 22, 2025