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October 14, 2025

VIA ELECTRONIC FILING

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

Re: Brian Hoeft v. Metropolitan Edison Company
Docket No. C-2019-3011586

Dear Secretary Homsher:

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

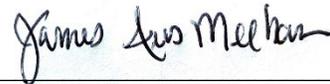
c: As Per Certificate of Service
Office of Special Assistants (via email at ra-OSA@pa.gov)

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**

Brian A. Hoeft,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2019-3011586
	:	
Metropolitan Edison Company,	:	
	:	
Respondent.	:	
	:	
	:	

**FIRSTENERGY PENNSYLVANIA ELECTRIC COMPANY’S REPLIES TO
EXCEPTIONS OF BRIAN A. HOEFT**



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Date: October 14, 2025

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Electric Company (Met-Ed Rate District)

TABLE OF CONTENTS

	Page
I. INTRODUCTION.....	1
II. REPLY TO EXCEPTION A AND B: THE COMPLAINANTS DID NOT IDENTIFY ANY CONCLUSIONS OF LAW OR FINDINGS OF FACT FROM THE INITIAL DECISION TO WARRANT GRANTING ANY OF THEIR EXCEPTIONS.....	1
V. REPLY TO EXCEPTION NOS. A & B: THE COMPLAINANTS' EXCEPTIONS IGNORE THE COURT'S HOLDING IN <i>POVACZ II</i>	2
VI. CONCLUSION	6

I. INTRODUCTION

FirstEnergy Pennsylvania Electric Company, on behalf of its Met-Ed Rate District² (the “Company”) hereby file its Replies to the Exceptions of Brian A. Hoeft (“Complainant”). The Company was served with the Complainant’s Exceptions on September 30, 2025. Through the Exceptions, the Complainant takes issue with portions of the well-reasoned Initial Decision (“ID”) issued by the Administrative Law Judge Emily A. Farren (hereinafter, the “ALJ”) on September 11, 2025. The ID dismissed the Complaint, holding that Act 129³ does not provide an opt-out option from smart meter installation (ID, p. 11), and that the Complainant did not meet his burden of proof (ID, p. 10).

As explained herein, the Complainant’s Exceptions are without merit and should be denied. Accordingly, the Company respectfully requests that the Pennsylvania Public Utility Commission (“Commission”) deny the Complainant’s Exceptions and adopt the ID without modification.⁴

II. REPLY TO EXCEPTION A AND B: THE COMPLAINANT DID NOT IDENTIFY ANY CONCLUSIONS OF LAW OR FINDINGS OF FACT FROM THE INITIAL DECISION TO WARRANT GRANTING ANY OF HIS EXCEPTIONS

The Commission’s regulations dictate that:

- (a) In a proceeding, exceptions may be filed by a party and served within 20 days after the initial, tentative or recommended decision is issued unless some other exception period is provided. Exceptions may not be filed with respect to an interlocutory decision.

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 There is substantial subject matter overlap throughout the Complainant’s Exceptions. Accordingly, the Company responds to the Complainant’s Exceptions by subject matter rather than individually by the number of the Exception.

- (b) **Each exception must be numbered and identify the finding of fact or conclusion of law to which exception is taken and cite relevant pages of the decision.** Supporting reasons for the exceptions shall follow each specific exception.
- (c) The exceptions must be concise. The exceptions and supporting reasons must be limited to 40 pages in length. Statements of reasons supporting exceptions must, insofar as practicable, incorporate by reference and citation, relevant portions of the record and passages in previously filed briefs. A separate brief in support of or in reply to exceptions may not be filed with the Secretary under § 1.4 (relating to filing generally).⁵

Through his Exceptions, the Complainant does not reference a single Finding of Fact or Conclusion of Law in the ID to which exception is being taken. Therefore, the Complainant's Exceptions violate the Commission's regulations and should be rejected. Indeed, the Complainant's Exceptions do not appear to be targeted at any specific passage, finding, or conclusion rendered in the ID, and instead frames his exceptions as addressing "the main issue not reconciled" which appears to be the interpretation of Act 129. (Exceptions, p. 1).

For these reasons, the Company respectfully submits that the Complainants' Exceptions are improper and in violation of the Commission's regulations and should be denied.

V. REPLY TO EXCEPTION NOS. A & B: THE COMPLAINANT'S ANALYSIS OF ACT 129 IN HIS EXCEPTIONS IGNORES THE COURT'S HOLDING IN *POVACZ II*

Both of the Complainant's Exceptions suggest that Act 129 is voluntary. (Exceptions, p. 1-2). In support of this, the Complainant offers an analysis of the provisions of the Commission's regulations and legislative history that wholly ignores the court's ruling in *Povacz II*. (Exceptions, pp. 1-2). The ALJ in this case correctly found that "Act 129 does not provide customer with the right to opt-out of smart meter installation at their residence." (ID, p. 11).

⁵ 52 Pa. Code § 5.533(a)-(c).

The Complainant's requested relief cannot be granted by the Commission because the Company's customers are not permitted to opt-out of or rescind smart meter installation. The Company is legally required to install the smart meters by the Public Utility Code, the Commission's orders, and the Company's Commission-approved Smart Meter Deployment Plan.⁶ On June 24, 2009, the Commission issued its Smart Meter Implementation Order, which set forth requirements for the smart meter plans and procedures for the submission, review, and approval of the smart meter plans.⁷

On December 31, 2012, Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company (collectively, "the Companies") filed their Joint Petition for Approval of their Smart Meter Deployment Plan in compliance with the *Smart Meter Implementation Order*, in which they requested that the Commission: (1) find that their proposed Deployment Plan satisfies the requirements of Act 129 and the Commission's Implementation Order; (2) approve the Companies' proposed procurement and deployment of approximately 2.1 million smart meters, over 98.5% of which should be installed by the end of 2019; (3) authorize the Companies to continue to recover smart meter costs; and (4) authorize the Companies to create a regulatory asset for their investment in their existing meters to be replaced by smart meters.⁸

On June 16, 2014, the Companies submitted their revised Smart Meter Deployment Plan, which, *inter alia*, accelerated the smart meter deployment schedule laid out in their original Deployment Plan. Under the Revised Deployment Plan, the Companies proposed to deploy

⁶ See 66 Pa.C.S. § 2807(f); *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, and Pennsylvania Power Company for Approval of Smart Meter Technology Procurement and Installation Plan*, Docket No. M-2009-2123950 (Order June 9, 2010).

⁷ See *Smart Meter Procurement and Installation*, Docket No. M-2009-2092655 (Order entered June 24, 2009).

⁸ *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 Nos. M-2013-2341990, M-2013-2341991, M-2013-2341993, M-2013-2341994 (Petition filed December 31, 2012).

170,000 smart meters by the end of 2015.⁹ The Commission entered its Opinion and Order approving the Revised Deployment Plan on June 25, 2014.¹⁰

Nothing in the Public Utility Code, the Commission's orders and regulations, or the Company's Smart Meter Deployment Plan states that a customer can opt-out of, or rescind, a smart meter installation, contrary to the Complainants' assertions. Indeed, on August 16, 2022, the Supreme Court of Pennsylvania issued its Opinion affirming in part and reversing in part the Commonwealth Court's decision in *Povacz I*.¹¹ Specifically, the Supreme Court in *Povacz II* held that: (1) Act 129 mandates the systemwide installation of smart meters; (2) the PUC applied the correct burden of proof standard in the smart meter complaint cases arising under Section 1501 of the Public Utility Code; (3) an electric distribution company ("EDC") cannot be required to provide an accommodation to a customer absent a Section 1501 violation; and (4) even if a smart meter complainant meets their burden of proof, the complainant is only "entitled to an accommodation to the extent allowed by Act 129 and a utility's tariff."¹²

The Complainant does not engage with the Court's holding in *Povacz II* in his Exceptions. Rather, he relies on an incorrect reading of the Commission's regulations, partially premised comments made by state legislators and a lay reading of 52 Pa. Code §57.251(a) and 52 Pa. Code §57.255. This position is meritless. As clearly and wholly explained by the Court in *Povacz II*:

Considering the overall goal of Act 129 to promote energy efficiency and conservation in Pennsylvania, the plain language of Section 2807(f)(2) mandates the system-wide installation of smart meter technology, including smart meters, with no opt-out provision.¹³

⁹ *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 Nos. M-2013-2341990, M-2013-2341991, M-2013-2341993, M-2013-2341994, p. 8 (Order entered June 25, 2014) ("*2014 Smart Meter Order*").

¹⁰ See *2014 Smart Meter Order*.

¹¹ *Povacz v. Pa. PUC*, 241 A.3d 481 (Pa. Cmwlth. 2020) ("*Povacz I*").

¹² See *Povacz v. Pa. Pub. Util. Comm'n*, 280 A.3d 975, 1012-1014 (Pa. 2022) ("*Povacz II*").

¹³ *Povacz II*, at 998.

Therefore, the Company must install the smart meter at the Service Address of the Complainant.

While the Complainant does briefly discuss “exemptions” (Exceptions, p. 2), as noted by the ALJ, the Complainant did not raise health or safety concerns nor did he raise a Section 1501 claim regarding the installation of the smart meter. (ID, p. 6). Moreover, even if the Complainant were to prove a Section 1501 violation – which they have not and cannot – they would only be entitled to “an accommodation to the extent allowed by Act 129 and a utility’s tariff.”¹⁴ The only accommodation permitted under the Company’s Commission-approved tariff is installing the smart meter at a different location at the customer’s expense.¹⁵

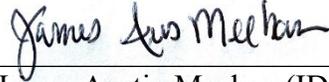
Therefore, the Complainants’ Exception(s) related to the mandatory installation of smart meters should be summarily denied, and the ID should be adopted without modification.

¹⁴ *Povacz II*, at 1014; *See* 66 Pa. C.S. § 1501.

¹⁵ FirstEnergy Pennsylvania Electric Company Tariff Rule 4, Electric Pa. P.U.C. No. 1, Original Page 40 (“A Customer desiring the removal, relocation or change of Company facilities or interruption shall submit a request to the Company. The Company may accept or reject said request in its sole and exclusive discretion. If the Company accepts said request, the Customer shall pay in advance the Company’s total estimated cost for any Customer requested temporary interruption in the Customer’s service due to construction, maintenance or other activities.”).

CONCLUSION

WHEREFORE, for the foregoing reasons, and those set forth in the Initial Decision, the Exceptions of Brian A. Hoeft should be denied.



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Date: October 14, 2025

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

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

BRIAN HOEFT

v.

METROPOLITAN EDISON COMPANY

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Docket No. C-2019-3011586

CERTIFICATE OF SERVICE

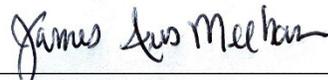
I hereby certify that I have this day served a true copy of this document of FirstEnergy Pennsylvania Electric Company upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Service by electronic mail only, as follows:

Brian Hoelt
deletedregularly@hushmail.com

Administrative Law Judge Emily A. Farren
efarren@pa.gov

Dated: October 14, 2025



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