

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

Public Meeting held January 15, 2026

Commissioners Present:

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

Terry and Betty Bente

C-2025-3054387

v.

FirstEnergy Pennsylvania Electric Company

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the “EMERGENCY APPLICATION FOR STAY/SUPERSEDEAS” Petition (Petition) of Terry and Betty Bente (collectively, the

Complainants or the Bentes).¹ The Petition was filed on November 21, 2025, and is directed to our Opinion and Order entered September 25, 2025, in the matter of *Terry and Betty Bente v. FirstEnergy Pennsylvania Electric Company*, Docket No. C-2025-3054387 (*September 2025 Order*). No Answer to the Petition has been filed.

For the reasons stated below, we shall deny the Petition.

I. Background

In their Petition, the Complainants seek to prevent the installation of the advanced metering infrastructure (AMI), or smart meter, that FirstEnergy proposes to install at the Complainants' residence and use in the ordinary course of business to measure the Complainants' electricity consumption. In addition, the Complainants seek to prevent the alleged planned work by FirstEnergy on the existing electric infrastructure adjacent to the Complainants' property, including a transformer replacement and new poles.

The Complainants have requested a stay to prevent “[a]ny escalation of field activity while Petitioners’ appeal is pending before the Commonwealth Court...” Petition at 4. We note that the filing of a Petition for Review of a Commission Opinion and Order, under the Pennsylvania Rules of Appellate Procedure, does not authorize a stay of action against the utility regarding deployment of smart meters. The filing of an

¹ The Complainants filed their “EMERGENCY APPLICATION FOR STAY/SUPERSEDEAS” on November 21, 2025. While the Complainants labelled their filing as a Petition for Stay/Supersedeas, their filing was not made within the fifteen-day timeframe required for such a Petition, as set forth in Section 5.572(c) of our Regulations, 52 Pa. Code § 5.572(c). Under the circumstances, we will consider the Complainants’ November 21, 2025, filing as a Petition for Rescission or Amendment, as such petitions may be filed at any time under Section 5.572(d) of our Regulations, 52 Pa. Code § 5.572(d).

appeal does not result in a stay of other proceedings, including the possible termination of utility service in accordance with the company's approved tariff provisions, in the event of a failure of a customer to permit access to the meter for purposes of meter replacement. *See Richard N. Myers v. PPL Electric Utilities Corporation*, Docket No. C-2017-2620710 (Opinion and Order entered December 30, 2019), petition for supersedeas denied, December 19, 2019; *Evangeline Hoffman-Lorah v. PPL Electric Utilities Corporation*, Docket No. C-2018-2644957 (Opinion and Order entered January 2, 2020), petition for supersedeas denied, December 19, 2019, *Evangeline Hoffman-Lorah v. Pa. PUC*, 301 A.3d 492 (Pa. Cmwlth. 2019); *Alan V. Schmukler v. PPL Electric Utilities Corporation*, Docket No. C-2017-2621285 (Opinion and Order entered January 2, 2020), petition for supersedeas denied, December 19, 2019, *Alan Schmukler v. Pa. PUC*, 302 A.3d 247 (Pa. Cmwlth. 2019). *See also Michael T. Jennings v. West Penn Power Company*, Docket No. C-2018-3006031 (Opinion and Order entered November 6, 2025) at 22.

Initially, the Complainants filed a formal complaint (2017 Complaint) against Metropolitan Edison Company (Met-Ed)² on July 12, 2017, at Docket No. C-2017-2614219 in which they alleged that Met-Ed was threatening to shut off their electric service. As relief, the Complainants requested to opt-out of the smart meter installation and to keep the analog meter currently installed on their home. 2017 Complaint at 2-3.

² At the time the 2017 Complaint was filed, FirstEnergy consisted of four separate companies: Met-Ed, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company. 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). Thus, the 2017 Complaint was filed against Met-Ed.

A hearing addressing the 2017 Complaint was held, as scheduled, on July 13, 2020. The Complainants appeared *pro se* and testified on their own behalf. One exhibit from the Complainants was admitted into the record and the presiding Administrative Law Judge (ALJ) took official notice of another Complainant exhibit and several public documents. The Company was represented by counsel, presented the testimony of one witness, and offered one exhibit.

In the Initial Decision of the 2017 Complaint, issued on April 10, 2024, the presiding ALJ dismissed the 2017 Complaint, finding that the Complainants failed to meet their burden of proof. The Complainants filed Exceptions on April 24, 2024 and Met-Ed filed Reply Exceptions on May 10, 2024. On November 7, 2024, the Commission issued an Opinion and Order at Docket No. C-2017-2614219 denying the Exceptions in the 2017 Complaint proceeding, adopting the Initial Decision, and dismissing the 2017 Complaint (*First Complaint Order or Bente*). The Complainants did not file a petition for reconsideration of the *First Complaint Order* with the Commission or a petition for review with the Commonwealth Court.

On March 17, 2025, the Complainants filed a second complaint (*i.e.*, the 2025 Complaint). Therein, the Complainants explained that they refused to have a smart meter installed at their service address for, *inter alia*, safety and health reasons. The Complainants requested that the Commission direct FirstEnergy to allow the Complainants to retain the analog meter presently at the service address and to refrain from terminating the electric service. 2025 Complaint at 10-13.

The *September 2025 Order* dismissed the Complainants' second complaint, finding that it was barred by Section 316 of the Code, 66 Pa.C.S. § 316.³

II. History of the Proceeding⁴

On March 17, 2025, the Complainants filed the 2025 Complaint with the Commission against FirstEnergy, seeking to prevent the Company from terminating their electric service or installing a smart meter at the service address. 2025 Complaint at 13.

The Complainants stated that, in light of the dismissal of their 2017 Complaint in the *First Complaint Order*, they filed the instant Complaint to protect themselves from the installation of a smart meter. They argued that installing a smart meter is not mandatory and that, by installing a smart meter on their property, FirstEnergy would violate state and federal law. The Complainants further alleged that utilities have not met their burden under 66 Pa.C.S. § 315(c) to prove that smart meters are safe and that, by installing a smart meter, FirstEnergy would violate other provisions of the Public Utility Code (Code) regarding terminations, safe and reasonable service, and altering the definition of electric service in ways not approved by statute. 66 Pa.C.S. §§ 102, 1406(a)(4). The Complainants also contended that installing a smart meter would violate several Commission Regulations related to advanced metering programs, set forth in 52 Pa. Code §§ 57.28(a)(1), 57.251, 57.255, 57.259(b), (c). *See* 2025 Complaint I.D. at 2. As relief, the Complainants requested that they be allowed to retain

³ Section 316 of the Code provides, in pertinent part, that “[w]henver the commission shall make any rule, regulation, finding, determination or order, the same shall be *prima facie* evidence of the facts found and shall remain conclusive upon all parties affected thereby, unless set aside, annulled or modified on judicial review.” 66 Pa.C.S. § 316. *See also* *September 2025 Order* at 14-15.

⁴ The History of the Proceeding is summarized here. A more extensive History of the Proceeding can be found in the *September 2025 Order* at 6-11.

their analog meter and that FirstEnergy be prevented from terminating service to the Complainants. 2025 Complaint at 13.

The 2025 Complaint was served on FirstEnergy on April 3, 2025. 2025 Complaint I.D. at 2.

On April 23, 2025, FirstEnergy filed a timely Answer with New Matter to the Complaint. Citing to the Supreme Court of Pennsylvania's (Supreme Court) decision in *Povacz v. Pa. PUC*, 280 A.3d 975 (Pa. 2022) (*Povacz II*), FirstEnergy denied that the Complainants are permitted to "opt-out" of smart meter installation at the service address. In its New Matter, FirstEnergy asserted that the Complainants already challenged FirstEnergy's installation of a smart meter at the service address in the 2017 Complaint. FirstEnergy alleged that the 2025 Complaint concerns electric service at the same property and under the same customer account that was the subject of the 2017 Complaint. FirstEnergy asserted that the 2017 Complaint was dismissed by the Commission, with prejudice. Therefore, FirstEnergy argued that the Complainants are barred from filing a new formal complaint with the Commission regarding the same issues of fact and law, in accordance with Section 316 of the Code, 66 Pa.C.S. § 316, and the doctrines of *res judicata* and collateral estoppel. FirstEnergy also averred that the Complaint was moot, in that the relief requested – opting out of smart meter installation – is not available. For relief, FirstEnergy requested that the 2025 Complaint be dismissed in its entirety and with prejudice. 2025 Complaint I.D. at 3.

Also on April 23, 2025, FirstEnergy filed Preliminary Objections. FirstEnergy argued that this was the second complaint that the Complainants filed disputing the utility's planned smart meter installation and that the Complainants were seeking to re-litigate the same factual and legal issues related to the same account holder, service location, and service account, which were raised or could have been raised in the first complaint (*i.e.*, the 2017 Complaint). FirstEnergy asserted that the Complainants'

claims and issues were barred by the Commission's prior *First Complaint Order* dismissing the 2017 Complaint, pursuant to 66 Pa.C.S. § 316. FirstEnergy also argued that the Complainants' requested relief (effectively, to opt-out of smart meter installation) cannot be granted by the Commission because FirstEnergy is legally required to install smart meters and customers are not permitted to opt-out of installation, citing *Povacz II, supra*. Thus, FirstEnergy argued, the 2025 Complaint was legally insufficient, pursuant to 52 Pa. Code § 5.101(a)(4). 2025 Complaint I.D. at 3-4.

On May 2, 2025, the Complainants filed a timely response to the Preliminary Objections of FirstEnergy. On May 12, 2025, the Complainants filed an amended response to the Preliminary Objections. In their responses, the Complainants insisted that their 2017 Complaint was not dismissed, with prejudice, as FirstEnergy claimed. Amended Answer to Preliminary Objections at ¶ 1. The Complainants further contended that the Complaint was not barred by 66 Pa.C.S. § 316 because they raised new and materially different facts and legal theories and constitutional claims that were not previously adjudicated in *Povacz II* and their 2017 Complaint. 2025 Complaint I.D. at 4 (citing *Id.* at ¶¶ 1-5).

On May 13, 2025, the Complainants filed a timely response to the New Matter, in which they denied FirstEnergy's assertion that Act 129 mandates the installation of smart meter technology. Response to New Matter at ¶¶ 3, 5. The Complainants restated their position that the 2025 Complaint raised entirely new legal claims not previously adjudicated in their 2017 Complaint or *Povacz II*, and that the relief sought in the 2025 Complaint was "new and distinct" from the relief sought in the 2017 Complaint. 2025 Complaint I.D. at 4-5 (citing *Id.* at ¶¶ 2, 4, 5).

On May 28, 2025, the Complainants filed a Motion to Open Discovery (Discovery Motion). The Discovery Motion did not contain a notice to plead, as required by 52 Pa. Code § 5.103(b). 2025 Complaint I.D. at 5.

In an Interim Order, ALJ Gannon advised the Parties that the Preliminary Objections and Discovery Motion would be considered together, and a ruling would be drafted after FirstEnergy filed a response to the Discovery Motion or the time expired for FirstEnergy's response to the Discovery Motion. Recognizing that the ruling would impact the need, scope and timing of hearings and discovery, the ALJ cancelled the hearing scheduled in this matter for July 23, 2025 until the Parties' outstanding Preliminary Objections and Discovery Motion were resolved. 2025 Complaint I.D. at 5.

On June 27, 2025, FirstEnergy timely filed an answer to the Discovery Motion (Discovery Answer), arguing that the Discovery Motion should be denied because discovery would be moot if the Preliminary Objections were granted and the Complaint was dismissed in its entirety. Further, FirstEnergy contended that if, on the other hand, the Preliminary Objections were denied, the Complainants would still have ample opportunity to engage in further permissible and relevant discovery. Discovery Answer at ¶¶ 10, 11, 13, 16-18. In any event, FirstEnergy requested for the Preliminary Objections to be decided first because the outcome would directly impact the proper scope of the issues to be addressed and, in turn, the scope of what discovery is relevant to the surviving issues. 2025 Complaint I.D. at 5-6 (citing *Id.* at ¶¶ 12, 14-15).

On July 1, 2025, the Complainants filed an Answer to FirstEnergy's Answer Opposing Complainants' Motion to Open Discovery and Request for Judicial Clarification (Reply to Discovery Answer). In this pleading, the Complainants agreed that it was proper for the Preliminary Objections to be ruled on before proceeding with discovery and requested such ruling. Reply to Discovery Answer at ¶¶ 3-4. The Complainants further submitted that FirstEnergy's Preliminary Objections and request for dismissal of the 2025 Complaint should be denied, and discovery should be opened and proceed in accordance with a new litigation schedule. 2025 Complaint I.D. at 6 (citing *Id.* at 3-4 (Conclusion)).

On July 23, 2025, the Commission issued the Initial Decision of ALJ Gannon. Therein, the ALJ granted the Preliminary Objections, in part, dismissed the 2025 Complaint, and denied the Discovery Motion as moot. 2025 Complaint I.D. at 1, 6.

The Complainants timely filed Exceptions⁵ to the 2025 Complaint on August 12, 2025. FirstEnergy timely filed Replies to Exceptions on August 22, 2025. Also, on August 12, 2025, the Complainants filed a Motion to Reopen the Record. FirstEnergy addressed the Motion in its Reply Exceptions.

In the *September 2025 Order*, the Commission: (1) denied the Complainants' Exceptions; (2) denied the Complainants' Motion; (3) adopted the Initial Decision of ALJ Gannon; and (4) dismissed the 2025 Complaint.

As noted above, the Complainants filed the instant Petition on November 21, 2025. No Answer to the Petition has been filed as of the date of entry of this Opinion and Order.

II. Discussion

A. Legal Standards

1. Petitions for Rehearing, Reconsideration, Rescission and Amendment of Commission Orders

With respect to petitions for rehearing, reconsideration, rescission and amendment of Commission orders, the Code establishes a party's right to seek relief

⁵ Along with their Exceptions, the Complainants filed with the Commission an 8-page document titled "Exhibit Packet in Support of Exceptions" and a 412-page document titled "Supplemental Information to Exceptions" on August 12, 2025.

within fifteen days following the service of a Commission order pursuant to Subsection 703(f). 66 Pa.C.S. § 703(f) (relating to rehearing).⁶ 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 Section 703(f) or Section 703(g) must be brought as a petition for relief consistent with Section 5.572 of the Commission’s Regulations. 52 Pa. Code § 5.572 (relating to petitions for relief).

Petitions for relief predicated upon Sections 703(f) and 703(g) of the Code, whether brought under Section 5.572(c) of the Commission’s 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. *See e.g., Judith Hendin v. Metropolitan Edison Company*, Docket No. C-2018-3003324 (Opinion and Order entered April 18, 2024).

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*

⁶ 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.C.S. § 703(f); *see West Penn Power Co. v. Pa. PUC*, 659 A.2d 1055 (Pa. Cmwlth. 1995) (*West Penn Power*).

Department of Transportation, 416 A.2d 461, 465 (Pa. 1980); *see also West Penn Power*, 659 A.2d at 1055, 1065; *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 *Philip Duick, et al. 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, [179 A. 850, 854 (Pa. Super. 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).

The Commission utilizes a two-step analysis in determining whether to exercise its discretion to grant relief under *Duick*. See, e.g., *SBG Management Services, Inc./Colonial Garden Realty Co., L.P. v. Philadelphia Gas Works*, Docket No. C-2012-2304183 (Opinion and Order entered May 9, 2019)⁷ (discussing *Application of La Mexicana Express Service, LLC, to transport persons in paratransit service, between points within Berks County*, Docket No. A-2012-2329717; A-6415209 (Opinion and Order entered September 11, 2014)). The first step is to determine whether a party has offered any basis to persuade the Commission to exercise its discretion, including but not limited to, new and novel arguments or identified considerations that appear to have been overlooked or not addressed by the Commission in its previous order. This initial step examines whether a party raises the same questions which were specifically considered and decided against them by a prior Order of the Commission. If so, it is unlikely that the Commission will be persuaded to exercise its discretion to grant relief. *Duick* at 559 (citing *Pennsylvania Railroad Co. v. Public Service Commission*, 179 A. 850 (Pa. Super. 1935)). The second step of the *Duick* analysis is to evaluate any matter the Commission has deemed worthy of consideration, to determine whether to grant any relief.

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

⁷ *Affirmed, Phila. Gas Works v. Pa. PUC*, 249 A.3d 963 (Pa. 2021); *remand granted, in part*, 256 A.3d 1092 (Pa. 2021) (Table).

existence of newly discovered evidence, a substantial change in circumstances, or an error of fact or law.” *Feleccia* at 3 (citing *Duick* at 559).

A Commission decision to deny a petition for rescission or amendment is a matter squarely within its 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.

Lastly, we note that any issue not specifically addressed herein has been duly considered and will be denied without further discussion. It is well settled that we are not required to consider expressly or at length each contention or argument raised by the parties. *Consolidated Rail Corporation 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).

2. Petitions for Stay

Section 701 of the Code outlines the Commission’s procedure for the review of complaints, stating in relevant part:

The Commission, or any person ... having an interest in the subject matter ... may complain in writing, setting forth any act or thing done or omitted to be done by any public utility in violation, or claimed violation, of any law which the commission has jurisdiction to administer, or of any regulation or order of the commission.

66 Pa.C.S. § 701.

It is well-settled that the propriety of issuing a stay or supersedeas of a final order of the Commission will be governed by the standards outlined in *Pa. PUC v.*

Process Gas Consumers Group, 467 A.2d 805 (1983) (*Process Gas*).⁸ Pursuant to the standards of *Process Gas*, for issuance of a stay and/or supersedeas, a petitioner must establish the following:

1. Make a strong showing of likelihood to prevail on the merits;
2. Show that denial of relief will cause irreparable injury;
3. Show that the issuance of a stay will not substantially harm other interested parties in the proceedings; and
4. Show that the issuance of a stay will not adversely affect the public interest.

Process Gas, 467 A.2d at 808-09. The Supreme Court further clarified in *Process Gas*: “[I]t is essential that the unsuccessful party, who seeks a stay of a final order pending appellate review, make a strong showing under the[se] criteria in order to justify the issuance of a stay.” *Id.*

B. The *September 2025 Order*

The Commission addressed the Complainants’ claims in its *September 2025 Order*, carefully considering the arguments the Complainants had raised before the ALJ and on Exceptions. The Commission considered the Complainants’ claims that their 2025 Complaint was improperly barred by Section 316 of the Code, 66 Pa.C.S. § 316; and the Complainants’ argument that they have not been afforded due process.

September 25 Order at 30-35. The Commission also denied the Complainants’ Motion to

⁸ Similarly, 52 Pa. Code § 3.2, outlining the requirements for emergency orders seeking injunctive relief, includes that the Petitioner establish the need to preclude an immediate, irreparable injury that is not against the public interest. Here, the Complainant’s request to preserve status quo will be examined under the *Process Gas* standard.

Reopen the Record. *Id.* at 38. The Commission concluded that the Complainants did not meet their burden of proof in the 2017 Complaint proceeding that FirstEnergy has violated a statute, regulation, Commission order or tariff. Further, the Commission found that the 2025 Complaint was barred by Section 316. *Id.*

C. Petition

In their Petition, the Complainants contend that there is a need to “prevent imminent and irreparable harm arising from utility field activity and electrical alterations on or adjacent to [the Complainants’] Agricultural Security Area (ASA) farm, barn and residence.” Petition at 3. Specifically, the Complainants are seeking to prevent:

1. Installation of any smart meter at [the Complainants’] home or barn;
2. Replacement of the existing shared transformer with a larger-capacity unit;
3. Installation of new poles or alteration of electrical service routing;
4. Trenching, 811 activity, digging, marking, or probing on or near ASA-protected land;
5. Any escalation of field activity while [the Complainants’] appeal is pending before the Commonwealth Court (Docket No. 1336 C.D. 2025).

Petition at 4.

The Complainants contend that FirstEnergy has “already marked poles and indicated that transformer upgrades may proceed imminently. Any such activity would permanently alter safety conditions, eliminate the status quo, and deprive Petitioners of meaningful appellate review.” Petition at 4.

The Bentes' Petition addresses the Complainants' objective of preventing the installation of a smart meter but also adds new concerns related to alleged infrastructure activities that FirstEnergy may be preparing to complete. The Complainants argue that FirstEnergy's activities will cause immediate and irreparable harm to the Complainants' livestock operations. Petition at 4-5.

The Complainants further aver that the installation of the smart meter will violate their religious exercise rights. The Complainants contend that the installation of the smart meter and FirstEnergy's alleged infrastructure activities will cause the Complainants to suffer a "loss of meaningful appellate review." Petition at 5-6. Finally, the Complainants argue that granting a stay would advance the public interest. *Id.* at 7-8.

D. Disposition

The *September 2025 Order* relates only to the installation of a smart meter at the Complainants' service address. The *September 2025 Order* does not address the Complainants' new concerns found in their Petition related to the alleged replacement of a transformer, the installation of new poles, or other infrastructure replacement or maintenance activities by FirstEnergy. It is inappropriate to address these alleged infrastructure activities here.⁹ The Complainants are free to file a Complaint with the Commission regarding alleged proposed FirstEnergy infrastructure activities adjacent to or on their property.

With regard to the *September 2025 Order* and the installation of a smart meter, the Complainants have argued here that the smart meter would violate their

⁹ We note that FirstEnergy has not filed an Answer to the Petition and therefore we do not have any information confirming that FirstEnergy plans to perform maintenance on existing infrastructure owned by FirstEnergy or install additional infrastructure adjacent to or on the Complainants' property.

religious and constitutional rights. Petition at 5-6, 7. The Complainants are repeating these arguments from their Exceptions to the Initial Decision in their 2025 Complaint. The Commission found that these arguments contained extra-record materials¹⁰ and were made for the first time at the Exceptions stage of the proceeding. *September 2025 Order* at 33-34.¹¹ Neither of these arguments will be considered here. Furthermore, the Complainants' Constitutional argument was already heard in the 2017 Complaint and will not be relitigated here. I.D. at 9, 14.

We decline to grant rescission based on the arguments set forth in the Petition. Based upon our review of the record in this proceeding, we find that the Complainants have failed to allege any new or novel arguments such as would persuade us to reverse, modify or amend our Final Order. Thus, we shall decline to exercise our discretion to grant the requested relief and shall deny the Petition.

To the extent the Petition may be construed as seeking a stay pending appeal of the *September 2025 Order*, such a request for stay is examined under the

¹⁰ The extra-record materials were not considered in accordance with *Apollo Gas. Application of Apollo Gas Co.*, 1994 Pa. PUC Lexis, at *8-14 (Order entered February 10, 1994) (*Apollo Gas*).

¹¹ The Commission has applied the principle of waiver and held that a party is barred from raising additional issues or facts in Exceptions that were not originally pleaded earlier in a proceeding or raised at hearing. See *Application of Pennsylvania-American Water Co. pursuant to 66 Pa.C.S. §§ 1102 and 1329 for Approval of the Acquisitions of the Wastewater System Assets Owned by the Butler Area Sewer Authority*, Docket No. A-2022-3037047 (Opinion and Order entered November 16, 2023) (*BASA*); *Cynthia Young-Nelson v. PECO Energy Co.*, Docket No. F-2019-3009953 (Order entered December 3, 2020); *Uber Technologies (citing Petition of PPL Electric Utilities Corporation for Approval of a Distribution System Improvement Charge*, Docket Nos. P-2012-2325034, *et al.* (Opinion and Order entered October 1, 2015)). *Application for Approval of Abandonment of Service by Columbia Gas of Pennsylvania, Inc., to One Active Residential Premises Located in Pittsburgh, Allegheny County, Pennsylvania*, Docket No. A-2025-3052837 (Opinion and Order entered August 14, 2025) at 19.

standard set forth in *Process Gas, supra*. In the present case, the Petitioners assert irreparable harm based upon either the previously rejected claims of harm to health and safety, or allegations of harm and/or action taken by the Company in furtherance of the installation of the smart meter, which are not part of the record in this proceeding. As previously noted, the extra record arguments and alleged actions by the Company are not part of the record in this proceeding and are therefore not relevant to our disposition of the requested relief.

The *September 2025 Order* established the Company's lawful right to install a smart meter on the premises, as a condition of the provision of service. Therefore, we find that the Petitioners' extra record arguments and unsupported allegations that the Company has initiated installation of additional poles or upgraded transformers adjacent to the Complainants' property do not rise to the level of irreparable harm. Further, we conclude that the Petitioners fail to satisfy the requirement that granting relief in the circumstances would be in the public interest. The Petitioners' arguments pertain to personal interests and rely upon already rejected arguments of harm to health and safety with regard to the smart meter installation. Therefore, we do not find the granting of the Petitioners requested relief to be in the public interest. Conversely, the Company's duty to install smart meters has been determined to be in the public interest. Accordingly, we conclude that the Petitioners have failed to satisfy the requirement for a finding of both "irreparable harm" and that the relief granted be in the public interest.

Because we conclude that the Petitioners have failed to satisfy two of the necessary factors for relief under *Process Gas*, we do not find it necessary to examine the remaining three factors. To the extent the Petition may be construed as a request for stay pending appeal, the Petition is denied.

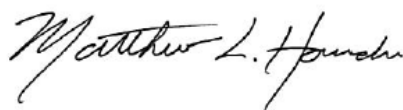
III. Conclusion

Based on the foregoing discussion, we shall deny the Complainants' Petition; **THEREFORE,**

IT IS ORDERED:

1. That the Petition for Rescission labelled "EMERGENCY APPLICATION FOR STAY/SUPERSEDEAS" filed by Terry and Betty Bente on November 21, 2025, is hereby denied.
2. That the proceeding at this docket be marked closed.

BY THE COMMISSION,



Matthew L. Homsher
Secretary

(SEAL)

ORDER ADOPTED: January 15, 2026

ORDER ENTERED: January 15, 2026