

**BEFORE THE**  
**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Docket No. C-2023-3041619**

**Lauren Zonca, Complainant**

v.

**Metropolitan Edison Company, Respondent**

---

**Post-Hearing Brief of Complainant**

Before Administrative Law Judge Jeffrey Watson

---

**I. INTRODUCTION**

This Post-Hearing Brief is submitted pursuant to the direction of the Presiding Administrative Law Judge following the evidentiary hearing in this matter. The record demonstrates that the utility has misapplied Act 129 of 2008 and the Commission's Smart Meter Implementation framework by treating smart meter deployment as a mandatory, universal requirement rather than a conditional program subject to statutory limits, Commission oversight, and customer protections.

The Complainant respectfully requests that the Commission grant the relief sought, as the utility failed to meet its burden of proof and acted outside the scope of Act 129 and applicable Commission orders.

---

## II. PROPOSED FINDINGS OF FACT

1. Act 129 of 2008 was enacted as Act 2008-129 and is codified at 66 Pa.C.S. § 2807(f).
2. Act 129 requires certain electric distribution companies to submit smart meter technology plans to the Commission for approval; it does not expressly mandate universal or unconditional installation of smart meters for every customer.
3. During legislative debate on Act 129, Senator Vincent Fumo explained that smart meters were not mandated, stating: “We did not mandate smart meters, but we made them optional. We did say in new construction, where they really are practical, they will be put in.” (Senate Journal, October 8, 2008).
4. The Pennsylvania Public Utility Commission issued its Smart Meter Implementation Order on June 18, 2009, at Docket No. M-2009-2092655, establishing a framework for smart meter deployment and plan approval.
5. The Implementation Order provides guidance for deployment and does not adjudicate individual customer disputes or eliminate Commission discretion in complaint proceedings.
6. At hearing, Metropolitan Edison Company asserted that smart meter installation is mandated by Act 129 and that the Commission has already decided the issue, but did not cite statutory language or a Commission order expressly requiring universal installation.

---

## III. STANDARD OF REVIEW

The Commission must determine whether the utility’s actions are consistent with Act 129, Commission orders, and principles of just and reasonable utility service. The burden rests with the utility to show that its practices are lawful, reasonable, and within the scope of its delegated authority.

---

## IV. ARGUMENT AND PROPOSED CONCLUSIONS OF LAW

**Conclusion of Law No. 1:** Act 129 of 2008 does not mandate universal or unconditional smart meter installation. See 66 Pa.C.S. § 2807(f).

**Conclusion of Law No. 2:** Commission policy statements and implementation guidance do not substitute for binding statutory mandates or per-customer adjudications. See *Popowsky v. Pa. Pub. Util. Comm’n*, 910 A.2d 38 (Pa. 2006).

---

Act 129 of 2008 is codified at 66 Pa.C.S. § 2807(f). The statute, its legislative history, and Commission precedent all confirm that while smart meter technology deployment is encouraged and regulated, it is not imposed as an unconditional, per-customer mandate. Metropolitan Edison Company's contrary position misstates both the law and the Commission's role.

Act 129 of 2008 is codified at 66 Pa.C.S. § 2807(f). The statute, its implementing orders, and Commission precedent all confirm that while smart meter technology deployment is encouraged and regulated, it is not imposed as an unconditional, per-customer mandate. Metropolitan Edison Company's contrary position misstates both the law and the Commission's role.

#### **A. Act 129 Does Not Mandate Universal or Unconditional Smart Meter Installation**

A-1. Metropolitan Edison Company repeatedly asserted at hearing that smart meter installation is "mandated" by Act 129 and that the Pennsylvania Public Utility Commission has already conclusively decided this issue. This position is incorrect as a matter of law.

A-2. Act 129 requires covered electric distribution companies to submit smart meter technology plans for Commission approval. See 66 Pa.C.S. § 2807(f). It does not contain language mandating universal or unconditional installation for every customer, nor does it eliminate Commission discretion in individual cases.

A-3. If the General Assembly intended to require mandatory installation without exception, it would have stated so explicitly. By contrast, during Senate debate, Senator Vincent Fumo explained: "We did not mandate smart meters, but we made them optional. We did say in new construction, where they really are practical, they will be put in." Senate Journal, October 8, 2008.

A-4. The utility's interpretation improperly transforms a planning and approval statute into an inflexible installation mandate, stripping the Commission of its oversight role and rendering the approval process meaningless.

---

#### **B. The Commission Has Not Issued a Binding Mandate Requiring Installation in Every Case**

B-1. Metropolitan Edison further argued that the Commission has already decided this matter through prior orders and that those orders require installation as a matter of law. The record does not support this assertion.

B-2. The Commission's June 18, 2009 Smart Meter Implementation Order, entered at Docket No. M-2009-2092655, establishes a regulatory framework for plan approval and deployment; it does not operate as a per-customer adjudication.

B-3. General Commission policy determinations cannot substitute for a factual showing that mandatory installation is required in a specific case. Treating implementation guidance as a binding mandate improperly elevates policy statements above statutory limits and the Commission's adjudicatory function.

---

### **C. Metropolitan Edison Failed to Prove That Denial of Relief Is Required by Statute or Commission Order**

C-1. Because Metropolitan Edison asserted that smart meter installation is mandated by law, it bore the burden of proving that claim. Utilities bear the burden of demonstrating that their practices are lawful and reasonable under the Public Utility Code.

C-2. At hearing, the utility did not cite statutory language compelling universal installation, nor did it introduce a Commission order that expressly requires installation in every individual circumstance.

C-3. Instead, the utility relied on generalized references to Act 129 and Commission policy, without demonstrating how denial of relief in this case is necessary to achieve statutory objectives.

C-4. Absent a clear statutory or precedential mandate, the Commission must evaluate the reasonableness of the utility's actions based on the facts of this case.

---

### **D. Accepting the Utility's Argument Would Improperly Eliminate Commission Oversight and Render This Proceeding Superfluous**

D-1. Metropolitan Edison's position that the Commission has already conclusively decided this issue, and that smart meter installation is mandatory as a matter of law, would render this evidentiary hearing meaningless.

D-2. If no factual inquiry or legal analysis is permitted once a utility invokes general Commission policy, there would be no purpose to complaint proceedings or post-hearing briefing.

D-3. Accepting the utility's argument would improperly convert broad policy guidance into an irrebuttable presumption, insulating utility conduct from review and depriving customers of the procedural protections afforded by the Public Utility Code.

D-4. Nothing in Act 129 or Commission precedent suggests that the Commission's oversight or adjudicatory function has been displaced or eliminated.

---

## **V. PROPOSED ORDERING PARAGRAPHS**

1. The Commission should find that Act 129 of 2008 does not mandate universal or unconditional smart meter installation.
  2. The Commission should conclude that Metropolitan Edison Company misapplied Act 129 and the Commission's Smart Meter Implementation Order by treating general policy guidance as a binding mandate.
  3. The Commission should grant the relief requested by the Complainant.
  4. The Commission should grant such other relief as is just and reasonable.
- 

## **VI. CONCLUSION**

The Commission has consistently recognized that Act 129 implementation must be carried out within the bounds of statutory authority and Commission oversight. Utilities may not expand the scope of Act 129 by treating general implementation guidance as a binding legal mandate in individual cases.

Metropolitan Edison Company asked the Commission to accept that the legal question in this case has already been decided and that smart meter installation is mandatory as a matter of law. The evidentiary record does not support that claim.

Neither Act 129 nor the Commission's Smart Meter Implementation Order contains language compelling universal, unconditional installation in every individual circumstance. To the contrary, Act 129 preserves Commission oversight, requires utility justification, and entrusts the Commission with ensuring that utility practices remain lawful, reasonable, and consistent with the public interest.

The utility failed to identify a statutory provision or binding Commission order that eliminates Commission discretion or forecloses individual complaints. Its reliance on general policy statements cannot substitute for proof of legal mandate.

For these reasons, the Complainant respectfully requests that the Commission:

1. Reject Metropolitan Edison Company's assertion that smart meter installation is mandated by Act 129 or conclusively decided by prior Commission action;
2. Find that the utility misapplied Act 129 and the Commission's Smart Meter Implementation framework;
3. Grant the relief requested by the Complainant; and
4. Grant such other relief as the Commission deems just and reasonable.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'L Zonca', with a long horizontal flourish extending to the right.

**Lauren Zonca**  
Complainant

January 27, 2026

---

## **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Post-Hearing Brief was served upon the following counsel of record for Metropolitan Edison Company via the Commission's eService system this date.

**James Austin Meehan, Esq.**

FirstEnergy Service Company

76 South Main Street

Akron, OH 44308

Phone: 610-921-6783

Email: JAMEEHAN@FIRSTENERGYCORP.COM

**Tori L. Giesler, Esq.**

FirstEnergy Service Company

2800 Pottsville Pike

P.O. Box 16001

Reading, PA 19612

Phone: 610-921-6658

Email: TGIESLER@FIRSTENERGYCORP.COM

Date: January 27, 2026

---

Respectfully submitted,



Lauren Zonca