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January 30, 2026

VIA ELECTRONIC FILING

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

Re: Lauren Zonca v. Metropolitan Edison Company
Docket No. C-2023-3041619

Dear Secretary Homsher:

Enclosed please find the Main Brief of FirstEnergy Pennsylvania Electric Company (Met-Ed Rate District) regarding the above-referenced matter. This document has been served as shown in the Certificate of Service.

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

Respectfully,

A handwritten signature in black ink that reads "James Austin Meehan".

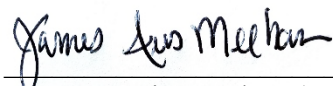
James Austin Meehan

cc: Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Lauren Zonca :
 :
 v. : **DOCKET NO. C-2023-3041619**
 :
FirstEnergy Pennsylvania Electric Company :

**MAIN BRIEF
ON BEHALF OF FIRSTENERGY PENNSYLVANIA ELECTRIC COMPANY
ON BEHALF OF ITS MET-ED RATE DISTRICT**



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Dated: January 30, 2026

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I. PROCEDURAL HISTORY

On July 5, 2023, Lauren Zonca (“Complainant”) filed a Formal Complaint with the Pennsylvania Public Utility Commission (“Commission”) in which the Complainant, *inter alia*, challenged the installation of a smart meter at her home at 15 Sherman Road, Ottsville, PA 18942 (“Service Location”).

On July 26, 2023, FirstEnergy Pennsylvania Electric Company,¹ on behalf of its Met-Ed Rate District (the “Company”), filed its Answer and New Matter denying the material allegations of the Complaint, as well as Preliminary Objections. The Complainant did not file an Answer to the Company’s New Matter or Preliminary Objections.

On August 29, 2023, a Call-In Hearing Notice was issued, setting the hearing for Tuesday, October 10, 2023. This hearing was canceled by notice issued September 14, 2023.

On November 9, 2023, the Commission issued an Order at Docket No. M-2009-3092655, lifting the stay in certain smart meter related Formal Complaint proceedings, like the instant Complaint.

On November 13, 2024, Administrative Law Judge Jeffrey Watson (the “ALJ”) issued an Interim Order extending the Complainant’s deadline to serve responsive pleadings to the Company’s New Matter and Preliminary Objection until December 20, 2024. The Complainant did not serve responsive pleadings.

On April 3, 2025, the ALJ issued an Interim Order denying the Company’s Preliminary Objections.

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. 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.

On April 4, 2025, an Interim Order Establishing Litigation Schedule was issued. This required the identification of both factual and expert witnesses to the other party on or before May 5, 2025, along with a summary of testimony. It established June 6, 2025, as the date for the conclusion of discovery. It required an exchange of expert reports and related material on or before June 30, 2025. It required the filing of a status report on or before July 18, 2025, and asked that the parties confer to agree on a hearing date.

On April 21, 2025, an Amended Complaint was served on the Company.

On April 29, 2025, the Complainant served Interrogatories and Requests for Production of Documents #1 on the Company.

On May 2, 2025, James Austin Meehan entered his appearance on behalf of the Company, while Daniel A Garcia withdrew his appearance on behalf of the Company.

On May 5, 2025, the Company submitted its Witness Information Letter designating John C. Ahr as a witness for a future evidentiary hearing.

On May 6, 2025, the Complainant served her Witness Information Letter.

On May 12, 2025, the Company filed an Answer and New Matter to the Amended Complaint.

On May 19, 2025, the Company served its Responses to the Interrogatories, Set I, A through E on the Complainant.

On May 26, 2025, the Complainant filed her reply to the Company's Answer and New Matter to the Amended Complaint.

On May 26, 2025, the Complainant served Interrogatories and Requests for Production of Documents #2 on the Company.

On June 16, 2025, the Company served its Responses to the Interrogatories, Set II, Q1 through Q23.

On June 20, 2025, the Company filed a letter designating John C. Ahr as an expert witness in the proceeding, along with Mr. Ahr's curriculum vitae and summary of his testimony.

On July 18, 2025, the Company filed a status report proposing a hearing to be held the week of September 22, 2025.

On July 29, 2025, a Call-in Telephonic Hearing Notice was issued in the case, setting the date and time of the hearing as Wednesday, October 29, 2025 at 10:00 a.m.

On October 21, 2025, the Company served its proposed exhibits on the Complainant.

On October 29, 2025, the hearing proceeded as scheduled.

On November 20, 2025, an Interim Order Setting Briefing Schedule was issued setting the suspense for any Main Briefs in the Hearing as January 30, 2026, and Reply Briefs by February 13, 2026.

The Company submits this Main Brief pursuant to the November 20, 2025 Interim Order.

II. LEGAL STANDARDS

Under Section 332(a) of the Public Utility Code, the Complainant maintains the burden of proof in this proceeding.² The first step in carrying the burden of proof is establishing a *prima facie* case that the Company violated the Public Utility Code, the Commission's regulations, or a Commission order. Only if the Complainant establishes a *prima facie* case does it become the responsibility of the respondent to provide rebuttal evidence.³ In order to establish a *prima facie* case, more is required than a mere trace of evidence or a suspicion of the existence of a fact sought

² 66 Pa.C.S. § 332(a); *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Commw. 1990), alloc. den., 602 A.2d 863 (Pa. 1992).

³ *Waldron v. Phila. Elec. Co.*, 54 Pa. P.U.C. 98 (Order entered Mar. 14, 1980).

to be established.⁴ Mere bald assertions, personal opinions or perceptions, when not substantiated by facts, do not constitute evidence.⁵

Although the factual burden may shift during a proceeding, the Complainant always maintains the overarching burden of proof. It is clearly established that the Complainant's "burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of the evidence."⁶ A preponderance of evidence is demonstrated where the evidence presented is more convincing, even by the smallest degree, than the evidence presented by the opposing party.⁷

In order for the Commission to sustain a formal complaint, the Complainant must demonstrate that an "act or thing done or omitted to be done by any public utility [is] in violation, or claimed violation, of any law which the Commission has jurisdiction to administer, or of any regulation or order of the commission."⁸ Section 1501 of the Public Utility Code states, in relevant part: "every public utility shall furnish and maintain adequate, efficient, safe and reasonable service and facilities."⁹ As part of formal complaint proceedings, the Commission evaluates the reasonableness of public utility service and facilities pursuant to Section 1501. In complaint proceedings similar to the instant proceeding, the Commission has held that the relevant legal standard is whether the installation of a smart meter constitutes unsafe or unreasonable service in violation of Section 1501 of the Public Utility Code.¹⁰ Relatedly, the Court in *Povacz II*¹¹ made clear that Act 129 does not provide customers with the right to opt-out of smart meter installation

⁴ *Norfolk and Western Ry. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980).

⁵ *Pa. Bureau of Corrections v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987).

⁶ *Lansberry*, 578 A.2d at 602.

⁷ *Pa. Pub. Util. Comm'n v. HIKO Energy, LLC*, 2015 Pa. PUC LEXIS 364 (Initial Decision issued Aug. 21, 2015).

⁸ 66 Pa.C.S. § 701.

⁹ 66 Pa.C.S. § 1501.

¹⁰ *Frompovich v. PECO Energy Co.*, 2018 Pa. PUC LEXIS 160 (Opinion and Order entered May 3, 2018); *Susan Kreider v. PECO Energy Co.*, Docket No. C-2015-2469655 (Order on Reconsideration entered January 28, 2016).

¹¹ *Povacz v. Pa. PUC*, 280 A.3d 975 (Pa. 2022) ("*Povacz II*").

at their residence, and that complainants seeking smart meter related relief must carry a two-fold burden of proof for Section 1501 claims involving the safety of smart meters and radio-frequency (“RF”) emissions.

First, a customer must present expert opinion rendered to a reasonable degree of scientific certainty that radio frequency emissions from smart meters cause adverse health effects. Next, a customer must present expert opinion rendered to a reasonable degree of medical certainty that RF emissions from the smart meters, either alone or cumulative to other sources of RF emissions, caused them harm. The utility may then refute the customer’s evidence by providing scientific and/or medical expert testimony that, within a reasonable degree of certainty, the RF emissions from smart meters did not cause the alleged harm.¹² Once the parties have presented their evidence, the onus then falls on the ALJ to weigh the evidence and determine whether it is more likely than not that the smart meter caused the customer harm.¹³ The Supreme Court concluded that neither fear nor inconclusive scientific research was sufficient to prove that smart meter technology constitutes unsafe service under Section 1501.¹⁴ Further, the Supreme Court held that if a customer establishes by a preponderance of the evidence, based on the totality of the circumstances, that smart meter service violates Section 1501, they may be entitled to an accommodation to the extent allowed by Act 129 and a utility’s tariff.¹⁵

III. SUMMARY OF ARGUMENT

The Complainant wholly failed to meet her burden of proof that the installation of a smart meter at the Service Location would constitute unreasonable service in violation of Section 1501

¹² *Povacz II*, at 1008.

¹³ *Povacz II*, at 1006.

¹⁴ *Povacz II*, at 1005.

¹⁵ *Povacz II*, at 1015.

of the Public Utility Code or would otherwise violate the Public Utility Code, a Commission regulation or order.

The Company has an absolute obligation to install smart meters at all of its customers' service locations under Act 129.¹⁶ Neither Act 129 nor subsequent Commission orders related to smart meter installation and deployment permit customers to "opt-out" from smart meter installation.¹⁷ Further, both Act 129 and the Commission's Implementation Order require that EDCs install wireless smart meters with specific functionality. The Company's smart meters adhere to the requirements of Act 129 and the Commission. The smart meter components and deployment of smart meters in the Company's territory were identified in the Company's Smart Meter Deployment Plan, which was ultimately approved by the Commission on June 20, 2014.¹⁸ The Company will install a smart meter at the Complainant's Service Location in order to remain in compliance with Act 129, related Commission orders, and its Smart Meter Deployment Plan. Despite the Complainant's arguments otherwise, the Company must install a smart meter at the Service Location, as it is required by Act 129, the Company's SMDP, and the Court's holding in *Povacz II*.

In addition, the Complainant failed to establish that the installation of a smart meter constitutes unreasonable service. The Complainant offered no credible or convincing evidence to support her allegations. Notably, the Complainant offered no expert testimony and confirmed on cross-examination that it is merely her opinion that the Company violated the law by attempting

¹⁶ 66 Pa.C.S. § 2806.1, *et seq.*

¹⁷ *Id.*; see *Smart Meter Procurement and Installation*, Docket No. M-2009-2092655 (Order entered June 24, 2009) ("Implementation Order").

¹⁸ *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, and M-2013-2341994 (Sec. Letter dated June 20, 2014) (hereinafter, "*Smart Meter Deployment Plan*" or "SMDP").

to install a smart meter under Act 129.¹⁹ Moreover, and importantly, to the extent that the Complainant argues that Act 129 does not mandate the installation of smart meters at the Service Location, such a reading of Act 129 was flatly rejected by the Court in *Povacz II*.²⁰

The evidence of record and the applicable law weighs heavily against the Complainant's allegations and assertions. Indeed, the lay testimony offered by the Complainant should carry little, if any, weight. Furthermore, the thrust of the Complainant's argument(s) – the extent any were presented – focused on the legal directive(s) of Act 129 and its relationship to the 2009 Implementation Order.²¹ Although the Pennsylvania Rules of Evidence are not strictly adhered to at the Commission, the Pennsylvania Supreme Court has unequivocally stated that any relaxation of the rules of evidence in administrative settings cannot allow lay witnesses to testify to technical matters “without personal knowledge or specialized training.”²² Lay witness testimony only carries evidentiary weight where the witness has actually perceived the situation, and the opinion is not based on scientific, technical or specialized knowledge.²³ As such, all lay testimony from the Complainant related to more specialized topics, including health, safety, and radio frequency, should be disregarded and given no evidentiary weight under the Pennsylvania Rules of Evidence. Moreover, the overwhelming majority of the Complainant's on-record presentation was expressly rebuffed by the Court in *Povacz II*.

In sum, the Complainant failed to establish by a preponderance of the evidence that the Company violated a Commission statute, regulation, or order. Specifically, the Complainant has

¹⁹ Tr. 17.

²⁰ *Povacz II*, at 992 (“Our comprehensive reading of Act 129 leads us to conclude that the statute is not ambiguous and that Section 2807(f)(2) imposes a mandate on EDCs to furnish smart meter technology to all electric customers within an electric distribution service area, regardless of a customer's preference.”).

²¹ Tr. 13 (“Met Ed has exceeded the authority of Act 129 and is misapplying the 2009 Implementation Order.”).

²² *Gibson v. W.C.A.B.*, 861 A.2d 938, 947 (Pa. 2004) (holding Rules of Evidence 602, 701 and 702 generally applicable in agency proceedings).

²³ Pa.R.E. 701.

not met her burden of proof that the installation of a smart meter constitutes unreasonable service by the Company. Accordingly, the Company respectfully urges the Commission to dismiss the Complaint with prejudice.

IV. ARGUMENT

A. THE SUPREME COURT'S *POVACZ II* DECISION RENDERS THE COMPLAINT MOOT AND, EVEN IF NOT MOOT, DISPOSES OF THE SUBSTANTIVE ISSUES IN THIS COMPLAINT PROCEEDING.

The Company respectfully submits that the Complaint should be dismissed because the Supreme Court's decision in *Povacz II* renders this complaint proceeding moot. Further, even if the Complaint is not moot, *Povacz II* disposes of the substantive issues in this proceeding.

In *Povacz II*, the Pennsylvania Supreme Court 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 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."²⁴

As explained in the following sections, the instant Complaint is now moot and, even if it were not moot, the *Povacz II* decision disposes of the substantive issues before the Commission.

1. The Instant Complaint Is Moot.

The Supreme Court's *Povacz II* decision has rendered the instant complaint moot. Consistent with the Court's ruling in *Povacz II*, the Company's customers, such as the Complainant, may only receive a smart meter related accommodation ordered by the Commission if they are able to establish a violation of Section 1501 of the Public Utility Code. *See* 66 Pa.C.S.

²⁴ *See Povacz II*, at *1014.

§ 1501. Moreover, under *Povacz*, smart meter related accommodations available to a customer of the Company must be consistent with the Company’s Commission-approved tariff.

It is well-established that dismissal on mootness grounds is appropriate “unless an actual case or controversy exists at all stages of the judicial or administrative process.”²⁵ “Where ‘intervening changes in the factual matrix of a pending case’ occur which eliminate an actual controversy and make it impossible for the court to grant the requested relief, the case will be dismissed as moot.”²⁶ Moreover, “[a]n issue before the court is moot if, in ruling upon the issue, the court cannot enter an order that has any legal force or effect.”²⁷ The only “limited exceptions” to the mootness doctrine are when: (1) “the conduct complained of is capable of repetition yet evading review”; (2) the case “involves questions important to the public interest”; or (3) “one party” will “suffer some detriment without the Court’s decision.”²⁸

Here, the Complaint is moot because, contrary to the Complainant’s assertions, the Supreme Court held that Act 129 mandates the installation of smart meters and that even if a complainant establishes that the smart meter’s installation would violate Section 1501 of the Public Utility Code, the complainant is only “entitled to an accommodation to the extent allowed by Act 129 and a utility’s tariff.”²⁹ The Complainant, however, did not offer testimony requesting an

²⁵ *Burns v. Dep’t of Human Servs.*, 190 A.3d 758, 762 (Pa. Cmwlth. 2018) (citing *Luzerne Cnty. Children & Youth Servs. v. Dep’t of Pub. Welfare*, 826 A.2d 84, 86 (Pa. Cmwlth. 2003)).

²⁶ *Pagnotta v. Pa. Interscholastic Ath. Ass’n*, 681 A.2d 235, 237 (Pa. Cmwlth. 1996) (emphasis added) (quoting *Zemprelli v. Thornburgh*, 466 A.2d 1123, 1124 (Pa. Cmwlth. 1983)).

²⁷ *Burns*, 190 A.3d at 762 (citation omitted).

²⁸ *Driscoll v. Zoning Bd. of Adjustment*, 201 A.3d 265, 269 (Pa. Cmwlth. 2018) (quoting *Clinkscale v. Dep’t of Pub. Welfare*, 101 A.3d 137, 139 (Pa. Cmwlth. 2014)).

²⁹ *Povacz II*, 1014. Further, 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. 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.”).

accommodation and noted in her Reply to the Company's Answer and New Matter to Complainant's Amended Complaint that no accommodation was necessary.³⁰

Further, none of the three exceptions to the mootness doctrine apply here. First, the conduct complained of is not capable of repetition yet evading review. In fact, both the Commonwealth Court and the Supreme Court already reviewed the legal issues raised by EDCs installing smart meters in the *Povacz* proceeding.

Second, the instant Complaint does not involve questions important to the public interest. Indeed, the only issue raised by this Complaint that arguably rises to the level of public importance, *i.e.*, whether Act 129 mandates the installation of smart meters, was resolved by the Pennsylvania Supreme Court in *Povacz II*.

Third, the Complainant will not suffer a detriment without the Commission's decision on the merits of the Complaint. Indeed, the Complainant has had a full and fair opportunity to fully litigate the claims related to her Complaint prior to the Court's decision in *Povacz II*. Indeed, as explained at further length in Section IV.B, *infra*, the Complainant failed to establish that the smart meter's installation and retention would cause any harm. Also, under the Supreme Court's ruling in *Povacz II*, Act 129 requires the Company to install smart meters for all of its customers, including the Complainant. The only accommodation that the Company can offer the Complainant, even if she prevails in this Complaint, is the accommodation set forth in the Company's Commission-approved tariff, *i.e.*, relocating the meter's location at the customer's expense. Thus, with or without the Commission sustaining or dismissing the Complaint, the Complainant will be in the same situation.

³⁰ Complainant's Reply to Met-Ed Answer and New Matter at 3.

For these reasons, the Company respectfully submits that the Commission should dismiss the Complaint as moot.

2. Even if the Instant Complaint Were Not Moot, the *Povacz II* Decision Disposes of the Substantive Issues before the Commission.

Even if the Complaint was not moot, the *Povacz II* decision resolved the substantive issues in this proceeding.

First, the Court's *Povacz II* decision resolved the issue of whether the Company is required by Act 129 to install smart meters for all of its customers, including the Complainant. In *Povacz II*, the Supreme Court "conclude[d] that Act 129 does mandate that EDCs," like the Company, "furnish smart meters to all electric customers within an electric distribution service area and does not provide electric customers the ability to opt out of having a smart meter installed."³¹ Moreover, even "[i]f the customer establishes by a preponderance of the evidence based on the totality of the circumstances that smart meter service violates Section 1501, they are entitled to an accommodation to the extent allowed by Act 129 and a utility's tariff."³² Nothing in the Company's tariff permits an opt-out of the smart meter's installation. The only accommodation set forth in the Company's tariff is for the meter to be relocated to a different location and for the customer to pay for the estimated relocation costs.³³ As a result, the Company must install smart meters for all of its customers, including the Complainant, under Act 129.

Second, the Supreme Court's decision resolved any issue about the Commission's burden of proof standard in smart meter complaint cases, which requires complainants to prove, by a preponderance of the evidence, that there was a "conclusive causal connection" between the smart meters' RF emissions and adverse health effects. As noted by the Supreme Court, the Commission

³¹ *Povacz II*, 1014.

³² *Id.*

³³ See note 32, *supra*.

has been using the “conclusive causal connection” standard in RF emission cases “for almost three decades.”³⁴ In these types of cases “where scientific evidence is required to establish the safety of a service or facility, use of the evidentiary standard of ‘conclusive causal connection’ to assess the evidence is correct.”³⁵

For these reasons, the Supreme Court’s *Povacz II* decision renders this complaint moot and, at the very least, disposes of the substantive issues in this matter.

B. EDCs MUST INSTALL SMART METERS FOR ALL CUSTOMERS.

In *Povacz II*, the Supreme Court held that EDCs, such as the Company, must install smart meters for all of their customers and that customers cannot opt-out of the installations, let alone opt-in as the Complainant appears to suggest in her testimony.³⁶ Section 2807(f) of the Public Utility Code prescribes that EDCs, like the Company, must file smart plans and “**shall** furnish smart meter technology” in any of the three situations outlined in Section 2807(f)(2).³⁷ In interpreting the smart meter provisions of Act 129, the Commission correctly declared that EDCs must “deploy smart meters system-wide” because of the requirement in Section 2807(f)(2)(iii) that smart meters be deployed “in accordance with a depreciation schedule not to exceed 15 years.”³⁸ In other words, Section 2807(f)(2)(iii) directs EDCs to install new smart meters for all customers and to depreciate those meters over a 15-year period. The Commission also “recognize[d] that deployment of smart meters on a piecemeal or individual basis could involve greater costs than a systematic system-wide deployment.”³⁹ Relatedly, the Supreme Court explained in *Povacz II* that

³⁴ *Povacz II*, at 1004.

³⁵ *Id.*, 1007.

³⁶ Tr. 13 (“Act 129 requires utilities to make smart meters available, keyword available, to customers and to deploy them under a Commission-approved plan. It does not authorize forced universal installation.”).

³⁷ 66 Pa.C.S. § 2807(f)(1)-(2) (emphasis added).

³⁸ *Smart Meter Implementation Order*, p. 14.

³⁹ *Id.*, pp. 9, 14; see also *Springirth v. Nat’l Fuel Gas Distrib. Corp.*, 1991 Pa. PUC LEXIS 44, at *1-3, 6, 16-17 (Order entered Apr. 12, 1991) (dismissing complaint of customer seeking to make installation of automated meter reading

“[i]f the General Assembly had intended to provide electric customers the ability to opt-out of smart meter installation, it would have used the same customer-choice language it used for the optional time-of-use rates and real-time price programs”⁴⁰

By way of additional background, on October 15, 2008, Act 129 was signed into law and codified as part of the Public Utility Code (“Code”).⁴¹ Act 129 required EDCs with at least 100,000 customers, such as the Company, to file a smart meter technology procurement and installation plan (“SMP Plan”) with the Commission for approval.⁴² Specifically, Section 2807(f)(2) of the Code directed EDCs to furnish smart meter technology as follows: 1) upon request from a customer that agrees to pay the cost of the smart meter at the time of the request; 2) in new building construction; and 3) in accordance with a depreciation schedule not to exceed fifteen years.⁴³

Under Act 129, the Company has an absolute obligation to install smart meters at all of its customers’ service locations. Neither Act 129 nor subsequent Commission orders and/or appellate court decisions related to smart meter installation and deployment permit customers to “opt-out” from smart meter installation. Consistent with this mandate, the Company’s Commission-approved SMDP explicitly states that no opt-out option is available.⁴⁴ The Commission-approved SMDP mandates 100% of its meters to be replaced with smart meters. Therefore, the Complainant’s argument that smart meter installation is not required⁴⁵ should be rejected.

devices optional, noting that the PUC previously found in another case that “[t]he customer should not be given the option of refusing installation of equipment” because “[t]o permit customer discretion in this area would be inefficient and uneconomical”) (quoting *Stenker v. The York Water Co.*, Docket No. C-871318 (Order entered July 27, 1987)).

⁴⁰ *Povacz II*, at 999.

⁴¹ 66 Pa.C.S. § 101, *et seq.*

⁴² 66 Pa.C.S. § 2807(f); *see also* Met-Ed Exh. PD-2.

⁴³ 66 Pa.C.S. § 2807(f)(2).

⁴⁴ *Smart Meter Deployment Plan*, at 9; *see also* Met-Ed Exh. PD-3.

⁴⁵ Tr. 13.

Pursuant to Section 2807(f) of the Public Utility Code, the Company jointly filed its Petition for Approval of Smart Meter Technology Procurement and Installation Plan with Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (together with Met-Ed collectively referred to hereafter as “the Companies”) on August 14, 2009 (“2009 SMP Plan”).⁴⁶ The Commission issued an Order on June 9, 2010, approving the 2009 SMP Plan with certain modifications.⁴⁷ On December 31, 2012, the Companies filed their Joint Petition for Approval of their Smart Meter Deployment Plan, 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% 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.⁴⁸ On June 16, 2014, the Companies submitted their revised Smart Meter Deployment Plan, which *intra alia* accelerated the smart meter deployment schedule laid out in their original Deployment Plan.⁴⁹ Under the Revised Deployment Plan, the Companies proposed to deploy 170,000 smart meters by the end of 2015.⁵⁰ In its June 25, 2014 Opinion and

⁴⁶ *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company Approval of Smart Meter Technology Procurement and Installation Plan*, Docket No. M-2009-2123950 (Petition dated Aug. 10, 2009).

⁴⁷ *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company Approval of Smart Meter Technology Procurement and Installation Plan*, Docket No. M-2009-2123950 (Order entered June 9, 2010).

⁴⁸ *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).

⁴⁹ *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 (Revised Plan filed June 16, 2014).

⁵⁰ *Id.*

Order, the Commission recognized the benefits of early deployment of smart meters and approved the revised Smart Meter Deployment Plan, stating:

[T]his Commission has already observed the benefits of early deployment. We find that the use of Penn Power as a case study may help the Companies identify other more cost-effective meter deployment strategies that can then be leveraged by FirstEnergy's other operating companies. If deployment and operational savings prove very positive, FirstEnergy may also be able to further accelerate smart meter deployment, thus enabling an option to enhance customer savings even more.⁵¹

In this proceeding, the Complainant has argued that a smart meter should not be installed at her Service Location because it is not required.⁵² This argument was based upon the Complainant's lay opinion that the installation of a smart meter at the Service Location is not required by Act 129 but, rather, is optional.

At the outset, the Company notes that Commission precedent is uniform that the Commission cannot grant exceptions to the statutory directive that smart meters be installed by allowing customers to "opt-out." Neither the Company's Commission-approved SMDP nor Act 129 permit such opt-outs to occur.⁵³ Furthermore, Section 2807(f)(2)(i) provides:

(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.⁵⁴

The Complainant failed to present any credible evidence to support their allegations that the Company's smart meter deployment is unsafe or violates Section 1501 of the Public Utility

⁵¹ *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 (Opinion and Order entered June 25, 2014 at 16).

⁵² *See, e.g.*, Tr. 13.

⁵³ *See Gorash v. West Penn Power Co.*, Docket No. C-2018-3006149 (Initial Decision issued Sept. 1, 2020), made final without further Commission action (Order entered Oct. 1, 2020).

⁵⁴ 66 Pa.C.S. § 2807(f)(2)(i).

Code. Indeed, the crux of the Complainant's argument was that Act 129 does not mandate smart meters at all.⁵⁵ Indeed in the Complainant's Reply to the Company's Answer and New Matter, she specifically stated that she is not requesting an opt-out⁵⁶ and that no accommodation is required⁵⁷. In view of the Complainant's failure to fulfill their burden of proof, the Complaint should be denied and dismissed with prejudice.

1. The Installation of a Smart Meter Does Not Constitute Unreasonable or Inadequate Service.

The Complaint alleges that the Company is exceeding its authority through the installation of smart meters and that "forced" replacement over the objection of customers is unreasonable service.⁵⁸ As discussed in Section IV.A.2., *supra*, this is directly at odds with the controlling holding in *Povacz II*.⁵⁹ Simply put, it is not unreasonable for the Company to follow the law. As such, the Complainant failed to establish her burden of proof to show that the deployment of smart meters is unreasonable or constitutes inadequate utility service. .

Pursuant to Section 1501 of the Code, public utilities have a duty to maintain safe, adequate and reasonable service and facilities and to make repairs, changes, and improvements that are necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. Section 1501 of the Code provides, in pertinent part:

§ 1501. Character of service and facilities
Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. Such service also shall be

⁵⁵ Tr. 13-16.

⁵⁶ Complainant's Reply to Met-Ed Answer and New Matter at 3.

⁵⁷ *Id.*

⁵⁸ Tr. 15.

⁵⁹ *Povacz II*, 1014.

reasonably continuous and without unreasonable interruptions or delay. Such service and facilities shall be in conformity with the regulations and orders of the commission.⁶⁰

The Complainant's testimony did not raise any safety or health concerns and instead insisted, contrary to *Povacz II*,⁶¹ that the installations themselves are not mandatory and therefore requiring installation is unreasonable service under 1501.⁶²

As such, the Complainant wholly failed to demonstrate that the installation of a smart meter at the Service Location would constitute unreasonable or inadequate service under Section 1501 of the Public Utility Code. The record is clear that the Complainant failed to present any credible evidence to support their allegations that smart meter deployment is unsafe or violates Section 1501 of the Public Utility Code, or that installation of a smart meter at the Service Address is not required by law. In view of the Complainant's fulsome failure to fulfill their burden of proof, the Complaint should be denied and dismissed with prejudice.

⁶⁰ 66 Pa.C.S. § 1501.

⁶¹ *Povacz II*, 1014.

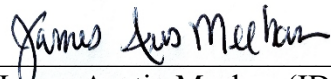
⁶² Tr. 15.

V. CONCLUSION

WHEREFORE, FirstEnergy Pennsylvania Company on behalf of its Met-Ed Rate District respectfully requests that Administrative Law Jeffrey A. Watson recommend that the Pennsylvania Public Utility Commission dismiss the Formal Complaint of Lauren Zonca with prejudice.

Respectfully submitted,

Dated: January 30, 2026



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APPENDIX A

PROPOSED FINDINGS OF FACT

1. Act 129 of 2008 required electric distribution companies with more than 100,000 customers to adopt smart meter deployment plans.⁶³
2. Act 129 provides a list of required smart meter functionality, which was supplemented by Commission order.⁶⁴
3. The Company's Smart Meter Technology Procurement and Installation Plan was filed on August 10, 2009.⁶⁵
4. The Commission ultimately approved the Smart Meter Deployment Plan, with modifications, on June 9, 2010.⁶⁶
5. On December 31, 2012, the Companies filed their Joint Petition for Approval of their Smart Meter Deployment Plan, 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% 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.⁶⁷

⁶³ FE-PA-1.

⁶⁴ FE PA Exh. PD-2.

⁶⁵ *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company Approval of Smart Meter Technology Procurement and Installation Plan*, Docket No. M-2009-2123950 (Petition dated Aug. 10, 2009).

⁶⁶ *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company Approval of Smart Meter Technology Procurement and Installation Plan*, Docket No. M-2009-2123950 (Order entered June 9, 2010).

⁶⁷ *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).

6. On June 16, 2014, the Companies submitted their revised Smart Meter Deployment Plan, which *intra alia* accelerated the smart meter deployment schedule laid out in their original Deployment Plan.⁶⁸
7. The Company presented one witness in this proceeding, Mr. John C. Ahr. Mr. Ahr was employed by FirstEnergy Service Company with the title Advisor, Regulatory Compliance – Smart Meters, but has since retired and is working as an independent contractor with the Smart Meter Program for FirstEnergy.⁶⁹
8. Mr. Ahr’s testimony fully explained the Company’s Smart Meter Deployment Plan⁷⁰ and smart meter safety.⁷¹
9. Customers are not permitted to opt-out of the installation of smart meters under Act 129.⁷²
10. The Company’s smart meters comply with all applicable requirements and standards for smart meters adopted by the Federal Communications Commission and the American National Standards Institute Tests.⁷³
11. The Company’s smart meters are Underwriters Laboratories (“UL”) certified, which means the meters were tested for Compliant UL standard 2735.⁷⁴
12. The Complainant did not offer substantive testimony on any issues relating to the health, safety, or reasonableness of the Company’s smart meters or the deployment thereof.
13. The Complainant did not offer expert testimony on any of the issues raised in the Complaint.
14. The Company has not violated any Commission order, statute or regulation.⁷⁵

⁶⁸ *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 (Revised Plan filed June 16, 2014).

⁶⁹ Tr. 21.

⁷⁰ Tr. 30-35.

⁷¹ *Id.*

⁷² Tr. 32.

⁷³ Tr. 34-35.

⁷⁴ Tr. 35.

⁷⁵ Tr. 37.

APPENDIX B

PROPOSED CONCLUSIONS OF LAW

1. Under Section 332(a) of the Public Utility Code, the Complainant maintains the burden of proof in this proceeding.⁷⁶
2. The first step in carrying the burden of proof is establishing a prima facie case that the Company violated the Public Utility Code, the Commission's regulations, or a Commission order. Only if the Complainant establishes a prima facie case does it become the responsibility of the Company to provide rebuttal evidence.⁷⁷
3. In order to establish a prima facie case, more is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. Mere bald assertions, personal opinions or perceptions, when not substantiated by facts, do not constitute evidence.⁷⁸
4. A party's burden of proof is met by establishing a preponderance of the evidence, which requires proof by a greater weight of the evidence.⁷⁹
5. A preponderance of evidence is demonstrated where the evidence presented is more convincing, even by the smallest degree, than the evidence presented by the opposing party.⁸⁰
6. In order for the Commission to sustain a formal complaint, the Complainant must demonstrate that an "act or thing done or omitted to be done by any public utility [is] in violation, or claimed violation, of any law which the Commission has jurisdiction to administer, or of any regulation or order of the commission."⁸¹

⁷⁶ 66 Pa.C.S. § 332(a); *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950); *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Commw. 1990), alloc. den., 602 A.2d 863 (Pa. 1992).

⁷⁷ *Waldron v. Phila. Elec. Co.*, 54 Pa. P.U.C. 98 (Order entered Mar. 14, 1980); *Replogle v. Pa. Elec. Co.*, 54 Pa. PUC 528 (Order entered Oct. 9, 1980).

⁷⁸ *Pa. Bureau of Corrections v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987); *Mid-Atlantic Power Supply Assoc. v. Pa. Public Utility Comm'n*, 746 A.2d 1196, 1200 (Pa. Commw. Ct. 2000).

⁷⁹ *Lansberry*, 578 A.2d at 602.

⁸⁰ *Pa. Pub. Util. Comm'n v. HIKO Energy, LLC*, 2015 Pa. PUC LEXIS 364 (Initial Decision issued Aug. 21, 2015); see also *Se-Ling Hosiery, supra*.

⁸¹ 66 Pa.C.S. § 701.

7. As part of formal complaint proceedings, the Commission evaluates the reasonableness of public utility service and facilities pursuant to Section 1501 of the Public Utility Code. Section 1501 states, in relevant part: “every public utility shall furnish and maintain adequate, efficient, safe and reasonable service and facilities....”⁸²
8. In similar complaint proceedings, the Commission has held that the relevant legal standard is whether the installation of a smart meter constitutes unsafe or unreasonable service in violation of Section 1501 of the Public Utility Code.⁸³
9. Neither Act 129 nor subsequent Commission orders related to smart meter installation and deployment permit customers to “opt-out” from smart meter installation.⁸⁴
10. The Pennsylvania Supreme Court’s decision in *Povacz II* requires the installation of smart meters.⁸⁵
11. The *Povacz II* Court held that customers may not “opt-out” of smart meter installation.⁸⁶
12. If the Complainant is able to prove a violation of Section 1501 of the Public Utility Code, they are entitled to an accommodation to the extent allowed by Act 129 and the Company’s tariff.⁸⁷
13. If the Complainant is able prove that the installation of a smart meter at her Service Location violates Section 1501 of the Public Utility Code, the only relief available to them is for the smart meter to be relocated at her expense.⁸⁸

⁸² 66 Pa.C.S. § 1501.

⁸³ *Frompovich v. PECO Energy Co.*, Docket No. C-2015-2474602 (Opinion and Order entered May 3, 2018); *Susan Kreider v. PECO Energy Co.*, Docket No. C-2015-2469655 (Order on Reconsideration entered January 28, 2016).

⁸⁴ 66 Pa.C.S. § 2806.1, *et seq.*; *see Smart Meter Procurement and Installation*, Docket No. M-2009-2092655 (Order entered June 24, 2009).

⁸⁵ *Povacz II*, at 983.

⁸⁶ *Id.*

⁸⁷ *Id.*, at 1014.

⁸⁸ FirstEnergy Pennsylvania Electric Company Tariff Rule 4, Electric Pa. P.U.C. No. 1, Original Page 40.

14. The Complainant failed to establish that the Company's installation of a smart meter at the Complainant's Service Location would violate Act 129 or any related Commission orders.⁸⁹
15. The Company has the absolute right to access a customer's premises to remove or exchange any or all Company equipment including a meter.⁹⁰
16. The Company is permitted to terminate a customer's electric service for denying access to the meter.⁹¹
17. A lay witness may only provide testimony related to his or her direct knowledge or experience.⁹²
18. Any testimony of a lay witness related to technical or specialized knowledge should be excluded and given no evidentiary weight.⁹³
19. The Complainant failed to sustain her burden of proof that the installation of a smart meter would constitute unsafe or unreasonable service by the Company.

⁸⁹ See *id.*; see also *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Company For Approval of Their Smart Meter Deployment Plan*, Docket Nos. M-2013-2341990, M-2013-2341991, M-2013-2341993, and M-2013-2341994 (Sec. Letter dated June 20, 2014).

⁹⁰ *Id.*

⁹¹ 66 Pa.C.S. § 1406; 52 Pa. Code § 56.81; Electric Pa. P.U.C. No. 81, Original Page 45, issued March 20, 2020; effective April 1, 2020.

⁹² Pa.R.E. 701.

⁹³ See *Gibson v. W.C.A.B.*, 861 A.2d 938, 947 (Pa. 2004).

APPENDIX C

PROPOSED ORDERING PARAGRAPHS

1. The formal complaint of Lauren Zonca filed against FirstEnergy Pennsylvania Electric Company (Met-Ed Rate District) at the above-referenced docket is dismissed with prejudice.
2. This matter shall be marked as closed.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

LAUREN ZONCA

v.

METROPOLITAN EDISON COMPANY

:
:
:
:
:

Docket No. C-2023-3041619

CERTIFICATE OF SERVICE

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

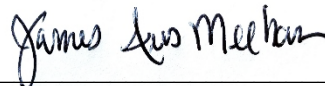
Service by electronic mail only, as follows:

Lauren Zonca
lezonca@gmail.com

Administrative Law Judge Jeffrey A. Watson
jeffwatson@pa.gov

Date: June 30, 2026

Respectfully submitted,



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