

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Cynthia Randall and
Paul Albrecht,
Complainants,

v.

C-2016-2537666

PECO Energy Company
Respondent

**COMPLAINANTS'
HEARING EXHIBITS**

RECEIVED
2016 OCT 24 AM 10:55
PA PUC
SECRETARY'S BUREAU

September 27, 2016

1-A

1-B

C-2016-2537666

9/27/16

WJH

Photo Dept

1-A C-2010-2537066
9/27/86
Phredph
WJH



MCP The Medical College of Pennsylvania

Catherine Z. Hayward, M.D.
Department of Surgery
(215) 842-6555

September 1, 1989

Ann Honebrink, M. D.
Department of Obstetrics & Gynecology
MCP

RE: CYNTHIA RANDALL

Dear Ann:

Cindy Randall underwent excisional biopsy of the left breast on 8/29/89. At that time, the right breast mass was no longer palpable.

The biopsy site is healing well, but unfortunately her pathology report demonstrates infiltrating ductal carcinoma. The margins of the specimen are free of tumor and I have reviewed with Cindy her options which would include axillary dissection followed by radiation therapy or a modified radical mastectomy with reconstruction. Staging studies have been scheduled for 9/11/89, and she is to contact the office regarding her preferred date for surgery. I will certainly keep you advised of any plans that are made. It is a tragedy that this problem has happened just after her wedding, but Cindy and her husband seem to be coping well with this.

Thank you again for allowing me to participate in her care.

Sincerely,

Catherine Z. Hayward, M. D.

CZH.kma

3300 HENRY AVENUE PHILADELPHIA, PENNSYLVANIA 19129

The Female Medical College of Pennsylvania 1867 The Woman's Medical College of Pennsylvania 1876 The Medical College of Pennsylvania

UNIVERSITY of PENNSYLVANIA CANCER CENTER

John H. Glick, M.D.

Director

Hospital of the University of Pennsylvania
7 Silverstein
3400 Spruce Street
Philadelphia, PA 19104-4283
215-662-6334

September 25, 1989



Richard Cooper, M.D.
Executive Vice-President and Dean
Medical College of Wisconsin
8701 Watertown Plank Road
Milwaukee, WI 53213

1-B
C-2010-2537666
9/27/89
Richard Cooper
WJH

RE: Cynthia Randall

Dear Buz:

On September 15, 1989 Dr. Randall underwent a re-excision of her primary breast site at the recommendation of Bob Goodman as well as left axillary dissection. This was performed by Dr. Hayward at the Medical College of Pennsylvania. The pathologic results from this surgery showed no residual carcinoma at the re-excision site and no tumor in twelve axillary lymph nodes. The patient has had an uneventful post operative course.

In considering whether she should receive adjuvant chemotherapy or not we viewed the presence of the T2 lesion (maximum tumor diameter on the original specimen of 3.2 cm), her negative estrogen and progesterone receptors (it is possible that her estrogen receptors were falsely negative because she had been on birth control pills) poorly differentiated lesion with high nuclear grade all indicative of a high-risk profile for node negative breast cancer. Accordingly, we have recommended to the patient and she has accepted our recommendation that she receive adjuvant chemotherapy as follows: two cycles of cytoxan and 5-fluorouracil during her radiotherapy followed by six cycles of cytoxan-methotrexate-5FU at the conclusion of radiotherapy for a total of eight cycles of treatment. We spent a lot of time discussing the potential benefits and risks of this chemotherapeutic approach with Dr. Randall and her husband and have given her the NCI booklet, "Chemotherapy and You". She is accepting of chemotherapy and this will begin in our offices on October 10, 1989. She will be seen for treatment simulation by Dr. Goodman on October 6, 1989.

One final note: she was recently seen by her gynecologist and informed that she had a Class II Pap smear. They have scheduled her for culposcopy next week and she will go ahead with this.

Thank you again for referring Dr. Randall to us. We will keep you fully informed of her progress.

With best personal regards.

Sincerely,

John H. Glick, M.D.

JHG:shs

cc: Dr. Hayward
Department of Surgery/MCP

Dr. Robert Goodman
Radiation Oncology/HUP

C-2

C-2016-2537666

9/27/16

Philip

WJ

Stephen C. Rubin, M.D.
Professor and Director
(215) 662-3326

Christina A. Bandera, M.D.
Assistant Professor
(215) 662-6044

Ivor Benjamin, M.D.
Assistant Professor
(215) 662-3316

John J. Mikuta, M.D.
Franklin Payne Professor
(215) 662-3313

Mark A. Morgan, M.D.
Associate Professor
(215) 662-6043

April 27, 1999

Stacie Weil, M.D.
Penn Health for Women
Penn Medicine at Radnor
250 King of Prussia Road
Radnor, PA 19087

DATE RECEIVED: 5-12-99
RESULTS REVIEWED: _____
5-13-99
CK TO FILE: MT

Re: **Randall, Cynthia (DOB 9/30/56)**
MRN 43689967

sent

Dear Dr. Weil:

Thank you for referring Cynthia Randall to my office for a follow up concerning persistent cervical-vaginal dysplasia. She is a 42-year-old, G0, woman who was initially seen by you for infertility evaluation. The patient has a history of breast cancer which was treated in 1988 with radiation and chemotherapy. She also has a history of bipolar disease. Her medications include Eskalith, Prozac and desipramine. She has had amenorrhea for more than one year. Her early menopause is presumably secondary to the chemotherapy in the past. You attempted one cycle of ovulation induction which was not successful.

The patient's history of dysplasia is impressive. She has a long history of extensive cervical dysplasia for which she has been treated with by cone biopsy, cryotherapy, and LEEP. She last underwent a cone biopsy in April 1998. When the dysplasia recurred, it was felt that her cervix was too small to repeat another procedure. She was therefore treated with 5-FU cream in August 1998. Now in February 1999, she again presented with CIN I-II on pap smear.

I saw her in the office and performed a colposcopy. The cervix was flush with the vagina and the cervical os was barely visualized. It was an inadequate colposcopy since the transformation zone was not clearly seen. The entire vagina and cervix appeared very friable with fine punctations. This is the typical appearance of mucosa following 5-FU treatment. I performed two random biopsies of the vaginal cuff. These biopsies revealed VIN II-III.

I presented Ms. Randall's case at our treatment planning conference. Clearly, Ms. Randall is at risk for persistent CIN and VIN. It is unclear what the malignant potential of these lesions are for Ms. Randall. A total abdominal hysterectomy would minimize the risk of cervical dysplasia. The vagina could be monitored closely for gross ulcers or plaques which might indicate an early cancer. The group also recommended that the patient begin using Premarin cream regularly in order to maximize healing in the vaginal area.

I discussed these recommendations with the patient. She was very opposed to the idea of hysterectomy because she is still hopeful that she may become pregnant.

Re: Randall, Cynthia (DOB 9/30/56)
April 27, 1999
Page 2

She does not feel ready to give up this hope. She did, however, agree to use the Premarin cream. I recommended one-quarter applicator three times a week. She will return to me for a follow up colposcopy in two to three months.

Thank you again for referring this lovely patient to my office. She has had a difficult time with persistent dysplasia of the cervix and vagina. I am hopeful that we will be able to follow her carefully and if these lesions should progress, then she could be treated before sequelae occur. Please contact me if you have any questions.

Sincerely,

Christina

Christina A. Bandera, M.D.
Assistant Professor

CAB/mac

Cc: *Ann Honeybrink gynecologist*
Dr. Honeybrink
Penn Health for Women
Penn Medicine at Radnor
250 King of Prussia Road
Radnor, PA 19087

oncologist
Steven Cohen, M.D.
933 Haverford Road
Bryn Mawr, PA 19010

psychiatrist
Marian Droba, M.D.
1 Rittenhouse Square
135 S. 18th Street, Suite 301
Philadelphia, PA 19103

surgeon
Catherine Hayward, M.D. (*treated for*
950 Haverford Road, Suite 101 *breast cancer*)
Bryn Mawr, PA 19010

Results

**PAP WITH HPV REFLEX FOR ASCUS [PAP02
(Custom)] (Order 30185184)**

Reviewed by List

BUNGO CMA, JENNIFER on Tue Nov 2, 2010 11:52 AM
HONEBRINK MD, ANN on Sat Oct 30, 2010 12:33 PM

Result Notes

Notes Recorded by Jennifer Bungo Cma on 11/2/2010 at 11:53 AM
215-482-3741 (Home)
LVM for return call

Notes Recorded by Jennifer Bungo Cma on 10/27/2010 at 11:05 AM
Busy signal @ Home again when attempted to reach pt
Work contact no longer working #

Notes Recorded by Jennifer Bungo Cma on 10/18/2010 at 3:49 PM
Busy signal times 2

Notes Recorded by Ann Honebrink, MD on 10/18/2010 at 9:26 AM
Jen-please advise pap with mild dysplasia- I have been encouraging Cynthia to have a tah/bsc for prophylaxis for ovarian cancer, advise with this I'd like ehr to see Dr. Bregman at Fox Chase- i will also try to call her but wanted to get this started, can ned her a copy of her pap report

Notes Recorded by Jennifer Bungo Cma on 9/23/2010 at 11:23 AM
Forwarded to MD

Result Information

Status
Final result (9/23/2010 9:08 AM)

Entry Date

9/23/2010

Component Results

HUP Gyn Cytology
Report Randall, Cynthia S 008821902

Gyn Cytopathology Report

Statement of Adequacy
Satisfactory for Evaluation. Transformation Zone Present.

Diagnosis
General Category:
Epithelial cell abnormality.
Interpretation:
Low grade squamous intraepithelial lesion [LSIL] with mild dysplasia/CIN 1 and human papillomavirus infection. A higher grade lesion cannot be excluded.

C-3

C-2016-2537666

9/2-1/16

Phila.

W/H

Main Line Hospitals

Bryn Mawr Hospital
Lankenau Hospital
Paoli Hospital

DISCHARGE INSTRUCTIONS

(SHARE THIS FORM WITH YOUR PRIMARY CARE PHYSICIAN)

RANDALL, CYNTHIA
DOB: 9/30/1956 Age: 49
MR#: 407501 ADM Date: 9/28/2006
Patient #: 1000694177
 CID #: 000010144867

DATE: _____

PAGE 2 OF 2

Patient I.D.

ACTIVITY	RESTRICTIONS	ACTIVITY	RESTRICTIONS
DRIVING	<input type="checkbox"/> NO RESTRICTIONS <i>No driving</i>	SEXUAL	<input checked="" type="checkbox"/> NO RESTRICTIONS
STAIRS	<input checked="" type="checkbox"/> NO RESTRICTIONS	BATHING	<input type="checkbox"/> NO RESTRICTIONS <i>showers ok, no bath</i>
WALKING	<input checked="" type="checkbox"/> NO RESTRICTIONS	WORK/SCHOOL	<input type="checkbox"/> NO RESTRICTIONS
LIFTING	<input type="checkbox"/> NO RESTRICTIONS <i>< 15 lbs</i>		

EQUIPMENT HOME HEALTH AGENCY

Medical Equipment / Assistive Devices: _____ Telephone #: _____

Home Health Agency: _____ Telephone #: _____

(Please share this copy of the Discharge Instructions with the Home Health Agency)

If a problem or question occurs after discharge, notify: _____ at _____

FOLLOW UP APPOINTMENTS:

Follow-Up appointment: Date: _____ Location: _____

Physician's Name: *McGinnis* Telephone #: *610 525 6580*

Follow-Up appointment: Date: _____ Location: _____

Physician's Name: _____ Telephone #: _____

SMOKING CESSATION:

Cigarette Smoking is The Single Greatest Preventable Cause of Illness, Disability, And Death In America Today, STOP SMOKING! To Register for SmokeFREE, Main Line Health's FREE state-approved smoking cessation program, call 1-866-CALL-MLH.

VACCINES:

Pneumonia and Flu Immunization Status:

Influenza vaccine given: Yes No Patient refused vaccine
 (Applicable only October - March) Patient previously vaccinated Year _____
 Vaccine contraindicated

Pneumococcal vaccine given: Yes No Patient refused vaccine
 Patient previously vaccinated Year _____
 Vaccine contraindicated

Instructions given to: Patient Caregiver/Name: _____
 Patient/caregiver verbalizes understanding: Yes No

UNDERSTANDING OF DISCHARGE INSTRUCTIONS: The discharge instructions on pages 1 & 2 were explained to me and/or us. All of my questions have been answered to my satisfaction. I also give the hospital permission to release necessary information to referral agencies. I have received a copy of these instructions

PHYSICIAN SIGNATURE: *[Signature]* R.N. SIGNATURE: *Marshall Stahler*

SIGNATURE OF PATIENT OR AUTHORIZED REPRESENTATIVE: *Cynthia Randall*

DATE/TIME: _____

Randall Albrecht 3

C-4
C-2016-2537666

9/27/14

Phily

wy H

Grid One Solutions, Inc.
700 Turner Way
Suite 205
Aston, PA 19014

Landis + Byr Focus AXR-5D

T2 P1
Cynthia Randall
Or Current Resident
700 Shawmont Ave
Philadelphia, PA 19128-3125

5/4/2013



Service Address:

Account: 5347701501

During the past few months you have received several letters and telephone calls from us about our meter replacement project. We are replacing the meters in your area and it is important that you contact us immediately to schedule an appointment.

When we replace our meter you will experience a brief service interruption – typically less than a minute. And, if you are home, we'll let you know before we begin working to make sure you are aware.

In the future, these new meters will help us provide more information to help you understand how you use energy, and how to save energy and money. They will also help us provide faster and more convenient service, detect problems faster and provide the platform for new products and services.

PECO is installing these meters as part of Pennsylvania state law, PA Act 129, requiring utilities state-wide to install new metering technology for customers. Customers who do not accept their new meter could face service termination.

We are committed to doing everything we can to educate customers and help them understand this new technology, its similarities to our current metering system, and its advantages. For more information please call 1-855-741-9011 or visit www.peco.com/technology.

Please call 1-855-741-9011 immediately to schedule your appointment.

Sincerely,

PECO Meter Installation Team

PUC 1800 692 7380

Grid One Solutions, Inc.
700 Turner Way
Suite 205
Aston, PA 19014

To whom it may concern,

This letter is to confirm the phone conversation I had with a representative at Grid One Solutions, Inc. this afternoon, Mon., May 13, 2013. My call was in response to a letter requesting an appointment to have a Smart Meter installed on our property by PECO. I was informed by the representative that there was a "Refusal" form available to opt out of having the Smart Meter installed, and I stated that I wished that to be submitted; that we do not want a Smart Meter. I stated that, among other reasons, my wife Cynthia Randall has had three types of cancer, and I have had two Melanomas removed from my face. The type of high-level, continual EMF radiation emitted from Smart Meters is a well known and documented cancer risk, as well as causing many other serious health problems. Our health is not negotiable.

We assume, as longtime customers in good standing, that our electric service will continue uninterrupted. Thank you for your attention to this matter.

Sincerely,

Paul Albrecht/Cynthia Randall
700 Shawmont Ave.
Phila., PA 19128-3125
PECO Account # 5347701501

cc: PECO Customer Service
cc: Mark Harris, Esq., Kraut/Harris PC

C-5

C-2016-2537666

9/27/16

Phila.

WJH

Grid One Solutions, Inc.
700 Turner Way
Suite 205
Aston, PA 19014

T2 P1
Cynthia Randall
Or Current Resident
700 Shawmont Ave
Philadelphia, PA 19128-3125

May 14, 2013



Dear Cynthia Randall:

Please accept our sincere apologies for the letter dated 5/4/13 that was sent to you in error. This letter indicated that we made previous attempts to contact you. This was not correct. We are very sorry for any inconvenience this error may have caused. The letter you should have received was to explain that we will be replacing our current meters with newer technology.

In the next two months, we will be replacing meters in your area. When we replace your meter you will experience a brief service interruption – typically less than a minute. And, if you are home, we will let you know before we begin working to make sure you are aware.

If your electric meter is located indoors, or in another location that requires you to provide us access, please contact us at 855-741-9011 to schedule an appointment. If your electric meter is already accessible, simply do nothing.

In the future, these new meters will help us provide more information to help you understand how you use energy, and how to save energy and money. They will also help us provide faster and more convenient service, detect problems faster and provide the platform for new products and services.

If you have any questions, please visit www.peco.com/technology or call 855-741-9011.

Sincerely,

PECO Meter Installation Team

C-6

C-2016-293766L

9/27/16

Philly

WJH

PECO
Customer Service Center
2301 Market Street, N4-2
P.O. Box 8699
Philadelphia, PA 19101-8699

www.peco.com

May 17, 2013

Cynthia Randall
700 Shawmont Avenue
Philadelphia, PA 19128

Dear Ms. Randall:

This will confirm your concerns you have expressed to PECO regarding having an AMI meter installed on your home.

Following overheating issues with some of our newly installed Sensus meters last year, we took unprecedented action to suspend the installation of meters to additional customers while work was completed to prevent similar situations from occurring in the future. PECO completed its own internal investigation, worked with independent experts for additional scientific analysis and testing, and aggressively worked with vendor Sensus to develop meter enhancements for their meter.

Although the enhancements – now available on this model Sensus meter – did show some improvements, PECO worked with the National Electric Energy Testing, Research & Applications Center (part of Georgia Tech), Exponent (an engineering and scientific consulting firm headquartered in California) and Underwriters Laboratory (a leading testing and certification company) for independent testing and analysis. The firms found that the L+G meter was the best solution for our customers at this time. This is the brand of meter we are currently using.

We have taken unprecedented steps to safely test our meters. We are confident in the independent, scientific testing results by NEETRAC, Exponent and UL. We will continue to test and monitor our meters to ensure they meet the highest safety standards. Safety remains our top priority and we appreciate your cooperation.

All Pennsylvania utilities are required to install new metering technology for customers as part of Pennsylvania's 2008 Act 129 or face possible service termination. We look forward to continuing to work with our customers to successfully meet this requirement.

Should you have any further questions regarding this project or any other aspect of your PECO service, please do not hesitate to contact me. I can be reached daily at (215) 841-6044.

Sincerely,

Linda Lamberson
PECO Meter Installation Team

C-7

C-2016-2537666

9/27/16

Phila

2/11

KRAUT HARRIS

Counselors at Law

MARK S. HARRIS
mharris@krautharris.com

VIST Financial Building, Suite 311
1767 Sentry Parkway West
Blue Bell, Pennsylvania 19422

Telephone 215-542-4900
Facsimile 215-542-0199

June 4, 2013

Ms. Linda Lamberson
PECO Meter Installation Team
Customer Service Center
2301 Market Street, N4-2
P. O. Box 8699
Philadelphia, PA 19101-8699

**RE: Service Address: 700 Shawmont Avenue, Philadelphia, PA 19128
Account 535347701501**

Dear Ms. Lamberson:

Please be advised that I represent Cynthia Randall and her husband, Paul Albrecht, in connection with the Smart Meter which is proposed to be installed on the above property in the near future. I have been involved with Ms. Randall and Mr. Albrecht for some time regarding this issue which is extremely important to them, particularly from a healthcare perspective.

My client received a letter from Grid One Solutions, Inc. (which is being copied on this letter) stating that the current meter on my client's property is to be replaced by a "Smart Meter." Upon receipt of this letter, my client contacted Grid One Solutions and discussed the issue with one of its representatives. This occurred on May 13, 2013. My client made it very clear that they do not want a Smart Meter installed in their property for a number of reasons, foremost Ms. Randall's history of having cancer and Mr. Albrecht having two melanomas removed all of which could be exacerbated by the EMF radiation emitted from "Smart Meters" (which are a well known documented cancer risk). The Grid One representative said she would send my client a "Refusal Form," but to date they have not received it. My client also apparently had a conversation with you regarding their concerns over having a "Smart Meter" installed at the property. Regardless of the fact that you stated that "all Pennsylvania utilities are required to install new metering technology for customers as part of Pennsylvania's 2008 Act 129 or face possible service termination," it is our position that my client has the ability to opt out of the Smart Meter installation and retain their current meter. Since my client is a customer of long standing, I find it outrageous that there would be a threat of termination if they opt out of the program. I find it hard to believe that there is any legal precedent for such action.

Act 129 requires electric distribution companies to furnish Smart Meter technology "upon request from a customer." This concept of the customer "requesting" a Smart Meter is mentioned elsewhere in the Act. It is our view that under the law the customer has the ability not to have a "Smart Meter" installed if the customer does not request it. Not only has my client not

Ms. Linda Lamberson
PECO Meter Installation Team
June 4, 2013
Page - 2 -

requested it, but my client is specifically opting out of having the Smart Meter installed. Furthermore, it is our position that my client cannot be forced to pay the cost for installing a Smart Meter regardless of how that cost is passed through to the customer.

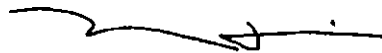
This letter is to formally advise PECO and Grid One Solutions, Inc. that my clients are denying any type of consent to PECO and Grid One Solutions, Inc. to install such a device on the above property. It is my client's position that any attempt to install such a device on the property will constitute a trespass and, therefore, prohibited by law.

I have advised my client to place a sign at the location of the current meter specifically stating that this meter is not to be replaced without the written consent of the owner of the property. The bottom line is that my clients do not intend to allow a "Smart Meter" to be placed on their property to further endanger their health.

I would be more than happy to discuss this matter with you and, if you wish to do so, you may contact me at the above number.

Very truly yours,

KRAUT HARRIS, P. C.



Mark S. Harris

MSH:jas

cc: Paul Albrecht
Cynthia Randall
Grid One Solutions, Inc.

C-8

C-2016-2537664

9/27/16

Phila

wjH

ExelonSM

Fax

**Business Services
Group**

Exelon
Legal Department, S23-1
2301 Market Street, P.O. Box 8699
Philadelphia, PA 19101

FAX: 215-568-3389

Date June 10, 2013	Number of Pages (including cover) 24
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From	Direct Dial Number
Leslie O'Neill	215 841 6853
To	215-542-0199
Mark S. Harris, Esq.	
RE:	
Cynthia Randall	
Request for Smart Meter Installation "Opt Out"	
700 Shawmont Avenue, Philadelphia, PA 19128	
Comments	

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For transmitting problems, call: Anita Zaketa at 215 841 5353

P192849



Direct Dial: 215.841.6841

June 10, 2013

VIA FACSIMILE - (215) 542-0199

Mark S. Harris, Esquire
 Kraut Harris, Counselors at Law
 VIST Financial Building, Suite 311
 1767 Sentry Parkway West
 Blue Bell, PA 19422

Re: Request for Smart Meter Installation "Opt Out"
700 Shawmont Avenue, Philadelphia, PA 19128
PECO Acct. No. 53477-01501

Dear Mr. Harris:

I am in receipt of your correspondence to PECO Energy ("PECO") through Linda Lamberson dated June 4, 2013, wherein you advise the company that your clients (Cynthia Randall and Paul Albrecht) deny consent for the installation of the "Smart Meter" at their property. In your letter, you note your clients' concerns about the smart meter and the effects they believe it may have on their health, considering they both have a history of cancer. You also mention that you do not believe PECO has the legal authority to install the meter as you believe that Act 129 suggests that smart meter installation is to be initiated at the request of the customer. I hope this letter will address some of your concerns regarding the legal authority the company has to install the meter.

*like it says
in the ACT!*

By way of background, Governor Edward Rendell signed Act 129 of 2008 into law on October 15, 2008. The Act took effect 30 days thereafter on November 14, 2008, and amended Section 2807 of the Public Utility Code. Among other things, the Act specifically directed that electric distribution companies (such as PECO) with more than 100,000 customers file smart meter technology procurement and installation plans with the Pennsylvania Public utility Commission ("Commission") for approval. Sec 66 Pa. C.S. § 2807(f). The statute does not provide customers with an option to "opt out" of smart meter installation. The statute has very specific requirements and does not, as you believe, require the utility to install the meter only "upon request from a customer."

BULLSHIT! Where are they?!



June 10, 2013
Page 2 of 2

I have enclosed two recent decisions by the Commission titled Marja Povacz v. PECO Energy, C-2012-2317176 (Jan. 24, 2013) and Theresa Gavin v. PECO Energy, C-2012-2325258 (Final Order entered, Jan. 24, 2013), which specifically addresses whether a PECO customer can "opt out" of meter installation. You will note in the Marja Povacz decision the Commission determined:

There is no provision in the Code, the Commission's Regulations or Orders that allows a PECO customer to "opt out" of smart meter installation, as the Complainant desires to do. Accordingly, unless and until House Bill 2188, *supra*, passes the General Assembly, or some other provision is put in place that specifically allows customers to opt out of smart meter installation, PECO has not violated any provision of the Code, any Commission Order or Regulation or any Commission-approved Company tariff by prohibiting the Complainant from opting out.

Additionally, in Theresa Gavin, Administrative Law Judge Kandace F. Melillo determined:

To the extent that Ms. Gavin desires the ability to "opt out" of the smart meter installation, she should advocate for such ability before the General Assembly. In the alternative, Ms. Gavin could also file a petition for rescission or amendment of the Implementation Order, *supra*, entered June 24, 2009, and the PECO Smart Meter Approval Order, *supra*, entered May 6, 2010, pursuant to Section 703(g) of the Public Utility Code, 66 Pa. C.S. §703(g). In her petition, Ms. Gavin could advocate that customers be allowed to "opt out" of smart meter installation. However, such a petition for rescission or amendment would likely be futile as the Commission has interpreted current law to require smart meter installation. The Commission cannot regulate in violation of a statute.

LIE At the present time, Ms. Randall and Mr. Albrecht's property is not scheduled for installation of the smart meter as their meter installation date has been moved. PECO expects the meter to be installed at the property sometime at the end of 2014 and the company is willing to work with you in this regard. I understand that your clients do not give PECO consent to install the meter; however, as I have detailed above, the company is required to install the meter pursuant to Act 129. There is no current legislation giving them the ability to "opt out" of the installation and the Commission has agreed. Meaning?

If you have any questions about the Marja Povacz or Theresa Gavin decisions or the installation of the smart meter, please do not hesitate to contact me directly.

Very truly yours,

Shawane L. Lee
Assistant General Counsel, Exelon BSC
Encl.

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Public Meeting held January 24, 2013

Commissioners Present:

Robert F. Powelson, Chairman
John F. Coleman, Jr., Vice Chairman
Wayne E. Gardner
James H. Cawley
Pamela A. Witmer

Maria Povacz

C-2012-2317176

v.

PECO Energy Company

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are the Exceptions filed by Maria Povacz (Complainant) on October 22, 2012, in response to the Initial Decision (I.D.) of Administrative Law Judge (ALJ) Joel H. Cheskis issued herein on October 4, 2012.¹ Also before the Commission are the Reply Exceptions filed by PECO Energy Company (PECO or the Company) on November 2, 2012. For the following reasons, we will deny the Complainant's Exceptions, adopt the ALJ's Initial Decision and dismiss the Complaint with prejudice.

¹ By Secretarial Letter of October 25, 2012, the Commission noted that the Complainant apparently had not served a copy of her Exceptions on any other Party. Accordingly, the Secretarial Letter included a copy of the Exceptions and afforded the Parties ten days from the date of the Letter in which to file Reply Exceptions, pursuant to 52 Pa. Code § 5.535.

History of the Proceedings

On July 13, 2012, the Complainant filed a Formal Complaint with the Commission against the Company in which she averred, *inter alia*, that she did not give permission for the Company to install a "smart meter."² The Complainant also requested that she be allowed to "opt out" from the smart meter installation program.

On August 22, 2012, PECO filed an Answer with New Matter to the Complaint. In its Answer, PECO denied all material allegations of fact and conclusions of law in the Complaint. In its New Matter, which was accompanied by a Notice to Plead, PECO provided extensive background regarding the advent of smart meters, including the legislation signed by Governor Rendell that directed the installation of smart meters, known as Act 129, and the Implementation Order adopted by the Commission.³ PECO concludes its New Matter by averring that there is no legal basis for the Complaint and that, accordingly, it should be dismissed.

Also on August 22, 2012, PECO filed a Preliminary Objection. The Preliminary Objection was accompanied by a Notice to Plead. In its Preliminary Objection, PECO argued that the Complaint should be dismissed because it is legally insufficient. Specifically, PECO averred that the Complaint does not allege any violation of any Order, law or tariff that can be the basis of any finding against the Company. PECO requested dismissal of the Complaint on this basis as well.

² A "smart meter" is an electric meter that records consumption of electric energy in increments of an hour or less and communicates that information at least daily back to the utility for monitoring and billing purposes.

³ *Smart Meter Procurement and Installation Implementation Order*, Docket No. M-2009-2092655 (Order entered June 24, 2009) (*Smart Meter Implementation Order*).

On August 30, 2012, the Complainant filed an Answer to PECO's Preliminary Objection in which she argued, *inter alia*, that smart meters are, by definition, surveillance devices which violate federal and state wiretapping laws. She also argued that smart meter installation is not mandatory. The Complainant concluded by requesting that the matter be presented in front of an administrative law judge.

The Complainant's Answer to PECO's New Matter was due no later than September 14, 2012. 52 Pa. Code §§ 5.63(a), 1.12(a), 1.56(a)(1) and (b). The Complainant did not file an Answer to PECO's New Matter.

ALJ Cheskis was assigned as the Presiding Officer in this matter and was made responsible for resolving any issues which may arise during the preliminary phase of this proceeding.

In his Initial Decision, issued on October 4, 2012, ALJ Cheskis recommended that: (1) the Preliminary Objection filed by PECO herein be granted; and (2) that the Complaint be dismissed with prejudice. I.D. at 10-11. Exceptions and Reply Exceptions were filed as above noted.

Discussion

Initially, we are reminded that we are not required to consider expressly or at great length each and every contention raised by a party to our proceedings. *University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984). Any exception or argument that is not specifically addressed herein shall be deemed to have been duly considered and denied without further discussion.

In his Initial Decision, ALJ Cheskis reached nineteen Findings of Fact, I.D. at 3-5, and nine Conclusions of Law, *Id.* at 9-10. We shall adopt and incorporate herein

by reference the ALJ's Findings of Fact and Conclusions of Law unless they are either expressly or by necessary implication overruled or modified by this Opinion and Order.

Legal Standards

As the proponent of a rule or order, the Complainant in this proceeding bears the burden of proof pursuant to Section 332(a) of the Public Utility Code (Code). 66 Pa. C.S. § 332(a). To establish a sufficient case and satisfy the burden of proof, the Complainant must show that the Respondent is responsible or accountable for the problem described in the Complaint. *Patterson v. The Bell Telephone Company of Pennsylvania*, 72 Pa. P.U.C. 196 (1990).

No hearing was held in this case. Instead, the ALJ recommended granting the Respondent's Preliminary Objections. The rules regarding preliminary objections are simple and specific:

§ 5.101. Preliminary objections.

(a) *Grounds.* Preliminary objections are available to parties and may be filed in response to a pleading except motions and prior preliminary objections. Preliminary objections must be accompanied by a notice to plead, must state specifically the legal and factual grounds relied upon and be limited to the following:

- (1) Lack of Commission jurisdiction or improper service of the pleading initiating the proceeding.
- (2) Failure of a pleading to conform to this chapter or the inclusion of scandalous or impertinent matter.
- (3) Insufficient specificity of a pleading.
- (4) Legal insufficiency of a pleading.

- (5) Lack of capacity to sue, nonjoinder of a necessary party or misjoinder of a cause of action.
- (6) Pendency of a prior proceeding or agreement for alternative dispute resolution.

52 Pa. Code § 5.101(a).

Commission preliminary objection practice is similar to Pennsylvania civil practice. *Equitable Small Transportation Intervenors v. Equitable Gas Company*, 1994 Pa. PUC LEXIS 69 (July 18, 1994). When considering the preliminary objection, the Commission must determine:

... whether the law says with certainty, based on well-pleaded factual averments ... that no recovery or relief is possible. *P.J.S. v. Pa. State Ethics Commission*, 669 A.2d 1105 (Pa. Cmwlth. 1996). Any doubt must be resolved in favor of the non-moving party by refusing to sustain the preliminary objections. *Boyd v. Ward*, 802 A.2d 705 (Pa. Cmwlth. 2002).

Dept. of Auditor General, et al. v. State Employees' Retirement System, et al., 836 A.2d 1053, 1064 (Pa. Cmwlth. 2003).

Additionally, in considering preliminary objections, the Commission may not rely upon the factual assertions of the moving party, but must accept as true for purposes of disposing of the motion all well pleaded, material facts of the nonmoving party, as well as every inference from those facts. *County of Allegheny v. Commonwealth of Pennsylvania*, 507 Pa. 360, 490 A.2d 402 (1985); *Commonwealth of Pennsylvania v. Bell Telephone Co. of Pa.*, 551 A.2d 602 (Pa. Cmwlth. 1988). In this case, the Commission must view the Complaint in the light most favorable to the Complainant, and should dismiss the Complaint only if it appears that the Complainant would not be

entitled to relief under any circumstances as a matter of law. *Equitable Small Transportation Intervenors, supra*. Only the facts in the Complaint and the Response to Preliminary Objections can be presumed to be true in order to determine whether recovery is possible.

ALJ's Decision

The ALJ began his analysis by citing Section 2807 of the Code, 66 Pa. C.S. § 2807, which provides, in pertinent part, as follows:

(f) Smart meter technology and time of use rates.—

* * *

(2) Electric distribution companies *shall* furnish smart meter technology as follows:

(i) Upon request from a customer that agrees to pay the cost of the smart meter at the time of the request.

(ii) In new building construction.

(iii) In accordance with a depreciation schedule not to exceed 15 years.

66 Pa. C.S. § 2807(f)(2)(emphasis added). The ALJ stated that the use of the word "shall" in the statute indicates the General Assembly's direction that all customers will receive a smart meter. *Id.* at 6-7. Furthermore, noted the ALJ, there is no provision in the statute that allows customers to "opt out" of smart meter installation, as the Complainant desires to do. *Id.* at 7.

The ALJ continued that neither the Commission's Orders implementing this provision of Act 129, nor PECO's specific implementation plan, allow customers to

“opt out” of smart meter installation. *Id.* PECO relies, in part, on the following language from the Commission’s *Smart Meter Implementation Order, supra*, to support its argument that the Complainant cannot opt out of the smart meter installation:

The Commission believes that it was the intent of the General Assembly to require all covered [Electric Distribution Companies] to deploy smart meters system-wide when it included a requirement for smart meter deployment ‘in accordance with a depreciation schedule not to exceed 15 years.’”

Preliminary Objection at 5, quoting *Smart Meter Implementation Order* at 14. PECO adds that “the Commission’s Order does not have a provision for customers to ‘opt out’ of the smart meter installation.” Preliminary Objection at 6.

Based on the above, the ALJ concluded that, even accepting as true all of the Complainant’s well pleaded material facts, and every reasonable inference from those facts, the Complaint does not demonstrate a violation of the Code, any Commission Order or Regulation, or any Commission-approved Company tariff. I.D. at 6-7. Accordingly, since the Complainant has not carried her burden of proof in this matter, the ALJ concluded PECO’s Preliminary Objection should be granted and that the Complaint should be dismissed. *Id.*

Finally, the ALJ noted that a bill has been introduced in the General Assembly that, if passed, would allow customers to opt out of smart meter installation. *See, House Bill 2188* (introduced on February 8, 2012). I.D. at 8. The ALJ reiterated that, unless and until such legislation is passed, or some other provision is put in place that specifically allows customers to opt out of smart meter installation, PECO has not violated any provision of the Code, any Commission Order or Regulation or any Commission-approved Company tariff by prohibiting the Complainant from opting out.

Id. The ALJ added that, to the extent that she desires the ability to opt out of the smart meter installation, she should advocate for such ability before the General Assembly.

Exceptions and Replies

The Complainant filed nine Exceptions to the Initial Decision. Exc. at 4-16. However, eight of those Exceptions (Exception Nos. 2-8) are public policy arguments on the subject of why the smart meter should not be installed. We further note that those policy arguments were not raised in the Complainant's Formal Complaint.

In response to those Exceptions, PECO avers that the arguments raised by the Complainant, even if true, are not pertinent to the issue of whether PECO violated the Code, any Commission Order or Regulation or Commission-approved tariff by installing a smart meter at her property. R. Exc. at 2-3.

In her Exception No. 1, the Complainant argues that the Energy Policy Act of 2005, Pub. L. No. 109-58, 119 Stat. 594 (2005), makes meter installation optional. Exc. at 4.

In response, PECO avers that the Energy Policy Act of 2005 is not controlling here. R. Exc. at 2. As correctly noted by the ALJ, continues PECO, Section 2807(f)(2) of the Code, *supra*, is the controlling statute in this case. *Id.*

Disposition

We will first address the fact that the Complainant is unrepresented in this proceeding. On review, we find that the ALJ's granting of PECO's Preliminary Objections was correct even though Maria Povacz is a *pro se* Complainant. In *Carlock v. The United Telephone Company of Pennsylvania*, Docket No. F-00163617 (Order entered July 14, 1993), we held that, in the normal course, we would not dismiss a *pro se* complaint without first providing a hearing during which the *pro se* complainant could further explain his or her position and the factual basis for the complaint. The concern was expressed that, in general, *pro se* complainants may find it difficult to navigate through pre-hearing motions and should be given the chance to orally describe their basic issue and supporting facts. There are some cases, such as this one, where we find that a hearing would not enable the Complainant to better explain his position or provide additional facts such as to alter the inevitable conclusions. In those cases, we need not direct that a hearing be held. On this basis, we distinguish *Carlock* from the case now before us.

Next, we note that Section 5.533(b) of our Regulations, 52 Pa. Code § 5.533(b), states as follows:

Each exception must . . . 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.

→ On review of Exceptions Nos. 2-8, we find they lack merit. We note that the Complainant does not allege that the ALJ made an error of law or abused his discretion in any manner. Instead, the Complainant merely objects in very general terms to the ALJ's decision because she disagrees with him. In this connection, the Complainant cites additional public policy arguments, including European Union studies related to smart

meter technology, fires and property damage, cyber security findings, and the Customer Bill of Rights. R. Exc. at 3. None of those arguments challenge the key question herein, which is whether Act 129 or any other legislation permits the Complainant to opt out of the smart meter installation. For the above reasons, Exceptions Nos. 2-8 are denied.

Additionally, we conclude that Exception No. 1 lacks merit. The Complainant avers in that Exception that the Energy Policy Act of 2005 makes smart meter installation optional. Exc. at 4. We note initially that, as noted by PECO, the Energy Policy Act of 2005 is not controlling here. R. Exc. at 2. We also note that, under that Act, the states are free to apply a stricter policy than mandated in the Act. Additionally, as noted by the ALJ, Section 2807(f)(2) of the Code, *supra*, is controlling here, and the use of the word "shall" in the statute indicates the General Assembly's direction that all customers will receive a smart meter. I.D. at 6-7. The Complainant's smart meter was installed by PECO in accordance with a plan approved by this Commission. *Petition of PECO Energy Company for Approval of Smart Meter Technology Procurement and Installation Plan*, Docket No. M-2009-2123944 (Order entered May 6, 2010). Therefore, the installation of the smart meter was consistent with, rather than a violation of, the Code, a Commission Regulation or Order.

Furthermore, there is no provision in the Code, the Commission's Regulations or Orders that allows a PECO customer to "opt out" of smart meter installation, as the Complainant desires to do. Accordingly, unless and until House Bill 2188, *supra*, passes the General Assembly, or some other provision is put in place that specifically allows customers to opt out of smart meter installation, PECO has not violated any provision of the Code, any Commission Order or Regulation or any Commission-approved Company tariff by prohibiting the Complainant from opting out. For the above reasons, Exception No. 1 is denied.

Because it's unnecessary

Conclusion

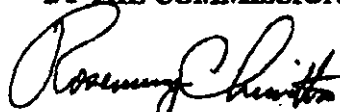
We have reviewed the record as developed in this proceeding, including the Initial Decision and the Complainant's Exceptions, as well as PECO's Reply Exceptions. Premised upon our review, we shall: (1) deny the Complainant's Exceptions; (2) adopt the ALJ's Initial Decision; and (3) dismiss the Complaint with prejudice, consistent with this Opinion and Order; **THEREFORE,**

IT IS ORDERED:

1. That the Exceptions filed by Maria Povacz on October 22, 2012, to the Initial Decision of Administrative Law Judge Joel H. Cheskis, are denied.
2. That the Initial Decision of Administrative Law Judge Joel H. Cheskis, issued on October 4, 2012, herein is adopted.
3. That the Preliminary Objections filed by PECO Energy Company at Docket No. C-2012-2317176 are granted.
4. That the Formal Complaint filed by Maria Povacz against PECO Energy Company, on July 13, 2012, at Docket No. C-2012-2317176, is dismissed with prejudice.

5. That the proceeding at Docket No. C-2012-2317176 is marked closed.

BY THE COMMISSION,



Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: January 24, 2013

ORDER ENTERED: January 24, 2013

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Theresa Gavin v. PECO Energy Company C-2012-2325258

INITIAL DECISION

Before Kandace F. Melillo Administrative Law Judge

HISTORY OF THE PROCEEDINGS

On September 13, 2012, Theresa Gavin (Ms. Gavin or Complainant) filed a Formal Complaint with the Pennsylvania Public Utility Commission (Commission) against PECO Energy Company (PECO, the Company, or Respondent). In her Complaint, Ms. Gavin alleged a reliability, safety or quality of service problem in that PECO had installed a smart meter in an adjoining house and she had suffered adverse health effects as a result. As relief, Complainant requested that she be permitted to "opt out" of the smart meter installation. She further requested that the smart meter on her neighbor's home be removed. She indicated that the neighbor had filed a Commission complaint about the meter but could not continue with her case due to language barriers and fear of losing electricity. Ms. Gavin also requested as relief that the Commission investigate problems caused by smart meters.

On or about September 25, 2012, PECO filed an Answer to the Complaint, which included exhibit attachments but did not include any New Matter.¹ In its Answer, PECO denied

¹ PECO attached a Notice to Plead which indicated that New Matter had been filed, but there was no New Matter included in its Answer, as verified by the Commission's File Room.

all material allegations of fact and conclusions of law. In further response, the Company indicated that it had installed a smart meter at the neighbor's home and had endeavored to install a smart meter at Complainant's home but she had refused. PECO asserted that it had explained the safety of smart meters and legal mandate under Act 129 to install smart meters, but Complainant adamantly refused the installation. PECO requested that the Complaint be dismissed as a matter of law. *will she be disconnected if she continues to refuse.*

Also, on or about September 25, 2012, PECO filed a Preliminary Objection to the Complaint on the grounds of legal insufficiency, pursuant to 52 Pa. Code §5.101(a)(4), with a Notice to Plead, as required by 52 Pa. Code §5.101(b). In its Preliminary Objection, PECO asserted that there were no genuine issues of fact and that it was entitled to judgment as a matter of law. It asserted that the Company's smart meter installation plan (Smart Meter Plan), which did not include an "opt out" provision, had been approved by the Commission on May 6, 2010, at Docket No. M-2009-2123944. See, Petition of PECO Energy Company for Approval of Smart Meter Technology Procurement and Installation Plan, Docket No. M-2009-2123944, Order entered May 6, 2010 (PECO Smart Meter Approval Order). It contended that the Commission had, by that date, already interpreted 66 Pa. C.S. §2807(f)(2) as requiring large electric companies to employ smart meters system-wide, and as providing no option for customers to "opt out" of this installation. See, Smart Meter Procurement and Installation, Docket No. M-2009-2092655, Order entered June 24, 2009 (Implementation Order).

PECO further argued in its Preliminary Objection that the absence of an "opt out" provision in the existing statute was underscored by the recent introduction of a bill (House Bill 2188) which would add an "opt out" provision to the law. That proposed bill had not been scheduled for a vote by the General Assembly, and the ability to "opt out" of smart meter installation was not currently permissible under the law. *Bullshit*

PECO analogized the Complaint to several other complaints filed in opposition to elimination of the Residential Heating rate and that these complaints were dismissed as a matter of law pursuant to 66 Pa. C.S. §§2801-15. The Company contended that the same result should occur in the instant case. It emphasized that Complainant had not alleged a violation of any

Commission Order, law, or tariff that could be the basis of any finding against PECO. Since the Company's smart meters were being deployed in compliance with the Smart Meter Plan, approved by the Commission, and there is no provision for Complainant to "opt out" of the installation, the Complaint should be dismissed for legal insufficiency, according to PECO.

In accordance with 52 Pa. Code §§1.56(b) and 5.101(f)(1), the time for filing an answer to the Preliminary Objection expired no later than October 9, 2012. No answer to the Preliminary Objection was filed by the Complainant. *She gave up*

PECO's Preliminary Objection was assigned to me by Motion Judge Assignment Notice dated November 16, 2012. The record closed on November 16, 2012, and this matter is now ready for a ruling. Since I am dismissing the Complaint in its entirety, this ruling will be in the form of an Initial Decision, subject to exceptions.

FINDINGS OF FACT

1. Complainant is Theresa Gavin, whose mailing address and residence is 8829 Winchester Avenue, Philadelphia, PA, 19115. Complaint, ¶1.
2. Respondent is PECO Energy Company. Complaint, ¶2.
3. Complainant receives residential electric service from Respondent and has been scheduled for a smart meter installation at her residence. Complaint, ¶4.B.
4. Complainant's adjoining neighbor at 8831 Winchester Avenue has a smart meter which Complainant believes is the cause of health problems for Complainant. Complaint, ¶¶4.B, 5.
5. Complainant is requesting that she be permitted to "opt out" of smart meter installation as she has health and safety concerns with regard to the meter. Complaint, ¶¶4.B, 5.

6. Complainant has no complaint about any other aspect of PECO's service, other than the smart meter installation. ¶¶4.B, 5.

DISCUSSION

The Commission's Rules of Administrative Practice and Procedure permit the filing of preliminary objections. 52 Pa. Code § 5.101. Commission procedure regarding the disposition of preliminary objections is similar to that utilized in Pennsylvania civil practice. Equitable Small Transportation Interveners v. Equitable Gas Company, 1994 Pa. PUC LEXIS 69.

A preliminary objection seeking dismissal of a complaint, in whole or in part, will be granted only where relief is clearly warranted and free from doubt. Interstate Traveller Services, Inc. v. Pa. Dept. of Environmental Resources, 486 Pa. 536, 406 A.2d 1020 (1979). The moving party may not rely on its own factual assertions, but must accept for the purpose of disposition of the motion, all well-pleaded material facts of the other party, as well as every inference fairly deducible from those facts. County of Allegheny v. Commonwealth of Pa., 507 Pa. 360, 490 A.2d 402 (1985). Therefore, in ruling on a preliminary objection, the Commission must assume, for decisional purposes only, that the factual allegations of the Complaint are true. Id. The motion will be granted only if the moving party prevails as a matter of law. Rok v. Flaherty, 106 Pa. Commw. 570, 527 A.2d 211 (1987). Any doubt must be resolved in favor of the non-moving party. Dept. of Auditor General, et al. v. State Employees' Retirement System, et al., 836 A.2d 1053 (Pa. Cmwith. 2003).

The grounds for preliminary objections, which are set forth in 52 Pa. Code §5.101(a), are as follows:

- (1) Lack of Commission jurisdiction or improper service of the pleading initiating the proceeding.
- (2) Failure of a pleading to conform to this chapter or the inclusion of

scandalous or impertinent matter.

- (3) Insufficient specificity of a pleading.
- (4) Legal insufficiency of a pleading.
- (5) Lack of capacity to sue, nonjoinder of a necessary party or misjoinder of a cause of action.
- (6) Pendency of a prior proceeding or agreement for alternative dispute resolution.

As noted above, PECO's Preliminary Objection is on the grounds of legal insufficiency, pursuant to 52 Pa. Code 5.101(a)(4), also known as a demurrer to the Complaint. See Pa. Rules of Civil Procedure 1028(a)(4). For purpose of its Preliminary Objection, the Company is contending that, even if all of the facts set forth in the Complaint are assumed to be true, the Complainant has failed to set forth grounds upon which relief can be granted and therefore, the Company is entitled to complaint dismissal. The Commission is permitted to dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest. 66 Pa. C.S. §703(b).

← No strategy

The sole issue in Ms. Gavin's Complaint is whether customers can "opt out" of smart meter installation. This very issue was addressed recently by Administrative Law Judge (ALJ) Cheskis in María Povacz v. PECO Energy Company, Docket No. C-2012-2317176, Initial Decision dated September 28, 2012. Exceptions were filed by the Complainant in that case and the Complaint has not yet been decided by the Commission. However, as I find ALJ Cheskis' decision to be well-written and legally sound, I am adopting much of that reasoning in this discussion.

Section 2807(f)(2) of the Public Utility Code, 66 Pa. C.S. §2807(f)(2), referenced previously, provides as follows:

(f) Smart meter technology and time of use rates.—

* * * *

(2) Electric distribution companies *shall* furnish smart meter technology as follows:

- (i) Upon request from a customer that agrees to pay the cost of the smart meter at the time of the request.
- (ii) In new building construction.
- (iii) In accordance with a depreciation schedule not to exceed 15 years.

66 Pa. C.S. §2807(f)(2)(emphasis added). The use of the word “shall” in the statute indicates the General Assembly’s direction that all customers will receive a smart meter, under the conditions set forth therein. One of the conditions is that depreciation schedules for recovery of smart meter costs not exceed 15 years.

As pointed out by PECO, the Commission in its Implementation Order, *supra*, interpreted 66 Pa. C.S. §2807(f)(2) as follows:

The Commission believes that it was the intent of the General Assembly to require all covered [Electric Distribution Companies] to deploy smart meters system-wide when it included a requirement for smart meter deployment ‘in accordance with a depreciation schedule not to exceed 15 years.’

I note also that the statute does not have a provision for customers to “opt out” of the smart meter installation. Neither the Commission’s Implementation Order nor PECO’s approved Smart Meter Plan has any “opt out” provision.

The Commission’s position that the Legislature intended for all customers to have smart meters is further supported by the introduction in the General Assembly of a bill that would allow customers to “opt out” of the smart meter installation if passed. See, House Bill 2188 (introduced on February 8, 2012). Unless and until such legislation is passed, however, or

some other provision is put in place that specifically allows customers to "opt out" of smart meter installation, PECO has not violated any provision of the Public Utility Code, any Commission Order or regulation or any Commission-approved Company tariff by prohibiting Ms. Gavin from opting out.

To the extent that Ms. Gavin desires the ability to "opt out" of the smart meter installation, she should advocate for such ability before the General Assembly. In the alternative, Ms. Gavin could also file a petition for rescission or amendment of the Implementation Order, supra, entered June 24, 2009, and the PECO Smart Meter Approval Order, supra, entered May 6, 2010, pursuant to Section 703(g) of the Public Utility Code, 66 Pa. C.S. §703(g).² In her petition, Ms. Gavin could advocate that customers be allowed to "opt out" of smart meter installation. However, such a petition for rescission or amendment would likely be futile as the Commission has interpreted current law to require smart meter installation. The Commission cannot regulate in violation of a statute.

In conclusion, as Ms. Gavin has failed to allege any violation of the Public Utility Code, Commission Order or regulation, or any Commission-approved tariff, PECO's Preliminary Objection on the grounds of legal insufficiency will be granted. Ms. Gavin's Complaint will be dismissed.

I note further that, while not addressed by PECO, the Complainant has requested relief on behalf of others as she is endeavoring to have her neighbor's smart meter removed. The Commonwealth Court in Camille "Bud" George v. Pa. P.U.C., 735 A.2d 1282 (1999), ruled that parties lack standing to request remedies on behalf of others. Complainant has also requested an investigation of smart meter safety, which the Commission can initiate at its discretion, on its own motion, at a separate docket. See, e.g., 66 Pa. C.S. §331(a).

² Section 703(g) of the Public Utility Code provides: "(g) Rescission and amendment of order.— The [C]ommission may, at any time, after notice and after opportunity to be heard as provided in this chapter, rescind or amend any order made by it. Any order rescinding or amending a prior order shall, when served upon the person, corporation, or municipal corporation affected, and after notice thereof is given to the other parties to the proceedings, have the same effect as is herein provided for original orders." 66 Pa. C.S. § 703(g).

Where there are no disputed questions of fact and the issue to be decided is purely one of law or policy, a case may be disposed of without resort to an evidentiary hearing. Dee-Dee Cab, Inc. v. Pa. P.U.C., 817 A.2d 593 (Pa. Cmwlth. 2003); Diamond Energy, Inc. v. Pa. P.U.C., 653 A.2d 1360 (Pa. Cmwlth. 1995); Lehigh Valley Power Committee v. Pa. P.U.C., 128 Pa. Commw. 276, 563 A.2d 557 (1989); see also, 66 Pa. C.S. §703(g); 52 Pa. Code §5.21(d). Since the Commission has already decided the issue in this Complaint, which is whether PECO customers can "opt out" of smart meter installation, a hearing is not necessary in the public interest.

CONCLUSIONS OF LAW

1. Commission regulations provide for the filing of preliminary objections based upon legal insufficiency. 52 Pa. Code § 5.101(a)(4).
2. The instant Complaint is legally insufficient because, even if all of the facts set forth in the Complaint are assumed to be true, the Complainant has failed to set forth grounds upon which relief can be granted and therefore, PECO is entitled to complaint dismissal. 52 Pa. Code §5.101(a)(4).
3. The ability to "opt out" of smart meter installation, which is the subject matter of the within Complaint, has been rejected by the Commission. See, Implementation Order, Docket No. M-2009-2092655, entered June 24, 2009.
4. It was the intent of the General Assembly in enacting Section 2807(f)(2) of the Public Utility Code, 66 Pa. C.S. §2807(f)(2), to require all Electric Distribution Companies included therein to deploy smart meters system-wide, based upon deployment "in accordance with a depreciation schedule not to exceed 15 years." Implementation Order, supra.
5. PECO is included within the provisions of 66 Pa. C.S. §2807(f)(2). See, 66 Pa. C.S. §2807(f).

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6. PECO's Smart Meter Plan, approved by the Commission, does not provide for opting out of smart meter installation. See, PECO Smart Meter Approval Order, Docket No. M-2009-2123944, entered May 6, 2010.

7. Where there are no disputed questions of fact and the issue to be decided is purely one of law or policy, a case may be disposed of without resort to an evidentiary hearing. Dee-Dee Cab, Inc. v. Pa. P.U.C., 817 A.2d 593 (Pa. Cmwlth. 2003); Diamond Energy, Inc. v. Pa. P.U.C., 653 A.2d 1360 (Pa. Cmwlth. 1995); Lehigh Valley Power Committee v. Pa. P.U.C., 128 Pa. Commw. 276, 563 A.2d 557 (1989); see also, 66 Pa. C.S. §703(g); 52 Pa. Code §5.21(d).

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Preliminary Objection filed by PECO Energy Company seeking dismissal of the Complaint filed by Theresa Gavin at Docket No. C-2012-2325258 is granted.
2. That the Formal Complaint filed by Theresa Gavin at Docket No. C-2012-2325258 is dismissed.
3. That this docket be marked closed.

Date: November 26, 2012

Kandace F. Melillo
Kandace F. Melillo
Administrative Law Judge

C-9

C-2016-2537666

9/27/16

~~He~~ Phil.

w/lt

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July 31, 2013

Shawane L. Lee, Esquire
Assistant General Counsel
Exelon Business Services Company
Legal Department, S23-1
2301 Market Street
P. O. Box 8699
Philadelphia, PA 19101

**RE: Service Address: 700 Shawmont Avenue, Philadelphia, PA 19128
Account 535347701501**

Dear Ms. Lee:

I am in receipt of your letter dated June 10, 2013 in response to my letter of June 4, 2013 which I sent on behalf of my clients, Paul Albrecht and Cynthia Randall, who live at the above service address. I appreciate your providing me with the background behind the SMART Meter implementation pursuant to Act 129 of 2008, which took effect on November 14, 2008. My clients understand that the Statute does not provide customers with an option to "opt-out" of SMART Meter installation." However, we disagree with your position that the Statute does not have a specific requirement whereby the customer is to affirmatively request the installation of the SMART Meter in order for the utility company to have an obligation to install it.

The Implementation Order issued by the PUC was intended to establish standards that each plan needed to meet and provide guidance on the procedures to be followed and was intended to implement Act 129. Under the heading "SMART Meter Deployment" in the Order it states clearly that "Act 129 requires EDC's to furnish SMART technology (1) upon request from a customer that agrees to pay the cost of the SMART Meter at the time of the request . . ." (emphasis added). Under the heading "Customer Request" in the PUC Implementation Order, it specifically states that ". . . each covered EDC must supply a SMART Meter upon request by a customer, per Act 129" (emphasis added)," although the PUC recognized that the customer should not have to pay "the entire cost of the SMART Meter and its supporting infrastructure" since such a requirement would be "so cost prohibitive that no customer would request a SMART Meter." These statements unequivocally express the intent of the legislature and the PUC that in order for a SMART Meter to be installed, a customer need request one.

I do not know how one can ignore the specific language in the Implementation Order that states that "upon request the utility provider would be obligated to install the Meter." As you can see, the concept of a customer making a "request" for a SMART Meter is mentioned a number of times. Therefore, if the customer elects not to request a SMART Meter, one need not be installed.

Shawane L. Lee, Esquire
July 31, 2013
Page - 2 -

Basically, this is not an opt-out provision, but rather, an "opt-in" provision that my client has declined to act upon. My client has not requested a SMART Meter and, has specifically stated that they do not want a SMART Meter attached to their property. This is in full compliance with Act 129 which, to my knowledge, has never eliminated the words "upon request" from the Act.

The cases that accompanied your letter discuss the Act from the viewpoint of an "opt-out" perspective rather than an "opt-in" perspective. Both cases deal with the issue of opting-out of the SMART Meter installation. Neither Plaintiff argued the "opt-in" component of Act 129. In fact, the Povac decision by the PUC specifically cites Section 2807 of the Code, 66 Pa. C.S. Section 2807 and quotes, in pertinent part, as follows:

(f) SMART Meter Technology and Time of Use Rates -

(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 (emphasis added).

The case goes on to discuss whether or not a customer can "opt-out" of the SMART Meter installation. However, because the issue was never raised by the Plaintiff, the PUC never deals with my clients' position which is that Act 129 creates an "opt-in" process which is only implemented if the customer so requests the installation. The Gavin case which you provided to me is no different since, once again, it only focuses on the argument that a customer can "opt-out" of the installation but not the requirement that the resident "opt-in" so as to have the SMART Meter installed. As stated in Gavin, "the sole issue in Ms. Gavin's Complaint is whether the customers can opt-out of SMART Meter installation."

Clearly, the utility is obligated to install SMART Meters on properties, but only upon the request of the customer, as per Act 129. The fact that PECO may view a customer's having not affirmatively requested a SMART Meter as a deemed request does not undermine my clients' position that they have specifically stated in writing that they are not requesting the SMART Meter.

Shawane L. Lee, Esquire
July 31, 2013
Page - 3 -

Therefore, this letter is intended to reaffirm that my client has not requested a SMART Meter be installed on the subject property and, therefore, PECO and GridOne Solutions are neither obligated to install it nor do my clients wish them to install it. The reasons for which my clients have not requested the SMART Meter be installed are not relevant. The fact is they have not requested it and that should be sufficient for the SMART Meter not to be installed.

I appreciate your further consideration of my clients' position. They maintain their right to do what is necessary to avoid having a SMART Meter installed on their property.

Very truly yours,

KRAUT HARRIS, P. C.



Mark S. Harris

MSH:jas

cc: Paul Albrect
Cynthia Randall
GridOne Solutions, Inc.

C-10

C-2016-2537666

9/27/16

Phila.

WJH

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Counselors at Law

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Blue Bell, Pennsylvania 19422

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Facsimile 215-542-0199

MARK S. HARRIS
mharris@krautharris.com

August 2, 2013

Mr. Lance Haver
Director, Mayor's Office of Consumer Affairs
Room 116, City Hall
Philadelphia, PA 19107

**RE: 700 Shawmont Avenue, Philadelphia, PA 19128
SMART Meter Installation**

Dear Mr. Haver:

Please be advised that I represent Paul Albrecht and Cynthia Randall who live at the above address. My clients have instructed me to send this letter to you in furtherance of their position that since they have not requested a SMART Meter be installed on their property, they will not be forced to have one installed. I have sent a similar letter to this one to PECO/Exelon and GridOne Solutions clearly stating that they are not obligated to install a SMART Meter on my clients' property since my clients have not requested it. The fact is, my clients have not requested a SMART Meter and that should be sufficient for the SMART Meter not to be installed.

My clients have been immersed in a dialogue with the PECO meter installation team and its in-house counsel regarding the installation of a SMART Meter on my clients' property. PECO/Exelon has taken the position that my clients are seeking to "opt-out" of the SMART Meter installation plan when there is no "opt-out" provision contained in Act 129 which took effect on November 14, 2008 and which amended Section 2807 of the Public Utility Code. Although the Act specifically directed that electric distribution companies, such as PECO, file SMART Meter technology procurement and installation plans with the Pennsylvania Public Utility Commission ("PUC") for approval, the statute does not provide customers with an option to "opt-out" of SMART Meter installation. My clients and I agree with this position that the law does not allow an "opt-out" option for a customer. However, my clients take the position that based on the precise language of both Act 129 and the Implementation Order issued by the PUC, it does create an "opt-in" process for a customer. As such, my clients have decided not to "opt-in" to the program and, therefore, a SMART Meter should not be installed on their property.

It is important to note that the Implementation Order issued by the PUC was intended to establish standards that PECO needed to meet and provided guidance on the procedures to be followed. This Order was intended to implement Act 129. Under the heading "SMART Meter Deployment" in the Order it states clearly that "Act 129 requires EDC's to furnish SMART technology (1) upon request from a customer that agrees to pay the cost of the SMART Meter at

the time of the request . . ." (emphasis added). Under the heading "Customer Request" in the PUC Implementation Order, it specifically states that ". . . each covered EDC must supply a SMART Meter upon request by a customer, per Act 129" (emphasis added)." The PUC recognized that the customer should not have to pay "the entire cost of the SMART Meter and its supporting infrastructure" since such a requirement would be "so cost prohibitive that no customer would request a SMART Meter." These statements unequivocally express the intent of the legislature and the PUC that in order for a SMART Meter to be installed, a customer need request one.

I do not know how one can ignore the specific language in the Implementation Order that states that "upon request the utility provider would be obligated to install the Meter." As anyone can see, the concept of a customer making a request is mentioned a number of times. Therefore, if the customer elects not to request a SMART Meter, one need not be installed.

Basically, this is not an opt-out provision, but rather, an "opt-in" provision that my client has declined to act upon. My client has not requested a SMART Meter and, has specifically stated that they do not want a SMART Meter attached to their property. This is in full compliance with Act 129 which, to my knowledge, has never eliminated the words "upon request" from the Act.

It is interesting to note that the attorney for PECO/Exelon provided me with two cases brought before the PUC that she claims supports their position that a SMART Meter has to be installed on my clients' property regardless of my clients' intention not to "opt-in" to the program. The problem with these two cases is that, in both, the Petitioners argued that there was an "opt-out" component to Act 129, when in fact, there is not. Neither Petitioner argued the "opt-in" component of Act 129. In fact, in the one PUC decision provided by the attorney, the PUC specifically cites Section 2807 of the Code, 66 Pa. C.S. Section 2807 and quotes, in pertinent part, as follows:

- (f) SMART Meter Technology and Time of Use Rates -

- (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 (emphasis added).

Mr. Lance Haver
August 2, 2013
Page - 3 -

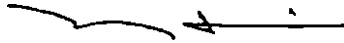
The case goes on to discuss whether or not a customer can "opt-out" of the SMART Meter installation. However, because the issue was never raised by the Plaintiff, the PUC never deals with my clients' position which is that Act 129 creates an "opt-in" process which is only implemented if the customer so requests the installation. The second PUC case provided to me also does not contradict my clients' position either since, once again, the case only focused on the argument that a customer can "opt-out" of the installation but not the requirement that the resident "opt-in" so as to have the SMART Meter installed.

My clients recognize that the public utility is obligated to install SMART Meters on properties, but only upon the request of the customer, as per Act 129. The fact that the utility company may view a customer's having not affirmatively requested a SMART Meter as a deemed request does not undermine my clients' position that they have specifically stated in writing that they are not requesting the SMART Meter.

My clients appreciate your anticipated support of their position.

Very truly yours,

KRAUT HARRIS, P. C.



Mark S. Harris

MSH:jas

cc: Paul Albrecht
Cynthia Randall

C-11

9/27/16

C-2016-2537666

Phila.

wjH

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MARK S. HARRIS
mharris@krautharris.com

August 2, 2013

Pennsylvania Office of Attorney General
Bureau of Consumer Protection
Strawberry Square, 16th Floor
Harrisburg, PA 17120

**RE: 700 Shawmont Avenue, Philadelphia, PA 19128
SMART Meter Installation**

Dear Sir/Madam:

Please be advised that I represent Paul Albrecht and Cynthia Randall who live at the above address. My clients have instructed me to send this letter to you in furtherance of their position that since they have not requested a SMART Meter be installed on their property, they will not be forced to have one installed. I have sent a similar letter to this one to PECO/Exelon and GridOne Solutions clearly stating that they are not obligated to install a SMART Meter on my clients' property since my clients have not requested it. The fact is, my clients have not requested a SMART Meter and that should be sufficient for the SMART Meter not to be installed.

My clients have been immersed in a dialogue with the PECO meter installation team and its in-house counsel regarding the installation of a SMART Meter on my clients' property. PECO/Exelon has taken the position that my clients are seeking to "opt-out" of the SMART Meter installation plan when there is no "opt-out" provision contained in Act 129 which took effect on November 14, 2008 and which amended Section 2807 of the Public Utility Code. Although the Act specifically directed that electric distribution companies, such as PECO, file SMART Meter technology procurement and installation plans with the Pennsylvania Public Utility Commission ("PUC") for approval, the statute does not provide customers with an option to "opt-out" of SMART Meter installation. My clients and I agree with this position that the law does not allow an "opt-out" option for a customer. However, my clients take the position that based on the precise language of both Act 129 and the Implementation Order issued by the PUC, it does create an "opt-in" process for a customer. As such, my clients have decided not to "opt-in" to the program and, therefore, a SMART Meter should not be installed on their property.

It is important to note that the Implementation Order issued by the PUC was intended to establish standards that PECO needed to meet and provided guidance on the procedures to be followed. This Order was intended to implement Act 129. Under the heading "SMART Meter Deployment" in the Order it states clearly that "Act 129 requires EDC's to furnish SMART Pennsylvania Public Utility Commission

technology (1) upon request from a customer that agrees to pay the cost of the SMART Meter at the time of the request . . ." (emphasis added). Under the heading "Customer Request" in the PUC Implementation Order, it specifically states that ". . . each covered EDC must supply a SMART Meter upon request by a customer, per Act 129" (emphasis added)." The PUC recognized that the customer should not have to pay "the entire cost of the SMART Meter and its supporting infrastructure" since such a requirement would be "so cost prohibitive that no customer would request a SMART Meter." These statements unequivocally express the intent of the legislature and the PUC that in order for a SMART Meter to be installed, a customer need request one.

I do not know how one can ignore the specific language in the Implementation Order that states that "upon request the utility provider would be obligated to install the Meter." As anyone can see, the concept of a customer making a request is mentioned a number of times. Therefore, if the customer elects not to request a SMART Meter, one need not be installed.

Basically, this is not an opt-out provision, but rather, an "opt-in" provision that my client has declined to act upon. My client has not requested a SMART Meter and, has specifically stated that they do not want a SMART Meter attached to their property. This is in full compliance with Act 129 which, to my knowledge, has never eliminated the words "upon request" from the Act.

It is interesting to note that the attorney for PECO/Exelon provided me with two cases brought before the PUC that she claims supports their position that a SMART Meter has to be installed on my clients' property regardless of my clients' intention not to "opt-in" to the program. The problem with these two cases is that, in both, the Petitioners argued that there was an "opt-out" component to Act 129, when in fact, there is not. Neither Petitioner argued the "opt-in" component of Act 129. In fact, in the one PUC decision provided by the attorney, the PUC specifically cites Section 2807 of the Code, 66 Pa. C.S. Section 2807 and quotes, in pertinent part, as follows:

(f) SMART Meter Technology and Time of Use Rates -

(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 (emphasis added).

Pennsylvania Office of Attorney General
Bureau of Consumer Protection
August 2, 2013
Page - 3 -

The case goes on to discuss whether or not a customer can “opt-out” of the SMART Meter installation. However, because the issue was never raised by the Plaintiff, the PUC never deals with my clients’ position which is that Act 129 creates an “opt-in” process which is only implemented if the customer so requests the installation. The second PUC case provided to me also does not contradict my clients’ position either since, once again, the case only focused on the argument that a customer can “opt-out” of the installation but not the requirement that the resident “opt-in” so as to have the SMART Meter installed.

My clients recognize that the public utility is obligated to install SMART Meters on properties, but only upon the request of the customer, as per Act 129. The fact that the utility company may view a customer’s having not affirmatively requested a SMART Meter as a deemed request does not undermine my clients’ position that they have specifically stated in writing that they are not requesting the SMART Meter.

My clients appreciate your anticipated support of their position.

Very truly yours,

KRAUT HARRIS, P. C.



Mark S. Harris

MSH:jas

cc: Paul Albrecht
Cynthia Randall

C-12

C-2016-2537066

9/27/16

Philly

WJH

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MARK S. HARRIS
mharris@krautharris.com

August 2, 2013

Pennsylvania Public Utility Commission
Bureau of Consumer Services
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

**RE: 700 Shawmont Avenue, Philadelphia, PA 19128
SMART Meter Installation**

Dear Sir/Madam:

Please be advised that I represent Paul Albrecht and Cynthia Randall who live at the above address. My clients have instructed me to send this letter to you in furtherance of their position that since they have not requested a SMART Meter be installed on their property, they will not be forced to have one installed. I have sent a similar letter to this one to PECO/Exelon and GridOne Solutions clearly stating that they are not obligated to install a SMART Meter on my clients' property since my clients have not requested it. The fact is, my clients have not requested a SMART Meter and that should be sufficient for the SMART Meter not to be installed.

My clients have been immersed in a dialogue with the PECO meter installation team and its in-house counsel regarding the installation of a SMART Meter on my clients' property. PECO/Exelon has taken the position that my clients are seeking to "opt-out" of the SMART Meter installation plan when there is no "opt-out" provision contained in Act 129 which took effect on November 14, 2008 and which amended Section 2807 of the Public Utility Code. Although the Act specifically directed that electric distribution companies, such as PECO, file SMART Meter technology procurement and installation plans with the Pennsylvania Public Utility Commission ("PUC") for approval, the statute does not provide customers with an option to "opt-out" of SMART Meter installation. My clients and I agree with this position that the law does not allow an "opt-out" option for a customer. However, my clients take the position that based on the precise language of both Act 129 and the Implementation Order issued by the PUC, it does create an "opt-in" process for a customer. As such, my clients have decided not to "opt-in" to the program and, therefore, a SMART Meter should not be installed on their property.

It is important to note that the Implementation Order issued by the PUC was intended to establish standards that PECO needed to meet and provided guidance on the procedures to be followed. This Order was intended to implement Act 129. Under the heading "SMART Meter Deployment" in the Order it states clearly that "Act 129 requires EDC's to furnish SMART

technology (1) upon request from a customer that agrees to pay the cost of the SMART Meter at the time of the request . . ." (emphasis added). Under the heading "Customer Request" in the PUC Implementation Order, it specifically states that ". . . each covered EDC must supply a SMART Meter upon request by a customer, per Act 129" (emphasis added)." The PUC recognized that the customer should not have to pay "the entire cost of the SMART Meter and its supporting infrastructure" since such a requirement would be "so cost prohibitive that no customer would request a SMART Meter." These statements unequivocally express the intent of the legislature and the PUC that in order for a SMART Meter to be installed, a customer need request one.

I do not know how one can ignore the specific language in the Implementation Order that states that "upon request the utility provider would be obligated to install the Meter." As anyone can see, the concept of a customer making a request is mentioned a number of times. Therefore, if the customer elects not to request a SMART Meter, one need not be installed.

Basically, this is not an opt-out provision, but rather, an "opt-in" provision that my client has declined to act upon. My client has not requested a SMART Meter and, has specifically stated that they do not want a SMART Meter attached to their property. This is in full compliance with Act 129 which, to my knowledge, has never eliminated the words "upon request" from the Act.

It is interesting to note that the attorney for PECO/Exelon provided me with two cases brought before the PUC that she claims supports their position that a SMART Meter has to be installed on my clients' property regardless of my clients' intention not to "opt-in" to the program. The problem with these two cases is that, in both, the Petitioners argued that there was an "opt-out" component to Act 129, when in fact, there is not. Neither Petitioner argued the "opt-in" component of Act 129. In fact, in the one PUC decision provided by the attorney, the PUC specifically cites Section 2807 of the Code, 66 Pa. C.S. Section 2807 and quotes, in pertinent part, as follows:

- (f) SMART Meter Technology and Time of Use Rates -

- (2) electric distribution companies shall furnish SMART Meter technology as follows:
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Pennsylvania Public Utility Commission
Bureau of Consumer Services
August 2, 2013
Page - 3 -

The case goes on to discuss whether or not a customer can "opt-out" of the SMART Meter installation. However, because the issue was never raised by the Plaintiff, the PUC never deals with my clients' position which is that Act 129 creates an "opt-in" process which is only implemented if the customer so requests the installation. The second PUC case provided to me also does not contradict my clients' position either since, once again, the case only focused on the argument that a customer can "opt-out" of the installation but not the requirement that the resident "opt-in" so as to have the SMART Meter installed.

My clients recognize that the public utility is obligated to install SMART Meters on properties, but only upon the request of the customer, as per Act 129. The fact that the utility company may view a customer's having not affirmatively requested a SMART Meter as a deemed request does not undermine my clients' position that they have specifically stated in writing that they are not requesting the SMART Meter.

My clients appreciate your anticipated support of their position.

Very truly yours,

KRAUT HARRIS, P. C.



Mark S. Harris

MSH:jas

cc: Paul Albrecht
Cynthia Randall

C-13

C-2016-2537666

9/27/16

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MARK S. HARRIS
mharris@krautharris.com

August 2, 2013

Pennsylvania State Representative Cherele Parker
101 Orvis Office Building
P. O. Box 202200
Harrisburg, PA 17120-2200

**RE: 700 Shawmont Avenue, Philadelphia, PA 19128
SMART Meter Installation**

Dear Representative Parker:

Please be advised that I represent Paul Albrecht and Cynthia Randall who live at the above address. My clients have instructed me to send this letter to you in furtherance of their position that since they have not requested a SMART Meter be installed on their property, they will not be forced to have one installed. I have sent a similar letter to this one to PECO/Exelon and GridOne Solutions clearly stating that they are not obligated to install a SMART Meter on my clients' property since my clients have not requested it. The fact is, my clients have not requested a SMART Meter and that should be sufficient for the SMART Meter not to be installed.

My clients have been immersed in a dialogue with the PECO meter installation team and its in-house counsel regarding the installation of a SMART Meter on my clients' property. PECO/Exelon has taken the position that my clients are seeking to "opt-out" of the SMART Meter installation plan when there is no "opt-out" provision contained in Act 129 which took effect on November 14, 2008 and which amended Section 2807 of the Public Utility Code. Although the Act specifically directed that electric distribution companies, such as PECO, file SMART Meter technology procurement and installation plans with the Pennsylvania Public Utility Commission ("PUC") for approval, the statute does not provide customers with an option to "opt-out" of SMART Meter installation. My clients and I agree with this position that the law does not allow an "opt-out" option for a customer. However, my clients take the position that based on the precise language of both Act 129 and the Implementation Order issued by the PUC, it does create an "opt-in" process for a customer. As such, my clients have decided not to "opt-in" to the program and, therefore, a SMART Meter should not be installed on their property.

It is important to note that the Implementation Order issued by the PUC was intended to establish standards that PECO needed to meet and provided guidance on the procedures to be followed. This Order was intended to implement Act 129. Under the heading "SMART Meter Deployment" in the Order it states clearly that "Act 129 requires EDC's to furnish SMART Pennsylvania Public Utility Commission

technology (1) upon request from a customer that agrees to pay the cost of the SMART Meter at the time of the request . . ." (emphasis added). Under the heading "Customer Request" in the PUC Implementation Order, it specifically states that ". . . each covered EDC must supply a SMART Meter upon request by a customer, per Act 129" (emphasis added)." The PUC recognized that the customer should not have to pay "the entire cost of the SMART Meter and its supporting infrastructure" since such a requirement would be "so cost prohibitive that no customer would request a SMART Meter." These statements unequivocally express the intent of the legislature and the PUC that in order for a SMART Meter to be installed, a customer need request one.

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Basically, this is not an opt-out provision, but rather, an "opt-in" provision that my client has declined to act upon. My client has not requested a SMART Meter and, has specifically stated that they do not want a SMART Meter attached to their property. This is in full compliance with Act 129 which, to my knowledge, has never eliminated the words "upon request" from the Act.

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(f) SMART Meter Technology and Time of Use Rates -

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Pennsylvania State Representative Cherele Parker
August 2, 2013
Page - 3 -

The case goes on to discuss whether or not a customer can “opt-out” of the SMART Meter installation. However, because the issue was never raised by the Plaintiff, the PUC never deals with my clients’ position which is that Act 129 creates an “opt-in” process which is only implemented if the customer so requests the installation. The second PUC case provided to me also does not contradict my clients’ position either since, once again, the case only focused on the argument that a customer can “opt-out” of the installation but not the requirement that the resident “opt-in” so as to have the SMART Meter installed.

My clients recognize that the public utility is obligated to install SMART Meters on properties, but only upon the request of the customer, as per Act 129. The fact that the utility company may view a customer’s having not affirmatively requested a SMART Meter as a deemed request does not undermine my clients’ position that they have specifically stated in writing that they are not requesting the SMART Meter.

My clients appreciate your anticipated support of their position.

Very truly yours,

KRAUT HARRIS, P. C.



Mark S. Harris

MSH:jas

cc: Paul Albrecht
Cynthia Randall

C-14
C-2016-2537666
9/27/16
Phila.
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MARK S. HARRIS
mharris@krautharris.com

August 2, 2013

Pennsylvania State Senator Shirley Kitchen
463 Main Capital Building
Harrisburg, PA 17120

**RE: 700 Shawmont Avenue, Philadelphia, PA 19128
SMART Meter Installation**

Dear Senator Kitchen:

Please be advised that I represent Paul Albrecht and Cynthia Randall who live at the above address. My clients have instructed me to send this letter to you in furtherance of their position that since they have not requested a SMART Meter be installed on their property, they will not be forced to have one installed. I have sent a similar letter to this one to PECO/Exelon and GridOne Solutions clearly stating that they are not obligated to install a SMART Meter on my clients' property since my clients have not requested it. The fact is, my clients have not requested a SMART Meter and that should be sufficient for the SMART Meter not to be installed.

My clients have been immersed in a dialogue with the PECO meter installation team and its in-house counsel regarding the installation of a SMART Meter on my clients' property. PECO/Exelon has taken the position that my clients are seeking to "opt-out" of the SMART Meter installation plan when there is no "opt-out" provision contained in Act 129 which took effect on November 14, 2008 and which amended Section 2807 of the Public Utility Code. Although the Act specifically directed that electric distribution companies, such as PECO, file SMART Meter technology procurement and installation plans with the Pennsylvania Public Utility Commission ("PUC") for approval, the statute does not provide customers with an option to "opt-out" of SMART Meter installation. My clients and I agree with this position that the law does not allow an "opt-out" option for a customer. However, my clients take the position that based on the precise language of both Act 129 and the Implementation Order issued by the PUC, it does create an "opt-in" process for a customer. As such, my clients have decided not to "opt-in" to the program and, therefore, a SMART Meter should not be installed on their property.

It is important to note that the Implementation Order issued by the PUC was intended to establish standards that PECO needed to meet and provided guidance on the procedures to be followed. This Order was intended to implement Act 129. Under the heading "SMART Meter Deployment" in the Order it states clearly that "Act 129 requires EDC's to furnish SMART technology (1) upon request from a customer that agrees to pay the cost of the SMART Meter at the time of the request . . ." (emphasis added). Under the heading "Customer Request" in the

PUC Implementation Order, it specifically states that “. . . each covered EDC must supply a SMART Meter upon request by a customer, per Act 129” (emphasis added).” The PUC recognized that the customer should not have to pay “the entire cost of the SMART Meter and its supporting infrastructure” since such a requirement would be “so cost prohibitive that no customer would request a SMART Meter.” These statements unequivocally express the intent of the legislature and the PUC that in order for a SMART Meter to be installed, a customer need request one.

I do not know how one can ignore the specific language in the Implementation Order that states that “upon request the utility provider would be obligated to install the Meter.” As anyone can see, the concept of a customer making a request is mentioned a number of times. Therefore, if the customer elects not to request a SMART Meter, one need not be installed.

Basically, this is not an opt-out provision, but rather, an “opt-in” provision that my client has declined to act upon. My client has not requested a SMART Meter and, has specifically stated that they do not want a SMART Meter attached to their property. This is in full compliance with Act 129 which, to my knowledge, has never eliminated the words “upon request” from the Act.

It is interesting to note that the attorney for PECO/Exelon provided me with two cases brought before the PUC that she claims supports their position that a SMART Meter has to be installed on my clients’ property regardless of my clients’ intention not to “opt-in” to the program. The problem with these two cases is that, in both, the Petitioners argued that there was an “opt-out” component to Act 129, when in fact, there is not. Neither Petitioner argued the “opt-in” component of Act 129. In fact, in the one PUC decision provided by the attorney, the PUC specifically cites Section 2807 of the Code, 66 Pa. C.S. Section 2807 and quotes, in pertinent part, as follows:

(f) SMART Meter Technology and Time of Use Rates -

(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 (emphasis added).

Pennsylvania State Senator Shirley Kitchen

August 2, 2013

Page - 3 -

The case goes on to discuss whether or not a customer can "opt-out" of the SMART Meter installation. However, because the issue was never raised by the Plaintiff, the PUC never deals with my clients' position which is that Act 129 creates an "opt-in" process which is only implemented if the customer so requests the installation. The second PUC case provided to me also does not contradict my clients' position either since, once again, the case only focused on the argument that a customer can "opt-out" of the installation but not the requirement that the resident "opt-in" so as to have the SMART Meter installed.

My clients recognize that the public utility is obligated to install SMART Meters on properties, but only upon the request of the customer, as per Act 129. The fact that the utility company may view a customer's having not affirmatively requested a SMART Meter as a deemed request does not undermine my clients' position that they have specifically stated in writing that they are not requesting the SMART Meter.

My clients appreciate your anticipated support of their position.

Very truly yours,

KRAUT HARRIS, P. C.



Mark S. Harris

MSH:jas

cc: Paul Albrecht
Cynthia Randall

C-15

C-2016-2537 666

9/27/16

Philly

WJH



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY
PLEASE REFER
TO OUR FILE

8/12/2013

BCS: 3135059 inquiry

KRAUT HARRIS
VIST FINANCIAL BUILDING SUITE 311
1767 SENTRY PARKWAY WEST
BLUE BELL PA 19422

Dear Mr. Harris

Ref Paul Albrecht and Cynthia Randall:

We have received your letter about the SMART meter, Act 129 and PECO's interpretation of the law. The most appropriate way to address the op-in provision would be through a formal complaint. The forms are available through our website at www.puc.state.pa.us. If you wish to have them mailed to you, you may contact me at 717-705-6903 or 1-800-692-7380.

Sincerely,

Linda Scott-McKillop
Utility Complaint Investigator
Bureau of Consumer Services
Public Utility Commission

AUG 16 2013
Randall Albrecht 15

C-16

C-2016-2537666

9/27/16

Phil
WJH

KRAUT HARRIS

Counselors at Law

VIST Financial Building, Suite 311
1767 Sentry Parkway West
Blue Bell, Pennsylvania 19422

Telephone 215-542-4900
Facsimile 215-542-0199

MARK S. HARRIS
mharris@krautharris.com

August 20, 2013

Mr. Curtis Jones
Philadelphia City Council
City Hall, Room 404
Philadelphia, PA 19120

**RE: 700 Shawmont Avenue, Philadelphia, PA 19128
SMART Meter Installation**

Dear Sir/Madam:

Please be advised that I represent Paul Albrecht and Cynthia Randall who live at the above address. My clients have instructed me to send this letter to you in furtherance of their position that since they have not requested a SMART Meter be installed on their property, they will not be forced to have one installed. I have sent a similar letter to this one to PECO/Exelon and GridOne Solutions clearly stating that they are not obligated to install a SMART Meter on my clients' property since my clients have not requested it. The fact is, my clients have not requested a SMART Meter and that should be sufficient for the SMART Meter not to be installed.

My clients have been immersed in a dialogue with the PECO meter installation team and its in-house counsel regarding the installation of a SMART Meter on my clients' property. PECO/Exelon has taken the position that my clients are seeking to "opt-out" of the SMART Meter installation plan when there is no "opt-out" provision contained in Act 129 which took effect on November 14, 2008 and which amended Section 2807 of the Public Utility Code. Although the Act specifically directed that electric distribution companies, such as PECO, file SMART Meter technology procurement and installation plans with the Pennsylvania Public Utility Commission ("PUC") for approval, the statute does not provide customers with an option to "opt-out" of SMART Meter installation. My clients and I agree with this position that the law does not allow an "opt-out" option for a customer. However, my clients take the position that based on the precise language of both Act 129 and the Implementation Order issued by the PUC, it does create an "opt-in" process for a customer. As such, my clients have decided not to "opt-in" to the program and, therefore, a SMART Meter should not be installed on their property.

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Mr. Curtis Jones
Philadelphia City Council
August 20, 2013
Page - 2 -

technology (1) upon request from a customer that agrees to pay the cost of the SMART Meter at the time of the request . . ." (emphasis added). Under the heading "Customer Request" in the PUC Implementation Order, it specifically states that ". . . each covered EDC must supply a SMART Meter upon request by a customer, per Act 129" (emphasis added)." The PUC recognized that the customer should not have to pay "the entire cost of the SMART Meter and its supporting infrastructure" since such a requirement would be "so cost prohibitive that no customer would request a SMART Meter." These statements unequivocally express the intent of the legislature and the PUC that in order for a SMART Meter to be installed, a customer need request one.

I do not know how one can ignore the specific language in the Implementation Order that states that "upon request the utility provider would be obligated to install the Meter." As anyone can see, the concept of a customer making a request is mentioned a number of times. Therefore, if the customer elects not to request a SMART Meter, one need not be installed.

Basically, this is not an opt-out provision, but rather, an "opt-in" provision that my client has declined to act upon. My client has not requested a SMART Meter and, has specifically stated that they do not want a SMART Meter attached to their property. This is in full compliance with Act 129 which, to my knowledge, has never eliminated the words "upon request" from the Act.

It is interesting to note that the attorney for PECO/Exelon provided me with two cases brought before the PUC that she claims supports their position that a SMART Meter has to be installed on my clients' property regardless of my clients' intention not to "opt-in" to the program. The problem with these two cases is that, in both, the Petitioners argued that there was an "opt-out" component to Act 129, when in fact, there is not. Neither Petitioner argued the "opt-in" component of Act 129. In fact, in the one PUC decision provided by the attorney, the PUC specifically cites Section 2807 of the Code, 66 Pa. C.S. Section 2807 and quotes, in pertinent part, as follows:

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(2) electric distribution companies shall furnish SMART Meter technology as follows:

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Mr. Curtis Jones
Philadelphia City Council
August 20, 2013
Page - 3 -

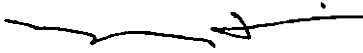
The case goes on to discuss whether or not a customer can “opt-out” of the SMART Meter installation. However, because the issue was never raised by the Plaintiff, the PUC never deals with my clients’ position which is that Act 129 creates an “opt-in” process which is only implemented if the customer so requests the installation. The second PUC case provided to me also does not contradict my clients’ position either since, once again, the case only focused on the argument that a customer can “opt-out” of the installation but not the requirement that the resident “opt-in” so as to have the SMART Meter installed.

My clients recognize that the public utility is obligated to install SMART Meters on properties, but only upon the request of the customer, as per Act 129. The fact that the utility company may view a customer’s having not affirmatively requested a SMART Meter as a deemed request does not undermine my clients’ position that they have specifically stated in writing that they are not requesting the SMART Meter.

My clients appreciate your anticipated support of their position.

Very truly yours,

KRAUT HARRIS, P. C.



Mark S. Harris

MSH:jas

cc: Paul Albrecht
Cynthia Randall

C-17

C-2016-2537666

9/27/16

Phil

WJH



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

BUREAU OF CONSUMER PROTECTION
Harrisburg Office
15th Floor, Strawberry Square
Harrisburg, Pennsylvania 17120
(717) 787-9707
September 4, 2013

Mark S. Harris
Kraut Harris, PC
VIST Financial Building, Suite 311
1767 Sentry Parkway West
Blue Bell, PA 19422

Re: PECO Energy
BCP-13-05-023342

Dear Mr. Harris :

Your complaint regarding the above referenced matter has been reviewed and appears to come within the primary jurisdiction of another agency or another state. By copy of this letter, your complaint has been forwarded with a request that it be handled by the office listed below. By forwarding your complaint, we believe the issues you raise will be addressed by the agency primarily responsible for dealing with these types of problems.

Please direct any further inquiries about this matter to that office. If you would like more information on this referral, please feel free to contact our office.

A copy of your complaint will remain on file for our future reference. On behalf of the Office of Attorney General, thank you for bringing this matter to our attention.

Very truly yours,

Richard A. Lebo
Agent Supervisor

sjw
23

cc: Office of Consumer Advocate
555 Walnut Street, 5th Floor Forum Place
Harrisburg, PA 17101-1923

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Randall Albrecht 17

C-8

C-2016-2537666

9/27/16

Phil

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An Exelon Company

01/21/2016

CYNTHIA RANDALL
700 SHAWMONT AVE
PHILADELPHIA PA 19128

DEAR MS RANDALL

At PECO we put our energy into keeping the lights on and gas flowing, and helping customers save energy and money. As part of these efforts, we are working to upgrade our electric and natural gas meters with newer technology.

Based on our previous conversation, the installation of our new meter at your property was postponed. During the past three years more than 1,700,000 new electric meters have been installed at customer homes and businesses across the area. These new meters provide more information to help customers make informed decisions about their energy use and identify opportunities to save energy and money. In addition, this technology has significantly enhanced our storm restoration efforts and enabled us to provide faster and more convenient service to our customers.

These meters are being installed as part of Pennsylvania state law, PA Act 129, requiring utilities state-wide to install new metering technology for customers. We are scheduled to complete our project by April, 2016.

When complete, we also will fully transition to an upgraded communications network. At that time, *our current meter on your property will no longer be able to communicate with our network.* This will impact our ability to provide you reliable service and accurate billing. We are contacting you today to inform you that we plan to install a new meter at your property. Please call 1-215-841-5950 as soon as possible to schedule an appointment.

If you have any questions please visit www.peco.com/technology.

Sincerely,

Brenda Eison,
Manager, Customer Care

C-19

C-2016-2537666

9/27/16

Philly

w/h

KRAUT HARRIS

Counselors at Law

March 3, 2016

5 Valley Square, Suite 120
Blue Bell, Pennsylvania 19422

Telephone 215-542-4900
Facsimile 215-542-0199

MARK S. HARRIS
mharris@krautharris.com

Via Certified Mail
Return Receipt Requested
And U. S. First Class Mail

PECO Meter Installation Team
Attention: Brenda Eison, Manager, Customer Care
Customer Service Center
2301 Market Street, N4-2
P. O. Box 8699
Philadelphia, PA 19101-8699

**RE: Service Address: 700 Shawmont Avenue, Philadelphia, PA 19128
Account Number: 5347701501**

Dear Ms. Eison:

Please be advised that I represent Cynthia Randall and Paul Albrecht (her husband), the owners of the above-mentioned property. On January 21, 2016, my clients received a letter from your office advising them that their analog meter on the subject property is to be replaced by a "Smart Meter" sometime in April, 2016. This letter is to formally advise you that my clients object to the replacement of the analog meter with the "Smart Meter" for health and other reasons and refuse to have it installed.

By a letter dated July 31, 2013 to Shawane L. Lee, Esquire, Assistant General Counsel for Excelon, I informed her that my clients objected to the installation of a "Smart Meter" on their property. I also sent a letter on June 4, 2013 to Ms. Linda Lamberson, PECO Meter Installation Team, advising her of my representation and my client's insistence that a "Smart Meter" not be installed on their property. As I indicated in that letter to Ms. Lamberson, the health of my clients would be seriously compromised by the EMF radiation emitted from the "Smart Meter" due to Ms. Randall's history of having cancer and Mr. Albrecht having had two melanomas removed. My clients pay their bills promptly and see no reason to have their health placed at risk by the installation of the "Smart Meter." My clients reiterate their objection to install a "Smart Meter" on the property in view of the health risk that it presents to both of them.

In furtherance of their objection to have this meter placed on their property, I note that numerous cases are currently in front of various Administrative Law Judges in which the claimants are objecting to the placement of "Smart Meters" on their respective properties based on health reasons. Notably, in an Opinion and Order of the Pennsylvania Public Utility Commission dated January 20, 2016 in the matter of Susan Kreider v. PECO Energy Company, the PUC specifically ordered the Administrative Law Judge in that case to hear medical evidence in furtherance of Ms. Kreider's claim that a "Smart Meter" will exacerbate her health condition,

PECO Meter Installation Team
Attention: Brenda Eison, Manager, Customer Care
March 3, 2016
Page - 2 -

not unlike the situation involving my clients. This is not the only case in front of an Administrative Law Judge where medical evidence will be provided to support a claimant's position that a "Smart Meter" will increase the health risk to that particular claimant.

Furthermore, please be advised that, following in the footsteps of Ms. Kreider, Ms. Laura Murphy and others, my clients are also in the process of filing a Formal Complaint against PECO through separate legal counsel to formally press their case against the installation of a "Smart Meter" on their property. As in Ms. Kreider's and Ms. Murphy's case, my client will allege that they will suffer specific "deleterious health symptoms" related to the "Smart Meter" if it is installed at their house.

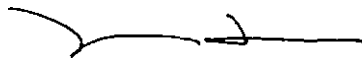
Therefore, this letter is to formally demand, on behalf of my clients, that a "Smart Meter" not be installed pending the outcome of both the Kreider and Murphy case and my clients' own case against PECO. If PECO attempts to install the "Smart Meter," my client will not permit the PECO service person on their premises. We understand that other individuals in their situation have been threatened by PECO that their electric service will be terminated. Such a threat is outrageous since PECO should neither install the "Smart Meter" nor terminate my client's electric service prior to a determination by an Administrative Law Judge, and possibly the Superior Court of Pennsylvania, on whether or not forcing individuals who are susceptible to EMF emissions by installing a "Smart Meter" constitutes unsafe and unreasonable service in violation of Section 1501 of the Public Utility Code.

I trust there will be no further reason to address this issue with PECO until such time as a final decision has been rendered in connection with my clients' Formal Complaint.

Thank you for your anticipated cooperation.

Very truly yours,

KRAUT HARRIS, P. C.



Mark S. Harris

MSH:jas

cc: Excelon Business Services Company
Attention: Shawane Lee, Assistant General Counsel
Cynthia Randall
Paul Albrecht

C-20

C-2016-2537666

9/27/16

Phil

WJH



March 21, 2016

Attn: MARK S. HARRIS
5 VALLEY SQUARE, SUITE 120
BLUE BELL, PENNSYLVANIA PA 19422

On behalf of:
CYNTHIA RANDALL & PAUL ALBREICHT
700 SHAWMONT AVE
PHILADELPHIA PA 19128
Acct#: 53477-01501

Dear Mr. Mark,

This letter is to inform you that we have received your letter regarding the health concerns of your clients, about installing the AMI Electric Meter in their house at: 700 SHAWMONT AVE PHILADELPHIA PA 19128.

Accordingly, I want to provide you with some additional information that I think you will find helpful about the technology that PECO is using for its system upgrades.

The upgraded meters we are installing are known as Advanced Metering Infrastructure (AMI), and are based on similar technology to that which PECO currently uses. All upgraded equipment, just like our existing AMR system, meets Federal Communications Commission (FCC) requirements.

Essentially, the difference between the AMR (existing) and AMI (upgraded) technologies is their ability to provide additional information to customers about how they use energy. This additional information is captured through the technology in the new meter and will be provided to customers through a Web-based application. The AMI meters that PECO is installing also contain a device that will allow the meters to communicate with compatible, customer-purchased devices in the future. Currently, these functions are not enabled, but they may be at a future date. Again, the AMI meters and these functions communicate in the same way as the meters currently in use, with lower cumulative radio frequency (RF) emissions. Cumulative RF volumes, including the typical distance and duration of transmissions of the AMI meter technology that we've selected for this project, are not just lower than that of many other household devices including a cell phone, but in fact are several orders of magnitude - more than 500 times - lower (0.19 milliwatts per square centimeter for a cellular phone versus 0.00037 milliwatts per square centimeter for an AMI meter). Also, unlike the cell phone which is most often held up to the ear, or a microwave oven which is most often located in a heavily-trafficked area of the home, most meters in PECO's service territory are located outside the home or in customer basements, resulting in decreased RF level with the additional distance.



An Exelon Company

With regard to privacy, your security is one of our top priorities. That is why this system will be a physically-secured, PECO-owned, private, encrypted, fiber optic and wireless system – ensuring the privacy and security of your energy usage information. We will also continue to work with the National Institute of Standards and Technology (NIST), the Federal Energy Regulatory Commission (FERC), and the Pennsylvania Public Utility Commission to ensure we continue to ensure the privacy of our system and your vital customer information.

We also understand that customers may simply not want a new meter, but under Pennsylvania law (Act 129 of 2008) all Pennsylvania utilities are required to install new metering technology for every customer in our service territory.

Act 129 mandates strict timetables for system installation. While it may seem simple to allow some customers to "opt-out" of receiving an AMI meter, in fact, this would be extremely costly as a second, manual data collection system would have to be established from the ground up for a small number of customers. And, shifting these costs onto the majority of customers would be unfair and inconsistent with sound public policy.

Additionally, there are substantial operational advantages of automated metering that saves customers money, improves operational performance and reduces impacts to the environment through reduced truck rolls and emissions. Because of PECO's transition to AMR metering more than a decade ago, PECO customers have saved significantly, as expensive and less accurate manual collection of meter data was eliminated.

More importantly, our ability to respond to emergency outage events has been substantially enhanced due to automated metering technology. Three large storms in the last half of 2011 provided a great example of how advanced technology can help us respond to emergencies by enhancing our ability to know who's on and who's off – the most critical information during any emergency event. During Hurricane Irene, for example, our ability to remotely test whether customers did or did not have service accelerated our ability to restore power to all of our customers by at least 24 hours. It would be a disservice to all our customers to eliminate these critical technological capabilities or create "blind spots" in our system that would slow restoration times for all.

Operationally, partial deployment is impossible because our systems must provide coverage to all customers within a given geographic footprint. And, given the benefits our customers have experienced from our existing automated metering systems, we strongly believe these systems are in the broad public interest. We plan to replace the Sensus meter that is currently on your home with the L+G meter.

Currently the account 53477-01501 is placed on hold due to health concerns.

Any further questions or concerns, please call 215-841-4298

Sincerely, Brenda Eison
Manager, Customer Care

C-21

C-2016-2537666

9/2/16

Philly

w/H

MAIN LINE DERMATOLOGY

MICHAEL D. DAMIANO, M.D.

SCOTT N. SCHAFRANK, M.D.

JAMEA ELIZABETH CAMPBELL, M.D.

DAVID P. MANION, M.D.

TATYANA HUMPHREYS, M.D.

ALEXIS T. CURRERI, M.D.

DERMATOLOGY, DERMATOLOGIC SURGERY, AND MOHS MICROGRAPHIC SURGERY

995 Old Eagle School Road
Suite 304-F
Wayne, Pennsylvania 19087
Telephone (610) 688-3099

1246 Wrights Lane
West Chester, Pennsylvania 19380
Telephone (610) 696-8615

April 14, 2016

Mr. Paul Albrecht
700 Shawmont Avenue
Philadelphia, PA 19128

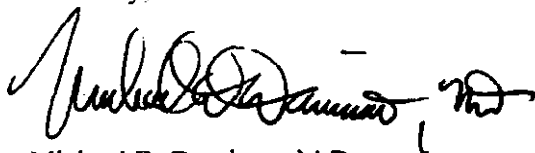
Dear Mr. Albrecht:

I am writing this letter regarding your past history of skin cancer. As you recall, you do have a history of malignant melanoma involving your right cheek and right jawline areas. For this reason I would recommend you avoid any further possible exposure to radiation as much as possible.

I am aware that you are facing possible exposure to radiation through metering in your house, and I would recommend avoiding this given your past history of skin cancer.

If you have any further questions, please do not hesitate to contact me.

Sincerely,



Michael D. Damiano, M.D.

MDD/sg

C-22

C-2016-2587666

9/27/16

Phila

w/ H



Penn Medicine

Penn Medicine at Radnor

Penn Health for Women

April 20, 2016

Cynthia S Randall
700 Shawmont Ave
Philadelphia PA 19128

Date of Birth: 9/30/1956

To Whom It May Concern,



Penn Medicine

Radnor

Ann Honebrink, M.D., F.A.C. O.G.
Medical Director

250 King of Prussia Road
Radnor, PA 19087
Tel: 610-902-2500
Fax: 610-902-2504

A Faculty of the
Hospital of the University of Pennsylvania

Ms. Randall is under my care and has had multiple health problems including multiple cancers. She has increased risk for development of cancers in the future. I have advised her that it would be prudent to avoid any increase in radiation exposure possible. For this reason, she has asked me to write a letter supporting her opposition to installation of a smart meter at her house secondary to concerns about ANY additional radiation exposure.

Sincerely,

Ann Honebrink, MD
4/20/2016 4:54 PM

C-23
C-2016-2537666
9/27/16
Phila
WJH

March 14, 2016

Attn: MARK S. HARRIS
5 VALLEY SQUARE, SUITE 120
BLUE BELL, PENNSYLVANIA PA 19422

On behalf of:
CYNTHIA RANDALL & PAUL ALBREICHT
700 SHAWMONT AVE
PHILADELPHIA PA 19128
Acct#: 53477-01501

Dear Mr. Mark,

This letter is to inform you that we have received your letter regarding the health concerns of your clients, about installing the AMI Electric Meter in their house at: 700 SHAWMONT AVE PHILADELPHIA PA 19128.

Accordingly, I want to provide you with some additional information that I think you will find helpful about the technology that PECO is using for its system upgrades.

The upgraded meters we are installing are known as Advanced Metering Infrastructure (AMI), and are based on similar technology to that which PECO currently uses. All upgraded equipment, just like our existing AMR system, meets Federal Communications Commission (FCC) requirements.

Essentially, the difference between the AMR (existing) and AMI (upgraded) technologies is their ability to provide additional information to customers about how they use energy. This additional information is captured through the technology in the new meter and will be provided to customers through a Web-based application. The AMI meters that PECO is installing also contain a device that will allow the meters to communicate with compatible, customer-purchased devices in the future. Currently, these functions are not enabled, but they may be at a future date. Again, the AMI meters and these functions communicate in the same way as the meters currently in use, with lower cumulative radio frequency (RF) emissions. Cumulative RF volumes, including the typical distance and duration of transmissions of the AMI meter technology that we've selected for this project, are not just lower than that of many other household devices including a cell phone, but in fact are several orders of magnitude - more than 500 times - lower (0.19 milliwatts per square centimeter for a cellular phone versus 0.00037 milliwatts per square centimeter for an AMI meter). Also, unlike the cell phone which is most often held up to the ear, or a microwave oven which is most often located in a heavily-trafficked area of the home, most meters in PECO's service territory are located outside the home or in customer basements, resulting in decreased RF level with the additional distance.

With regard to privacy, your security is one of our top priorities. That is why this system will be a physically-secured, PECO-owned, private, encrypted, fiber optic and wireless system – ensuring the privacy and security of your energy usage information. We will also continue to work with the National Institute of Standards and Technology (NIST), the Federal Energy Regulatory Commission (FERC), and the Pennsylvania Public Utility Commission to ensure we continue to ensure the privacy of our system and your vital customer information.

We also understand that customers may simply not want a new meter, but under Pennsylvania law (Act 129 of 2008) all Pennsylvania utilities are required to install new metering technology for every customer in our service territory.

Act 129 mandates strict timetables for system installation. While it may seem simple to allow some customers to "opt-out" of receiving an AMI meter, in fact, this would be extremely costly as a second, manual data collection system would have to be established from the ground up for a small number of customers. And, shifting these costs onto the majority of customers would be unfair and inconsistent with sound public policy.

Additionally, there are substantial operational advantages of automated metering that saves customers money, improves operational performance and reduces impacts to the environment through reduced truck rolls and emissions. Because of PECO's transition to AMR metering more than a decade ago, PECO customers have saved significantly, as expensive and less accurate manual collection of meter data was eliminated.

More importantly, our ability to respond to emergency outage events has been substantially enhanced due to automated metering technology. Three large storms in the last half of 2011 provided a great example of how advanced technology can help us respond to emergencies by enhancing our ability to know who's on and who's off -- the most critical information during any emergency event. During Hurricane Irene, for example, our ability to remotely test whether customers did or did not have service accelerated our ability to restore power to all of our customers by at least 24 hours. It would be a disservice to all our customers to eliminate these critical technological capabilities or create "blind spots" in our system that would slow restoration times for all.

Operationally, partial deployment is impossible because our systems must provide coverage to all customers within a given geographic footprint. And, given the benefits our customers have experienced from our existing automated metering systems, we strongly believe these systems are in the broad public interest. We plan to replace the Sensus meter that is currently on your home with the L+G meter.

Currently the account 53124-38015 is placed on hold due to health concerns.

Any further questions or concerns, please call 215-841-4298

Sincerely, Brenda Eison
Manager, Customer Care