



CAPTION

Cynthia Randall and Paul Albrecht, Cross Appellants

v.

Pennsylvania Public Utility Commission,
PECO Energy Company

CASE INFORMATION

Initiating Document: Order Granting Petition for Allowance of Appeal

Case Status: Active

Journal Number:

Case Category: Administrative Agency Case Type(s): Public Utility Commission

CONSOLIDATED CASES

RELATED CASES

Docket No / Reason	Type
34 MAP 2021 Sua Sponte	Consolidated
35 MAP 2021 Sua Sponte	Consolidated
36 MAP 2021 Sua Sponte	Consolidated
37 MAP 2021 Sua Sponte	Consolidated
38 MAP 2021 Sua Sponte	Consolidated
39 MAP 2021 Sua Sponte	Consolidated
40 MAP 2021 Sua Sponte	Consolidated
41 MAP 2021 Sua Sponte	Consolidated
42 MAP 2021 Sua Sponte	Consolidated
43 MAP 2021 Sua Sponte	Consolidated
44 MAP 2021 Sua Sponte	Consolidated

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 IFP Status:



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SUPREME COURT INFORMATION

Appeal From: the Order of the Commonwealth Court at No. 607 CD 2019 dated October 8, 2020 which Affirmed/Reversed/Remanded the Order of the PUC at No. C-2016-2537666 dated March 28, 2019.

Probable Jurisdiction Noted: Docketed Date: May 12, 2021

Allocatur/Miscellaneous Granted: May 12, 2021 Allocatur/Miscellaneous Docket No.: 668 MAL 2020

Allocatur/Miscellaneous Grant Order: AND NOW, this 12th day of May, 2021, the Petition for Allowance of Appeal at 619-621 MAL 2020 is GRANTED, LIMITED TO issues a., c., and, d. The issues, as stated by Petitioner are:

(1) Did the Commonwealth Court commit an error of law by concluding that the statute does not mandate universal deployment of smart meters, which is contrary to the plain and unambiguous statutory language of Section 2807(f)(2) of the Pennsylvania Public Utility Code, 66 Pa.C.S. § 2807(f)(2)?

(2) On a question of first impression involving Act 129's smart meter deployment mandate, did the Commonwealth Court abuse its discretion by interpreting the Public Utility Code in a manner that violated the rules of statutory construction and disregarded the legislative intent of the General Assembly?

(3) Did the Commonwealth Court commit an error of law by articulating a burden of proof under Section 1501 of the Pennsylvania Public Utility Code, 66 Pa.C.S. § 1501, that could result in a utility being found in violation of the Code without evidence of harm?

The Petition for Allowance of Appeal at 622-624 MAL 2020 is GRANTED, LIMITED TO issue a. The issue, as stated by Petitioner is:

(1) Did the Court err when it concluded that Act 129 allows individual Consumers to reject or "opt -out" of smart meter technology, on the grounds that Act 129 requires that "Electric distribution companies shall furnish smart meter technology," Webster's Dictionary defines "furnish" as meaning "to provide with what is needed; . . . supply, give," and that this definition of "furnish" does not imply that the recipient is forced to accept that which is offered?

The Petition for Allowance of Appeal at 663-665 MAL 2020 and 666-668 MAL 2020 is GRANTED, LIMITED TO issue b. The issue, as stated by Petitioners is:

(1) Did the lower court err as a matter of law by upholding the PUC's interpretation of Section 1501 of the Public Utility Code as requiring as to issues of safety proof of a "conclusive causal connection" between RF exposure from smart meters and harm to Petitioners, when this heavy and unprecedented burden is not compelled by the language of the statute, where the statutory and dictionary definition of the word "safe" includes protection from the possibility of harm, not just the conclusively proven certainty of harm, and where imposition of this burden would render it impossible for Petitioners to prove their cases?

Allocatur is DENIED as to all remaining issues.

The Energy Association of Pennsylvania's application for leave to file amicus brief in support of the petitions for allowance of appeal at 619-621 MAL 2020 and 622-624 MAL 2020 is GRANTED.

FEE INFORMATION

Fee Dt	Fee Name	Fee Amt	Receipt Dt	Receipt No	Receipt Amt


INTERMEDIATE APPELLATE COURT INFORMATION

Court Name: Commonwealth
 Date of Order: October 8, 2020
 Judge(s): Leavitt, Mary Hannah
 McCullough, Patricia A.
 Wojcik, Michael H.
 Fizzano Cannon, Christine
 Ceisler, Ellen
 Crompton, J. Andrew
 Docket Number: 607 CD 2019
 Rearg/Recon Disp Date:
 Rearg/Recon Disposition:
 Intermediate Appellate Court Action: Affirmed/Reversed/Remanded
 Referring Court:

AGENCY/TRIAL COURT INFORMATION

Court Below: Public Utility Commission
 County: Division: Public Utility Commission
 Date of Agency/Trial Court Order: March 28, 2019
 Docket Number: C-2016-2537666
 Judge(s): OTN:
 Order Type: Order

ORIGINAL RECORD CONTENT

Original Record Item	Filed Date	Content/Description
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Record Remittal:
BRIEFING SCHEDULE

Appellant	Appellee
Albrecht, Paul	PECO Energy Company
Brief	Brief
Due: September 15, 2021 Filed:	Due: July 28, 2021 Filed:
Reply Brief	Reproduced Record
	Due: July 28, 2021 Filed:
Randall, Cynthia	Pennsylvania Public Utility Commission
Brief	Brief
Due: September 15, 2021 Filed:	
Reply Brief	



DOCKET ENTRY

Filed Date	Docket Entry / Representing	Participant Type	Filed By
May 12, 2021	Allocatur Granted		Per Curiam

Comments:

AND NOW, this 12th day of May, 2021, the Petition for Allowance of Appeal at 619-621 MAL 2020 is GRANTED, LIMITED TO issues a., c., and, d. The issues, as stated by Petitioner are:

- (1) Did the Commonwealth Court commit an error of law by concluding that the statute does not mandate universal deployment of smart meters, which is contrary to the plain and unambiguous statutory language of Section 2807(f)(2) of the Pennsylvania Public Utility Code, 66 Pa.C.S. § 2807(f)(2)?
- (2) On a question of first impression involving Act 129's smart meter deployment mandate, did the Commonwealth Court abuse its discretion by interpreting the Public Utility Code in a manner that violated the rules of statutory construction and disregarded the legislative intent of the General Assembly?
- (3) Did the Commonwealth Court commit an error of law by articulating a burden of proof under Section 1501 of the Pennsylvania Public Utility Code, 66 Pa.C.S. § 1501, that could result in a utility being found in violation of the Code without evidence of harm?

The Petition for Allowance of Appeal at 622-624 MAL 2020 is GRANTED, LIMITED TO issue a. The issue, as stated by Petitioner is:

- (1) Did the Court err when it concluded that Act 129 allows individual Consumers to reject or "opt -out" of smart meter technology, on the grounds that Act 129 requires that "Electric distribution companies shall furnish smart meter technology," Webster's Dictionary defines "furnish" as meaning "to provide with what is needed; . . . supply, give," and that this definition of "furnish" does not imply that the recipient is forced to accept that which is offered?

The Petition for Allowance of Appeal at 663-665 MAL 2020 and 666-668 MAL 2020 is GRANTED, LIMITED TO issue b. The issue, as stated by Petitioners is:

- (1) Did the lower court err as a matter of law by upholding the PUC's interpretation of Section 1501 of the Public Utility Code as requiring as to issues of safety proof of a "conclusive causal connection" between RF exposure from smart meters and harm to Petitioners, when this heavy and unprecedented burden is not compelled by the language of the statute, where the statutory and dictionary definition of the word "safe" includes protection from the possibility of harm, not just the conclusively proven certainty of harm, and where imposition of this burden would render it impossible for Petitioners to prove their cases?

Allocatur is DENIED as to all remaining issues.

The Energy Association of Pennsylvania's application for leave to file amicus brief in support of the petitions for allowance of appeal at 619-621 MAL 2020 and 622-624 MAL 2020 is GRANTED.

May 17, 2021	Commonwealth Court Record Received		Commonwealth Court of Pennsylvania
June 2, 2021	Praecept for Appearance PECO Energy Company	Appellee	Kulak, Kenneth M.



DOCKET ENTRY

Filed Date	Docket Entry / Representing	Participant Type	Filed By
June 3, 2021	Praecipe for Appearance PECO Energy Company	Appellee	DeCusatis, Anthony C.
June 3, 2021	Praecipe for Appearance PECO Energy Company PECO Energy Company	Appellee Appellee	Garfinkle, Jack Robert Gay, Anthony E.
June 3, 2021	Joint Application for Extension of Time	Appellee	PECO Energy Company
June 4, 2021	Order Granting Joint Application for Extension of Time		Dreibelbis, Amy
Comments: AND NOW, this 4th day of June, 2021, The Joint Application for Extension of Time is granted. The Designated Appellants' Briefs and Reproduced Record of the Pennsylvania Public Utility Commission and PECO Energy Company and shall be filed on or before July 28, 2021. Designated Appellees/Cross-Appellants ("Customers") Brief shall be filed on or before September 15, 2021.			
June 4, 2021	Order Exited		Office of the Prothonotary
June 28, 2021	Designation of Contents of Reproduced Record (Jointly Filed by PUC & PECO Energy Co.)	Appellee	PECO Energy Company

CROSS COURT ACTIONS

Docket Number:	36 MAP 2021
Docket Number:	39 MAP 2021
Docket Number:	42 MAP 2021
Docket Number:	607 CD 2019
Docket Number:	621 MAL 2020
Docket Number:	624 MAL 2020
Docket Number:	665 MAL 2020
Docket Number:	668 MAL 2020