

SUPREME COURT OF PENNSYLVANIA

Povacz v. Pennsylvania Public Utility Commission

No. 619 MAL 2020, 620 MAL 2020, 621 MAL 2020, 622 MAL 2020, 623 MAL 2020, 624 MAL 2020, 663 MAL 2020, 664 MAL 2020, 665 MAL 2020, 666 MAL 2020, 667 MAL 2020, 668 MAL 2020, Supreme Court of Pennsylvania (May 12, 2021)

SUMMARY

The Pennsylvania Supreme Court granted limited allowance of appeal on three issues concerning smart meter deployment under Act 129 and the Public Utility Code: (1) whether the Commonwealth Court erred in concluding that the statute does not mandate universal smart meter deployment; (2) whether Act 129 allows individual consumers to opt out of smart meter technology; and (3) whether the lower court erred in requiring a "conclusive causal connection" between radiofrequency exposure from smart meters and harm to prove a safety violation under Section 1501. Allocatur was denied on all remaining issues. The case addresses statutory interpretation of 66 Pa.C.S. § 2807(f)(2) and the burden of proof for safety claims under 66 Pa.C.S. § 1501.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
JURISDICTION	Pennsylvania
DECIDED	May 12, 2021
DOCKET	619 MAL 2020, 620 MAL 2020, 621 MAL 2020, 622 MAL 2020, 623 MAL 2020, 624 MAL 2020, 663 MAL 2020, 664 MAL 2020, 665 MAL 2020, 666 MAL 2020, 667 MAL 2020, 668 MAL 2020
DISPOSITION	other
PROCEDURAL POSTURE	Petition for allowance of appeal from the Commonwealth Court
PRECEDENTIAL VALUE	published
PARTIES	PENNSYLVANIA PUBLIC UTILITY COMMISSION, PECO ENERGY COMPANY v. MARIA POVACZ, LAURA SUNSTEIN MURPHY, CYNTHIA RANDALL, PAUL ALBRECHT

TOPICS

- administrative law
- statutory interpretation
- appellate procedure
- burden of proof

QUESTIONS PRESENTED

1. Whether the Commonwealth Court committed 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, whether the Commonwealth Court abused 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. Whether the Commonwealth Court committed 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.
4. Whether the lower court erred 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.
5. Whether the lower court erred 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.

PROCEDURAL HISTORY

The Pennsylvania Public Utility Commission and PECO Energy Company filed petitions for allowance of appeal from a Commonwealth Court order. The Supreme Court of Pennsylvania granted limited allowance of appeal on specified issues and denied all other issues.

DISPOSITION

other

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