

SUPREME COURT OF PENNSYLVANIA

Cynthia Randall and Paul Albrecht v. Pennsylvania Public Utility Commission

Nos. 619-624 MAL 2020 and 663-668 MAL 2020 · No. Nos. 619-624 MAL 2020 and 663-668 MAL 2020 ·

Decided May 12, 2021

SUMMARY

The Supreme Court of Pennsylvania issued a per curiam order addressing consolidated petitions for allowance of appeal involving smart-meter deployment by Pennsylvania electric utilities. The court granted allowance of appeal on limited statutory-interpretation and Public Utility Code issues concerning universal deployment, consumer opt-outs, and the burden of proof regarding smart-meter safety, while denying the remaining issues. The court also granted an application by the Energy Association of Pennsylvania to file an amicus brief.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
JURISDICTION	Pennsylvania
DECIDED	May 12, 2021
DOCKET	Nos. 619-624 MAL 2020 and 663-668 MAL 2020
DISPOSITION	cert_granted
PROCEDURAL POSTURE	Consolidated petitions for allowance of appeal and cross-petitions from orders of the Commonwealth Court concerning smart-meter deployment and safety under the Pennsylvania Public Utility Code.
PRECEDENTIAL VALUE	Published per curiam order granting allowance of appeal on specified issues; no merits holding stated.
PARTIES	Pennsylvania Public Utility Commission, PECO Energy Company, Maria Povacz, Laura Sunstein Murphy, Cynthia Randall and Paul Albrecht v. Maria Povacz, Laura Sunstein Murphy, Cynthia Randall and Paul Albrecht, Pennsylvania Public Utility Commission, PECO Energy Company

TOPICS

statutory interpretation

plain meaning rule

legislative intent

appellate jurisdiction

administrative law

PRACTICE AREAS

administrative law

public utilities

appellate procedure

statutory interpretation

QUESTIONS PRESENTED

1. Whether Section 2807(f)(2) of the Pennsylvania Public Utility Code mandates universal deployment of smart meters.
2. Whether the Commonwealth Court abused its discretion or otherwise erred in interpreting the Public Utility Code concerning Act 129's smart-meter deployment mandate, including the rules of statutory construction and legislative intent.
3. Whether the Commonwealth Court erred in articulating a burden of proof under Section 1501 that could permit a utility to be found in violation without evidence of harm.
4. Whether Act 129 permits individual consumers to reject or opt out of smart-meter technology despite the statutory directive that electric distribution companies shall furnish smart-meter technology.
5. Whether the Commonwealth Court erred by upholding a PUC interpretation of Section 1501 requiring conclusive causal proof between radio-frequency exposure from smart meters and harm to petitioners.

FACTUAL BACKGROUND

The consolidated matters concern Pennsylvania's statutory requirements governing electric distribution companies' deployment of smart-meter technology under Act 129. The parties disputed whether consumers may reject smart meters and what proof is required to establish that smart-meter technology is unsafe or causes harm. The Commonwealth Court interpreted the Public Utility Code and the parties sought further review.

PROCEDURAL HISTORY

The Commonwealth Court entered orders addressing whether Act 129 and the Public Utility Code require universal smart-meter deployment, permit consumers to opt out, and impose particular burdens of proof concerning safety and harm. The parties sought allowance of appeal in the Supreme Court of Pennsylvania. The Supreme Court granted allowance of appeal in specified consolidated matters, limited to identified issues, denied allowance as to all remaining issues, and granted an application for leave to file an amicus brief.

DISPOSITION

cert_granted