

Title: Analog Choice and Accommodation Amendment Act

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Purpose: To amend Pennsylvania Act 129 applying to electric distribution companies; to clarify that the original legislative intent of Act 129 was for smart meter technology to be deployed only at the customer's request for existing residences; and that the legislative intent was never to harm medically fragile Pennsylvanians in their own homes. This Amendment corrects any misinterpretation of Act 129 which has been misconstrued by the Commission to harm medically sensitive Pennsylvanians. This Amendment eliminates mandatory smart meter deployment on new construction, and provides no fee medical accommodations of analog choice for medical facilities and utility customers whose health could be negatively impacted by the electromagnetic energy caused by smart meter technology. This Amendment requires utilities to monitor the microwave and conducted emissions from their smart metering technology to ensure that these emissions are at safe levels. Further, it clarifies the original intent of Act 129 to provide analog choice to all residential customers in Pennsylvania.

Section 1: Short Title

This Act shall be known as and cited as the PA Analog Choice and Accommodation Act.

Section 2: Definitions

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

- (a) *Analog choice*—the decision of Pennsylvania *utility* customers to receive *analog metering* on their premises instead of *smart meter technology* for registering and maintaining their utility usage.
- (b) *Analog choice customer* – a customer of a Pennsylvania *utility* who has submitted an *analog choice form* to the *utility*.
- (c) *Analog choice form* — a form provided by the Commission on its website and on each *utility* website, and also provided to customers in their monthly utility billings, for utility customers to notify their *utility* of their *analog choice*.
- (d) *Analog meter* -- a traditional electro-mechanical analog meter which contains no antennae and no switched mode power supply, and is incapable of sending or receiving signals via radio frequency waves or over customer electric wiring or over powerlines. Analog meters are incapable of utilizing radiofrequency or other electromagnetic frequencies to store data and/or communicate with other devices.
- (e) *Commission*—Pennsylvania Public Utility Commission
- (f) *Depreciation schedule*—refers only to accounting and tax calculations for those *smart meters* which are deployed.
- (g) *Medical certificate*-- oral or written statement from customer's physician or nurse practitioner that the customer or member of the customer's family, or patient of a facility cannot safely tolerate smart meter

technology deployment on the customer's property. Medical certificates may also be submitted for medical facilities.

(h) *Medical accommodation customer*—a customer who has presented a *medical certificate* to the customer's utility company.

(i) *Neighboring customers*-- All properties which share the same electric transformer with a *medical accommodation customer*, and all properties with meter sockets within two hundred fifty (250) feet of a *medical accommodation customer's* property.

(j) *Smart meter* – An electronic device that registers a customer's electric, gas or water usage, and communicates consumption information to the utility using radio frequency, electrical wiring or power line electricity waves for transmission to the utility.

(k) *Smart meter technology*--technology, including *smart meter* technology and network communications technology capable of bidirectional communication, that records and transmits utility usage.

(l) *Utility* – An entity regulated by the Commission which sells or distributes natural gas, electricity, or water to customers in the Commonwealth.

Section 3. Amendments to Section 2807(f)(2)(ii) and (iii) of Title 66 of the Pennsylvania Consolidated Statutes. These subsections of 2807(f)(2) are amended to read in their entireties as follows:

“§ 2807. (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 accordance with a depreciation schedule not to exceed 15 years.
- (iii) All utility customers may request an analog meter instead of receiving smart meter technology on their premises by notifying their assigned utility in writing of their desire to receive metering services for their utility usage through an analog meter instead of smart meter technology.
- (iv) Each utility which uses smart meter technology has an affirmative duty to monitor, accurately measure and record the radiofrequency levels and conducted emission electromagnetic energy caused by its smart metering technology in active deployment on customer sockets throughout the utility's territory on a semiannual basis, and upon request of a medical accommodation customer, at the utility's sole expense. Utilities shall submit all smart meter technology monitoring information to the Public Utility Commission for further action, if necessary.”

Section 4: Required Proceedings

The following shall apply:

- (A) The Commission shall provide on its website an analog choice form for consumers to download, and directions for the consumers to submit the completed form to their assigned utility.

- (B) Each utility shall also provide customers with analog choice forms on its website and in notices to customers each month with monthly bills, and must accept customer completed analog choice forms submitted to it via electronic submission, United States mail, hand delivery or uploading to the utility website.
- (C) All utilities receiving a customer analog choice form are prohibited from deploying a smart meter on that customer's premises and from sending signal from the utility to the customer's premises via microwave or electronic means.
- (D) The Commission may create and regulate a nominal monthly surcharge for consumers who elect analog choice under this subparagraph, which surcharge must be based upon the difference, if any, between the cost of providing smart meter technology to an individual customer and the cost of providing on site analog meter reading once per year, but in no case will an analog choice customer be provided a rebate based solely on the negative cost of providing the customer an analog meter.
- (E) Utilities are prohibited from charging any surcharge to a customer who submits an analog choice form, if the customer presents a medical certificate to the utility.
- (F) Upon receipt of a customer analog choice form, the utility must remove its smart meter within a period of two weeks and replace it with an analog meter.
- (G) If the customer also submits a medical certificate to the customer's utility, and if that utility has already deployed a smart meter on the property of a customer who submits a medical certificate, within 48 hours of receipt of the medical certificate, the utility must replace the smart meter with an analog meter on the customer's premises and on all neighboring customers' sockets, with neighbors' consent.
- (H) All utility companies must supply all analog choice customers, at no cost to the customer, several methods to report monthly or bimonthly utility usage as reflected on the customers' analog meters, such as prepaid post cards, telephone call in numbers, website addresses, email addresses and similar methods.
- (I) Analog choice customers may be billed on a reasonably estimated basis for monthly usage which is not reported to the utility.
- (J) Utilities must perform on site readings of all analog meters at least once per year.
- (K) Utilities are prohibited from sending radiofrequency signals to the premises of all analog choice customers.
- (L) All utilities are enjoined from taking any discriminatory or retaliatory action against a customer who submits a medical certificate or who submits an analog choice form.

(M) No utility shall have the right to request a waiver from its obligations under this Section regarding analog choice or medical certificates.

(N) No utility may contest the validity of a medical certificate submitted pursuant to this section, or to request an investigation and hearing by the Commission or its designee regarding the validity of a medical certificate submitted in accordance with this Section.

Section 5: Fines

Any utility which does not provide the services herein to customers who request analog choice shall be fined one thousand dollars (\$1,000) per day for each customer who was deprived of analog choice services, which fine shall be distributed to the customer who requested analog choice. Any fine or penalty paid by a utility under this Act shall not be recoverable from ratepayers.

Section 6: Enforcement

(A) The local police or sheriff's office in the customer's location shall be charged with enforcement of these analog choice and medical accommodations laws and regulations.

(B) Any customer who is not provided services of analog choice in accordance with this Section shall be awarded attorneys' fees and damages, in addition to all collected fines hereunder, if the utility does not provide the services required herein.

This Act shall apply to all public utilities in the Commonwealth, including electric distribution, gas, and water utilities.

Section 7: Funding

Any necessary funding will come from the existing budget currently appropriated for electric meters from the respective utility companies.

Section 8: Effective Date

This Act shall take effect six (6) months after the passage of this bill.