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September 18, 2009

Bureau of Regulatory Counsel

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Honorable James McNulty
Secretary, Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

RE: Petition of PECO Energy Company for Approval
of its Smart Meter Technology Procurement and
Installation Plan
PUC Docket No. M-2009-2123944

Dear Secretary McNulty:

Please find for electronic filing the Petition to Intervene of the Commonwealth of Pennsylvania, Department of Environmental Protection in the above referenced matter. Copies have been served on all parties listed on the enclosed Certificate of Service.

Sincerely,

/s/ Scott Perry

Scott Perry
Assistant Counsel

cc: Service List

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PECO Energy Company :
for Approval of its Smart Meter : **Docket No. M-2009-2123944**
Technology Procurement and :
Installation Plan :

**PETITION TO INTERVENE OF THE
COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

The Commonwealth of Pennsylvania, Department of Environmental Protection (the “Department”) files this Petition to Intervene in the above referenced matter pursuant to 52 Pa. Code §§ 5.71 and 5.72. In support of its Petition to Intervene in the Petition of PECO Energy Company (“PECO”) for Approval of its Smart Meter Technology Procurement and Installation Plan (“Smart Meter Plan”) the Department avers as follows:

1. Pursuant to Act 129 of 2008 and the Pennsylvania Public Utility Commission’s (“Commission”) Smart Meter Procurement and Installation Order (“Implementation Order”) at Docket No. M-2009-2092655, on August 14, 2009, PECO filed its Petition for Approval of its Smart Meter Plan with the Commission.

2. PECO proposes to implement its Smart Meter Plan in two phases. Petition at 4. The first phase will take place during the 30 month grace period established by the Commission’s Implementation Order. Id. This phase focuses on selecting metering technology, implementing a data management system and other information technology, testing the smart meter technology, deployment of advanced metering infrastructure, an initial deployment of 100,000 to 600,000 smart meters (depending on the receipt of funding from the Department of Energy through an American Recovery and Reinvestment Act (“ARRA”) grant), and developing an education program. Petition at 4-5, 7.

3. Phase two of the plan is anticipated to begin in 2012. Petition at 8. In this phase, PECO intends to deploy smart meters throughout its service territory. *Id.* If ARRA funding is received during phase one, PECO anticipates that universal deployment will be complete in 10 years. *Id.* It is not clear if this 10 year time frame begins in 2009 with this filing or 2012 with the beginning of phase two.

4. The Department is an agency of the Commonwealth and is entitled to intervene as of right under 52 Pa. Code § 5.72(b).

5. The Department administers several energy and environmental protection programs established by state law that provide the Department with a right or interests of such nature that participation of the Department is in the public interest. 52 P.S. § 52.72(a)(1),(3).

6. The Department is the primary agency under the Governor's jurisdiction charged with managing energy matters. The Department performs and administers the functions of the Pennsylvania Energy Office. 71 P.S. § 1340.504(d). The Department also has the powers and duties previously vested in the Governor's Energy Council by the Building Energy Conservation Act, 35 P.S. §§ 7201.101 *et seq.*, and the Energy Conservation and Assistance Act, 62 P.S. §§ 3011 *et seq.* 71 P.S. § 1340.504(a)-(b).

7. An effective smart meter plan and the time sensitive pricing programs smart meters are required to support can result in significant savings for consumers, reduce grid congestion, promote grid reliability and directly affect the Department's interests as administrator of the Pennsylvania Energy Office.

8. The Department administers several provisions of the Alternative Energy Investment Act ("AEPS") Act and is to work cooperatively with the Commission to monitor the performance of all aspects of AEPS. 73 P.S. § 1648.7(c). Smart meters and the time sensitive

pricing plans they promote encourage the use of demand-side management technologies and practices as defined by section 1 of AEPS. See, 73 P.S. § 1648.1. These demand-side management technologies and practices have the potential to create Tier II alternative energy credits and affect the Department's duties under AEPS.

9. The Department administers the Air Pollution Control Act (35 P.S. § 4001 *et seq.*) and the Clean Streams Law (35 P.S. § 691.1 *et seq.*). The purpose of these statutes is to protect and restore Pennsylvania's air and water resources. A properly designed and implemented smart meter plan and the time sensitive pricing plans they promote can reduce fossil fuel consumption, improve air quality, reduce greenhouse gas emissions and improve water quality.

10. Individually and collectively, the Department's statutory duties create an interest that will be directly affected by this proceeding but are not adequately represented by existing participants and are of such a nature that participation of the Department is in the public interest. Thus, Department has a right to intervene under 52 P.S. § 5.72(a)(3).

WHEREFORE, the Commonwealth of Pennsylvania, Department of Environmental Protection respectfully requests that the Commission grant its Petition to Intervene.

Respectfully submitted,

/s/ Scott Perry

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Dated: September 18, 2009

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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VERIFICATION

I, Daniel Griffiths, hereby state that the facts above set forth in the Petition to Intervene of the Commonwealth of Pennsylvania, Department of Environmental Protection are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

/s/ Daniel Griffiths

Daniel Griffiths
Deputy Secretary
Office of Energy and Technology Deployment
Department of Environmental Protection

Dated: September 18, 2009

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document, Petition to Intervene of the Commonwealth of Pennsylvania, Department of Environmental Protection, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner upon the persons listed below:

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