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December 18, 2009

VIA ELECTRONIC FILING

James J. McNulty
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Pennsylvania Public Utility Commission
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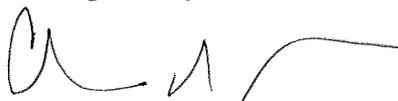
**Re: Petition of PPL Electric Utilities Corporation for Approval of a Smart
Meter Technology Procurement and Installation Plan
Docket No. M-2009-2123945**

Dear Secretary McNulty:

Pursuant to 52 Pa. Code § 5.412, enclosed for filing is a copy of the Reply Brief and Certificate of Service, which is being served on behalf of Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc. in the above-captioned proceedings.

If you have any questions, please contact me.

Respectfully,



Christopher Sharp

CS/scc

Enclosure

Cc: Honorable Wayne L. Weismandel – Via Email and First Class Mail
All Parties on Certificate of Service– Via Email and First Class Mail

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION & SUMMARY OF ARGUMENT.....	3
II. ARGUMENT.....	4
THE COMMISSION SHOULD REQUIRE PPL ELECTRIC TO PROVIDE for 15-MINUTE INTERVAL DATA UPDATED AND MADE AVAILABLE ON AN HOURLY BASIS OR, AT A MINIMUM, ON A DAILY (24-HOUR) BASIS.....	4
III. CONCLUSION.....	8

I. INTRODUCTION & SUMMARY OF ARGUMENT

Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc. (collectively, “Constellation”) hereby submit their Reply Brief for consideration by the Administrative Law Judge and the Pennsylvania Public Utility Commission (“Commission”), with regard to the *Smart Meter Technology Procurement and Installation Plan* (“Smart Meter Plan” or “Plan”) filed by PPL Electric Utilities Corporation (“PPL Electric”) on August 14, 2009¹ (with supporting testimony from PPL Electric filed on that same date²), in accordance with the Commission’s June 24, 2009 *Implementation Order*,³ as well as PPL Electric’s Main Brief filed on December 4, 2009.⁴ Constellation also submitted its Main Brief in the instant proceeding on that same date.⁵

In its Main Brief, PPL Electric addresses briefly the issues that Constellation raised in this proceeding. With respect to such issues, PPL Electric provided explanations and/or commitments with respect to certain of the deficiencies in its Plan that were identified by Constellation, but failed to address and to meet its burden of proof with respect to at least one important deficiency: the Plan’s failure to provide 15-minute interval data to customers on an

¹ *Petition of PPL Electric Utilities Corporation for Approval of a Smart Meter Technology Procurement and Installation Plan*, Commission Docket No. M-2009-2123945 (Aug. 14, 2009) (“PPL Electric Petition”); and *PPL Electric Utilities Corporation Smart Meter Technology Procurement and Installation Plan*, Commission Docket No. M-2009-2123945 (Aug. 14, 2009) (the “Smart Meter Plan” or “Plan”).

² *See, generally, PPL Electric Energy Company Statement Nos. 1-5*, Commission Docket No. M-2009-2123945 (Aug. 14, 2009).

³ *Implementation Order*, Commission Docket No. M-2009-2092655 (entered June 24, 2009) (“Implementation Order”).

⁴ *Main Brief of PPL Electric Utilities Corporation*, Commission Docket No. M-2009-2123945 (filed Dec. 4, 2009) (“PPL Electric Main Brief”).

⁵ *Main Brief of Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc.*, Commission Docket No. M-2009-2123945 (filed Dec. 4, 2009) (“Constellation Main Brief”).

hourly basis or, at a minimum, on a *daily* (24-hour) basis, as *required* by the Commission’s Implementation Order. It is in the public interest—and the weight of the evidence in the record supports a Commission decision—to require that PPL Electric revise its Plan to include Smart Meters that provide for 15-minute interval data updated and made available on an *hourly* basis.

II. ARGUMENT

THE COMMISSION SHOULD REQUIRE PPL ELECTRIC TO PROVIDE for 15-MINUTE INTERVAL DATA UPDATED AND MADE AVAILABLE ON AN HOURLY BASIS OR, AT A MINIMUM, ON A DAILY (24-HOUR) BASIS.

Act 129 of 2008 (“Act 129”)⁶ and the Commission’s Implementation Order specifically lay out requirements for all electric distribution companies’ (“EDCs”) Smart Meter technologies, including the type and frequency of data that each EDC’s Smart Meters must provide to customers. The Implementation Order specifically requires that Smart Meter technology implemented by an EDC *must* include as a *minimum* requirement the provision of 15-minute interval data on a daily basis,⁷ but suggests that Smart Meters should provide additional capabilities if it is technologically and economically feasible.⁸

First, despite these facts and the Commission’s direction—and while PPL Electric in its Main Brief even *states* that under its Plan, it “is able to provide 15-minute or shorter interval data

⁶ *Press Release, Governor Rendell Signs Energy Conservation Bill to Save Consumers Millions on Electricity; Urges Legislature to Pass Rate Mitigation Bill*, Pennsylvania Office of the Governor (Oct. 15, 2008) (http://www.portal.state.pa.us/portal/server.pt?open=512&objID=2999&PageID=431162&mode=2&contentid=http://pubcontent.state.pa.us/publishedcontent/publish/global/news_releases/governor_s_office/news_releases/governor_rendell_signs_energy_conservation_bill_to_save_consumers_millions_on_electricity_urges_legislature_to_pass_rate_mitigation_bill.html).

⁷ *See* Implementation Order at pp.16-17.

⁸ Implementation Order at pp.16-17 (stating that EDCs should be able “to upgrade these minimum capabilities as technology advances and becomes economically feasible”) (*emph. added*).

on a daily basis,”⁹—PPL Electric does not explain but hides the fact that in its Plan’s application, it fails to meet the Implementation Order’s minimum standard. As Constellation explains in its Main Brief, under the Smart Meter Plan’s application, PPL Electric provides only *daily data* – broken up into 15-minute intervals – on a *48-hour* basis.¹⁰

In this way, PPL Electric’s Plan fails to meet the *minimum* requirement of the Commission’s Implementation Order. PPL Electric seems to believe that this requirement of the Implementation Order is not at all a requirement. This belies the Commission’s own language, which states that:

The Commission believes that the smart meter capability requirements *set out in Act 129 are minimal* requirements. The Commission also recognizes that smart meter technology can support more than demand response and pricing programs. Smart meters have the ability to support maintenance and repair functions, theft detection, system security, consumer assistance programs, customer generator net metering, and other programs that increase an EDC’s efficiencies and reduce operating costs. Therefore, the Commission *directs* that a covered EDC’s smart meter technology *must support* the following capabilities¹¹

As one of these *additional* requirements that the Smart Meters included in all EDCs’ Smart Meter Plans *must* support, the Commission lists the

[a]bility to provide 15 minute or shorter interval data to customers, EGSs, third parties and the regional transmission organization (“RTO”) on a daily basis¹²

⁹ PPL Electric Main Brief at p.23.

¹⁰ Constellation Main Brief at p.12 (explaining that “PPL Electric proposes to provide such data *only on a 48-hour basis*” and referring to PPL Electric St. 1-R at p.13 (lines 6-8) (stating that “[t]he Company’s AMI system routinely makes data that has been validated, edited, and estimated available to customers via its website *on a 48-hour basis*”) (*emph. added*)).

¹¹ Implementation Order at p.16.

¹² Implementation Order at pp.16-17.

PPL Electric has not provided evidence proving why it would not be in the public interest to provide such data on a *daily* basis, at a minimum, as laid out in and required by the Implementation Order. Therefore, at a minimum, the Commission should require that PPL Electric revise its Smart Meter Plan such that, where the Plan provides for 15-minute interval data, such data is updated and provided to customers (and their designated TPSs and EGSs) on a *daily* (24-hour) basis.

In addition, in regards to Constellation’s proposal that such 15-minute interval data be provided on an *hourly* rather than a *daily* (24-hour) basis, PPL Electric in its Main Brief states only that it disagrees with such proposal for the following three reasons:

1. “PJM aggregates 15-minute data into hourly values to develop peak demands, so there is no need to provide 15-minute data for developing retail customer peak demands.”
2. “[B]ecause energy is priced on an hourly basis, 15-minute data is largely irrelevant to the price a customer is offered for energy.”
3. “[W]hile 15-minute data may provide benefits to some customers for achieving peak load reductions, it is not cost-effective to provide this level of detail for all customers.”¹³

With respect to the last of these reasons, PPL Electric cites to not one piece of evidence in the record—and none exists therein—regarding the costs that would be incurred in order to provide for 15-minute data on an hourly basis for commercial and industrial customers, so PPL Electric cannot support its position that such a proposal would not be “cost-effective.” Among its other reasons for disagreeing with Constellation’s proposal for 15-minute data on an hourly basis, PPL Electric relies primarily on the notion that it is unnecessary because it is not used for

¹³ PPL Electric Main Brief at p.23.

peak shaving programs and RTO pricing mechanisms. This reasoning, however, fails to acknowledge the Commission's own statements in the Implementation Order regarding why it may be important for an EDC's Smart Meters to go beyond the Implementation Order's minimum requirements. As explained in the Implementation Order:

The Commission also recognizes that smart meter technology *can support more than demand response and pricing programs*. Smart meters have the ability to support maintenance and repair functions, theft detection, system security, consumer assistance programs, customer generator net metering, and other programs that increase an EDC's efficiencies and reduce operating costs.¹⁴

Constellation in its Main Brief cites to evidence explaining in detail why 15-minute data on an *hourly* basis is important to customers, for reasons consistent with this statement from the Commission. Specifically, as explained in the Constellation Main Brief, providing 15-minute data *on an hourly basis* rather than only on the Commission's minimum daily basis recommendation is in the public interest for customers because:

In today's competitive business environment, all sizes of commercial and industrial customers are thinking about energy as a strategic asset integral to every aspect of the bottom line. The capacity to actively monitor and manage usage and adjust operations accordingly reflects the increasingly sophisticated energy strategies now available . . . [Constellation] and other EGSs are helping customers adapt successfully to this new energy paradigm and positioning them to make the most of the opportunity to participate in the emerging energy marketplace of the 21st Century. Overlaying Smart Meter technologies . . . in our built environment, by virtue of its role in consumption, have the potential to shift our understanding of energy generation, demand and load allocation in an entirely new direction. This shift in direction, however, while *possible* is only *likely* to occur if the proper access to data is available to customers and their EGSs in quick, easy and straightforward manners, and if the data provided

¹⁴ Implementation Order at p.16 (*emph. added*).

by such new Smart Meter technologies is as specific and frequent as possible.¹⁵

Therefore, the evidence in the record supporting 15-minute data on an hourly basis is *consistent* with the Commission's reasons for why going beyond its minimum requirements may be appropriate. The evidence makes clear that it is in the public interest for PPL Electric to take this additional step to prepare its commercial and industrial customers for a new energy future, particularly given the total lack of *any* record evidence to the contrary. For these reasons, the Commission should order PPL Electric to revise its Plan to include Smart Meters that provide for 15-minute interval data updated and made available on an *hourly* basis.

Constellation proposes the following Ordering Paragraph to that effect:

The Commission hereby **ORDERS** PPL Electric to revise its Smart Meter Plan such that, where the Plan provides to customers and their designated EGSs and TPSs 15-minute interval data, it must do so on an hourly basis.

Alternatively, if the Commission does not move to require PPL Electric to provide 15-minute data on an hourly basis, Constellation proposes the following Ordering Paragraph:

The Commission hereby **ORDERS** PPL Electric to revise its Smart Meter Plan such that, where the Plan provides to and Industrial customers and their designated EGSs and TPSs 15-minute interval data, it must do so on a daily (24-hour) basis.

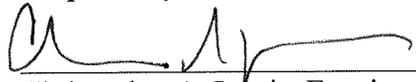
III. CONCLUSION

PPL Electric's Smart Meter Plan, including Constellation's proposed improvements to data access and frequency herein and in the Constellation Main Brief, is supported by substantial evidence in the record before the Commission. The Smart Meter Plan, coupled with improved

¹⁵ Constellation St. 1 at pp.8 (line 4) -- 9 (line 2).

access to and frequency of customer data, will encourage customers to adapt successfully to the new energy paradigm in the Commonwealth and, in turn, will better assure that PPL Electric's customers are well positioned to make the most of the opportunity to participate in the emerging energy marketplace of the 21st Century.

Respectfully Submitted,



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*On Behalf of Intervenors Constellation Energy
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December 18, 2009

CERTIFICATE OF SERVICE

I hereby certify that this day I have served a true copy of the foregoing Reply Brief of Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc., upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code § 1.54.

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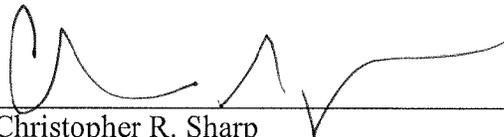
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