

COMMONWEALTH OF PENNSYLVANIA



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February 17, 2010

James J. McNulty  
Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

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

Dear Secretary McNulty:

Enclosed for filing are the Exceptions of the Office of Consumer Advocate to the Initial Decision issued on January 28, 2010 by the Honorable Marlane R. Chestnut, in the above-referenced proceeding.

Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully Submitted,

A handwritten signature in cursive script that reads 'J Kennedy S Johnson'.

Jennedy S. Johnson  
Assistant Consumer Advocate  
PA Attorney I.D. # 203098

Enclosures

cc: Honorable Marlane R. Chestnut

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

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EXCEPTIONS  
OF THE  
OFFICE OF CONSUMER ADVOCATE

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Dated: February 17, 2010

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## I. INTRODUCTION

On August 14, 2009, PECO filed its Smart Meter Technology Procurement and Installation Plan (Plan) in accordance with the requirements of Act 129 of 2008, 66 Pa.C.S. § 2807(f)(1). On September 1, 2009, the OCA filed its Notice of Intervention and Public Statement. On August 20, 2009, the Office of Trial Staff (OTS) filed a Notice of Appearance. On September 25, 2009, the Office of Small Business Advocate (OSBA) filed a Notice of Intervention and Notice of Appearance. Petitions to Intervene were filed on September 18, 2009 by the Department of Environmental Protection (DEP); on September 10, 2009 by the Philadelphia Area Industrial Energy Users Group (PAIEUG); on September 25, 2009 by Pennsylvania Association of Community Organizations for Reform Now (ACORN); on September 25, 2009, by Constellation New Energy (Constellation); and on September 23, 2009 by Clean Air Council (Clean Air). On September 25, 2009, Comments were filed by ACORN, DEP, OCA and OTS.

The matter was assigned to the Office of Administrative Law Judge and was further assigned to Administrative Law Judge Marlane R. Chestnut. Pursuant to the Prehearing Conference Order dated September 2, 2009, Prehearing Memorandums were filed by ACORN, Clean Air, Constellation, DEP, OCA, OSBA, OTS, PAIEUG, and PECO. A prehearing conference was held on September 29, 2009, at which time a procedural schedule was established.

The OCA retained John G. Athas<sup>1</sup>, Thomas S. Catlin<sup>2</sup>, and Dr. Dale E. Swan<sup>3</sup> who, pursuant to the schedule adopted by the ALJ, submitted written Direct Testimony on October 7, 2009 and written Surrebuttal Testimony on November 6, 2009. On October 7, 2009, Direct Testimony was also filed by ACORN, Constellation, and OTS. On October 27, 2009, Rebuttal Testimony was filed by OSBA, OTS, and PAIEUG. On November 6, 2009, Surrebuttal Testimony was also filed by OTS.

Pursuant to ALJ Chestnut's Prehearing Conference Order, Evidentiary Hearings were held on November 13, 2009 at which time the OCA, by stipulation, entered the testimony of its witnesses. Throughout the proceeding the parties engaged in settlement negotiations which resulted in a partial settlement that was filed with the Commission on November 25, 2009. The Settlement addressed all issues except cost allocation of non-meter costs and the rate design for recovery of non-meter costs assigned to the commercial class.

The Office of Administrative Law Judge issued the Initial Decision (I.D.) of ALJ Chestnut on January 28, 2010 in which she recommended that the Commission approve the Settlement as filed. As to the outstanding cost allocation issues, ALJ Chestnut approved the

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<sup>1</sup> Mr. Athas is a Principal Consultant for La Capra Associates who has worked in the electric utility business for over 31 years. Mr. Athas has testified as an expert witness on numerous occasions in several states. Mr. Athas has a Bachelor's of Engineering in Mechanical Engineering, a Master of Science in Mechanical Engineering, and a Master of Business Administration degree. Mr. Athas has held many positions in planning, management and marketing in both regulated and unregulated subsidiaries covering aspects of utility planning, marketing, regulatory activities, and finance.

<sup>2</sup> Mr. Catlin is a principal with Exeter Associates, a consulting firm specializing in issues pertaining to public utilities. Mr. Catlin holds a Master of Science degree in Water Resources Engineering and Management from Arizona State University. He has also completed graduate courses in financial and management accounting. Mr. Catlin has over 25 years of experience in the analysis of utility operations with an emphasis on utility rate filings.

<sup>3</sup> Dr. Dale E. Swan is a senior economist and principal with Exeter Associates, Inc., a consulting firm specializing in issues pertaining to public utilities. Dr. Swan holds a B.S. degree in Business Administration from Ithaca College. He attended a master's program in economics at Tufts University, and holds a Ph.D. in economics from the University of North Carolina at Chapel Hill. Dr. Swan has over 30 years of experience in long-term electric power supply planning, contract negotiations for large power users, and on electric utility cost allocation and rate design.

Company's proposal to allocate the common costs among the classes based on the number of customers in each class. The OCA files these Exceptions to the cost allocation aspect of the ALJ's Initial Decision.

The OCA submits that traditional cost of service principles, the language of Act 129, and the Commission's Implementation Order, all support a finding that the common costs of the PECO smart meter system cannot reasonably be allocated on the basis of the number of customers. See Smart Meter Procurement and Installation, Docket No. M-2009-2092655 (Order entered June 24, 2009) (Implementation Order). The other parties' (and the ALJ's) claims that the OCA has failed to support its proposal or that its proposal is inconsistent with cost of service principles are erroneous. As the OCA demonstrated in its testimony and Main and Reply Briefs, and will also demonstrate in these Exceptions, allocating common costs based on the number of customers is unreasonable. The number of customers is neither a measure of the benefits derived from the smart meter system nor the causation of common system costs. Indeed, the common costs at issue here do not benefit one class solely nor do they benefit all customers equally. Accordingly, the OCA requests that the Commission reject the ALJ's recommendation regarding common costs and hold that the appropriate basis on which to allocate common smart meter systems costs (other than the meters themselves) is on the basis of energy and demand.

## II. EXCEPTION

OCA Exception No. 1: The ALJ Erred In Approving PECO's Proposal To Allocate Common Costs Based On The Number Of Customers In Each Class (R.D. at 24-29, 33)

In her I.D., ALJ Chestnut approved the terms of the Settlement regarding the costs to procure and install the smart meters. I.D. at 25. As these costs can be identified by customer class, they will be directly assigned to each customers class. I.D. at 25. The OCA does not take exception to this aspect of the ALJ's decision. The OCA does except, however, to the ALJ's decision as it relates to the balance of the costs—the common costs—that will be incurred to manage the meter data of all classes and to integrate the new meter system with PECO's existing billing system. In the context of this proceeding, common costs are all other non-meter costs associated with the Plan, such as the meter data management system, the network, and administrative costs.

The ALJ approved PECO's proposal to allocate the common costs, such as the meter data management system, the network, and administrative costs, entirely on the basis of the number of customers. I.D. at 27. The ALJ quoted directly from the OCA's Main Brief which explained the problems with such allocation:

Since the vast majority of PECO customers (89.9%) are residential customers, this means that residential customers will bear nearly 90% of these common costs, even though it is far from clear that residential customers will receive anything close to 90% of benefits from these costs. See OCA St. 3, Exh. DES-1. The OCA submits that it is inappropriate to allocate common costs based on the number of customers. As indicated in the Implementation Order, smart meter plan costs are appropriately allocated to those customer classes who derive the benefits from such costs. Implementation Order at 32. The number of customers is neither a measure of the benefits derived from the smart meter system nor the causation of the system costs.

The OCA submits that the appropriate basis on which to allocate common costs is on the basis of energy and demand.

I.D. at 26; M.B. at 8.

The ALJ disagreed with the OCA's proposal and stated that the OCA's position is not consistent with the traditional cost allocation principles. She stated:

Although the OCA does attempt to apply traditional cost of service principles by claiming that that number of customers is not the "cause" of the costs, it is clear that the primary argument it is presenting is the "benefit" one, i.e. that costs should be assigned proportionally to the parties relative to the benefits received.

This is not how metering costs have been allocated by the Commission, and should not be adopted here.

I.D. at 27. The OCA respectfully disagrees with the ALJ's characterization. The ALJ fails to recognize that traditional cost of service principles on cost causation do consider benefits. Indeed, the PUC recognized this relationship between cost causation and benefits in its Implementation Order. When these traditional costs of service principles are applied to the new metering system—which is certainly not being installed simply to count kWh for billing purposes—it is clear that the historic "number of customers" methodology that the ALJ relied upon no longer applies. These principles will be explained in more detail below.

A. Traditional Cost Of Service Principles Of Cost Causation Support The OCA's Allocation Of Common Costs Based On Energy And Demand

In her I.D., the ALJ stated that the OCA's position is inconsistent with traditional cost allocation principles. I.D. at 27. As OCA witness Swan explained, however, the underlying tenet of cost of service studies is to allocate costs among the classes in proportion to the extent to which the classes have caused those costs to be incurred. OCA St. 3 at 3 (emphasis added). Dr. Swan explained the application of this principle to the smart meter systems at issue here:

In the case of a smart metering system, what causes the costs to be incurred are the benefits that are expected to be derived from the deployment of such a system. Thus, we need to look carefully at why these costs are being incurred—that is, what benefits are anticipated to be derived from these costs. Then, we need to carefully assess the extent to which the various customer classes will reap these benefits.

Id. As Dr. Swan further explained, the OCA’s cost allocation proposal is based on cost causation:

The fundamental rule in cost of service studies is to allocate costs based on the cause of the costs. The costs at hand would not be incurred if it were not for the expectation that benefits will be realized from the incurrence of those costs. As the expected benefits are what will cause those costs to be incurred, it is fully consistent with normal cost allocation practice to allocate the costs on the expected distribution of those benefits.

OCA St. 3S at 7.

Further, the allocation proposed by the OCA comports with the goals of Act 129 and the language of the Commission’s Implementation Order. M.B. at 8-10. The preamble to Act 129 states that one of the main goals of the Act is to reduce the cost and price instability of electric energy:

The General Assembly recognizes the following public policy findings and declares that the following objectives of the Commonwealth are served by this act:

(1) The health, safety and prosperity of all citizens of this Commonwealth are inherently dependent upon the availability of adequate, reliable, affordable, efficient and environmentally sustainable electric service at the least cost, taking into account any benefits of price stability over time and the impact on the environment.

Act 129, 66 Pa.C.S. § 2806.1 *et seq*, pmbl. Likewise, the Commission clearly evidenced its intention to assign costs to the classes which derive the benefit when it stated:

...we will require the EDC to allocate those costs to the classes whom derive the benefit from such costs.

Implementation Order at 32. The Commission went on to say:

Any costs that can be clearly shown to benefit solely one specific class should be assigned wholly to that class. Those costs that provide benefit across multiple classes should be allocated among the appropriate classes using reasonable cost of service practices.

Id. The ALJ dismisses these clear statements by stating that the language “is merely a general cost of service statement” and that such benefits should not be considered. Id. at 28.

Contrary to the ALJ’s assertion, the causal relationship between costs and benefits is an accepted cost of service principle. For example, in the recent case Illinois Commerce Commission v. FERC, hereinafter ICC, the Seventh Circuit stated:

FERC is not authorized to approve a pricing scheme that requires a group of utilities to pay for facilities from which its members derive no benefits, or benefits that are trivial in relation to the costs sought to be shifted to its member...Not surprisingly, we evaluate compliance with this unremarkable principle by comparing the costs assessed against a party to the burdens imposed or benefits drawn by that party.

Illinois Commerce Commission v. FERC, 576 F.3d 470, 476 (Seventh Cir. 2009)(ICC) (citing KN Energy, Inc. v. FERC, 968 F.2d 1295, 1300, (D.C. Cir. 1992); Transmission Access Policy Study Group v. FERC, 225 F.3d 667, 708 (D.C. Cir. 2000); Pacific Gas & Elec. Co. v. FERC, 373 F.3d 1315, 1320-21 (D.C. Cir. 2004); Midwest ISO Transmission Owners v. FERC, 373 F.3d 1361, 1368 (D.C. Cir. 2004); see also Alcoa Inc. v. FERC, 564 F.3d 1342, 1346-47 (D.C. Cir. 2009); Federal Power Act, 16 U.S.C. § 824d). In ICC, the Court heard an appeal by various Commissions and utilities in PJM regarding the financing of new transmission facilities. 576 F.3d at 474. The PJM-proposed and FERC-approved method at issue would have required all utilities in PJM’s region to contribute pro rata for facilities of over 500kV. Id. In overturning

this treatment, the Seventh Circuit noted that not even the roughest estimate of likely benefits to the objecting utilities was presented. ICC, at 475. In fact, FERC counsel conceded that Commonwealth Edison would derive only \$1 million in expected benefits from the project for which it was being asked to pay \$480 million. Id. at 478. The Court specifically stated that the disparity between benefit and costs would be unreasonable. Id.<sup>4</sup>

In this proceeding, the Industrials (and the ALJ) cited the Commonwealth Court's decision in Lloyd v. Pa. Public Utility Commission in support of their position that the OCA's cost allocation should be rejected. See Lloyd v. Pa. Public Utility Commission, 904 A.2d 1010 (Pa. Commw. Ct. 2006) (Lloyd). The OCA submits, however, that rather than preclude consideration of the OCA's allocation proposal, the Lloyd decision supports its implementation.

While the Industrials cited Lloyd for the proposition that cost of service is the "polestar" of utility ratemaking and argue that allocating costs on the basis of benefits violates cost of service principles, the Court's decision in Lloyd does not support this argument. Notably, another section of the Lloyd decision upholds the allocation of Sustainable Energy Fund (SEF)

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<sup>4</sup> It should be noted that, in another context, the PJM Interconnection and the Midwest Independent Transmission System Operator (MISO) have proposed a methodology for allocating the costs of projects built into one regional transmission organization that also provided benefits to another Regional Transmission Operator (RTO). These benefits are referred to as "economic cross-border projects." In its Order addressing this issue, the FERC described the methodology it then approved as follows:

If a project qualifies as an economic cross-border project, its costs will be allocated to each RTO in proportion to the present value of the RTO's share of the annual benefits that are calculated for the proposed project...

We accept the RTO's proposal as just and reasonable and in compliance with the Commission's directives to revise the JOA [Joint Operating Agreement] to include a methodology to allocate between the RTOs, the costs of economic cross-border transmission projects.

We find that the proposed JOA economic cross-border benefit formula is a just and reasonable method of allocating costs since it is based on criteria that the Commission previously accepted for use by each RTO to measure the benefits of adding new transmission within its footprints.

costs to all classes of distribution customers on the basis that all ratepayers benefit from the Fund's activities. Lloyd at 1024-1027. The SEF costs were charged to all customers through a uniform per kWh charge. In the face of an argument by industrial customers that the SEF provides no demonstrable benefits to ratepayers, the Court stated: "What the core of that argument ignores is that the General Assembly has specifically authorized that public service programs such as SEF be funded." Lloyd at 1025. The Court noted that the purpose of the SEF is "to promote the development and use of renewable energy and clean energy technologies, energy conservation and efficiency which promote clean energy." Lloyd at 1024. Act 129, which established the smart metering program, likewise seeks to further the availability of adequate, reliable, affordable, efficient and environmentally sustainable electric service at the least cost, taking into account the benefits of price stability over time and the impact on the environment. Act 129, 66 Pa.C.S. § 2806.1 *et seq*, pmbl.

Further, the ALJ's characterization fails to recognize the very foundation of the Act itself. The purpose of this massive new investment is not simply to count kilowatt hours every month and provide accurate bills to each individual customer. Rather, it is to reduce overall demand and energy costs for the benefit of all customers. Allocating these common costs based on energy and demand, as proposed by the OCA, recognizes the purpose of Act 129 and also recognizes that larger customers (in terms of demand and energy usage) will derive far greater benefits from both the smart meter systems and the enhanced technological capabilities. It is simply inappropriate to allocate the exact same dollar level of these costs to an individual 500 kWh per month residential customer as to the largest industrial or commercial customer on the PECO system.

B. The ALJ's Decision Does Not Reflect The Fact That The Meters Are Being Installed For The Purpose Of Impacting Energy And Demand Consumption

As was mentioned above, these meters are not being installed simply to count kWh for billing purposes. Indeed, PECO has already had automated meters for meter reading and billing purposes for many years. Instead, these new meters are being installed to comport with the requirements of Act 129. The ALJ fails to recognize the purpose of this installation and states that “the relevant issue however, when it comes to allocation, is what proportionate share of these costs should be borne by each of the customer classes” and “simply put, it is the need for the meter itself that ‘causes’ those specific costs to be incurred.” I.D. at 28. This characterization ignores the fact that the need for the meter is because of Act 129, legislation whose purpose is to increase energy efficiency and demand response. Moreover, this statement ignores the basic fact that for PECO, which acknowledges that it has already reaped the benefits of more advanced meter reading and billing technologies in its current meters, these meters are not being installed for billing purposes. No EDC would replace fully operational billing meters that already provide all meter reading billing benefits without some additional cause. Instead, these meters are being installed to impact demand and energy consumption.

As was mentioned above, the Company acknowledges that its current Automated Meter Reading (AMR) system already realizes the benefits associated with the elimination of physical meter reading. PECO St. 4-R at 4. As PECO witness Kelly explained:

In terms of Plan benefits, I explained in my direct testimony that PECO has realized significant benefits as a result of its existing automated meter reading (AMR) system, which eliminated physical meter reading for nearly all of PECO's electric customers and reduced costs associated with outage notification, meter tampering and theft. Because these savings were first realized long before and independent of the Smart Meter Plan, they have not been netted against PECO's estimated smart meter costs.

Id. Ms. Kelly also stated, however, that customers will benefit from the new metering system through an expanded opportunity to participate in energy efficiency and demand response programs, enabling customers to better understand and manage their energy needs.<sup>5</sup> Id. The Company's own successful American Recovery and Reinvestment Act (ARRA) Application provides greater detail on expected benefits from the smart meter system and indicates that responses to dynamic pricing solutions are expected to generate significant capacity and energy savings. PECO Hearing Exh. 2, Vol. I, Project Plans at 29-33. These savings are detailed as follows:

Smart grid enabled dynamic pricing solutions are intended to produce customer load shifting. Analysts with Drexel University estimate that in 2012, PECO customers' peak load energy costs will be reduced approximately \$2.6 million (based on estimated 15% participation across customer classes with 600,000 meters deployed).

Id. at 30. The Company predicts that from 2012 to 2021 (cumulatively), if only 30% of customers participate in the Company's dynamic pricing solutions: 320,295,806 kWh will be saved, a 923,335 kW peak reduction will occur, the Company will avoid \$62,779,000 in PJM capacity and transmission costs and, \$42,908,000 of peak energy purchases will be avoided. Id.

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<sup>5</sup> Indeed, Constellation New Energy filed testimony in this proceeding addressing how the new smart meter technology will increase the amount of data being collected and will allow competitive EGSs to better understand usage patterns and help customers with functions such as energy efficiency and peak load reductions. Constellation St. 1 at 6-7. Constellation specifically discussed these "increasingly sophisticated energy strategies" and stated:

Overlaying Smart Meter technologies onto existing open platforms makes it possible to more successfully harness and shape load whether the load is distributed across a single facility, college campus or retail chain with multiple locations throughout a large geographic area. This ability to shift and shape load across multiple building is going to reveal itself to be the smartest and most efficient way to create the virtual peaking plans and intelligent buildings of the greener energy grid of the future...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 by such new Smart Meter technologies is as specific and frequent as possible.

Constellation St. 1 at 7-8 (Emphasis in original).

(Table 1). Further, the Company indicates that it expects to experience important operational efficiency improvements resulting in further reductions in the costs of providing capacity and energy to its customers. Id. Clearly these benefits will not accrue to all types of PECO customers on an equal basis, yet that is what is implied by the Company's proposed per-customer allocation in this case.

OCA witness Swan further explained the deficiency with the Company's proposed (and ALJ's approved) allocation:

The Company makes a fundamental error in its rationale for allocating all these common costs on the basis of the number of customers. The error is the underlying assumption that all customers will benefit equally from implementation of a smart metering program. That is, the Company assumes that a small residential customer, using, say, 500 kWh a month, will receive the same amount of benefit from the smart metering system as will a large industrial customer with a 50 MW load and an 80 percent load factor. That simply is not the case. The logic that these common costs should be allocated based on the number of customers because all customers receive bills could similarly be used to allocate generation or transmission costs on the number of customers. That is the kind of pricing mechanism that the industry used when it was first established over a hundred years ago, but we have come a long way since those simplistic allocation schemes were used.

OCA St. 3 at 5.

Dr. Swan also provided information in this proceeding from Duquesne Light Company's ARRA proposal that included specific initial estimates of benefits accruing to each customer class. OCA St. 3S at 5. For Duquesne's initial meter installation, Large C&I customers were estimated to receive 67 to 69% of savings; Medium C&I customers 27 to 28% of savings; and residential customers only 2.7 to 5.5% of the savings—even though more than half of the meters to be installed by Duquesne in the initial deployment will be for residential customers. Id. This evidence is in direct contravention to PECO's assertion, which the ALJ accepted, that there is no support for the OCA's position that each class will derive benefits from

the smart meter technology in proportion to the class' demand and energy usage, rather than in proportion to the number of customers in each class. I.D. at 28.

In his Exhibit DES-1, Dr. Swan also provided the number of customers, total revenues and total energy consumed by the three major groups of PECO retail customers: Residential, Small C&I, and Large C&I. For example, while the Large C&I class is responsible for 33% of retail revenues and 44% of total energy usage, the Company has proposed to allocate only 0.2% of the common costs because the Large C&I class comprises 0.2% of total customers. OCA St. 3 at 6. In contrast, residential customers are responsible for 44.3% of retail revenues and 33.9% of energy usage, yet they will bear 89.9% of the total common costs because they represent 89.9% of the Company's number of customers. Id. The OCA submits that it defies logic to suggest that the Large C&I class would receive only 0.2% of the benefits of PECO's smart meter system, as the savings for customers will be substantially in proportion to the amount of energy and capacity used by those customers.

The bottom line is that the allocation method proposed by the Company and approved by the ALJ would create a glaring disparity between costs and benefits. Such disparity is simply not congruent with traditional cost of service principles.

C. The OCA's Proposed Common Costs Allocation Methodology Would Not Result In Cross Subsidization

The ALJ states that the effect of the OCA's proposal would be to shift a large portion of the residential class costs to the other rate classes "resulting in subsidization of the residential class." I.D. at 28. The OCA respectfully submits that this argument is circular. As the OCA explained above and in its Main and Reply Briefs, the proper method of allocating common costs is based on energy and demand. Subsidization would not exist under the OCA proposal as the cost would rightfully be imposed upon the class causing the costs—it bears

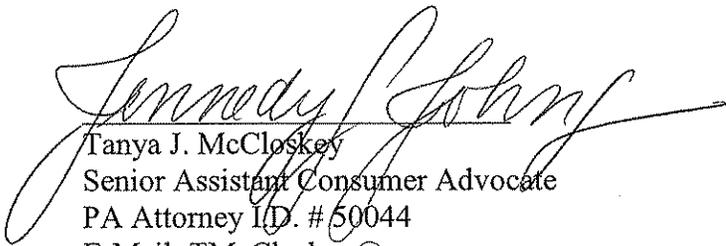
repeating that these costs are not for the meters themselves, but are, instead, common costs. No class would be asked to bear more than their allotted share based on cost of service principles. In fact, the OCA submits that, if the ALJ's decision regarding common cost allocation is upheld, it would be the Company's allocation method that would result in the residential class subsidizing the other classes due to the gross disparity between costs and benefits.

The OCA's proposal to allocate costs on the basis of energy and demand will reflect the purpose of Act 129 and is consistent with the Commission's Implementation Order. Additionally, this allocation would provide a cost causation link consistent with cost of service principles. Therefore, the OCA submits that the ALJ erred in holding that the appropriate basis on which to allocate common system costs is on the number of customers.

### III. CONCLUSION

Traditional cost allocation principles, the language of Act 129, and the Commission's Implementation Order all support the OCA's position that the common costs of the PECO smart meter system cannot reasonably be allocated on the basis of the number of customers. The number of customers is neither a measure of the benefits derived from the smart meter system, nor the cause of common system costs. Accordingly, the OCA respectfully submits that the common cost allocation aspect of the ALJ's I.D. should not be adopted and that the Commission should approve the OCA's common cost allocation proposal.

Respectfully Submitted,



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Dated: February 17, 2009  
122436

CERTIFICATE OF SERVICE

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

I hereby certify that I have this day served a true copy of the foregoing document, the Exceptions of the Office of Consumer Advocate to the Initial Decision issued on January 28, 2010 by the Honorable Marlane R. Chestnut, 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 and upon the persons listed below:

Dated this 17<sup>th</sup> day of February 2010.

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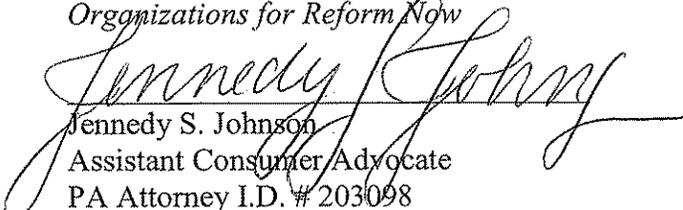
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