

Morgan, Lewis & Bockius LLP  
1701 Market Street  
Philadelphia, PA 19103-2921  
Tel: 215.963.5000  
Fax: 215.963.5001  
www.morganlewis.com

**Morgan Lewis**  
C O U N S E L O R S   A T   L A W

Anthony C. DeCusatis  
215.963.5034  
adecusatis@MorganLewis.com

February 17, 2010

**VIA FEDERAL EXPRESS**

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

**Re: Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company  
and Pennsylvania Power Company for Approval of Smart Meter Technology  
Procurement and Installation Plan, Docket No. M-2009-2123950**

Dear Secretary McNulty:

Enclosed for filing are the original and nine (9) copies of the Exceptions of Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company in the above-referenced proceeding. Also enclosed is a disk containing the Exceptions in a searchable PDF format.

Copies of the Exceptions have been served upon Administrative Law Judge Colwell and all parties/intervenors in accordance with the attached Certificate of Service. An additional copy of this letter and the Exceptions are enclosed, which we request that you date-stamp and return to us in the stamped, self-addressed envelope provided.

Very truly yours,

  
Anthony C. DeCusatis

Enclosures

c: Certificate of Service

**RECEIVED**

FEB 17 2010

**PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU**

**RECEIVED**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**FEB 17 2010**

**JOINT PETITION OF METROPOLITAN :  
EDISON COMPANY, PENNSYLVANIA :  
ELECTRIC COMPANY AND :  
PENNSYLVANIA POWER COMPANY :  
FOR APPROVAL OF SMART METER :  
TECHNOLOGY PROCUREMENT AND :  
INSTALLATION PLAN :**

**PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU**

**Docket No. M-2009-2123950**

**EXCEPTIONS OF  
METROPOLITAN EDISON COMPANY  
PENNSYLVANIA ELECTRIC COMPANY  
AND PENNSYLVANIA POWER COMPANY**

**To The Initial Decision of Administrative Law Judge  
Susan D. Colwell**

Kathy J. Kolich, Esquire  
Attorney No. 92203  
FirstEnergy Service Company  
76 South Main Street  
Akron, OH 44308

Bradley A. Bingaman, Esquire  
Attorney No. 90443  
FirstEnergy Service Company  
2800 Pottsville Pike  
P.O. Box 16001  
Reading, PA 19612-6001

Thomas P. Gadsden, Esquire  
Attorney No. 28478  
Anthony C. DeCusatis, Esquire  
Attorney No. 25700  
Catherine G. Vasudevan, Esquire  
Attorney No. 210254  
Morgan, Lewis & Bockius LLP  
1701 Market Street  
Philadelphia, PA 19103-2921  
Counsel for:  
Metropolitan Edison Company  
Pennsylvania Electric Company  
Pennsylvania Power Company

February 17, 2010

## TABLE OF CONTENTS

	<b>Page</b>
I. INTRODUCTION .....	1
II. EXCEPTIONS .....	2
1. Interest On Over And Under-Collections .....	2
2. Current Recovery Of Assessment Period Costs.....	3
3. Recognition Of Operating Expense Reductions And Avoided Capital Costs .....	3
III. ARGUMENT .....	3
A. Interest On Over And Under-Collections .....	3
B. Current Recovery Of Assessment Period Costs.....	6
C. Recognition Of Operating Expense Reductions And Avoided Capital Costs.....	8
IV. CONCLUSION.....	10

**TABLE OF AUTHORITIES**

**Page(s)**

**COMMISSION CASES**

*Joint Petition Of Metropolitan Edison Co. and Pennsylvania Electric Co. For Approval Of Their Default Service Programs, Docket Nos. P-2009-2093053 and P-2009-2093054 (November 6, 2009) .....5*

*Metropolitan Edison Co., Pennsylvania Electric Co. and Pennsylvania Power Co. Consumer Education Plan For 2008-2012, Docket Nos. M-2008-2032261, M-2008-2032262 and M-2008-2032263. (August 25, 2008) .....5*

*Pa. P.U.C. v. Metropolitan Edison Co., Docket No. R-00061366 (January 11, 2007) .....5*

*Pa. P.U.C. v. Pennsylvania Electric Co., Docket No. R-00061367 (January 11, 2007) .....5*

*Pa. P.U.C. v. Pennsylvania Power Co., Docket Nos. M-00072023 and R-00072437 (April 11, 2008).....5*

*Pa. P.U.C. v. PPL Electric Utilities Corp., Docket No. R-00049255, 237 P.U.R.4th 419, 2004 Pa. P.U.C. LEXIS 40 (December 22, 2004) .....4*

*Petition Of Pennsylvania Power Co. For Approval Of Interim Default Service Supply Plan, Docket No. P-00072305 (March 13, 2008) .....5*

*Smart Meter Procurement and Installation Implementation Order, Docket No. M-2009-2092655 (June 24, 2009).....1*

**STATUTES**

41 P.S. § 202 .....3

66 Pa. C.S. § 1307 .....2, 4, 5

66 Pa. C.S. § 2807(f).....1

66 Pa. C.S. § 2807(f)(4) .....8

66 Pa. C.S. § 2807(f)(7) .....2, 8

66 Pa. C.S. § 2807(f)(7)(ii) .....3, 5  
52 Pa. Code § 53.66(d) .....4

**RECEIVED**

FEB 17 2010

**I. INTRODUCTION**

**PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU**

On August 14, 2009, Metropolitan Edison Company (Met-Ed), Pennsylvania Electric Company (Penelec) and Pennsylvania Power Company (Penn Power) (collectively, the Companies) filed a Petition requesting that the Pennsylvania Public Utility Commission (the Commission) issue an order approving their Smart Meter Technology Procurement and Installation Plan (Smart Meter Plan) pursuant to Act 129 of 2008 and the Commission's Implementation Order. *See* 66 Pa. C.S. § 2807(f); *Smart Meter Procurement and Installation*, Docket No. M-2009-2092655 (Order entered June 24, 2009)(Implementation Order). The Companies also requested that the Commission authorize Met-Ed, Penelec, and Penn Power to implement their respective Smart Meter Technologies Charge (SMT-C) Riders and to charge Smart Meter Technology rates determined thereunder, effective on April 1, 2010. The Commission launched an investigation of the Companies' Smart Meter Plan, and the matter was assigned to Administrative Law Judge Susan D. Colwell (the ALJ).

A detailed history of this proceeding is set forth in the Companies' Initial Brief, dated December 11, 2009 (Companies' Initial Brief). In addition, on December 31, 2009, the Companies filed a Reply Brief (Companies' Reply Brief) in response to the Main Briefs submitted by the Office of Trial Staff (OTS), the Office of Consumer Advocate (OCA), the Pennsylvania Department of Environmental Protection (DEP) and Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc. (collectively, Constellation). The Office of Small Business Advocate (OSBA) and the Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance and Penn Power Users Group (collectively, MEIUG et al.) also filed Main Briefs in which they supported the method the Companies proposed to allocate Assessment Period costs among customer classes and opposed the alternative allocation method proposed by

the OCA. The Pennsylvania Association of Community Organizations for Reform Now (ACORN) did not file a Main Brief.

On January 28, 2010, the ALJ issued her decision (Recommended Decision or R.D.) recommending approval of the Companies' Smart Meter Plan subject to certain modifications. In the Recommended Decision, the ALJ accepted the Companies' positions in all areas litigated by the parties except for three: (1) the symmetrical imposition of interest on over and under-collections at the statutory rate; (2) recovery of Assessment Period costs on a current basis, i.e., as those costs are incurred; and (3) recognition of savings from implementing smart meter technology in future base rate cases. Accordingly, the following Exceptions are narrowly limited to those three areas.

## **II. EXCEPTIONS**

The Companies respectfully note the following Exceptions to the Recommended Decision:

### **1. Interest On Over And Under-Collections**

Exception is taken to the ALJ's finding that interest should not be allowed on over or under-collections under the Companies' SMT-C Riders. (R.D., p. 43) As explained herein, interest on over and under-collections is necessary to achieve the full and current recovery of smart meter costs allowed by statute. *See* 66 Pa. C.S. § 2807(f)(7). The Commission has approved a variety of Section 1307 (66 Pa. C.S. § 1307) recovery mechanisms for the Companies and other electric distribution companies (EDCs) that provide for interest on net over and under-collections. As explained herein, there is no reason to deviate from current Commission practice in this regard.

## **2. Current Recovery Of Assessment Period Costs**

Exception is taken to the ALJ's finding that the Companies' Assessment Period costs should be capitalized over the life of the smart meter technology to which such costs relate. (R.D., p. 46) As explained herein, Assessment Period costs will include research and development costs which have traditionally been treated as expense items. In addition, recovery of Assessment Period costs on a current (i.e., expense) basis will moderate the impact of the Companies' Smart Meter Plan on customers' rates.

## **3. Recognition Of Operating Expense Reductions And Avoided Capital Costs**

Exception is taken to the ALJ's finding that the Companies' SMT-C Riders must include language expressly committing the Companies, in calculating charges under that rider, to recognize operating and capital cost savings realized as a result of the installation and use of smart meter technology. (R.D., p. 47) As explained herein, the Companies believe that future distribution base rate proceedings are the best place to recognize any operational savings directly associated with the implementation of the Smart Meter Plan. Additionally, the Commission should expressly reject the OCA's contention that "capital cost savings" include future "avoided" capital costs. The avoidance of future capital costs does not produce any current "savings" that can be recognized either in charges imposed under the SMT-C Rider or in base rates.

# **III. ARGUMENT**

## **A. Interest On Over And Under-Collections**

Act 129 permits EDCs to recover their smart meter costs "on a full and current basis through a reconcilable automatic adjustment clause under section 1307." 66 Pa. C.S. § 2807(f)(7)(ii). The Companies' proposed SMT-C Riders provide for interest on net over and under-collections at the legal rate set forth in 41 P.S. § 202 (6%). (Companies' Initial Brief, pp.

22-23) The Companies' proposal was opposed by the OTS, which recommended that interest accrue only on net over-collections (i.e., not on net under-collections) and that the interest rate should be the maximum lending rate for residential mortgage loans specified periodically by the Pennsylvania Secretary of Banking pursuant to the Pennsylvania Loan Interest and Protection Law.

The ALJ rejected both the Companies' and the OTS' positions because she concluded that the imposition of interest on either over or under-collections was not authorized. In reaching that determination, the ALJ compared Section 1307(f), which applies only to the recovery of purchased gas costs, to Section 1307(e) and concluded that, because the former expressly prescribes interest, while Section 1307(e) is silent on the subject, the Commission lacks authority to allow interest on over or under-collections of any costs except purchased gas expenses. (R.D., p. 43)

The ALJ's statutory interpretation should be rejected for several reasons. First, it is contrary to the prior application of Section 1307(e) by the Commission, which has approved a variety of Section 1307 recovery mechanisms for the Companies, as well as other EDCs,<sup>1</sup> that provide for the application of interest on net over and under-collections of expenses other than purchased gas costs.<sup>2</sup> In particular, the Commission has approved Section 1307 mechanisms that provide for interest on over and under-collections as part of: (1) the Companies' Universal

---

<sup>1</sup> *E.g. Pa. P.U.C. v. PPL Electric Utilities Corp.*, Docket No. R-00049255, 237 P.U.R.4th 419, 2004 Pa. P.U.C. LEXIS 40 (December 22, 2004) (Approving the accrual of interest on over and under-collection of transmission service costs under PPL's Transmission Service Charge Rider established under Section 1307.)

<sup>2</sup> Notably, Section 1307(f), upon which the ALJ relied, only applies to gas distribution companies with annual operating revenues exceeding \$40 million. Gas companies with annual operating revenues below that threshold recover their purchased gas costs under an adjustment clause established pursuant to Section 1307(a) and reconcile their purchased gas costs and adjustment clause revenues pursuant to Section 1307(e). Nonetheless, the Commission has authorized the payment of interest on over-collections for those gas companies and, thereby, implicitly interpreted Section 1307(e) as permitting interest. *See* 52 Pa. Code § 53.66(d).

Service Cost Riders; (2) Met-Ed's and Penelec's Transmission Service Charge Riders;<sup>3</sup> (3) Met-Ed's and Penelec's Default Service Charge Riders; (4) Penn Power's Price to Compare Interim Default Service Rider and Hourly Pricing Service Interim Default Service Rider;<sup>4</sup> and (5) Met-Ed's and Penelec's Consumer Education Program Cost Recovery Riders.<sup>5</sup> (See Companies' Initial Brief, pp. 34-35). There is simply no basis for departing from the Commission's long-standing interpretation that Section 1307(e) authorizes the Commission to approve the accrual of interest on over and under-collections.

Second, interest on over and under-collections is necessary to appropriately reflect the time value of money. Unless time value is properly recognized, either the Companies or their customers will be short-changed if under or over-collections, respectively, occur. That outcome is inequitable and, in the case of under-collections, conflicts with the express provision of Act 129 that entitles EDCs to recover the costs of smart meter procurement and implementation under a Section 1307 adjustment clause on a "full and current basis." 66 Pa. C.S. § 2807(f)(7)(ii).

Finally, because the ALJ concluded that Section 1307(e) did not authorize interest, she did not make any recommendation on how to resolve the disagreement between the OTS and the Companies as to the appropriate rate of interest and whether that rate should apply to both net

---

<sup>3</sup> *Pa. P.U.C. v. Pennsylvania Power Co.*, Docket Nos. M-00072023 and R-00072437 (April 11, 2008) (authorizing symmetrical interest at the statutory rate for both over and under collections); *Pa. P.U.C. v. Metropolitan Edison Co.*, Docket No. R-00061366 (January 11, 2007) (same); *Pa. P.U.C. v. Pennsylvania Electric Co.*, Docket No. R-00061367 (January 11, 2007) (same).

<sup>4</sup> *Joint Petition Of Metropolitan Edison Co. and Pennsylvania Electric Co. For Approval Of Their Default Service Programs*, Docket Nos. P-2009-2093053 and P-2009-2093054 (November 6, 2009) (authorizing symmetrical interest at the statutory rate for under collections and at the statutory rate plus 2% for over collections); *Petition Of Pennsylvania Power Co. For Approval Of Interim Default Service Supply Plan*, Docket No. P-00072305 (March 13, 2008) (same).

<sup>5</sup> *Metropolitan Edison Co., Pennsylvania Electric Co. and Pennsylvania Power Co. Consumer Education Plan For 2008-2012*, Docket Nos. M-2008-2032261, M-2008-2032262 and M-2008-2032263 (August 25, 2008) (authorizing symmetrical interest at the statutory rate for both over and under collections).

over and under-collections, as the Companies proposed, or only to net over-collections, as the OTS proposed. For the reasons set forth in detail in the Companies' Initial Brief (pp. 33-35), interest should accrue at the statutory rate (6%) on both net over and under-collections. There is no justification for the asymmetrical application of interest that the OTS recommends, which would deprive the Company of the time value of money on net under-collections and, thereby, violate Act 129's directive for "full and current" recovery of smart meter costs.

#### **B. Current Recovery Of Assessment Period Costs**

The ALJ also recommended that the costs the Companies will incur during the 24-month Assessment Period be "capitalized" and recovered over the life of the smart meter technology to which such costs relate, as the OTS proposed. (R.D., p. 46)<sup>6</sup> In so doing, she rejected the Companies' proposal that the expenses they incur during the 24-month Assessment Period be recovered on a current basis. (Companies' Initial Brief, p. 36)

The expenses that the Companies will incur during the Assessment Period will consist principally of costs to review and test numerous smart meters and various smart meter infrastructure configurations as part of the Companies' research and development efforts. (Companies' Initial Brief, p. 36) Because research and development costs have traditionally been treated as an expense item, it is appropriate to recover Assessment Period costs through the SMT-C Riders as they are incurred. *Id.* Further, recovering Assessment Period costs on a

---

<sup>6</sup> The ALJ did not accept the OTS' proposal that the Companies also "capitalize" administrative costs and, instead, recommended that such expenses be recovered on a current basis as they are incurred. However, administrative costs, which consist principally of the costs of this proceeding, are considerably smaller than Assessment Period costs will be. Consequently, if the ALJ's recommendation were adopted, the Companies would not be able to impose a charge under their SMT-C Riders solely to recover administrative costs because doing so would produce a per-kWh rate too small to register within the number of decimal places available under the Companies' billing systems. Accordingly, the Companies would, of necessity, have to delay the recovery of administrative costs. In that event, and depending on the Commission's determination of when the Companies should begin to recover "capitalized" Assessment Period costs, the Companies may have a charge of zero under their SMT-C Riders as of the effective dates of those riders.

current basis will moderate the rate impact of the Companies' Smart Meter Plan on customers. Assessment Period costs will be relatively small, while the costs that will be incurred during the implementation of the Smart Meter Plan will be considerably greater. It does not make sense to defer the recovery of Assessment Period costs from a period when SMT-C rates will be relatively low to a period when those rates will be considerably higher. For all of these reasons, the Companies should be permitted to recover Assessment Period costs on a current basis.

Finally, in addition to the fundamental defects in the OTS' proposal, discussed above, there are implementation issues that the OTS did not address and, therefore, are unresolved. Initially, although the OTS' proposal to "capitalize" Assessment Period costs implies that the Companies will be entitled to recover a return on, as well as a return of, such costs, that point was not made explicitly either by the OTS or the ALJ. If the OTS' proposal were adopted, the Companies must be permitted to earn a return on the un-recovered balance of such costs at the same pre-tax overall rate of return applied to smart meter investments that properly represent capital expenditures.

Also, while the OTS proposed that Assessment Period costs be recovered "over the life of the smart meter technology" to which those costs relate, the starting point of the recovery period has not been identified. If the recovery period did not begin until the Companies' smart meter network is placed in service, then Assessment Period costs would accrue capital costs at the approved pre-tax return rate for several years, during which time the charge under the SMT-C Rider would be zero. Alternatively, recovery could begin as soon as Assessment Period costs are first incurred, based on a recovery period that extends to the end of the projected service life of "the smart meter technology" to which those costs relate. In that case, a charge would be

imposed under the SMT-C Rider during the Assessment Period, and the charge would increase over time as additional Assessment Period costs were incurred.

As evidenced by the foregoing discussion of implementation issues, the OTS' proposal creates levels of complexity that are not justified by the nature and amount of the Assessment Period costs to be recovered. For that reason, as well as those previously discussed, the Commission should reject the ALJ's recommendation that Assessment Period costs be "capitalized."

### **C. Recognition Of Operating Expense Reductions And Avoided Capital Costs**

The ALJ recommended adopting the OCA's proposal that the Companies' SMT-C Riders include language "to provide for operating and capital costs savings realized as a result of the smart meter installation and use of the technology." (R.D., p. 47)<sup>7</sup> While the Companies' acknowledge the need to identify realized cost savings, they believe that the difficulty and uncertainty surrounding the quantification of such savings make future distribution base rate proceedings the best place to recognize any operational savings directly associated with the implementation of the Companies' Smart Meter Plan. Using future base rate cases to recognize savings is also appropriate because, pursuant to Act 129 and the Commission's Implementation Order, revenue reductions caused by reduced electricity consumption or shifting energy demand attributable to smart metering can only be reflected in subsequent distribution base rate proceedings. *See* 66 Pa. C.S. § 2807(f)(4); Implementation Order, p. 28.

To the extent that the Commission finds that "savings" language should be included in the Companies' SMT-C Riders, it is important that the Commission identify savings in a manner consistent with the statute. Section 2807(f)(7) directs that "operating and capital cost savings

---

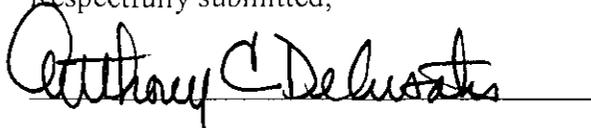
<sup>7</sup> The OTS did not address this issue in its case-in-chief. However, in surrebuttal testimony, OTS witness Morrissey expressed support for the OCA's position (OTS St. 1-SR, p. 18).

realized [by an EDC]” be recognized in determining the total net smart meter costs that may be recovered. The OCA contends that recognized savings should include “avoided” capital expenditures. (OCA St. 1, pp. 17-18) However, as discussed in the Companies’ Initial Brief, there are no current “savings” from “avoided” capital costs because such costs represent future capital expenditures that will not be made or will be delayed. By their nature, “avoided” capital costs are not currently reflected in the Companies’ rates and, therefore, their avoidance would not reduce existing base rates. (Companies’ Initial Brief, p. 37) Accordingly, the Commission should expressly reject the OCA’s proposal that “savings” include “avoided” capital expenditures.

#### IV. CONCLUSION

For the foregoing reasons, the Commission should grant the Companies' Exceptions and adopt the Recommended Decision with the modifications described herein.

Respectfully submitted,



Kathy J. Kolich, Esquire  
FirstEnergy Service Company  
76 South Main Street  
Akron, OH 44308  
Phone: (330) 384-4580  
Fax: (330) 384-3875  
Email: [kjkolich@firstenergycorp.com](mailto:kjkolich@firstenergycorp.com)

Bradley A. Bingaman, Esquire  
FirstEnergy Service Company  
2800 Pottsville Pike  
P.O. Box 16001  
Reading, PA 19612-6001  
Phone: (610) 921-6203  
Fax: (610) 939-8655  
Email: [bbingaman@firstenergycorp.com](mailto:bbingaman@firstenergycorp.com)

Thomas P. Gadsden, Esquire  
Anthony C. DeCusatis, Esquire  
Catherine G. Vasudevan, Esquire  
Morgan, Lewis & Bockius LLP  
1701 Market Street  
Philadelphia, PA 19103-2921  
Phone: (215) 963-5234  
Fax: (215) 963-5001  
Email: [tgadsden@morganlewis.com](mailto:tgadsden@morganlewis.com)

Counsel for:  
Metropolitan Edison Company  
Pennsylvania Electric Company  
Pennsylvania Power Company

Dated: February 17, 2010

RECEIVED

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

FEB 17 2010

JOINT PETITION OF METROPOLITAN :  
EDISON COMPANY, PENNSYLVANIA :  
ELECTRIC COMPANY AND :  
PENNSYLVANIA POWER COMPANY :  
FOR APPROVAL OF SMART METER :  
TECHNOLOGY PROCUREMENT AND :  
INSTALLATION PLAN :

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Docket No. M-2009-2123950

CERTIFICATE OF SERVICE

I hereby certify that I have served copies of the **Exceptions of Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company** in the above-captioned matter on the dates and in the manner as set forth below, in accordance with the requirements of 52 Pa. Code § 1.54:

VIA ELECTRONIC AND OVERNIGHT MAIL

Honorable Susan D. Colwell  
Office of Administrative Law Judge  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building, 2nd Floor  
400 North Street  
Harrisburg, PA 17120  
[scolwell@state.pa.us](mailto:scolwell@state.pa.us)

Tanya J. McCloskey  
Senior Assistant Consumer Advocate  
Aron J. Beatty  
Candis A. Tunilo  
Assistant Consumer Advocates  
Office of Consumer Advocate  
555 Walnut Street  
Forum Place, 5<sup>th</sup> Floor  
Harrisburg, PA 17101-1923  
[tmccloskey@paoca.org](mailto:tmccloskey@paoca.org)  
[abeatty@paoca.org](mailto:abeatty@paoca.org)  
[ctunilo@paoca.org](mailto:ctunilo@paoca.org)  
[jhorner@paoca.org](mailto:jhorner@paoca.org)

Charles Daniel Shields  
Senior Prosecutor  
Carrie B. Wright  
Prosecutor  
Pennsylvania Public Utility Commission  
Office of Trial Staff  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120  
[chshields@state.pa.us](mailto:chshields@state.pa.us)  
[carwright@state.pa.us](mailto:carwright@state.pa.us)

Daniel G. Asmus  
Assistant Small Business Advocate  
Office of Small Business Advocate  
Suite 1102, Commerce Building  
300 North Second Street  
Harrisburg, PA 17101  
[dasmus@state.pa.us](mailto:dasmus@state.pa.us)

Charis Mincavage  
Vasiliki Karandrikas  
Carl J. Zwick  
McNees Wallace & Nurick LLC  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166  
[cmincavage@mwn.com](mailto:cmincavage@mwn.com)  
[vkandrikas@mwn.com](mailto:vkandrikas@mwn.com)  
[czwick@mwn.com](mailto:czwick@mwn.com)

*Counsel for Met-Ed Industrial Users Group,  
Penelec Industrial Customer Alliance and Penn  
Power Users Group*

Kurt E. Klappkowski  
Assistant Counsel  
Commonwealth of Pennsylvania  
Department of Environmental Protection  
RCSOB, 9th Floor  
400 Market Street  
Harrisburg, PA 17101-2301  
[kklappkowski@state.pa.us](mailto:kklappkowski@state.pa.us)

Harry S. Geller  
John C. Gerhard  
Julie George  
Pennsylvania Utility Law Project  
118 Locust Street  
Harrisburg, PA 17101-1414  
[hgellerpulp@palegalaid.net](mailto:hgellerpulp@palegalaid.net)  
[jgerhardpulp@palegalaid.net](mailto:jgerhardpulp@palegalaid.net)  
[jgeorgepulp@palegalaid.net](mailto:jgeorgepulp@palegalaid.net)

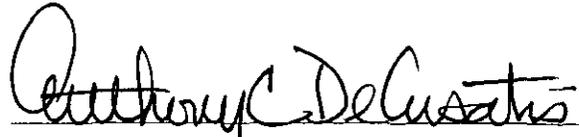
*Counsel for the Department of  
Environmental Protection*

*Counsel for the Pennsylvania Association of  
Community Organizations for Reform Now*

Divesh Gupta  
Senior Counsel  
Constellation Energy  
111 Market Place, Suite 500  
Baltimore, MD 21202  
[divesh.gupta@constellation.com](mailto:divesh.gupta@constellation.com)

Brian J. Knipe  
Michael T. Killion  
Buchanan Ingersoll & Rooney PC  
17 North Second Street, 15th Floor  
Harrisburg, PA 17101-1503  
[brian.knipe@bipc.com](mailto:brian.knipe@bipc.com)  
[michael.killion@bipc.com](mailto:michael.killion@bipc.com)

*Counsel for Constellation NewEnergy Inc. and  
Constellation Energy Commodities Group, Inc.*



Anthony C. DeCusatis, Esquire  
Attorney ID No. 25700  
Morgan Lewis & Bockius LLP  
1701 Market Street  
Philadelphia, PA 19103-2921  
215.963.5034  
[adecusatis@morganlewis.com](mailto:adecusatis@morganlewis.com)

Counsel For Metropolitan Edison Company,  
Pennsylvania Electric Company and  
Pennsylvania Power Company

Dated: February 17, 2010

ORIGIN ID: REDA (215)963-5317  
MAILROOM  
MORGAN LEWIS & BOCKIUS LLP  
1701 MARKET STREET

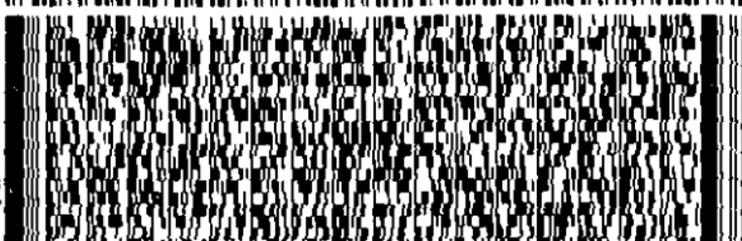
SHIP DATE: 17FEB10  
ACTWGT: 3.0 LB  
CAD: 0684922/CAFE2434

PHILADELPHIA, PA 19103  
UNITED STATES US

BILL SENDER

TO **JAMES J. MCNULTY, SECRETARY**  
**PA PUBLIC UTILITY COMMISSION**  
**COMMONWEALTH KEYSTONE BUILDING**  
**400 NORTH STREET**  
**HARRISBURG PA 17120**

REF: 000694 - 065515 - 0004



FedEx

Express



THU - 18FEB A

TRK# 4222 5001 5513  
0201

PRIORITY OVERNIGHT

**ZN MDTA**

1712

PA-1

MD



Part # 156146-434 NRIT V3 08-09