**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17105-3265**

 Public Meeting held April 15, 2010

Commissioners Present:

 James H. Cawley, Chairman

 Tyrone J. Christy, Vice Chairman, Dissenting

 Wayne E. Gardner

 Robert F. Powelson

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| Petition of PPL Electric Utilities Corporation for Approval of Smart Meter Technology Procurement and Installation Plan | Docket No. M-2009-2123945 |

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**OPINION AND ORDER**

**BY THE COMMISSION:**

# I. Introduction

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are Exceptions to the Initial Decision (I.D.) issued in these proceedings by Administrative Law Judge (ALJ) Wayne L. Weismandel on January 28, 2010. Specifically, Exceptions have been filed by PPL Electric Utilities Corporation (PPL); the Pennsylvania Department of Environmental Protection (DEP); the Office of Consumer Advocate (OCA); and the Office of Trial Staff (OTS). Reply Exceptions have been filed by PPL; the OCA; the PP&L Industrial Customer Alliance (PPLICA) and the Pennsylvania Association of Community Organizations for Reform Now (ACORN). For the reasons set forth herein, we will adopt the ALJ’s Initial Decision, as modified by this Opinion and Order.

# II. Background

## A. Act 129

Governor Edward G. Rendell signed Act 129 of 2008 (the Act or Act 129) into law on October 15, 2008. The Act took effect thirty days thereafter on November 14, 2008. Among other things, the Act specifically directed that electric distribution companies (EDCs) with at least 100,000 customers file, with the Commission for approval, a smart meter technology procurement and installation plan (Plan or SMP). 66 Pa. C.S. § 2807(f)(1). These plans were to be filed by August 14, 2009. Each plan was to describe the smart meter technologies the EDC proposes to install, upon request from a customer at the customer’s expense, in new construction, and in accordance with a depreciation schedule not to exceed 15 years. 66 Pa. C.S. §§ 2807(f)(1) and (2). The Act also established a requirement for EDCs to make available to third parties, upon customer consent, direct meter access and electronic access to meter data. 66 Pa. C.S. § 2807(f)(3). The Act further defined minimum smart meter technology capabilities. 66 Pa. C.S.
§ 2807(g). Finally, the Act established acceptable cost recovery methods. 66 Pa. C.S.
§ 2807(7).

On March 30, 2009, the Commission issued a Secretarial Letter seeking comments on a draft staff proposal and additional questions regarding EDC smart meter procurement and installation. On June 24, 2009, the Commission outlined the standards each smart meter plan must meet and provided guidance on the procedures to be followed for submittal, review and approval of all aspects of each smart meter plan. *Smart Meter Procurement and Installation*, Docket No. M-2009-2092655 (*Implementation Order*).

## B. The Company

PPL is a wholly owned subsidiary of PPL Corporation. PPL’s principal activity is to provide electricity delivery services. It serves approximately 1.4 million customers in a 10,000-square mile territory in twenty-nine counties of eastern and central Pennsylvania. The largest cities in this territory are Allentown, Bethlehem, Harrisburg, Hazleton, Lancaster, Scranton, Wilkes-Barre and Williamsport. It also supplies electricity to retail customers in that territory as a Provider of Last Resort under the Electricity Generation Customer Choice and Competition Act, 66 Pa. C.S. §§ 2801, *et seq*. PPL is a public utility and electric distribution company as those terms are defined under the Public Utility Code (Code), 66 Pa. C.S. §§ 102 and 2803.

# III. Procedural History

On August 14, 2009, PPL filed its Petition for Approval of Smart Meter Technology Procurement and Installation Plan. The Petition requested that the Commission approve the Plan in accordance with 66 Pa. C.S. § 2807(f)(1). Specifically, PPL requested the Commission to approve the Plan as well as the recovery of PPL’s Plan costs through its Act 129 Compliance Rider (ACR).

 On August 29, 2009, notice of the filing of the Petition was published in the *Pennsylvania Bulletin*. This notice required that comments addressing the Plan be filed by September 25, 2009.

 On September 18, 2009, DEP and PPLICA each filed and served a Petition to Intervene in this proceeding.

 On September 25, 2009, Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc. (collectively, Constellation) and ACORN each filed and served a Petition to Intervene in this proceeding. Also on September 25, 2009, the Office of Small Business Advocate (OSBA) filed and served a Notice of Intervention, Public Statement, and Notice of Appearance in this proceeding.

On November 3, 2009, an evidentiary hearing convened. PPL, OTS, OCA, DEP, PPLICA, Constellation, ACORN and OSBA each appeared by their respective legal counsel. By agreement of the parties, a number of the previously served written testimonies, and accompanying exhibits, if any, were admitted into evidence by stipulation, with cross-examination of the sponsoring witness waived by all Parties. A transcript of the proceeding containing 130 pages (numbered 64 through 194) was produced.

 On December 4, 2009, PPL, OTS, OCA, DEP, PPLICA, and Constellation each filed and served a Main Brief. ACORN and OSBA did not file and serve Main Briefs.

 On December 18, 2009, PPL, OTS, OCA, PPLICA, Constellation, and ACORN each filed and served a Reply Brief. DEP and OSBA did not file and serve Reply Briefs.

On January 28, 2010, the ALJ issued his Initial Decision which recommended, *inter alia*, that the PPL Smart Meter Plan be approved with the following modifications:

That PPL’s reconcilable automatic adjustment clause for the recovery of its smart meter costs is approved with the modification that there be imposed a bidirectional requirement for the payment of interest at the legal rate of interest plus two per cent on over collections and at the legal rate of interest on under collections.

That PPL’s feeder meter pilot program is not approved as a part of the Smart Meter Plan.

That PPL’s Smart Meter Plan is modified to require that PPL Electric Utilities Corporation undertake the required upgrades to make 15-minute interval data available to Small C&I customers and their EGSs and TPSs [Third Party Suppliers].

I.D. at 38.

On February 17, 2010, the OCA, the OTS, PPLICA and the DEP filed Exceptions to the Initial Decision. On March 1, 2010, Replies to Exceptions were filed by PPL, the OCA, PPLICA, and ACORN.

# IV. Description of the Plan

According to PPL, the Plan describes the current status of PPL’s smart meter deployment and states that PPL’s Advanced Meter Infrastructure (AMI) meets or exceeds all of the minimum requirements set forth in the Act as well as many of the additional capabilities presented in the *Implementation Order*. It also contains both a short-term plan, to be implemented during the thirty-month grace period (Grace Period) described in the *Implementation Order*, and a long-term time line based on information currently available. PPL’s Plan at 1, 2. Finally, the Plan addresses cost recovery. PPL’s Plan at 32.

## A. Current Status of Smart Meter Deployment

In 2002, PPL began full-scale deployment of an automatic meter reading system which continued through 2004. PPL St. No. 1 at 5; PPL MB at 6, 8. This system includes meters, communications infrastructure, computer servers and applications that permit PPL to read all of its meters remotely. PPL MB at 8.

Beginning in 2005 PPL expanded upon the capabilities of its automated meter reading system by installing a Meter Data Management System (MDMS). The MDMS provides for: (1) a customer interface that allows customers to analyze their usage; (2) a data repository capable of storing two years of hourly meter readings from all customers; (3) an advanced billing engine; (4) an energy settlement system allowing electric generation suppliers (EGSs) the ability to serve customers based upon hourly usage rather than load profile; and (5) expanded load analysis capabilities. PPL St. No. 1 at 5; PPL MB at 8.

## B. Plan for Smart Meter Deployment

PPL states that its existing smart meter system is able to support all of the capabilities set forth in the Commission’s *Implementation Order*. Tr. 93; PPL MB at 9. Therefore, rather than replace its existing system PPL proposes to conduct a series of evaluations and pilot programs to test and enhance its existing AMI System. PPL proposes to use the thirty-month grace period provided by the Commission in its *Implementation Order* to conduct a series of pilot programs and technology evaluations. The objective of these efforts is to extend the capabilities of the current AMI deployment. PPL St. No. 1 at 6, 7; PPL MB at 9; PPL’s Plan at 1. The overall cost of PPL’s pilot programs is estimated at $5.0 million and the technology evaluations are projected to cost $11.4 million. PPL St. No. 2-R at 3; PPL MB at 9; PPL’s Plan at 1.

## C. Cost Recovery

PPL has submitted an SMP budget for the five years ending 2014 detailing projected costs which total $61.2 million. PPL’s Plan Attachment 2. PPL has proposed to recover these estimated costs within its Commission approved Act 129 Compliance Rider (ACR), on a monthly basis as a separate non-bypassable reconcilable item reflected, however, as being subsumed within the distribution rate. PPL has updated its currently effective ACR tariff supplement to incorporate recovery of SMP costs.

In this proceeding, the OTS and OCA argued that PPL should establish a separate cost recovery mechanism for smart meter costs. OCA St. No. 2 at 10; OTS St. No. 1 at 6; PPL MB at 11. At the hearing, PPL indicated that it was willing to accept this proposal and to establish a separate cost recovery mechanism for smart meter costs. PPL MB at 11; I.D. at 7, 9.

PPL’s proposed ACR recovery mechanism provides for the following regarding its SMP:

1. To be applied on a non-bypassable basis to customers who receive distribution service.
2. To be computed separately for three groups: Residential consisting of Rate Schedules RS, RTS(R), and RTC(R); Small Commercial and Industrial consisting of Rate Schedules GS-1, GS-3, IS-1(R), BL, SA, SM(R), SHS, SE, TS(R), SI-1(R), GH-1(R), and GH-2(R); and Large Commercial and Industrial consisting of Rate Schedules

LP-4, IS-P(R), LP-5, LP-6, LPEP, IS-T(R) and L5S.

1. The capital and operating costs of each SMP initiative available to only one customer class will be directly assigned to that class.
2. All other non-direct costs will be allocated based upon the SMP costs directly assigned to each customer class divided by the total SMP costs directly assigned to all customer classes.
3. For the Large C&I customer class the billing KW is the average number of kilowatts supplied during the 15-minute period of maximum use during the current billing period.
4. Reconciliation of the ACR will be conducted separately for each of the three customer classes based upon the annual SMP budget for each customer class.
5. Interest on over/under-collections shall be computed at the appropriate rate, as provided for in Section 1308(d) of the Code.

PPL Plan Proposed Tariff Supplement.

# V. Discussion

In Commission proceedings, the proponent of a rule or order bears the burden of proof. 66 Pa. C.S. § 332(a). To satisfy that burden, the proponent of a rule or order must prove each element of its case by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa. Cmwlth. 1990) *alloc. denied*, 529 Pa. 654, 602 A.2d 863 (1992). A preponderance of the evidence is established by presenting evidence that is more convincing, by even the smallest amount, than that presented by the other parties to the case. *Se-Ling Hosiery v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950). Additionally, this Commission’s decision must be supported by substantial evidence in the record. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. Co. v. Pa. PUC,* 489 Pa. 109, 413 A.2d 1037 (1980).

We note that any issue or Exception that we do not specifically address herein has been duly considered and will be denied without further discussion. It is well settled that we are not required to consider expressly or at length each contention or argument raised by the Parties. [Consolidated Rail Corporation v. Pa. PUC, 625 A.2d 741 (Pa. Cmwlth. 1993);](file://C:\research\buttonTFLink?_m=69761b6202cb4178e2a6e6fe02f5751b&_xfercite=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b2000%20Pa.%20PUC%20LEXIS%2067%20%5d%5d%3e%3c\cite%3e&_butType=3&_butStat=242&_butNum=5&_butInline=1&_butinfo=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b625%20A.2d%20741%5d%5d%3e%3c\cite%3e&_fmtstr=FULL&docnum=5&_startdoc=1&_startchk=1&wchp=dGLSzS-lSlbz&_md5=ad2b02d95c2a9216e83b92a3570d4785) see also, generally, [University of Pennsyl­vania v. Pa. PUC, 485 A.2d 1217 (Pa. Cmwlth. 1984).](file://C:\research\buttonTFLink?_m=69761b6202cb4178e2a6e6fe02f5751b&_xfercite=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b2000%20Pa.%20PUC%20LEXIS%2067%20%5d%5d%3e%3c\cite%3e&_butType=3&_butStat=242&_butNum=6&_butInline=1&_butinfo=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b485%20A.2d%201217%5d%5d%3e%3c\cite%3e&_fmtstr=FULL&docnum=5&_startdoc=1&_startchk=1&wchp=dGLSzS-lSlbz&_md5=9b1cc8319afd12440738bb82d74455ef)

## A. Non-Cost Issues

### 1. Deployment Process and Timeframe

#### a. PPL’s Plan

PPL will use the thirty-month grace period to study, test and pilot techniques and applications that extend the capabilities of its current AMI system in a cost effective manner. PPL Plan at 12. During the grace period PPL will periodically report to the Commission on specific technology pilots and associated evaluation objectives. PPL states that since all customers currently have a meter that meets the requirements of Act 129, if a customer requests additional functionalities for its meter, PPL will include those customers in a pilot study as appropriate, subject to the constraints of timing and availability of equipment. PPL Plan at 14. Accordingly, PPL’s near-term plan is to pilot and evaluate applications that enhance the minimum requirements and support the additional capabilities put forth by the Commission. PPL Plan at 15. PPL then describes its pilot program initiatives and provides installation timelines for installation from 2011 through 2014, if the programs achieve a positive evaluation. PPL Plan at 17-24; Findings of Fact Nos. 5-7, 10, I.D. at 6.

#### b. ALJ’s Recommendation

 PPL has met its burden to demonstrate by a preponderance of the evidence that the deployment process and the timeframe set forth in its Plan, as modified in the Initial Decision, complies with the requirements of Act 129 and the Commission’s *Implementation Order*. Conclusion of Law No. 21, I.D. at 7.

#### c. Positions of the Parties

 No Party addressed this aspect of the Initial Decision though DEP took the position that PPL’s Plan should not be approved. I.D. at 31-33.

#### d. Disposition

 PPL is permitted to implement the deployment process and the timeframe set forth its Plan, as modified herein.

### 2. Procedural Schedule and Quarterly Filing Recommendation – Reconcilable Automatic Adjustment Clause

#### a. PPL’s Position

 PPL proposed an annual review and reconciliation of its smart meter technology cost recovery mechanism with annual rate adjustments on June 1 of each year. I.D. at 26. PPL asserts that this is consistent with the *Implementation Order* which provides for an annual review and reconciliation of smart meter costs. *Implementation Order* at 31.

#### b. ALJ’s Recommendation

 The ALJ approved PPL’s reconcilable automatic adjustment clause with an annual review and reconciliation process to occur simultaneously with PPL’s annual ACR reconciliation. I.D. at 26.

#### c. Positions of the Parties

 The OTS advocated separate cost recovery to implement a uniform procedural schedule for all EDC smart meter filings, with a twelve month reconciliation period ending June 30 of each Smart Meter Plan year. The OTS stated that the proposed schedule was designed to incorporate quarterly filings so that revenues and costs could be reviewed and adjusted in the likelihood of dramatic fluctuations. OTS Exc. at 3-4. PPL replied that the OTS’ proposal contradicts the Commission’s *Implementation Order*. PPL R. Exc. at 15.

No other Party addressed this aspect of the Initial Decision.

#### d. Disposition

 The uniform procedural schedule advocated by the OTS, with a 12-month reconciliation period ending June 30 of each Plan year is adopted, modified to only require annual filings, effective January 1 of each year, using average capital balances. Specifically, PPL shall not be required to incorporate quarterly filings, but may file for interim adjustments as necessary to maintain a balance between Plan net costs and revenues collected under a separate cost recovery mechanism under its tariff.[[1]](#footnote-1)

## B. Cost Issues

Although no Party addressed this point, we begin by noting that all Plan costs, including both expense and capital items (net of tax) and revenues included in PPL’s smart meter revenues, will not be included in the revenue requirement used in future distribution base rate cases and will be subject to Commission review and audit.

### 1. Calculation of Interest Charges & One Directional Recovery of Interest

#### a. PPL’s Plan

 PPL argued that the interest on over and under-collections should be set at the residential mortgage rate consistent with PPL’s Section 1307(e) automatic adjustment clauses. PPL Exc. at 7-11. PPL stated that the ALJ correctly rejected the OTS “one-sided” recovery of interest proposal. PPL R. Exc. at 14-15. Under the OTS one directional recovery proposal, interest would be computed on over/under collection activity for each month in the reconciliation period and, once calculated, only the net interest amount due to ratepayers would be incorporated into the smart meter recovery mechanism. Interest due to ratepayers as a result of over-collection would be returned to ratepayers at the residential mortgage rate while interest due to the Company as the result of an under-collection would not be recovered from the ratepayers. OTS Exc. at 7.

#### b. ALJ’s Recommendation

 The ALJ found that under 66 Pa. C.S. § 1307(f)(5), refunds to customers for over-collections shall be made at the legal rate of interest plus two (2) percent, and recoveries from customers for under-collections shall be made with interest at the legal rate of interest. Pursuant to 41 P.S. § 202, the “legal rate of interest” refers to the rate of interest of six (6) percent per annum. I.D. at 8, 25-26; Findings of Fact Nos. 22-23. The ALJ rejected the OTS’s recommendation of one directional recovery of interest and adopted PPL’s bidirectional interest proposal as essential to the recovery of costs on a “full and current” basis. 66 Pa. C.S. § 2807(f)(7); I.D. at 24, 25.

#### c. Positions of the Parties

 The OTS supported PPL in its contention to the extent that over collections should be set at the residential mortgage rate. OTS Exc. at 6. The OTS argued that PPL should be required to refund interest on over-collections but not be permitted to recover interest on under-collections. OTS MB at 16; OTS Exc. at 7.

No other Party addressed this aspect of the Initial Decision.

#### d. Disposition

Interest on both over and under collections should be paid at the legal rate of interest. Pursuant to 41 P.S. § 202, the “legal rate of interest” refers to the rate of interest of six (6) percent per annum.

### 2. Capital Structure

The rate of return is calculated by determining the proportions of capital and the cost rate for each type of capital. To calculate the rate of return, therefore, it is necessary to determine the capital structure, which is the proportion of long-term debt, preferred stock and common equity.

#### a. PPL’s Plan

As stated in the Plan:

To recover the capital costs associated with the future deployment of smart meter technologies, PPL is proposing that the capital structure be based upon its most recent distribution base rate case proceeding by the Commission Order entered January 11, 2004 at Docket Nos. R-00049255.

#### b. ALJ’s Recommendation

The ALJ adopted PPL’s proposal to include a return component based on PPL’s actual return on equity, debt cost rate and capital structure as approved by the Commission in PPL’s most recent fully litigated base rate proceeding in 2004. The ALJ found that PPL’s proposal is the only one in this proceeding fully based on PPL’s weighted cost of capital, which approach is consistent with the *Implementation Order* and is reasonable because it relies on data reviewed and approved by the Commission in a fully litigated proceeding. I.D. at 8, 21-22; Finding of Fact No. 15.

#### c. Positions of the Parties

 The OTS characterized PPL’s capital structure, as adopted by the Initial Decision as based on “stale” information and recommended that the Commission use a representative capital structure for all EDC smart meter recovery based upon a barometer group included in the Quarterly Earnings Report. OTS Exc. at 9-10. PPL responded, contending that the barometer group does not represent PPL’s cost of capital, either for capital structure or ROE and that PPL’s capital structure should be based on Company-specific data. PPL R.Exc. at 11. PPL further argued that its cost of capital proposal is the only proposal that is fully based on PPL’s cost of capital as determined by the Commission; therefore, PPL’s proposal should be accepted. PPL R.Exc. at 12.

No other Party addressed this aspect of the Initial Decision.

#### d. Disposition

We will modify the decision of the ALJ. Although we prefer a company-specific approach, we are concerned about the use of stale information where the EDC’s most recent base rate case is dated. Consequently, we find that the capital structure for the Company will be determined as follows: If the Company has a capital structure from a litigated base rate case that is less than three years old, the capital structure ratios from that base rate case shall be used for the purposes of recovering the Company’s smart meter costs.[[2]](#footnote-2) If the Company’s last litigated base rate case is more than three years old, the capital structure ratio that will be used is the Company’s actual capital structure included in the then most recent Quarterly Earnings Report.[[3]](#footnote-3) If, however, the Company’s actual capital structure from the Quarterly Earnings Report is outside the zone of reasonableness for the electric utility industry,[[4]](#footnote-4) the capital structure ratio that will be used is the average of the electric utility barometer group that is included in the then most recent Quarterly Earnings Report. The applicable capital structure ratio shall be refreshed after the results of the next base rate case for the Company. To the extent that the Company’s subsequent base rate case is settled, the parties are to establish the applicable capital structure ratio to apply for the purposes of the Plan recovery mechanism in that proceeding.

### 3. Cost Rates of Debt and Preferred Stock

#### a. PPL’s Plan

 PPL proposed to utilize all capital components that were approved by the Commission in PPL’s last base rate proceeding. These capital components include Return on Equity (ROE), cost of debt and preferred stock and capital structure. PPL Reply Exc. at 9.

#### b. ALJ’s Recommendation

The ALJ found that it was proper to use the cost rate of debt and preferred stock from PPL’s most recent fully litigated base rate proceeding in 2004. I.D. at 24.

#### c. Positions of the Parties

 The OTS challenged the use of data from PPL’s last fully litigated base rate proceeding because the data is nearly six years old. *Pa. Public Utility Comm. v. PPL Electric Utilities Corporation*, Docket No. R-00049255 (Order entered December 22, 2004). The OTS recommended the use of data contained in Quarterly Earnings Reports as the best reflection of capital used to finance smart meter technology. OTS Exc. at 11. PPL answered the OTS Exception contending that all capital cost components fluctuate and are different for each EDC, and that the most reasonable proposal is to use company-specific data from a single adjudicated proceeding. PPL R. Exc. at 10-11.

No other Party addressed this aspect of the Initial Decision.

#### d. Disposition

 The mechanism proposed by OTS should be used (the most recent Quarterly Earnings Reports issued by the Commission’s Bureau of Fixed Utility Services). These reports will produce the most accurate and up-to-date costs of capital related to the Plan. The quarterly cost of debt and, where applicable, preferred stock, will be used in the Company’s annual reconciliation and annual projections to determine the Company’s weighted cost of capital.

### 4. Cost Rate of Equity

#### a. PPL’s Plan

 PPL proposed a return component based on the capital structure and cost of capital allowed in PPL’s most recent fully litigated distribution rate case. PPL St. No. 3-R, at 4. PPL contends that its proposal is the only one in this proceeding that is fully based on PPL’s weighted cost of capital and argues that this is consistent with the *Implementation Order* and is reasonable because it relies on data that has been reviewed and approved by the Commission in a fully litigated proceeding. PPL MB at 12.

#### b. ALJ’s Recommendation

 The ALJ accepted PPL’s ROE of 10.7% from PPL’s last fully litigated base rate case and rejected the OCA’s 10.1% recommendation and the OTS position that PPL be required to use an ROE based on the most recent Fixed Utility Services Quarterly Earnings Report. I.D. at 8, 22; Finding of Fact No. 16.

#### c. Positions of the Parties

OTS argues that Quarterly Earnings Reports provide current financial information and that the ROE methodologies in the various smart meter proceedings are not consistent. OTS Exc. at 14-15. The OCA contends that the Commission should use an ROE of 10.1% until the Commission establishes a standardized return on equity for SMP charges or until PPL has another base rate case. OCA Exc. at 5. PPL answers that the methodology proposed by the OTS is inconsistent and volatile, and that the methodology proposed by the OCA would unreasonably require PPL to use the ROE of other, dissimilar EDCs. PPL R. Exc. at 4-9.

No other Party addressed this aspect of the Initial Decision.

#### d. Disposition

Based upon our review of this issue, we conclude that the cost of common equity for PPL will be determined as follows: if PPL has an ROE from a litigated base rate case that is less than three years old, that ROE is to be used to determine the weighted average cost of capital under the Plan. If, however, the last litigated base rate case is more than three years old, the Quarterly ROE as calculated and recommended by the Bureau of Fixed Utility Services for the electric utility barometer group included in the then most recent Quarterly Earnings Report is to be utilized until an ROE is determined in a subsequent litigated base rate case, to be effective for the subsequent three year period. To the extent that the subsequent base rate case is settled, the parties are to establish, in that proceeding, the applicable ROE to apply for the purposes of the Plan recovery mechanism.

We believe that a span of three years for those EDCs filing smart meter plans is reasonable. Although the three year period may not represent the historic filing of our EDCs over the last two decades, we believe that, given today’s economic uncertainty, the use of a three year period to establish this component of rate recovery is also reasonable.

Accordingly, we shall reject the recommendation of the ALJ and adopt the OTS’s position with regard to ROE.

### 5. Voluntary Service Limiting and Pre-Pay Pilot

#### a. PPL’s Plan

 PPL proposes to conduct voluntary service limiting and pre-pay metering pilot programs. Under the service limiting pilot, the Company will seek volunteers to participate in a program whereby customers can choose an amperage level and limit their electric service to that level. PPL St. No. 2-R at 12. If the customer exceeds the pre-determined level, the customer’s service will temporarily disconnect until the customer resets the meter. Under the pre-pay metering pilot, PPL will seek volunteers to participate in a program that will allow customers to pre-pay for their electric service. Through this program, customers will better understand that they are purchasing electricity on an ongoing basis. PPL anticipates that this program may assist customers in reducing their energy use. PPL St. No. 2-R at 15; PPL MB at 20-21.

#### b. ALJ’s Recommendation

 The ALJ adopted PPL’s Service Limiting and Pre-Pay Metering Pilot Programs and found that separate proceedings for Service Limiting and for pre-Pay Metering Programs are not required by the *Implementation Order*. I.D. at 11, 27-28; Findings of Fact Nos. 42, 45, 47.

#### c. Positions of the Parties

The OCA argues that PPL’s Service Limiting and Pre-Pay Metering Pilot Programs raise significant public policy issues that need to be addressed and resolved by the Commission prior to the start of any PPL pilot programs. OCA Exc. at 6-8. ACORN supports the OCA and argues that PPL has not conducted sufficient preliminary investigations into the potential dangers of these new services. ACORN R.Exc. at 1-3. PPL answers that its Service Limiting and Pre-Pay Metering Pilot Programs are completely voluntary and that it will work with interested stakeholders to develop these programs. PPL argues that ACORN’s “Reply Exceptions,” are in fact Exceptions improvidently and untimely filed, but that PPL’s Reply to OCA’s Exception stands as an answer to ACORN’s assertions. PPL R.Exc. at 17-18; PPL Letter in Response to Reply Exceptions of ACORN.

No other Party addressed this aspect of the Initial Decision.

#### d. Disposition

 The ALJ correctly determined that separate proceedings for Service Limiting and Pre-Pay Metering Pilot Programs are not required by the *Implementation Order*. As stated by PPL, the programs will be completely voluntary, and PPL will work with interested stakeholders to develop the details of the programs. After the Company has further assessed its plans for the pilot programs and met with interested stakeholders, PPL shall file detailed Service Limiting and Pre-Pay Metering Pilot Plans along with the proposed tariffs for these pilots for the Commission’s consideration. Parties to the proceeding should be copied with these filings.

### 6. Advanced Meter Infrastructure

#### a. PPL’s Plan

 PPL contends that it already has a smart AMI system in its territory. PPL deployed this system from 2002 through 2004. The system includes meters, communications infrastructure, computer servers and applications that permit PPL to remotely read all of its meters. Beginning in 2005, PPL expanded upon the capabilities of its system by installing the MDMS. As stated above, the MDMS provides for: (1) a customer interface that allows customers to analyze their usage; (2) a data repository capable of storing two years of hourly meter readings from all customers; (3) an advanced billing engine; (4) an energy settlement system that allows EGSs to serve customers based on hourly usage rather than by load profiles; and (5) expanded load analysis capabilities. PPL St. No. 1 at 5; PPL MB at 8; Findings of Fact 2-4, I.D. at 6.

#### b. ALJ’s Recommendation

 The ALJ agreed that PPL already has a smart AMI system in its territory and approved the AMI proposed by PPL. I.D. at 6, 12-13, 31; Findings of Fact Nos. 2, 5, 60-67.

#### c. Positions of the Parties

 DEP requests disapproval of PPL’s Smart Meter Technology Procurement and Installation Plan as not in compliance with Act 129’s requirement of direct access to and use of price and consumption information, which DEP asserted could only be provided by installation of a Home Area Network (HAN) for all customers. DEP asserts that PPL’s AMI system hardware and software must be upgraded to comply with the requirements of Act 129. DEP Exc. at 5-6, 7-8, 9. PPL answers that DEP presented no evidence in this proceeding to support its conclusions and rejects DEP’s proposal as not cost effective in that replacement of PPL’s current AMI system would cost $380-$450 million. PPL argued that its current AMI supports the automatic control of electricity consumption by the customer, PPL, or third parties. PPL R.Exc. at 21, 22.

No other Party addressed this aspect of the Initial Decision.

#### d. Disposition

 DEP argues that the Plan is not in compliance with Act 129 regarding direct access and use of price and consumption information, and that the Plan fails to effectively support the automatic control of the customer’s electricity consumption. PPL’s Plan, if its HAN pilot is successful, would comply with Act 129. However, to the extent PPL’s plan simply provides validated access to hourly usage data contained on its website, generally within 48 hours, this falls short of the goal of providing direct access to customer usage data. This is an example of indirect access to meter data.

 It is also not clear how customers would have direct access if the Internet was down, or if the customer did not have Internet access. PPL did offer to provide pulse data to customers who desire direct access to meter data. However, PPL failed to demonstrate that pulse meter data recorders are a sufficiently accurate, operationally efficient, and a cost effective tool to meet the requirements of Act 129. The cost of these pulse data recorders are approximately $600 per meter. Significant additional costs are likely to be incurred to establish control systems, to transmit this data into the customer’s residence or business, and to establish potential communications methods to effectuate near real time access to PPL or the customer’s third party.

 Further, while this pulse data recorder technology *may* be sufficient for some very large customers, there is nothing on the record to establish the cost effectiveness of this proposal for residential and small commercial customers. As such, during the Grace Period, PPL should, at a minimum, continue to identify, test, develop, and implement more cost effective means to directly provide metered usage data from the meter to its customers so as to effectively support the automatic control of electricity consumption.

 PPL should use its proposed pilots and collaborative meetings to ensure compliance with these minimum requirements, as well as to present its evidence regarding the additional requirements of the *Implementation Order*. PPL has also proposed several pilots to study the ability of PPL to control a customer’s load. PPL should ensure that such pilots also study the ability of the customer’s selected third party to control the customer’s load under these same pilots, pursuant to Act 129. Act 129 programs are not part of the Plan. As such, PPL’s Plan must address how this smart meter technology will effectively support automatic control of a customer’s consumption by a customer’s chosen third party, in addition to the customer or PPL.

### 7. Availability of AMI after the Thirty Month Grace Period and Within Fifteen Years of Plan Approval

#### a. PPL’s Plan

 PPL contends that its AMI provides customers with all of the smart meter technology requirements set forth in Act 129 and the *Implementation Order*. PPL goes on to state that its SMP is designed to test and enhance the capabilities of the existing smart meter system. PPL believes that its use of pilot programs and work with interested stakeholders to further develop system capabilities is a reasonable, cost-effective approach. PPL R.Exc. at 24.

#### b. ALJ’s Recommendation

 The ALJ approved the AMI proposed by PPL. I.D. at 6, 12-13, 31; Findings of Fact Nos. 2, 5, 60-67.

#### c. Positions of the Parties

 DEP argues that PPL’s Plan does not provide smart meter technology (primarily HANs) to all customers upon request, in all new building construction, and throughout its service territory after a thirty month grace period and within fifteen years of the date of plan approval. DEP Exc. at 11-12. PPL answers that PPL’s AMI provides customers all of the smart meter technology requirements set forth in Act 129 and the *Implementation Order*. PPL R.Exc. at 24.

No other Party addressed this aspect of the Initial Decision.

#### d. Disposition

 In the Commission’s *Implementation Order*, the Commission did require utilities to fully install, test, and rollout support equipment and software, and to have the smart meter networks up and running.[[5]](#footnote-5) At the end of the Grace Period, then, PPL should be capable of deploying smart meters that meet Act 129’s requirements. PPL is off to a real head start and should be commended for its forward thinking which has enabled it to record hourly meter usage, provide hourly meter usage via the Internet on a 48-hour lag basis, and even allocate energy on an hourly basis individually for all of its customers for use in usage profiles. PPL, therefore, is well ahead of most electric utilities in the nation. However, PPL needs to expand its metering capabilities to meet the higher standards of Act 129. The fact that PPL has made such investments may present unique challenges when attempting to dovetail the capabilities of its new system with the more rigorous requirements of Act 129. Since PPL’s existing system does not fully meet all Act 129 requirements, it should use the Grace Period Pilot programs to fully develop a Plan, to be filed with the Commission, to fully comply with Act 129.

### 8. Feeder Meter Pilot Project

#### a. PPL’s Plan

 PPL has proposed a feeder meter pilot program. Feeder meters are advanced meters that are installed on distribution lines to enhance PPL’s ability to monitor voltage on its system, to reduce system outages and to reduce restoration time. PPL St. No. 2-R at 5.

#### b. ALJ’s Recommendation

 The ALJ recommended that the Commission deny PPL’s feeder meter pilot project on the basis that feeder meters will not provide information to end users that will assist in conservation or load shifting, nor do they enhance the capabilities of a customer’s advanced metering system. The ALJ agreed with the OCA that feeder meters are a distribution system upgrade, not a smart meter project. I.D. at 27, 36; Conclusions of Law Nos. 13, 14.

#### c. Positions of the Parties

The OCA argues that feeder meters are a distribution system upgrade, not a smart meter project and that the recovery of associated costs should be made through the standard base rate process. OCA St. No. 1 at 17; R.Exc. at 2. PPL argues that the ALJ’s view is overly-restrictive and is contrary to the *Implementation Order*, and contends that the proposed feeder meter pilot program will allow PPL to better monitor its system to pinpoint problems and to reduce maintenance and repair times and expenses. PPL Exc. at 12-13.

No other Party addressed this aspect of the Initial Decision.

#### d. Disposition

 We agree with the ALJ’s analysis of this issue. Feeder meters will not provide information to end users that will assist in conservation or load shifting, nor do they enhance the capabilities of a customer’s advanced metering system. We also agree with the OCA that feeder meters are a distribution system upgrade, not a smart meter project. The recommendation of the ALJ is adopted.

### 9. Fifteen Minute Interval Data for Small C&I Customers

#### a. PPL’s Plan

 PPL currently is able to provide fifteen minute (or shorter) interval data on a daily basis to customers, EGSs, or third parties. PPL St. No. 1-R at 12. PPL currently captures fifteen minute data for all large C&I customers and makes this data available to customers and their designated third parties and EGSs. For residential and small C&I customers, PPL installs equipment upon request that makes meter pulse data available to customers on fifteen minute intervals or other intervals that the user may desire. PPL St. No. 1-R at 12.

#### b. ALJ’s Recommendation

 The ALJ recommended that PPL’s Smart Meter Plan be modified to require PPL to capture and make available fifteen minute interval data for Small C&I customers. The ALJ found that the *Implementation Order* does not limit the fifteen minute interval requirement to Large C&I customers. I.D. at 30.

#### c. Positions of the Parties

 PPL disagrees with the ALJ’s application of the *Implementation Order* and contends that the ability to provide fifteen minute interval data is not one of the minimum requirements of Act 129. PPL argues that a further cost/benefit study of this option is needed, and that the requirement to make available fifteen minute interval data for Small C&I customers is premature. PPL Exc. at 14-16.

#### d. Disposition

 The ALJ recommended that PPL be required to capture and make available fifteen minute interval data for small commercial and industrial customers. This is consistent with the *Implementation Order’s* requirement for the Plan to provide hourly or more frequent usage data to customers or their third parties. PPL excepted to the decision of the ALJ, noting that, while it may be beneficial to provide fifteen-minute interval data to some customers for their use in achieving peak load reductions, it is not at all clear that it would be cost effective to provide this data for *all* customers. PPL avers that the costs of fully implementing smart meter technology will be high, and that it would be imprudent to increase those costs at this time for a feature not useful to the majority of PPL’s customers. PPL points out that PJM aggregates fifteen-minute data into hourly values to develop peak demands, removing the need to provide fifteen-minute data for developing retail customer peak demands. More importantly, PPL states that, because energy is priced on an hourly basis, fifteen-minute data is largely irrelevant to the price a customer is offered for energy. However, PPL’s existing meters deployed to Small C&I customers *are* capable of capturing fifteen-minute interval data and communicating that data for storage and use but would require upgrades to make such data available to the customers and their designated EGSs and TPSs.

 As PPL stands ready to provide the fifteen-minute interval data on an hourly basis to customers on an *as-needed basis*,[[6]](#footnote-6) there is no reason to go beyond the *Implementation Order’s* requirement that fifteen-minute interval data be made available to *all* customers on a daily basis. For this reason, the Exceptions of PPL with respect to this issue should be granted, with the clarification that PPL will provide fifteen-minute interval data to small C&I customers, EGSs, third-parties, and the regional transmission organization (“RTO”) on a daily basis upon request on an as needed basis.

 The *Implementation Order* requires parties to address the ability to provide hourly *or more frequent* energy usage data. In this proceeding, the parties only addressed fifteen-minute sub-hourly metering on an as-needed basis. While PPL is correct in its assertions that energy markets only require information on hourly usage, these requirements may not be responsive to the RTO requirements of *ancillary* services. Moreover, PPL has not provided any substantive cost/benefit analysis to justify its departure from our *Implementation Order*.[[7]](#footnote-7) As stated above, PPL has also proposed several pilots to study its ability to control the customer’s load. PPL should ensure that such pilots also address the need, ability, and cost for sub-hourly metering. The parties should address the following issues for residential, small C&I, and large C&I customers:

1. What are the capability and limitations of proposed smart meters to measure and record sub-hourly usage?
2. What are the capability and limitations of proposed smart meter communication and data storage systems to transmit and store sub-hourly usage information?
3. What are the sub-hourly PJM requirements for participation in ancillary service markets?
4. What are PPL’s incremental smart meter, communication, data storage, and data sharing costs associated with these sub-hourly requirements for ancillary services?
5. What are the incremental equipment and installation costs of pulse data recorders used to measure sub-hourly meter data?

1. Is a pulse data recorder attached to PPL’s meter sufficiently accurate for use by PJM in its ancillary markets, or is redundant metering required to meet PJM standards?
2. What are the additional customer costs associated with (1) transferring pulse meter information from the meter to inside the customer’s premise, (2) processing this data into usable format, (3) communicating the data to a third party or PJM?
3. To the extent a customer requests sub-hourly data, what, if any cost recovery charge is appropriate. For example, would it be appropriate to have a customer charge that varies with the level of sub-hourly metering requested, and, if so, what would those sub-hourly metering charges be?

Upon conclusion of the Pilot Program, PPL should provide a thorough cost/benefit analysis for review by the parties.

### 10. Recovery of Smart Meter Plan Costs from Large C&I Primary Transmission Customers

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#### a. PPL’s Plan

PPL proposed that smart meter plan costs be recovered from Large C&I Primary and Large C&I Transmission customers through a demand charge component of rates assigned to each class using a fixed customer charge.

#### b. ALJ’s Recommendation

 The ALJ found, as a Conclusion of Law, that PPL’s proposal to recover Plan costs from Large C&I Primary and Large C&I Transmission customers through a demand charge component of rates is not consistent with the normal treatment of metering costs for ratemaking purposes and does not recognize the fact that smart meter costs will not vary with a customer’s electric usage. I.D. at 36-37; Conclusion of Law No. 15. Conversely, the ALJ found, as a Conclusion of Law, that PPLICA’s proposal to recover Plan costs from Large C&I Primary and Large C&I Transmission customers through a customer charge is consistent with the normal treatment of metering costs for ratemaking purposes and recognizes the fact that smart meter costs will not vary with a customer’s electric usage. I.D. at 37; Conclusion of Law No. 16.

#### c. Positions of the Parties

 PPL argues that, because PPL accepted PPLICA’s proposal to divide the Large C&I class into two subclasses, it is improper for PPLICA to continue to argue for an alternative cost-allocation proposal after PPL accepted PPLICA’s primary proposal. PPL also argues that Plan costs do not include the cost for the meters, themselves, so it is appropriate to recover Plan costs for Large C&I customers on a demand basis. PPL Exc. at 17. PPLICA replies, contending that PPLICA’s position was not limited to proper cost allocation but also included advocacy for proper rate design for Large C&I SMP Plan costs and that bifurcation of the Large C&I class should not impact Large C&I customers’ “right” for proper rate design. PPLICA R.Exc. at 3-4. PPLICA also argues that the use of a customer charge for the recovery of Large C&I Plan costs is supported by examining the actual costs that will be directly allocated to the Large C&I class. PPLICA R.Exc. at 5-6.

#### d. Disposition

 We agree with the ALJ that that PPL’s proposal to recover Plan costs from Large C&I Primary and Large C&I Transmission customers through a demand charge component of rates is not consistent with the normal treatment of metering costs for ratemaking purposes. We also agree that PPLICA’s proposal to recover Plan costs from Large C&I Primary and Large C&I Transmission customers through a customer charge is consistent with the normal treatment of metering costs for ratemaking purposes. The recommendation of the ALJ is adopted.

### 11. Cost Allocation of Non-Direct Costs

 In addition to the foregoing issue resolutions, the Commission notes that the ALJ approved the allocation of non-direct common costs on the ratio of direct costs assigned to the class, divided by direct costs for the entire system. No party addressed the issue in Exceptions, but the Commission disagrees with the ALJ's resolution of the issue. Non-direct common costs should be assigned based on the ratio of number of meters assigned to the class, divided by the number of meters for the entire system.

# VI. Conclusion

For the reasons set forth above, we will grant PPL Electric Utilities Corporation’s Petition of for Approval of Smart Meter Technology Procurement and Installation Plan, consistent with this Opinion and Order. PPL is permitted to implement its Plan, as modified herein. PPL shall file with the Commission, for its approval, a tariff supplement containing a revised Smart Meter Technologies Charge Rider that is consistent with this Opinion and Order. Copies shall be served on all Parties to this proceeding. PPL shall not begin collecting rates pursuant to its tariff until it is approved by this Commission; **THEREFORE;**

**IT IS ORDERED:**

1. That PPL Electric Utilities Corporation’s Petition for Approval of Smart Meter Technology Procurement and Installation Plan is granted, consistent with this Opinion and Order.

2. That the Smart Meter Technology Procurement and Installation Plan filed by PPL Electric Utilities Corporation on August 14, 2009, is approved, as modified by this Opinion and Order.

3. That PPL Electric Utilities Corporation is permitted to implement the Smart Meter Technology Procurement and Installation Plan, as modified by this Opinion and Order.

4. That upon entry of this Opinion and Order, PPL Electric Utilities Corporation is permitted to file a tariff or tariff supplement to implement a Smart Meter Technologies Charge Rider, consistent with this Opinion and Order. PPL shall also file supporting documentation reflecting the calculation of these charges. Copies shall be served on all Parties to this proceeding.

5. That PPL Electric Utilities Corporation’s tariff or tariff supplement may be filed upon less than statutory notice and, pursuant to the provisions of 52 Pa. Code §§ 53.31 and 53.101, may be filed to be effective for service rendered on and after the date of entry of the instant Opinion and Order.

6. That all Plan costs, including both expense and capital items (net of tax) and revenues included in PPL Electric Utilities Corporation’s smart meter revenues, shall not be included in the revenue requirement used in any future distribution base rate, and will be subject to Commission review and audit.

7. That PPL Electric Utilities Corporation shall submit its annual smart meter plan filings by August 1, using a twelve-month Reconciliation Year ending on June 30 and an effective date of January 1 of the following year. Commission proceedings shall be scheduled so that hearings may be held by October 1.

8. That any directive, requirement, disposition or the like contained in the body of this Opinion and Order that is not the subject of an individual Ordering Paragraph shall have full force and effect as if fully contained in this part.

9. That the Initial Decision issued by Administrative Law Judge Wayne L. Weismandel on January 28, 2010, is adopted as modified, consistent with this Opinion and Order.

10. That the Exceptions filed by the Office of Consumer Advocate are denied.

11. That the Exceptions filed by PPL Electric Utilities Corporation are granted in part and denied in part.

12. That the Exceptions filed by the Office of Trial Staff are granted in part and denied in part.

13. That the Exceptions filed by the Department of Environmental Protection are denied.

14. That, upon acceptance and approval by the Commission of the tariff revisions filed by PPL Electric Utilities Corporation, the Secretary’s Bureau shall mark this case closed.

** BY THE COMMISSION,**

 Rosemary Chiavetta

 Secretary

(SEAL)

ORDER ADOPTED: April 15, 2010

ORDER ENTERED: June 24, 2010

1. PPL agreed to establish a separate cost recovery mechanism from its ACR mechanism. PPL MB at 11. [↑](#footnote-ref-1)
2. This includes a hypothetical capital structure if one is used in place of an actual capital structure in the disposition of the rate case. [↑](#footnote-ref-2)
3. We note that prior Quarterly Earnings Reports did not include certain data discussed in this Opinion and Order, including the actual capital structure of the Company. Consistent with this Opinion and Order, this information will be included in the Quarterly Earnings Report beginning with the report for the period ending December 31, 2009. [↑](#footnote-ref-3)
4. The zone of reasonableness is defined by the capital structures of the electric barometer group included in the then most recent Quarterly Earnings Report. [↑](#footnote-ref-4)
5. *Implementation Order* at 8. [↑](#footnote-ref-5)
6. PPL MB at 24. [↑](#footnote-ref-6)
7. PPL did commit to providing a cost/benefit analysis following its 15-minute Pilot Program. PPL MB at 23; Plan Attachment 3, 6C(2). [↑](#footnote-ref-7)