**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Duquesne Light Company :

For Approval of Its Final Smart Meter : M-2009-2123948

Procurement and Installation Plan :

**INITIAL DECISION**

Before

Katrina L. Dunderdale

Administrative Law Judge

HISTORY OF THE PROCEEDING

On June 24, 2009, the Pennsylvania Public Utility Commission (“Commission”) entered its Implementation Order, at Docket No. M-2009-2092655, to assist Duquesne Light Company (“Duquesne Light” or “the Company”) and the other Electric Distribution Companies (EDCs) in complying with the requirements of Act 129 of 2008, 66 Pa. C.S. §2807(f), et seq., which, among other matters, required EDCs to file with the Commission their respective smart meter procurement and installation plans. This decision grants a request to approve a settlement agreement submitted by two Joint Petitioners which approval authorizes Duquesne Light to implement its Final Smart Meter Plan, as required by Act 129.

On August 14, 2009, Duquesne Light filed a petition seeking the Commission’s approval of its Smart Meter Procurement and Installation Plan (SMP), pursuant to Act 129 and the Order. Duquesne Light also requested authorization to recover the prudently-incurred costs of the SMP. The Implementation Order directed that an Initial Decision in this matter be issued by January 29, 2010.

On January 21, 2010, Administrative Law Judge Robert P. Meehan issued an Initial Decision which granted approval of Duquesne Light’s request concerning its interim smart meter procurement and installation plan. Thereafter, on May 11, 2010, the Commission approved Duquesne Light’s Interim SMP.

On June 29, 2012, Duquesne Light filed its Petition for Approval of its Final Smart Meter Plan in which it requested final approval from the Commission of its Final SMP. Thereafter, on August 31, 2012, the Office of Administrative Law Judge (“OALJ”) issued a Notice scheduling this matter for a prehearing conference on September 17, 2012 at 10:00 a.m. The presiding officer issued a Prehearing Conference Order on September 4, 2012.

On September 17, 2012, the presiding officer conducted a prehearing conference at which appeared representatives for Duquesne Light, Law Bureau Prosecutory Staff, the Office of Small Business Advocate (“the OSBA”), the Office of Consumer Advocate (“the OCA”), Citizen Power, Inc. and Duquesne Industrial Intervenors (“DII”). The parties discussed the issues of the proceeding and established a litigation schedule. On September  8, 2012, the presiding officer issued a Prehearing Order and on September 26, 2012, the OALJ issued a Hearing Notice scheduling the matter for evidentiary hearings on November 15, 2012 and November 16, 2012 in Harrisburg, Pennsylvania.

On December 7, 2012, Duquesne Light and the OCA (hereinafter “Joint Petitioners”), filed a joint Petition for Approval of Settlement in which the parties agreed to resolve all issues among the parties in the above-captioned proceeding. The hearing record closed on December 21, 2012, upon the expiration of the time in which interested parties could object or comment on the Petition.

TERMS OF THE SETTLEMENT

The Settlement is a twelve-page document containing thirty-five (35) numbered paragraphs with two (2) numbered requests. Appendices A and B to the Settlement contain the Statements in Support executed by Duquesne Light and the OCA, respectively. Appendices C, D and E to the Settlement are the statements in non-opposition to the settlement executed by the OSBA, DII and Citizen Power, Inc., respectively.

The essential terms of the Settlement are contained in Paragraphs 19 through 28:

1. **Settlement Terms and Conditions**
2. Duquesne Light’s Final Smart Meter Plan is approved with the following clarifications and/or revisions.
3. *Customer Education and Research Metrics*
4. Within 60 days from the final order in this proceeding, the Company shall arrange to meet with the OCA and interested parties to obtain input on a plan to research the actual experiences of low-income customers to determine how such customers may be able to use smart meter technology to reduce their energy bills and to incorporate information regarding such customers into the Company’s Customer Acceptance and Education Plan performance metrics. The Company also agrees to meet with the OCA and interested parties to obtain input to research the actual experiences of low use (base load usage below 500 kWh), medically needy (customers with Chapter 56 medical certifications at the time a smart meter is installed) and other vulnerable customers to the extent such customers can be reasonably identified, and as agreed to between the Company and the OCA, provided that the Company will not be required to research other vulnerable customers if such agreement cannot be reached. The meeting(s) will establish a review and reporting process and a timeline for deliverables. The timeline in the plan will align with scheduled smart meter deployment estimated to begin in the fourth quarter of 2014. With regard to researching the experiences of customers described above, the parties may consider the Company’s gathering and sharing with interested parties’ non-confidential information regarding such customers’ load shapes and usage characteristics as a means of informing the design of potential programs to enable such customers to benefit from smart meter technology.
5. The Company will propose any potential customer education measures for Time-of-Use (“TOU”) rates when it files for Commission approval of a TOU program under Act 129. The Company will seek Commission approval of such measures in conjunction with such TOU program. All Parties to this

Settlement reserve their rights to contest the Company’s proposed allocation of customer education costs in that filing.

1. *Reasonable and Adequate Service*
2. Duquesne Light shall comply with all provisions of Chapter 14 of the Pennsylvania Public Utility Code (66 Pa. C.S.A. Chapter 14) and Chapter 56 of the Commission’s regulations (52 Pa.Code Chaper 56) with respect to the application of remote connect and disconnect. Specifically, Duquesne Light will:
3. Send an appropriately trained representative to the customer premise before any termination is scheduled to occur. The representative will use reasonable efforts to make personal contact with a responsible adult occupant of the premise prior to the termination.
4. Where personal contact is not made prior to termination, the representative shall leave conspicuously at the residence a notice informing the customer that utility service is being disconnected and how the customer can effect reconnection. The notice shall include the number of a hotline where low-income and vulnerable customers can receive information on all Duquesne Light Universal Service and Energy Conservation programs and related payment information.
5. Service shall not be terminated if the customer can show confirmation of payment through either authorized agent or automated payment systems. The representative shall be fully trained to direct low income and vulnerable customers to a hotline where they can receive information on all Duquesne Light’s Universal Service and Energy Conservation program and related payment information.
6. On or before October 1, 2016, Duquesne Light shall make a tariff filing with the Commission to reduce its restoration fee for reconnection where the remote feature is used.
7. Duquesne Light will investigate alternatives for Voltage Monitoring functionality if the capability doesn’t exist within the Oracle software solution by 2016.
8. *Privacy and Security*
9. During the first quarter of 2013, the Company shall hire a third party consultant to assist the Company in developing a privacy policy for customers’ smart meter data. The development of said policy shall be carried out in consultation with interested stakeholders and shall be the subject of at least semiannual meetings with stakeholders during the development of the privacy policy. The third party consultant will be asked to report on the range of practices of other U.S. EDCs with respect to privacy policies for smart meter data. The allowed cost for this study shall not exceed $40,000.
10. Duquesne Light will conduct a vulnerability assessment across the entire Advanced Metering Infrastructure (AMI) solution including penetration testing at the meter to validate the cyber security of its AMI system.

*d. Miscellaneous Issues*

1. Duquesne Light will adopt the “Green Button Initiative” in providing consumption data to customers. This standardized data format will enable customers to utilize smart phone applications developed by third parties.
2. The Company shall be permitted to recover any additional costs associated with implementing the terms and conditions of this Settlement through its SMC, except as limited herein.
3. The Joint Petitioners aver that the petitions and applications at Docket No. M-2009-2123948, that preceded the Company’s Final Smart Meter Plan, have been incorporated therein, as modified by the Final Smart Meter Plan, and all issues associated with those filings have been fully resolved by the instant Settlement. The Joint Petitioners further aver that no further action is required on the petitions and applications that preceded the Final Smart Meter Plan.

DISCUSSION

This proceeding concerns Duquesne Light’s Final Smart Meter Plan and the joint Petition for Approval of Settlement. The Joint Petitioners contend Duquesne Light’s Plan, together with the modifications contained in the Settlement, reflects a reasonable and equitable resolution of all issues, complies with Act 129 and reflects an appropriate compromise between parties with divergent interests following a thorough review of Duquesne Light’s proposal. The parties engaged in discovery and settlement negotiations exchanging proposals and counter proposals, which resulted in this Settlement. Joint Petitioners believe the Settlement is in the public interest and should be approved without modification.

A. Duquesne Light Company’s Position

Duquesne Light contends its Plan is based upon an extensive assessment the Company conducted and upon input it received from Commission staff and interested parties. Duquesne Light’s Final Smart Meter Plan will meet all of the requirements of Act 129, the additional requirements set forth in the Implementation Order and provide smart meter technology to customers in a cost-effective manner. Duquesne Light points out its Plan has two primary components: the Focus Project and the Advanced Metering Infrastructure (“AMI”) Project.

First, under the Focus Project, the utility will replace its customer information system with a Customer Care and Billing (“CC&B”) system and implement a new Meter Data Management (“MDM”) system. The upgrade of these Information Technology systems is necessary in order for Duquesne Light to provide smart meter technology to customers. The utility proposes to install Itron Smart Meters for all customers. The Itron Smart Meters will be connected by a Local Area Network (“LAN”) that collects data from the meters and transmits it through a Wide Area Network (“WAN”) to a Head End Data Collection Engine. These four components constitute the AMI system. Additional defaults regarding these four components are provided on pages 13-15 of the Company’s Final Smart Meter Plan.[[1]](#footnote-1)

Second, Duquesne Light’s AMI system will provide a technology architecture that enables the six minimum capabilities of Act 129 and the nine additional capabilities identified by the Commission in its Smart Meter Implementation Order. *Smart Meter Procurement and Installation*, Docket No. M-2009-2092655, Implementation Order entered June 24, 2009. Duquesne Light provided a detailed description of how its Final Smart Meter Plan will meet the six minimum capabilities required by the Implementation Order on pages 26‑28 of its Plan. The Company noted no party raised any issues regarding whether Duquesne Light’s Final Smart Meter Plan will meet the six minimum Act 129 capabilities set forth in the Implementation Order.

Because the Commission’s Implementation Order sets forth nine additional capabilities that are not required by Act 129, but which EDCs are required to evaluate for cost effectiveness,[[2]](#footnote-2) the utility proposed to implement all nine additional capabilities in some capacity and set forth a description of how it intends to meet those capabilities on pages 28-32 of the Final Smart Meter Plan. The Company asserts many additional smart meter capabilities can be implemented with little or no additional costs to customers, including capabilities 3, 4, 5, 7 and 9. As concerns the other additional capabilities, Duquesne Light evaluated costs and benefits, and sought to implement each capability in a cost-effective manner to avoid imposing unnecessary costs on customers for technology that may be unnecessary at the present time or duplicative of functionality provided by the Company to customers through other systems.

Duquesne Light proposed to adopt fully the remote connect and disconnect for availability, which capability is available for single-phase meters having 240 volt service with a rating of 200 amps or less. The Company estimates the additional cost to implement this functionality on a system-wide basis is approximately $17.5 million, however, the Company asserts there are many benefits to implementing the remote connect/disconnect functionality, including improved safety, operational efficiency, revenue collection, employee efficiencies and improved customer experience.

With regard to 15-minute or shorter interval data, the Company explained its meters can record data at 15-minute intervals, but its bandwidth and storage capacity would need to be expanded at an incremental cost to accommodate interval reads that are more frequent than hourly. Therefore, the Company proposed to expand this capability in the future if later applications require more frequent interval data.

With regard to monitoring voltage, Duquesne Light asserted its AMI system will provide the capability to monitor voltage at each meter but the Company would need to develop an additional interface in order to further implement this capability. Duquesne Light was unable to provide the incremental cost information yet but averred it intends to implement the voltage monitoring capability, as a supplement to existing power quality systems, once the necessary software becomes available.

With regard to the ability to communicate outages and restorations, Duquesne Light suggests it should take a cost-conscious approach for this functionality but states it needs to replace its current Outage Management System (“OMS”) and develop a distribution system electrical model. Duquesne Light avers the costs of these actions are not justified at this time, and, therefore, it plans to implement this capability on a limited basis to supplement its existing system, which the Company believes is a cost-effective manner to implement this capability.

No party in this proceeding disagreed with the Company’s approach for implementing the capabilities set forth under the Commission’s Implementation Order, and Duquesne Light contends it adopted a reasonable, cost-effective approach to provide these capabilities to customers.

As further explained in the Final Smart Meter Plan, the Company proposes to deploy Smart Meters over a seven-year period, including a two-year ramp up period to allow time for the Company to test its AMI system, followed by a deployment schedule of 9,000 meters per month, with full deployment of smart meters across the Company’s service territory by 2020. The Company notes full deployment by 2020 would be three years sooner than the statutory time period set under Act 129. The deployment schedule includes phased-in meter functionalities from 2013-2017 and this phase-in approach will allow the market – for advanced smart meter capabilities – to mature over time. Duquesne Light notes, under its proposed implementation schedule, it will provide smart meter technology to all customers well in advance of the 15-year deployment schedule provided under Act 129.

The Company estimates the total cost of the Final SMP will approximate $238 million. The Company proposed recovering all smart meter costs through its existing Commission-approved reconcilable Smart Meter Charge (“SMC”), and noted no party objected to this methodology.

Additionally, recognizing the success of the smart meter deployment depends upon customer participation, Duquesne Light proposed a comprehensive Customer Education and Acceptance (“CEA”) strategy to educate customers, stakeholder groups and employees about the Company’s SMP and its benefits.

The Company, as one of the two Joint Petitioners herein, requested the Commission approve the Final Smart Meter Plan as filed on June 29, 2012, with the modifications and clarification contained in the Settlement. The details of that settlement are discussed below.

1. Terms of the Settlement

The Settlement generally provides for approval of the Company’s Final Smart Meter Plan, except for certain modifications and clarifications. The Company avers the parties had relatively few issues with the Company’s proposed Final Smart Meter Plan because of the extensive work the Company performed prior to filing its Plan in order to develop a detailed, reasonable plan that fully complies with Act 129, the Commission’s Implementation Order and provides smart meter technology to customers at a reasonable cost.

#### Customer Education and Research Metrics

The Company avers its Final Smart Meter Plan includes a comprehensive Customer Education and Acceptance Plan designed to minimize potential customer backlash to smart meter technology and maximize customers’ use of smart meter technology. In response to the OCA’s concerns related primarily to outreach to low-income and other vulnerable customers, the Company agreed to meet with the OCA and other interested parties to conduct research designed to enable the Company to develop products and services specifically targeted to low-income and medically needy customers. The goal is to enable these targeted customers to use smart meter technology to reduce energy consumption. The Company will gather non-confidential data to research the actual experiences of low use (base load usage below 500 kWh), and medically needy customers (customers with Chapter 56 medical certifications at the time a smart meter is installed). The Company will discuss with interested parties the possibility of researching data on other vulnerable customers, such as elderly customers, to enable these customers to benefit from smart meter technology – to the extent they may be reasonably identified, and as agreed upon by the Company and the OCA. These modifications to the Plan ensure that vulnerable customers who share in the cost of smart meter technology will have a full opportunity to share in the potential benefits.

The Company notes the OCA also raised issues regarding educating customers about Time of Use rates but, after explaining in rebuttal testimony that it was premature to adopt specific TOU education proposals at this time and that it was more appropriate to address these issues when the Company files for approval of a TOU or Real-Time Price (“RTP”) program, the Settlement adopts the Company’s position. Under the Settlement, the Company agreed to propose any potential customer education measures for TOU rates when it files for Commission approval of a TOU program under Act 129.

#### Reasonable and Adequate Service

The Company points out that the OCA expressed concerns about customer service when using remote disconnect capabilities. Therefore, in response, the Settlement confirms that the Company will continue to comply with all provisions of Chapter 14 of the Pennsylvania Public Utility Code (66 Pa. C.S.A. Chapter 14) and Chapter 56 of the Commission’s regulations (52 Pa. Code Chapter 56) with respect to the application of remote connect and disconnect. Specifically, Duquesne Light agreed to send an appropriately trained representative to the customer premise before any termination is scheduled to occur. The representative will use reasonable efforts to make personal contact with a responsible adult occupant of the premise prior to the termination. Where personal contact is not made prior to termination, the representative shall leave conspicuously at the residence a notice informing the customer that utility service is being disconnected and how the customer can effect reconnection. The notice shall include the number of a hotline where low-income and vulnerable customers can receive information on all Duquesne Light Universal Service and Energy Conservation programs and related payment information. Finally, service shall not be terminated if the customer can show confirmation of payment through either an authorized agent or automated payment systems. The representative shall be fully trained to direct low income and vulnerable customers to a hotline where they can receive information on all Duquesne Light’s Universal Service and Energy Conservation programs and related payment information. The Company points out the public interest is served when measures are taken to ensure the existing customers’ protections are not diminished by advancements in technology.

Under the Settlement, the Company promises to make a tariff filing with the Commission to reduce its restoration fee for reconnections where the remote feature is used, on or before October 1, 2016. This provision is in response to concerns raised by the OCA regarding potential cost savings associated with implementing this technology. The reduced reconnection fee provides clear and tangible benefits to customers who may struggle to pay the cost of their electric service bills, and mitigates a potential barrier to restoration following a termination. For these benefits and reasons, this provision is in the public interest.

Pursuant to the Settlement, Duquesne Light will investigate alternatives for voltage monitoring functionality if the capability doesn’t exist within the Oracle software solution by 2016. Although the Company proposed to gather additional voltage data, it did not propose to implement additional costly system upgrades needed to react to the added data in real time. Instead, the Company suggested it access the additional data to aid its system analysis. The proposed voltage monitoring functionality was chosen in part, because of the capacity of the selected systems. The Company points out that the parties agreed the Company’s selected technology solutions are reasonable, but the Company should explore alternative options if the functionality is not available within the Oracle software by 2016. Voltage variations can potentially damage customer and utility equipment. The Company suggests it is in the public interest to continually evaluate methods for improving voltage monitoring functionality.

#### Privacy and Security

Duquesne Light acknowledges the OCA expressed concerns about how it will protect customers’ private information collected through smart meters. For that reason, the Settlement requires the Company to hire a third party consultant to assist in developing a privacy policy for customers’ smart meter data by the first quarter of 2013. The Company agreed to work collaboratively with interested stakeholders, providing them with an opportunity to provide input during the development of the smart meter data privacy policy. The smart meter data privacy policy will be the subject of meetings conducted at least semiannually with interested stakeholders. The third party consultant will report on the range of practices of other EDCs in the United States with respect to privacy policies for smart meter data, however, the Joint Petitioners agreed the cost for this smart meter data privacy policy study would not exceed $40,000.

Also, the Company agreed to conduct a vulnerability assessment across the entire Advanced Metering Infrastructure (AMI) solution including penetration testing at the meter to validate the cyber security of the AMI system. The Company currently conducts penetration testing of its communications networks but the Settlement provides for added testing at the meter since the meters themselves will store significant customer data. This added level of testing provides for the security of the system and protection of customer information, and is therefore in the public interest. These modifications to the Final Smart Meter Plan support customer privacy and the security of the distribution system, and are in the public interest.

#### Miscellaneous Issues

In response to the OCA’s concerns about its plans to provide billing and usage feedback benefits for customers without high-speed internet access, Duquesne Light agreed to adopt the “Green Button Initiative” in providing consumption data to customers. This standardized data format enables customers to utilize smart phone applications developed by third parties which facilitate the use of smart meter-enabled products and services. Adopting the Green Button initiative will assist in providing customers who possess smart phones, but with no other internet service, to access smart meter data. In addition, the Company notes the Commission encouraged EDCs to adopt the Green Button initiative in the *Smart Meter Procurement and Installation*, Docket No. M-2009-2092655, Final Order entered December 6, 2012.

The Settlement also specifies the Company will be permitted to recover any additional costs associated with implementing the terms and conditions of the Settlement, except as otherwise limited by the Settlement. This provision clarifies cost recovery issues and is in the public interest because it allows the Company to recover its costs for implementing the Settlement provisions.

Duquesne Light contends approval of this Settlement is in the public interest because it provides for: 1) additional customer education regarding smart meter technology and deployment and ensures stakeholder input, and 2) the protection of customer data and the security of the distribution system. Finally, the Settlement reduces administrative burden on the parties and Commission by avoiding the expense and uncertainty attended with a fully litigated proceeding and administrative adjudication, and it resolves all issues raised during the proceeding. Therefore, Duquesne Light requests the Commission approve the settlement without modification as it is in the public interest.

B. Office of Consumer Advocate’s Position

The OCA supports the Settlement because it is in the public interest and in the interest of Duquesne Light’s customers. Therefore, the OCA requests the Administrative Law Judge and the Commission approve the Settlement without modification. As described below, the terms of the Settlement in this proceeding address fundamental concerns identified by the OCA in a reasonable and practical manner with respect to Duquesne Light’s Final Smart Meter Plan.

1. Customer Education and Research Metrics

The OCA notes, with respect to issues of customer education and research, the Settlement (at Paragraph 20) is in response to its own recommendation that Duquesne Light should research the actual experiences of its low-use, low-income, medically needy and other vulnerable customers to determine the extent to which such customers may be able to use the smart meter technology to reduce their energy bills. The OCA points out the testimony of its witness Brockway who stated:

Duquesne [Light] should determine the scope of needs in this area, understanding how many customers are vulnerable to missing opportunities from smart meter functions or even to adverse health, safety and comfort impacts brought about by efforts to reduce bills via time-varying pricing options that might not be workable for the individual’s circumstances. OCA St. 2 at 3.

The OCA submits such information is necessary in order to develop policy responses to assist and protect customers who will bear additional costs related to smart meter deployment. In particular, the smart meter data will be necessary to better inform the development of programs that may assist these customers in reducing their overall energy bills.

The OCA contends the Settlement commits Duquesne Light and the parties to discuss and design the research to be conducted with respect to low-income, low-use, medically needy and other vulnerable customers to assist in developing programs to enable these customers to benefit from smart meter technology. The parties will establish a review and reporting process, set milestones for the production of specific deliverables and time the process to coincide with the Company’s smart meter deployment schedule. The OCA is satisfied the process described in the Settlement can address the concerns it raised in its testimony.

The OCA notes, with respect to customer education efforts connected to the Company’s implementation of Time of Use (TOU) rates, the Settlement (at Paragraph 21) requires the Company to propose any such education measures at the time it files for Commission approval of its TOU program under Act 129. The OCA finds this settlement term to be reasonable as Duquesne’s TOU program is currently still in development.

1. Reasonable and Adequate Service

The OCA points out that, when employing the remote disconnect functionality of its smart meters in cases of nonpayment, the Settlement requires Duquesne Light to comply with all provisions of Chapter 14 (Responsible Utility Customer Protection) of the Public Utility Code and Chapter 56 (Standards and Billing Practices for Residential Utility Service) of the Commission’s regulations. The OCA notes that Duquesne Light specifically agreed it would:

1. Send an appropriately trained representative to the customer premises before any termination is scheduled to occur. The representative will use reasonable efforts to make personal contact with a responsible adult occupant of the premises prior to the termination.
2. Where personal contact is not made prior to termination, the representative will leave conspicuously at the residence a notice informing the customer that utility service is being disconnected and how the customer can effect reconnection. The notice will include the number of a hotline where low-income and vulnerable customers can receive information on all Duquesne Light Universal Service and Energy Conservation programs and related payment information.
3. Service will not be terminated if the customer can show confirmation of payment through either an authorized agent or automated payment system. The representative will be fully trained to direct low-income and vulnerable customers to a hotline where they can receive information on all of Duquesne Light’s Universal Service and Energy Conservation programs and related payment information.

The OCA avers these Settlement terms respond to its testimony which sought assurances that use of the remote disconnect feature with the smart meter would not erode the procedures mandated by Chapter 14 and Chapter 56 – in particular the requirement for an attempt to make personal contact with the customer at the time of termination. The OCA submits these Settlement terms assure it that Duquesne Light will maintain important customer protections regarding termination of essential utility services.

The OCA also points out that Settlement ¶ 22 provides for Duquesne Light to make a tariff filing on or before October 1, 2016, which tariff filing will seek to reduce its restoration fee for reconnection where the remote connection feature is used. This provision is in response to the OCA’s testimony that any operational savings associated with remote reconnection services should be met with an offsetting reduction in the charge to customers for the reconnection of service.

1. Privacy and Security

The OCA raised concerns regarding the privacy and security of the customer data collected by smart meters with the crux of the privacy issue expressed by OCA witness Brockway:

The primary privacy problem that comes as a by-product of smart metering is the collection of granular data regarding customer usage. Duquesne [Light] proposes to capture meter readings of usage once every hour of every day. In a typical 30-day month, then, Duquesne [Light] will go from having two data points (beginning and end of the billing period), to having 720 discrete readings. The additional granularity of data raises the risk in many customer’s minds that their lifestyle, habits, presence in the home, and other personal data will be revealed to and used by the utility, as well as authorized electricity suppliers, conservation suppliers and third parties generally, and also that it will fall into the hands of unauthorized third parties. OCA St. 2 at 18.

While there is a concern about hackers gaining access to usage data, the more serious problems involve customers’ ability to control access to and use of the data by entities acting within the law and rules. OCA St. 2 at 17-18.

The OCA avers that its witness’ testimony points out that standards related to smart meter privacy remain a work in progress and witness Brockway identified several resources for developing privacy standards and policies including the U.S. Department of Homeland Security, the White House and the California Public Utilities Commission. The Settlement, at Paragraph 24, provides for Duquesne Light to hire a third party consultant to assist it in developing a privacy policy for customers’ smart meter data during the first quarter of 2013, because the Joint Petitioners and parties recognize that issues concerning the privacy of customer information remain unsettled and that guidance on the topic may be available from other agencies and other jurisdictions. Therefore, the Settlement provides for the development of the policy to be carried out in consultation with interested stakeholders and to be the subject of semiannual meetings with stakeholders during the time the policy is developed. The third party consultant will be asked to report on the range of practices of other United States’ EDCs with respect to privacy policies for smart meter data while operating under the Settlement’s imposition of a $40,000 cost limitation for covering the cost of the third party consultant.

The OCA submits this Settlement represents a satisfactory manner of addressing the concerns it raised with respect to the privacy of customer information. The Company will retain expert assistance to advise on privacy practices in other jurisdictions and to help develop a privacy policy for Duquesne Light. In addition, the ongoing stakeholder process established by this Settlement will enable the OCA and other interested parties to contribute the expertise of their personnel and consultants to the privacy policy development. Further, allowing the Company’s privacy policy to be developed over a period of time permits the incorporation of new developments in privacy practices as this area of knowledge continues to evolve.

With respect to cyber-security, OCA witness Brockway testified as follows:

Smart grid technology bumps up utility cyber risks significantly, by interconnecting previously stand-alone components of the grid, collecting unprecedented amounts of information, linking new and legacy systems that may not be compatible, and linking parts of the grid to accessible communications networks such as Wi-Fi and the Internet. (OCA St. 2 at 21.) Therefore, the Settlement, at Paragraph 25, responds to cyber-security concerns in that Duquesne Light commits to conducting a vulnerability assessment across its entire Advanced Metering Infrastructure (AMI), including penetration testing at the meter as a means of validating the cyber security of its AMI system. The OCA submits this assessment is an important step in an ongoing effort to protect the AMI system from cyber-intrusion.

C. Conclusion

The two Joint Petitioners herein (Duquesne Light and OCA) represent two diverse groups with often divergent interests: the public utility company and the ratepayers, respectively. In addition, all active parties to this proceeding either supported the settlement or did not object to the settlement. These two diverse parties addressed the contested issues and were able to reach a settlement which benefits the ratepayers. Ratepayers will benefit from the use of smart meters throughout Duquesne Light’s territory and this settlement permits Duquesne Light to recover the costs of that massive roll-out. In addition, the settlement benefits all parties and the Commission itself by eliminating the time and expense of further litigating this matter – which means the ratepayers benefit from the costs savings experienced when a utility company does not have to prepare and engage in litigation, prepare post-hearing filings, prepare or respond to exceptions and perhaps engage in appellate litigation.

The two Joint Petitioners thoroughly explained their positions in each party’s Statement in Support. Upon due consideration of the terms and conditions of the Joint Petition for Settlement, including the statements offered by the Company and the OCA, this proposed settlement constitutes a fair, just and reasonable resolution. The Joint Petition for Settlement is in the public interest and is approved below.

CONCLUSIONS OF LAW

1. The commission has jurisdiction over the parties and subject matter of this proceeding pursuant to 66 Pa. C.S.A. §2807(f), et seq.

2. Act 129 of 2008, 66 Pa. C.S.A. §2807, requires electric distribution companies with more than 100,000 customers to develop a plan to deploy smart meters.

3. Pursuant to 52 Pa. Code §5.231, the Commission encourages settlements if the settlement is in the public interest.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the unopposed Petition for Approval of Settlement between Duquesne Light Company and the Office of Consumer Advocate, filed on December 7, 2012, is granted without modification.

2. That the proceeding docketed at M-2009-2123948 shall be marked closed.

Date: January 14, 2013

Katrina L. Dunderdale

Administrative Law Judge

1. Exhibit 1 to Duquesne Light St. No. 1. [↑](#footnote-ref-1)
2. Implementation Order, pp. 30-31. [↑](#footnote-ref-2)