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September 25, 2009

Bureau of Regulatory Counsel

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Honorable James McNulty
Secretary, Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

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

Dear Secretary McNulty:

Please find attached for electronic filing the Comments of the Commonwealth of Pennsylvania, Department of Environmental Protection in the above referenced matter. Copies have been served on all parties listed on the enclosed Certificate of Service.

Sincerely,

/s/ Scott Perry

Scott Perry
Assistant Counsel

cc: Service List

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

**COMMENTS OF THE
COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

Pursuant to the August 29, 2009 *Pennsylvania Bulletin* notice issued in the above-captioned matter, the Commonwealth of Pennsylvania, Department of Environmental Protection (the “Department”) submits the following comments to Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company’s (“First Energy”) Petition for Approval of Smart Meter Technology Procurement and Installation Plans (“Smart Meter Plan”).

I. INTRODUCTION

The Department has consistently maintained that early deployment of smart meters and implementation of the time of use rates and real time price plans that smart meters support are necessary to achieving meaningful reductions in both energy consumption and energy prices. Smart meters and time sensitive price plans effectively use market forces to reduce consumption, shift some uses to cheaper times of day, save the consumer money and provide system-wide benefits such as reduced grid congestion and improved grid reliability. In addition, by reducing overall electricity consumption and shifting loads to off peak hours, smart meters necessarily reduce fossil fuel consumption, greenhouse gas emissions and improve air and water quality.

Perhaps the greatest benefit from smart meters and their supporting network is the integration of ratepayers into decisions on energy use. The information provided by these tools allow customers to make informed decisions regarding their energy use and equip them with new advanced tools to assist them in their efforts to reduce energy use. As such, the Department fully supports the Pennsylvania Public Utility Commission's ("Commission") decision to require a smart meter "capable of communicating raw data on at least a near real-time basis to in-home devices installed by the customer or customer designated agent." See the Commission's Smart Meter Procurement and Installation Order ("Implementation Order"), Docket No. M-2009-2092655 at page 27.

Customers who shift their electric use away from times of peak electricity demand not only save money, but also help to reduce prices for everybody. Providing electricity at peak demand periods is very expensive. A one-percent reduction in peak demand during the highest peak demand times can cut the entire market price by ten percent. Reducing peak and overall demand alleviates stress on the electric system and keeps wholesale prices down, which saves everybody money.

The Pennsylvania legislature recognized the clear benefits of smart meters and the benefits of an educated energy consumer when it enacted Act 129 of 2008 and required Electric Distribution Companies to provide smart meters throughout their service territory and offer all customers the option of enrolling in real time or time of use pricing programs. 66 Pa. C.S. § 2806(f). However, and most importantly, none of the benefits that smart meters provide can be realized if the meters and the functions they support are not in the hands of the consumer. For this reason, the Department has also consistently maintained that smart meters that provide the functions required by Act 129 be fully deployed throughout Pennsylvania in ten years.

As demonstrated by the Smart Meter Plans filed by Allegheny Power, PECO and Duquesne Light, system wide deployment of smart meters at a rate faster than the 15 year timeframe permitted by Act 129 is easily achievable. The service territories of these companies are radically different but represent the urban and rural environments that all other EDCs serve. Simply stated, if Allegheny Power, PECO Duquesne Light can develop and implement a Smart Meter Procurement and Implementation Plan that will deploy smart meters on an expedited basis throughout their service territories, the Commission should require First Energy to fully deploy smart meters on an expedited basis as well.

II. OVERALL ASSESSMENT OF FIRST ENERGY'S SMART METER PLAN

First Energy's Smart Meter Plan does not contain the information necessary to conduct a complete review of its plan and will not be implemented within an acceptable timeframe. The plan is fundamentally lacking in detail and omits such critical details as specific discussions regarding functionality of the system or capabilities of the meter infrastructure, among other issues.

More significantly, First Energy's plan will not be implemented within the time frame required by the Implementation Order. The plan includes a scheduled "Deployment Plan" submission in April 2012 which is expected to contain an implementation timeline, but the Deployment Plan is not expected to be approved until October 2012 – near the end of the "Network Development and Installation Grace Period". At this point First Energy plans to *commence* build out of the necessary infrastructure. The Implementation Order clearly requires the network infrastructure to be in place at the end of the grace period. Implementation Order at 9-13.

Finally, even if First Energy's plan did provide the necessary details for a complete evaluation and was properly implemented within the grace period, smart meters will not be fully deployed in an expedited timeframe. First Energy anticipates using the entire 15 years allotted by Act 129. See, Plan at 5 and 66 Pa. C.S. §2806(f). First Energy's failure to use the 9 month time period provided by Act 129 to develop a complete plan that provides for development of the network infrastructure by the end of the grace period undoubtedly contributes to the delay in full deployment. Given the lack of detail in the plan, the failure to meet the required timeframes in the Implementation Order and the failure to deploy smart meters system-wide on an expedited basis, the Commission should require First Energy to submit a revised plan that fully meets these

requirements and disallow cost recovery for the development of the plan submitted on August 14, 2009.

III. SPECIFIC PLAN COMMENTS

1. First Energy's plan does not meet the timeline requirements of the Implementation Order

The Implementation Order grants a 30 month "network development and installation grace period" and lists several milestones within the grace period including "Installation, testing and rollout of support equipment and software". Implementation Order at 7. Additionally the Implementation Order requires that "once this grace period expires, each covered EDC must supply a smart meter upon request by a customer, per Act 129" and in new construction. Implementation Order at 9, 13.

First Energy's plan does not propose to complete the analysis of its current system until September 2010 (Plan at 9) or to "commence build out of necessary infrastructure" until April 2013 (Plan at 6), a full 6 months after the anticipated end of the grace period. Indeed, construction will not even be completed until March 2016. First Energy Statement No. at 9. The Implementation Order clearly requires the network infrastructure to be in place at the end of the grace period. Implementation Order at 9-13.

The Department expects First Energy to conduct the required analysis with due diligence, but believes the time requested is completely excessive and violates the Implementation Order. As such, the Commission should order First Energy to submit a revised plan that requires the installation of the necessary infrastructure within the grace period.

2. First Energy’s plan to provide smart meters after the grace period to customers upon request and in new construction does not meet the requirements of the Implementation Order

After the end of the grace period, the Implementation Order requires the EDCs to supply a smart meter upon request by a customer (if the customer pays the incremental cost) and in new construction. Implementation Order pages 9-13. These meters must meet the functionality requirements of 66 Pa.C.S. § 2807(g) – or they cannot be considered “smart meters”. Due to the delays in the roll out of the Smart Meter Infrastructure, First Energy will not have even begun build out of their infrastructure when the grace period ends. See Plan at 6.

First Energy’s proposal to deploy meters to requesting customers or in new construction will be dependent on the “nature of information desired”. As state in page 18 of the plan:

“If the customer desires price signals for purposes of real time pricing, the customer will receive a meter that includes a communication card that will enable transmittal of Real Time Pricing (“RTP”) price signals. Meter reading can be done electronically. If, on the other hand, the customer desires only to receive pulse data for purposes of time of use (“TOU”) rates, the customer will receive a meter with a network card. These meters will be read manually.”

The Department interprets this to mean that the meters deployed are an interim measure which will require replacement at some point in the smart meter deployment process. This is because the Implementation Order at page 17 requires support for both time-of-use and real-time pricing and the proposed meters clearly cannot do both. It appears that the method described above would meet the requirement to “provide interval data capable meters” during the grace period (Implementation Order, P. 7), but does not meet the requirement to deploy smart meters that meet the statutory requirements to customers upon request and in new construction after the grace period.

It should be noted that there is no “grace period” provided in Act 129 within which to avoid providing the statutorily mandated smart meters to requesting customers or in new

construction. However, the Department agrees that it would be unreasonable to expect EDCs to have the necessary infrastructure in place to support smart meters for these customers upon passage of the law or even 9 months thereafter. Given the fact that the Commission provided a grace period where none existed in Act 129, there is no excuse for failing to install a meter capable of providing customers with direct access to and use of price and consumption information, to include, 1) directly information on their hourly consumption, (2) enabling time-of-use rates *and* real-time price programs, and (3) effectively supporting the automatic control of electricity consumption by, the customer, the EDC or a third-party, at the customer's request. 66 Pa.C.S. § 2807(g).

The Commission should order First Energy to submit a revised plan that requires the installation of the necessary infrastructure within the grace period such that it can provide smart meters capable of meeting Act 129 requirements to requesting customers and in new construction after the grace period.

3. First Energy's plan does not specifically address Smart Meter or Network Capabilities

First Energy's plan includes a list of "Minimum Functionality Requirements" (Plan at 11). However, the plan does not address the specifics of the requirements, including First Energy's interpretation of these requirements and how they would be implemented or make a statement that they intend to meet all of the requirements. It is anticipated that First Energy intends to include this information in the Deployment Plan filing scheduled for April 2012. Because this information is lacking, it is impossible to determine whether First Energy's Smart Meter Plan is adequate at this time.

Given the lack of detail in the plan, the failure to meet the required timeframes in the Implementation Order and the failure to deploy smart meters system-wide on an expedited basis, the Commission should require First Energy to submit a revised plan that fully meets these requirements and disallow cost recovery for the development of the plan submitted on August 14, 2009.

Respectfully submitted,

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Dated: September 25, 2009

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document, Comments of the Commonwealth of Pennsylvania, Department of Environmental Protection, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner upon the persons listed below:

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