**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17105-3265**

 Public Meeting held June 3, 2010

Commissioners Present:

 James H. Cawley, Chairman, Statement

 Tyrone J. Christy, Vice Chairman, Dissenting Statement

 Wayne E. Gardner

 Robert F. Powelson

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

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are the Comments filed by PECO Energy Company (PECO or the Company), Constellation NewEnergy, Inc. (Constellation) and the Retail Energy Supply Association (RESA); and the Petition to Intervene and Answers filed by EnerNoc, Inc. (EnerNOC) in response to the Commission’s Opinion and Order entered May 6, 2010 (*May 6, 2010 Order*).

# Background

Pursuant to our Opinion and Order entered June 24, 2009 in *Smart Meter Procurement and Installation*, Docket No. M-2009-2092655 (*Implementation Order*), we directed electric distribution companies (EDCs) with more than 100,000 customers to propose electronic data interchange (EDI) capabilities for Commission review no later than January 1, 2010. The EDCs were to develop these capabilities through the Commission’s Electronic Data Exchange Working Group (EDEWG). *Implementation Order* at 25. EDEWG is comprised of EDCs, electric generation suppliers (EGSs), and other interested parties.

Embedded in PECO’s Revised Smart Meter Technology Procurement and Installation Plan (Smart Meter Plan) was a commitment to provide usage data and other customer information to third parties via established electric data interchange (EDI) protocols and data transfer methods described in the *Implementation Order*. PECO St. No. 2 at 14.

While we support PECO’s commitment to use EDI protocols to provide usage and other information to third parties, neither PECO’s Smart Meter Plan nor the record in this proceeding, developed prior to our April 22, 2010 Public Meeting, addressed how or when the Company planned to implement this transaction. We note that other EDCs throughout the Commonwealth have or will be soon implementing historical interval usage (HIU) transaction capabilities. We believed it would be prudent to seek comments from PECO and other interested parties on whether PECO should adopt these protocols, and, if so, how and when they should be implemented.

By our *May 6, 2010 Order*, we solicited comments on the appropriateness of requiring PECO to implement the EDI HIU protocols. We directed PECO to file Comments, and other interested parties were encouraged to comment on the adequacy and timeliness of PECO’s current interval usage data processes, so as to assist the Commission in its decision. We believed that, if the Commission is to require PECO to make these changes, it should be done in an expedient manner. Therefore, we directed that Comments be filed with the Commission on or before May 17, 2010. In order to expedite our consideration of this matter, we indicated that we would not accept Replies to the Comments. *May 16, 2010 Order* at 28-30.

**Relevant History of the Proceeding[[1]](#footnote-1)**

Governor Edward Rendell signed Act 129 of 2008 (“the Act” or “Act 129”) into law on October 15, 2008. Among other things, the Act specifically directed that EDCs with at least 100,000 customers file, with the Commission for approval, a smart meter technology procurement and installation plan. 66 Pa. C.S. § 2807(f)(1). These plans were to be filed by August 14, 2009. Each plan must 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 establishes 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).

On August 14, 2009, PECO filed with the Commission its “Petition of PECO Energy Company for Approval of its Smart Meter Technology Procurement and Installation Plan” (Plan Petition).

On November 25, 2009, a Joint Petition for Partial Settlement (Settlement Petition) was filed by PECO, the Office of Consumer Advocate (OCA), the Office of Small Business Advocate (OSBA), Constellation, the Department of Environmental Protection (DEP), the Clean Air Council (CAC), and the Association of Community Associations for Reform Now (ACORN). Statements in support of the Settlement Petition were submitted by each of the settling parties. The Office of Trial Staff (OTS) and Philadelphia Area Industrial Energy Users Group (PAIEUG) submitted statements of non-opposition. Settlement Petition, Attachments A-K. The Settlement Petition proposed to resolve all of the issues addressed in this proceeding, except: (1) how to allocate the costs to implement the Plan, other than those of the smart meters themselves (common costs); and (2) whether costs allocated to small commercial and industrial customers should be recovered on a kWh or customer charge basis. Settlement Petition at 7-8.

On January 28, 2010, Administrative Law Judge (ALJ) Marlane R. Chestnut issued her Initial Decision (I.D.) which recommended, *inter alia*, that the Settlement Petition be approved. The ALJ also recommended that common costs be allocated based on the number of customers in each customer class, as proposed by PECO in its Smart Meter Plan. With that recommendation, the ALJ found that the allocation of costs to the small commercial and industrial class was resolved. I.D. at 24-33.

On February 17, 2010, the OCA filed Exceptions to the Initial Decision. Replies to the OCA’s Exceptions were filed on March 1, 2010, by PECO, the OSBA, and PAIEUG.

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By our *May 6, 2010 Order*, we, *inter alia*, adopted the Initial Decision, and granted both the Plan Petition and Joint Petition, all as amended by the *May 6, 2010 Order*. As discussed, *supra*, the *May 6, 2010 Order* also solicited Comments on the adequacy and timeliness of PECO’s current interval usage data processes and the appropriateness of requiring PECO to implement EDI HIU protocols. *May 6, 2010 Order* at 28-32.

In response to the *May 6, 2010 Order,* Comments were filed by Constellation on May 14, 2010. RESA and PECO filed Comments on May 17, 2010. Also on May 17, 2010, EnerNOC filed a Petition to Intervene and Answers in Response to the Questions in the May 6, 2010 Order (EnerNOC Petition). The EnerNOC Petition contains, *inter alia*, comments on EDI HIU protocols.

**Discussion**

We note at the onset that any issue 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)

**EnerNOC Petition**

In its Petition, EnerNOC states that it wishes to intervene in this proceeding for the sole purpose of responding to the questions concerning sub-hourly metering and implementation of new HIU EDI protocols presented in the Commission’s *May 6, 2010 Order*. EnerNOC Petition at 4-5.

Our *May 6, 2010 Order* clearly invited comments from “interested parties” and was not restricted to parties that have intervened in this proceeding. Consequently, we will consider the Comments filed by RESA and EnerNOC on the HIU EDI protocols.

**Adequacy and Timeliness of PECO’s Current Interval Usage Data Processes**

### PECO submits that it already has processes in place to provide historical interval data and these processes have been used successfully by PECO and EGSs since 1999. PECO points out that, as of July 1, 1999, when market generation rates were at or below PECO’s generation rate caps, 57.7% of industrial customers and 24.5% of commercial customers were served by a supplier other than PECO. PECO Comments at 2.

PECO explains that it currently uses one of two processes to provide historical interval data to an EGS depending on whether the customer has given PECO permission to release customer account and usage information. If a customer has provided an authorization for PECO to release its information to all suppliers, PECO’s systems will automatically respond to a data request from an EGS by posting the requested information to its “SUCCESS” EGS website for download by an EGS. If the customer has not authorized the broad release of its information, an EGS must provide PECO with a Letter of Customer Authorization (LOA) and PECO will manually provide the historical interval data to the EGS via e-mail. *Id*. at 2.

### RESA avers that EGSs need timely access to information about prospective customers so they can provide competitive offers. RESA Comments at 5. RESA submits that, without an EDI process available for interval customers, EGSs must get usage information through one of two manual processes; e-mailing PECO directly or accessing data from PECO’s SUCCESS website. RESA states that data returned through the website must be either manually retrieved or an EGS must develop a “complex web scraping” application to retrieve the data. *Id.* at 3. RESA argues that PECO’s current processes for providing information for interval account customers is labor intensive for both the EGSs and PECO, and is unreliable and time consuming. *Id.* at 5. RESA submits that there are times that even unrestricted customer accounts are not available on the website and the EGS must request this information from PECO by e-mail. *Id*. at 4.

Constellation avers that submitting a request for information in an interval account customer by e-mail can take at least a day and up to a week, depending on the nature of the request. Constellation argues that the time to obtain information by e-mail “significantly” limits the EGS’s ability to evaluate and prepare a timely offer for an interval account customer’s consideration. Constellation Comments at 2-3. RESA states that EGSs have already experienced delays between one and four weeks in seeking information for customers having more than 50 accounts. RESA projects that as more EGSs enter the market and e-mail PECO for information, the capacity for PECO to provide timely responses to these requests will be greatly diminished. RESA Comments at 3-4.

### RESA avers that there does not appear to be a single file format in PECO’s responses to e-mail requests. RESA explains that generally PECO provided three files each containing different pieces of information. RESA states that “often” the combined packet of information is incomplete requiring EGSs to follow-up with PECO through further e-mail requests. *Id*. at 4.

### Both Constellation and RESA state that data available on PECO’s SUCCESS website is not sufficient because it only contains interval usage data and does not contain customer information necessary to properly develop offers for customers such as rate code, load profile group, meter cycle information and transmission and capacity Peak Load Contribution values. Constellation Comments at 3 and RESA Comments at 4.

RESA also avers that, for some restricted customers, PECO has required the EGS to submit its LOA from the prospective customer before providing the information. RESA argues that this step adds additional and unnecessary delay in providing a competitive price to a prospective customer. *Id.*

The Comments filed by RESA and Constellation, *supra*, indicate that PECO’s current processes for providing interval usage data are inefficient and inadequate. In order to ensure the efficiency of the market for generation resources in PECO’s service territory, we believe that PECO needs to develop a better methodology for providing customers, their agents, licensed generation suppliers and other interested parties with interval usage data. The need to improve the efficiency of the market for generation resources will be heightened by expiration of the generation rate caps for PECO’s customers on December 31, 2010.

**Development of EDI Protocols**

Both Constellation and RESA recommend that PECO should implement an EDI transaction that allows historical level data to be returned to an EGS through normal EDI protocols. They recommend that the interval data stream should also contain: rate class, load profile, meter read cycle information, customer address, capacity and transmission tags. They add that, for an interval metered account, the EGS should receive both granular, interval level data, as well as the summary data (the summation of interval reads). Constellation Comments at 4 and RESA Comments at 5.

Both Constellation and RESA also recommend that the transaction should give the EGS the option of requesting only summary level data. They explain that interval data may not be necessary in all circumstances and EGSs incur significant handling costs when receiving interval data. Constellation Comments at 4 and RESA Comments at 5.

PECO submits that, in the *Implementation Order*, the Commission identified several types of data transactions including the transaction to provide meter-level HIU data to customers and their agents. PECO states that the Commission assigned the development of this and other important transactions to EDEWG. PECO also states that the EDCs were directed to propose EDI capabilities for the purposes identified in the *Implementation Order* through the EDEWG for Commission review no later than January 1, 2010. PECO Comments at 4.

PECO explains that, on December 11, 2009, EDEWG submitted its Preliminary Proposal for the Development of Smart Meter Data Exchange Standards (Preliminary Proposal) to the Commission. PECO cited a portion of the Preliminary Proposal which states that the existing 867 HIU transaction is already designed to meet this need. The Preliminary Proposal notes that the 867 transaction is currently used by PPL and the volume of data involved can be problematic. The Preliminary Proposal indicates that the Sub-Team of the EDEWG, tasked with developing smart meter data transactions, estimated that for a single meter providing 15-minute intervals, 34,560 reads would be included in a 12-month 867 transaction. The Preliminary Proposal states that rather than establishing the 867 HIU as the standard at this time, the Sub-Team would like to explore other methods for providing historical usage data at the meter level, including web presentment or other internet delivery approaches. PECO Comments at 5.

The Preliminary Proposal also indicates that the EDEWG is scheduled to publish draft data exchange standards by November 30, 2010, and publish final standards by January 31, 2011. Preliminary Proposal at 8. PECO states that having finalized standards by January 2011 would give PECO sufficient time to implement the selected method by the end of the 30-month grace period established by the *Implementation Order*.[[2]](#footnote-2) PECO Comment at 5.

### PECO believes that the EDEWG process is the appropriate venue for developing the smart meter data transactions required by the *Implementation Order*. PECO avers that, if the Commission were to require PECO to implement EDI HIU protocols, it would be bypassing the standards development process established in the *Implementation Order,* and as a result, would require PECO to engage in costly systems modifications and EGS testing without agreement from other stakeholders on the appropriate method of standardization. PECO argues that, in light of EDEWG’s concerns about EDI HIU protocols, it would be “economically inefficient” for PECO to make the investment to move to EDI HIU protocols as an interim solution if more appropriate methods are developed through the EDEWG process. *Id.* at 6.

EnerNOC states that the ability to provide customers and their agents with twelve months of interval usage data is an important commitment and recommends that PECO pursue the implementation of these standards in the next available EDEWG meeting that can be scheduled. EnerNOC also recommends that such a meeting should be advertised through the Commission website so that a wider, more representative group would be aware of such a meeting. EnerNOC Petition at 13.

The Commission directed the EDCs, in collaboration with EDEWG, to propose EDI capabilities for Commission review no later than January 1, 2010. *Implementation Order* at 25*.*  EDEWG requested an extension of the January 1, 2010 deadline and proposed to publish draft data exchange standards by November 30, 2010, and to publish final standards by January 31, 2010. Preliminary Proposal at 6 and 8. In light of EDEWG’s proposal, we direct PECO to participate in EGEWG’s standard development process and to develop appropriate enrollment and HIU transactions ready for testing by EGSs by November 1, 2010. Final protocols shall be available for implementation by January 1, 2011, concurrent with the removal of the generation rate caps.

PECO recommends that, if the Commission decides to require the use of EDI HIU protocols, implementation should not be required until the end of the 30-month grace period, when full-scale smart meter development will begin in PECO’s service territory. PECO Comments at 6.

In its Preliminary Proposal, EDEWG stated that while the Commission recognized the complexity of designing and installing a smart meter network when it established the 30-month grace period, the Commission directed that data exchange standards be developed through the EDEWG no later than January 1, 2010. Preliminary Proposal at 2. EDEWG recognized that, as the EDCs work their way through their 30-month grace periods and conduct a thorough analysis of the smart meter implementation standards, the related business processes and data exchange requirements will be identified. As these business processes and data exchange requirements are identified, EDEWG proposed to develop supporting data exchange standards that can be incorporated into the EDC’s smart meter plans. Preliminary Proposal at 7.

While we believe that enrollment and transaction protocols need to be implemented by PECO concurrent with the removal of its generation rate caps on January 1, 2011, we concur with EDEWG that future adjustments to these standards may be necessary as PECO further develops and implements its Smart Meter Plan. To that end, PECO is directed to continue to work with EDEWG to develop appropriate changes to its data exchange standards as PECO develops and implements its Smart Meter Plan.

**EGS Access to Restricted Customer Accounts**

As stated, *supra*, if a customer has not authorized the release of its metering information, PECO requires that an EGS provide PECO with a LOA and PECO will provide the historical interval data to the EGS via e-mail. PECO avers that this process complies with the *Implementation Order’s* requirements to provide interval data to third parties such as EGSs and conservation service providers (CSPs) during the 30-month grace period upon customer request. PECO Comments at 3.

RESA recommends that information returned through the EDI process should be available to all EGSs that are properly licensed and registered to operate in PECO’s service territory. RESA also recommends that EGS access to restricted accounts should not be delayed while an EDC checks a LOA or requires the customer to separately communicate the permission to the EDC. RESA avers that EGSs are entities legally required to have proper permission and the EDCs should not operate as gatekeepers. RESA argues that it should be assumed that EGSs requesting data have the proper authorization from the customer. RESA states that EGS’s authorization records should be subject to Commission audit. RESA Comments at 5-6.

In its Comments, PECO submits that, should the Commission decide to implement a policy not to require PECO to verify customer preference for release of its data to an EGS, PECO would be amenable to implementing this process change. PECO Comments at 3-4.

We addressed this issue in our Tentative Order entered May 15, 2009, regarding PPL Electric Utilities Corporation’s Retail Markets at Docket M-2009-2104271 (*PPL Tentative Order*). In our *PPL Tentative Order,* we stated that “[t]he manual sending of the customers’ authorization by the EGS to PPL is not required, but the EGS may be audited by PPL or the Commission for compliance with the customer authorization after the fact.” *PPL Tentative Order* at 8.

We further addressed this issue in the subsequent Opinion and Order entered August 11, 2009, that, *inter alia,* addressed the Comments filed in response to the *PPL Tentative Order (August 11, 2009 Opinion and Order).*  In that Order, we clarified that our regulations pertaining to privacy of customer information at 52 Pa. Code § 54.8 were applicable to both the EDC and EGS. We stated that “[s]hould a customer give such permission to an EGS to receive historical data by any of these means, it is incumbent upon the EDC to respond to the EGS 867 HU request for this information.” *August 11, 2009 Opinion and Order* at 10-11*.*

Consistent with our findings regarding the authorization to release historical usage data for PPL, an EGS will not be required to provide documentation to PECO that the EGS has received authorization of a customer to provide historical usage data to the EGS.

**Recovery of EDI HIU Implementation Costs**

PECO requests that, if the Commission decides to require the use of EDI HIU protocols, it should be permitted to recover the associated implementation costs in the same manner as it will recover other smart meter costs. PECO Comments at 6.

The recovery of smart meter technology costs is discussed in the *Implementation Order* at 28-31. Consistent with the *Implementation Order*, PECO should address the net costs of implementing enrollment and electronic data interchange transactions as part of its Smart Meter Plan.

# Conclusion

For the reasons set forth hereinabove, we direct PECO to work with EDEWG to develop appropriate enrollment and electronic data interchange transactions that are ready for testing by electric generation suppliers by November 1, 2010, and that PECO shall develop final transactions to be implemented by January 1, 2011. **THEREFORE;**

**IT IS ORDERED:**

1. That PECO Energy Company shall work with the Commission’s Electronic Data Exchange Working Group to develop appropriate enrollment and electronic data interchange transactions that are ready for testing by electric generation suppliers by November 1, 2010. PECO Energy Company shall develop final transactions to be implemented by January 1, 2011.

2. That a copy of this Opinion and Order shall be served on the Parties to this proceeding and the two Co-chairs and the Change Control Manager of the Commission’s Electronic Data Exchange Working Group.

3. That the Commission’s Office of Communications shall post an appropriate notice(s) on the Commission website notifying interested parties of forthcoming activities of the Electronic Data Exchange Working Group to address PECO Energy Company’s and other electric distribution companies’ enrollment and electronic data interchange transactions.

** BY THE COMMISSION,**

 Rosemary Chiavetta

 Secretary

(SEAL)

ORDER ADOPTED: June 3, 2010

ORDER ENTERED: June 3, 2010

1. A more complete history of this proceeding can be found in the Introduction, Background and Procedural History sections of our *May 6, 2010 Order* at 1-6. [↑](#footnote-ref-1)
2. Appendix 1 to PECO’s Revised Smart Meter Plan indicates that the 30-month grace period would conclude at about the end of the third quarter of 2012. [↑](#footnote-ref-2)