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# RHOADS & SINON LLP

FILE NO: 11616/02

June 10, 2010

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**Re: Docket No. M-2009-2123948 – Petition of Duquesne Light Company for Approval of its Smart Meter Procurement and Installation Plan**

Dear Secretary Chiavetta:

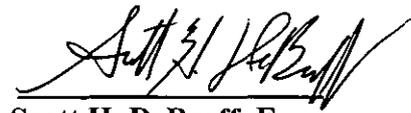
Enclosed herewith please find an original and three (3) copies of the “**Petition to Intervene and Answers in Response to the Questions in the Commission’s May 11, 2010 Order on Behalf of EnerNOC, Inc.**” in the above captioned proceeding. Please enter this into the docket and timestamp the additional two (2) copies.

Should you have any questions, please do not hesitate to contact me at (717) 237-6716.

Sincerely,

RHOADS & SINON LLP

By:



Scott H. DeBroff, Esq.

Enclosures

cc: Service List for Docket M-2009-2123948

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COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PETITION OF DUQUESNE LIGHT COMPANY  
FOR APPROVAL OF ITS SMART METER  
PROCUREMENT AND INSTALLATION PLAN

Docket No. M-2009-2123948

PETITION TO INTERVENE AND ANSWERS IN RESPONSE TO THE  
QUESTIONS IN THE COMMISSION'S MAY 11, 2010 ORDER  
ON BEHALF OF ENERNOC, INC.

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Dated: June 10, 2010

Counsel for EnerNOC, Inc.

COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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SECRETARY'S BUREAU

PETITION OF DUQUESNE LIGHT COMPANY  
FOR APPROVAL OF ITS SMART METER  
PROCUREMENT AND INSTALLATION PLAN

Docket No. M-2009-2123948

PETITION TO INTERVENE AND ANSWERS IN RESPONSE TO THE  
QUESTIONS IN THE COMMISSION'S MAY 11, 2010 ORDER  
ON BEHALF OF ENERNOG, INC.

AND NOW COMES, **EnerNoc, Inc** ("EnerNOC" ) by and through its counsel, **Scott H. DeBroff, Esquire** and **Alicia R. Petersen, Esquire** of Rhoads & Sinon LLP, for the purpose of this "Petition To Intervene" with respect to this proceeding before the Commonwealth of Pennsylvania Public Utility Commission ("PUC" or the "Commission") pursuant to 52 Pa. Code §§ 5.71-5.74. In support of this docket, EnerNOC avers the following:

1. On August 14, 2009 Duquesne Light Company filed its Petition for Approval of its Plan with the Pennsylvania Public Utility Commission ("Commission") pursuant to the Smart Meter Procurement and Installation Order ("Implementation Order") at Docket M-2009-2123948.
2. On January 21, 2010, ALJ Meehan issued the Initial Decision in this docket.
3. On April 15, 2010, at the Commission's Public Meeting, a Motion was issued by Chairman Cawley for an Order to be entered into this docket.

4. On May 11, 2010, the Commission entered an Order in this proceeding. The Commission instructed parties to address the “need, ability and cost of sub-hourly metering” for all customer classes. The Commission specifically asked parties to address this matter by answering eight questions listed in the Order.

5. EnerNOC is the largest demand response aggregator in the world and currently manages over 4,350 MW of demand response resource capability from over 3,100 customers across 7,200 sites nationwide. As an active demand response provider across almost all Independent System Operators (“ISO”) or Regional Transmission Organizations (“RTOs”) in the United States and numerous states with various statutory regulatory regimes, EnerNOC has a broad base of experience on which to draw from and as a result, has a unique perspective to offer in this proceeding.

6. EnerNOC operates specifically in the Commonwealth of Pennsylvania as a Conservation Service Provider within the footprint of PJM Interconnection, L.L.C. (“PJM”). As a Conservation Service Provider, EnerNOC provides commercial, industrial and institutional organizations with demand response and energy efficiency services. By letter dated July 2, 2009, the PUC also approved EnerNOC’s Application to register as an Act 129 Conservation Service Provider. A primary focus of EnerNOC’s service is support for small to medium size commercial and small industrial and institutional customers and the cost of metering is a primary determinant of the customers who can be cost-effectively served.

7. EnerNOC has participated in the other related Act 129 proceedings. EnerNOC participated as a party in all of the Energy Efficiency and Conservation Plan proceedings for each Pennsylvania investor owned utility.

8. EnerNOC acknowledges its Petition to Intervene is filed extremely late in the process. The Commission's Order has included several key questions that would directly impact EnerNOC's operations in Pennsylvania, and as such, EnerNOC would like to offer its thoughts on the questions.

9. The Commission has discussed late petitions to intervene at *Re S.T.S. Motor Freight, Inc.* 54 PA. P.U.C. 343, 344 (1980) which provides:

Failure to file a timely protest is a bar to subsequent participation in an application proceeding, except where a potential intervenor can show good cause for its late appearance. 52 Pa. Code 5.74(b). Traditionally, this Commission has been liberal in its interpretation in the "good cause" requirement and its allowance of intervention in common carrier proceedings. Specifically, the Commission has permitted late interventions:

- (1) where the petitioner has a reasonable excuse for missing the protest due date and
- (2) where the proceeding is contested at the time of the filing of a petition for intervention; and
- (3) where the grant of intervention will not delay the orderly progress of the case; and
- (4) where the grant of intervention will not broaden significantly the issue, or shift the burden of proof.

10. Finally, the Commission has granted late-filed petitions to intervene where doing so advanced the public interest by ensuring the development of a complete record to facilitate the Commission's decision-making process. See *Re Louderback Transportation Co.*, 68 Pa.P.U.C. 291, 0088 WL 1535034 (Pa. P.U.C.) at 3 (Oct. 7 1988).

11. EnerNOC appreciates the timing limitations applicable to this proceeding and as such accepts the procedural schedule and record in this proceeding as they stand, on the date of this filing. EnerNOC only wishes to intervene in this proceeding for the sole purpose of responding to the questions concerning Sub-hourly Metering presented in the Commission's Order entered

on May 11, 2010. Granting EnerNOC's Petition to Intervene will not delay the orderly progress of this proceeding.

12. EnerNOC also wishes to be included in any future stakeholder meetings held by the parties in this case and in future filings that address the issues EnerNOC is commenting to below.

13. Granting EnerNOC's Petition to Intervene is in the public interest because it ensures the development of a complete record, one that will facilitate the Commission's reasoned decision-making processing. The Commission has specifically requested further insight into the benefits of sub-hourly metering. EnerNOC's experience as a demand response provider in PJM and the granularity level needed from a smart meter in order to provide its services is imperative to have on the record for the Commission's determination of the importance of sub-hourly metering. In addition, demand response programs like those that EnerNOC offers are also central to every utility's Energy Efficiency & Conservation (EE&C) Act 129 Plan. Therefore, it is important that the Commission understands the level of data needed from the smart meters in order to ensure that the Act 129 EE&C programs are successfully implemented.

14. Granting EnerNOC's Petition for Intervention will not significantly broaden the issues in this proceeding. As stated previously, EnerNOC's sole reason for this petition is to provide insight into the Commission's questions related to the need for more granular meter data in order to support existing and planned demand response programming. EnerNOC's knowledge and experience as a CSP for demand response programs and as an active party to the related Act 129 proceedings is relevant and connected to the primary issues in this proceeding, raised in the most recent Commission Motion.

15. On May 17, 2010 EnerNOC also filed a late Petition to Intervene and comments to the same questions concerning Sub-hourly Metering in Docket M-2009-2123944, the Petition of PECO Energy Company for Approval of Smart Meter Technology Procurement and Installation Plan.

16. On June 3, 2010, the Commission issued an Order in PECO's Act 129 Smart Metering Docket and addressed EnerNOC's comments and intervention on page 5 of the Order. There, the Commission stated that the Order asking for comments "clearly invited comments from 'interested parties' and was not restricted to parties that have intervened in this proceeding." The Commission addressed EnerNOC's comments in the PECO Act 129 Smart Meter proceeding and EnerNOC would like the same consideration in this docket.

17. EnerNOC's counsel and parties to whom all correspondence and pleadings in this docket should be directed to are:

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