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December 18, 2009

James J. McNulty
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

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

Dear Secretary McNulty:

Enclosed for filing is the Reply Brief of the Office of Consumer Advocate, in the above-referenced proceeding.

Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully Submitted,

A handwritten signature in black ink that reads "James A. Mullins".

James A. Mullins
Assistant Consumer Advocate
PA Attorney I.D. # 77066

Enclosures

cc: Honorable Wayne L. Weismandel

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

REPLY BRIEF
OF THE
OFFICE OF CONSUMER ADVOCATE

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Dated: December 17, 2009

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I. INTRODUCTION

The Office of Consumer Advocate is filing this Reply Brief in response to certain arguments advanced by PPL Electric Utilities Corporation (PPL or Company) in its Main Brief in this proceeding. As set forth in this Reply Brief, the OCA submits that the Commission should approve PPL's Smart Meter Plan (SMP) subject to the following recommendations: 1) that PPL commit to a collaborative process in order to identify a consistent format through which information on each of the pilot programs is provided, including information on costs and benefits, 2) that PPL commit to collaborative meetings at least three times per year to review progress and results from the pilot projects, 3) that PPL commit to providing additional details as to the implementation of the pilot programs, the data to be collected, the methodology for selecting participants and control groups, the collection of baseline data, and the presentation of project results prior to implementation, 4) that the service limiting pilot, pre-payment pilot, and feeder meter pilots in Section 6(C)(5) of the SMP be rejected as part of the SMP, and 5) that PPL, with regard to the cost of equity applicable to smart meter charges, utilize (initially) a 10.1 percent return on equity.

II. REPLY ARGUMENT

A. Collaborative Process

As set forth by OCA witness Christina R. Mudd, the OCA submits that, for the pilot programs approved by the Commission, the Company should work with interested stakeholders in a collaborative process at least 3 times per year. OCA St. No. 1 at 6. Further, following agreement on pilot designs, the Company should present the details of the pilots to the Commission for review and approval. In its Main Brief, the Company argues that semi-annual (twice yearly) collaborative meetings are sufficient for obtaining input from the parties,

reviewing the progress of ongoing pilot programs and providing results of pilot programs to participants. PPL M.B. at 10. Therefore, the Company requests that the Commission not adopt the OCA's proposal to require a minimum of three collaborative meetings per year. Id.

The OCA submits that with the work necessary for designing and implementing the SMP, collaborative meetings at least 3 times per year should be held. OCA witness Ms. Mudd testified:

I recommend that the collaborative work to identify a consistent format through which information on each of the pilot programs is provided, including information on costs and benefits. I further recommend that, following agreement as to the data and information to be collected, analyzed and presented, that the collaborative meet a minimum of three times per year to review progress and results from the pilot projects. There will still need to be filings with the Commission to move forward with any decisions or technology deployment that may result from the pilot projects.

OCA St. No 1S at 2. Ms. Mudd further stated that additional details regarding the implementation of the pilot programs, the data to be collected, the methodology for selecting participants and control groups, the collection of baseline data, and the presentation of project results will need continued refinement prior to implementation and monitoring following implementation. Id. at 3. The OCA submits that Ms. Mudd's alternative is appropriate and should be accepted. As such, the OCA submits that PPL should hold collaborative meetings at least three times per year and should be directed to undertake the tasks recommended by OCA witness Mudd as part of this process.

B. Return on Equity

With regard to establishing the rate of return applicable to the Company's smart meter rate base, OCA witness Thomas Catlin testified:

With regard to the cost of equity, it is my recommendation that the equity return rate approved by the Commission in PPL's last fully litigated base rate proceeding (or explicitly set forth in a settlement agreement) be utilized if the final order in that proceeding was entered not more than three years prior to the effective date of the updated Smart Meter Surcharge.

OCA St. No. 1 at 4. However, as PPL's last fully-litigated rate case was in 2004--more than 3 years ago--the OCA submits that data from that case is outdated and should not be used. In the absence of sufficiently current data, OCA witness Catlin recommended two possible approaches. First, Mr. Catlin recommended that the Commission establish a procedure that would allow for the use of the most recent "Report on the Quarterly Earnings of Jurisdictional Utilities" (Quarterly Earnings Report) prepared by the Bureau of Fixed Utility Services (FUS) and released by the Commission at the time of the filing. OCA St. No. 2 at 5. As set forth by Mr. Catlin, the Commission has adopted a similar approach for establishing the return on equity for other surcharges under automatic adjustment clauses. Id. at 5. Specifically, Mr. Catlin testified:

In allowing the implementation of Distribution System Improvement Charges (DSICs) for water utilities under Section 1307 of the Public Utility Code, the Commission established a requirement that if a return on equity had not been established in a litigated rate case within two years of the effective date of the DSIC, then the equity return rate calculated by the Commission Staff (now Bureau of Fixed Utility Services) was to be utilized.

OCA St. No. 2 at 5. However, recognizing that a transparent procedure for determination of the equity return by FUS for smart meter surcharges has not yet been established, Mr. Catlin's

alternate recommendation is that a return on equity of 10.1% be used.¹ OCA St. No. 2S at 6. As Mr. Catlin testified, this return is consistent with the most recent litigated Pennsylvania electric distribution cases filed by Metropolitan Edison Company (Met-Ed) and Pennsylvania Electric Company (Penelec) in 2006 and decided in early 2007. *Id.* at 6.

In its Main Brief, PPL disagrees with Mr. Catlin's proposals and argues that data from its most recent fully-litigated rate case be used. PPL M.B. at 12. However, as Mr. Catlin stated in his Surrebuttal Testimony:

My recommendation reflects my position that an ROE approved in a rate case five or six years ago, or as many as 15 or 20 years or go for some EDCs, cannot be assumed to be representative of an EDC's cost of equity today. Capital costs change over time and a procedure needs to be adopted to address those situations where more than a few years have passed since a determination of an EDC's cost of equity has been made.

OCA St. No. 2S at 4. As PPL's last litigated case was in 2004, the OCA submits that the more recent data from a fully-litigated electric distribution base rate case in 2006 should be used. Therefore, the OCA submits that a return on equity of 10.1% be used until the Commission establishes a return on equity for SMP charges or PPL has another base rate case. The Company's suggestion that utilizing cost data from rate cases litigated more than 5 years ago is not appropriate.

¹ Mr. Catlin found that the equity cost rates for electric utilities have been inconsistent and volatile in the Quarterly Earnings Reports over the past several years. Given this volatility--and lack of transparency--the existing electric utility returns published in the Quarterly Earnings Reports do not appear to be appropriate for use in establishing the return on equity to be used for PPL's and other electric distribution utilities' smart meter charges.

C. Pilot Programs

1. Feeder Meter

At Section 6(C)(5) of its Plan, PPL sets forth the parameters of its feeder meter pilot program. As set forth on OCA Cross-Examination Exhibit No.1, the Company clarifies that:

Feeder meters are devices that monitor the total flow of energy on a radial distribution line from a substation, not the branch flow of energy to a particular customer as measured by an individual meter.

See, OCA Cross-Examination Exhibit No.1. As OCA witness Ms. Mudd testified, the feeder meter pilot project is a distribution system upgrade rather than a customer smart meter capability. OCA St. No. 1 at 17. Therefore, Ms. Mudd concluded that the Company has not demonstrated that feeder meters enhance the capabilities of the customer's advanced meter infrastructure. As a result, the OCA submits that this pilot project should not be approved as part of the PPL Smart Meter Plan.

In its Main Brief, the Company argues that the OCA is adopting a restrictive view of smart meter technology. PPL M.B. at 18. PPL further argues that the feeder meters are smart meters and will directly assist the Company in meeting the smart meter goals and objectives set forth by the Commission in its Implementation Order. Id. at 19. The OCA submits, however, that the Company can undertake this pilot in the normal course of business if it so desires and seek recovery of the associated costs via standard base rate recovery. Therefore, this program should not be treated as part of PPL's Act 129 obligation and provided the special ratemaking treatment afforded Act 129 costs. As OCA witness Ms. Mudd concluded, the Company has not demonstrated that feeder meters enhance the capabilities of the customer's advanced meter

infrastructure. Consequently, the OCA submits that this pilot project should not be approved as part of the PPL Smart Meter Plan.

2. Service Limiting and Pre-Payment

The OCA submits that neither the service limiting, nor the pre-payment pilot program should be approved in this proceeding. As set forth by Ms. Mudd, these programs raise significant public policy implications that need to be addressed and resolved by the Commission prior to any pilot programs. Ms. Mudd highlighted some of these issues:

there are important policy issues, including public safety issues, related to the Utility's use of these capabilities. Should these pilot programs be approved by the Commission in the current proceeding, which I do not recommend, the Commission should require the development of a complete set of procedures that ensures that the pilot targets an appropriate customer segment and is completely voluntary. The Company should implement a rigorous screening to ensure that customers such as low income, elderly, ill, and disabled customers, who could be placed at risk by such a program, are not selected for participation. In particular, participation in service-limiting and prepay programs should in no sense be a precondition imposed by the utility for reconnection of service following disconnection for customer non-payment.

OCA St. No. 1 at 15.

The OCA submits that these two pilots should not be approved in this proceeding given the significant unaddressed policy implications. The Commission recognizes this very point and stated that there will be a separate proceeding which will address, among other things, the policy implications of the use of smart meters for service limiting and pre-payment. OCA St. No. 1 at 14. Specifically, the Commission stated that:

the Commission agrees that the significant policy implications of service limiting and prepaid service should be addressed in another proceeding prior to requiring such capability in smart meters. Therefore, we have removed support for service-limiting, and prepaid service as a minimum capability requirement.

See, Smart Meter Procurement and Installation, Docket No. M-2009-2092655 at 18 (Order entered June 24, 2009).

In its Main Brief, PPL argues that the Implementation Order does not preclude the Company from including these capabilities and that the separate proceeding referenced in the Implementation Order is intended to address whether the Commission will “require” EDCs to offer these capabilities. PPL M.B. at 21. Therefore, the Company argues that EDCs are not precluded from offering these types of programs, and PPL Electric seeks approval to conduct voluntary pilot programs to test its service limiting and pre-pay metering capabilities. Id.

The OCA submits that, while the Commission may not have precluded EDCs from including these capabilities, further investigation of the potential risks to consumers from employing service limiting and prepayment capabilities--even on a voluntary basis-- should be a precursor to any pilot program or implementation. Company witness Godorov concedes that, with respect to the service limiting pilot, PPL: 1) has not “done any in-depth due diligence”, 2) has not “gotten into specific details on the design”, and 3) has not determined the type of notice to be given prior to disconnection (and when). Tr. at 117-122. As to the pre-payment pilot, Mr. Godorov also conceded that PPL has not: 1) undertaken any studies addressing whether energy usage declines from pre-payment programs are the result of concerted efforts to reduce usage or simply going without electricity once the pre-payment expires, 2) identified safeguards to be employed to assure that customers can recharge their meters, and 3) reviewed any materials addressing low-income customers. Id. at 123-126. The Company’s lack of analysis on these points further supports the Commission’s Implementation Order that calls for a separate proceeding to consider all of the implications of the use of such capabilities.

Additionally, as Ms. Mudd stated, the extent to which service limiting and prepayment programs conflict with regulations that require an on-site visit on the day of termination need to be resolved prior to the Company engaging in any pilot project. OCA St. No. 1S at 4. Ms. Mudd further explained that smart meter technology provides several options that can potentially be used to assist payment-troubled customers without placing them at the undue risk of service limitation or automatic termination. OCA St. No. 1 at 14. For example, technology can be used to collect data to assist the payment troubled customer in understanding their energy usage or assist in targeting conservation or weatherization services. Id. Therefore, the OCA submits that there are more fruitful and beneficial applications of such technology that can be explored until the Commission considers the public policy implications of such pilots as those being considered by the Company.

The OCA continues to submit that PPL's service limiting and prepay pilot programs should not be approved as part of this proceeding.

D. Cost Allocation

As previously set forth, PPL has already deployed smart meters on its system and is recovering the costs and reflecting the benefits of that initiative in its base rates. In this case, PPL is proposing to conduct certain dedicated pilot programs to evaluate possible enhancements of its existing system. The Company is proposing to assign the costs of each pilot program to the customer class participating in that pilot program. As Mr. Kleha explained:

The Company will directly assign all costs to the extent possible. Any common costs or administrative costs that cannot be directly assigned will be allocated among the three customer classes that I described previously. To accomplish that allocation, the Company will use a ratio of direct costs assigned to that class divided by direct costs for the entire system.

PPL St. No. 3 at 9.

In its Main Brief, the PPL Industrial Customer Alliance (PPLICA) appears to suggest a broader application of PPL's methodology for assigning costs to the customer classes. PPLICA M.B. at 7. The OCA submits that PPLICA's Main Brief does not recognize the limited types of costs included in PPL's SMP. While the OCA finds the proposed allocation is acceptable in this case, it is the nature of these costs that render PPL's cost allocation proposal reasonable. OCA witness Mr. Catlin agreed with the Company's proposal given the nature of the pilot program costs here and testified that:

PPL has already deployed smart meters on its system and is currently proposing to conduct certain pilot programs to evaluate possible enhancements of its existing system. It is my understanding that PPL is proposing to assign the costs of each pilot program to the customer class participating in that pilot program. The program management costs associated with all of the pilot programs are proposed to be allocated to customer classes in proportion of the pilot program costs directly assigned to each class.

...

In light of the nature of the costs for which PPL is seeking recovery, PPL's proposal is reasonable.

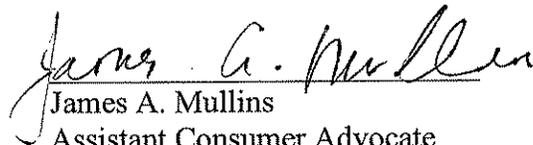
OCA St. No. 1 at 8. The OCA submits that it is important to recognize the types of costs at issue when considering cost allocation.

III. CONCLUSION

For the reasons set forth in the OCA's Main Brief and this Reply Brief, the OCA submits that the Commission should approve PPL's SMP subject to the following recommendations: 1) that PPL commit to a collaborative process in order to identify a consistent format through which information on each of the pilot programs is provided, including information on costs and benefits, 2) that PPL commit to collaborative meetings at least three times per year to review progress and results from the pilot projects, 3) that PPL commit to

providing additional details as to the implementation of the pilot programs, the data to be collected, the methodology for selecting participants and control groups, the collection of baseline data, and the presentation of project results prior to implementation, 4) that the service limiting pilot, pre-payment pilot, and feeder meter pilots in Section 6(C)(5) of the SMP be rejected, and 5) that PPL, with regard to the cost of equity applicable to smart meter charges, utilize (initially) a 10.1 percent return on equity.

Respectfully Submitted,



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Dated: December 17, 2009
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CERTIFICATE OF SERVICE

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

I hereby certify that I have this day served a true copy of the foregoing document, Reply Brief of the Office of Consumer Advocate, 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 and upon the persons listed below:

Dated this 18th day of December 2009.

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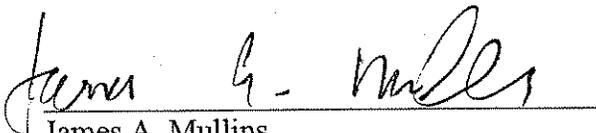
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