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June 24, 2010

**VIA FEDERAL EXPRESS**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
P.O. Box 3265  
Harrisburg, PA 17105-3265

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JUN 24 2010

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

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

Dear Secretary Chiavetta:

Enclosed, for filing on behalf of Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company, are the original and three (3) copies of a Petition for Reconsideration of the Order Entered June 9, 2010 in the above-referenced proceeding.

Copies of the enclosed Petition have been served in accordance with the attached Certificate of Service. Additional copies of this letter and the Petition are enclosed, which we request that you date-stamp and return to us in the stamped, self-addressed envelope provided.

Sincerely,



Thomas P. Gadsden

Enclosures

c: Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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JUN 24 2010

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**JOINT PETITION OF METROPOLITAN :  
EDISON COMPANY, PENNSYLVANIA :  
ELECTRIC COMPANY AND :  
PENNSYLVANIA POWER COMPANY :           Docket No. M-2009-2123950  
FOR APPROVAL OF SMART METER :  
TECHNOLOGY PROCUREMENT AND :  
INSTALLATION PLAN :**

**PETITION OF METROPOLITAN EDISON COMPANY,  
PENNSYLVANIA ELECTRIC COMPANY, AND  
PENNSYLVANIA POWER COMPANY  
FOR RECONSIDERATION OF THE ORDER  
ENTERED JUNE 9, 2010**

Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company (collectively, the “Companies”), pursuant to 66 Pa.C.S. §703 and 52 Pa. Code §5.572, hereby petition the Pennsylvania Public Utility Commission (the “Commission”) for reconsideration of that portion of its June 9, 2010 Order which could be construed to bar, for all time, the inclusion of Smart Meter Technology Procurement and Installation Plan costs (“smart meter costs”) in the Companies’ future base distribution rates. In support thereof, the Companies submit as follows:

**I.       BACKGROUND**

1.       This proceeding concerns the Companies’ filing, on August 14, 2009 at the above-captioned docket, of a comprehensive Smart Meter Technology Procurement and Implementation Plan (“Smart Meter Plan” or “Plan”) in compliance with Act 129 of 2008 and the Commission’s June 24, 2009 Order at Docket No. M-2009-2092655 implementing same (“Implementation Order”). A history of the proceeding that followed is presented at pages 2-3 of

the Companies' Initial Brief filed December 11, 2009 and at page 4 of the Commission's June 9, 2010 Order, and is incorporated herein by reference.

2. Section 2807(f)(7) of the Public Utility Code (66 Pa.C.S. §2807(f)(7)) provides that electric distribution companies ("EDCs") may recover their smart meter costs either "(i) through base rates, including a deferral for future base rate recovery of current basis with carrying charge as determined by the commission; or (ii) on a full and current basis through a reconcilable automatic adjustment clause under section 1307."

3. In their August 14, 2009 filing, the Companies proposed to recover their smart meter costs through a reconcilable adjustment clause (the Smart Meter Technologies Charge or "SMT-C") established under 66 Pa.C.S. §1307 (Companies St. 3, p.3). In doing so, the Companies did not intend to foreclose the possibility of rolling all or some of their smart meter costs into base rates in future distribution rate filings.

4. At page 21 of its June 9, 2010 Order, in introducing its discussion of various cost recovery issues that were litigated during the course of the case, the Commission states as follows:

Although no Party addressed this point, we begin by noting that all Plan costs, including both expenses and capital items (net of tax) and revenues included in the Companies' smart meter revenues, will not be included in the revenue requirement used in future distribution base rate cases and will be subject to Commission review and audit.

Virtually identical language is repeated in Ordering Paragraph 12 at page 55 of the Commission's Order.

## II. THE STANDARDS FOR RECONSIDERATION

5. In *Duick v. Pennsylvania Gas and Water Co.*, 56 Pa.P.U.C. 553, 559 (1982)

(“*Duick*”), the Commission articulated the standards for reconsideration as follows:

[A] Petition for Reconsideration, under the provisions of 66 Pa.C.S. §703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part. In this regard, we agree with the court in the *Pennsylvania Railroad Company* case, wherein it was said that:

Parties ... cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them...

What we expect to see raised in such petitions are new and novel arguments, not previously heard or considerations which appear to have been overlooked or not addressed by the Commission.

6. Additionally, a petition for reconsideration is properly before the Commission where it pleads newly discovered evidence, alleges errors of law, or a change in circumstances. *Pa. P.U.C. v. Jackson Sewer Corp.*, 96 Pa.P.U.C. 386 (2001) (“*Jackson*”).

## III. RELIEF SOUGHT AND ARGUMENT

7. By this Petition, the Companies request that the Commission exercise its discretion under Section 703(g) of the Code and amend its June 9, 2010 Order by deleting (1) the second paragraph on page 21 that is quoted in paragraph 4, *supra*, and (2) Ordering Paragraph 12 at page 55. Importantly, the Companies are **not** asking the Commission to rule, at this time, that they will be allowed to roll smart meter costs into base rates in the future. Rather, the Companies are simply seeking to have the Commission reserve judgment on that issue and not address it unless and until the Companies present a roll-in request in the context of a future distribution rate filing.

8. The relief sought herein clearly satisfies the *Duick* standards because the issue decided by the Commission in its June 9, 2010 Order was not raised or discussed in the proceedings below. Indeed, the Commission acknowledges in its Order that “no Party addressed this point” (p. 21). Under similar circumstances, i.e. where there has been no need or occasion to present arguments on a particular matter, the Commission has concluded that reconsideration is appropriate to preserve the parties’ due process rights. *See, e.g., Kaufman v. Verizon Pennsylvania Inc.*, 2008 Pa.P.U.C. LEXIS 53.

9. As noted previously, Section 2807(f)(7) of the Code allows EDCs to recover smart meter costs either through a reconcilable automatic adjustment clause or through base rates. The Companies believe Section 2807(f)(7) was designed to provide the Commission the flexibility to fashion the appropriate rate recovery mechanism on an ongoing case-by case basis as circumstances warrant. In other words, the Companies submit that it was not the Legislature’s intent to force the Commission and the EDCs to make a “one and done” decision at the very outset of the Smart Meter Program as to how smart meter costs are to be collected from customers over the next fifteen or more years, particularly where the vast majority of the costs in question are not presently known or quantifiable.

10. Once the Smart Meter Program is up and running and the Commission and the Companies have some experience with smart meter cost recovery issues, it may be concluded that it makes more sense to roll existing smart meter costs into base rates in the future while continuing to recover new smart meter costs through a reconcilable automatic adjustment clause. In that regard, the Companies note that revenue reductions caused by declining electric consumption or shifting energy demand attributable to smart metering can only be reflected in distribution base rate cases (66 Pa.C.S. §2807(f)(4) (i)). In addition, and as the Companies

pointed out in the proceeding below, the operating and capital cost savings generated by the Smart Meter Program are more easily and accurately captured in the context of a comprehensive base rate analysis of an EDC's total revenue requirement.<sup>1</sup>

11. Moreover, there is ample precedent for rolling into base rates categories of costs that were previously recovered through a reconcilable automatic adjustment clause. For example, certain state taxes are routinely rolled into base rates after being recouped through the State Tax Adjustment Surcharge ("STAS") between rate cases. Similarly, and perhaps more on point, the Distribution System Improvement Charge ("DSIC") implemented by many of the Commonwealth's major jurisdictional water companies is "zeroed out" in base rate proceedings and the depreciated original cost, i.e. unrecovered investment, of replacement property previously included in the DSIC is added to rate base.

12. The foregoing discussion is not intended to convince the Commission that base rate recovery of smart meter costs is the preferred outcome over the long-term. To be sure, that determination need not and should not be made now. Rather, the Companies merely wish to point out that rolling these costs into base rates may prove to be a viable option in the future and to urge the Commission not to foreclose that option at this time. To the extent it has that effect, the Companies submit that the June 9, 2010 Order is inconsistent with Act 129 and should, therefore, be amended.

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<sup>1</sup> As observed by the ALJ (Initial Decision, p. 32, Ftn. 9), the unrecovered original cost of existing meters being replaced by smart meters will also continue to be recovered in base rates.

WHEREFORE, Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company request the Commission to reconsider its June 9, 2010 Order and to delete the second paragraph on page 21 and Ordering Paragraph No. 12 on page 55.

Respectfully submitted,



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Date: June 24, 2010

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**BEFORE THE  
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**JOINT PETITION OF METROPOLITAN :  
EDISON COMPANY, PENNSYLVANIA :  
ELECTRIC COMPANY AND :  
PENNSYLVANIA POWER COMPANY :       Docket No. M-2009-2123950  
FOR APPROVAL OF SMART METER :  
TECHNOLOGY PROCUREMENT AND :  
INSTALLATION PLAN :**

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served copies of the Petition for Reconsideration of the Order Entered June 9, 2010 on behalf of Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company in the above-captioned matter in the manner as set forth below, in accordance with the requirements of 52 Pa. Code § 1.54:

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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

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Dated: June 24, 2010

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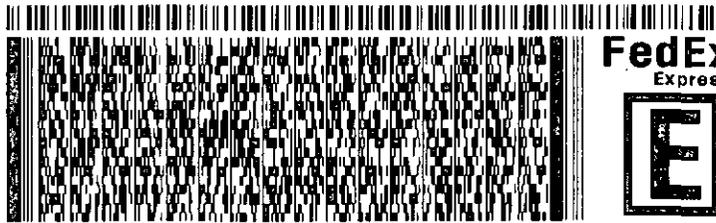
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