

**John F. Povilaitis**

717 237 4825  
john.povilaitis@bipc.com

409 North Second Street  
Suite 500  
Harrisburg, PA 17101-1357  
T 717 237 4800  
F 717 233 0852  
www.buchananingersoll.com

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**VIA E-FILING**

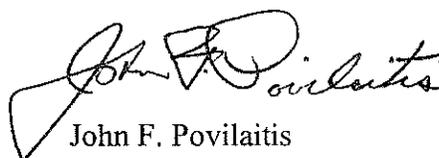
Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

Re: Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company,  
Pennsylvania Power Company, and West Penn Power Company for Approval of  
their Smart Meter Deployment Plans; Docket Nos. M-2013-2341990,  
M-2013-2341991, M-2013-2341993, M-2013-2341994

Dear Secretary Chiavetta:

On behalf of Metropolitan Edison Company, Pennsylvania Electric Company,  
Pennsylvania Power Company and West Penn Power Company (the "Companies"), enclosed for  
electronic filing is the Reply Brief of the Companies. Please contact me if you have any  
questions regarding the forgoing matters. Copies have been served as indicated in the attached  
certificate of service.

Very truly yours,



John F. Povilaitis

JFP/kra

Enclosure

cc: Administrative Law Judge Elizabeth H. Barnes  
Kathy J. Kolich, Esquire  
Thomas P. Gadsden, Esquire  
Kenneth M. Kulak, Esquire

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>JOINT PETITION OF METROPOLITAN</b>	<b>:</b>	
<b>EDISON COMPANY, PENNSYLVANIA</b>	<b>:</b>	
<b>ELECTRIC COMPANY, PENNSYLVANIA</b>	<b>:</b>	<b>DOCKET NOS. M-2013-2341990</b>
<b>POWER COMPANY AND WEST PENN</b>	<b>:</b>	<b>M-2013-2341991</b>
<b>POWER COMPANY FOR APPROVAL OF</b>	<b>:</b>	<b>M-2013-2341993</b>
<b>THEIR SMART METER DEPLOYMENT</b>	<b>:</b>	<b>M-2013-2341994</b>
<b>PLAN</b>	<b>:</b>	

**REPLY BRIEF OF**

**METROPOLITAN EDISON COMPANY,  
PENNSYLVANIA ELECTRIC COMPANY,  
PENNSYLVANIA POWER COMPANY AND  
WEST PENN POWER COMPANY**

**Before Administrative Law Judge  
Elizabeth H. Barnes**

Thomas P. Gadsden  
(Pa. No. 28478)  
Morgan, Lewis & Bockius LLP  
1701 Market Street  
Philadelphia, PA 19103-2921

Kathy J. Kolich  
(Pa. No. 92203)  
FirstEnergy Service Company  
76 South Main Street  
Akron, OH 44308

John F. Povilaitis  
(Pa. No. 28944)  
Buchanan, Ingersoll & Rooney, P.C.  
409 Second Street, Suite 500  
Harrisburg, PA 17101-1357

June 3, 2013

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## I. INTRODUCTION

Metropolitan Edison Company (“Met-Ed”), Pennsylvania Electric Company (“Penelec”), Pennsylvania Power Company (“Penn Power”) and West Penn Power Company (“West Penn”) (collectively, the “Companies”) file this Reply Brief in response to the Main Brief of the Office of Consumer Advocate (“OCA”).<sup>1</sup> To a very large extent, the arguments advanced in the OCA’s Main Brief were fully addressed and refuted in the Companies’ Main Brief, filed on May 24, 2013, and an extensive issue-by-issue reanalysis is not necessary. However, as an aid to the Administrative Law Judge, certain key areas of disagreement will be revisited.

Before turning to the OCA’s specific contentions, the Companies believe that the handful of contested issues which remain should be put in context. Thus, the Companies note that the OCA has not questioned the robustness of the data gathering, technology evaluation or system testing undertaken by the Companies during their Assessment Period. Nor has the OCA challenged the reasonableness of the Companies’ proposed smart meter architecture, their choice of vendors and equipment, or their recommended three-stage deployment plan, including the innovative Solution Validation Stage during which a “mini system” and 60,000 smart meters will be installed and tested in a controlled environment within Penn Power’s service territory. Finally, the OCA has not contested, in any meaningful way, the Companies’ estimated costs and savings of deploying smart meter technology or the continued recovery of those costs through their Commission–approved Smart Meter Technologies Charge (“SMT-C”) Riders.

Notwithstanding the foregoing, the OCA boldly proclaims, in its Summary of Argument (OCA Main Brief, p. 6), that the Companies’ Smart Meter Deployment Plan “does not meet the requirements of Act 129 and the Commission’s Implementation Order and may not result in just

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<sup>1</sup> None of the other parties to this proceeding – Direct Energy Services, LLC (“Direct”), the Industrial Customer Groups and the Office of Small Business Advocate (“OSBA”) – filed a Main Brief.

and reasonable rates.” Not surprisingly, the OCA neglects to identify what “requirements” it has in mind and, as documented in the Companies’ Main Brief, there is no evidentiary support for this astonishing assertion. Nor does the OCA challenge the SMT-C Rider impacts that will result from this proceeding. Rather, the OCA’s principal complaint, voiced repeatedly by its witness, Mr. Hornby, appears to be that additional analyses of **potential** costs and savings, which the OCA might find helpful at some point in the future, were not presented. On that basis, the OCA recommends that more studies be completed – and more reports filed and scrutinized – before the Companies are given the go-ahead to proceed with their plans.

The course charted by the OCA would surely lead to the incurrence of unnecessary costs and, conceivably, could result in a considerable delay in the delivery of smart meter services to customers. Admittedly, not all questions can be answered nor can all costs and savings be known at this stage of the project, as is true of any major, multi-year undertaking. Nonetheless, the Companies have done their homework, have provided the Commission with a detailed blueprint of their intentions, have committed to an ongoing process of periodic stakeholder meetings throughout the deployment period, and will have to justify all of their actual smart meter costs and savings in future SMT-C Rider filings. For these and the other reasons set forth in the Companies’ Main Brief and hereinafter, the OCA’s concerns are misplaced and the Companies’ Deployment Plan should be approved.

## **II. ARGUMENT**

### **A. Estimated Costs And Benchmarking**

As noted *supra*, the OCA did not challenge the Companies’ total project cost estimate or suggest that it was excessive (Tr. 77). Instead, its witness, Mr. Hornby, took issue with an analysis presented by Mr. Fitzpatrick of the all-in (capital and O&M) cost per meter projected by the Companies and by several other electric utilities. In particular, Mr. Hornby contended that

Mr. Fitzpatrick's comparison was "too limited" because it reviewed data for only three other companies and was "too general" because it did not examine sub categories of costs. As previously explained (Companies Main Brief, pp. 18-19), Mr. Fitzpatrick initially submitted all-in cost per meter figures for Commonwealth Edison Company, Delmarva Power & Light Company and Potomac Electric Power Company, but later expanded his group from three to five by adding data for Duquesne Light Company ("Duquesne") and PECO Energy Company ("PECO"), once the latter's project costs were made public.

In its Main Brief (pp. 6-7, 10-13), the OCA implies that the Companies were obliged to file a suitable benchmarking analysis and that their alleged failure to do so somehow renders deficient their proposed Deployment Plan. For example, the OCA asserts that "it is essential that the Companies conduct proper cost benchmarking analyses to investigate the reasonableness of Plan costs before the deployment of smart meters" and that, without those analyses, "the Companies may not be able to meet their burden of proof that the costs they incur ... are reasonable and prudent" (OCA Main Brief, pp. 11, 13). The OCA further contends that "the Companies have a responsibility to adequately investigate the reasonableness of the costs they expect to incur to fully deploy smart meters before the Companies incur such costs" (*Id.* at p. 13).

As a preliminary matter, and contrary to the impression left by the OCA, there is no requirement, embodied in either Act 129 or the Commission's Implementation Order, that an electric distribution company ("EDC") submit a "benchmarking analysis" with its smart meter

deployment plan.<sup>2</sup> Indeed, if such a requirement existed, the OCA surely would have identified its source by appropriate citation and perhaps would have pointed to benchmarking studies conducted by other EDCs in satisfaction of that mandate.<sup>3</sup> The OCA did neither. With regard to the Companies' "responsibility" to investigate the reasonableness of their expected costs, the OCA fails to comprehend that the Smart Meter Implementation Plan Team did precisely that during the Assessment Period through its extensive data-gathering efforts and thoughtful review of responses to comprehensive Requests for Information ("RFIs") and Requests for Proposals ("RFPs") – the latter of which reflects *actual* pricing data.

Along these same lines, the OCA claims that the Companies' benchmarking analyses were undertaken "in order to determine the reasonableness of the Companies [sic] estimated Plan costs" and cites to page 9 of Mr. Fitzpatrick's direct testimony in support of that contention (OCA Main Brief, p. 11). However, as a review of his direct testimony quickly confirms, Mr. Fitzpatrick said no such thing. In fact, in his rebuttal testimony (Met-Ed/Penelec/Penn Power/West Penn St. 4-R, pp. 9-10), Mr. Fitzpatrick expressly disavowed any such implication:

Mr. Hornby seems to overstate the relevance and importance of the cost benchmarking that I performed. As the Deployment Plan states, virtually all of the Companies' estimated costs are based on bids received through [their] comprehensive RFI/RFP process. This process was set forth in Chapter 2 of the Plan, and was also described by the Companies' witness, David Iorio, in his pre-filed direct testimony (Met-Ed/Penelec/Penn Power/West Penn Statement No. 2). Notably, no party has challenged the RFI/RFP process as being unreasonable, nor

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<sup>2</sup> West Penn agreed to perform a "benchmark comparison of the costs of its proposed network development and installation plan to those approved for several comparable companies." *Petition of West Penn Power Company for Expedited Approval of its Smart Meter Technology and Installation Plan*, Docket No. M-2009-2123951 Amended Joint Petition for Settlement of All Issues, para. 16(a), p. 6 (March 9, 2011). However, this commitment was made as part of a comprehensive settlement of West Penn's 2009 Smart Meter Implementation Plan filing and not as a statutory or Commission mandate. As Mr. Fitzpatrick noted in his testimony, such a comparison has been completed and the Companies' average cost per meter compared favorably to that of these other utilities. *See* Met-Ed/Penelec/Penn Power/West Penn Statement No. 4, pp. 15-16; Met-Ed/Penelec/Penn Power/West Penn Statement No. 4-R, p. 11.

<sup>3</sup> The Companies have not located any benchmarking analyses submitted by either Duquesne or PECO in support of their smart meter deployment plans.

did any party suggest that the Companies are over-building or “gold plating” the proposed solution. In my opinion, cost estimates received through this competitive bidding process are a far better validation of costs than any benchmark comparison with other utilities. The comparisons that I made were simply to confirm that the overall projected costs are comparable to other utilities similar to the Companies.

The OCA’s concerns over the size and scope of Mr. Fitzpatrick’s benchmarking study are equally specious. For example, the OCA contends that Mr. Fitzpatrick should have used “a much larger sample size of utilities” (OCA Main Brief, p. 13). This criticism, though, has a hollow ring when it is recalled that Mr. Fitzpatrick presented data for five other utilities and that Mr. Hornby, in West Penn’s 2009 smart meter proceeding, had been content to submit cost data for six other companies, and none in this proceeding (Tr. 73).

Likewise, the OCA takes liberties with the record when it asserts that Mr. Hornby testified it was possible to obtain from other companies “adequate” data by cost category to do an “adequate” benchmarking analysis and then references the twelve smart meter plan filings that Mr. Hornby provided in response to discovery (OCA Main Brief, p. 12). First, Mr. Hornby never characterized the data in question as “adequate”; rather, the word he used was “general” (OCA St. 1-SR, p. 4). Secondly, it is debatable whether Mr. Hornby’s data was “adequate” in any probative sense, given that his twelve companies did not group smart meter costs or savings on a consistent basis and that all of the data he provided comprised estimates and not actual operating results. Furthermore, Mr. Hornby acknowledged on cross-examination (Tr. 82-83) that he participated in only seven of the twelve utility proceedings and that, as to those seven, he did not necessarily agree with the estimates presented. Finally, the Companies selected the most current technology available – Itron’s new advanced CISCO solution (Met-Ed/Penelec/Penn Power/West Penn St. No. 1, pp. 10-11). Therefore, it would be virtually impossible to make any like cost comparisons with earlier generations of equipment.

## B. Potential Savings

The OCA next maintains that “the Companies did not develop a reasonable projection of potential savings associated with their Plan” (OCA Main Brief, p. 18). To rectify this purported shortcoming, the OCA recommends that the Commission direct the Companies as follows (*Id.* at pp. 7-8):

To hire an independent consultant with experience in identifying the potential for savings as a result of smart meter deployment to: (1) conduct a comprehensive savings potential investigation of categories of savings achieved by other companies that have deployed smart meters, including the seven categories identified by Nevada Power described in Section III.B.1. below, and (2) prepare and submit a report to the Commission of his or her findings within 120 days of the Commission’s order in this matter. Further, the Commission should direct the Companies to file an amended Plan detailing the potential categories and estimates of savings to be reflected in the SMT-C identified by such consultant.

This proposal, if anything, is even less defensible than the OCA’s other unsupported requests for additional investigation and study. Indeed, the type of report sought by the OCA – “a comprehensive savings potential investigation of categories of savings *achieved* by other utilities” – would yield little, if any, useful information. That is because, as Mr. Hornby himself admitted (Tr. 68-69), meaningful data regarding *actual* savings will not be available for several years:

Q. Do you have any actual final numbers on costs and savings to know what the actual ratios are?

A. No. The -- very few utilities have completed the deployment, and so just as in this case the company had done a projection over 20 years of costs and projection over 20 years of savings, those companies in their filings have done similar types of projections, typically over 20 years.

These filings are in the span of time, except for California, sort of 2009, 2010, so the only utilities that are finished their deployment that I’m aware of for the most part on this list are -- it’s probably PG&E in California and Centerpoint

and Oncor in Texas. There might be another one of the California utilities close to finishing.

So basically, it would be at best at this point, having just completed, they would have a handle on their actual costs. They'd need a few years of experience to get a sense of whether their actual savings were coming in consistent with their estimates.

Even if data concerning “achieved savings” were available, the Companies question whether an investigation of the experience of other utilities would be of much value. As became apparent during the review of Mr. Hornby’s “benefit cost” ratios (inadvertently characterized as “cost/benefit” ratios by the OCA in its Main Brief), every electric company is unique. Indeed, significant differences can and do exist in areas such as statutory mandates, administrative regulations, nature of the service territory, customer density, age and condition of critical infrastructure and meter reading frequency, to name a few. Unless those distinguishing factors are placed on an even plane and normalized – tasks that themselves could prove to be impractical and highly contentious – no meaningful conclusions could be drawn.<sup>4</sup>

The Companies agree that a “proper” analysis *of their own operations* should be conducted to ensure that “savings realized ... from the installation and use of the smart meter technology,” 66 Pa.C.S. § 2807(f)(7), are offset against their recoverable smart meter costs. However, as Mr. Hornby’s response on cross-examination, *supra*, would seem to confirm, such an analysis can only proceed on the basis of actual operating experience – such as that to be gained during the Companies’ Solution Validation Stage and the first several years of full-scale smart meter deployment.

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<sup>4</sup> For example, and as Mr. Fitzpatrick demonstrated (Companies Main Brief, p. 21), the 0.3 “benefit cost” ratio that Mr. Hornby calculated based on certain projections set forth in the Companies’ Deployment Plan approximates 0.7 when two, relatively noncontroversial normalization adjustments are made. Similarly, as demonstrated through Mr. Hornby’s Tables 1 and 2 (Revised) in his Surrebuttal Testimony (OCA St. No. 1-SR, pp. 4, 8), there is no uniformity in the way in which the various utilities define the scope of these cost and savings categories. *See also*, Tr. 76.

Finally, the Companies reject – and, indeed, find offensive – the OCA’s suggestion that if potential savings categories are not pinned down now, “it is reasonable to conclude that [the Companies] will not find any savings to report and to credit to ratepayers” (OCA Main Brief, p. 19, quoting from Hornby surrebuttal, OCA St. 1-SR, p. 9). As Mr. Fitzpatrick made clear in his rejoinder (Tr. 97-103), the Companies fully intend to investigate and track all sources of potential savings, including the categories enumerated by Mr. Hornby, and to flow-through to their customers in future SMT-C Rider filings all savings actually realized. In order to accomplish this, the Companies have retained Mr. Fitzpatrick and are in the process of hiring a nationally recognized consulting firm for the project management office to assist in such identification and quantification (Met-Ed/Penelec/Penn Power/West Penn Statement No. 4-R, p. 19). Stated simply, the Companies understand their statutory obligations and take them seriously. They do not need another consultant’s report on the identification of potentially achievable savings in order to develop a plan that is already well underway to do just that; the results of which will be subject to review by the Commission and interested parties upon the filing of future SMT-C Rider reconciliations and adjustments.

**C. Baselines For Measuring Savings**

As explained in their Main Brief (pp. 23-24), the Companies have proposed that calendar year 2013 financial and accounting data, adjusted for anomalies, be utilized to establish the “baselines” against which future cost levels would initially be measured and smart meter savings calculated and that those baselines be updated as actual cost savings begin to be realized. They have done so because the use of “current” data for purposes of quantifying smart meter savings is solidly grounded in the plain language of Section 2807(f)(7) of the Public Utility Code and is mandated by the specific tariff language that the Commission previously directed the Companies to include in the instructions to their SMT-C Riders (*Id.* at pp. 23-25).

In its Main Brief (pp. 20-22), the OCA continues to advocate the use of “test year revenue requirement” data to establish smart meter cost baselines. This, the OCA contends, “will ensure that moving these costs and savings to a rider mechanism will achieve revenue neutrality” (*Id.* at p. 21). However, no costs or savings are being “moved” from one rate mechanism to another. Moreover, neither the statute nor the Commission’s Implementation Order anticipates that the installation of smart meter technology will result in “revenue neutrality.” To the contrary, Section 2807(f)(7) clearly speaks to the ratemaking treatment of incremental costs and savings, i.e., the “reasonable and prudent costs of providing smart meter technology” and the “savings realized . . . from the installation and use of the smart meter technology.”

The direct causal link between smart meter costs and savings required by Section 2807(f)(7) belies the OCA’s entire discussion of the \$164 million of expense savings purportedly generated by the conversion of Met-Ed, Penelec and West Penn from monthly to bi-monthly meter reading (OCA Main Brief, p. 22). Those savings, to the extent they exist, were not “realized . . . from the installation and use of smart meter technology,” but rather are attributable to a business decision made wholly independent of that statutory mandate. Indeed, there can be no causal connection between the alleged meter reading savings and smart meter technology because the latter has not yet been installed.

Lastly, the OCA suggests that the Companies may somehow be unjustly enriched if the \$164 million of meter reading “savings” are not flowed back to customers through the SMT-C Riders (*Id.*). However, while certain customers may be paying rates that reflect the cost of monthly meter reading, they are also paying rates that reflect a number of outdated cost levels, such as wage, salary and healthcare expense, that prevailed many years ago – 1994 in the case of

West Penn and 1988 in the case of Penn Power. To adjust rates to capture changes in one category of costs (meter reading) while ignoring changes in others is the very definition of “single issue” and “retroactive” ratemaking prohibited under Pennsylvania law (Companies Main Brief, pp. 26-27).

**D. Cross Jurisdictional Allocation Issues**

OCA claims that the Companies have not provided “the magnitude to which the [Deployment] Plan could benefit the Companies’ sister utilities or the method by which the Companies would seek credit for such benefits to their sister utilities” (OCA Main Brief, p. 14). As explained in the Companies’ Main Brief (pp. 28-29), the Companies cannot provide such cross jurisdictional allocation information because none of the Companies’ sister utilities in other states currently have any plans or governmental mandates to deploy a significant number of smart meters. Therefore, any such information would be speculative at this time. OCA acknowledges all of this in its Main Brief (pp. 14-15) and apparently agrees, finding merit in the Companies’ “offer” to “reflect any allocation of costs to sister utilities in their annual SMT-C filings....” (OCA Main Brief, p. 15).

As a preliminary matter, OCA mischaracterizes the Companies’ position. The Companies did not *offer* to provide this information in their SMT-C filings. Rather, they noted that such information would, by necessity, be included as part of their prima facie case in support of their SMT-C adjustments (Companies’ Main Brief, p. 29). The OCA uses this alleged “offer” to springboard into an attempt to impose additional reporting requirements on the Companies, suggesting that “the Companies should also provide an update on the smart meter deployment activities of their sister utilities ... with the annual SMT-C filings” (OCA Main Brief, p. 15). The Companies disagree with this recommendation for several reasons. First, smart meter activities in other states are public information. The Companies should not be ordered to expend

their resources providing information that is readily available to OCA and any other interested party through other public resources. Moreover, as already stated, should the Companies' sister utilities in other states actually deploy smart meters, information concerning such deployment, including any allocation of common costs, would, by necessity, be part of the Companies' annual SMT-C filings. Therefore, OCA would be alerted to any actual smart meter activity taking place in other jurisdictions in which FirstEnergy's utilities do business through the content of the SMT-C filings.

OCA goes on to include a *potential* reporting requirement, recommending that “[i]f and when the Companies' sister utilities begin *planning* deployment of smart meters,<sup>5</sup> the Companies should provide with their next annual SMT-C filing the report recommended by OCA witness Hornby, wherein expenditures on all components of the Companies' Plan that have the potential to benefit their sister utilities when they begin deploying smart meters are identified, and a description of the method through which the Companies will receive credit from FirstEnergy Service Company for those expenditures is provided.” (*Id.*) (italics supplied). As explained in the Companies' Main Brief (p. 28), this recommendation, whether implemented in 2014, as originally proposed by OCA during the evidentiary phase of this proceeding (OCA St. No. 1, p. 3), or in a subsequent year as OCA apparently now suggests in its brief, is a redundant exercise that will only increase customer costs by requiring information that is already available through other means.

As the Companies explained in their Main Brief (p. 29), a methodology already exists for the allocation of costs charged by FirstEnergy Service Company to its affiliates. This methodology is set forth in an already existing affiliate service agreement, whose billing

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<sup>5</sup> There is no need for such a report should the sister utilities “plan” on deploying smart meters. Until any such plan is approved, speculation surrounding the scope and nature of the project remains, thus making any such report speculative.

determinants are updated annually. This agreement has been approved by the Commission<sup>6</sup> and utilizes a methodology originally approved by the United States Securities and Exchange Commission.<sup>7</sup> Therefore, the preparation of a special report that explains a methodology that is in place and has already been approved would be a waste of time and resources and unnecessarily increase customer costs.

Finally, the burden is on the Companies to submit a filing that they believe meets all evidentiary requirements in support of their respective SMT-C filings. It is not the place of the OCA to dictate the nature of information, whether today or potentially in the future, to be included in such filings. OCA did not (and cannot) identify any regulation, law or directive that would require the information that it suggests be included in the Companies' filings and has failed to justify the need for such inclusion. Should the OCA believe that the Companies' SMT-C filings are deficient in any way, OCA will have an opportunity during that proceeding to raise its issues and objections. This proceeding is not the forum in which to address the content of such filings. Accordingly, for all of the reasons set forth above, OCA's recommendations involving cross-jurisdictional cost allocation reporting should be rejected.

#### **E. Joint Plan Cost Allocation Based On Meter Counts**

OCA claims that the Companies improperly allocate joint plan costs because they do so based on the number of meters as of June of the year prior (OCA Main Brief, p. 16). Notwithstanding OCA's claims to the contrary, neither Mr. Hornby nor OCA described any specific "concerns with using the number of meters as of June of the year prior to allocate joint Plan costs" (*Id.*). In its brief, OCA merely notes that Mr. Hornby acknowledged the Companies'

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<sup>6</sup> See *Joint Application of West Penn Power Co. d/b/a Allegheny Power, Trans-Allegheny Interstate Line Co. and FirstEnergy Corp. for a Certificate of Public Convenience under Section 1102(a)(3) of the Pub. Util. Code Approving a Change of Control of West Penn Power Co. and Trans-Allegheny Interstate Line Co.*, Docket Nos. A-2010-2176520 and A-2010-2176732, 2011 WL 85841 (March 8, 2011).

<sup>7</sup> See *FirstEnergy Corp., et al*, SEC Release Nos.35-27695, 70-9793, 2003 SEC LEXIS 1554 (June 30, 2003).

approach and then reiterates Mr. Hornby's conclusory recommendation, stating, "In this proceeding, the Companies are proposing to use the number of meters as of June each year. Rather than relying on the number of meters for only one month, [Mr. Hornby] recommend[s] the [sic] each Company use its annual average number of meters for the year ending June 30" (*Id.*). There is no explanation as to why Mr. Hornby believes his suggestion is superior to, or more appropriate than, the approach used by the Companies. Instead, OCA makes an unsupported claim that Mr. Hornby's recommendation to allocate joint plan costs based on the annual average number of meters per Company as of June 30<sup>th</sup> "is consistent with how the Companies allocate costs within the Companies" (*Id.* at 17). This statement is wrong. As Mr. Valdes explained, "... general SMTC [smart meter technology costs] are allocated to each of the Companies' customer classes based upon the total number of meters in each customer class as of June immediately preceding the Computational Year" (Met-Ed/Penelec/Penn Power/West Penn St. 5, p. 8). Therefore, Mr. Hornby's recommendation is, in fact, *inconsistent* with the way costs are allocated within the Companies. OCA also mischaracterizes Mr. Valdes' testimony claiming that "Mr. Valdes did not oppose OCA witness Hornby's recommendation to use the annual average number of meters for the year ending June 30<sup>th</sup> in allocating joint Plan costs" (OCA Main Brief, p. 17). Mr. Valdes unequivocally rejected Mr. Hornby's recommendation, stating that the use of meter counts at June 30 "is more representative of going forward costs as compared to a historic annual monthly average..." (Met-Ed/Penelec/Penn Power/West Penn St. 5-R, p. 14).

As the Companies explained in their Main Brief (p. 30), the use of meter data as of June 30 is more representative of going forward costs and is akin to the Commission's practice in base rate cases of accepting end of test year updated information for determining revenue

requirements. It is this position that is unopposed by OCA in any substantive way. Accordingly, the Commission should approve the Companies' cost allocation methodology based on the number of meters at June 30.

**F. West Penn's Claim For \$5.1 Million In CIS Costs**

OCA raises two arguments in opposition to West Penn's request for recovery of \$5.1 million in CIS costs that were necessary to enable smart meters. First, OCA argues that the expenditure was an upgrade made by West Penn in the normal course of business. Second, OCA posits that due to the merger with FirstEnergy, the expenditure was not used and useful for smart meter purposes (OCA Main Brief pp. 37-38). Both assertions are incorrect, unsupported and, therefore, unpersuasive.

The Companies explained in their Main Brief (p. 33) and in testimony that the *only* reason West Penn expended the \$5.1 million was because of the requirements of Act 129 (Met-Ed/Penelec/Penn Power/West Penn St. 5-R, p. 15). West Penn's CIS was incompatible with the smart metering mandate (Tr. 53). The existing CIS was functional to meet West Penn's needs for the future absent the requirements of Act 129 and there were no CIS upgrades planned for the foreseeable future (Met-Ed/Penelec/Penn Power/West Penn St. 5-R, p. 16).

Notwithstanding OCA's implications to the contrary (OCA Main Brief, p. 37), the allocation of CIS costs to West Penn's sister utilities in Maryland and West Virginia when there was no smart meter mandate is irrelevant to the issue of whether West Penn expended those funds *in support of the Pennsylvania Act 129 smart meter mandate*, and not in the ordinary course of business. It has never been the Companies' position that these upgrades did not also benefit West Penn's sister utilities – their portion of the costs of which were properly allocated to them. Rather, it is the Companies' position that such upgrades were not necessary, nor would they have been made, absent the Act 129 mandates. Moreover, the ratemaking means by which

those sister utilities could recover those costs means nothing other than there was no smart meter surcharge available to those companies in those other jurisdictions.

OCA presented no evidence demonstrating that the \$5.1 million in CIS costs was not used and useful and the record contains no evidentiary support for that claim. In fact, OCA's witness expressly stated that "the point is not the used and usefulness of the CIS system..." (OCA St. No. 1, p. 25). The Companies, on the other hand, through the testimony of Mr. Valdes, explained the usefulness of the \$5.1 million expenditure, which was included within West Penn's initial \$45.1 million spend:

Full recovery of the \$45.1 million, which includes the \$5.1 million, is also justified because the Phase I and Phase II deliverables of the West Penn Smart Metering Settlement have proven to be useful and valuable in the smart metering design solution. The \$7.3 million Phase I development of requirements, designs, vendor analysis and cost analysis was useful during the Grace Period in providing templates for process design and business case modeling. The \$37.8 million Phase II development of process designs, technical and functional designs, change management plans, data conversion, security system and project management office estimates was useful during the Grace Period in offering templates for how to model aspects of the technology systems for the Deployment Plan and validating work done by the PA Companies. Also, the Phase I and Phase II work done by West Penn supported its ability to deploy the approximately 25,000 Phase III meters that enabled West Penn's Energy Saver Rewards Program." (Met-Ed/Penelec/Penn Power/West Penn St. 5, p. 16).

The eventual merger of the West Penn CIS into FirstEnergy's billing system in no way diminishes the value of the \$5.1 million expenditure. In fact, this value was clearly explained in the foregoing excerpt from Mr. Valdes' direct testimony.

Act 129 perfectly captures the technical situation in which West Penn found itself at the time the smart meter mandate became law. West Penn's CIS system was meeting the current and future needs of it and its sister utilities prior to the enactment of Act 129. The CIS system upgrade was necessary to make the smart meters work. System upgrades necessary to provide or

enable smart meter technology are explicitly included in Act 129 as recoverable costs (Companies Main Brief, pp. 32-33). Based on the facts and the law, the Commission must grant West Penn's request to recover \$5.1 million in CIS upgrading expenses.

#### **G. Legacy Meter Incremental Removal Cost Recovery**

OCA recommends that the incremental costs of legacy meter removal should be charged to the regulatory asset account proposed by the Companies containing the remaining cost of retired meters and be amortized over the remaining depreciable lives of the metering assets (OCA Main Brief, p. 41). While OCA acknowledges that the Companies' ratemaking treatment only involves new, *incremental* legacy meter removal costs, OCA seems to ignore this fact, as evidenced by Mr. Effron's assertion that allowing removal costs as an Operations and Maintenance ("O&M") expense claim in the SMT-C Riders is some form of impermissible double cost recovery.

As noted in OCA's Main Brief, Mr. Effron acknowledged that historically, the cost of meter removal has been treated as an O&M expense. Despite this acknowledgement, OCA, which has never favored the use of a rider to recover smart meter costs,<sup>8</sup> distorts the Companies proposal and seeks to insert the incremental costs of legacy meter removal into base rates by adding it to the proposed regulatory asset and extending the recovery period to match the remaining depreciable lives of the legacy meters. As discussed below, the OCA's rationale in support of such a recommendation is flawed in several respects.

OCA first attempts to justify moving the incremental costs of legacy meter removal out of the SMT-C Rider based on the objective of minimizing customer impact. Mr. Valdes refuted this claim, explaining that the customer's monthly rate impact caused by the Companies'

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<sup>8</sup> *Smart Meter Procurement and Installation*, Docket No. M-2009-2092655 (June 24, 2009) ("Implementation Order") ("OCA stated that it feels traditional rate base procedures would be the preferred method for recovery, rather than an adjustment mechanism that may be unnecessarily complicated." *Implementation Order* at 32).

proposal to recover the costs of removal through the Riders (prior to factoring in salvage value which is discussed *infra*) is 16 cents during the three-year full deployment stage and a penny or less throughout the remainder of the deployment plan period (Met-Ed/Penelec/Penn Power/West Penn St. 5-R, p. 20).

OCA next suggests that the Commission's Implementation Order supports its recommendation to have legacy meter removal cost recovery coincide with the legacy meter depreciation schedule for ratemaking purposes to minimize stranded costs (OCA Main Brief, p. 41). As a preliminary matter, Mr. Effron's solution to amortize these incremental costs over several decades, rather than simply treat these removal costs as O&M, as is typically done in Pennsylvania, would appear to have the exact opposite effect. As explained in the Companies' Main Brief (pp. 35-36), the Companies' request for a regulatory asset results in no net change to base rates. Further, OCA misreads the Implementation Order. The paragraph cited by OCA does not support OCA's assertion. While the Implementation Order *allowed* electric distribution companies to seek recovery of stranded costs through an accelerated depreciation schedule, it did not *require* this approach (Implementation Order at 33). Adopting OCA's position would also prevent the Companies from fully collecting all of their smart meter related costs (Companies Main Brief, p. 37).

Finally, OCA argues that the incremental costs of legacy meter removal should be added to the proposed regulatory asset because salvage value is included in base rates and the costs of removal and salvage are "two halves of the same whole" (OCA Main Brief, p. 41). This position ignores Mr. Valdes' testimony that the Companies are amenable to use salvage value received from the disposition of legacy meters as an offset to the costs of legacy meter removal collected through the SMT-C Rider (Met-Ed/Penelec/Penn Power/West Penn St. 5-R, p. 19). Placing both

salvage value and incremental meter removal costs in the SMT-C Rider alleviates Mr. Effron's concern and keeps both halves of the whole intact.

In sum, the Companies' proposed treatment of the incremental costs of legacy meter removal (as adjusted for salvage value treatment as described above) maintains traditional rate making treatment of such removal costs and does not materially impact customer rates. OCA's proposed approach, on the other hand, (i) is inconsistent with traditional Pennsylvania ratemaking treatment; (ii) has no significant customer impact benefits; (iii) attempts to substitute OCA's judgment for that of the Companies who, as permitted by Act 129, elected to recover smart meter costs through an automatic adjustment clause; and (iv) would deny the Companies full recovery of all smart meter related costs. Accordingly, the Commission should approve the treatment of incremental legacy meter removal costs as proposed by the Companies.

#### **H. The Companies' Communication Plan**

The Companies have committed to complete their Communications Plan ("Comm Plan") by the end of 2013 utilizing the expertise of stakeholders such as OCA and others in a stakeholder process (Companies Main Brief, p. 38). OCA concurs in this collaborative process, but in contradictory fashion, requests that the Commission issue directives at this time and in this case relative to early education, safety education materials and customer privacy (OCA Main Brief pp. 25-30).<sup>9</sup> OCA cannot, and should not, have it both ways. The point of a Comm Plan collaborative process is to allow interested stakeholders to jointly work toward achieving consensus on the specifics of a Comm Plan. If the Commission directs those specifics prior to the start of such a process, there is no need for the process. The Commission may certainly

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<sup>9</sup> OCA also requests certain amendments to the Companies' "principles" regarding release of smart meter information, as articulated by Mr. Fitzpatrick (OCA Main Brief, pp. 30-31). As indicated in their Main Brief (p. 42, Footnote 28) the Companies do not disagree with Ms. Brockway's comments, however as expressions of the Companies' voluntary standards, there is no need for the Commission to direct "amendments" to those principles.

confirm the Companies' obligation and proposed time frame to finalize their Comm Plan, but should refrain from accepting OCA's invitation to dictate the substantive course of that process. Even if the contemplated stakeholder process does not reach full consensus on all issues, upon submission of the Comm Plan to the Commission, all parties with standing will be able to advocate amendments to the proposal should they desire to do so.

The Companies see value in these stakeholder meetings and, in addition to the meetings on the Comm Plan, they intend to host semi-annual meetings in which they will keep interested stakeholders apprised of their progress toward the implementation of the Deployment Plan and other issues that may arise during the same. They have addressed in the past, and intend to continue to address in the future, other issues raised by any of the stakeholders during these meetings. However, as already explained with respect to the Comm Plan and as more fully discussed below, OCA introduces the concept of having the Commission dictate the inner-workings of these stakeholder meetings and the content thereof (OCA Main Brief, pp. 24-35). To date, there have been no complaints as to how the Companies run their stakeholder meetings. Therefore, absent such a complaint, the Companies respectfully submit that there is no need for the Commission to substitute its judgment for that of the Companies and, in essence, step into the shoes of the Companies and manage the stakeholder process, as the OCA would have the Commission do.

#### **I. Remote Disconnection And Cyber-Security**

The Companies' have agreed to explore remote customer disconnection issues through a collaborative effort (Met-Ed/Penelec/Penn Power/West Penn St. 4-R, p. 2). In addition, OCA found no flaw in the Companies' approach to cyber-security. However, on these issues which cut across all electric distribution companies subject to the Act 129 smart meter mandate, OCA again seeks the issuance of Commission directives on these subjects that should be addressed in

generic fashion on an industry-wide basis. For example, OCA, in the guise of a request that the Commission “memorialize” the Companies’ current stance to refrain from using remote disconnection for non-payment, essentially seeks a Commission order barring such use of the smart meter technology. OCA goes on to request that any proposal to utilize involuntary remote disconnection for non-payment should require a reopening of the Deployment Plan, and the submission of amendments to that plan for full Commission review and approval (OCA Main Brief, p. 34). Similarly, with respect to cyber-security, OCA requests Commission directives to hold stakeholder meetings indefinitely “on a going-forward basis” and for the submission of reports to the Commission on a regular basis regarding the “status” of cyber-security at the Companies (OCA Main Brief, p. 35). Notwithstanding the fact that the Commission already receives reports on an EDC’s cyber security policies and practices, it should be kept in mind that OCA seeks these directives on the basis of a record in which it found no flaws in the Companies’ approach to remote disconnection or cyber-security.

As recommended by the Companies in their Main Brief (pp. 40-41) the Commission should address the issues of remote disconnection, customer privacy and cyber-security on a global basis to provide uniformity of expectations and requirements for all electric distribution companies. Pending the development of new uniform requirements, the Companies will continue to adhere to the existing guidelines that govern each of these issues. Only if these guidelines are modified in such a manner as to require an amendment to the Companies’ Deployment Plan, should the plan be reopened. OCA’s requests for Commission directives on these issues should be denied.

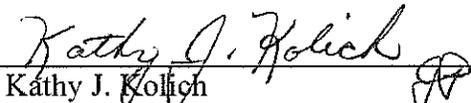
### III. CONCLUSION

For the reasons set forth above and in their Main Brief, the Companies request that their Smart Meter Deployment Plan be approved as filed after adjusting for the treatment of legacy meter salvage value.

Respectfully submitted,

Thomas P. Gadsden  
(Pa. No. 28478)  
Morgan, Lewis & Bockius LLP  
1701 Market Street  
Philadelphia, PA 19103-2921  
Direct Dial: 215-963-5234  
Facsimile: 215-953-5001  
[tgadsden@morganlewis.com](mailto:tgadsden@morganlewis.com)

John F. Povilaitis  
(Pa. No. 28944)  
Buchanan, Ingersoll & Rooney, P.C.  
409 Second Street, Suite 500  
Harrisburg, PA 17101-1357  
Direct Dial: 717-237-4825  
Facsimile: 717-233-0852  
[John.Povilaitis@bipc.com](mailto:John.Povilaitis@bipc.com)

  
Kathy J. Kolich  
(Pa. No. 92203)  
FirstEnergy Service Company  
76 South Main Street  
Akron, OH 44308  
Direct Dial: 330-384-4580  
Facsimile: 330-384-3875  
[kjkolich@firstenergycorp.com](mailto:kjkolich@firstenergycorp.com)

*Counsel for Metropolitan Edison Company, Pennsylvania Electric Company,  
Pennsylvania Power Company and West Penn Power Company*

Date: June 3, 2013

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Petition of Metropolitan Edison	:	
Company, Pennsylvania Electric Company,	:	Docket Nos. M-2013-2341990
Pennsylvania Power Company and	:	M-2013-2341991
West Penn Power Company for Approval	:	M-2013-2341993
of their Smart Meter Deployment Plan	:	M-2013-2341994

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of the foregoing document in accordance with the requirements of 52 Pa. Code § 1.54 et seq. (relating to service by a participant).

**VIA FIRST CLASS AND ELECTRONIC MAIL**

Daniel G. Asmus, Esquire  
Office of Small Business Advocate  
Suite 1102 Commerce Building  
300 North Second Street  
Harrisburg, PA 17101  
[dasmus@pa.gov](mailto:dasmus@pa.gov)

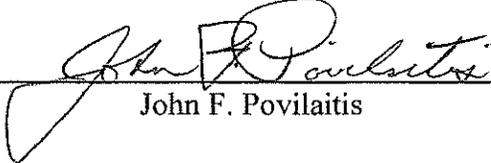
Christy M. Appleby, Esquire  
Candis Tunilo, Esquire  
Office of Consumer Advocate  
555 Walnut Street  
5<sup>th</sup> Floor Forum Place  
Harrisburg, PA 17101-1923  
[cappleby@paoca.org](mailto:cappleby@paoca.org)  
[ctunilo@paoca.org](mailto:ctunilo@paoca.org)

Daniel Clearfield, Esquire  
Deanne O'Dell, Esquire  
Edward G. Lanza, Esquire  
Eckert Seamans Cherin & Mellott  
213 Market Street, 8<sup>th</sup> Floor  
Harrisburg, PA 17101  
[dclearfield@eckertseamans.com](mailto:dclearfield@eckertseamans.com)  
[dodell@eckertseamans.com](mailto:dodell@eckertseamans.com)  
[elanza@eckertseamans.com](mailto:elanza@eckertseamans.com)

Susan E. Bruce  
Charis Mincavage  
Vasiliki Karandrikas  
Teresa K. Schmittberger  
McNees Wallace & Nurick LLC  
100 Pine Street  
P. O. Box 1166  
Harrisburg, PA 17108-1166  
[sbruce@mwn.com](mailto:sbruce@mwn.com)  
[cmincavage@mwn.com](mailto:cmincavage@mwn.com)  
[vkandrikas@mwn.com](mailto:vkandrikas@mwn.com)  
[tschmittberger@mwn.com](mailto:tschmittberger@mwn.com)

Robert Knecht  
Industrial Economics  
2067 Massachusetts Avenue  
Cambridge, MA 02140  
[rdk@indecon.com](mailto:rdk@indecon.com)

Date: June 3, 2013



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John F. Povilaitis