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December 12, 2013

**VIA E-FILING**

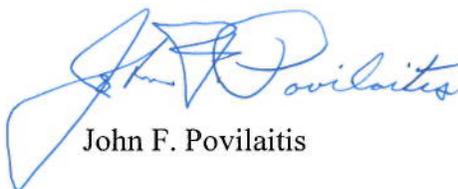
Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

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 are the Reply of the Companies to the Office of Consumer Advocate's Exception. 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: Office of Special Assistants  
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>DOCKET NOS.</b>	<b>M-2013-2341990</b>
<b>EDISON COMPANY, PENNSYLVANIA</b>	<b>:</b>		<b>M-2013-2341991</b>
<b>ELECTRIC COMPANY,</b>	<b>:</b>		<b>M-2013-2341993</b>
<b>PENNSYLVANIA POWER COMPANY</b>	<b>:</b>		<b>M-2013-2341994</b>
<b>AND WEST PENN POWER COMPANY</b>	<b>:</b>		
<b>FOR APPROVAL OF THEIR SMART</b>	<b>:</b>		
<b>METER DEPLOYMENT PLAN</b>	<b>:</b>		

**REPLY OF**

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

**To the Office of Consumer Advocate's Exception**

**To The Recommended Decision Of  
Administrative Law Judge Elizabeth H. Barnes**

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December 12, 2013

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## I. INTRODUCTION

This proceeding was initiated on December 31, 2012 when Metropolitan Edison Company (“Met-Ed”), Pennsylvania Electric Company (“Penelec”), Pennsylvania Power Company (“Penn Power”) and West Penn Power Company (“West Penn”) (collectively, the “Companies”) filed a Joint Petition, requesting that the Pennsylvania Public Utility Commission (the “Commission”) approve their proposed Smart Meter Deployment Plan (“Plan” or “Deployment Plan”). Several parties intervened and, thereafter, the Companies’ Plan was assigned to the Commission’s Office of Administrative Law Judge for investigation.

On November 8, 2013, the presiding Administrative Law Judge, Elizabeth H. Barnes (the “ALJ”), issued her Recommended Decision in which she proposed that the Companies’ Deployment Plan be approved with various modifications. Unfortunately, the “modifications” recommended by the ALJ, among other things, would: (i) impose additional costs and unnecessarily delay the Companies’ smart meter deployment by requiring them to conduct and submit for the Commission’s review, further studies and reports; and (ii) deny the Companies the full and timely recovery of prudently incurred smart meter-related costs. For these reasons, the Companies, on December 2, 2013, filed Exceptions to the Recommended Decision, requesting that certain of the ALJ’s more extreme proposals be rejected. In addition, the Companies took the occasion of filing Exceptions to raise, for the Commission’s consideration, a meaningful acceleration in its requested smart meter deployment schedule consistent with the Commission’s policy to enhance customer services and improve competition through the use of smart meters.

The Office of Consumer Advocate (“OCA”) was the only other party that took exception to the Recommended Decision. Specifically, the OCA challenges the ALJ’s approval of the calendar 2013 “baselines” proposed by the Companies for purposes of measuring smart meter-related savings and, correspondingly, her rejection of the OCA’s recommendation that such

baselines instead be pegged at expense levels purportedly reflected in the Companies' current base rates. However, the OCA has simply repackaged the same flawed arguments that the ALJ fully addressed and found unconvincing. For the reasons set forth herein, and in the Companies' Main and Reply Briefs to the ALJ, the OCA's Exception should be denied.

## II. REPLY TO EXCEPTION

### A. **The ALJ Properly Rejected The OCA's Proposed Use Of Historic Expense Levels – In Some Cases Dating Back Twenty Years Or More – For Purposes Of Quantifying Current Smart Meter Savings**

Section 2807(f)(7) of the Public Utility Code authorizes EDCs to recover their smart meter costs “less operating and capital cost savings realized by the electric distribution company from the installation and use of the smart meter technology.” In their 2009 SMIP proceeding, Met-Ed, Penelec, and Penn Power urged the Commission to allow them to recognize smart meter savings in future base rate proceedings rather than as a credit against smart meter costs recovered through their SMT-C Riders. The Commission rejected this approach and directed the Companies to include the following language in the instructions to their SMT-C Riders:

Any reductions in operating expenses or avoided capital expenditure due to the Smart Meter Program will be deducted from the incremental cost of the Smart Meter Program to derive the net incremental cost of the Program that is recoverable. *Such reductions shall include any reductions in the Company's current meter and meter reading costs.*

*Joint Petition of Metropolitan Edison Co., Pennsylvania Elec. Co., and Pennsylvania Power Co. for Approval of Smart Meter Tech. Procurement and Installation Plan, Docket No. M-2009-2123950 (June 9, 2010), p. 44 (emphasis supplied).*

Consistent with this directive, the Companies, in their Deployment Plan, recommended that calendar year 2013 financial and accounting data, adjusted for anomalies, be utilized to establish the “baselines” against which future cost levels would be measured and smart meter

savings calculated. They advanced this proposal primarily because the 2013 operating results would constitute the most “current” evidence of costs as the Companies entered the next phase of smart meter deployment, the Solution Validation Stage, in early 2014. That is not to say – nor was it the Companies’ intention – that the 2013 baselines should remain in place over time. To the contrary, when meaningful savings begin to accrue, the Companies intend to reevaluate whether it might make more sense to use the then “current” calendar data, adjusted for anomalies, to properly reflect realized smart meter savings.<sup>1</sup>

OCA witness Hornby questioned the appropriateness of setting the baselines at 2013 cost levels because those data “are not the revenue requirements upon which [the Companies’] currently effective rates are based.” (OCA St. 1, p. 22). Accordingly, he recommended that the Commission: (1) require the Companies to submit, as part of their 2014 SMT-C Rider filings, the “test year revenue requirements underlying the current rates”; and (2) confirm that intervenors in the 2014 SMT-C proceeding would be given the opportunity to challenge the Companies’ proposed calendar 2013 baselines.

In her Recommended Decision, the ALJ rejected the OCA’s proposal because she properly recognized that the “test year revenue requirement” data which the OCA would have the Companies attempt to assemble<sup>2</sup> was irrelevant given the plain language of Section 2807(f)(7) of the Code. The ALJ reasoned that “[c]ost savings achieved should ... be based on current information” and that the use of the 2013 baselines recommended by the Companies “will most accurately reflect the actual cost savings achieved on a current basis, consistent with the intent of Act 129” (Recommended Decision, p. 35). She further observed that the OCA’s preferred “test year revenue requirement” methodology “would not match current deployment

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<sup>1</sup> In the event a base rate case is filed and approved by the Commission, the Companies intend to use the test year expense as the baseline.

<sup>2</sup> As noted *infra*, some of the “test year” data is well over twenty years old.

costs to current cost savings achieved” and could discourage utilities from implementing efficiencies (*Id.*).

In its Exception, the OCA objects to the ALJ’s resolution of this issue, asserting first that “[t]he fact that smart meter costs are new or current is irrelevant to [the] savings determination” (OCA Exception, p. 5). In advancing this argument, the OCA completely ignores the plain language of the statute. Section 2807(f)(7) provides that recoverable smart meter costs are to be offset by “operating and capital cost savings *realized* by the electric distribution company from the installation and use of the smart meter technology” (emphasis supplied). “Realized” is the operative word. EDCs will incur real out-of-pocket costs to implement their smart meter plans. Consequently, any “savings” to be credited against such costs should also be “real” (i.e., actual savings “realized” contemporaneously with the incurrence of the costs they offset). In direct contravention of the operative language of the statute, the OCA’s approach would impute “savings” quantified on the basis of historical and outdated costs levels, thereby offsetting **real** out-of-pocket costs with **hypothetical** “savings.”

Of equal importance, Section 2807(f)(7) provides that the “savings” used to offset recoverable costs must be realized “*from the installation and use of the smart meter technology*” (emphasis supplied). Thus, the statute requires a direct causal link between the installation of smart meters and the “savings” those meters generate. Direct causation would not exist if “savings” are measured by reference to pro forma costs embedded in the revenue requirement established years in the past. The OCA’s interpretation simply disregards the statutory requirement of a causal link between “savings” and “the installation of and use of the smart meter technology.”

The OCA also contends that the adoption of the Companies’ position might allow them “to improperly retain savings in current rates” purportedly attributable to the conversion by Met-Ed and Penelec, in years past, from monthly to bi-monthly meter reading (OCA Exception, pp. 7-8). This ratemaking equivalent of a “Hail Mary” claim – indeed, the OCA’s entire discussion of the \$164 million of alleged expense savings – is misguided on a number of levels. Initially, as should be self-evident, 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.

Moreover, 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 costs 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. As the Commonwealth Court held in *Philadelphia Electric Co. v. Pa. P.U.C.*, 502 A.2d 722, 727-28 (1985):

The general rule is that there may be no line by line examination of the relative success or failure of the utility to have accurately projected its particular items of expense or revenue and an excess over the projection of an isolated item of revenue or expense may not be, without more, the subject to the Commission’s order of refund or recovery, respectively, on the occasion of the utility’s subsequent rate increase request.

The approach to quantifying “savings” seemingly espoused by the OCA would necessarily embroil the Commission in precisely the kind of retrospective “line by line examination” of costs

“projected” in prior rate proceedings that the prohibition against retroactive ratemaking precludes.

Finally, the OCA asserts that “this issue is unique to the FirstEnergy Companies” because several other EDCs have recently concluded base rate cases (OCA Exceptions, pp. 6-7). The relevance of this observation, however, is not entirely clear. Indeed, the Commission Orders cited by the OCA, as well as the underlying settlement agreements which they approve, are silent as to how smart meter savings are to be quantified. And, even if the OCA were able to demonstrate that the EDCs in question use their recent base rate expense claims as the “baselines” for measuring smart meter savings (a showing that the OCA has not made), that would seem to simply confirm the reasonableness of the Companies’ proposal to employ current 2013 data, rather than data from 1988 and 1994 for that purpose.

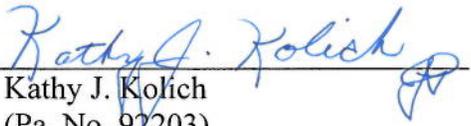
### III. CONCLUSION

For the foregoing reasons, the Commission should deny the OCA's Exception and, instead, should approve the Recommended Decision with the modifications described in the Companies' Exceptions, filed December 2, 2013.

Respectfully submitted,

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Date: December 12, 2013

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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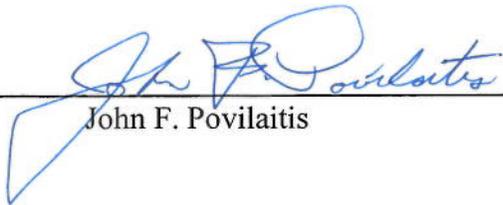
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Date: December 12, 2013



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