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February 2, 2015

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

**VIA ELECTRONIC FILING**

**RE: Petition of PPL Electric Utilities Corporation for Approval of its Smart Meter Technology Procurement and Installation Plan; Docket No. M-2014-2430781**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is the Reply Brief of the PP&L Industrial Customer Alliance ("PPLICA") concerning the above-referenced proceeding.

As evidenced by the attached Certificate of Service, all parties to the proceeding are being served with copies of this document. Thank you.

Very truly yours,

McNEES WALLACE & NURICK LLC

By

A handwritten signature in black ink, appearing to read 'Adeolu A. Bakare', written over a horizontal line.

Adeolu A. Bakare

Counsel to the PP&L Industrial Customer Alliance

/lmc

Enclosure

c: Administrative Law Judge Susan D. Colwell  
Certificate of Service

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## CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant).

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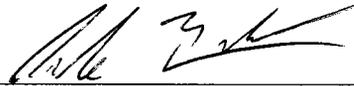
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Dated this 2<sup>nd</sup> day of February, 2015, at Harrisburg, Pennsylvania

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities Corporation :  
for Approval of its Smart Meter Technology : Docket No. M-2014-2430781  
Procurement and Installation Plan :

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**REPLY BRIEF OF THE  
PP&L INDUSTRIAL CUSTOMER ALLIANCE**

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Air Products and Chemicals, Inc.  
Armstrong World Industries, Inc.  
General Dynamics-OTS Scranton  
Harristown Enterprises, Inc.  
Hercules Cement Company

Linde LLC  
SAPA Extrusions, Inc.  
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Dated: February 2, 2015

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## **I. INTRODUCTION**

On June 30, 2014, PPL Electric Utilities Corporation ("PPL" or "Company") petitioned the Commission for approval of its second Smart Meter Technology Procurement and Installation Plan ("SMPI Plan" or "Petition"). Through the SMPI Plan, PPL proposes to begin implementing backbone Radio Frequency ("RF") Mesh Advanced Meter Infrastructure ("AMI") in 2015 and deploy RF Mesh smart meters between 2017 to 2019. PPL estimates its total costs to be approximately \$449.3 million, and proposes to recover these costs through the Smart Meter Rider ("SMR") as a per-customer charge for all Residential, Small Commercial and Industrial ("C&I") and Large C&I customers. As discussed below, PPLICA recommends modifications to limited components of the SMPI Plan.

## **II. PROCEDURAL HISTORY**

As stated above, PPL filed the SMPI Plan on June 30, 2014. On August 8, 2014, the PP&L Industrial Customer Alliance ("PPLICA")<sup>1</sup> filed a Petition to Intervene and Protest to the Company's Petition. A Prehearing Conference was held on August 11, 2014, before Administrative Law Judge ("ALJ") Susan D. Colwell. In accordance with the procedural schedule approved by the ALJ, PPLICA and other parties participated in discovery, testimony, and evidentiary hearings.

On January 13, 2015, PPLICA received Main Briefs from the Office of Consumer Advocate ("OCA"), the Office of Small Business Advocate ("OSBA"), PPL, and Citizen's for Affordable Utility Services in Pennsylvania ("CAUSE-PA"). In response to issues raised by OSBA and PPL, PPLICA hereby files this limited Reply Brief.

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<sup>1</sup> PPLICA's compilation is listed on the cover page of this Reply Brief.

### **III. STATEMENT OF THE QUESTIONS INVOLVED**

1. If approved, should OSBA's proposal to modify the SMR rate design for GS-1 and GS-3 customers affect the allocation and rate design of SMR costs for Large C&I customers?

PPLICA's suggested answer: No.

2. Should the Commission direct PPL to review and revise its data privacy policies through a stakeholder collaborative?

PPLICA's suggested answer: Yes.

### **IV. BURDEN OF PROOF**

Burden of proof standards applicable to Commission proceedings are well settled. Section 332(a) of the Public Utility Code provides the following with respect to burden of proof: "[e]xcept as may be otherwise provided in section 315 (relating to burden of proof) or other provisions of this part or other relevant statute, the proponent of a rule or order has the burden of proof." 66 Pa. C.S. § 332(a). Under Section 315, "[i]n any proceeding... involving any proposed or existing rate of any public utility... the burden of proof to show that the rate involved is just and reasonable shall be upon the utility." *Id.* § 315(a).

According to the PUC, the "party seeking a rule or order from the Commission has the burden of proof" in a proceeding. *Pa. Pub. Util. Comm'n v. Jackson Sewer Corp.*; Docket No. R-00005997, at pp. 5-7 (Nov. 13, 2001). In carrying this burden, a complainant must establish a case before an administrative tribunal using a preponderance of evidence as the requisite degree of proof. *Samuel J. Lansberry, Inc.*, 578 A.2d 600, at 602 (Pa. Commw. 1990). The standard of preponderance of the evidence is defined as the greater weight of the evidence, in view of all of the facts and circumstances of the case. *See Se-Lin Hosiery, Inc. v. Margulies*, 70 A.2d 854, 856 n.1 (Pa. 1950). Finally, a party that offers a proposal not included in the original filing shall bear

the burden of proof for such proposal. *See Brockway Glass Co. v. Pennsylvania Public Utility Commission*, 437 A.2d 1067 (Pa.Cmwlth. 1981).

**V. SUMMARY OF ARGUMENT**

PPLICA hereby submits this limited Reply Brief to briefly address two issues raised in parties' Main Briefs. First PPLICA seeks to clarify that OSBA's proposal to modify the SMR rate design for GS-1 and GS-3 customers should not result in any changes to the allocation of SMR costs or rate design of SMR costs for Large C&I customers. Second, PPLICA opposes PPL's assertion that stakeholder review of the Company's data privacy policies should be denied as unnecessary.

**VI. ARGUMENT**

**A. Compliance with Act 129 and the Implementation Order**

PPLICA does not address this issue in its Reply Brief.

**B. Technology Issues- RF Mesh Versus PLC**

PPLICA does not address this issue in its Reply Brief.

**C. Meter Failures**

PPLICA does not address this issue in its Reply Brief.

**D. Implementation Timeline**

PPLICA does not address this issue in its Reply Brief.

**E. Cost Savings/Quantification of Benefits**

PPLICA does not address this issue in its Reply Brief.

**F. Smart Meter Charge Issues**

**1. Calculation of Smart Meter Charge**

PPLICA does not address this issue in its Reply Brief.

## **2. Proposed Modification to the Small C&I Meter Charge**

In its Main Brief, OSBA proposed an alternative intraclass rate design for the SMR applicable solely to customers served by Rate Schedules GS-1 and GS-3. OSBA M.B., p. 28. This alternative would modify PPL's proposal to recover its SMPI costs from all customer classes through a flat per-customer SMR charge. *See* PPL M.B., p. 35. OSBA counters that the SMR charge for Small C&I customers should be split into separate GS-1 and GS-3 rates. OSBA M.B., p. 28.

PPLICA does not take a position on the OSBA's proposal on the basis that that PPL's proposed cost allocation and rate design would otherwise remain unchanged from PPL's initial filing, where the Company proposed to: (1) calculate separate interclass revenue requirements for each customer class based on the respective class meter investments; and (2) develop separate intraclass customer charges based on the number of bills to be issued to customers in each class during the respective billing period. *See* PPL Electric Stmt. No. 6, p. 8. PPLICA continues to support PPL's procedures for developing separate customer revenue requirements and assessing a flat per-customer SMR charge for Large C&I customers. However, because OSBA has only proposed to modify the intraclass rate design for GS-1 and GS-3 customers, with no changes to the interclass allocation of smart meter costs or the intraclass rate design for Large C&I customers, PPLICA does not oppose this limited modification.

### **G. Communications Strategy**

PPLICA does not address this issue in its Reply Brief.

### **H. Cybersecurity Issues**

PPLICA does not address this issue in its Reply Brief.

## **I. Data Privacy Issues**

In PPL's Main Brief, the Company opposes OCA's recommendation to commence a stakeholder collaborative to review and revise PPL's data privacy plan before implementation of the SMPI. *See* PPL M.B., p. 40. Similar to PPLICA's contentions regarding PPL's Supplier Portal, the data privacy plan fails to adequately protect customer data from illicit activity and unauthorized disclosures. Accordingly, PPLICA recommends that the Commission deny PPL's claim that internal review is sufficient and grant the recommendations of OCA and CAUSE-PA calling for stakeholder review and modification of PPL's data privacy plan.

PPL recognizes that the data privacy plan outlined in Section VI of the SMIP and further detailed in its website must be further developed and refined, but denies a necessity for stakeholder engagement. *See* PPL Electric Exhibit No. 1, p. 41; PPL Electric Exhibit KTS 1-R, pp. 1-5; *see also* PPL M.B., p. 40. The Company attempts to reassure stakeholders and the Commission of its commitment to protecting data privacy by representing that "PPL Electric takes the issue of data privacy very seriously and will address data privacy issues as part of its overall cybersecurity defense in depth plan." PPLICA M.B., p. 39. Unfortunately, the Company erodes any confidence in its privacy commitments by subsequently asserting that "OCA's proposal to require PPL Electric to revise the privacy components of its smart meter plan with the assistance of customer service employees and stakeholders is also unnecessary." PPL M.B., p. 40.

Contrary to PPL's denouncement of OCA's suggested collaborative process, evidence presented by both OCA and CAUSE-PA underscores a need for stakeholder review and revision of PPL's data privacy plan. OCA correctly observed that PPL's existing data privacy policies set forth on PPL's website apply to online communications and data, meaning that the policy was not designed to address privacy issues specific to data obtained through smart meter technology.

*See* OCA M.B., p. 47. Additionally, CAUSE-PA highlighted language in the data privacy policy suggesting that PPL possesses authority to "rent, license, or sell Personal Information, defined as 'including the customer's name, address, password, home service, domain and email address, transaction, billing and payment history, and usage, among other things'" *See* CAUSE-PA M.B., p. 18. While PPL confirms that it does not currently engage in such transactions, the implication that PPL may claim such authority with regard to customer information obtained through the SMIP conflicts with customer privacy restrictions set forth in Act 129. *See id.*

The concerns raised by OCA and CAUSE-PA with regard to PPL's existing data privacy policies are accentuated by PPL's admission that it intends to use the data privacy policies developed for online communications as the framework for its smart meter data privacy policies. *See* OCA M.B., p. 47. As observed by OCA, "it is the Company's intention to use the current privacy policy as a model that will be 'enhanced to address data privacy and cybersecurity protections beyond just the website, such as for use of smart meters.'" *See id.* As discussed at length in PPLICA's Main Brief, the adoption of advanced communications technology can offer more efficient data access for both legitimate and illegitimate actors. *See* PPLICA M.B., p. 9. Just as PPLICA recommended that the Commission revisit its prior policies determining that presentation of a customer account number constitutes "authorization," PPLICA supports the OCA's proposal to further examine and refine PPL's data privacy policy through a stakeholder process. Accordingly, to ensure that PPL's data privacy policy fully addresses customer concerns, the Commission should adopt OCA's proposal to conduct collaborative proceedings to develop an appropriate data privacy plan for PPL's smart meter communications and infrastructure.

**J. Remote Disconnect, Service Limiting and Pre-Pay Metering Issues**

PPLICA does not address this issue in its Reply Brief.

**K. Miscellaneous Issues**

PPLICA does not address this issue in its Reply Brief.

**VII. CONCLUSION**

**WHEREFORE**, the PP&L Industrial Customer Alliance respectfully requests that the Pennsylvania Public Utility Commission:

- (1) Limit any approval of OSBA's alternative rate design to GS-1 and GS-3 customers, with no change to PPL's procedures for calculating interclass revenue requirements or the intraclass rate design for Large C&I customers;
- (2) Direct PPL to convene a stakeholder collaborative to review PPL's data privacy policies for smart meter communications and infrastructure; and
- (3) Grant any additional relief deemed appropriate and consistent with the above recommendations and PPLICA's Main Brief.

Respectfully submitted,

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## APPENDIX A

### PROPOSED FINDINGS OF FACT

1. The Commission's current privacy policies rely on an honor system where EDCs are not required to affirmatively review requests for customer data to confirm whether the subject customer has opted out of the ECL. *See Electric Generation Supplier Access to Restricted Customer Accounts*, Docket No. M-2009-2082042, Secretarial Letter issued August 20, 2010.
2. The Supplier Portal automates the data retrieval process by allowing EGSs, and potentially 3rd parties, to directly access customers' usage data without need for an affirmative response from PPL. *See PPL Exhibit No. 1, Appendix C, p. 19.*
3. Once granted access, the user may obtain usage data for any PPL customer by inputting the customer's PPL account number into the Supplier Portal. *See PPLICA Cross-Examination Exhibit No. 1, p. 3.*
4. "The information available to authorized users [through the Supplier Portal] is not tied to the eligible customer list. It is the obligation of the EGS and 3rd party to ensure they have proper authorization to view customer data." *See PPLICA Cross-Examination Exhibit No. 2, p. 1.*
5. Every time a user submits a request for any data available on the portal the request is logged with the unique user name, supplier name, date/time stamp, and customer account number and recorded as successful or unsuccessful attempts. *See PPLICA Cross-Examination Exhibit No. 1, p. 5.*
6. Event log data for the Supplier Portal shall remain accessible for three years. *See PPLICA Cross-Examination Exhibit No. 1, pp. 7-8.*
7. PPL proposes to consider customer requests for event log data on an *ad hoc* basis. *See PPLICA Cross-Examination Exhibit No. 1, p. 8; see Tr. 59-60.*
8. PPL anticipates reductions to UFE rates following implementation of the SMPI Plan. *See PPLICA Cross-Examination Exhibit No. 3, p. 2; see also PPL Stmt. No. 2, p. 18; see also Tr. 64.*
9. PPL's Supplier Tariff establishes line loss factors and directs EGSs to gross-up power deliveries by the applicable customer class line loss factor for forecasting, scheduling, and reconciliation purposes. *See PPL Tariff Electric Pa. P.U.C. No. 1s, Section 6.8.*
10. PPL would have an obligation to adjust the line loss factors if the current line loss calculation included UFE losses. *See Tr. 138.*

## APPENDIX B

### PROPOSED CONCLUSIONS OF LAW

1. The Commission's current privacy policies provide that "all Electric Distribution Company (EDC) customers shall have the right to withhold all customer account and usage data from the Eligible Customer List that is made available to Commission-licensed Electric Generation Suppliers (EGSs)." *Interim Guidelines For Eligible Customer Lists*, Final Order On Reconsideration, Docket No. M-2010-2183412 (Nov. 15, 2011), p. 25.
2. Act 129 requires EDCs to "with customer consent, make available direct meter access and electronic access to customer meter data to third parties, including electric generation suppliers and providers of conservation and load management services." 66 Pa. C.S. § 2807(f)(3).
3. PPL is authorized to modify the line loss factors in Section 6.8 of its Supplier Tariff to reflect changes in system losses. *See* PPL Tariff Electric Pa. P.U.C. No. 1s, Section 6.8.

## **APPENDIX C**

### **PROPOSED ORDERING PARAGRAPHS**

1. PPL is hereby directed to develop specific protocols identifying the factors to be considered in responding to customers' requests for event log data from the Supplier Portal.
2. PPL is hereby directed to publish the calculation of its line loss factor set forth in Section 6.8 of its Electric Generation Supplier Coordination Tariff.
3. The Commission shall investigate the necessity to adopt revised customer privacy policies or regulations to address the practical effects of new technology on 3<sup>rd</sup> party access to customer usage data.