



COMMONWEALTH OF PENNSYLVANIA

May 20, 2015

E-FILED

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

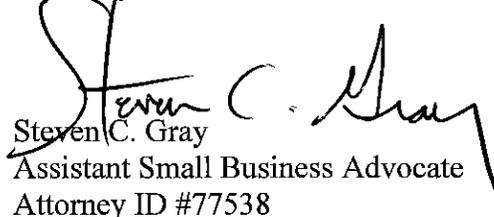
**Re: Pennsylvania Public Utility Commission v. PPL Electric Utilities
Corporation for Approval of Its Smart Meter Technology Procurement and
Installation Plan
Docket No. M-2014-2430781**

Dear Secretary Chiavetta:

Enclosed for filing are the Exceptions, on behalf of the Office of Small Business Advocate, in the above-docketed proceeding. As evidenced by the enclosed Certificate of Service, two copies have been served on all known parties in this case.

If you have any questions, please contact me.

Sincerely,


Steven C. Gray
Assistant Small Business Advocate
Attorney ID #77538

Enclosures:

cc: The Honorable Susan D. Colwell, Administrative Law Judge
Parties of Record
Robert D. Knecht

**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 :

**EXCEPTIONS
OF THE
OFFICE OF SMALL BUSINESS ADVOCATE**

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Dated: May 20, 2015

I. Introduction

On October 15, 2008, Governor Corbett signed HB 2200 into law as Act 129 of 2008, (“Act 129”).

On June 24, 2009, the Pennsylvania Public Utility Commission (“Commission”) entered the *Smart Meter Procurement and Installation Order* at Docket No. M-2009-2092655 (“*Implementation Order*”).

On August 14, 2009, PPL Electric Utilities Corporation (“PPL” or the “Company”) filed its Initial Smart Meter Technology Procurement and Installation Plan with the Commission.

On June 20, 2010, the Commission entered an Order regarding PPL’s Initial Smart Meter Plan. *See Petition of PPL Electric Utilities Corporation for Approval of Smart Meter Technology Procurement and Installation Plan*, Docket No. M-2009-2123945.

On May 24, 2012, PPL filed a request with the Commission to extend the Company’s grace period from December 2012 to December 2014.

On August 2, 2012, the Commission entered an Order extending PPL’s grace period until June 30, 2014.

On December 2, 2012, the Commission entered a *Smart Meter Procurement and Installation - Final Order* at Docket No. M-2009-2092655 (“*Final Order*”).

On June 30, 2014, filed its updated *Petition of PPL Electric Utilities Corporation for Approval of Its Smart Meter Technology Procurement and Installation Plan* (“*Petition*”) with the Commission.

On July 8, 2014, Administrative Law Judge (“ALJ”) Susan D. Colwell issued her First Prehearing Order.

On August 6, 2014, the Office of Small Business Advocate (“OSBA”) filed an Answer and Notice of Intervention.

On August 11, 2014, a prehearing conference was held before ALJ Colwell.

On August 11, 2014, ALJ Colwell issued her Second Prehearing Order.

On October 10, 2014, the OSBA served the Direct Testimony of Robert D. Knecht.

On November 5, 2014, ALJ Colwell issued her Third Prehearing Order.

On December 5, 2014, the OSBA served the Surrebuttal Testimony of Robert D. Knecht.

On December 16, 2014, an evidentiary hearing was held before ALJ Colwell.

On January 13, 2015, the OSBA filed its Main Brief.

On February 2, 2015, the OSBA filed its Reply Brief.

On April 30, 2015, ALJ Colwell issued her Initial Decision (“ID”).

The OSBA submits the following Exceptions in response to the ID.

II. Exceptions

Exception No. 1: PPL's current smart meters comply with five of the six statutory requirements, most of the additional capabilities set forth in the *Implementation Order*, and all of the additional requirements set forth in the *Final Order*. The ALJ erred by not finding that PPL's current smart meter functionality is sufficient at this time. (ID, at 24-25)

In her ID, the ALJ stated:

[T]he bottom line is that the legislature requires compliance with Act 129, the Commission has indicated that the present PPL Electric meters do not comply, and that the introduction of HAN capability would bring compliance.

ID, at 24.

PPL's current PLC smart meters perform the majority of capabilities required by statute and desired by the Commission. PPL's customers are receiving the vast majority of the benefits of smart meter technology, and they are paying for those smart meter benefits in base rates charges. The fact that PPL's *current* PLC smart meter technology does not meet *all* of the functionality that the Commission would ideally see as beneficial is not a reason to accelerate the adoption of a second generation of smart meters.

PPL's current generation smart meters will eventually have to be replaced. The question before the Commission is whether it is necessary to accelerate that replacement now, and at massive cost to ratepayers, only to gain that modicum of additional functionality.

The statutory requirements for smart meters are set forth in Section 2807 of the Public Utility Code, as follows:

As used in this section, the term 'smart meter technology' means technology, including metering technology and network communications technology capable of bidirectional communication, that records electricity usage on at least an hourly basis, including related electric distribution system upgrades to enable the technology. The technology shall provide customers

with direct access to and use of price and consumption information. The technology shall also:

- (1) Directly provide customers with information on their hourly consumption.
- (2) Enable time-of-use rates and real-time price programs.
- (3) Effectively support the automatic control of the customer's electricity consumption by one or more of the following as selected by the customer:
 - (i) the customer;
 - (ii) the customer's utility; or
 - (iii) a third party engaged by the customer or the customer's utility.

66 Pa. C.S. Section 2807(g).

In its *Petition*, PPL summarized the Commission's requirements for smart meter technology:

In the Commission's *Implementation Order*, the Commission identified six smart meter capabilities that are required by Act 129. *Implementation Order*, pp. 29-30. In addition, the Commission listed nine additional capabilities that EDCs were to *consider*. *Implementation Order*, p. 30. Further, in December 2012, the Commission entered an order establishing additional requirements for smart meter plans. *Smart Meter Procurement and Installation*, Docket No. M-2009-2092655, Final Order entered December 6, 2012.

Petition, at 12 (emphasis added).

In regards to the functionality required by statute, PPL assessed its current meters, as follows:

Bidirectional Data Communication: PPL's current smart meters are compliant with this requirement. Transcript, at page 44, lines 13-16. However, new smart meters would be "better."

Petition, at 12.

Recording Usage Data On At Least An Hourly Basis Once Per Day: PPL's current smart meters are compliant with this requirement. Transcript, at page 45, lines 3-7. However, new smart meters would "enhance the Company's ability to record usage data." *Petition*, at 12.

Providing Customers with Direct Access to and use of Price & Consumption Information: PPL is not compliant with this requirement. The Company explained the problem with its current smart meters:

The primary deficiency of PPL Electric's existing PLC system is its inability to provide customers with direct access to price and usage information. Other EDCs in Pennsylvania are proposing to provide this functionality to customers through Home Area Network ('HAN') capability. PPL Electric has conducted a HAN pilot program. However, the Company was unable to effectively offer this functionality to pilot program customers, and the Company is not aware of a PLC solution for its system that would effectively meet this requirement.

Petition, at 3.

PPL asserts that the technology available in the Company's proposed smart meter upgrade will meet this requirement. *Petition*, at 13. The ALJ agreed with PPL's assertion. ID, at 25.

Providing Customers with Information on Their Hourly Consumption: PPL's current smart meters are compliant with this requirement. Transcript, at page 45, lines 13-19. *Petition*, at 13.

Enabling Time-of-Use Rates and Real-Time Pricing Options: PPL's current smart meters are compliant with this requirement. Transcript, at page 46, line 25, to page 47, line 8. *Petition*, at 13.

Supporting the Automatic Control of the Customers' Electric Consumption: PPL's

current smart meters are compliant with this requirement. Transcript, at page 47, lines 12-19.

Petition, at 14.

OSBA witness Robert D. Knecht summarized PPL's current level of compliance, as follows:

The *Implementation Order* establishes six types of functionality that are required of smart meters. In its response to OSBA-I-4, PPL Electric confirms that the existing system complies with five of the six requirements. The specific requirement with which the current system does not comply is to provide customers with direct access to and use of their price and consumption information.

OSBA Statement No. 1, at 4 (footnote omitted).

In its *Petition*, PPL also analyzed the "nine additional capabilities that EDCs were to consider" set forth in the *Implementation Order*. The *Implementation Order* stated:

In addition, each plan filing shall include the individual incremental costs for deploying and operating the following smart meter technology capabilities:

- Ability to remotely disconnect and reconnect.
- Ability to provide 15 minute or shorter interval data to customers, EGSs, third parties and an RTO on a daily basis, consistent with the data availability, transfer and security standards adopted by the RTO.
- On board meter storage of meter data that complies with nationally recognized nonproprietary standards such as ANSI C12.19 and C12.22 tables.
- Open standards and protocols that comply with nationally recognized nonproprietary standards, such as IEEE 802.15.4.
- Ability to upgrade these minimum capabilities as technology advances and becomes economically feasible.

- Ability to monitor voltage at each meter and report data in a manner that allows an EDC to react to the information.
- Ability to remotely reprogram the meter.
- Ability to communicate outages and restorations.
- Ability to support net metering of customer generators.

The deployment and operating costs to be presented shall include a breakdown of all incremental costs and any associated potential operational and maintenance cost savings for each functionality and configuration. All cost estimates must be supported by estimates from at least two vendors where available. ***To the extent that an EDC or another party demonstrates that a particular Commission imposed requirement is not cost effective, the Commission will have the option of waiving a particular requirement for that EDC or all EDCs.***

Implementation Order, at 30 (emphasis added).

The *Petition* also sets forth PPL's view of whether the Company's current PLC smart meters meet the additional capabilities identified in the *Implementation Order*. See *Petition*, at 14-17. PPL concluded that the Company's current PLC smart meters meet many, but not all, of the *Implementation Order's* additional capabilities. However, the Commission stated that these additional capabilities were only to be "imposed" if a specific additional capability was "cost effective."

Finally, the *Petition* also sets forth PPL's view of whether the Company's current PLC smart meters meet the additional requirements set forth in the Commission's *Final Order*. *Petition*, at 17. PPL concluded that the Company's current PLC smart meters are compliant with the four additional requirements set forth in the *Final Order*. *Id.*

Therefore, PPL's current PLC smart meters perform the majority of capabilities required by statute and desired by the Commission. PPL's customers are receiving the vast majority of the benefits of smart meter technology, and they are paying for those smart meter benefits in

base rates charges. Given the facts of this case, the OSBA submits that obtaining that additional functionality does not justify accelerating the imposition of a substantial cost burden on ratepayers as proposed by PPL in this proceeding.

Exception No. 2: PPL's current smart meter failure rate is not significant and has been overstated by the Company in an attempt to buttress its extravagant *Petition*. The ALJ erred by not dismissing PPL's exaggerated smart meter failure rate claims. (ID, at 33)

In her ID, the ALJ stated:

The public advocates seek to delay the implementation of the SMP and criticize the claim by PPL Electric that the rate of the failures of the existing meters is gaining speed. *While the Company claims appear to be more dire than the statistics support*, there is no contesting the fact that repair of the existing meters incurs costs, and that the existing meters will need to be replaced eventually anyway. The discussion regarding the timing of the replacement follows. There is no real disposition necessary for this section.

ID, at 33 (emphasis added).

It bears repeating that PPL currently has approximately 1.4 million customers, all with smart meters. *See Petition*, at 4, Paragraph 1. *See also, Petition*, at 8, Paragraph 13.

In response to OSBA discovery, PPL reports the following meter failure rate:

25,634 in 2012,

28,234 in 2013, and

30,801 estimated for 2014.

Transcript, at page 159, lines 1-20.

In its *Petition*, PPL disingenuously asserted: "For calendar year 2013, the Company's meters failed at a rate of approximately four times the industry standard." *Petition*, at 9, Paragraph 14. Mr. Knecht responded to the Company's clever misinformation, as follows:

[I]t is not clear that PPL Electric compares apples to apples in this assessment. According to OCA-VI-2, the Company's actual

failure rate is 2 percent, for meters which have been in place for more than a decade. This compares to a 0.41 percent failure rate for the new technology, based on vendor information. The Company has not provided sufficient detail to evaluate whether the vendor-supplied information is comparably based on actual (rather than optimistic vendor forecast) experience. Also it is not clear that the evidence upon which the vendors relied is comparably based on actual 10-year-old meters.

OSBA Statement No. 1, at 7.

Significantly, PPL witness Christine E. Ogozaly confirmed, under cross examination, that the projected smart meter failure rate was 2.35 percent for 2012. This is less than the failure rate of 2.5% predicted by the Company's smart meter vendor, Aclara. Transcript, at page 89, lines 14-23.

PPL's main justification for accelerating the *Petition's* massive investment program is the failure rate of its first generation meters, a claim that was at least partially accepted in the ID. What both PPL and the ID failed to address, however, is whether the alleged high failure rate results from reasonable expectations for smart meters, or whether PPL simply failed to reasonably protect ratepayers from costs associated with premature meter failure. As the Company admitted, PPL only arranged for a one- or two-year warranty from the meter vendor, and appears to have only been able to collect about \$1.5 million in compensation for the alleged excessive meter failure rate. OSBA Main Brief, at 25.

Moreover, even if the Company's investments were prudent, the Company's quantitative analysis appears to assume a rapid acceleration of meter failure that is not yet evident in the actual data. Or, as ALJ Colwell politely put it, "the Company claims appear to be more dire than the statistics support." In fact, Ms. Ogozaly forecasts meter failures of 48,154 in 2015, 53,213 in 2016, and 58,804 in 2017, far in excess of actual failure rates in 2013 and 2014 (28,234 and 30,801, respectively). The Company's projections are not consistent with the facts.

Mr. Knecht summarized the Company's smart meter failure rate:

At pages 6-7 [of Mr. Knecht's Direct Testimony], I acknowledged that a high failure rate of the first generation of smart meters might justify an acceleration of the transition to the second generation, but I concluded that PPL Electric had not presented any quantitative evidence supporting such an approach.

Moreover, neither I nor the OSBA has any interest in deferring the adoption of a second generation of smart meters if doing so will result in both higher costs for ratepayers and the significant customer inconvenience related to extensive meter failure contemplated in Ms. Ogozaly's rebuttal testimony at page 7.

OSBA Statement No. 2, at 1-2.

Mr. Knecht continued:

I note that Ms. Ogozaly presents a set of exhibits which purportedly demonstrate that the meter failure rate for the first generation of meters (based on the PLC technology) is high and rising, and that the cost of accelerating the deployment of the second generation of smart meters is lower than the cost of deferring deployment and replacing existing meters with existing technology.

However, Ms. Ogozaly does not present a comparison of the ratepayer impact of these alternative scenarios, and Ms. Ogozaly does not present the combined impact of replacing existing meters and implementing new smart meters for any of the scenarios evaluated.

Id., at 2.

It is obvious, and unsurprising, that PPL is experiencing the failure of a percentage of its current PLC smart meters. The OSBA is aware that PPL is experiencing the failure of a small percentage of its current PLC smart meters. The Commission can take judicial notice (from possibly personal experience) that all technology has a failure rate – even brand new technology. However, the mere fact that a smart meter technology is experiencing a small percentage of failures does not mean that all such smart meters must be immediately replaced, and replaced at

extremely high cost. In addition, even the Company admits that the new technology will have a failure rate as well.

Therefore, the OSBA respectfully submits that the Commission should disregard PPL's exaggerated claims of high failure rates in the Company's current smart meters.

Exception No. 3: There is no rational reason to accelerate PPL's smart meter replacement as proposed by the *Petition*. The ALJ erred by concluding that the *Petition* should be implemented as soon as possible. (ID, at 38)

PPL is required to have smart meters that are fully compliant with Section 2807(g) by the year 2025. Transcript, at page 30, lines 14-24. Mr. Knecht stated:

The Company indicates that the SMP is necessary to comply with Act 129. However, the Company indicates that it is obligated to comply by April 2025, whereas the Company's proposal will result in substantial compliance by 2019 and full compliance by 2021.

OSBA Statement No. 1, at 4.

Mr. Knecht continued:

Thus, I conclude that the Company's proposal to accelerate compliance by four to six years must be justified by factors other than meeting its legal obligations. In general, I would normally expect that such a justification would take the form of a thorough cost-benefit assessment.

Id., at 4-5.

Mr. Knecht performed such a cost-benefit analysis. *See* OSBA Statement No. 2, at 6-10, Exhibit IEc-S1. In response to this analysis, the ALJ stated:

OSBA, in particular, engages in a meticulous and detailed cost-benefit analysis which points to the flaws which would be crucial if the Company were required to justify a Plan that it had developed without a statutory mandate, through a cost-benefit analysis. This level of analysis is particularly useful and the Commission is grateful to have it in a base rate proceeding or other matter where the Company is required to justify its proposals where cost is the key component. In smart meter cases, however, the General Assembly has spoken and the Commission has echoed

the importance of giving the additional tools for customer energy usage management to those customers as soon as reasonably possible – no *later* than April 2025.

ID, at 38 (emphasis in original).

The ALJ, with all due respect, misses the point of the Mr. Knecht's analysis. The OSBA is not arguing that PPL has an option, under the statute, to forego upgrading the Company's smart meter devices. The OSBA analysis demonstrates that it is not economically rational or necessary for PPL to *accelerate* that upgrade plan so that it is nearly complete by 2019.

In her ID, the ALJ stated:

[T]here are solid reasons for implementing the plan more quickly than required if it can be done well and reasonably. This is supported by the chart provided by the Company which shows its implementation as compared to the other EDCs in the Commonwealth. It is important to remember that the smart meter program is, at its very basis, meant to enable the intelligent use of a variety of energy packages at the supplier level. It only makes sense to have all of the Commonwealth's EDCs capable of providing the necessary hardware for the packages that can be offered in PA EDC's service territories.

ID, at 38.

The OSBA respectfully disagrees. The fact that an EDC offering service in New Tripoli has different smart meter hardware than an EDC in Erie is not a rational justification for spending hundreds of millions of dollars just so the hardware matches. The fact of the matter is that PPL has smart meter technology now. The Company and EGSs can offer rates and programs today that take advantage of that smart meter technology for the benefit of the Company's customers.

The OSBA submits that the Commission should be more concerned with not exacerbating the financial burden borne by PPL's ratepayers than on keeping the smart meter technology of the EDCs across the Commonwealth in perfect sync. The OSBA observes that the

Company's proposal to impose large increases to its Smart Meter Rider ("SMR") charges in this proceeding should be considered with the Company's filings for base rate increases in 2004, 2007, 2010, 2012 and 2015. It is apparent that allowing the Company to shift meters cost recovery into the SMR does not reduce PPL's filing for endless base rate increases. In addition, to add injury to insult, PPL has recently filed a petition to increase the Company's distribution system improvement charge ("DSIC") cap from 5.0% to 7.5%. Thus, if the Company has its way, PPL's ratepayers will be buried in rate increases for the foreseeable future.

In her ID, the ALJ also concluded:

In smart meter cases, however, the General Assembly has spoken and the Commission has echoed the importance of giving the additional tools for customer energy usage management to those customers as soon as reasonably possible – no later than April 2025. The emphasis here is on the compliance with Act 129 sooner rather than later. While the plan, as well as its implementation must be reasonable, the timeline for implementation need not carry deployment to the end of the allowed statutory period to save money at the expense of the customers' ability to better manage energy use sooner. The Commission's priority is clear, and implementation as soon as reasonably possible is the Commission's goal.

ID, at 38.

The ALJ is correct – PPL should upgrade its current smart meters by April 2025. However, to conclude that saving the ratepayers' money is not a sufficient reason to delay the *Petition* is extremely troubling. Improved energy management is the goal, but PPL does have functioning smart meters in place today. As set forth above, those current smart meters have the majority of functionality required by statute and desired by the Commission. Saving PPL's ratepayers money should be a paramount concern of this Commission. Especially when, as OSBA witness Knecht testified, the total cost of PPL's proposed smart meter upgrade plan is

currently \$427 million in capital costs and \$121 million in O&M costs, which will result in charges to ratepayers totaling approximately \$810 million. OSBA Statement No. 1, at 4.

Better energy management “sooner” must be weighed against the extreme cost of PPL’s accelerated smart meter upgrade plan.

Exception No. 4: The ALJ erred by failing to clearly establish reasonable protections against ratepayers being double-charged for meters. If PPL’s SMP is approved, the Company’s ratepayers will be faced with fixed base rates charges for declining costs associated with first generation smart meters and rising SMR charges associated with second generation smart meters. (ID, at 42-43)

The existing base rate charge for smart meters reflects \$30.9 million in annual costs for first generation smart meters, which costs will fall to zero between 2017 and 2019. OSBA Main Brief, at 25. In the meantime, PPL proposes to recover costs for the second generation of smart meters in its reconcilable SMR charges. Thus, without regular base rates proceedings to reflect the declining costs of base rates meters costs, ratepayers will face the rising costs for the new smart meters without the offset related to declining costs for the first generation of smart meters. OSBA Main Brief, at 25-26.

The ID does not directly resolve this issue, although the ALJ concludes that the Company should be required to track cost savings that result from the adoption of smart meters. ID, at 43.

Since the OSBA’s briefs were submitted in this proceeding, PPL has filed a base rates case, based on costs for a fully forecast future test year ending December 31, 2016. The Company’s meters costs in that filing presumably represent both the remaining book value of first generation meters costs plus costs incurred through the fully forecast future test year for second generation meters. Thus, beginning in 2017, the meters costs for first generation meters will continue to decline without any adjustment in rates (until the next base rates proceeding),

while new investments in second generation smart meters will be immediately added to SMR charges.

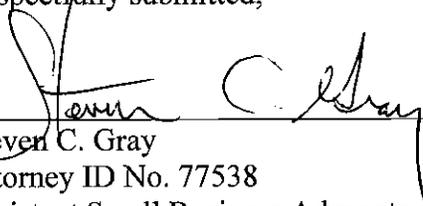
The OSBA respectfully submits that, if the Company's proposal to burden ratepayers with an expensive acceleration of smart meter investment is adopted, the very least the Commission can do is to establish reasonable protections to avoid double-charging ratepayers for both depreciated first generation meters and new second generation meters. The OSBA respectfully recommends that the savings associated with smart meters that the Company is obligated to track should include reductions in costs associated with cost declines for the first generation of meters.

III. Conclusion

In view of the foregoing, the OSBA respectfully requests that the Commission:

1. Grant OSBA Exception No. 1;
2. Grant OSBA Exception No. 2;
3. Grant OSBA Exception No. 3;
4. Grant OSBA Exception No. 4; and
5. Grant such other relief as may be necessary.

Respectfully submitted,



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Dated: May 20, 2015

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

CERTIFICATE OF SERVICE

I certify that I am serving two copies of the foregoing, on behalf of the Office of Small Business Advocate, by e-mail and first-class mail (unless otherwise indicated) upon the persons addressed below:

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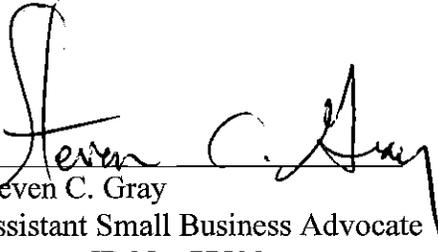
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