COMMONWEALTH OF PENNSYLVANIA

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March 1, 2010

James J. McNulty
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

RE: Petition of Duquesne Light Company for Approval of its Smart Meter Technology Procurement and Installation Plan
Docket No. M-2009-2123948

Dear Secretary McNulty:

Enclosed for filing are the Reply Exceptions of the Office of Consumer Advocate to the Initial Decision issued on January 28, 2010 by the Honorable Robert P. Meehan, in the above-referenced proceeding.

Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully Submitted,

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Enclosures
cc: Honorable Robert P. Meehan

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Duquesne Light Company for Approval of its Smart Meter Technology Procurement and Installation Plan	: : :	Docket No. M-2009-2123948

REPLY EXCEPTIONS
OF THE
OFFICE OF CONSUMER ADVOCATE

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Dated: March 1, 2010

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I. INTRODUCTION

This filing involves the proposed Smart Meter Procurement and Installation (Smart Meter Plan or Plan) Plan of Duquesne Light Company (Duquesne or Company) originally filed on August 14, 2009 in compliance with the requirements of Act 129 of 2008, the relevant portion of which is codified at 66 Pa.C.S. §2807(f) and (g). The matter was referred to the Office of Administrative Law Judge and further referred to Administrative Law Judge (ALJ) Robert P. Meehan. Parties to the proceeding submitted Direct Testimony on October 29, 2009, Rebuttal Testimony on November 6, 2009 and Surrebuttal Testimony on November 12, 2009.[1] An evidentiary hearing was held before Judge Meehan on November 17, 2009. Active parties included Duquesne, the Office of Consumer Advocate (OCA), the Office of Trial Staff (OTS), the Office of Small Business Advocate (OSBA), Duquesne Industrial Intervenors (DII), the Department of Environmental Protection (DEP), Citizen Power, Inc., the Pennsylvania Association of Community Organizations for Reform Now (ACORN), and Constellation New Energy, Inc. and Constellation Commodities Group, Inc. (together, Constellation).

On January 28, 2010, Judge Meehan's Initial Decision (I.D.) in this proceeding was issued. In the I.D., the ALJ made determinations on two issues relevant to the Reply Exceptions that the OCA now files. First, the ALJ recommended that on the matter of how Duquesne should allocate the common costs related to smart meter deployment, that the Commission adopt the "alternate" method put forth by the OSBA under which the common costs related to meter infrastructure would be allocated in proportion to the costs of the meters themselves which were to be directly assigned to the two meter groups that Duquesne had identified -- customers with single-phase meters and customers with multi-phase meters. I.D. at 19-20. In recommending the

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[1] The OCA presented testimony from three witnesses, Christina R. Mudd, Thomas S. Catlin and Dr. Dale E. Swan. A summary of their backgrounds was provided in Footnotes 1, 2 and 3 of the OCA Exceptions. OCA Exc. at 2.

OSBA's alternate method, the ALJ rejected the proposals of both the Company and the OCA. Under the Company's proposal, common costs would be allocated based on the number of meters. Under the OCA's proposal the common costs would be allocated on the basis of energy and demand, which is in proportion to the benefits expected to be received by the respective meter groups.

The ALJ also recommended that any modifications to Duquesne's Plan that were recommended by parties and agreed to by Duquesne be approved by the Commission. I.D. at 37 (Conclusion of Law No. 6). Among the modifications that were recommended to Duquesne and accepted was the OCA's recommendation that with respect to residential customers, Duquesne's smart meter cost recovery mechanism, its Smart Meter Charge (SMC), be structured to recover costs through a combination of a fixed charge and a charge per kilowatthour (kWh). The Company's initial proposal was that the smart meter costs for all customers be recovered through a fixed charge. The Company agreed to revise its SMC for residential customers as the OCA recommended. Duquesne Exh. D-R at 4-5; Duquesne M.B. at 33.

Exceptions to the I.D. were filed by the OCA, OTS, OSBA, DII, DEP, and Citizen Power on February 17, 2010. Among those Exceptions, DII and the OSBA excepted to the ALJ's recommendation to adopt the OSBA alternate method for allocation of common costs. Both parties argued that the Commission should adopt the Company's allocation proposal instead. The OSBA also excepted to the ALJ's recommendation that the Commission adopt the modification agreed to between the OCA and Duquesne regarding the structure of the SMC for residential customers. The OCA now replies to these Exceptions of DII and the OSBA.

II. REPLY EXCEPTIONS

OCA Reply Exception No. 1: DII's Argument to Set Aside the ALJ's Determination on Allocation of Common Costs, In Favor of the Company's Allocation, Should Be Rejected.

In the I.D., the ALJ recommended adopting the OSBA's alternate approach to allocation of common costs. Under the OSBA's alternative approach, the common costs are assigned to the two meter groups in proportion to the meter costs that are directly assigned to each. I.D. at 19-20. DII asserts that neither the I.D. nor OSBA presented evidence regarding the cost impact of OSBA's alternate approach, that OSBA did not demonstrate that its alternate approach was consistent with reasonable cost of service principles and that OSBA did not show that this approach would produce just and reasonable rates. DII Exc. at 8. DII therefore, calls on the Commission to reject the ALJ's determination and, in its place, adopt the Company's proposal to allocate common costs on the basis of number of meters. Id. at 9.

It must be noted that the OCA also excepted to the ALJ's acceptance of the OSBA alternate approach. OCA Exc. at 26-28. Like DII, the OCA argued that the OSBA alternate approach did not follow reasonable cost of service practices. In particular, the OCA maintained that the OSBA approach did not follow the principle of cost causation. Unlike DII, however, the OCA reached an opposite conclusion. Rather than replacing the OSBA alternate method with the Company's method, the OCA called on the Commission to replace the ALJ's recommendation with the OCA's proposed method for common cost allocation, which is on the basis of the benefits to be received from smart meter implementation in the form of energy and demand savings. Id. at 27-28.

Throughout this proceeding, in testimony, briefs and exceptions, the OCA has maintained that its recommended allocation method is consistent with traditional cost of service principles and the purpose of Act 129. *See* OCA M.B. at 37-38; OCA R.B. at 5-8; OCA Exc. at 17-19. This position was best summarized in two pieces of testimony presented by OCA witness Dr. Swan. In his Direct Testimony he stated:

> The underlying tenet of cost of service studies is to allocate common costs among the classes in proportion to the extent to which the classes have caused those costs to be incurred. In the case of a smart metering system, what causes the costs to be incurred are the benefits that are expected to be derived from the deployment of such a system. Thus, we need to look carefully at why these costs are being incurred -- that is, what benefits are anticipated to be derived from these costs. Then, we need to carefully assess the extent to which the various customer classes will reap these benefits.

OCA St. 3 at 3. In his Surrebuttal Testimony, Dr. Swan again explained:

> The fundamental rule in cost of service studies is to allocate costs based on the cause of the costs. The costs at hand would not be incurred if it were not for the expectation that benefits will be realized from the incurrence of those costs. As the expected benefits are what will cause those costs to be incurred, it is fully consistent with normal cost allocation practice to allocate the costs on the expected distribution of those benefits.

OCA St. 3-S at 9 -10.

In support of the Company's cost allocation method, DII cites testimony from Company witness Pfrommer in which he states that the primary functions of the smart meter infrastructure (to collect, back haul, store, manage, maintain and protect data) will require the same resources for all customers and does not depend on the customer class from which the data is collected. DII Exc. at 7. DII also cites the testimony of its own witness Mr. Baudino to the effect that the common smart meter costs are customer or meter-related costs and do not depend on the level of demand and energy consumed and should not be allocated on that basis. Id.

OCA witness Swan addressed these arguments. In response to Duquesne witness Pfrommer's point, Dr. Swan testified:

> Mr. Pfrommer's point seems to be that these infrastructure functions will be required for all meters. I do not disagree with Mr. Pfrommer on this point. However, it does not follow that, just because all meters will rely on the infrastructure, these costs should be allocated on the number of meters. Why have these infrastructure costs been incurred in the first place? The answer is that energy and capacity savings were expected to result. Thus, the fundamental cause of these costs is the expectation of savings and the distribution of those savings benefits provide the proper basis for allocating these common costs among the customer groups.

OCA St. 3-S at 3-4.

In response to DII witness Baudino, Dr. Swan stated:

> Like Mr. Pfrommer, Mr. Baudino concludes that these common costs should be allocated based on the number of customers without asking the fundamental question why these costs are going to be incurred in the first place. As I stated in my direct testimony, the General Assembly made clear that one of the main goals of Act 129 was to reduce the cost and price instability of electric energy for customers. That is, the General Assembly has required that Pennsylvania distribution utilities incur these costs to bring about savings for its customers. That requires that one look beyond mechanical cost allocation approaches to determine the factors that caused these costs to be incurred in the first place. The Commission explicitly recognized this relationship in its June 18, 2009 Implementation Order when it stated that "...we will require the EDC to allocate those costs to the classes whom derive benefit from such costs."
>
> Mr. Baudino fails to ask what factors caused these costs to be incurred in the first place, which is fundamental in observing reasonable cost of service principles. In so doing, I believe he ignores the dictates of the Commission in requiring that costs be allocated to the classes whom derive benefits from those costs.

OCA St. 3-S at 7. Hence, Dr. Swan makes clear that the method of common cost allocation supported by the Company and DII does not reflect fundamental cost of service principles.

Dr. Swan also refers to the two key legal foundations underpinning the OCA's proposed allocation method, the language of Act 129 and that of the Commission's Smart Meter

Procurement and Installation Implementation Order (Implementation Order)[2]. The preamble to Act 129 states that one of the main goals of the Act is to reduce the cost and price volatility of electric energy:

> The General Assembly recognizes the following public policy findings and declares that the following objectives of the Commonwealth are served by this act:
>
> (1) The health, safety and prosperity of all citizens of this Commonwealth are inherently dependent upon the availability of adequate, reliable, affordable, efficient and environmentally sustainable electric service at the least cost, taking into account any benefits of price stability over time and the impact on the environment.

Act 129, 66 Pa.C.S. § 2806.1 *et seq*, pmbl. As the OCA maintained consistently throughout this proceeding, the purpose of this substantial investment in smart meters is not simply to count kilowatt hours and render accurate bills to customers. Rather, it is to reduce overall demand and energy costs for the benefit of all customers. Allocating the common costs of the smart meter program on the basis of energy and demand recognizes the purpose of Act 129 and the cause of the incurrence of these costs. OCA M.B. at 30.

Just as the language from Act 129 made evident that a principal goal of the Act was to produce benefits in the form of reduced costs for energy and demand, the applicable provisions of the Implementation Order indicate the Commission's intention to assign costs to those customer classes who derive the benefit of those costs:

> The Commission will require that all measures associated with an EDC's smart metering plan *be financed by the customer class that receives the benefit of such measures*. In order to ensure that proper allocation takes place, it will be necessary for the utilities to determine the total costs related to their smart metering plans, as discussed in E.1. Once these costs have been determined, *we will require the EDC to allocate those costs to the classes whom derive benefit from such costs*. Any costs that can be clearly shown to

[2] Smart Meter Procurement and Installation, Docket No. M-2009-2092655 (Order entered June 24, 2009).

> benefit solely one specific class should be assigned wholly to that class. Those costs that provide benefit across multiple classes should be allocated among the appropriate classes using reasonable cost of service practices.

Implementation Order at 32. *(Emphasis added)* The OCA's allocation method is consistent with the goals of Act 129 and with the Commission's own directive regarding cost allocation.

Indeed, the Company itself has acknowledged that the benefits that will result from smart meter deployment will be in the form of reductions, and hence savings, in energy use and demand. Dr. Swan testified:

> … the Company's Smart Meter Plan (the Plan) and its application for Federal assistance under the American Recovery and Reinvestment Act (ARRA) both identify other longer term benefits that will accrue to the Company and its customers. These benefits primarily take the form of reductions in energy use and peak period capacity utilization. In response to OCA Data Request IV-4, the Company stated:
>
>> The Company agrees that the implementation of a smart meter system and customer participation in dynamic pricing programs, including time-of-use, real time and critical time pricing options provide an opportunity for customers to reduce their energy costs and reduce PJM capacity and transmission costs.

OCA St. 3 at 3. Allocating costs on the basis of energy and demand will track the benefits to be realized from smart meters, and as has already been explained, allocating costs in accordance with the benefits to be received, is in accord with one of the fundamental cost of service principles, that of determining cost causation.

DII also asserts that the Company's approach to allocation of common costs is in accord with the Commission's long-standing precedent for setting rates based on a utility's cost of providing service and specifically cites the case of Lloyd v. Pa.PUC, 904 A. 2d 1010 (Pa. Commw. Ct. 2006). DII Exc. at 6. DII argued that Lloyd established cost of service as the "polestar" of utility ratemaking and that the OCA's cost allocation method violated Lloyd because it was not based on cost of service. What DII failed to mention, however, is another section of the Lloyd decision which upheld the allocation of Sustainable Energy Fund (SEF) costs to all distribution ratepayers on the basis that all ratepayers benefit from the Fund's activities. Lloyd, Id. at 1024-1027. The SEF costs were charged to all customers on an equal cents per kilowatthour basis, *i.e.*, an energy basis. In the face of an argument by industrial customers that the SEF provided no demonstrable benefits to ratepayers, the Court stated: "What the core of that argument ignores is that the General Assembly has specifically authorized that public service programs such as SEF be funded." Lloyd, at 1025. The Court noted that the purpose of the SEF is "to promote the development and use of renewable energy and clean energy technologies, energy conservation and efficiency which promote clean energy." Lloyd, at 1024. Act 129, which established the Smart Metering program, likewise seeks to further the availability of adequate, reliable, affordable, efficient and environmentally sustainable electric service at the least cost, taking into account the benefits of price stability over time and the impact on the environment. 66 Pa.C.S. § 2806.1, *et seq.* preamble.

The OCA agrees with DII that the ALJ's adoption of the OSBA alternate method for cost allocation should be rejected, but differs as to the recommended outcome. Whereas DII submits that adherence to cost of service principles dictates that the ALJ's recommendation should be replaced with the Company's recommended approach, the OCA maintains precisely the opposite. The OCA submits that its own proposal for allocation of common costs is the method that most closely adheres to cost of service principles in that it is the only method advanced in this proceeding that attempts to assign common costs on the basis of the underlying cause of the smart meter costs. Further, in seeking to allocate costs on the basis of energy and demand savings (the principal benefits to be gained through smart meter deployment), the OCA's method is consistent with the goals of Act 129 and follows the Commission's Implementation Order directive that smart meter costs be allocated to the class or classes that derive the benefit of those costs.

The best summary of the OCA's position was offered by its witness Dr. Swan when he stated:

> Mr. Pfrommer has proposed to allocate the common costs of Duquesne's Smart Meter System on the number of meters because the infrastructure costs are required by all meters. As I stated in my direct testimony, the analyst must go further and ask the fundamental question what has caused the cost to be incurred in the first place, if he wants to follow the basic precept of cost of service studies -- to allocate costs based on the factors that caused those costs to be incurred. In my view, Mr. Pfrommer has failed to do that. The General Assembly has passed Act 129 requiring that smart meter system investments be made because it believed energy and capacity savings would be realized as a result, and in its Implementation Order the Commission directed the "EDC to allocate those costs to the classes whom derive benefit from such costs." (p.32) As I stated in my direct testimony, to arrive at a fair and reasonable allocation of common smart meter costs, one has to "...look carefully at why these costs are being incurred – that is, what benefits are anticipated to be derived from these costs. Then, we need to carefully assess the extent to which the various customer classes will reap those benefits."

OCA St. 3-S at 3-4.

The OCA submits that DII's Exception No. 1 should be rejected insofar as it recommends adoption of the Company's common cost allocation methodology as a replacement for the ALJ's recommendation. Instead, the OCA urges Commission adoption of the OCA's proposed method.

OCA Reply Exception No. 2: <u>OSBA's Argument That the Commission Should Adopt the OSBA's Preferred Approach to Cost Allocation Should Be Rejected</u>.

Although ALJ Meehan's I.D. adopted the OSBA's alternate approach to common cost allocation, the OSBA filed an Exception to the decision stating that the ALJ erred in rejecting what OSBA terms its "preferred approach," the allocation method put forward by Duquesne, to allocate common costs on the basis of the number of meters. OSBA Exc. 3-8. Like DII, OSBA favors the Company's approach because it finds that approach to be consistent with reasonable cost of service and cost allocation practices. In its Exception, OSBA notes that Duquesne has classified the various common smart meter costs as "customer-related" and proposed to allocate those costs to each meter group based on the number of meters in each group. OSBA Exc. at 5-6. OSBA then refers to the testimony of its witness Mr. Knecht who stated that Duquesne's method of allocation was "within the range of normal cost allocation practice for these costs." <u>Id</u>. at 6; OSBA St. 1 at 5. OCA witness Dr. Swan responded to Mr. Knecht's conclusion as follows:

> Mr. Knecht incorrectly arrives at the same conclusion as [Duquesne witness] Mr. Pfrommer and [DII witness] Mr. Baudino -- that the common costs of the Company's smart meter program should be allocated among the customer groups on the basis of the number of meters. However, Mr. Knecht undertakes a much more serious analysis of the issue. As I understand Mr. Knecht's testimony, he recognizes that the Commission's allocation language was particularly concerned with the benefits that would be realized by the different customer classes. He seems to think, however, that an attempt to recognize benefits in the cost allocation process will lead to "a morass of conflicting interpretations" as to what the benefits are and how they are likely to be distributed among the customer classes. (Knecht Rebuttal, p. 3) To avoid that difficulty he concludes that a standard cost allocation approach should be taken. Specifically, he notes that the common costs are metering, billing and customer service costs, which generally are classified as customer-related. He endorses the Company's proposal to allocate these common costs on the

> number of meters or, in the alternative, allocating the common costs on class meter investment. In doing so, however, he too fails to recognize the factor that has caused these costs to be incurred in the first place -- the expectation of capacity and energy savings.
>
> The fundamental rule in cost of service studies is to allocate costs based on the cause of the costs. The costs at hand would not be incurred if it were not for the expectation that benefits will be realized from the incurrence of those costs. As the expected benefits are what will cause those costs to be incurred, it is fully consistent with normal cost allocation practice to allocate the costs on the expected distribution of those benefits.

OCA St. 3-S at 9-10. As with the Duquesne and DII, the OCA submits that the OSBA's allocation analysis is flawed in that it does not dig deep enough to identify the true cause of the smart meter costs, the expectation of energy and demand savings, and then assign the costs accordingly. It bears repeating that the enormous investment in smart meters is not being made simply to more precisely measure kilowatt hours and render accurate bills to customers. The meters that will be replaced are more than adequate for such tasks. Rather, the smart meter investment is being undertaken in order to bring about energy and demand cost savings for customers. Moreover, as the OCA has argued in its testimony and briefs, the savings or benefits derived from smart meters will not be distributed equally among customers. *See* OCA St. 3 at 6; OCA M.B. at 34-35; OCA R.B. at 9-10. Dr. Swan expressed this in testimony:

> The Company makes a fundamental error in its rationale for allocating all of these common costs on the basis of the number of meters. The error is the underlying assumption that all customers will benefit equally from implementation of a smart metering program. That is, the Company assumes that a small residential customer, using, say, 500 kWh a month, will receive the same amount of benefit from the smart metering system as will a large industrial customer with a 50 MW load and an 80 percent load factor. That simply is not the case.

OCA St. 3 at 6.

In OCA's Exhibit DES-1, Dr. Swan provided the number of customers, total energy consumed and the peak demands for customers using single-phase meters and those using multi-phase meters. The Exhibit demonstrated that while the multi-phase meter group is responsible for 63% of total energy usage and either 53% or 54% of peak demand (depending on whether a 1-Coincident Peak or 5-Coincident Peak allocation method is used), the Company has proposed to allocate only 3.8% of the common costs to the multi-phase meter group because that is their share of the total number of meters. Duquesne Exh. D, Exh. WPV-2. In contrast, single-phase meter customers are responsible for 37% of energy usage and 46% or 47% of peak demand, yet they will bear 96.2% of the total common costs because that is their share of the total number of meters. Id. The OCA submits that it defies logic to suggest that the multi-phase meter group will receive only 3.8 percent of the benefits of Duquesne's smart meter program when the savings for customers will be substantially in proportion to the amount of energy and capacity used by those customers.

As further support for the proposition that smart meter benefits will not be equally distributed, Dr. Swan cited information from the Duquesne's ARRA proposal that included specific initial estimates of benefits accruing to each customer class. OCA St. 3 at 7. For Duquesne's initial meter installation, Large C&I customers are estimated to receive 67 to 69 percent of savings; Medium C&I customers 27 to 28 percent of savings; and residential customers only 2.7 to 5.5 percent of the savings. Dr. Swan concluded:

> Thus, the Company's own estimates of the distribution of benefits from the investment in these common costs confirms that some measure of usage should be used to allocate these costs among the two groups of customers and not the number of meters.

OCA St. 3 at 8. Accordingly, the OCA submits that there is a sound basis for allocating common costs not on the basis of number of meters as the Company has proposed, but on the basis of energy and demand as recommended by the OCA.

OSBA's Exception on cost allocation also argues that in two other contemporaneous Smart Meter proceedings where the issue of allocation of common costs was contested, the First Energy and PECO cases, the ALJs, in their I.D.'s, adopted company proposals to allocate the costs on the basis of number of customers, which is akin to Duquesne's proposal to allocate based on the number of meters. OSBA Exc. at 6-8. OSBA argues essentially that the Commission's ruling on the issue should be consistent across EDC cases – that if it accepts the ALJs' recommendations in First Energy and PECO, it should adopt the similar allocation method proposed by Duquesne. Id.

The OCA submits, however, that the company allocation schemes in those cases are as flawed as Duquesne's and therefore provide no basis for determining the allocation method in this case. Rather, the energy and demand-based method the OCA has advanced here and in the other cases, follows cost of service principles and is in accord with Act 129 and the Commission's Implementation Order.

OCA Reply Exception No. 3: The OSBA's Argument That the Smart Meter Charge Residential Rate Design Proposed by the OCA and Accepted by Duquesne Should Be Rejected, Should Itself Be Rejected.

Duquesne's original proposal for recovering the costs of smart meters and the common costs associated with the smart meter infrastructure was to do so through a flat per meter charge for each type of meter, single-phase and multi-phase. Duquesne Exh. D at 4, 9. The smart meter charges would be added to the existing flat customer charge on each customer's bill. OCA witness Catlin testified that existing Commission policy did not favor including indirect costs, such as the smart meter common costs, within the customer charge. Instead, with respect to residential customers, Mr. Catlin recommended that some portion of the smart meter costs should be recovered on a per kWh basis. He suggested that recovery of at least the indirect (allocated common costs) portion of smart meter costs on a kWh basis would be consistent with Commission policy and would reflect the greater benefits that residential customers with greater usage stand to realize from smart meter capabilities. OCA St. 2 at 12. Mr. Catlin confined his recommendations to the smart meter charge for the residential Rate Schedules.

In Rebuttal Testimony, Duquesne witness Pfrommer responded to the recommendation of Mr. Catlin as follows:

> It is the Company's position that meter costs are primarily a fixed cost regardless of whether or not the customer consumes electricity or how much they consume. The Company recognizes, however, that recovering smart meter costs through a fixed monthly charge may create disparate bill impacts. The Company does not object to a smart meter charge for *residential* customers that is a combination of a fixed charge per meter and a charge per kWh. The Company proposes to revise the design of the *residential* Smart Meter Charge to recover the cost of the meter in a fixed monthly charge and all other meter related charges in a charge per kWh. These charges will be known after the Company obtains cost information as it proceeds with the Plan.

Duquesne Exh. D-R at 4-5. (*Emphasis added*)

In its Main Brief, Duquesne reiterated its willingness to revise the design of its residential Smart Meter Charge to recover the cost by way of both a fixed monthly charge and a charge per kwh. Duquesne stated, "The exact split of cost is not known at this point. The redesign [will] be made in the first compliance filing to implement the SMC." Duquesne M.B. at 33.

In the I.D., ALJ Meehan included two Conclusions of Law applicable to this issue. Conclusion of Law No. 5 stated, "Any adjustment, modification, revision to the proposed [Smart Meter Plan] which were made by any party to this proceeding and accepted by Duquesne should be included in a revised [Smart Meter Plan] to be filed with the Commission. Further, in Conclusion of Law No. 6, the ALJ stated, "The Commission should approve Duquesne's acceptance of adjustments, modifications, revisions, etc., to the proposed [Smart Meter Plan] made by the several parties to this proceeding." I.D. at 37.

OSBA's Exception No. 2 to the I.D. argues that the ALJ erred in recommending a blanket approval of all Company-accepted modifications to the Smart Meter Plan because it included acceptance of the OCA's recommendation to modify the method for recovering smart meter costs from residential customers. OSBA Exc. 8-13.

In both its Exception and its Reply Brief, the OSBA objects to the OCA recommendation for a kWh charge for the residential class and Duquesne's acceptance of that recommendation. Id.; OSBA R.B. at 14. The basis of the OSBA's objection is that the Company has not proposed to recover costs on an individual rate class basis, *i.e.*, residential, commercial and industrial. Rather, it has proposed to allocate costs to two meter groups (single-phase and multi-phase) that would cut across traditional rate class lines. The single-phase meter group would include residential and some small commercial customers and the multi-phase meter group would include both small and large commercial and industrial customers. The OSBA maintains that in order to implement the OCA's recommendation for a kwh charge for residential customers, it would require development of a separate residential SMC, essentially segregating smart meter costs for single-phase meter customers between residential and non-residential customers. OSBA Exc. at 10; OSBA R.B. at 14-15. OSBA argues that because no party has presented evidence as to the composition of separate rate class groups (Residential and Small C&I) or how the costs would be allocated to separate rate classes within the single-phase meter group, the

OCA's recommendation and Duquesne's acceptance of it must be rejected. OSBA Exc. at 10, 12.[3]

In response, the OCA submits that OSBA's concerns are unwarranted. The OSBA confuses the issue of rate design for a particular rate schedule with the allocation of costs to the various rate classes. A review of Duquesne's proposed tariff supplement to implement the SMC indicates that the SMC will be applied to the Company's full range of rates across all customer classes – residential, commercial and industrial.[4] Duquesne Exh. WVP-1. The Company already allocated the costs to be collected to each rate schedule and no change was made to that allocation by the rate design proposal that Duquesne accepted. All the Company has agreed to do in this proceeding is to take the portion of the single-phase meter "bucket" that has already been assigned to residential rates RS, RH and RA and collect that portion through a combination of fixed and per kwh charges. While it may be so that Duquesne has not presented details of the mechanics to be employed in carrying out this rate design change, the OCA submits that it is neither a complicated nor controversial matter and can be accomplished in the compliance filing. Indeed, at no time in this proceeding has Duquesne indicated that establishing a separate SMC rate design for residential customers among the single-phase meter group would be difficult or problematic. In terms of designing a rate, this would seem to be fairly routine.

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[3] OSBA further objects to Duquesne's intention to wait until its first compliance filing implementing the SMC to present its redesigned SMC rate for residential customers. OSBA Exc. at 12-13. Since this is an issue of the design of the residential rate, the OCA submits that it should not be overly complicated or difficult to resolve in the compliance process.

[4] For example, the caption on the proposed Fifth Revised Page No. 108 in Duquesne Exhibit WVP-1 is as follows:

RIDER NO. 20 – SMART METER CHARGE

(Applicable to Rates RS, RH, RA, GS/GM, GMH, GL, GLH, L, HVPS and AL)

Given that establishing a separate rate design for residential customers is essentially a mechanical exercise and has no impact on Duquesne's assignment of costs to the different rate schedules within the single-phase meter group, the OCA submits that there should be no concern with allowing the Company to present its redesign of the residential SMC at the time of its first SMC compliance filing. The OCA's recommendation and Duquesne's acceptance of that recommendation, concerns only the method of collecting costs already assigned to Rate Schedules RS, RH and RA.

For all of the foregoing reasons, the OCA respectfully requests that the Commission reject OSBA's Exception No. 2 and, as the ALJ recommended, approve the Smart Meter Plan modification agreed to between Duquesne and the OCA regarding design of the residential SMC.

III. CONCLUSION

For the reasons set forth in these Reply Exceptions, the OCA respectfully requests that the Commission reject the Exceptions offered by DII and the OSBA that call for adoption of Duquesne's proposal for allocating common smart meter common costs. Instead, the OCA urges the Commission to adopt the OCA's proposal for allocating the common costs on the basis of energy and demand. The OCA also respectfully requests the Commission to reject the OSBA Exception that would have the Commission reject the agreement between the OCA and Duquesne to modify the structure of the Smart Meter Charge applicable to residential customers. The OCA urges the Commission to approve that agreement as recommended by the ALJ.

Respectfully Submitted,

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Dated: March 1, 2010

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CERTIFICATE OF SERVICE

Petition of Duquesne Light Company for Approval of its Smart Meter Technology Procurement and Installation Plan	: : :	Docket No. M-2009-2123948

I hereby certify that I have this day served a true copy of the foregoing document, the Reply Exceptions of the Office of Consumer Advocate to the Initial Decision issued on January 28, 2010 by the Honorable Robert P. Meehan, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 1st day of March 2010.

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