**PENNSYLVANIA**

**PUBLIC UTLIITY COMMISSION**

**Harrisburg, PA 17105-3265**

Public Meeting held January 9, 2014

Commissioners Present:

Robert F. Powelson, Chairman

John F. Coleman, Jr., Vice Chairman

James H. Cawley

Pamela A. Witmer

Gladys M. Brown

Petition of Duquesne Light Company M-2009-2123948

for Approval of Its Final Smart Meter

Procurement and Installation Plan

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Petition to Amend Order Approving Settlement of its Final Smart Meter Procurement and Installation Plan (Petition to Amend) filed by Duquesne Light Company (Duquesne or the Company) on August 2, 2013. The Order to which the Petition to Amend refers was entered on May 6, 2013 at this Docket Number (*May 2013 Order*). No Party filed an Answer to the Petition to Amend. For the reasons fully delineated herein, we shall grant Duquesne’s Petition to Amend.

**Background**

On October 15, 2008, House Bill 2200 was signed into law as Act 129 with an effective date of November 14, 2008. Among other requirements, Act 129 required Electric Distribution Companies (EDCs) to file smart meter plans within nine months after the effective date of Act 129. On June 24, 2009, the Commission issued its Smart Meter Implementation Order at Docket No. M-2009-2092655 (*Implementation Order*)*,* which established the standards that EDCs must meet for providing smart meter technology to customers and also provided guidance for meeting those standards.

On August 14, 2009, Duquesne filed its Initial Smart Meter Procurement and Installation Plan (Initial SMP) with the Commission. The Commission entered an Order on May 11, 2010, approving Duquesne’s Initial SMP, with certain modifications. Pursuant to the May 11, 2010 Order, Duquesne was required to file certain periodic updates with the Commission detailing its smart meter implementation status. First, on July 1, 2010, Duquesne filed a Cost Benefit Analysis for the additional smart meter capabilities identified in the *Implementation Order*. Next, on December 29, 2010, Duquesne filed its Application for Approval of Assessment of Needs, Technology Solutions and Vendor Selection (Assessment Application). In the Assessment Application, the Company provided a detailed assessment of its Advanced Meter Infrastructure (AMI) technology requirements, possible solutions and selection of technologies and vendors. Duquesne then filed a Supplement to its Assessment Application on January 31, 2011, wherein it identified Itron, Inc. as its recommended primary contractor to design, construct, implement and oversee the Company’s SMP.

On November 18, 2011, Duquesne filed a status update with respect to its SMP and requested a six month extension, from December 31, 2011, to June 30, 2012, to file the Company’s Final SMP. Duquesne’s request for an extension was granted via a Commission Secretarial Letter issued on December 13, 2011.

**History of the Proceeding**

On June 29, 2012, Duquesne filed its Petition for Approval of its Final Smart Meter Procurement and Installation Plan (Final SMP). The Office of Consumer Advocate and Citizen Power, Inc. filed Answers to Duquesne’s Petition. By Secretarial Letter issued August 17, 2012, the Commission notified the Parties that the matter had been referred to the Office of Administrative Law Judge (ALJ) for further proceedings.

On December 7, 2012, the Parties filed a Joint Petition for Approval of Settlement (Joint Petition) in which the Parties agreed to resolve all issues related to Duquesne’s Final SMP.

By Initial Decision issued on January 24, 2013, ALJ Katrina L. Dunderdale granted the Joint Petition, approving the unopposed settlement without modification. No Exceptions to the Initial Decision were received. However, we exercised our right to review the Initial Decision pursuant to 66 Pa. C.S. § 332(h).

In the *May 2013 Order*, we approved Duquesne’s Final SMP with certain modifications, and approved the Joint Petition, as modified. On August 2, 2013, Duquesne filed the instant Petition to Amend.

**Discussion**

Before addressing the Petition to Amend, we note that any issue that we do not specifically address has been duly considered and will be denied without further discussion. It is well settled that the Commission is not required to consider, expressly or at length, each contention or argument raised by the parties. *Consolidated Rail Corporation v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); *see also*, *generally*, *University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

**Legal Standards**

The Code establishes a party’s right to seek relief following the issuance of our final decisions pursuant to Subsections 703(f) and (g), 66 Pa. C.S. § 703(f) and § 703(g), relating to rehearings, as well as the rescission and amendment of orders. Such requests for relief must be consistent with Section 5.572 of our Regulations, 52 Pa. Code § 5.572, relating to petitions for relief following the issuance of a final decision.

The standards for granting a Petition for Reconsideration were set forth in *Duick v. Pennsylvania Gas and Water Company*, 56 Pa. P.U.C. 553 (1982):

A Petition for Reconsideration, under the provisions of

66 Pa. C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part.

In this regard we agree with the court in the Pennsyl­vania Railroad Company case, wherein it was stated that:

Parties . . . cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically decided against them . . . what we expect to see raised in such petitions are new and novel arguments, not previously heard, or considera­tions which appear to have been overlooked by the Commission.

*Duick,* 56 Pa. P.U.C. at 559 (quoting *Pennsylvania Railroad Co. v. Pennsylvania Public Service Commission*, 179 A. 850, 854 (Pa. Super. Ct. 1935)).

Under the standards of *Duick*, a petition for reconsideration may properly raise any matter designed to convince this Commission that we should exercise our discretion to amend or rescind a prior Order, in whole or in part. Such petitions are likely to succeed only when they raise “new and novel arguments” not previously heard or considerations which appear to have been overlooked or not addressed by the Commission. *Duick*, 56 Pa. P.U.C. at 559.

**Petition to Amend**

In its Petition to Amend, Duquesne requests that the *May 2013 Order* be amended, to the extent necessary, to permit the Company to recover in base rates costs for the implementation of the Company’s new FOCUS project that were previously authorized for recovery under the Smart Meter Charge.[[1]](#footnote-1) Duquesne explains that the FOCUS project encompasses significant upgrades to the Company’s existing IT system architecture in order to provide the back-office foundation necessary to successfully deploy Smart Meters in accordance with Act 129 and Commission requirements. Duquesne states it is seeking this amendment because these IT systems are expected to be in service during the Fully Projected Future Test Year (FPFTY) of its base rate proceeding, also filed on August 2, 2013, at R-2013-2372129. Further, Duquesne requested to the extent any party opposes the relief requested in this Petition, that the Commission consolidate this Petition with the base rate proceeding. Petition to Amend at 1-2, 4.

Duquesne states that its Final SMP included two components: (1) the FOCUS project; and (2) Advanced Metering Infrastructure (AMI) installation. According to the Company, under the FOCUS project, it is replacing its Customer Information System (CIS) with new Oracle systems including Customer Care and Billing, Mobile Workforce Management and Meter Data Management systems. The Company noted that it is also implementing a new Interactive Voice Response system, a Web Self-Service Portal and a Systems Oriented Architecture. Duquesne avers that its existing CIS does not support enhancements such as time-of-use rates, real-time price programs, remote disconnect and reconnect, direct access to price and consumption information or the automatic control of electric consumption. *Id.* at 2-3.

Next, Duquesne asserts that, in its Final SMP, it proposed to continue recovery of costs of developing and implementing smart meter technology in the Smart Meter Charge “until the first base distribution rate case after the final smart meter is installed and fully functional.” *See* Duquesne Light St. No. 2 at 7. However, Duquesne notes that there are components of the FOCUS project that are not directly related to the smart meter deployment and that are not eligible for recovery under the Smart Meter Charge. According to Duquesne, because the FOCUS project will be in service in the second quarter of 2014, and within the beginning of the FPFTY in the base rate case, and because it reflects investment for both smart meter and non-smart meter technology, Duquesne has included the full expenditures for the FOCUS project in the rate base claim within its base rate proceeding, less operations and maintenance expenses previously recovered through the Smart Meter Charge. Duquesne further asserts that no capital costs for FOCUS have been included in the Smart Meter Charge to date as the project is not yet in service. Accordingly, Duquesne proposes to recover all the FOCUS project costs in base rates and seeks modification of the smart meter recovery provisions of the *May 2013 Order.*

**Disposition**

Based upon our review of Duquesne’s Final SMP and the instant Petition to Amend, as well as the lack of opposition to Duquesne’s request, we find that the *Duick* standards have been satisfied. We shall therefore exercise our discretion and approve Duquesne’s Petition to Amend the *May 2013 Order*. We note that the Commission has the authority to amend a prior order pursuant to 66 Pa. C.S. § 703(g). We find Duquesne’s request to be reasonable and in the public interest, considering that the Company has filed a distribution rate increase request and the costs of a project in the nature of the FOCUS project are more appropriately reviewed within the context of a base rate proceeding. The parties in that proceeding will have ample opportunity to review the progress and projected costs of the FOCUS project and to offer adjustments that they believe are warranted.

**Conclusion**

For the reasons set forth, *supra*, we will grant Duquesne’s Petition to Amend and permit the Company to request recovery of its FOCUS costs in base rates, exclusive of costs that have been recovered through the Company’s Smart Meter Charge; **THEREFORE,**

**IT IS ORDERED:**

1. That the Petition of Duquesne Light Company to Amend Order Approving Settlement of its Final Smart Meter Procurement and Installation Plan, filed on August 2, 2013, at Docket No. M-2009-2123948, is hereby granted, consistent with this Opinion and Order.

2. That our Opinion and Order entered on May 6, 2013, at Docket No. M-2009-2123948, is hereby amended to permit Duquesne Light Company to request recovery of its FOCUS costs in base rates, exclusive of costs that have been recovered through the Company’s Smart Meter Charge.

3. In all other respects, our Opinion and Order entered on May 6, 2013, at Docket No. M-2009-2123948 shall remain in full force and effect.

4. That this Opinion and Order shall be served on each of the Parties of record in Duquesne Light Company’s distribution rate increase request proceeding at Docket No. R-2013-2372129.

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**BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: January 9, 2014

ORDER ENTERED: January 9, 2014

1. According to the Company, FOCUS is short for: “For Our CUStomers” project. Petition to Amend at 2. [↑](#footnote-ref-1)