

**Office of the People's Counsel
District of Columbia**

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Elizabeth A. Noël
People's Counsel

July 2, 2009

VIA ELECTRONIC FILING

Dorothy Wideman
Commission Secretary
Public Service Commission
of the District of Columbia
1333 H Street, N.W.
Second Floor West
Washington, D.C. 20005

Re: Formal Case No. 1056, In the Matter of the Application of Potomac Electric Power Company For Authorization to Establish a Demand Side Management Surcharge and an Advance Metering Infrastructure Surcharge and to Establish a DSM Collaborative and an AMI Advisory Group

Dear Ms. Wideman:

Enclosed for filing in the above-referenced proceeding are an original and three (3) copies of the "Motion of the Office of the People's Counsel for Clarification of Commission Authority over AMI Deployment".

If there are any questions regarding this matter, please contact me at (202) 727-3071.

Sincerely,

Laurence C. Daniels
Assistant People's Counsel

Enclosure

cc: Parties of record

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE DISTRICT OF COLUMBIA**

In the Matter of

**The Application of Potomac
Electric Power Company for
Authority To Establish a Demand
Side Management Cost Recovery
Mechanism and an Advanced
Metering Infrastructure Rate
Adjustment Mechanism and To
Establish a DSM Collaborative
and an AMI Advisory Group**

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Formal Case No. 1056

**MOTION OF THE OFFICE OF THE PEOPLE’S COUNSEL FOR
CLARIFICATION OF COMMISSION AUTHORITY OVER AMI
DEPLOYMENT**

Pursuant to Rule 105.8 and, to the extent applicable, Rule 105.9 of the Rules of Practice and Procedure of the Public Service Commission of the District of Columbia (“PSC” or “Commission”),¹ the Office of the People’s Counsel for the District of Columbia (“OPC” or “Office”), the statutory representative of District of Columbia ratepayers and consumers,² hereby requests the Commission clarify the scope and breadth of its authority over AMI deployment since the enactment of the Advanced Metering Infrastructure Implementation and Cost Recovery Act of 2009 (“AMI Act”).

¹ 15 D.C.M.R §§ 105.8 and 105.9 (2007).

² D.C. Code §34-804 (2007).

I. DISCUSSION

On June 18, 2009, Mayor Fenty signed emergency legislation entitled, the Advanced Metering Infrastructure Implementation and Cost Recovery Act of 2009.³ The AMI Act authorizes Pepco to, inter alia, deploy an advanced metering infrastructure in the District of Columbia and establish a regulatory asset for the cost of deploying said AMI network. The AMI Act delineates tasks the Commission shall perform including a sufficiency review of federal stimulus funds and a prudency review.

On June 30, the Commission held an Informational Hearing to hear the parties views on the following topics: (1) timeliness of implementing AMI in the District; (2) AMI technology; (3) Rate of Return; (4) depreciation expense on the AMI meters; (5) undepreciated net book costs of the meters replaced by the AMI meters; and (6) the cost benefits of the AMI implementation.⁴

During the hearing, Commission Chairperson Betty Anne Kane briefly brought up the matter of the effect of the AMI Act. During the discussion with the People's Counsel, Chairperson Kane stated as follows:

We're not here to debate the legislation, but this Commission is clear that our authority remains intact. [The AMI Act] is not preempting anything for this Commission and that this is also not the hearing on the sufficiency of the Federal funds.

³ See attached, "Advanced Metering Infrastructure Implementation and Authorization Emergency Act of 2009", enacted June 19, 2009.

⁴ Formal Case No. 1056, *In the Matter of the Application of the Potomac Electric Power Company for Authorization to Establish a Demand Side Management Surcharge and an Advance Metering Infrastructure Surcharge and to Establish a DSM Collaborative and an AMI Advisory Group*, Order No. 15306, rel. June 18, 2009.

There will be a hearing on that when and if we receive notice that Pepco has received an award from the Federal Government.”⁵

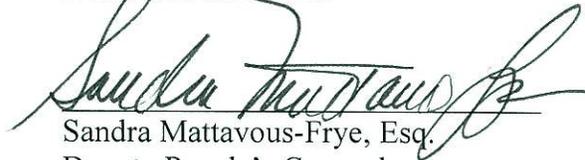
Accordingly, OPC requests the Commission explain the extent of its authority beyond the delineated tasks specified in the AMI Act. OPC respectfully submits the Commission’s explanation will provide the parties with a clearer understanding of the status of the proceeding and facilitate the parties’ efforts to have meaningful participation in this case and otherwise assist the Commission as it moves forward in this proceeding.

II. CONCLUSION

For the reasons stated above, the Office requests the Commission clarify its regulatory authority to approve Pepco’s application to deploy AMI in the District of Columbia.

Respectfully submitted,

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Dated: July 2, 2009

⁵ *Formal Case No. 1056*, Transcript of the Informational Hearing p. 315, June 30, 2009.

AN ACT

*Codification
District of
Columbia
Official Code*

2001 Edition

2009 Fall
Supp.

West Group
Publisher

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To authorize, on an emergency basis, the electric company to implement an advanced metering infrastructure ("AMI"), to authorize the electric company to establish a regulatory asset for the costs, net any federal funding, including depreciation and amortization expense, to reserve the authority of the Public Service Commission to review the prudence of costs accrued by the electric company associated with implementation of AMI, and to require the electric company to net any utility cost savings resulting from AMI deployment from the regulatory asset.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Advanced Metering Infrastructure Implementation and Cost Recovery Authorization Emergency Act of 2009".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Advanced Metering Infrastructure" or "AMI" means a system capable of providing 2-way communication with metering equipment to gather at least hourly energy consumption data on a daily basis for all customers.

(2) "ARRA" means the American Recovery and Reinvestment Act of 2009, approved February 17, 2009 (123 Stat. 115; 26 U.S.C. § 1, note).

(3) "Commission" means the Public Service Commission.

(4) "Consumer" shall have the same meaning as provided in section 101(12) of the Retail Electric Competition and Consumer Protection Act of 1999, effective May 9, 2000 (D.C. Law 13-107; D.C. Official Code § 34-1501(12)).

(5) "Electric company" shall have the same meaning as provided in the fifteenth unnumbered paragraph, beginning "The term "electric company"", of section 8(1) of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, approved March 4, 1913 (37 Stat. 976; D.C. Official Code § 34-207).

ENROLLED ORIGINAL

(6) "Meter Data Management System" means a system that provides a single data repository which can gather data from multiple metering systems and then supply that data to multiple applications such as billing, forecasting, customer service, system operation, and maintenance.

(7) "Regulatory asset" means specific costs that a public utility may defer to its balance sheet and accrue earnings thereon at its authorized rate of return.

(8) "Smart Grid" means the installation of advanced technology to enhance the operation of the electric distribution and transmission system.

Sec. 3. Authorization of Advanced Metering Infrastructure implementation (Smart Grid) and cost recovery.

(a) The electric company may implement an Advanced Metering Infrastructure for all consumers; provided, that the electric company obtains a sufficient amount of federal funds for AMI implementation under the ARRA. The sufficiency of the amount of the federal funds obtained shall be determined by the Commission. The Commission shall make a determination of the sufficiency of federal funds within no more than 60 days after the receipt of notice from the electric company of the amount of federal funds awarded.

(b) The electric company may establish a regulatory asset for the costs, net of the amount of the ARRA funds received, including depreciation and amortization expense, incurred by the electric company between base rate cases for the implementation of Advanced Metering Infrastructure, including the amortization expense of the Meter Data Management System, the depreciation expense on the AMI meters, and the undepreciated net book costs of the meters replaced by the AMI meters. The regulatory asset shall accrue a return at the electric company's authorized rate of return on the balance in the regulatory asset.

(c) The creation of a regulatory asset for Advanced Metering Infrastructure shall not affect the authority of the Commission to review the prudence of costs associated with implementation of AMI. In any Commission proceeding reviewing the costs, the electric company shall have the burden to prove that all of the costs have been prudently incurred.

(d) The electric company shall net any utility cost savings resulting from AMI deployment from the regulatory asset.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director, dated June 2, 2009, as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than

ENROLLED ORIGINAL

90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia

CERTIFICATE OF SERVICE

Formal Case No. 1056, In the Matter of the Application of Potomac Electric Power Company For Authorization to Establish a Demand Side Management Surcharge and an Advance Metering Infrastructure Surcharge and to Establish a DSM Collaborative and an AMI Advisory Group

I hereby certify that on this 2nd day of July, 2009, a copy of the Motion of the Office of the People's Counsel for Clarification of Commission Authority over AMI Deployment was served on the following parties of record by hand delivery; first class mail, postage prepaid, or electronic mail:

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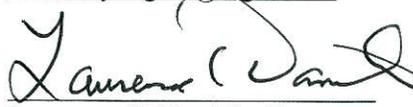
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