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**via Electronic Mail**

Aida Camacho-Welch, Secretary  
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**Re: Advanced Metering Infrastructure (AMI)  
Work Session  
BPU Docket No. EO20110716**

Dear Secretary Camacho-Welch:

Please accept this document as the comments by the New Jersey Division of Rate Counsel regarding the above-referenced docket. By notice dated November 10, 2020, the Staff of the Board of Public Utilities ("Board Staff") provided notice, a proposed agenda and details for an "AMI Work Session" to be held on November 23, 2020. AMI, or Advanced Metering Infrastructure, generally refers to meters that offer two-way communication plus the accompanying information technology and any other necessary components. The Notice indicates Staff's apparent support for AMI, stating that:

AMI, also known generically as "smart meters," holds the potential to be an integral part of New Jersey's clean energy transition, and to benefit customers seeking to better understand and control their own energy usage. NJBPU Staff sees enormous potential for AMI to facilitate carbon reductions, lower costs for customers, and enhance utility response to storms and outages.

The purpose of this Work Session is to hear from interested stakeholders how the Board can ensure that AMI is cost-effectively leveraged to meet its full promise.

The public notice indicates that the work session will be recorded as public record, and invites stakeholders to submit comments on the work session by December 7, 2020. It is unclear

whether Staff intends to issue a report on comments received, or whether Staff intends to use these comments for any other purpose.

As an initial matter, please note Rate Counsel's objection to this "AMI Work Session." There are currently three separate AMI petitions pending as contested cases before the Board. Two petitions are in the discovery phase, while one petition – that of PSE&G, the State's largest utility – is further along. Staff's public notice appears to be an endorsement of AMI before evidentiary hearings even occur, and the technical conference appears to be framed in the context of Staff's endorsement. Accordingly, it is wholly inappropriate for this work session to have occurred at this time, in that it is based on an endorsement from Staff before evidentiary hearings in any of these cases even occur. Simply stated, the work session was highly premature.

Moreover, the manner in which the proceeding was conducted does not comport with due process. Board Staff presented an expert to provide "education" on AMI. The expert's credentials were not fully vetted and there was no opportunity to probe any bias. Any questions directed to the speakers were screened by Board Staff, and not all questions were asked. It is unclear what criteria were used to screen the questions. It is also unclear what the purpose of this work session was. Staff stated that the recorded session would be made part of "the record," but the session lacks any evidentiary value, as there was clearly no opportunity to cross-examine or effectively probe any statement. As a result, the recording clearly cannot be made part of the record in the litigated matters currently pending before the Board and cannot be used as a basis of any decision made by the Board.

## **Introduction**

Notwithstanding Rate Counsel's objections, we offer the following comments as suggestions to the Board on how to maximize the benefits of AMI for the ratepayers who will be paying the costs. Benefits from smart meters vary widely, driven largely by utility choices and regulatory decisions. Some capabilities, for example, when maximized for the customer's benefit may impact a utility's earnings, making it essential for such capabilities to be ordered by regulators. A favorable smart meter benefit-to-cost ratio for customers requires effort from all parties – utilities, regulators, and customers.

These comments offer information on maximizing some of the major customer benefits from smart meters: O&M spending reductions, revenue assurance improvements, demand response increases, energy efficiency improvements, and post-storm service restoration improvements. These comments also offer suggestions on maximizing benefits strategically.

## **O&M Spending Reductions**

Implementation of AMI results in O&M spending reductions in a number of areas, such as reduced costs for meter reading, meter services, call center, linemen, etc. It is important to

recognize, however, that customers will not experience the benefits of these reductions until a utility has completed a rate case. Thus, regulators must ensure proper timing of a utility's next rate case after implementing AMI; otherwise, benefits will inure to shareholders rather than ratepayers. In order to prevent a windfall to utility shareholders, AMI recovery should not be contemporaneous through a clause or surcharge. Instead, cost recovery should occur at the same time benefits are credited to ratepayers, *i.e.*, in a rate case. The Board should also be wary of promises to deliver activity-based spending reductions that are not backed up by actual resource reductions, such as a reduction in personnel or equipment. The Board must ensure that these activity-based reductions result in actual savings for ratepayers.

### **Revenue Assurance Improvements**

Typically, utilities promise to deliver revenue assurance improvements as a result of implementing AMI. These improvements typically include reductions in theft, bad debt, inactive account usage, meter error, etc. Once again, it is important to recognize that customers will not experience the benefits of these reductions until a utility has had a base rate case. Regulators must ensure proper timing of a utility's next rate case after implementing AMI; otherwise, shareholders will receive the benefits instead of ratepayers. For this reason as well, AMI recovery should not be through a clause, but should be reviewed in the context of a rate case.

### **Demand Response**

Voluntary demand response programs can be useful in maximizing the benefits of AMI. Demand response programs are often not in a utility's economic interest. They reduce the need to increase grid capacity, and participants often use less energy over time, reducing sales volume between rate cases. Accordingly, demand response is generally something that must be ordered by regulators.

Recent changes at PJM have severely limited the capacity market value of demand response. The Board should pursue seasonal demand response, pairing summer residential air conditioning with a winter resource to bid into the capacity markets in PJM, as is practiced in New York ISO, in order to maximize the Demand Response potential.

Rate Counsel believes that a particular price signal program – universal peak-time rebate -- merits consideration by the Board. Attention should be given to how much peak time rebate costs and how it is administered. Another program worth exploring is using smart meter data to settle PJM energy charges to competitive retailers.

### **Energy Efficiency**

One of the best energy efficiency programs involving AMI is conservation voltage reduction (CVR). However, it is important to remember that CVR is available without a large AMI deployment. High bill alert programs, offered by distributors or through third party smart phone applications of customers' choosing (populated by AMI data via mandatory compliance with the Connect My Data Standard) tend to be particularly effective.

### **Post-storm Service Restoration Improvement**

Improvements to storm restoration from AMI tend to be modest. Utilities have generally been estimating a 2% improvement in SAIDI from AMI. These modest improvements are made available largely through improved storm outage assessments and improved detection of nested outages. As with most AMI benefits, the level of benefits delivered depends mostly on utility decisions and actions related to utility programs, business processes, and best practices; there are no silver bullets, as demonstrated recently by ConEd, Rockland, and LIPA performance in the face of tropical storm Isaias. Still, other functions have problems. For example, the use of "last gasp" messages to detect single-premises outages is not without fault; there are a lot of false positives which can cost more to investigate than the reliability benefits the function delivers.

### **Strategic Approaches to Maximizing the Benefits of AMI**

Below are ideas for the Board to consider in maximizing the benefits of AMI for the State's ratepayers.

1. As noted above, one of the biggest challenges to maximizing benefits for ratepayers is the rate case timing issue. Shareholders generally retain benefits from AMI until a future rate case, decreasing the benefits to ratepayers in the process and contributing to the notion of AMI as very expensive for ratepayers. The problem is solvable, however. Utilities can be required to wait until their rate case to recover costs, so that the costs and the benefits are charged and credited to ratepayers at the same time. Recovery of AMI costs, without proper review and without the ability to actually realize the benefits of AMI will result in an undue burden to ratepayers and a windfall to shareholders.
2. The Board should also order a concurrent audit designed to measure benefits of AMI. Utilities should be held accountable for their projected benefits. It is essential that any such audit be conducted by an independent firm with no conflict or appearance of conflict.

### **Customer Data Protection**

The Board should continue to protect consumers' individual proprietary information. Given the unprecedented level of consumer information provided by AMI, the Board should maintain the state's strong public policy on protecting consumers, as expressed repeatedly in statutes and regulations. The Board's rules make clear that utilities are prohibited from disclosing, selling, or transferring individual proprietary information, including a customer's energy usage to a third party without the affirmative written consent of the customer or by a Board-approved alternative method. N.J.A.C. 14:4-7.8. See also N.J.S.A. 48:3-85(b). Similarly, a public utility's use of individual proprietary information is limited to specific uses:

- (a) Initiate, render, bill and collect for such services to the extent otherwise authorized to provide billing and collection services;
- (b) Protect the rights or property of the electric power supplier, gas supplier or public utility; and
- (c) Protect consumers of such services and other electric power suppliers, gas suppliers or electric and gas public utilities from fraudulent, abusive or unlawful use of, or subscription to, such services.

[N.J.S.A. 48:3-85(b)(5).]

The limited use of customer information does not permit disclosure to third parties even in these specific circumstances.

Given the limits set on customer data and the strong statutory mandate of customer privacy, the Board should first focus on strengthening its rules to account for AMI integration, including addressing how customer consent should be sought and by whom. At a minimum, it is imperative that customer consent be express, written and limited to the purpose and person or entity seeking the information. Consumers should also be able to easily revoke their consent at any time. Additionally, customer consent should be deemed to have expired after a reasonable amount of time and reauthorization sought, or alternatively, the customer should be provided with an annual reminder of the prior authorization along with an opportunity to opt out. Moreover, a customer's individual proprietary information has market value and the Board should unambiguously state the data collected and transmitted by smart meters belongs to customers. Accordingly, the Board's inquiry regarding access to individual proprietary information should consider the value of individual proprietary information being disclosed.

In light of the statutory limits on the disclosure of customer individual proprietary information and the increased amount of data that smart meters will be able to provide, the Board should update its rules to maintain customer privacy protection in a manner consistent with the requirements of N.J.S.A. 48:3-85(b). The updates should allow the utility customer to be in control of their individual proprietary information.

**Conclusion**

In its consideration of AMI, it is important for the Board to weigh the costs of AMI that ratepayers will be required to pay, against the benefits that ratepayers will receive. AMI is an expensive technology and the benefits to customers must be significant in order for universal deployment to make sense. We urge the Board to make this consideration a priority. Rate Counsel thanks the Board for the opportunity to submit these comments.

Respectfully submitted,

STEFANIE A. BRAND

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