BEFORE THE PENNSYLVANIA HOUSE CONSUMER AFFAIRS COMMITTEE

Testimony of

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Regarding

Smart Meters
House Bills 2186 and 2188

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Chairman Godshall, Chairman Preston
and Members of the House Consumer Affairs Committee

My name is Sonny Popowsky and I am the Consumer Advocate of Pennsylvania. Thank you for permitting me to testify before this Committee at this hearing regarding the deployment of "smart meters" for Pennsylvania electricity consumers and House Bills 2186 and 2188.

Unlike traditional electric utility meters that typically were read manually by utility personnel, with usage reported on a monthly basis, the new generation of smart meters provides communication in both directions between the utility and its customers and allows price and usage information to be recorded on an hourly or real time basis. These meters, along with other "smart grid" investments, can also provide a number of operational benefits to utilities with respect to outage management and other functions.

Although the issue of smart meters first came to prominence before this Committee and the Members of the General Assembly in House Bill 2200, the legislation that led to the enactment of Act 129 of 2008, Pennsylvania actually has had a form of smart meters in place for all the customers of one major utility, PPL, since 2004. PPL made a business decision to upgrade its metering capabilities throughout its service territory well before Act 129 was promulgated. The net costs of that metering program have been included in PPL's regulated distribution rates since the conclusion of that Company's base rate case in 2004. Two other utilities, PECO and Duquesne, developed automated meter reading capabilities prior to 2008, but their systems are not yet capable of providing much of the more advanced functionality permitted by the PPL system.

In Act 129 of 2008, the General Assembly determined that all customers of the major Pennsylvania electric distribution companies should have advanced smart meters installed in

their homes and businesses, but importantly the General Assembly gave the utilities up to 15 years to complete that deployment. At the same time, the General Assembly authorized the companies to request automatic rate surcharges to begin to recover the costs of their smart meter deployment programs as they were incurred.

The federal government has also promoted the deployment of smart meters and other smart grid technology through substantial grants to utilities under the federal stimulus legislation, the American Recovery and Reinvestment Act of 2009 (ARRA). One Pennsylvania utility – PECO – received a $200 million grant, the maximum approved under ARRA, to accelerate the deployment of smart meters throughout its service territory. Several other Pennsylvania utilities received ARRA grants for smart grid projects in lesser amounts.

In part as a result of the $200 million ARRA grant, PECO has developed the most ambitious schedule to join PPL in completing the installation of truly advanced meters throughout its service territory. The other major Pennsylvania utilities – Duquesne and the four FirstEnergy companies (Met-Ed, Penelec, West Penn, and Penn Power) -- have adopted a less aggressive timeframe to meet the statutorily mandated deadlines of Act 129. All of the utilities, however, have requested and received the right to begin collecting costs through a surcharge on customer bills as those costs are incurred.

As the introduction of the legislation that is the subject of this hearing exemplifies, the implementation of the smart meter mandates of Act 129 has not been without controversy. My Office has received a number of questions and complaints from consumers regarding the smart meter surcharges that have begun to appear on customers' bills and the need for and cost of these new meters. I spoke with one PECO customer just recently who informed me in no uncertain terms that she did not ask for a new meter; that she did not need a new meter; and that she

certainly did not want to pay for a new meter in her home. Indeed, in several states that have begun to implement this new technology across the Nation, there have been objections raised by a growing number of consumers regarding not just the cost of the new meters, but also their impacts on the privacy of customer information as well as health concerns arising from their operation.

House Bill 2188, as originally introduced, would attempt to address some of these concerns by allowing individual customers to "opt out" of receiving smart meter technology on the mandatory schedule established by Act 129. While I certainly understand and appreciate the sponsors' desire to address their constituents' concerns on this issue, my own concern with the opt-out approach is that the costs involved in allowing individual customers to reject these meters may be much greater than the costs of installing and operating them on a uniform basis. That is, once a utility commits to the deployment of advanced metering technology in a geographical area or throughout its service territory, then it is far more economical to serve all customers in that area through this technology, rather than serving all but one or a few such customers. The most obvious example of that result is meter reading. If a company can read the meters of 100 neighboring customers instantaneously through an electronic signal, but then has to send out an employee to read the meter of one customer in that neighborhood, then the cost to the utility of reading that one meter would be substantial. The question then is who should pay those additional costs, the one customer who opted out of receiving a smart meter or the remaining customers who have permitted the installation of the meters in their homes?

This issue has come up in a number of other states and, to my knowledge, each of the states that has allowed customers to opt out of receiving a new meter has required the individual opt-out customers to pay substantial up-front and monthly fees – over and above their normal

monthly bills – to cover at least a portion of those additional costs. The alternative, as I said, is to charge those costs to other customers. This would be particularly true in Pennsylvania, where it is clear under Act 129 that utilities have a right to recover their incremental smart meter costs from ratepayers.

I would note in this regard that an amended version of HB 2188 that was provided to the witnesses at today's hearing by the Committee Staff would change this dynamic by allowing the utilities themselves to refrain from implementing the metering requirements of Act 129. That is, the mandatory deployment requirement imposed on the utilities under the Act would become voluntary. If a utility chooses not to deploy smart meters throughout its service territory, individual customers might have no need to opt out of accepting such a meter in their own home. Here, I think the question is one of both timing and costs. The fact is that each of our major electric utilities already has filed a meter deployment plan that has been approved by the Public Utility Commission, and each utility already has taken steps to varying degrees to implement those plans. As I mentioned earlier, some of our utilities are further along in those plans than others, but to the extent that those utilities already have incurred significant costs to implement their plans, my concern is that some of these costs might become "stranded" investments. That is, some of the costs already incurred might not serve a useful purpose to consumers but would nevertheless be charged to those customers because they were incurred under plans that were approved by the Commission under the prior statutory mandate.

Finally, turning to HB 2186, I believe that this Bill is intended to ensure that government agencies are not permitted to obtain data from customer meters without customer consent. I have no objection to this provision, although it is possible that government agencies are already covered by the language of Act 129 that prohibits release of such data without customer consent

"to third parties." I agree that the release of data that is obtained from smart meters should be controlled by the consumer and should only be utilized by the regulated utility for necessary billing and operational purposes. That data should not be provided to any third party without customer consent – and by that I mean affirmative consent. My Office has taken the position that smart meter data should not be released to a third party unless the customer affirmatively requests that such data be released. This would occur, for example, when a customer chooses to release personal usage information to a third party generation supplier who offers to provide the customer rates that vary by the time of day or day of the week and therefore requires access to the customer's real time usage information. The only exception, in my view, should be for law enforcement authorities that secure lawful access to customer data through appropriate warrant and subpoena procedures.

In closing, I believe that the issues that are addressed by House Bills 2186 and 2188 are important to consumers and well worthy of the attention of this Committee and the Members of the General Assembly. At the same time, I believe it is essential that any resolution of these issues should be accomplished in a way that does not impose substantial additional costs on consumers. I look forward to working with the Committee on these issues and I would be happy to answer any questions you may have at this time.

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