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VIA ELECTRONIC MAIL

Honorable Maureen Leary
Honorable Dakin Lecakes
State of New York
Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

Re: Cases 18-E-0067 & 18-G-0068 - Orange and Rockland Utilities, Inc.
Electric and Gas Base Rate Cases

Dear Judges Leary and Lecakes:

By this letter, Orange and Rockland Utilities, Inc. (“Orange and Rockland” or the “Company”) responds to Ms. Deborah Kopald’s application to you dated October 18, 2018 for the issuance of a subpoena duces tecum (“Application”). Specifically, Ms. Kopald seeks from Aclara Meters LLC, Aclara Smart Grid Solutions, LLC, and Aclara Technologies LLC. (collectively “Aclara”), a myriad of documents including (1) any document tangentially related to a study, conducted by Leferink F, Keyer C, and Melentjev A., concerning alleged static energy meter errors caused by conducted electromagnetic interference, (2) any study performed by Aclara relating to how dimmer switches affect the performance of meters, and (3) documents regarding meter failure rates. For the reasons set forth below, the Application should be denied in its entirety.

The Application displays the same fundamental deficiency exhibited by many of Ms. Kopald’s other pleadings in these proceedings - - it seeks documents that are wholly outside the scope of issues relevant to these base rate proceedings. As the Administrative Law Judges (“ALJs”) previously (and correctly) determined,¹ the Advanced Metering Infrastructure (“AMI”) related issues appropriate for consideration in these proceedings are limited to Orange and Rockland’s capital costs and expenses related to the AMI program and the design of the proposed rates, including AMI costs and opt-out fees. Ignoring this

¹ Cases 18-E-0067 and 18-G-0068, Ruling Granting in Part and Denying in Part Kopald Motion to Compel O&R and DPS Staff Responses to Information Requests (issued October 11, 2018) (“Ruling”) (p. 14).

direction, through the Application Ms. Kopald improperly seeks the production of documents relating to the operation of meters (including how dimmer switches affect their operation), the failure rates of meters, and the service lives of meters. The ALJs previously ruled that these sort of functionality issues are inappropriate for pursuit in these proceedings.²

Orange and Rockland also would note that the Commission has approved, after thorough testing by Staff, the use of the Aclara meters which are the subject of the Application. As a result, the Commission rejected the meter safety and accuracy concerns previously raised by Ms. Kopald.³ Accordingly, the ALJs should not allow Ms. Kopald to pursue these very same issues through the Application.

Ms. Kopald seeks to justify the Application (p. 4) by alleging that the production of the documents she requests “will help to assess the proper depreciation rate of these meters.” Although not particularly well articulated, Ms. Kopald appears to be arguing that these documents may bear on the service lives, and thereby the depreciation rates, of these Aclara meters. This purported justification is not persuasive.

As noted in the direct testimony of the Company’s Depreciation Panel (pp. 7-8), the methods and procedures the Company used in the depreciation study submitted in these proceedings are the same as those used in past depreciation studies conducted by the Company, as well as depreciation studies presented by other utilities in base rate proceedings before the Commission. Staff did not contest this fact.

In its response to interrogatory Kopald-4-86-Supp1, Orange and Rockland discussed the useful life of Smart Meters, including the Aclara meters that Orange and Rockland is installing.

The manufacturer of the Smart Meters (*i.e.*, Aclara) that the Company is deploying indicated that they have a typical useful life of 20 years. In addition, most AMI deployments across the United States use a 20-year meter life span and business case. The Company used this 20-year life in calculating the depreciation expense associated with AMI meters. The 20-year life of AMI meters did not factor into the Company’s calculation of the opt-out fees.

The fact that individual Smart Meters may operate for less than 20 years does not undermine the 20-year service life assumption used by the Company and accepted by Staff. The existence of survivor curves in depreciation studies underscores the fact that utility assets, including Smart Meters, do not have uniform service lives. In light of the general industry-wide acceptance of this 20-year service life standard, there is no basis to authorize Ms. Kopald to set sail on the expansive fishing expedition described in the Application.

² Ruling, p. 15.

³ Case 17-M-0178 - *Petition of Orange and Rockland Utilities, Inc. for Authorization of a Program Advancement Proposal*, Order Denying Petition (issued May 21, 2018)(pp. 13-14).

For the reasons stated above, the Application should be denied in its entirety. Please contact me if you have any questions regarding this matter.

Very truly yours,

/s/ John L. Carley

John L. Carley
Assistant General Counsel

c. Service List (via electronic mail)