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May 31, 2017

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

VIA ELECTRONIC FILING

RE: En Banc Hearing on Alternative Ratemaking Methodologies; Docket No. M-2015-2518883

Dear Secretary Chiavetta:

Attached for filing with the Pennsylvania Public Utility Commission are the Comments of Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, Philadelphia Area Industrial Energy Users Group, PP&L Industrial Customer Alliance, and West Penn Power Industrial Intervenors in the above-captioned proceeding.

If you have any questions concerning this matter, please contact the undersigned. Thank you.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By Charis Mincavage
Charis Mincavage

CM:cf
Enclosure
c: Chairman Gladys M. Brown (Via e-mail and First Class Mail)
Vice Chairman Andrew G. Place (Via e-mail and First Class Mail)
Commissioner John F. Coleman, Jr. (Via e-mail and First Class Mail)
Commissioner Pamela A. Witmer (Via e-mail and First Class Mail)
Commissioner Robert F. Powelson (Via e-mail and First Class Mail)

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Notice of *En Banc* Hearing on Alternative Ratemaking Methodologies	:	Docket No. M-2015-2518883

ADDITIONAL COMMENTS OF THE MET-ED INDUSTRIAL USERS GROUP, PENELEC INDUSTRIAL CUSTOMER ALLIANCE, PHILADELPHIA AREA INDUSTRIAL ENERGY USERS GROUP, PP&L INDUSTRIAL CUSTOMER ALLIANCE, AND WEST PENN POWER INDUSTRIAL INTERVENORS

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Dated: May 31, 2017

I. INTRODUCTION

On December 31, 2015, the Pennsylvania Public Utility Commission ("PUC" or "Commission") published a Notice of an *En Banc* Hearing on Alternative Ratemaking Methodologies ("Notice").

On March 3, 2016, the PUC held the *en banc* hearing to obtain information on the efficacy and appropriateness of alternative ratemaking methodologies, such as revenue decoupling (also referred to herein as "decoupling").[1] The purpose of the *en banc* hearing was to permit participants to inform the Commission on the following rate issues: "(1) whether revenue decoupling or other similar rate mechanisms encourage energy utilities to better implement energy efficiency and conservation [("EE&C")] programs in the Commonwealth; (2) whether such rate mechanisms are just and reasonable and in the public interest; and (3) whether the benefits of implementing such rate mechanisms outweigh any costs associated with implementing the rate mechanisms."[2]

Pursuant to the Commission's Notice,[3] which provided interested parties with the opportunity to submit Comments on proposed alternative ratemaking methodologies, the Industrial Energy Consumers of Pennsylvania ("IECPA"),[4] the Duquesne Industrial Intervenors ("DII"), the Met-Ed Industrial Users Group ("MEIUG"), the Penelec Industrial Customer Alliance ("PICA"), the Penn Power Users Group ("PPUG"),[5] the Philadelphia Area Industrial Energy Users Group ("PAIEUG"), the PP&L Industrial Customer Alliance ("PPLICA"), and the West Penn Power

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[1] While the Commission advertised this *en banc* hearing as a discussion on alternative ratemaking methodologies, revenue decoupling remained the focus of the testimonies and the Commissioners' discussions. Therefore, these Comments will focus on revenue decoupling; however, the arguments presented herein would also apply to most alternative ratemaking methodologies.

[2] Notice of En Banc Hearing on Alternative Ratemaking Methodologies, Docket No. M-2015-2518883 (Dec. 31, 2015), available at: http://www.puc.state.pa.us/filing_resources/issues_laws_regulations/alt_ratemaking_methodologies.aspx.

[3] *Id.*

[4] IECPA has not participated in the preparation of these Additional Comments. As a result, the opinions expressed herein should not be read to include IECPA's perspective on this matter.

[5] DII and PPUG were not involved in the preparation of these Additional Comments. As a result, the opinions expressed herein should not be read to include DII's or PPUG's perspectives on this matter.

Industrial Intervenors ("WPPII") filed Joint Comments with the PUC recommending that the Commission firmly decline to pursue decoupling. *Joint Comments of the Industrial Energy Consumers of Pennsylvania, et al.*, Notice of *En Banc* Hearing on Alternative Ratemaking Methodologies, Docket No. M-2015-2518883 (Mar. 16, 2016) ("Joint Comments"). In addition, the Joint Comments indicated that if the PUC or the General Assembly were to adopt revenue decoupling, it must exclude large commercial and industrial ("Large C&I") customers from such alternative ratemaking in order to account for these customers' unique EE&C needs. *Id.*

On March 2, 2017, the PUC issued a Tentative Order which summarized the March 3, 2016, *en banc* hearing and provided next steps for this proceeding.[6] Specifically, the Commission requested additional input from stakeholders regarding their experiences with various forms of alternative ratemaking methodologies, including revenue decoupling. The PUC also requested responses from stakeholders on the reasonableness and efficacy of employing certain rate methodologies specifically for electric, natural gas, water, and wastewater utilities. By Secretarial Letter dated March 23, 2017, the PUC indicated these further comments should be filed on or before May 31, 2017.

Accordingly, MEIUG, PICA, PAIEUG, PPLICA, and WPPII (collectively, the "Industrials")[7] hereby respectfully submit the following Additional Comments in response to the Commission's March 2, 2017, Tentative Order. The Industrials reviewed comments filed by other parties in support of decoupling; however, those comments in favor of decoupling failed to address or adequately resolve the Industrials' customer-oriented concerns. As noted below, decoupling

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[6] Tentative Order, Docket No. M-2015-2518883 (Mar. 2, 2017).

[7] As indicated in Footnote 4 of this pleading, IECPA has not participated in these Additional Comments. Furthermore, as indicated in Footnote 5 of this pleading, DII and PPUG were not involved in the preparation of these Additional Comments. As a result, the opinions expressed herein should not be read to include IECPA's, DII's, or PPUG's perspectives on this matter.

cannot be implemented for several reasons, including: (i) decoupling is an illegal practice under the current Commonwealth statutory framework; (ii) decoupling constitutes single-issue ratemaking and prevents the Commission from ensuring that rates are just and reasonable; (iii) even if the General Assembly were to modify its statutes to permit decoupling, it would be incredibly difficult to reconcile decoupling with just and reasonable ratemaking requirements and cost of service principles; and (iv) decoupling constitutes poor policymaking and undercuts reliability imperatives.

II. COMMENTS

By and through its March 2, 2017, Tentative Order, the Commission seeks further comment from stakeholders on their experiences with, and perspectives on, various alternative ratemaking methodologies, including: revenue decoupling; lost revenue adjustment mechanisms; straight fixed/variable ("SFV") pricing; cost trackers, choice of test years; multiyear rate plans; demand charges; standby and backup charges; and demand-side management ("DSM") performance incentive mechanisms. With regard to electric distribution companies ("EDCs"), the Commission requested stakeholder input on the following issues:[8]

> 1. Identify the alternative rate methodology(ies) each EDC is currently using, including the number and types of automatic adjustment clauses, cost trackers and separate cost recovery mechanisms. Also identify, as a percentage of total costs or revenues, the costs or revenues each separate mechanism recovers.
> 2. If any, what alternative rate methodology(ies) could and should be used by EDCs? Regarding the proposed methodology(ies), please provide specific comments on:
>   a. The potential advantages;
>   b. The potential disadvantages;
>   c. The effects on all rate classes, with a specific focus on small volume, low-income, income-challenged[]

[8] Tentative Order, pp. 14-15.

and large C&I customers, as well as a discussion regarding any potential inter- or intra-class cost shifting;

d. The effects on existing energy efficiency and peak demand reduction programs; and

e. The effects on the number and/or frequency of base rate case filings, as well as possible rate increases or decreases.

3. How would the particular alternative rate methodology(ies) interact with existing mechanisms or traditional ratemaking principles currently in use or available to EDCs (e.g., the distribution system improvement charge (DSIC) or FPFTY, etc.)?

4. How would such a methodology be implemented? Specifically, in what timeframe? Is there a need for a gradual implementation or phasing-in process?

In addition, the PUC requested further comment from parties on: (1) whether the PUC should "proceed with adopting policy statements identifying guidelines for preferred alternative rate methodologies for each utility type, under identifiable conditions, and as permitted by law"; or (2) whether the PUC should "initiate rulemakings to require a specific alternative rate methodology for specific utility types or specific rate classes" and under which specific conditions.[9]

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[9] *Id.* at p. 18.

Because alternative ratemaking methodologies, particularly revenue decoupling, have the potential to substantially impact the rates and stability of charges to Large C&I consumers, the Industrials strongly oppose adoption and implementation of decoupling.[10] Supporters of revenue decoupling generally focus on their own policy or business goals when advocating for this alternative ratemaking methodology, and, as a result, fail to address critical drawbacks associated with this alternative ratemaking methodology. The Industrials addressed these shortcomings in their Joint Comments and reiterate those issues in these Additional Comments.

First and foremost, the Commonwealth's statutory framework does not allow for revenue decoupling. Act 129 of 2008, 66 Pa. C.S. §§ 2806.1(k)(2)-(3), expressly forbids revenue decoupling for EE&C plans, and the "smart meter" provision of Act 129, 66 Pa. C.S. § 2807(f)(4), prohibits automatic recovery of decreased revenues between base rate cases. Joint Comments, pp. 3-4. Otherwise stated, statutory law expressly forbids EDCs from employing decoupling as a practice. *Id.* (citing 66 Pa. C.S. § 2806.1(k)(2)-(3); 66 Pa. C.S. § 2807(f)(4)). The Commission cannot simply change its regulations when the statutory framework does not permit it. Absent legislative change, alternative ratemaking strategies like decoupling are not permissible as a function of law.

[10] Although the Industrials elucidate their concerns with decoupling in the context of EDCs, the Industrials note that their customer-oriented concerns with decoupling also apply equally to natural gas utility services.

Furthermore, aside from the requirements of Act 129, the Commission has a fundamental responsibility to ensure rates are just and reasonable. *Id.* at p. 4 (citing 66 Pa. C.S. § 1301). For EDCs, the primary way in which the Commission can review a utility's costs and proposed rates, and therefore ensure customers' rates are just and reasonable, is through a base rate proceeding filed pursuant to 66 Pa. C.S. § 1308. *Id.* at pp. 4-5. Revenue decoupling obstructs the PUC's ability to meet this statutory mandate. Decoupling constitutes single-issue ratemaking, a practice where only one element of the ratemaking equation is reviewed between rate cases and the customers' rates are adjusted to reflect only changes in that element. *Id.* at p. 5. Under a decoupling practice, the Commission would review only a portion of the general ratemaking equation (conservation or reduced sales) and effectively assume that a downward change in those variables resulted in reduced profits for the utility. *Id.* For this reason, revenue decoupling is single-issue ratemaking because it only considers conservation, or reduced sales, in determining the rate while ignoring other variables that may offset the revenue decrease. *Id.* The Commonwealth has generally opposed single-issue ratemaking due to its propensity to result in unjust and unreasonable rates. *Id.* (citing *Nat'l Fuel Gas Distrib. Corp. v. Pa. Pub. Util. Comm'n.*, 464 A.2d 546, 567 (Pa. Commw. Ct. 1983) (indicating that in the context of tariff supplements, consideration of expense and revenue items in isolation may result in confiscatory rates) and *Phila. Elec. Co. v. Pa. Pub. Util. Comm'n.*, 502 A.2d 722, 727-28 (Pa. Commw. Ct. 1985)). Stakeholders have already blocked previous attempts to initiate revenue decoupling in the Commonwealth on at least two occasions. *See id.* at pp. 6-8.

Even if the General Assembly were to modify its statutes to permit implementation of decoupling, it would be incredibly difficult to reconcile alternative ratemaking methodologies with just and reasonable ratemaking requirements and cost of service principles. Public utility regulation exists in order to safeguard all customers, and decoupling directly conflicts with that purpose by endangering consumers. *John E. Juliana v. Pa.-Am. Water Co.*, 1993 Pa. PUC LEXIS 28, *9 ("The very purpose of public utility regulation is to protect the public interest by ensuring the public receives adequate service at reasonable rates") (citing *Metropolitan Edison Co. v. Pub. Serv. Comm'n*, 191 A. 678 (1937). In addition, revenue decoupling would violate cost causation principles because it causes intra-class and inter-class cost-shifting. Joint Comments, p. 8. Because revenue decoupling establishes rates that increase or decrease depending on overall customer consumption, there is a risk that Large C&I users who are already maximizing every possible energy reduction technique will become subjected to unpredictable price fluctuations simply because other classes have altered their consumption levels. In fact, because revenue decoupling mechanisms increase the rate per kilowatt hour as conservation levels increase, revenue decoupling actually provides a perverse incentive for Large C&I customers that counteracts the EE&C measures that they have voluntarily adopted over many years. *Id.* at pp. 2 and 12.

The Industrials' Joint Comments further noted that decoupling constitutes poor policymaking. Many states have either adopted and subsequently eliminated decoupling or rejected adoption of decoupling altogether. *Id.* at pp. 10-11. The Commonwealth has already addressed energy efficiency and conservation measures through rate design and Act 129. *Id.* at p. 11. As a result, decoupling would be duplicative regulation at best, offering no additional benefits to the current regulatory framework. Moreover, no evidence has been produced which exemplifies that decoupling, alone, is effective enough to realize measurable and meaningful gains in EE&C. *Id.* at pp. 13-15.

In addition, serious risk exists that revenue decoupling will undercut reliability imperatives; a utility's revenues positively correlate to its provision of service: if a utility provides consistent, high quality service, customers will consume more power and a utility's revenues will rise. *Id.* at p. 16. If decoupling is implemented, it creates an inverse relationship between consumption and price. Such methodology endorses mediocrity and encourages utilities to become indifferent to their fundamental business: providing safe, reliable, and adequate power. *Id.* That indifference can lead to reliability issues, and audits initiated by the Commission have demonstrated that utilities need to impose remedial measures. *Id.*

As a result of these issues, the Industrials recommended that if decoupling is implemented, it should exclude Large C&I customers. *Id.* at pp. 17-18. Large C&I customers manage their own EE&C programs efficiently, and those programs (which are tailored to their business models) produce considerable savings and reduce consumption. *Id.*

The Industrials' positions on decoupling have remained unchanged since their Joint Comments were filed on March 16, 2016. As a result, the Industrials reiterate the assertions made in their Joint Comments and strongly oppose any implementation of decoupling by EDCs. The Industrials cannot speak to whether any EDCs currently apply decoupling or other alternative rate methodologies, but while some of the Commission's suggestions, such as SFV pricing and demand charges, may be fully consistent with traditional cost-of-service based rates[11] and rate design, revenue decoupling is most certainly not.

[11] Delivery rates that are designed and allocated to follow cost-of-service principles are better methods to address any disincentive that the utility may have to implementing EE&C measures. Under cost-of-service based rates, the utility's fixed costs are recovered through a customer charge, while any costs that vary based on usage are recovered through a demand or kWh/Mcf charge. Current PUC policies permit utilities to recover only a portion of the fixed costs through a customer charge for many rate schedules, including some Large C&I rates.

III. CONCLUSION

WHEREFORE, the Met-Ed Industrial Users Group, the Penelec Industrial Customer Alliance, the Philadelphia Area Industrial Energy Users Group, the PP&L Industrial Customer Alliance and the West Penn Power Industrial Intervenors respectfully request that the Pennsylvania Public Utility Commission consider these Additional Comments in evaluating the necessity of establishing revenue decoupling as an alternative ratemaking methodology.

Respectfully Submitted,

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