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March 16, 2016

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

**VIA ELECTRONIC FILING**

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

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission are the Joint Comments of the Industrial Energy Consumers of Pennsylvania ("IECPA"), the Duquesne Industrial Intervenors ("DII"), the Met-Ed Industrial Users Group ("MEIUG"), the Penelec Industrial Customer Alliance ("PICA"), the Penn Power Users Group ("PPUG"), the Philadelphia Area Industrial Energy Users Group ("PAIEUG"), the PP&L Industrial Customer Alliance ("PPLICA"), and the West Penn Power Industrial Intervenors ("WPPII").

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

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By   
Susan E. Bruce

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)

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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

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Dated: March 16, 2016

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## I. INTRODUCTION

On March 3, 2016, the Pennsylvania Public Utility Commission ("PUC" or "Commission") held an *en banc* hearing to seek information from experts on the efficacy and appropriateness of alternative ratemaking methodologies, such as revenue decoupling (also referred to herein as "decoupling").<sup>1</sup> The purpose of the 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." 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](http://www.puc.state.pa.us/filing_resources/issues_laws_regulations/alt_ratemaking_methodologies.aspx).

As discussed herein, supporters of revenue decoupling generally focus on their own policy or business goals when advocating for this alternative ratemaking methodology. In doing so, they fail to address critical problems with this alternative ratemaking methodology. As a threshold matter, the Commonwealth's statutory framework does not allow for revenue decoupling. Even if the General Assembly were to embark on a statutory modification, however, it would be tremendously difficult to reconcile alternative ratemaking methodologies with just and reasonable ratemaking requirements as well as cost of service principles. Public utility regulation exists in order to protect all customers, and decoupling directly conflicts with that

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<sup>1</sup> 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.

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)).

Furthermore, revenue decoupling, by itself, cannot achieve the Commission's policy goals. Testimony offered by witnesses supporting decoupling fails to prove that decoupling would benefit all consumers. Specifically, testimonies offered in favor of revenue decoupling insufficiently address the harmful impact decoupling would have on large commercial and industrial ("Large C&I") customers. Revenue decoupling actually provides a perverse incentive for Large C&I customers to engage in the energy efficiency and conservation measures that they have voluntarily adopted over many years. Additionally, revenue decoupling requires performance incentive mechanisms ("PIMs") in order to increase utilities' actions with respect to energy efficiency and conservation, which further increases customer costs. These alternative rate designs have the potential to substantially impact rates and the predictability of charges to Large C&I consumers.

Consistent with the Commission's Secretarial Letter dated December 31, 2015, which provided stakeholders with the opportunity to submit Comments on proposed alternative ratemaking methodologies, the Industrial Energy Consumers of Pennsylvania ("IECPA"), the Duquesne Industrial Intervenors ("DII"), the Met-Ed Industrial Users Group ("MEIUG"), the Penelec Industrial Customer Alliance ("PICA"), the Penn Power Users Group ("PPUG"), the Philadelphia Area Industrial Energy Users Group ("PAIEUG"), the PP&L Industrial Customer Alliance ("PPLICA"), and the West Penn Power Industrial Intervenors ("WPPII") collectively, the "Industrials") hereby respectfully submit the following Comments recommending that the

Commission firmly decline to pursue decoupling. If, however, the PUC or the General Assembly adopts decoupling, it must exclude Large C&I customers from such alternative ratemaking in order to recognize these customers' unique EE&C needs.

## **II. COMMENTS**

### **A. Alternative Ratemaking Methodologies Cannot Be Implemented in the Commonwealth Without Statutory Change.**

#### **1. Pennsylvania Law Prohibits Automatic Recovery of Decreased Revenues Between Base Rate Cases.**

Currently, the Pennsylvania Public Utility Code does not give the Commission the authority to implement a decoupling mechanism in order to recover decreased revenues between base rate cases. For example, Act 129 of 2008 clearly forbids revenue decoupling for EE&C plans:

(2) Except as set forth in Paragraph (3), decreased revenues of an electric distribution company due to reduced energy consumption or changes in energy demand shall not be a recoverable cost under a reconcilable automatic adjustment clause.

(3) Decreased revenue and reduced energy consumption may be reflected in revenue and sales data used to calculate rates in a distribution-base rate proceeding filed by an electric distribution company under Section 1308 (relating to voluntary changes in rates).

66 Pa. C.S. §§ 2806.1(k)(2) & (3).

This sentiment is also reflected throughout other sections of the Public Utility Code. For instance, an analogous prohibition on automatic recovery of decreased revenues between base rate cases is included in the "smart meter" provision of Act 129:

In no event shall lost or decreased revenues by an electric distribution company due to reduced electricity consumption or shifting energy demand be considered any of the following:

(i) A cost of smart meter technology recoverable under a reconcilable automatic adjustment clause under section 1307(b),

except that decreased revenues and reduced energy consumption may be reflected in the revenue and sales data used to calculate rates in a distribution rate base rate proceeding filed under section 1308 (relating to voluntary changes in rates)[; or]

(ii) A recoverable cost.

66 Pa. C.S. § 2807(f)(4). In other words, both statutory law and Commission regulations strictly prohibit the use of revenue decoupling by electric distribution companies at this time. *See* 66 Pa. C.S. §§ 2806.1(k)(2) & (3); 66 Pa. C.S. § 2807(f)(4).

Independent of the requirements of Act 129, the Commission has a fundamental obligation to ensure that the rates charged to customers are just and reasonable. 66 Pa. C.S. § 1301. Section 1301 notes that "[e]very rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the [C]ommission." *Id.* The primary vehicle for ensuring that rates are just and reasonable is a rate proceeding filed pursuant to Section 1308 of the Public Utility Code. *See* 66 Pa. C.S. § 1308.<sup>2</sup> While certain costs are required to be reviewed through a Section 1307 automatic adjustment mechanism (*e.g.*, gas supply costs), for most categories of costs, especially those that relate to electricity distribution or natural gas transportation service, a rate proceeding pursuant to Section 1308 is the only way for the Commission to review a utility's costs and adjust the rates paid by consumers.

Importantly, Section 1308 proceedings (*i.e.*, "base rate proceedings") provide utilities not only the opportunity to set new rates, but also the ability to seek an appropriate rate of return/return on equity. Interestingly, the positions of witnesses advocating in favor of revenue decoupling would permit utilities to recover lost distribution revenues from consumers without

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<sup>2</sup> IECPA views periodic rate cases every 3-5 years as appropriate to ensure that rates reflect costs of service.

providing for a resulting reduction in the return on equity that a utility would earn.<sup>3</sup> Such selective ratemaking would not result in just and reasonable rates, and therefore would violate Section 1301.

Finally, revenue decoupling constitutes single-issue ratemaking, a rate design process that the Commonwealth has generally opposed due to its propensity to result in unjust and unreasonable rates. *See Nat'l. Fuel Gas Distrib. Corp. v. Pa. Pub. Util. Comm'n*, 464 A.2d 546, 567 (Pa. Commw. Ct. 1983) (stating that in the context of tariff supplements, the consideration of expense and revenue items in isolation could result in confiscatory rates); *see also Philadelphia Elec. Co. v. Pa. Pub. Util. Comm'n*, 502 A.2d 722, 727-28 (Pa. Commw. Ct. 1985). Single-issue ratemaking occurs when only one element of the general ratemaking equation is examined between rate cases and the customers' rates are adjusted to reflect only changes in that element. In other words, the Commission would be called upon to review only a portion of the overall ratemaking equation and effectively assume that a negative change in a single variable, such as a reduction in sales, would translate into reduced profits for a utility. Revenue decoupling equates to single-issue ratemaking because it only considers conservation, or reduced sales, in determining the rate per kilowatt hour.

Single-issue ratemaking is unjust and unreasonable because it ignores other variables that may offset the revenue decrease. For example, sales may decrease due to conservation efforts, but if the utility's distribution or transportation costs decrease in accordance with the reduced sales because customers' rates have been properly designed through base rate proceedings, the utility's profit or return remains unchanged. Single-issue ratemaking breaches the

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<sup>3</sup> At the March 3, 2016, alternative ratemaking *en banc* hearing, many of the utilities advocating in favor of decoupling or alternative ratemaking mechanisms said that such methodologies would reduce utilities' risks. However, the utility representatives did not address their willingness to accept a corresponding reduction in return on equity in exchange for shifting risk to consumers.

Commonwealth's long-standing policies that ensure just and reasonable rates. If revenue decoupling is implemented, the Commission will be deprived of its ability to examine those certain types of cost offsets and effectively guarantees increased returns for utilities to the detriment of consumers.

The Public Utility Code's regulations exist in order to protect customers, including to ensure that the rates are developed and applied in a just and reasonable manner. The Industrials previously noted that the Public Utility Code forbids implementation of alternative ratemaking methodologies, such as a decoupling mechanism, in order to recover decreased revenues between rate cases. Extensive revisions would need to be made to Section 2806.1(k)(2) and (3) and Section 2807(f)(4) of the Public Utility Code before revenue decoupling could become an effective alternative ratemaking mechanism. Because revenue decoupling raises just and reasonable concerns under Section 1301 of the Public Utility Code, maintaining the customer protections currently inherent in the Public Utility Code while amending all applicable statutes would be a challenging exercise at best.

Numerous stakeholders have already blocked previous attempts to initiate revenue decoupling in the Commonwealth. In 2006, the National Fuel Gas Distribution Company ("NFGDC") formally petitioned the Commonwealth to implement a decoupling mechanism. H.B. 2594 of 2006; *see Pa. PUC v. Nat'l. Fuel Gas Distrib. Co.*, R-00061403, R.D. of ALJs Corbett and Hoyer (Oct. 31, 2006), Statement of Chairman Wendell F. Holland (Nov. 30, 2006), and PUC Final Order (Dec. 4, 2006). NFGDC promptly withdrew its request when stakeholders filed 1,267 formal complaints, 168 witnesses provided testimony at a public input hearing, and interested parties introduced legislation into the Pennsylvania House of Representatives

requesting that the Commission "disallow any proposed rate, rate increase, or rate surcharge based in whole or in part on the utilization of a revenue decoupling mechanism." *Id.*

In 2007, the Commission further considered decoupling as an alternative ratemaking methodology but subsequently opted to pass Act 129 instead during the following year. *See Tanya McCloskey*, Direct Testimony, Docket No. M-2015-2518883, p. 5 (citing *Investigation of Conservation, Energy Efficiency Activities & DSR by Energy Utilities & Ratemaking Mechanisms to Promote Such Efforts*, Docket M-00061984 and *Investigation Into Demand Side Management By Electric Utilities*, Docket No. I-900005).

In addition to clearly proscribing revenue decoupling for electric distribution companies under Act 129, the General Assembly provided no explicit statutory authority for revenue decoupling for natural gas distribution companies ("NGDCs"). Under Section 1505(b) of the Public Utility Code, NGDCs may initiate conservation or load management programs. 66 Pa. C.S. 1505(b); *see also McCloskey Testimony*, p. 6. Under Section 1319 of the Public Utility Code, an NGDC may recover costs of investment in conservation or load management programs that are deemed prudent and cost-effective. 66 Pa. C.S. 1319; *see also McCloskey Testimony*, p. 6. When developing a NGDC's rates, the Commission must consider an NGDC's efforts in pursuing cost-effective conservation and load management opportunities. 66 Pa. C.S. § 523(b); *see also McCloskey Testimony*, p. 6. Without statutory authority, the Commission may not implement revenue decoupling for NGDCs.

In sum, alternative ratemaking mechanisms, such as revenue decoupling, would run afoul of both Pennsylvania statutory requirements and Commission regulations. Such mechanisms fall outside of the bounds of base rate proceedings, require unreasonably discriminatory single issue

ratemaking, and result in unjust and unreasonable rates. For those reasons, alternative ratemaking mechanisms cannot be implemented in Pennsylvania at this time.

**2. Revenue Decoupling Would Violate Cost Causation Principles Because It Causes Intra-class and Inter-class Cost-shifting.**

The Commission traditionally abides by cost-of-service principles. This concept mandates that utilities' rates be just enough to sustain operations over the long-term and recover all prudently incurred expenses, plus an opportunity to earn a fair return on all used and useful capital investment. *See Pa. Pub. Util. Comm'n. v. PPL Elec. Utils. Corp.*, Docket Nos. R-2010-2161694; C-2010-2171967, *et al.* (citing *Lloyd v. Pa. Publ. Util. Comm'n.*, 904 A.2d 1010 (Pa. Commw. Ct. 2006) ("The cost of service should be the 'polestar' of utility ratemaking"); *appeal denied* 916 A.2d 1104 (2007)). Decoupling prompts extensive intra-class and inter-class cost-shifting, and therefore violates Commonwealth appellate court precedent. *See id.*

Under revenue decoupling, while individual electricity consumers are still charged based on their own usage, the rate per kilowatt hour is determined by the total amount of electricity delivered by that utility to a broader group of customers. Depending on the structure of the decoupling mechanism, the surcharge could require Large C&I customers to pay for the usage reductions accomplished by customers on different rate schedules or even those in different customer classes. While individual customers could still control how much electricity they use, they could no longer expect the rate they pay to remain constant between rate cases. This unpredictability makes customer budgeting for electric distribution costs difficult.

For Large C&I users who are already maximizing every possible energy reduction technique, decoupling will not help them reduce energy use; it will subject them to unpredictable fluctuations of other companies' or customer classes' energy use which, in turn, makes it difficult for Large C&I users to sustain their businesses. Large C&I customers should not be responsible

for subsidizing other Large C&I customers. For example, one Large C&I customer could invest in EE&C initiatives but a similarly situated Large C&I customer may not make such investments. Both customers' rates would increase, however, because the reduced sales would be captured by the decoupling mechanism. Revenue decoupling thus causes intra-class subsidization because the rate per kilowatt hour depends upon customers' overall consumption.

Furthermore, revenue decoupling departs from traditional principles of cost-causation. As discussed during the hearing, an example is a high-load factor customer, like a Large C&I customer with 24-hour operations. This type of customer has an average electricity consumption equal to 70% or more of its peak load. Such high load-factor customers would subsidize low-load factor customers, like residential users (regardless of income level), who create the need for the underutilized distribution facilities by operating their homes and appliances for only a small part of the day. For such low-load factor customers, their average electricity consumption is equal to only 30% or more of their peak load. *See* David Ciarlone, Direct Testimony, Docket No. M-2015-2518883, p. 7.

For these reasons, this method of alternative ratemaking does not produce charges that reflect traditional notions of just and reasonable rates. Decoupled rates introduce arbitrary and subjective decision-making criteria which create uncertainty and disrupt the ratemaking process, especially for Large C&I customers.<sup>4</sup>

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<sup>4</sup> In his testimony, Dr. Hugh Gilbert Peach characterizes revenue decoupling as "harmless, [with] no downside..." Dr. Hugh Gilbert Peach, Direct Testimony, Docket No. M-2015-2518883, p. 7. Dr. Peach does not provide any searching review or evidence to support this claim. As reflected in IECPA's testimony, serious concerns have been articulated regarding the impact of revenue decoupling on Large C&I customers. David Ciarlone, Direct Testimony, Docket No. M-2015-2518883, pp. 7-10.

**B. Revenue Decoupling Constitutes Poor Policymaking.**

**1. Many States Have Either Adopted and Subsequently Eliminated Decoupling or Rejected Adoption of Decoupling Altogether.**

Multiple states experiencing environmental, economic, and regulatory pressures similar to Pennsylvania's determined that revenue decoupling is not the most effective means to promote energy efficiency. In 1991, Maine became one of the earliest adopters of revenue decoupling; however, its revenue decoupling program was short-lived. *See Decoupling for Electric and Gas Utilities: Frequently Asked Questions (FAQ)*, National Association of Regulatory Commissioners, p. 8, available at:

[http://www3.epa.gov/statelocalclimate/documents/pdf/supp\\_mat\\_decoupling\\_elec\\_gas\\_utilities.pdf](http://www3.epa.gov/statelocalclimate/documents/pdf/supp_mat_decoupling_elec_gas_utilities.pdf).

When Maine experienced an economic recession after decoupling was implemented, electricity consumption plummeted and prompted the automatic decoupling mechanism to kick in. *Id.* In that instance, rates rose dramatically, without warning, at a time when consumers were least able to afford it. *See id.* Conversely, a base rate case would have eventually made corrections after considering multiple factors – utilities' costs, expected versus actual revenues, and customers' abilities to pay in a recessive economy. *See id.* After this episode, ratepayers in Maine viewed decoupling as a method of unfairly shifting risk from utilities to customers, with the state abandoning revenue decoupling only two short years later in 1993. *See id.* Montana also initiated a revenue decoupling program, which met a fate similar to Maine's. Montana's decoupling program was abandoned after its first attempt to reconcile delayed earnings. *See Decoupling and Other Mechanisms to Address Utility Disincentives for Implementing Energy Efficiency*, State EE/RE Technical Forum, May 19, 2015, available at [www.epa.gov](http://www.epa.gov).

Several other states also reviewed and rejected decoupling proposals. Florida's Public Service Commission concluded that its preexisting conservation policies already had potential to

achieve EE&C goals without having to incur "the cost and difficulties associated with design, implementation and maintenance of a ... decoupling mechanism." *Florida Report to Legislature on Revenue Decoupling*, Florida Public Service Commission, Submitted 2008. The Rhode Island Legislature determined that, even if decoupling reduced electric distribution companies' incentives not to conserve, there was no evidence that it would promote conservation at a level beyond other extrinsic factors in place at that time (*e.g.*, technological advancements, economic shifts, etc.). *See id.* The Rhode Island Legislature also noted that revenue decoupling could decrease public oversight. *See id.* Furthermore, policymakers in Arizona determined that decoupling mechanisms unfairly guarantee revenues for utilities, shifting too much market risk onto ratepayers while simultaneously dissuading consumers from conserving energy. *See id.*

These experiences demonstrate that revenue decoupling is difficult to maintain and adds little to conservation efforts. Decoupling results in unpredictable rate increases which make it difficult for Large C&I users to commit to long-term investments in their businesses. Currently, very few states implement decoupling mechanisms. *See* Mark Lowry, Direct Testimony, Docket No. M-2015-2518883, p. 4. Most likely, those states not implementing alternative ratemaking mechanisms realize that other methods of cost recovery are better suited to their economies or that problems inherent in the decoupling methodology outweigh any perceived benefits.

## **2. The Commonwealth Already Addresses EE&C Measures Through Rate Design and Act 129.**

Large C&I customers are already sufficiently incentivized to engage in EE&C initiatives, because if they did not, their energy costs would increase, thereby rendering their products and services less competitive. Large C&I ratepayers collectively decreased their "energy intensity by over 45% since 1987... [Large C&I customers] practice energy efficiency every day... with or without rebates." David Ciarlone, Direct Testimony, Docket No. M-2015-2518883, p. 3.

Members of the Large C&I sector will not stop investing in EE&C projects, regardless of the existence of state mandates and/or programs, because such projects aid them in remaining competitive.<sup>5</sup> *See id.* For such customers, referred to by IECPA's witness Mr. Ciarlone as energy-intensive, trade-exposed (EITE) businesses, revenue decoupling "creates the ultimate of perverse incentive: it eliminates the most efficient positive reinforcement for positive action... eliminates the incentive to make incremental investment in energy efficiency."<sup>6</sup> David Ciarlone, Direct Testimony, Docket No. M-2015-2518883, p. 7. As a customer conserves more energy, the rate per kilowatt hour will increase under decoupling. *See id.* Despite a customer's conservation efforts, cost-shifting from other classes will still increase its bill. In other words, without revenue decoupling, Large C&I customers remain incentivized to be as efficient as possible; however, with revenue decoupling, Large C&I customers may begin to question investments in energy efficient equipment, processes, and facilities to reduce energy consumption if a return on that investment, through lower energy costs, cannot be achieved. *See id.*

While Industrials take exception to the blanket application of Act 129 to Large C&I customers for the reasons discussed above, Act 129 is intended to promote the same goals that many appear to seek through decoupling. EITE Large C&I users are already incentivized to reduce their bills through adoption of EE&C by virtue of the existing incentives inherent in cost-of-service-driven rate design. Decoupling will not help EITE Large C&I users who are already maximizing their own EE&C efforts to further reduce energy use; rather, it will simply expose

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<sup>5</sup> IECPA takes exception to the characterization during hearings that Act 129 created \$4.5 billion in energy savings. Furthermore, IECPA believes that education of the public regarding the benefits of EE&C initiatives should include listing the costs of Act 129 programs as line items on the monthly customer invoices.

<sup>6</sup> "Energy-Intensive" means even small increases in energy prices translate into large increases in energy expenditures that, because energy is one of the largest variable costs of production, further translate into significant decreases in profitability. Dave Ciarlone, Direct Testimony, Docket No. M-2015-2518883, p. 3. "Trade-Exposed" businesses are those who risk losing business to a global competitor should it pass off increased energy costs onto a customer. *Id.*

them to harmful, unpredictable fluctuations from other companies' or customer classes' energy use. David Ciarlone, Direct Testimony, Docket No. M-2015-2518883, p. 8.

Given Act 129 and current ratemaking methodologies, "it is unclear how any form of revenue decoupling will further advance the goals that Pennsylvania is seeking to achieve." *Id.* at p. 7. There have not been enough studies to show how decoupling works "in relationship to other utility operations and policies of the Commonwealth." *Id.* at p. 9. Institution of decoupling could disrupt the Commonwealth's energy market if it is instituted without consideration of all possible outcomes, ultimately sabotaging EE&C measures and increasing customer costs. For example, "the Commonwealth has implemented retail choice for both natural gas commodity and electric generation service. In this retail choice environment, the utility may be sending signals on the distribution side to reduce energy usage, but the alternative supplier may be sending signals to use more energy since its business is volumetric-based. This could be even more problematic if the alternative supplier is an affiliate of the distribution utility."<sup>7</sup> *Id.*

### **3. No Evidence Has Been Proffered that Decoupling, On Its Own, Is Effective Enough to Realize Considerable Gains in EE&C.**

None of the witnesses provided any evidence that decoupling by itself could incentivize additional EE&C efforts, especially as they concern Large C&I customers. Moreover, the testimony of some witnesses actually confirmed the lack of information and understanding the effects of decoupling. *See* Dr. Hugh Gilbert Peach, Direct Testimony, Docket No. M-2015-2518883, p. 9 ("Does a Rate Decoupling Mechanism encourage better energy efficiency and conservation programs? The answer is 'MAYBE!...'"); Paula Strauss, Direct Testimony, Docket No. M-2015-2518883, p. 13 ("Columbia has not yet undertaken an examination of rate design

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<sup>7</sup> Many witnesses mentioned the State of Washington in their testimonies as a model for decoupling. The Commission cannot consider Washington as an example or give this analogy any predictive effect, as Pennsylvania faces a very different set of external forces, such as different political and economic environments.

changes for these customer classes"). Until more research is performed in order to clarify the efficacy of decoupling, and definitive evidence provided, the Commission cannot assume that decoupling would successfully advance the Commonwealth's EE&C goals.

For example, one witness failed to study the effects of decoupling on Large C&I members, yet advocated in favor of this alternative ratemaking method. Paula Strauss, Direct Testimony, Docket No. M-2015-2518883, p. 13 ("[Columbia Gas of Pennsylvania, Inc.] has not yet undertaken an examination of rate design changes for these customer classes"). Another witness did not even address the lack of research on effects of decoupling on Large C&I customers. *See* Eric Miller, Direct Testimony, Docket No. M-2015-2518883.

Many witnesses who encouraged the Commission to adopt decoupling and other alternative ratemaking mechanisms admit that, by itself, decoupling "does not necessarily incentivize the utility or customers to invest in or adopt EE&C plans." *See* Scott Koch, Direct Testimony, Docket No. M-2015-2518883, p. 4; *see also* Eric Miller, Direct Testimony, Docket No. M-2015-2518883, p. 6 ("[Revenue decoupling] does not provide a positive incentive to utilities to pursue these technologies... [T]o better incentivize utilities to aggressively pursue actions that will reduce energy consumption, the Commissions should adopt targeted performance incentive mechanisms ("PIMs") alongside revenue decoupling"); Eric Ackerman, Direct Testimony, Docket No. M-2015-2518883, p. 3 (suggesting a "three-legged stool" approach where revenue decoupling needed to be combined with energy efficiency cost trackers and incentive mechanisms in order to be successful); Dr. Hugh Gilbert Peach, Direct Testimony, Docket No. M-2015-2518883, pp. 9-10 ("Does a Rate Decoupling Mechanism encourage better energy efficiency and conservation programs? The answer is 'MAYBE...' Decoupling [by itself] does not create a 'pull' towards better energy efficiency and conservation programs... [it

needs to be paired with] a monetization of some of the values of energy efficiency and conservation and demand shifting"); Mark Lowry, Direct Testimony, Docket No. M-2015-2518883, p. 6 ("[D]ecoupling cannot by itself provide the incentives needed for utilities to fully embrace DSM due to the muted incentives utilities have to contain their costs"). While implementation of PIMs may supplement decoupling, such rewards for utilities' performance would further increase costs to consumers and intensify the severity of the situation. Ratepayers will be encouraged to conserve beyond the optimal point so that utilities can exceed the Commission's EE&C benchmark and secure a financial reward. Under a decoupling scheme, conserving at that ultra-optimal level will cause the price per kilowatt hour to increase. It is worth noting that not one of the witnesses at the *en banc* hearing could answer Mr. Ciarlone's question regarding which customers should pay for PIMs. David Ciarlone, Oral Testimony at *En Banc* Hearing on March 3, 2016, at Docket No. M-2015-2518883.

Too many ambiguities surround the effects of decoupling. It is unpredictable and threatens the sustainability of Large C&I businesses. For these reasons, it cannot be considered the most effective and cost-efficient form of ratemaking. As expressed by the Office of Consumer Advocate, "there may be new opportunities for the growth and development of the energy sector... Any policies that are considered must consider this larger picture and the overall impact that may result." Tanya McCloskey, Direct Testimony, Docket No. M-2015-2518883, p. 10.

#### **4. Serious Risk Exists that Revenue Decoupling Will Undercut Reliability Imperatives.**

Currently, a utility designs rates "to achieve a single purpose: collect the appropriate revenues from customers in a manner that corresponds to the costs that each customer imposes upon the utility's system." David Ciarlone, Direct Testimony, Docket No. M-2015-2518883,

p. 5. Thus, 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 the utility's revenues will rise. Decoupling is attractive to utilities because it insulates revenues from sales fluctuations; it creates an inverse relationship between prices and consumption. However, such methodology endorses mediocrity and encourages utilities to become indifferent to their fundamental business: consistently providing high quality power. Some service territories in the Commonwealth already have reliability issues, and the institution of revenue decoupling would exacerbate that problem.

Utilities are regulated businesses that must meet certain reliability standards. System reliability includes more than complete loss of service; with the increasing use of sensitive computer controlled processes in advanced manufacturing, even poor power quality can cause operations to stop. Recent reliability audits initiated by the Commission have shown that certain utilities need to implement remedial measures. *Order re Implementation Plan of the Focused Management Audit of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company*, Docket Nos. D-2013-2365991 et al. (February 26, 2015).

Furthermore, encouraging "growth in sales through the addition and expansion of business enterprises is a key area where utility financial incentives and local public interests are precisely aligned." *Revenue Decoupling: A Policy Brief of the Electricity Consumers Resource Council*, Elcon, p. 6, available at:

<http://www.elcon.org/Documents/Profiles%20and%20Publications/Revenue%20Decoupling.pdf>.

Institution of revenue decoupling "breaks that alignment." *Id.* It "neutralizes the financial incentive to attract new commercial and industrial businesses – and new job opportunities – to

the utility's franchise area, and to support the wellbeing of its existing commercial and industrial customers, unless those customer classes are specifically exempt from the revenue decoupling mechanism." *Id.*

Also, revenue decoupling could discourage utilities from initiating timely storm repairs. In 2012, the Maryland Public Service Commission ("PSC") limited revenue decoupling so that utilities could only recover lost revenues for the first 24 hours of a storm event. This ruling occurred after the Maryland PSC observed that decoupling made utilities "financially indifferent to the prospect of extended outages and resulted in rates that are not just and reasonable." Tanya McCloskey, Direct Testimony, Docket No. M-2015-2518883, p. 10 (citing *In re Investigation into the Just and Reasonableness of Rates as Calculated Under the Bill Stabilization Adjustment Rider of Potomac Elec. Power Co.*, Case No. 9257, et al., Order No. 84653 at 3 (Jan. 25, 2012)).

Revenue decoupling dissuades utilities from providing high-quality, reliable service. If revenue decoupling is initiated, it endangers stability and predictability of rates. An inability to accurately predict rates will complicate Large C&I users' budgeting and planning practices, ultimately endangering their abilities to compete and survive. In that event, ramifications of decoupling will be felt not only within the energy sector, but across the Commonwealth's overall economy.

**C. If Decoupling Is Implemented, It Must Exclude Large C&I Customers.**

Should the Commission implement decoupling, Large C&I customers must be excluded from such alternative regulatory treatment. Numerous witnesses support this concept. *See* Mark Lowry, Direct Testimony, Docket No. M-2015-2518883, p. 11 ("Quite commonly, only revenues from residential and commercial business customers are decoupled"); *see also* Mark Lowry, Oral Testimony at *En Banc* Hearing on March 3, 2016, at Docket No. M-2015-2518883 (during a question and answer session with Commissioner Coleman, Mr. Lowry noted that decoupling

"doesn't have to extend to the industrial sector" and regulators could put commercial and industrial companies into "separate baskets" from other ratepayers); Dr. Hugh Gilbert Peach, Oral Testimony at *En Banc* Hearing on March 3, 2016, at Docket No. M-2015-2518883 (responded to Commissioner Coleman's question on excluding Large C&I users by suggesting Large C&I customers could design their own version of decoupling); Eric Ackerman, Oral Testimony at *En Banc* Hearing on March 3, 2016, at Docket No. M-2015-2518883 (remarking to Vice Chairman Place that Large C&I customers need to be "considered with a different lens").

Large C&I customers already manage their own EE&C programs, which are tailored to their business models and already significantly reduce consumption and costs. Manufacturers in the United States and Pennsylvania face many challenges, and despite those challenges, the Industrials still choose to invest in Pennsylvania as good corporate citizens. For example, 13 IECPA members alone have added over \$2 billion to Pennsylvania's economy for various facility upgrades since 2010. If decoupling is implemented in Pennsylvania, sound public policy firmly supports maintaining the current cost-of-service approach for Large C&I customers. This model maintains the existing effective incentives that spur Large C&I customers' voluntary EE&C efforts.

### **III. CONCLUSION**

The theoretical benefits associated with revenue decoupling do not manifest in reality. Revenue decoupling results in unanticipated rate increases for customers who curb consumption, ultimately sabotaging future conservation efforts. Also, revenue decoupling distorts market prices and decreases a customer's incentive to be efficient, because regardless of how efficient customers are, their monthly bills essentially remain constant. Furthermore, decoupling eliminates utilities' financial incentives to provide reliable service and support economic development in their service territories.

Decoupling also increases costs for regulators, because it requires constant rate adjustments that warrant an advanced mechanism that can determine whether revenue losses are caused by EE&C or prompted by other factors, such as weather issues. Rate adjustments divert time, money, and personnel away from regulatory bodies.

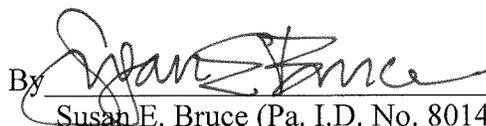
The Industrials are interested in developing the optimal rate design; however, Industrials respectfully recommend that the Commission consider other more pressing issues instead of further examining decoupling. For example, the physical infrastructure and markets for natural gas and electricity are growing increasingly interlinked. Tremendous strains on an undersized and rapidly-aging energy infrastructure should be a grave concern for those who seek system reliability, and the Industrials feel that correcting issues relating to that effort outweigh examination of alternative ratemaking methodologies.

As discussed more fully herein, alternative ratemaking methodologies are not permitted under current PUC statutes and regulations. Moreover, even if the General Assembly were to attempt to implement a statutory modification, doing so would be difficult in light of the fact that many alternative ratemaking methodologies would violate just and reasonable ratemaking requirements, as well as cost of service measures. In addition, nothing presented by any witnesses provided any evidence that revenue decoupling would result in any benefits to customers. In fact, if anything, revenue decoupling could provide a perverse incentive for Large C&I customers to eliminate the current EE&C measures that they have voluntarily taken over many decades. For these reasons, the Commission should not pursue any alternative ratemaking methodologies at this time. If, however, the PUC or the Legislature chooses to move forward with decoupling, it should exclude Large C&I customers in order to appropriately address these ratepayers' unique EE&C needs.

**WHEREFORE**, the Industrial Energy Consumers of Pennsylvania ("IECPA"), the Duquesne Industrial Intervenors ("DII"), the Met-Ed Industrial Users Group ("MEIUG"), the Penelec Industrial Customer Alliance ("PICA"), the Penn Power Users Group ("PPUG"), the Philadelphia Area Industrial Energy Users Group ("PAIEUG"), the PP&L Industrial Customer Alliance ("PPLICA"), and the West Penn Power Industrial Intervenors ("WPPII") respectfully request that the Pennsylvania Public Utility Commission consider these Comments in evaluating the necessity of establishing revenue decoupling as an alternative ratemaking methodology.

Respectfully Submitted,

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