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May 31, 2016

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

VIA ELECTRONIC FILING

**RE: Proposed Policy Statement on Combined Heat and Power;
Docket No. M-2016-2530484**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission are the Joint Comments of 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 "Industrial Customer Groups") regarding the above-reference proceeding.

Please let me know if you have any questions. Thank you.

Very truly yours,

McNEES WALLACE & NURICK LLC

By *Kenneth R. Stark*

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Counsel to Industrial Customer Groups

Enclosure

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Proposed Policy Statement on Combined : Docket No. M-2016-2530484
Heat and Power :

**JOINT COMMENTS
OF 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: May 31, 2016

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Attachment A

I. INTRODUCTION

On March 9, 2016, the Pennsylvania Public Utility Commission ("PUC" or "Commission") entered an Order proposing a Policy Statement on Combined Heat and Power ("CHP") to promote and advance the development of CHP systems and facilities in Pennsylvania.¹ In a Joint Motion of PUC Chairman Gladys M. Brown and Commissioner Robert F. Powelson, the Commission approved the Proposed Policy Statement to (1) promote CHP investments; (2) encourage electric distribution companies ("EDCs") and natural gas distribution companies ("NGDCs") to incorporate CHP into their energy efficiency and resiliency plans and their marketing plans; (3) encourage the use of tariffs governing interconnection and standby rates for owners and operators of CHP facilities; and (4) promote special natural gas rates for owners and operators of CHP facilities.

The Commission previously held two *en banc* hearings in the spring and fall of 2014 in order to gather information from the public regarding the benefits of and barriers to the advanced deployment of CHP in Pennsylvania. Benefits identified by the Commission include increased energy efficiency and conservation, reduced energy costs through reductions in peak demand and mitigation of price volatility, reduced air emissions, improved grid reliability, increased diversification of generation resources, increased economic development, increased national security (due to power generation diversification), and increased natural gas distribution service for customers. One barrier is the perceived difficulty in justifying capital investment, due in part to the long-term payback requirements of CHP. The Commission noted that the costs of purchasing backup power during planned plant maintenance and unplanned downtime may also deter CHP investment. The Commission also noted that there also exists a lack of national and

¹ See Policy Statement on Combined Heat and Power, Docket No. M-2016-2530484 (Order entered Mar. 9, 2016) (hereinafter "*Proposed Order*").

state business practice standards for the interconnection of distributed generation technologies and the attendant interconnection fees and procedures.

The Commission seeks public comments on the Proposed Policy Statement on CHP. Herein, 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 "Industrial Customer Groups") hereby respectfully submit the following Comments. The Industrial Customer Groups recognize the value of CHP systems and facilities, but recommend that the Commission balance the desire to provide preferential treatment to these systems against the monetary impact that those incentives will have on other customers, including customers for whom CHP is not a viable energy management strategy. Below, the Industrial Customer Groups also raise concerns regarding confidential business and proprietary information that is requested to be included in the EDC and NGDC reports, and suggest some language revisions to the Proposed Policy Statement. *See* Attachment A.

II. COMMENTS

A. The Policy Statement Language Requires Some Minor Technical and Legal Revisions

The Industrial Customer Groups respectfully submit that the Proposed Policy Statement language in Annex A needs some refinement and clarification. Attached to these Comments, the Industrial Customer Groups have included suggested edits using the strikethrough feature for deletions and the all caps feature for additions.

First, Section 69.3201 states that CHP is "a form of distributed energy that is an integrated system located at or near a building or facility that provides at least a portion of the electrical load and uses thermal energy for space heating or cooling, process heating or cooling, refrigeration, or dehumidification."² This definition of CHP is too restrictive and should be clarified to explain that CHP "uses thermal energy for *activities such as* space heating or cooling, *water heating or cooling*, process heating or cooling, refrigeration, *and* dehumidification." See Attachment A. Accordingly, the Industrial Customer Groups encourage the Commission not to be too restrictive in defining what constitutes CHP and therefore the CHP projects and systems to which certain incentives may apply.

The Proposed Policy Statement also states that "CHP is subject to the jurisdiction of the Commission in several important ways, including, but not limited to, service reliability, energy efficiency and consumer rates."³ CHP in itself as a form of energy production is not subject to the jurisdiction of the Commission, as the Commission's jurisdiction is limited to "public utilities" and Section 2802(14) of the Public Utility Code severely limits the PUC's jurisdiction over electric generation. See 66 Pa. C.S. § 2802(14). The Commission only has jurisdiction over the *services* provided by EDCs and NGDCs to CHP projects. Retail customers that use CHP generally are not "public utilities." These CHP owners generally do not provide public utility services to or for the public for compensation, and therefore will not be subject to the jurisdiction of the Public Utility Commission. See 66 Pa. C.S. § 102. In rendering the final language in the Policy Statement, the Commission may desire to clarify that non-jurisdictional CHP systems and facilities obtain jurisdictional services from EDCs and NGDCs, rather than the originally proposed language.

² Annex A, Section 69.3201(a).

³ *Id.* Annex A, Section 69.3201(b).

Therefore, the Industrial Customer Groups recommend those clarifications regarding the description of CHP and the Commission's jurisdiction over CHP services. *See* Attachment A, Section 69.3201(a)-(b).

B. The Biennial Reporting Requirement and the Strong Encouragement of CHP Raises Proprietary and Competitive Business Concerns

The Commission contends that CHP can serve as a comprehensive measure for consideration by EDCs as part of their requirements under Pennsylvania's Act 129 Energy Efficiency & Conservation programs.⁴ While the Commission recognizes that some benefits of CHP transcend the Commission's jurisdiction and responsibility, the Commission believes it should "stand ready" to promote CHP alongside other government actors.⁵ Accordingly, through the Policy Statement, the Commission proposes requiring all jurisdictional EDCs and NGDCs to submit biennial reports to the Commission that document the utilities' "strategies, programs and other initiatives in support of CHP systems."⁶ These reports will detail the efforts of the utilities in assisting critical operations for food supply, hospitals, nursing homes, water/wastewater facilities, and government services as well as furthering energy efficiency and reducing costs to consumers.⁷ These reports will also discuss energy efficiency benefits and projections of reduced costs for customers. The reports would contain and detail locations of CHP systems interconnected with EDCs or NGDCs; projected cost savings for CHP customers; data on transmission and distribution related avoided costs/savings; and any descriptions of future CHP projects or discussions about challenges facing CHP projects.⁸ The Commission also proposes

⁴ *Proposed Order*, Docket No. M-2016-2530484, at p. 6 (citing *Energy Efficiency and Conservation Program*, Docket No. M-2014-2424864, at page 61 (entered Aug. 20, 2015)).

⁵ *Id.* at 7.

⁶ Annex A, Section 69.3202.

⁷ *Proposed Order* at p. 7.

⁸ *See* Annex A, Section 69.3202(a).

requiring utilities to provide information on interconnection processes and fees and distribution charges that "recognize costs but provide flexibility for owners and operators of CHP facilities."⁹

As competitive businesses and large consumers of energy, many of the Industrial Customer Groups' members with CHP systems and facilities may desire to maintain certain customer usage data as confidential or proprietary, as well as the attendant costs and savings. *See* Attachment A, Section 69.3202(a). CHP owners may also desire to maintain as confidential/proprietary the location, nameplate capacity, and basic operations of their CHP systems. For the same reasons, customers may desire to keep any preliminary discussions or deliberations on future CHP projects confidential. In balancing the interests of the customers and the utilities, the Industrial Customer Groups ask the Commission to carefully consider its jurisdictional reach over these reporting requirements and to evaluate the actual need of some of the more comprehensive reporting requirements. If the Commission concludes that all of these requirements are necessary, then the Commission should consider allowing and clarifying the confidential treatment of some of the reporting requirements. The end goal of this Policy Statement appears to be a staff report prepared by the Bureau of Technical Utility Services, summarizing and analyzing the EDC and NGDC biennial reports.¹⁰ If the Commission intends to make that report publicly available, the Industrial Customer Groups ask the Commission not to include customer/business-specific information in that report.

In the biennial reports, the Commission proposes requiring the utilities' to document "their strategies, programs and other initiatives in support of CHP systems."¹¹ EDC reports will need to include EDC communication strategies relevant to CHP systems; interconnection terms,

⁹ *Proposed Order* at p. 7; *see* Annex A, Section 69.3202.

¹⁰ *See* Annex A, Section 69.3203.

¹¹ Annex A, Section 69.3202(a).

conditions, and fees; and standby rates applicable to CHP systems offered by tariff.¹² NGDC reports must explain how the NGDC encouraged industrial, commercial, and intuitional CHP projects and must report any separate rate classes for customer accounts with CHP system.¹³ Importantly, the proposed Policy Statement does not delineate specific incentives that utilities must or may offer to customers. Rather, the Policy Statement seeks to generally encourage the development of CHP and to obtain information regarding existing and future CHP facilities and projects. Because CHP is not a viable operational strategy for all entities (due to the use of steam as thermal energy), the Industrial Customer Groups ask the Commission to balance any preferential treatment and incentivization of CHP projects and systems against the costs and impacts of consumers without CHP. As to any preferential treatment in rates, the Industrial Customer Groups note that determining the justness and reasonableness of distribution rate class schedules is appropriately undertaken during a base rate proceeding. *See* 66 Pa. C.S. §§ 1301-1304, 1308-1309.

Accordingly, in determining the final form version of the CHP Policy Statement, the Industrial Customer Groups ask the Commission to consider the confidential, proprietary, and competitive business concerns raised herein and the suggested language revisions proposed in Attachment A.

¹² Annex A, Section 69.3202(b).

¹³ Annex A, Section 69.3202(c).

III. CONCLUSION

WHEREFORE, 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 determining the final form version of the Policy Statement on Combined Heat and Power.

Respectfully Submitted,

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Dated: May 31, 2016

ATTACHMENT A

ANNEX A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 69. GENERAL ORDERS, POLICY STATEMENTS

AND GUIDELINES ON FIXED UTILITIES

COMBINED HEAT AND POWER

§ 69.3201. Statement of Scope and Purpose.

(a) Combined Heat and Power (CHP) is broadly described as a form of distributed energy that is an integrated system located at or near a building or facility that provides at least a portion of the electrical load and uses thermal energy for ACTIVITIES SUCH AS space heating or cooling, WATER HEATING OR COOLING, process heating or cooling, refrigeration, ~~or~~ AND dehumidification.

(b) THE SERVICES PROVIDED BY EDCS AND NGDCS TO CHP PROJECTS ~~is~~ ARE subject to the jurisdiction of the Commission in several important ways, including, but not limited to, service reliability, energy efficiency and consumer rates. CHP systems can be an integral part of the defense to natural disasters and man-made attacks on the electric distribution system. CHP can be an important component in addressing environmental concerns and offers significant potential for economic development. In conjunction with natural gas from shale gas resources, CHP also offers potential for lower costs for consumers.

(c) Under Act 129, 66 Pa. C.S. § 2806.1 (relating to energy efficiency and conservation program), electric distribution companies (EDCs) have provided incentive programs for CHP. Likewise, some EDCs have specific tariffs relating to interconnection fees as well as charges for the use of distribution services.

§ 69.3202. Biennial reports.

(a) Jurisdictional electric distribution companies (EDC) and natural gas distribution companies (NGDC) shall file biennially, beginning _____ (*Editor's Note: The blank refers to 4 months after the effective date of adoption of this statement of policy.*), a report that documents their strategies, programs and other initiatives in support of combined heat and power (CHP) systems. The report must include:

(1) Identification and description of CHP systems interconnected with the EDC or NGDC, including:

- (i) The location, the nameplate capacity (MW) and basic operation of each system.
 - (ii) Projected cost savings for CHP customers, if known AND NOT CONSIDERED CONFIDENTIAL BY THE CUSTOMER.
 - (iii) Any system reliability benefits. The description must include specific benefits to critical customers, including Federal, State and local government facilities, educational institutions, hospitals, nursing homes, and retail and wholesale suppliers of food, wastewater facilities and water distributors.
 - (iv) Any transmission-related or distribution-related savings or avoided costs as the result of a CHP facility IF KNOWN AND NOT CONSIDERED CONFIDENTIAL BY THE CUSTOMER. NGDCs shall also report on revenue impacts.
 - (v) In the initial report, all CHP systems. In subsequent reports, the EDC or NGDC only needs to identify new CHP systems interconnected or disconnected during the prior 24-month period.
- (2) A description of future CHP projects that are scheduled to come on line or are under discussion.
- (3) A discussion of challenges that occurred during the time period covered by the report and any recommendations that might improve upon or hasten the deployment of CHP systems.
- (b) In addition to the requirements in subsection (a), each EDC shall report:
- (1) Its communications strategy relevant to CHP systems.
 - (2) Its interconnection terms and conditions, including:
 - (i) CHP specific interconnection fees.
 - (ii) Streamlined procedures, including well-defined application processing timelines and simple decision trees which are based on the characteristics of the project and for which interconnection procedures apply.
 - (iii) Standardized technical requirements.
 - (iv) Standardized, simplified application forms and contracts.
 - (v) A simplified, defined process to address disputes.
 - (vi) The ability for larger CHP systems and those not captured under net metering regulations to meet interconnection standards.
- (3) Actual interconnection fees collected from each CHP facility.

(4) Actual electric generation delivered to all customers with CHP by the EDC on an hourly basis for the preceding 24-month period.

(5) The information in subsection (a)(1)(iv) in chart form.

(6) Any standby rates applicable to CHP systems offered by tariff, including backup service, scheduled maintenance service and supplemental services. The discussion must address the circumstances under which the rates apply and the level of each rate element.

(7) As to each tariffed rate identified in paragraph (6), discuss:

(i) The methodology used to design each customer, demand and energy rate element.

(ii) Whether the rates reflect cost differentials for daily and seasonal fluctuations in usage.

(iii) Whether the rates encourage the scheduling of maintenance at nonpeak times.

(c) In addition to the requirements in subsection (a), each NGDC shall report:

(1) How it encourages industrial, commercial and institutional CHP projects.

(2) Any separate rate classes it has for customer accounts with CHP systems.

§ 69.3203. Staff report.

The Commission's Bureau of Technical Utility Services will provide a biennial report to the Commission summarizing and analyzing the electric distribution company and natural gas distribution company reports, as well as making any recommendations regarding the development of combined heat and power in this Commonwealth.

§ 69.3204. Sunset.

Sections 69.3201—69.3203 (relating to statement of scope and purpose; biennial reports; and staff report) automatically terminate on _____ (*Editor's Note: The blank refers to 8 years and 1 day after the first report is filed.*), unless extended by Commission order.