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October 5, 2018

**EFILED**

Ms. Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
2<sup>nd</sup> Floor, Room-N201  
400 North Street  
Harrisburg, PA 17120

**Re: Implementation of Act 58 of 2018 Alternative Ratemaking for Utilities  
Docket No. M-2018-3003269**

Dear Secretary Chiavetta:

Enclosed please find Duquesne Light Company's Comments in the above-referenced proceeding.

Upon receipt, if you have any questions regarding the information contained in this filing, please contact the undersigned or Audrey Waldock at 412-393-6334 or [awaldock@duqlight.com](mailto:awaldock@duqlight.com).

Sincerely,

A handwritten signature in blue ink that reads "Shelby A. Linton-Keddie".

Shelby A. Linton-Keddie  
Manager, State Regulatory Strategy  
And Senior Legal Counsel

Enclosure

c: Kriss Brown ([kribrown@pa.gov](mailto:kribrown@pa.gov))

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Implementation of Act 58 of 2018	:	
Alternative Ratemaking for	:	M-2018-3003269
Utilities	:	

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**COMMENTS OF  
DUQUESNE LIGHT COMPANY**

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**I. INTRODUCTION**

On June 28, 2018, Governor Wolf signed into law Act 58 of 2018, which amends Chapter 13 of the Pennsylvania Public Utility Code (“Code”), 66 Pa. C.S. §§ 1301 *et seq.* Specifically, Act 58 (“Act”) adds Section 1330, 66 Pa. C.S. § 1330, permitting the Pennsylvania Public Utility Commission (“PUC” or “Commission”) to approve an application by a utility to establish alternative rates and rate mechanisms. In addition, the Act prescribes that, “...no later than six months after the effective date of this subsection, the Commission, by regulation or order, shall prescribe the specific procedures for the approval of an application to establish alternative rates.”<sup>1</sup>

To that end, at the Public Meeting of August 23, 2018, the Commission issued a *Tentative Implementation Order* (“TIO”), setting forth its proposals regarding the implementation and interpretation of Act 58. The TIO was published in the *Pennsylvania Bulletin* on September 8, 2018.<sup>2</sup> Pursuant to the TIO, interested parties had thirty (30) days from the date of publication to file comments, which is on or before October 8, 2018.

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<sup>1</sup> 66 Pa.C.S. §1330(d).

<sup>2</sup> See 48 Pa.B. 5691.

Consistent with this schedule, Duquesne Light Company (“Duquesne Light” or “Company”) submits comments for the Commission’s consideration.<sup>3</sup>

## II. COMMENTS

As indicated *supra*, on June 28, 2018, Act 58 of 2018 was signed into law and became effective August 27, 2018. The Act amended Chapter 13 of the Code to add Section 1330, 66 Pa. C.S. § 1330, providing for alternative ratemaking for Pennsylvania utilities. With the *TIO*, the Commission is seeking comment on regulations to implement Section 1330.

Duquesne Light is a public utility and an EDC, serving approximately 590,000 customers in Allegheny and Beaver Counties, including the City of Pittsburgh. Section 1330 applies to natural gas distribution companies, electric distribution companies, water or wastewater utilities or city natural gas distribution operations.<sup>4</sup> As a result, Section 1330 of the Public Utility Code and interpretations thereto pertain to the Company.

### A. Section 1330(a) – Declaration of Policy

As noted in the *TIO*, in addition to this Order, which seeks to carry out the mandate in Section 1330(d) by outlining any procedures needed as a result of the passage of Act 58, the PUC had previously released a Proposed Alternative Ratemaking Policy Statement at Docket No. M-2015-2518883 (“Fixed Rates Policy Statement”). It should be noted that the Fixed Rates Policy Statement proceeding has a comment deadline of October 22, 2018.

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<sup>3</sup> Duquesne Light is a public utility as the term is defined under Section 102 of the Public Utility Code. Additionally, Duquesne Light is also an electric distribution company (“EDC”) as that term is defined under Section 2803 of the Public Utility Code, and is a member of the Energy Association of Pennsylvania, (“EAP”), who is also submitting Comments in this proceeding. Duquesne Light supports the positions articulated in EAP’s Comments.

<sup>4</sup> See *TIO* at 11.

While Duquesne Light plans to submit comments regarding the PUC's specific proposals in that proceeding, the Company notes that here, in the *TIO*, the PUC notes that it "will consider the policy goals contained in Section 1330(a) of the Code, as well as other applicable policy goals established by statute, regulation or case law, when reviewing requests to change base rates ..." See *TIO* at 2. To that end, because of the intertwined nature of these two proceedings related to alternative ratemaking, the Company suggests that the Commission seek to reconcile the policy statements articulated in Act 58 and incorporate them into the Fixed Rates Policy Statement proceeding to avoid contradictions in its current proposal.<sup>5</sup>

***B. Section 1330(b) – Alternative Rate Mechanisms***

As set forth in the *TIO*, the Commission proposes to interpret Section 1330(b)(1) as requiring utilities seeking to obtain Commission approval of an alternative rate or rate mechanism to do so initially through a Section 1308(d) proceeding, or in other words, in a base rate case.

Duquesne Light wholeheartedly agrees with the Commission's approach and concurs that a 1308 proceeding, a robust and thorough exchange of information with an opportunity for many and varied parties to participate, is the correct vehicle to consider the ratemaking mechanisms permitted by Act 58. Further, the Company agrees that no additional specific procedures are needed "unless or until their need becomes apparent."<sup>6</sup>

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<sup>5</sup> As noted, this recommendation will be expanded and further explained in the Comments submitted at Docket M-2015-241883.

<sup>6</sup> *TIO* at 10.

The use of a 1308 proceeding is especially appropriate as the Commission is currently reviewing regulations related to 52 Pa. Code Chapter 53.<sup>7</sup> With the use of the 1308 proceeding for consideration of any alternative rate mechanism proposals, not only does it adhere to the plain language in Section 1330(b)(1), but also the Commission can ensure that any proposed regulations that impact 1308 proceedings are sufficiently revised to address any review and consideration of alternative rate mechanisms.

Duquesne Light also agrees with the Commission's interpretation of Section 1330(b)(1) "as in spite of any other provision of law, including, but not limited to, Sections 2806.1(k)(2) ... and 2807(f)(4)..., the Commission may approve an application by a utility in a base rate proceeding to establish alternative rates and rate mechanisms." *See TIO* at 5. As a result, the Company agrees with the PUC's interpretation that EDCs are able to establish alternative rates and rate mechanisms, notwithstanding the existence of Sections 2806.1(k)(2) and 2807(f)(4) of the Code.<sup>8</sup>

In the *TIO*, the Commission proposes to interpret subsection 1330(b)(2) and (3) as providing self-explanatory direction as to what revenue and what capital costs and expenses may be recovered through alternative rates and rate mechanisms. The Commission further notes that the costs and expenses are to be "reasonable and prudently incurred and used and useful in providing service." Duquesne Light agrees that the Commission's interpretation is reasonable, as the language in Sections 1330(b)(2) and (3) are clear. Further, the final sentence in section 1330(b)(3) provides that "Nothing in this paragraph shall be construed to prohibit or limit the recovery of revenue, ..." With this language and that in Section 1330(b)(1) that notes "including, but not limited to", the

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<sup>7</sup> *Use of Fully Projected Future Test Year 52 Pa. Code Chapter 53*, Docket No. L-2012-2317273.

<sup>8</sup> *See TIO* at 5.

General Assembly has laid sufficiently broad ground for any proposed rate mechanisms, including performance incentives, that a utility may present to the Commission for approval.

Finally, the Company agrees that a fundamental tenet of Pennsylvania public utility law is to ensure that utility rates are just, reasonable and inclusive of prudently incurred expenses and property that is used and useful in providing service. While the principle is fundamental, the application is subjective, as ratemaking is an art, not a science. Accordingly, Duquesne Light agrees with the Commission that flexibility is needed, not a one-size-fits all approach, when evaluating alternative ratemaking proposals.

### *C. Section 1330(c) – Customer Notice*

The Commission seeks to address the customer notice requirement of Section 1330(c) with a revision to existing regulations at 52 Pa. Code § 53.45, relating to notice of new tariffs and tariff changes. In the *TIO*, the Commission proposes adding language to the existing customer notice that includes the following language:

This filing also includes a request for approval of the following alternative rate mechanism(s): (state the alternative rate mechanism(s)) in accordance with 66 Pa. C.S. § 1330 (relating to alternative ratemaking for utilities). If the alternative rate mechanism(s) is approved as filed, the impact would be (provide a summary of the rate impacts by customer class).

This language implies that a utility will propose a rate mechanism that fits neatly into the categories listed in Act 58, such as decoupling, performance-based, formula or multi-year rates. Because Act 58 provides that the alternative rate mechanisms include “other ratemaking mechanisms” it is possible that a utility will not have an easily understandable name for the customer notice. Moreover, and as illustrated above, it is not only possible, but probable that there will be proposals before the Commission that contain various forms

of alternative ratemaking concurrently. To the extent that occurs, the intended brief explanation may become much more complex and unwieldy than the current notification format and intended result.

Moreover it should be noted that §1308(a) provides that “Such notices regarding the proposed changes which are provided to the utility's customers shall be in plain understandable language as the commission shall prescribe.” Rather than rely only on named mechanisms and rate impacts, it may be more helpful for customers to have the notice contain plain language explanations. For example, the notice may indicate that the utility is filing a rate case that will include mechanisms to recover distribution costs on a fixed basis rather than on volumetric usage. The notice could then explain, in a sentence or two, how the proposed rate will be applied. For some mechanisms that might be to reward reliability, energy efficiency or improved customer service. Depending on the rate mechanism, the notice could explain that it is designed to better allocate the cost of providing service. Instead of simply using a term of art only recognizable to industry experts, an explanation could be more useful to customers.

Following an explanation of the proposed rate mechanism, the notice can then proceed to explain, as the Commission has suggested with its proposed language, the impact of the mechanisms on each customer class. The Company agrees that language showing rate impacts for average use by class is useful to customers. While these suggestions do not negate the PUC’s suggested notification language stated above, Duquesne Light respectfully requests that the Commission be flexible in its interpretation of the notification requirements as utilities “go live” with these changes.

The Company agrees with the Commission's new requirement that utilities that utilize alternative rate mechanisms display relevant information on company websites. The Company also agrees that providing further information regarding approval of alternative rate mechanisms in the tariff pages is appropriate and useful to customers. However, the Company disagrees with the proposal to distribute tariff pages to customers via a bill insert.<sup>9</sup> While the Company currently provides notification of rate changes to customers via bill inserts, Duquesne Light does not send copies of tariff pages themselves to customers.

Rather than create a new process with likely little customer benefit, the Company suggests instead that bill inserts that contain explanations of adjustments be consistent with the requirements of 52 Pa. Code, Section 53.45, as is currently the case. Customers will be provided information stating the Commission's approval with the appropriate caption, docket number and entry date. Further, the notice would contain an explanation of the rate mechanism and effect on the rate class. The notice would also contain a link to the Company's website and the tariff that lists the modifications approved by the Commission. In addition, the Company would provide information via its social media pages regarding Commission approval and links to any relevant information on the Company's website.

***D. Section 1330(d) – Commission***

As noted in the *TIO*, Section 1330(d) requires the Commission to prescribe, by regulation or order, specific procedures for the approval of an application to establish alternative rates no later than six months after the effective date of Act 58. As noted *supra*, the Commission proposes to utilize the 1308(d) base rate proceeding to examine any

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<sup>9</sup> See *TIO* at 7.



proposed mechanisms. The Company agrees that this approach is logical and well-understood by utilities, statutory authorities and other interested stakeholders.

Further, as the Commission notes in the *TIO*, the Company agrees that Section 1330 of the Code does not alter and will not change the well-established burden of proof standards placed on a utility seeking to change its rates through a Section 1308 base rate proceeding. In addition, Duquesne Light agrees that the information provided pursuant to 52 Pa. Code § 53.53 is quite comprehensive and far-reaching and, unless or until proven otherwise, will provide the requisite information that the Commission needs to fairly and fully evaluate any alternative mechanism proposal.

#### ***E. Alternative Rate Mechanism Reconciliations***

In the *TIO*, the Commission notes that some alternative rate mechanisms involve annual reconciliation or adjustments. The Commission suggests, and the Company agrees, that the parameters for any adjustments or reconciliations required by an alternative rate mechanism should be part of the final Commission action in the Section 1308(d) base rate proceeding and do not require any additional specific regulations at this time. As with other considerations here, Duquesne Light agrees that this approach is wise, as these decisions will be determined on a case by case basis.

### III. CONCLUSION

Duquesne Light appreciates the opportunity to provide comments on the Commission's proposed interpretation and implementation of Section 1330 of the Public Utility Code, 66 Pa. C.S. § 1330. The Company agrees with the Commission's proposal to utilize existing law and regulations related to Section 1308(d), 66 Pa. C.S. § 1308(d), general rate proceeding, to allow utilities to propose alternative rate mechanisms.

Respectfully submitted,



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