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October 9, 2018

**VIA ELECTRONIC FILING**

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

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

Dear Secretary Chiavetta:

Pursuant to the Pennsylvania Public Utility Commission's Tentative Order dated August 23, 2018 in the above-captioned proceeding, enclosed herewith for filing are the Comments of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company.

Please contact me if you have any questions regarding this matter.

Very truly yours,



Tori L. Giesler

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Enclosures

c: As Per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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**COMMENTS OF METROPOLITAN EDISON COMPANY,  
PENNSYLVANIA ELECTRIC COMPANY, PENNSYLVANIA POWER  
COMPANY AND WEST PENN POWER COMPANY**

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**I. INTRODUCTION**

On June 28, 2018, Governor Tom Wolf signed into law Act 58 of 2018 (“Act 58”) authorizing public utilities to implement alternative rates and rate mechanisms in base rate proceedings before the Commission.<sup>1</sup> On August 23, 2018, the Pennsylvania Public Utility Commission (“Commission”) issued a Tentative Implementation Order for the Implementation of Act 58 of 2018 Alternative Ratemaking for Utilities (“Tentative Order”), outlining its interpretation of Act 58 and detailing its intent in implementing the new statutory provisions. The Commission invited interested parties to provide comments in response to this proposed implementation following publication of the Tentative Order in the Pennsylvania Bulletin, with initial comments due within thirty days of publication and reply comments due within seventy days of publication.

Consistent with the Tentative Order, Metropolitan Edison Company (“Met-Ed”), Pennsylvania Electric Company (“Penelec”), Pennsylvania Power Company (“Penn Power”) and West Penn Power Company (“West Penn”) (collectively, the “Companies”) submit these

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<sup>1</sup> House Bill 1782, codified at 66 Pa.C.S. § 1330.

comments in response to the Commission's proposed interpretation and plan for implementation of Act 58.

## II. COMMENTS

Act 58 confirms and removes any uncertainty as to the Commission's authority to evaluate and approve any utility's proposal to utilize an alternative rate mechanism including, but not limited to, decoupling mechanisms, performance-based rates, formula rates, multiyear rate plans or rates based on a combination of these or other ratemaking mechanisms.<sup>2</sup> The Commission, at the Tentative Order's outset, acknowledged the declaration of policy set forth by Act 58 and committed to supporting the stated policy goals, as well as "other applicable policy goals established by statute, regulation or case law, when reviewing requests to change base rates" for jurisdictional public utilities.<sup>3</sup> The Companies support the policy outlined by the General Assembly in Section 1330(a), as well as the Commission's commitment to support those goals, and have no recommendations regarding implementation of this item as detailed in the Tentative Order.

However, the Commission introduced a proposed policy statement in the *Fixed Utility Distribution Rates Policy Statement* ("Proposed Policy Statement") proceeding at Docket No. M-2015-2518883 on May 23, 2017. While at that time the Commission's efforts to support its then-existing ability to approve alternative rate mechanisms by providing guidance to jurisdictional utilities and interested parties made sense, given the passage of legislation clarifying the Commission's authority to grant such mechanisms and the implementation efforts in the instant

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<sup>2</sup> The Commission's authority in this regard is now explicitly recognized in subsection 1330(e) of the Code, 66 Pa.C.S. § 1330(e), which states the following:

(e) Construction – Nothing in this section shall be construed as limiting the existing ratemaking authority of the commission or be construed to invalidate or void any rate mechanism approved by the commission prior to the effective date of this section.

<sup>3</sup> T.O. at 2.

proceeding, the Commission should reconsider its issuance of the Proposed Policy Statement, which remains pending for public comment. By its August 14, 2018 Secretarial Letter, the Commission extended the deadline for comments on the Proposed Policy Statement to October 22, 2018 and reply comments to November 20, 2018. The Companies reserve their comments with respect to the specifics of the Proposed Policy Statement in anticipation of comments to be filed on or before those dates at the appropriate docket.

With respect to Act 58, Section 1330(b) specifies the utilities which may seek alternative rate mechanisms and identifies a number of particular mechanisms that may be proposed. The Commission has interpreted this section as requiring any utility seeking to implement an alternative rate mechanism to do so *initially* through a general rate proceeding as outlined under Section 1308(d) of the Pennsylvania Public Utility Code.<sup>4</sup> The Commission notes that while rates may be subject to adjustment under Section 1307 mechanisms, they must be first established under parameters set during a Section 1308 proceeding.<sup>5</sup> The Commission goes on to further interpret that the language outlined in subsection (b)(1) permits the Commission to grant electric distribution companies authority to establish mechanisms designed to recover lost revenues resulting from reduced electricity consumption or shifting demand due to the implementation of energy efficiency and conservation plans or the deployment of smart meter technology.<sup>6</sup>

The Companies fully support the Commission's interpretation on these points, which is consistent with the Companies' understanding of the intent of the legislation. The Companies

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<sup>4</sup> 66 Pa.C.S. § 1308(d).

<sup>5</sup> The Companies note that the first full paragraph of p. 4 of the Tentative Order appears to incorrectly reference Section 1308 where it is intended to reference Section 1307.

<sup>6</sup> The Commission has interpreted this provision as serving as an exception to the prohibitions against such EDC-specific mechanisms which preexisted Act 58 in Sections 2806.1(k)(2) and 2807(f)(4) of the Code.

offer specific feedback related to only the discrete topic of customer notice as proposed by the Tentative Order, one portion of the proposal which the Companies oppose.

Specifically, the Commission has interpreted Section 1330(c) to require utilities proposing the implementation of alternative rate mechanisms to provide notice to customers above and beyond that which is required for other rate proceedings under the Commission's existing regulations at 52 Pa. Code § 53.45. In particular, the Commission proposes to implement this section by requiring additional verbiage be added to the *pro forma* language outlined in the regulations as they exist today, as well as by requiring utilities to provide bill inserts rather than having the choice of a bill insert or other written notice as is permitted in the instance of other Section 1308 voluntary rate changes. Finally, the Commission proposes to require utilities seeking to use alternative rate mechanisms to not only summarize the approved modifications within their tariffs in plain language, but also to distribute the tariff pages containing this list of modifications to all customers through bill inserts once approved, as well as through public postings to the utilities' web pages.

With minor exception, the Companies do not oppose the Commission's interpretation or proposed implementation as outlined in the Tentative Order. The one exception to this relates to the Commission's proposal to require utilities to distribute those tariff pages containing the summaries of modifications to customers via a bill insert. Providing individual tariff pages to customers as bill inserts is both costly and unnecessary, when a comparable summary of the Commission's decision and approved rates or rate mechanisms could be provided directly on a bill insert that could also contain the web reference to the location where the actual tariff pages – which can be voluminous – can be found. Further, even in plain language, tariff structure and language can be confusing to the average customer. A summary explanation in a bill insert format, including

rate changes affecting customers, is expected to be more universally understood and consumed than actual enclosed tariff pages would be. As such, the Companies recommend that the Commission revise this portion of its intended implementation of Act 58 to call for bill inserts to be provided which summarize the various rate changes in a more customer-friendly format.

### III. CONCLUSION

Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company appreciate the Commission's effort to clarify its interpretation of Act 58 and its requirements, as well as opportunity to provide comments in response to the Commission's August 23, 2018 Tentative Implementation Order. The Companies look forward to further collaboration and discussion with the Commission and interested stakeholders on this important topic.

Respectfully submitted,

Dated: October 9, 2018



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Pennsylvania Power Company and  
West Penn Power Company

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Service by first class mail, as follows:

John R. Evans  
Office of Small Business Advocate  
Suite 1102, Commerce Building  
300 North Second Street  
Harrisburg, PA 17101

Tanya J. McCloskey  
Office of Consumer Advocate  
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Richard A. Kanaskie  
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P.O. Box 3265  
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Dated: October 9, 2018



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