



Laborers'
International
Union of
North America

**LABORER'S DISTRICT COUNCIL
OF EASTERN PENNSYLVANIA**

LIUNA!

Feel the Power

AFL-CIO

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October 9, 2018

VIA E-FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

**Re: Comments of the Laborers' District Council of Eastern Pennsylvania on the
Implementation of Act 58 of 2018, Alternative Ratemaking for Utilities, Docket No.
M-2018-3003269**

Dear Secretary Chiavetta,

Please find attached comments of the Laborers' District Council of Eastern Pennsylvania ("LDCEPA"), an affiliate of the Laborers International Union of North America ("LIUNA") regarding the above-referenced proceeding.

Thank you very much.

Sincerely,

Anthony Seiwell
Business Manager, Laborers' District Council of Eastern Pennsylvania

BEFORE THE PENNSYLVANIA PUBLIC UTILITIES COMMISSION

Implementation of Act 58 of 2018,)
Alternative Ratemaking for Utilities) Docket No. M-2018-3003269
)

COMMENTS OF THE LABORERS’ DISTRICT COUNCIL OF EASTERN PENNSYLVANIA
 (“LDCEPA”), AN AFFILIATE OF THE LABORERS INTERNATIONAL UNION OF NORTH
 AMERICA (“LIUNA”)

Dated: October 9, 2018

Introduction

The Laborers' District Council of Eastern Pennsylvania ("LDCEPA"), an affiliate of the Laborers International Union of North America ("LIUNA"), submits these comments on the Implementation of Act 58 of 2018 Alternative Ratemaking for Utilities, Docket No. M-2018-3003269.

LDCEPA represents thousands of members in Eastern Pennsylvania and is an affiliate of LIUNA, which represents half a million members primarily employed in the construction industry, and is the eighth largest labor organization in the United States. LDCEPA members work in multiple sectors of the construction industry, including power, gas distribution, highway, water/sewer, and pipelines. Our signatory contractors are among the safest and most experienced in the industry, and LIUNA's \$100 million national commitment to training is second to none. For decades, LDCEPA has been helping to put Pennsylvania residents to work, and creating family-supporting careers.

Comments

Act 58 represents tremendous potential to create broader prosperity across Pennsylvania while improving the state's energy infrastructure. However, thus far there has been little consideration given to labor standards and worker safety in the implementation phase.

Specifically, supporting Project Labor Agreements, local hiring, and Best Value Contracting should all be considered during the implementation of Act 58. Reducing turnover, improving workplace safety, and improving productivity of the contractor workforce will provide real benefits to Pennsylvania ratepayers.

Examples from other States:

We point to the experience in other jurisdictions that can offer best practices for Pennsylvania to follow:

- In approving Dominion's \$4 billion Cove Point LNG Project, the Federal Energy Regulatory Commission ("FERC") found that "the EA properly concludes that the project would provide socioeconomic benefits locally and nationwide." Dominion's Cove Point LNG Project was built by local workers who received family-supporting wages, family health insurance, and retirement benefits. Dominion's contractors executed a Project Labor Agreement with a consortium of multiple unions in order to provide skilled manpower for the project, creating quality construction jobs for hundreds of local construction workers.¹

¹ Dominion Cove Point LNG, LP Docket No. CP13-113-000, Order Granting Section 3 and Section 7 Authorizations, Issued September 29, 2014, Page 47.

- The San Francisco Public Utilities Commission (“SFPUC”) also signed a Project Labor Agreement with local construction unions for its \$4.3 billion Water System Improvement Program (“WSIP”) in order to ensure safe and efficient construction, promote local hiring, create quality high-paying construction jobs for veterans, and ensure workplace safety. The agreement states: “The purpose of this Agreement is to promote efficiency of construction of the WSIP (“the Project”) by facilitating communication, education, and partnerships among the SFPUC, Unions, Contractors, and contract-enforcement agencies to identify and resolve issues, to enhance understanding and compliance with the labor-related policies and regulations, and to provide for peaceful settlement of labor disputes and grievances without strikes or lockouts, thereby promoting the public interest in assuring the timely and economical completion of the Project.”²

- In 2010, the state of Colorado passed legislation that not only increased its renewable energy standards, but also recognized the role of the new energy economy in creating quality employment opportunities. As a result, “Best Value Employment Metrics” are used by the Colorado Public Utilities Commission to evaluate new resource acquisitions. At the time, the Governor’s Energy Office issued the following statement regarding the purpose and goals of Best Value Employment Metrics: “The Best Value language is about keeping our utility construction jobs in Colorado. It is a directive to the Public Utilities Commission to consider a set of factors that will be evaluated when utility proposals are brought to the Public Utilities Commission for review, including: availability of training programs, employment of Colorado workers, competitive wages, and benefits offered to workers...The Best Value language means we are going beyond simply selecting projects based upon delivering the cheapest Mega Watt of power, and instead looking at a more comprehensive sets of costs and benefits to the bill payer.”³

- In 2011, Illinois passed the Energy Infrastructure Modernization Act establishing formula rates to spur multi-billion dollar infrastructure investment and modernization by the state’s largest utilities. The legislation included specific construction job creation targets and transparency and reporting requirements for both direct and contracted-out job creation goals. Section 16-108.5 of the Illinois Power Agency Act states: “During the infrastructure investment program's peak program year, a participating utility other than a combination utility shall create 2,000 full-time equivalent (“FTE”) jobs in Illinois, and a participating utility that is a combination utility shall create 450 full-time equivalent jobs in Illinois related to the provision of

² San Francisco Public Utilities Commission, Water System Improvement Program, Project Labor Agreement, Page 2.

³ Governor’s Energy Office, *Colorado’s 30% Renewable Energy Standard: Policy Design and New Markets*, August 2010, <http://cnee.colostate.edu/wp-content/uploads/2015/11/HB10-1001-Colorados-30-percent-Renewable-Energy-Standard.pdf>.

electric service, including direct jobs, contractor positions, and induced jobs.”⁴ The legislation demonstrates that utility capital investment and job creation can occur without a significant impact to customer rates. Since the passage of the legislation, ComEd has successfully invested over a billion dollars, and created 2,000 FTE jobs. These jobs pay family supporting wages, and provide workers family health insurance and retirement benefits. At the same time, the total average rate increase to the customer was less than 2.5% annually.⁵

Status Quo Not Acceptable

Certain utilities in Pennsylvania, such as UGI, employ unsafe traffic control contractors who fail to pay their employees a living wage or provide affordable and meaningful benefits. Two of these utility contractors, Flagger Force and Area Wide Protective (“AWP”) pay such low starting wages, \$11.50 and \$11.25 respectively, that a full-time employee supporting a spouse and child earns near federal poverty level wages.⁶ If supporting a family of three, these workers also qualify for assistance programs targeted at low-income families such as Medicaid, Supplemental Nutrition Assistance Program (“SNAP”), Women, Infants, and Children (“WIC”) Program, and the Low-Income Home Energy Assistance Program (“LIHEAP”).

Pennsylvania Assistance Programs for Low-Income Families & Eligibility Levels⁷

Family Size	SNAP	MEDICAID	WIC	LIHEAP
1	\$19,296	\$16,040	\$22,459	\$ 18,210
2	\$25,992	\$21,599	\$30,451	\$ 24,690
3	\$32,676	\$27,159	\$38,443	\$ 31,170
4	\$39,360	\$32,718	\$46,435	\$ 37,650
5	\$46,056	\$38,277	\$54,427	\$ 44,130

⁴ ComEd, *Illinois General Assembly Enacts Energy Infrastructure Modernization Act Landmark legislation will modernize grid and deliver tangible benefits to consumers*, October 27, 2011, <https://www.prnewswire.com/news-releases/illinois-general-assembly-enacts-energy-infrastructure-modernization-act-132681088.html> and Sec. 16-108.5. Infrastructure investment and modernization; regulatory reform, <http://www.ilga.gov/legislation/publicacts/97/097-0616.htm>.

⁵ Illinois Commerce Commission, *Report On The Energy Infrastructure Modernization Act’s Infrastructure Program And Performance-Based Formula Rate*, December, 2017, <https://www.icc.illinois.gov/downloads/public/ga/Energy%20Infrastructure%20Modernization%20Act%20Report%20Dec%202017.pdf> and Commonwealth Edison Company’s Infrastructure Investment Plan 2018 Annual Update, March 31, 2018, <https://www.icc.illinois.gov/downloads/public/ComEdInfrastructureInvestmentPlan2018Update.pdf>.

⁶ Employee starting wage data was gathered through individual conversations with employees or through job postings on company websites, for example, see: <https://careers-awptraffic.icims.com/jobs/6888/traffic-control-specialist--bloomsburg%2c-pa/job>. The Federal Poverty Level is \$20,780 for a family of three, and \$25,100 for a family of four, see <https://dced.pa.gov/housing-and-development/weatherization/income-eligibility/>.

⁷ For income eligibility levels, see: <http://www.dhs.pa.gov/citizens/supplementalnutritionassistanceprogram/snapincomelimits/index.htm>, <https://www.benefits.gov/benefits/benefit-details/1148>, <https://www.benefits.gov/benefits/benefit-details/2052>, and http://www.dhs.pa.gov/cs/groups/webcontent/documents/document/p_035672.pdf.

Family Size	SNAP	MEDICAID	WIC	LIHEAP
6	\$52,740	\$43,837	\$62,419	\$ 50,610
7	\$59,424	\$49,396	\$70,411	\$ 57,090
8	\$66,120	\$54,956	\$78,403	\$ 63,570

Low wages can create high turnover which reduces productivity and safety. In addition to paying near poverty level wages, Flagger Force’s safety score, as measured by its Experience Modification Rating (“EMR”), is so high it falls outside what is considered acceptable in the industry.⁸

Utility Flagging Contractor’s Starting Wage and EMR Score

Contractor	Starting Wage	EMR 2017	EMR 2018
Flagger Force	\$ 11.50	1.282	1.13 ⁹

Conclusion

Pennsylvania has the opportunity to be a leader, and join other states who have adopted strong labor protections that promote quality job creation and workplace safety in their utility reform efforts. These efforts have not only spurred significant capital spending to modernize energy infrastructure, but the projects have helped to raise the standard of living for thousands of workers, and spur economic growth in local communities. We would be making a grave error if we ignored the plight of thousands of low-paid utility contract workers across Pennsylvania. The inclusion of Project Labor Agreements, local hiring targets, and Best Value Contracting would provide real benefits to rate payers by reducing turnover, improving workplace safety, and improving productivity of the contractor workforce. LDCEPA urges the Commission to incorporate strong labor protections in its implementation of Act 58. We appreciate the Commission’s consideration of these comments.

⁸ Company EMR scores were published by the Pennsylvania Compensation Rating Bureau, accessed September 2018.

⁹ Flagger Force’s 2018 EMR score was issued on December 5, 2017.