



COMMONWEALTH OF PENNSYLVANIA

November 19, 2018

E-FILED

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

Re: Implementation of Act 58 of 2018 / Docket No. M-2018-3003269

Dear Secretary Chiavetta:

Enclosed please find the Reply Comments on the Tentative Implementation Order, on behalf of the Office of Small Business Advocate ("OSBA"), in the above-captioned proceeding.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Erin K. Fure".

Erin K. Fure
Assistant Small Business Advocate
Attorney ID No. 312245

Enclosures

cc: See Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Implementation of Act 58 of 2018

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Docket No. M-2018-3003269

**REPLY COMMENTS
OF THE OFFICE OF SMALL BUSINESS ADVOCATE
ON TENTATIVE IMPLEMENTATION ORDER**

**Erin K. Fure
Assistant Small Business Advocate
Attorney ID No. 312245**

**For: John R. Evans
Small Business Advocate**

**Office of Small Business Advocate
300 North Second Street, Suite 202
Harrisburg, PA 17101**

Date: November 19, 2018

II. REPLY COMMENTS

A. Section 1330(a)- Declaration of Policy

In its October 9, 2018 Comments, the Office of Consumer Advocate (“OCA”) asserted that alternative ratemaking mechanisms must meet the just and reasonable standard and, in order to do so, alternative ratemaking mechanisms must “seek and achieve identified public policy goals that are not otherwise being achieved under the Pennsylvania Public Utility Code ... or traditional ratemaking; provide tangible, identifiable benefits to consumers; allow consumers to manage their bills in a safe and reasonable manner; and ensure that rates and bills remain understandable and affordable.”¹ The OSBA agrees with the OCA that alternative ratemaking mechanisms should only be approved when just and reasonable. Additionally, the OSBA also agrees that in order to meet this standard, the proposed alternative ratemaking mechanisms must have sufficient consumer protections, including but not limited to those articulated by the OCA in its October 9, 2018 Comments.²

B. Section 1330(b)-Alternative Rate Mechanisms

UGI Utilities, Inc. (“UGI”) asserted in its Comments to the TIO that review and approval of alternative rate mechanisms under Section 1308 should not be limited to Section 1308(d) general rate increases.³ Similarly, in its Comments, PPL Electric Utilities Corporation (“PPL Electric”) posited that the language of Section 1330(b)(1) contemplates *any* Section 1308 base rate proceeding and should not be limited to Section 1308(d) proceedings.⁴

¹ *Comments of the Office of Consumer Advocate* at pp. 2-4.

² See *Comments of the Office of Consumer Advocate* at p. 12.

³ *Comments of UGI Utilities, Inc.* at pp. 3-5.

⁴ *Comments of PPL Electric Utilities Corporation* at p. 3.

The OSBA strongly supports the position taken by the Commission that Section 1330(b)(1) requires utilities seeking Commission approval of an alternative rate or rate mechanism to do so through a Section 1308(d), 66 Pa. C.S. §1308(d), general rate proceeding. In order to ensure that the interests of consumers are protected, the extensive scrutiny provided through a Section 1308(d) proceeding is necessary. The OSBA further supports the Commission's stance that rate adjustments in accordance with Section 1307 are permitted, but only under parameters established through an initial Section 1308(d) proceeding approving the alternative rate mechanism.

C. Section 1330(c)-Customer Notice

a. Inclusion of Tariff Pages in Bill Insert

Customer notice of proposed alternative ratemaking mechanisms is critical. The OSBA, however, shares the concern raised by multiple stakeholders in their Comments that requiring the inclusion of tariff pages in a bill insert would be costly, unduly burdensome, and create consumer confusion.⁵ The OSBA believes that including information with the bill inserts regarding how consumers may electronically access tariff pages is an adequate and appropriate alternative.

b. Sufficiency and Detail of Notice

The OSBA supports the suggestions made by OCA and Duquesne Light Company ("DLC") in their respective Comments that the notifications to consumers regarding alternative ratemaking mechanisms should be provided in plain understandable language.⁶ Furthermore, the OSBA agrees with the recommendations that an operational overview and impact statement should

⁵ See *Comments of UGI Utilities, Inc.* at pp. 6-7; *Comments of Duquesne Light Company* at p. 7; *Comments of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company* at pp. 5-6; *Comments of the Energy Association of Pennsylvania to the Tentative Implementation Order* at pp. 5-6; *Comments of PECO Energy Company* at p. 4; *Comments of PPL Electric Utilities Corporation* at p. 5.

⁶ *Comments of the Office of Consumer Advocate* at p. 8; *Comments of Duquesne Light Company* at p.6.

also be provided to consumers in conjunction with the notification required under proposed Section 1330(c).⁷ The OSBA concurs with the OCA's recommendation that information regarding the final, approved alternative ratemaking mechanism should be provided to consumers via bill insert.⁸ The OSBA would respectfully recommend the creation of a working group or collaborative of interested stakeholders to discuss notice requirements under proposed Section 1330(c) and to report to the Commission any consensus reached through the discussions of the working group/collaborative.

D. Section 1330(d)-Commission

a. Requirement of Inclusion of Consumer Protections Proposals in Filings

In its Comments, the OCA posits that the Commission should require a utility to include in its initial filing and testimony in support of its alternative rate mechanism at least the following:

- 1) Identification of the regulatory policy goals to be achieved by alternative rates;
- 2) Identification of the desired regulatory outcomes and how the alternative rate mechanism achieves these outcomes more efficiently or effectively than traditional base rate treatment;
- 3) Identification of the specific metrics and reporting that will be used to measure the utility's performance;
- 4) Identification of the tangible benefits to consumers, the costs to consumers, and other impacts on consumers;
- 5) Identification of the consumer protections proposed for the mechanism;
- 6) Presentation of the consumer education plan and the cost of the plan;
- 7) Information responsive to the topics and issues contained in the Commission's Proposed and/or Final Policy Statement at 52 Pa. Code §69.3302.⁹

The OSBA is in agreement with the OCA's proposed initial filing requirements. As pointed out by the OCA, the statutory advocates and other intervenors in Section 1308(d)

⁷ See *Comments of the Office of Consumer Advocate* at p. 8; *Comments of Duquesne Light Company* at p.6.; *Comments of Advanced Energy Economy Institute* at p. 3.

⁸ *Comments of the Office of Consumer Advocate* at p. 9.

⁹ *Comments of the Office of Consumer Advocate* at pp. 10-11.

proceedings are under significant time constraints due to litigation schedules. Requiring the utility to include the suggested information in its initial filing will advance the public interest by providing for a more fully-developed record at the outset. Requiring utilities to initially provide the information listed above will solicit more enriching and substantive responses to filings and may narrow or wholly eliminate issues to be litigated.

b. Additional Consumer Protections

The OSBA agrees with the OCA’s position in its Comments that any utility proposing an alternative ratemaking mechanism must include adequate consumer protections in order to be just and reasonable.¹⁰ In their Comments, the Pennsylvania Energy Consumer Alliance (“PECA”), the Met-Ed Industrial Users Group (“MEIUG”), the Penelec Industrial Customer Alliance (“PICA”), the Philadelphia Area Industrial Energy Users Group (“PAIEUG”), the PP&L Industrial Customer Alliance (“PPLICA”), and the West Penn Power Industrial Intervenors (“WPPII”) (collectively, “Industrial Customers”) highlighted several suggested consumer protection mechanisms that could be implemented in connection with alternative ratemaking policies. While the OSBA disagrees with the Industrial Customers that a separate Rulemaking Docket is necessary to establish consumer protection standards to accompany alternative ratemaking mechanisms, the OSBA does agree with several of the proposals advanced by the Industrial Customers in their Comments.¹¹

The OSBA is in favor of the Commission establishing a regulation limiting the length of time that an alternative ratemaking mechanism can be used before the utility must file a new rate

¹⁰ *Comments of the Office of Consumer Advocate* at pp. 2, 4, 12.

¹¹ See *Comments of the Pennsylvania Energy Consumer Alliance, Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, Philadelphia Area Industrial Energy Users Group, PP&L Industrial Customer Alliance, and the West Penn Power Industrial Intervenors* at pp. 7-8.

case and agrees with the Industrial Customers' suggestion of no more than three to five years.¹² Frequent and periodic review of alternative ratemaking mechanisms will provide a level of protection to consumers by subjecting these mechanisms to regular oversight by the Commission. Because alternative ratemaking mechanisms reduce risk to utilities but increase risk to consumers, the OSBA also agrees with the Industrial Customers' suggestions to monitor the utility's earnings to ensure that the realized Return on Equity ("ROE") remains just and reasonable and to include a reduction in the authorized ROE to reflect the reduced earnings volatility and risk for the utility.¹³

In order to prevent cross-class subsidies, the Industrial Customers also request that the Commission establish a regulation requiring alternative ratemaking mechanisms to be developed, evaluated and reconciled on a customer-class basis.¹⁴ The OSBA agrees that an alternative ratemaking mechanism should avoid both intraclass and interclass cost shifting. To that end, alternative ratemaking mechanisms should be reconciled on a customer-class basis.

However, the OSBA strongly disagrees with the Industrial Customers that the prevention of interclass subsidies requires alternative ratemaking mechanisms to be developed on a customer-class basis. Rather, an alternative ratemaking mechanism should be implemented in a manner that does not unreasonably discriminate against one customer class for the benefit of another. Permitting a utility to develop alternative rate mechanisms that are (1) limited to certain classes or (2) vary by customer class may unreasonably discriminate against one or more customer classes.

¹² *Comments of the Pennsylvania Energy Consumer Alliance, Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, Philadelphia Area Industrial Energy Users Group, PP&L Industrial Customer Alliance, and the West Penn Power Industrial Intervenors* at pp. 4-5.

¹³ *See Comments of the Pennsylvania Energy Consumer Alliance, Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, Philadelphia Area Industrial Energy Users Group, PP&L Industrial Customer Alliance, and the West Penn Power Industrial Intervenors* at p. 5.

¹⁴ *See Comments of the Pennsylvania Energy Consumer Alliance, Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, Philadelphia Area Industrial Energy Users Group, PP&L Industrial Customer Alliance, and the West Penn Power Industrial Intervenors* at pp. 6-7.

III. CONCLUSION

The OSBA respectfully requests that the Commission consider its comments previously filed in this proceeding, as well as the reply comments above, in reviewing its proposed interpretation and implementation of Act 58 of 2018.

Respectfully submitted,



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For:

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Small Business Advocate

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Dated: November 19, 2018

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PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Docket No. M-2018-3003269

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served via email and/or First-Class mail (*unless other noted below*) upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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