



November 19, 2018

VIA ELECTRONIC FILING

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

Re: Docket M-2018-3003269, *Implementation of Act 58 of 2018 Alternative Ratemaking for Utilities*

Dear Secretary Chiavetta:

In response to the Tentative Implementation Order, dated August 23, 2018, and filed in the above-referenced docket "(Docket)", Advanced Energy Economy Institute (AEE Institute) respectfully submits these brief Reply Comments on the Pennsylvania Public Utility Commission's ("Commission") proposed interpretation and implementation of Section 1330 of the Public Utility Code 66 Pa. C.S. § 1330.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Ryan Katofsky". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Ryan Katofsky
Vice President, Industry Analysis

Comments

In initial comments, the majority of filing parties voiced broad overall agreement with the Commission's proposed interpretation of the key provisions of Act 58. This should leave little doubt that the intent of Act 58 is to remove any restrictions, whether actual or perceived, regarding the ability of the Commission to consider a wide range of alternative ratemaking proposals from utilities, including those listed in the text of Act 58, as well as others not listed. As we stated in our Initial Comments, utilities should be encouraged to explore the full range of regulatory options that can further align their financial interests with the interests of their customers and with state policy objectives, while making the most out of the technology and service innovations coming from the advanced energy industry.

There was also broad agreement among parties that base rate proceedings are the appropriate venue in which to consider initial alternative ratemaking proposals from utilities. Parties generally agreed with the Commission that the existing format and procedures of such proceedings provides the necessary scrutiny of any proposals to implement new or modified ratemaking methodologies. AEE Institute concurs. Nevertheless, while this may be true from a procedural standpoint once specific ratemaking proposals are made, AEE Institute continues to assert that there is significant benefit to the Commission in developing guidance on what it would expect from utility alternative ratemaking proposals. For example, this guidance could include:

- Additional details on the policy priorities of the Commission (also supported in initial comments from the Keystone Energy Efficiency Alliance [KEEA], et. al)
- Priority areas for development of utility performance metrics and expectations regarding the magnitude of the incentives and/or penalties associated with those performance metrics
- Preferred methods regarding recovery of lost revenues

As we recommended in our Initial Comments, given the extensive record on these and related issues in the ongoing Docket M-2015-2518883, AEE Institute believes that it remains the best venue for the Commission to articulate these policy goals in greater detail and to further engage stakeholders in a collaborative process to create a framework within which utilities could propose alternative ratemaking mechanisms. The Commission has already begun that process with its Proposed Policy Statement Order in Docket M-2015-2518883. To be clear, we do not view the development of such a framework as being prescriptive or as trying to apply a "one size fits all" approach to ratemaking. We recognize that each utility has unique



circumstances with respect to its customer base, infrastructure and other factors. Rather, Act 58 presents the Commission with an opportunity to further define what it wants to achieve for the state of Pennsylvania with alternative ratemaking.

A minority of filing parties, including the Energy Association of Pennsylvania and FirstEnergy, have recommended in their initial comments that, in light of the passage of Act 58, the Commission reconsider its Proposed Policy Statement in Docket M-2015-2518883, which lays out a series of criteria that utilities need to consider when proposing alternative distribution rate designs. We actually view the passage of Act 58 and the TIO as complementary to the ongoing Docket M-2015-2518883, and not in conflict with it. The Proposed Policy Statement is a first step to defining a consistent state-wide approach under which utilities can file alternative ratemaking and rate design proposals. It is common practice for state utility regulatory commissions to issue such guidance, particularly on new issues. Importantly, Docket M-2015-2518883 facilitates broad participation by parties in a single proceeding to discuss foundational and emerging issues in a more collaborative manner, rather than requiring parties to litigate them in individual utility rate cases. While rate cases will ultimately be necessary for establishing the specifics of utility ratemaking methodologies and rate designs, we continue to assert that there is value in tackling these issues and developing the record in a single proceeding to create a more defined framework that can then be applied in rate cases.

A similar position was articulated by the Pennsylvania Energy Consumers Alliance, et al (collectively the “Industrial Customers”). While their primary area of concern is consumer protections, they reference the letter from Governor Wolf, issued at the time he signed Act 58 into law, where the governor articulated the need for a “robust public policy comment process... prior to considering any rate proceeding proposing alternative rate mechanisms”.¹ The Industrial Customers then go on to state that “Rather than leaving the consumer protections as a subject for litigation in each rate case, the Industrial Customers urge the Commission to immediately commence a rulemaking as contemplated under Section 1330(d) of Act 58.”²

We further note that the Proposed Policy Statement in Docket M-2015-2518883 is fairly generic in nature and is not prescriptive; it simply articulates the range of issues that utilities would need to address when filing new distribution rate designs, without directing or requiring utilities to file any particular rate designs. Moreover, as we pointed out in our Initial Comments on the Proposed Policy Statement Order in

¹ Initial Comments of the Industrial Customers, at page 1.

² Initial Comments of the Industrial Customers, at page 2.



Docket M-2015-2518883, the Proposed Policy Statement itself is concerned with “distribution rate design”, which we interpret to mean the distribution tariffs applicable to specific customers and customer classes. By comparison, the TIO, and indeed Act 58 itself, primarily cover “ratemaking”, i.e., the underlying utility business model that sets out revenue requirements and the overall financial framework that drives utility decision-making. Although the two issues of “ratemaking” and “rate design” are related in important ways, they are different. Thus, we see no need to hold up the finalization of the Proposed Policy Statement in light of the passage of Act 58 and the associated TIO. Rather, taken in combination, the TIO in this Docket and the Proposed Policy Statement in Docket M-2015-2518883, present the Commission with an excellent opportunity to continue to develop and refine a modern regulatory framework for utilities in Pennsylvania.

As developing guidance on alternative ratemaking approaches will take time, it is possible that one or more utilities will undertake a base rate proceeding prior to the conclusion of a generic proceeding on alternative ratemaking. This should not be used as justification for not developing such guidance. Indeed, beginning the conversation now on what are the state’s priorities with respect to the desired outcomes from alternative ratemaking can help inform ongoing base rate proceedings, even before the conclusion of any generic proceeding on the subject.

Conclusion

AEE Institute appreciates the opportunity to submit these reply comments and commends the Commission for its continued leadership on alternative ratemaking. We look forward to our continued participation in this important proceeding and the related proceeding on Alternative Ratemaking in Docket M-2015-2518883.

