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November 19, 2018

VIA E-FILED

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

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

Dear Secretary Chiavetta:

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

Upon receipt, if you have any questions regarding the information contained in this filing, please contact the undersigned at 412-393-6334 or awaldock@duqlight.com.

Sincerely,

A handwritten signature in blue ink that reads "Audrey W." followed by a long horizontal flourish.

Audrey Waldock

Enclosure

c: Kriss Brown (kribrown@pa.gov)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**REPLY COMMENTS OF
DUQUESNE LIGHT COMPANY**

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.* On August 23, 2018, the Commission issued a *Tentative Implementation Order* (“TIO”), setting forth its proposal regarding the implementation and interpretation of Act 58. The TIO was published in the *Pennsylvania Bulletin* on September 8, 2018¹ and provided for comments thirty (30) days from the date of publication, on or before October 8, 2018. Consistent with this schedule, Duquesne Light Company (“Duquesne Light” or “Company”) submitted comments for the Commission’s consideration.² Comments were submitted by fifteen other parties.

In accordance with the schedule in this proceeding, Duquesne Light hereby submits reply comments to highlight areas of disagreement with other parties,³ to reiterate specific

¹ See 48 Pa.B. 5691.

² 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”), which is also submitting Reply Comments in this proceeding. Duquesne Light supports the positions articulated in EAP’s Reply Comments.

³ Due to the voluminous nature of the comments at this proceeding, these reply comments are limited in nature and should be regarded as addressing only those points which necessitated response. The Company’s silence as to any particular issue should not be regarded as agreement or endorsement, and Duquesne Light reserves its right to challenge any issue not covered in the scope of these comments going forward.

points of its proposal, and to encourage the Commission to move in a measured way that preserves flexibility rather than mandates any one specific outcome or methodology.

II. REPLY 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 sought 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.⁴ As a result, Section 1330 of the Public Utility Code and interpretations thereto pertain to the Company.

A. Return on Equity and Risk Shifting

In its comments, the Pennsylvania Energy Consumers Alliance⁵ coalition noted that “Bond rating and credit agencies have recognized that alternative ratemaking mechanisms reduce earnings volatility and risk for utilities.”⁶ Further, the Pennsylvania Energy Consumers Alliance suggested the Commission seek input on a standard ROE adjustment for utilities that seek to implement an alternative mechanism. The Office of Consumer Advocate (“OCA”) commented that “In almost all instances, the implementation of

⁴ See *TIO* at 11.

⁵ Comments filed by Pennsylvania Energy Consumers Alliance, Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, Philadelphia Area Industrial Energy Users Group, PP&L Industrial Customer Alliance, and West Penn Power

⁶ See Pennsylvania Energy Consumers Alliance Comments at p. 5.

alternative ratemaking methods for a utility does not serve as a risk-reduction tool but rather a risk-shifting mechanism. By shifting risk from the utility to its consumers, alternative ratemaking mechanisms can shift the pendulum too far in the direction of the utility unless the authorization for the use of such mechanism is also coupled with necessary consumer protections.”⁷

Duquesne Light respectfully disagrees that alternative ratemaking shifts the risk from the utility to the consumer. The Company believes that whether or not there is risk-shifting is dependent on the mechanism that is implemented, as well as any other provisions in the rate case that can address such risk. The alternative rate mechanisms in Act 58 are varied and distinct, with impacts that cannot be neatly summarized. Duquesne Light believes that every proposal before the Commission should be seen in the context of that utility’s specific rate case. As part of the process for a base rate case, the parties seek to obtain results that may be favorable to one objective and less favorable to another, to achieve an outcome for the greater good. At the heart of alternative rate mechanisms is the ability for utilities, in conjunction with interested parties, to balance the need for a sufficient rate of return for the utility with the policy goals of the General Assembly and the citizens of the Commonwealth.

B. Elements in a Rate Case

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

⁷ See Office of Consumer Advocate Comments at p.2.

As noted in its Comments, on the *TIO*, Duquesne Light wholeheartedly agrees with the Commission's approach and no additional specific procedures are needed.⁸

In its comments, OCA suggested additional content that a utility must provide in its rate case if it seeks to utilize an alternative rate mechanism.⁹ OCA suggested that an alternative rate mechanism proposal contain information on the policy goals to be achieved; desired regulatory outcomes and how those are achieved through the alternative rather than traditional treatment; specific metrics and reporting; tangible benefits to consumers that are identifiable; consumer protections; and education plans, among other items.

Duquesne Light notes that the burden of proof exists with the utility in a rate case. A prudent approach for any proposed alternative mechanism should address some of the OCA's suggested requirements with its initial filing. However, providing many of the elements sought by the OCA would be premature in a rate case filing.

A specific example is the suggested education plan. The initial filing in a rate case varies considerably from the final outcome. Requiring an education plan for a proposal that may ultimately look different from, or not even be included in, the final rate plan is burdensome and ultimately offers little value. Similarly, identifying specific metrics and reporting requirements to measure a utility's performance on a mechanism that may or may not be approved is premature.

As noted in its Comments, the Commission is currently addressing the information required in rate case filings via a concurrent proceeding reviewing regulations related to

⁸ *TIO* at 10.

⁹ *See* OCA Comments at p. 11.

52 Pa. Code Chapter 53.¹⁰ If the Commission wishes to ensure that certain information is provided in a rate case as part of an alternative mechanism, this concurrent proceeding is the proper venue.

C. Recovery of Capital

Duquesne Light concurs with the comments of the Advanced Energy Economy Institute (“AEE Institute”) suggesting that the Commission consider the regulatory treatment of certain operating expenses that can substitute for traditional utility capital investments.¹¹ The Company is acutely aware of the changing nature of its business and the need to evaluate non-wires alternatives. Recognition of non-wires alternatives as capital projects by the Commission would enable the Company to more easily consider emerging technology in its distribution planning.

D. Customer Notice and Education

In the *TIO*, the Commission proposes adding language to the existing customer notice. Several parties commented on the proposed requirement, with some comments suggesting additional consumer notification provisions.

The Company notes that utilities, in their respective comments, uniformly opposed mailing tariff pages, stating that it would be burdensome, costly and likely cause consumer confusion.¹² Similarly, the OCA noted that “... tariff pages, even if in plain language, will create a message that may not be easily recognized, accessed or understood by most

¹⁰ *Use of Fully Projected Future Test Year 52 Pa. Code Chapter 53*, Docket No. L-2012-2317273.

¹¹ See AEE Institute Comments at p. 2.

¹² See *TIO* at 7.

consumers.”¹³ Duquesne Light concurs with the other utilities and the OCA’s comments opposing the proposal to provide tariff pages.

On this same topic of consumer notification, the OCA, in its comments, suggested that the notice of proposed rate changes be provided to the Commission’s Bureau of Consumer Services and OCA for review and comment before being sent to customers.¹⁴ In addition, the OCA recommended that a utility submit, as part of its rate case filing, a proposed education plan.¹⁵ As noted, *supra*, the Company disagrees with this recommendation. Duquesne Light agrees that consumers should be made aware of rate changes and the likely impact to the customers’ bills. However, as previously noted, the initial filing and the final outcome of a rate case may differ significantly. Preparing and submitting an education plan for a proposed rate mechanism that may or may not survive to implementation is a poor use of resources, especially given the already voluminous amount of information required in a rate case filing.

The Company can appreciate OCA’s desire to inform ratepayers of proposed mechanisms in advance to allow for input. However, the Company believes that the notification provided for in the *TIO* and existing rate proceeding notifications are sufficient at this time. If a new mechanism is proposed and debated during a rate case, then the impact and required customer education can also be discussed, and made a part of any rate case order. Customer education should occur following a decision by the Commission on what rates will be implemented. Resources should not be wasted on proposals that will not ultimately come to fruition.

¹³ OCA Comments at pp. 8-9.

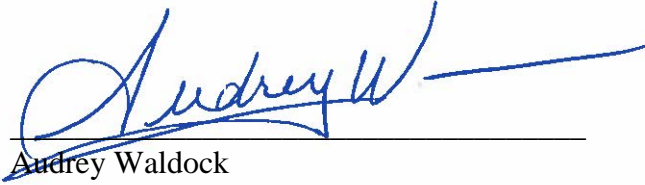
¹⁴ OCA Comments at p. 8.

¹⁵ OCA Comments at p. 13.

III. CONCLUSION

Duquesne Light appreciates the opportunity to provide additional comments on the Commission's proposed interpretation and implementation of Section 1330 of the Public Utility Code, 66 Pa. C.S. § 1330.

Respectfully submitted,



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