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May 31, 2017

Rosemary Chiavetta, Esq., Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, Pennsylvania 17120

Re: Alternative Ratemaking Methodologies
Docket No. M-2015-2518883

Dear Secretary Chiavetta:

Please find enclosed for filing the Comments of the Energy Association of Pennsylvania to the Tentative Order entered on March 2, 2017 at the above-referenced docket.

Sincerely,

Terrance J Fitzpatrick

Terrance J. Fitzpatrick
President & CEO

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Alternative Ratemaking Methodologies	:	M-2015-2518883

COMMENTS OF THE
ENERGY ASSOCIATION OF PENNSYLVANIA TO THE TENTATIVE ORDER ENTERED ON MARCH 2, 2017

I. INTRODUCTION

The Pennsylvania Public Utility Commission ("Commission" or "PUC") initiated the current proceeding with a Secretarial Letter[1] that scheduled an *en banc* hearing in March 2016 to consider information from experts regarding the value of alternative ratemaking methodologies, revenue decoupling in particular, to remove disincentives for energy utilities to pursue aggressive energy conservation and efficiency initiatives beyond those currently achieved through programs such as required under Act 129. Following the March 2016 hearing, the Commission provided an opportunity for any interested party to submit comments under this docket by March 16, 2016. Numerous parties, including the Energy Association of Pennsylvania ("Association" or "EAP") and its electric distribution company ("EDC") and natural gas distribution company ("NGDC") members filed comments. [2]

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[1] *See,* Secretarial Letter, December 31, 2015, Docket No. M-2015-2518883

[2] EAP is trade association with EDC members including Citizens' Electric Company; Duquesne Light Company; Metropolitan Edison Company; PECO Energy Company; Pennsylvania Electric Company; Pennsylvania Power Company; Pike County Light & Power Company; PPL Electric Utilities Corporation; UGI Utilities, Inc.(Electric Division); Wellsboro Electric Company; and, West Penn Power Company and NGDC members including Columbia Gas of Pennsylvania, Inc.; Pike County Light & Power Company; National Fuel Distribution Corp.; PECO Energy

On March 2, 2017, the Commission continued this proceeding by issuing a Tentative Order seeking further comments on alternative ratemaking methodologies and the possible processes to advance adoption and implementation. The Tentative Order sets forth a separate set of questions addressed to the electric utilities, the natural gas utilities and the water and wastewater utilities and further identifies a number of broad questions on process, legal authority and whether the Commission should consider adoption of a policy statement or a new set of regulations as a means to promote the use of various alternative ratemaking methodologies. EAP submits these comments addressing the general questions raised in the Tentative Order and defers to its individual member EDCs and NGDCs to address the specific questions detailed on pages fifteen through seventeen of that order.

II. COMMENTS

The Tentative Order expands the inquiry set forth in the December 2015 Secretarial Letter to include the water and wastewater utility industries along with the EDCs and NGDCs and expands the focus to consider alternative ratemaking methodologies beyond revenue decoupling as a means to encourage energy efficiency and conservation programs. The Tentative Order details a number of methodologies starting with revenue decoupling and continuing with explanations of lost revenue adjustment mechanisms, straight fixed/variable pricing, cost trackers (a/k/a surcharges or riders), a choice of test years approach, multi-year rate plans, demand charges, standby and backup charges and DSM performance incentive mechanisms. Not all these mechanisms operate to enhance utility energy efficiency efforts although the policies they do further such as universal service programs, full and current cost

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Company; Peoples Natural Gas Company LLC; Peoples TWP LLC; Philadelphia Gas Works; UGI Central Penn Gas, Inc.; UGI Penn Natural Gas, Inc.; UGI Utilities Inc.; and Valley Energy Inc.

recovery or the replacement of aging infrastructure are of paramount importance to utilities, ratepayers and regulators alike. The Commission acknowledges that while these various methodologies and performance incentives, some of which are already in use by Pennsylvania utilities, "are designed to provide for just and reasonable rates under certain policy, economic and resource circumstances, not all are applicable to each type of utility or all utilities within a particular utility type." Tentative Order at p. 14.

EAP agrees and supports this basic premise and believes that this inquiry should continue to focus on maintaining flexibility when it comes to determining what particular alternative ratemaking methodology may be optimal for a particular category of utilities and for a particular utility within that category at any given point in time. Changes to the economy and resource availability are a given and what works best today to craft a reasonable rate structure that achieves policy goals, while at the same time serving utility ratepayers and shareholders, may not work in all future circumstances which today are unknown and not easily predictable. EAP maintains that the optimum approach starts with the individual utility proposing an alternative ratemaking methodology or combination of methodologies best suited to achieve "just and reasonable" rates that not only reflect public policy objectives but account for the unique attributes of the utility's service territory, operations, facilities, and customer demographics. EAP does not favor an approach that identifies a specific or even a preferred methodology for application within a given utility category, believing that such a "one-size-fits all" perspective may unnecessarily constrain both the utility industries and the Commission in addressing future circumstances. Rather, EAP supports a process whereby the methodology or methodologies are advanced by the utility via a petition filed before the Commission and the Commission is empowered to consider the alternative(s) in the context of a due process proceeding following the presentation of evidence from interested parties, i.e. utilities, ratepayers, statutory advocates and others with standing to participate.

The Commission has listed various methodologies available for consideration at pages six through eleven in the Tentative Order and further refers to a 2016 NARUC Manual on Distributed Energy Resources Rate Design and Compensation which offers assistance for state commissions "in considering appropriate rate design and compensation policies for distributed energy resources (DER)."[3] EAP recommends additional resources for consideration, including *Alternative Electricity Ratemaking Mechanisms Adopted by Other States* prepared for the Public Utility Commission of Texas by Christensen Associates Energy Consulting LLC and *Revenue Decoupling for Natural Gas Utilities*, written by Ken Costello for the National Regulatory Research Institute.[4] Each of these resources provide a compilation and explanation of the various alternative ratemaking mechanisms available today to further specific policies and initiatives impacting distribution utilities.

At this point in the inquiry, EAP suggests that rather than seeking to eliminate or restrict methodologies available for consideration either via a general policy statement or new set of regulations, it would be useful to review the Commission's authority to approve and oversee implementation of alternative ratemaking methodologies. The Tentative Order references a number of statutory sections that authorize Commission consideration of alternative ratemaking mechanisms, i.e., 66 Pa. C. S. § 315(e), 66 Pa. C. S. § 523 (b)(4) and (b)(5), and 66 Pa. C. S § 2806(i), in addition to its general powers under section 501 of the Public Utility Code. In

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[3] *See,* Distributed Energy Resources Rate Design and Compensation: A Manual Prepared by the NARUC Staff Subcommittee on Rate Design at p. 5. http://pubs.naruc.org/pub/19FDF48B-AA57-5160-DBA1-BE2E9C2F7EA0
[4] *See also,* regularly-updated list compiled by the American Gas Association of innovative rates in place across the U.S.: https://www.aga.org/rates-and-regulatory-0/innovative-rates

contrast, section 2806.1(k) of the Public Utility Code, 66 Pa. C.S. § 2806.1(k) prohibits recovery by an EDC via a reconcilable automatic adjustment clause of revenue loss attributable to the reduced energy consumption or changes in demand incurred in the implementation of an Act 129 Energy Efficiency and Conservation Plan.[5] Additionally, certain stakeholders, such as the Office of Consumer Advocate, have consistently maintained that any form of revenue decoupling is anathema to the goals of the legislature effectuated via Act 129. *See,* Tentative Order at p. 3 citing testimony of Testimony of Tanya J. McCloskey, Acting Pennsylvania Consumer Advocate. To the extent that issues regarding the Commission's authority to approve certain methodologies remains subject to some uncertainty and the threat of litigation, it may be prudent (and more cost-effective) to seek direction from the legislature rather than litigate the matter in a future rate case proceeding. Legislative action would remove uncertainty and clarify the Commission's statutory authority to consider a broad array of alternative ratemaking methodologies following a request by an individual utility.

Underlying the general discussion of which mechanism works best for each utility, whether its adoption is authorized in Pennsylvania, and the means of implementation, is the identification of the policy goals that are to be achieved via a particular alternative ratemaking mechanism. The instant proceeding initiated with a focus on revenue decoupling as a means to encourage better implementation of energy efficiency and conservation programs by utilities. Such programs are legislatively mandated for certain EDCs and have also been encouraged by the Commission for NGDCs as well as EDCs not subject to Act 129. While the Tentative Order does not specifically identify additional policy considerations, it acknowledges that each methodology, including performance incentives, is designed to reflect certain policy, economic

[5] Such lost revenue can be reflected in the revenue requirement used to calculate rates in a distribution-base rate case. 66 Pa. C. S. § 2806.1(k) (3).

and resource choices. *See*, Tentative Order at p. 14. Thus, establishing and prioritizing the policy objectives will undoubtedly influence the choice of methodology proposed to set rates and will be a fundamental consideration of any individual proceeding to approve a mechanism or rate design that best reflects the public interest. [6]

While traditionally rates are set according to utilities' costs to serve each rate class, [7] designing a rate is also said to be more art than science as the process reflects the various goals of stakeholders and regulators, i.e., maintaining a quality of service and facilities, allowing for reasonable ROEs, and affording full and current cost recovery. Rate design is further influenced by legislative and political policies, i.e. supporting competitive wholesale and retail markets, addressing low-income needs/affordability, updating and replacing infrastructure (and technology) and promoting energy efficiency and conservation programs.[8] Simply stated, in any particular base rate case the regulator will consider and weigh the benefits of the stated goals and policies and strive to approve a rate design that best reflects the public interest. Trade-offs are inevitable and compromise is achieved based on the specific set of facts and circumstances presented and the policy considerations raised in that particular proceeding.

To the extent that a proposed alternative ratemaking mechanism can stabilize revenue in the face of short-run usage fluctuations due to changes in weather, the business cycle, or other conditions, the adjustment could reduce price volatility between rate cases for consumers. To the extent these methodologies can reduce the need for expensive and time-consuming rate cases,

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[6] For example, the Statements of Vice Chairman Place and Commissioner Sweet raise policy concerns involving retail markets, electric reliability, replacement of aging infrastructure and impact on low-income customers and both ask commentators to discuss how particular methodologies would advance those concerns. EAP believes those questions can more readily be answered in individual proceedings based on utility specific facts and circumstances.

[7] In a base rate case, the overall cost of service or "revenue requirement" is determined, divided among various functions such as procurement, transmission and distribution and customer service, allocated among the various rate classes and then assigned to billing determinants such as energy consumed and fixed monthly costs.

[8] *See*, NARUC Manual at pp. 19 – 20 and Alternative Electricity Ratemaking Mechanisms Adopted by Other States prepared for PUC of Texas by Christensen Associates Energy Consulting, Inc. at pp. iv and 2 – 3.

they could further reduce administrative costs for utilities and consumers. To the extent that a particular methodology supports a regulatory or legislative policy goal, its adoption will be dependent upon an overall cost-benefit analysis, weighing all the various issues in the particular case and determining what is in the best interests of all stakeholders. For these reasons, EAP believes that ultimately the reasonableness or desired applicability of a particular mechanism must be the subject of individual utility initiated proceedings.

The current inquiry has provided an opportunity for the Commission and all stakeholders to explore and better understand the many types of ratemaking mechanisms available for consideration in designing a rate structure. It has also highlighted the reality that not all mechanisms advance all policy goals and objectives and that those objectives change over time and vary by utility industry and by utilities within a given industry. Thus, EAP believes that any framework for future action involving alternative ratemaking methodologies should be flexible: starting with a process initiated by an individual utility; accounting for the fact that policy goals will fluctuate over time and that a specific mechanism that meets one policy goal may not address other goals and can even function as a disincentive; affording the Commission with the means to consider and approve a wide array of mechanisms suitable under the particular circumstances; and allowing for input by stakeholders in a due process hearing.

III. CONCLUSION

EAP appreciates the opportunity to provide additional comments at this stage of the proceeding and continues to request that, in considering the issue of alternative ratemaking methodologies, the Commission provide maximum flexibility for the utility to propose rate design changes that achieve individual utility goals and account for the differences in service territories, operations and customer demographics. EAP maintains that the current process involving utility initiated proceedings that seek approval of a rate design is the appropriate way to consider and adopt alternative rate mechanisms.

Respectfully submitted,

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