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February 16, 2018

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

Advance Notice of Proposed Rulemaking Order Re: Use of a Fully Projected Future Test Year, 52 Pa. Code Chapter 53 Docket No. L-2012-2317273

Motion of the Energy Association of Pennsylvania Requesting to Delay the Filing of Comments to Advance Notice of Proposed Rulemaking Order until after the March Stakeholder Meeting or, in the alternative, Extending the Time for Filing Comments

Dear Secretary Chiavetta:

Enclosed for filing please find the Motion of the Energy Association of Pennsylvania requesting the Commission to issue an order that postpones the date for filing comments to the Advanced Notice of Proposed Rulemaking Order in the above-referenced docket until after the stakeholder meeting scheduled for the end of March or, in the alternative, extending the time for filing comments for sixty days until April 18, 2018.

Please do not hesitate to contact the undersigned with any questions regarding this filing.

Sincerely,

A handwritten signature in black ink, appearing to read "Donna M. J. Clark".

Donna M. J. Clark
Vice President and General Counsel

Enclosure

CC: Louise Fink Smith, Assistant Counsel, PUC via email
Erin Laudenslager, Technical Utility Services, PUC via email
Certificate of Service List

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

**Use of a Fully Projected Future Test Year
52 Pa. Code Chapter 53**

:

Docket No. L-2012-2317273

**MOTION OF THE ENERGY ASSOCIATION OF PENNSYLVANIA REQUESTING TO
DELAY THE FILING OF COMMENTS TO ADVANCED NOTICE OF PROPOSED
RULEMAKING ORDER UNTIL AFTER THE MARCH STAKEHOLDER MEETING
OR, IN THE ALTERNATIVE, EXTENDING THE TIME TO FILE COMMENTS**

NOW COMES, the Energy Association of Pennsylvania (“EAP”) acting on behalf of its electric distribution company (“EDC”) and natural gas distribution company (“NGDC”) members¹ and requests the Pennsylvania Public Utility Commission (“PUC” or “Commission”) pursuant to 52 Pa. Code §1.15 for an order that either (1) delays the filing of comments to the Advanced Notice of Proposed Rulemaking Order Re: Use of Fully Projected Future Test Year, 52 Pa. Code Chapter 53 (“ANOPR Order”) Docket No. L-2012-2317273 until thirty (30) days after the initial stakeholder meeting currently set for late March or, (2) in the alternative, grants a sixty (60) day extension of time until April 18, 2018 to all interested parties to file comments and convenes the initial stakeholder meeting within thirty (30) days of receipt of those comments, i.e. mid- May. In support of this petition, EAP states the following:

1. On December 22, 2017, the Commission entered the ANOPR Order seeking public comment on proposed procedures and filing requirements with respect to the use of a fully projected future test year (“FPFTY”) by eligible utilities in a base rate case that included a new

¹ EDC members of EAP include 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; UGI Utilities, Inc.-Electric Division; Wellsboro Electric Company; and West Penn Power Company. NGDC members of EAP include Columbia Gas of Pennsylvania, Inc.; Leatherstocking Gas Company LLC; National Fuel Gas Distribution Corp.; PECO Energy Company; Peoples Natural Gas Company LLC; Peoples Gas Company (formerly Peoples TWP); Philadelphia Gas Works; Pike County Light & Power Company; UGI Central Penn Gas, Inc.; UGI Penn Natural Gas, Inc.; UGI Utilities Inc.; and, Valley Energy Inc.

Exhibit E to 52 Pa. Code § 53.53. *See generally* 66 Pa. C. S. §§ 315(e) and 1308(d).

Additionally, the ANOPR Order solicits input “on proposed or alternative updates, as well as stakeholder suggestions for updates or alternatives, to the existing Exhibits A (generally natural gas), C (electric), and D (water) or other sections of the filing requirement regulations related to Sections 53.51 – 53.56 *Information Furnished with the Filing of Rate Changes.*” ANOPR Order at p. 1. The Commission provides that a stakeholder proceeding will be initiated “within thirty (30) days of receipt of comments”, ANOPR Order at ordering paragraph 6, and further suggests that, along with an anticipated future rulemaking proceeding, it “may convene additional stakeholder meetings to gather further input from stakeholders.”² ANOPR Order at p. 2.

Comments are currently due on February 27, 2018, following the publication of the ANOPR Order in the *Pennsylvania Bulletin* on January 13, 2018.

2. Attached to the ANOPR Order as Annex A, the Commission details suggested changes to Chapter 53 and sets forth a new Exhibit E which includes its proposal for information to be furnished with a base rate case filing that seeks to use a FPFTY. The new Exhibit E, which is forty-eight (48) pages in length, sets forth a section of proposed definitions, a section outlining the proposed filing requirements common to all entities authorized to use a FPFTY and a final section specifying additional requirements unique to a particular industry. In essence, Annex A is a strawman proposal for the information and data that PUC staff suggests may be appropriate to supply in the event a FPFTY is utilized.

² EAP agrees with the Commission that more than one stakeholder meeting may be necessary to insure sufficient technical (and practical) input from experts during this rulemaking process that seeks to develop both new rules for use of a FPFTY as well as a broader review of Chapter 53. EAP and its members suggest and are willing to engage in a working group process that would provide an opportunity for stakeholders to collaborate to meet the statutory objectives of 66 Pa. C. S. § 315(e), to further standardize and streamline the Chapter 53 regulations regarding information furnished with the filing of rate changes, and to explore ways to reduce redundancy generally in the discovery process that occurs during rate proceedings. EAP believes that such a working group process would likely result in an improved set of proposed regulations for the Commission to consider in the instant rulemaking proceeding.

3. The ANOPR Order, however, seeks input not only on the rulemaking anticipated in Act 11 of 2012, *see* 66 Pa. C. S. § 315(e) (providing that the Commission “shall promptly adopt rules and regulations regarding the information and data to be submitted when and if a future test period or a fully projected future test year is to be utilized.”) but also seeks input on possible changes to the current regulatory requirements concerning information furnished at the filing of a rate case, including changes to current Exhibits A, C and D. The ANOPR Order contemplates input from stakeholders on numerous additional requirements that go beyond the type of information and data that relates to the use a future test year or FPFTY under 66 Pa. C.S. § 315(e).

4. EAP provides that since the effective date of Act 11 of 2012 approximately 18 separate base rate filings have utilized a FPFTY and, in so doing, have submitted information and data sufficient to obtain approval from the Commission of a change in base rates. EAP believes that discussion of the information and data actually submitted in base rate filings seeking to use a FPFTY will prove invaluable in establishing the rules and regulations required under 66 Pa. C.S. § 315(e).

5. Given the breadth and scope of the proposed undertaking as well as its complexity, EAP contends that, prior to the submission of written comments, the instant rulemaking process will benefit from face-to-face discussions with subject matter experts regularly involved in ratemaking issues, whether on behalf of regulated utilities or the various advocates routinely involved in rate case filings.

6. EAP, therefore, requests that the submission of written comments to the ANOPR Order be delayed until thirty days after the stakeholder meeting referenced at pages 2 and 8 in the body of the ANOPR Order and ordered in paragraph 6. EAP strongly believes that holding the stakeholder meeting first, particularly here where those discussions can be guided by the work

outlined in Annex A, will focus and streamline the comment process, improve the end product and will facilitate the approach embodied in the ANOPR Order to review Chapter 53 in its entirety.

7. EAP submits that its request to convene the initial stakeholder meeting by the end of March prior to the submission of written comments aligns with the date contemplated in the ANOPR Order for that meeting and will not substantially alter the directive to staff to prepare recommendations regarding a FPFTY notice of proposed rulemaking.

8. Additionally and coincident with the entry of the ANOPR Order on December 22, 2017, the President of the United States signed into law Public Law No. 115-97, also known as the Tax Cuts and Jobs Act (“TCJA”), which became effective as of January 1, 2018 and amended or repealed various provisions of the Tax Reform Act of 1986. Passage of the TCJA resulted, *inter alia*, in a reduction of the current corporate federal tax rate from 35% to 21%.

9. By Secretarial Letter dated February 12, 2018, the Commission initiated a proceeding to “determine the effects of the TCJA on the tax liabilities of the Commission-regulated public utilities for 2018 and future years and the feasibility of reflecting such impacts in the rates charged to Pennsylvania utility ratepayers.” See Secretarial Letter Re: Tax Cuts and Jobs Act of 2017, Docket No. M-2018-2641242 (February 12, 2018) (“TCJA Secretarial Letter”) attached hereto as Exhibit A.

10. In its TCJA Secretarial Letter, the Commission is seeking verified responses from specified jurisdictional utilities to data requests set forth in Attachment B “in order to calculate, among other things, the net effect on income tax expense and rate base as a result of implementation of the TCJA” and is further requiring completion of a template provided as Attachment C “in order to assist the Commission in its calculation of the effects on taxable income and customer rates related to the TCJA.” TCJA Secretarial Letter at pp. 1 and 2.

11. The Commission further requests in the TCJA Secretarial Letter that interested parties submit written comments to three substantive issues as follows: first, whether the commission should adjust current customer rates to reflect the reduced annual state and federal income tax expenses of public utilities due to the tax rate changes in the TCJA; second, if an adjustment is warranted, the Commission seeks input on “the appropriate negative surcharge or other methodologies that would permit immediate modifications to consumer rates”; and third whether, if adopted, the surcharge or other methodology should provide that any refunds to customers due to these reduced taxes be effective as of January 1, 2018.

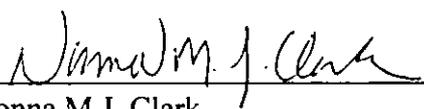
12. EAP notes that completion of those verified responses and the template included in Attachment C is requested from the majority of its EDC and NGDC members. The completion of those items, as well as the responses to the substantive issues outlined in the TCJA Secretarial Letter, will involve many of the same utility subject matter experts who are currently engaged in reviewing and responding to the ANOPR Order.

13. Further, all of the submissions and the written comments requested by the TCJA Secretarial Letter are due on or before March 9, 2018 approximately one week following the current due date for written comments to the ANOPR Order.

14. EAP recognizes the broad public scrutiny that accompanies the issues presented in the TCJA Secretarial Letter and the arguably more immediate impact resolution of those issues may have on Pennsylvania ratepayers. EAP maintains that its request to delay the filing of written comments to the ANOPR Order until thirty days after an initial stakeholder meeting to consider Annex A and discuss issues raised concerning Chapter 53 in its entirety will not only improve the process and eventual rules relating to use of a FPFTY but is a reasonable and justifiable solution to the constraints of providing comments in two complex proceedings back to back.

15. If the Commission is reluctant to convene the stakeholder meeting called for in the ANOPR Order in advance of the submission of written comments and, as an alternative means to relieve the constraint described above and to enable appropriate focus of expertise on the issues presented in the TCJA Secretarial Letter, EAP requests a sixty day extension for the filing of written comments to the ANOPR Order until April 18, 2018 for all interested parties with the contemplated stakeholder meeting occurring within thirty (30) days.

WHEREFORE, the Energy Association of Pennsylvania respectfully requests the Commission to issue an order granting its request to delay the filing of comments to the ANOPR Order until thirty (30) days after an initial stakeholder meeting currently set for late March or, in the alternative, extending the time for the filing of written comments to the ANOPR Order for sixty (60) days until April 18, 2018 and convening the initial stakeholder meeting within thirty (30) days of the receipt of those comments.



Donna M.J. Clark
Vice President and General Counsel
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800 N Third Street, Suite 205
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Atty. ID # 39866

Date: February 16, 2018

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Use of Fully Projected Future Test Year
52 Pa. Code Chapter 53**

: Docket No. L-2012-2317273

Certificate of Service

I hereby certify and affirm that I have this day served a copy of the Motion of the Energy Association of Pennsylvania requesting to delay the filing of comments to Advanced Notice of Proposed Rulemaking Order until after the March Stakeholder meeting or, in the alternative, extending the time to file comments on the following persons in the matter specified in accordance with the requirements of 52 Pa. Code § 1.54:

John R Evans / Teresa Wagner
Office of Small Business Advocate
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Harrisburg, PA 17101

Metropolitan Edison Co.
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Tanya McCloskey
Office of Consumer Advocate
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Harrisburg, PA 17101

Pennsylvania Electric Co.
76 S Main Street
Akron, OH 44308

Rick Kanaskie / Allison Kaster
PA Public Utility Commission
Bureau of I&E
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Harrisburg, PA 17105-3265

Pennsylvania Power Co.
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Erik Ross
NAWC - PA Chapter
Milliron & Goodman Gov't Relations
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Citizens Electric Co. of Lewisburg
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PECO Energy Company
2301 Market Street
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Duquesne Light Company
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Leatherstocking Gas Company
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National Fuel Gas Distribution Co.
1100 State Street
Erie, PA 16512

Philadelphia Gas Works
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Philadelphia, PA 19122

Valley Energy, Inc.
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Aqua Pennsylvania
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PA American Water / Wastewater
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York Water Company
130 East Market Street
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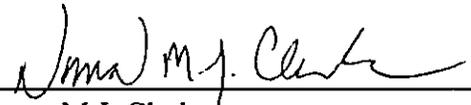
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