



An Exelon Company

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October 9, 2018

**VIA eFILING**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17105-3265

**Re: Implementation of Act 58 of 2018 Alternative Ratemaking for Utilities**  
**Docket No. M-2018-3003269**

Dear Secretary Chiavetta:

Please find the **Comments of PECO Energy Company** for filing in the above-referenced proceeding.

If you have any questions, please contact me directly at 215-841-5974.

Very truly yours,

A handwritten signature in black ink, appearing to read "Craig Williams", written over a horizontal line.

W. Craig Williams

Enclosure

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**IMPLEMENTATION OF ACT 58 OF** : **DOCKET NO. M-2018-3003269**  
**2018 ALTERNATIVE RATEMAKING** :  
**FOR UTILITIES** :

**COMMENTS OF PECO ENERGY COMPANY**

PECO Energy Company (“PECO” or the “Company”) submits these Comments in response to the Pennsylvania Public Utility Commission’s (the “Commission’s”) August 23, 2018 Tentative Implementation Order (the “Implementation Order”) inviting interested parties to comment on the Commission’s proposed interpretation of Act 58 of 2018 (“Act 58”), which permits the Commission to approve an application by a utility to establish alternative rates and rate mechanisms.

PECO applauds the Commission’s determination to establish clear direction for Pennsylvania utilities and other stakeholders through the Implementation Order. Act 58’s provisions underscore that the emergence of new opportunities for utility customers must be matched by the opportunity for the Commission to consider and approve a variety of alternative ratemaking mechanisms. Ensuring that the substance and procedure of Act 58’s requirements are well understood by parties to future base rate proceedings is an essential step in facilitating utility applications that incorporate innovative ratemaking, as envisioned by the General Assembly.

In general, PECO agrees with the Commission’s approach to Act 58 implementation set forth in the Implementation Order, but PECO believes that two clarifications are appropriate. First, the Commission should make clear that the recovery of lost revenue is permitted under Section 1307 of the Public Utility Code (“the Code”) pursuant to alternative ratemaking

mechanisms authorized in accordance with Act 58's requirements. Second, the Commission should provide that a utility proposing revised tariff pages containing modifications of existing rules, regulations and rates submitted as part of an application under Section 1330 of Act 58 may provide information in its bill insert that will allow a customer to access the tariff page list of modifications via electronic means (e.g., a link to a utility's website). The need for these clarifications is set forth below.

***Recovery of Lost Revenues.*** In its discussion of Act 58, the Commission explained that Section 1330(b) authorizes the Commission to approve alternative rates and rate mechanisms notwithstanding other provisions of law, including Sections 2806.1(k) and 2807(f)(4) of the Code.<sup>1</sup> The Commission also concluded that Section 1330(b) permits the use of rate adjustments in accordance with Section 1307 if the Section 1307 adjustment is established through a Section 1308 proceeding in which the associated alternative rate mechanism is approved.<sup>2</sup>

As the Commission noted, Section 2806.1(k) precludes the use of a Section 1307 reconcilable adjustment clause by an electric distribution company ("EDC") to recover decreased revenues associated with reduced energy consumption under Act 129 plans.<sup>3</sup> Similarly, Section 2807(f)(4) generally precludes recovery of lost or decreased revenues due to reduced consumption or shifting energy demand associated with smart meters.<sup>4</sup> After referencing these limitations, the Commission again stated that Section 1330(b) permits alternative rates and rate mechanisms despite other provisions of law but did not address whether decreased revenues associated with reduced energy consumption or shifting energy demand may be recovered.<sup>5</sup>

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<sup>1</sup> Implementation Order, p. 4.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*, pp. 4-5.

<sup>5</sup> *Id.*, p. 4.

The Commission has recognized that just and reasonable rates designed to promote energy efficiency and conservation can include alternative rate mechanisms, such as revenue decoupling, to recover decreased utility revenues associated with decreased energy usage.<sup>6</sup> In implementing Act 58, PECO believes that the Commission should clearly state that decreased revenues may be recovered through the use of a Section 1307 charge if that charge is approved as part of a Section 1330 application in a base rate proceeding.

As the Commission acknowledged, Section 1330 explicitly provides that an alternative rate mechanism may include rates under both Sections 1307 and 1308, and that Sections 2806.1(k) and 2807(f)(4) “*could* have been interpreted as limiting the ability of the large EDCs from employing certain alternative ratemaking mechanisms.”<sup>7</sup> In addition, prior to the enactment of Act 58, the Commission stated that “depending upon how a [lost revenue adjustment mechanism] is employed by an EDC, the mechanism may not be in full compliance with [Section 2806.1(k)(2)].”<sup>8</sup>

In light of these statements and the unambiguous “notwithstanding” provision of Section 1330(b)(1), the Commission should explicitly provide that the limitations of Sections 2806.1(k) and 2807(f)(4) relating to the recovery of decreased revenues do not restrict recovery of such revenues through alternative rates or rate mechanisms considered and approved by the Commission under Section 1330(b), including reconcilable adjustment charges consistent with Section 1307 of the Code.

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<sup>6</sup> See Proposed Policy Statement Order, *Fixed Utility Distribution Rates Policy Statement*, Docket No. M-2015-2518883 (May 23, 2018) (“Proposed Policy Statement Order”), p. 11.

<sup>7</sup> Implementation Order, p. 9, n.3 (emphasis added).

<sup>8</sup> Proposed Policy Statement Order, p. 13.

***Inclusion of Tariff Pages in Bill Inserts.*** In its discussion of the notice requirements of Section 1330(c)(2), the Commission “proposes that the utility distribute the tariff pages containing the list of modifications to customers through a bill insert” and also requires a utility to “provide a link to this portion of the utility’s tariff on the utility’s customer home page and any page dedicated to a customer class and that this link be prominently displayed.”<sup>9</sup>

PECO firmly believes that customers should receive notice of a utility’s proposed alternative rate or rate mechanism as envisioned by Act 58, and also supports inclusion of information regarding the Commission’s approval of alternative rates or rate mechanisms on a utility’s tariff pages listing modifications of existing rules, regulations and rates. However, PECO does not believe that the Commission should require that the actual tariff pages listing modifications be distributed to customers through a bill insert. Such a requirement is likely to increase the cost of a bill insert and is not currently mandated for other tariff revisions that may be proposed as part of a base rate proceeding.<sup>10</sup> In order to avoid this expense, PECO proposes that the Commission clarify that a utility proposing a Section 1330 alternative rate or rate mechanism may provide information in its bill insert that will allow a customer to access the tariff page list of modifications via electronic means (e.g., by providing a link to the Company’s website where the list of tariff modifications required by the Implementation Order will be posted).<sup>11</sup>

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<sup>9</sup> *Id.*, p. 7.

<sup>10</sup> *See* 53 Pa. Code § 53.45.

<sup>11</sup> *See* Implementation Order, p. 7.

PECO appreciates the opportunity the Commission has provided to offer these Comments on the Implementation Order and looks forward to working with the Commission and interested stakeholders to provide new alternative rate mechanisms for PECO customers.

Respectfully submitted,



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