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October 22, 2018

VIA eFILING

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

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

Dear Secretary Chiavetta:

Please find enclosed 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,



W. Craig Williams

Enclosure

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ALTERNATIVE RATEMAKING : **DOCKET NO. M-2015-2518883**
METHODOLOGIES :

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”) May 23, 2018 Proposed Policy Statement Order (the “May 23 Order”), which invited interested parties to comment on the Commission’s Proposed Policy Statement (the “Proposed Policy Statement” or “Statement”) on fixed utility distribution rates and alternative rate methodologies.

On June 28, 2018, Governor Wolf signed into law Act 58 of 2018, which amended the Pennsylvania Public Utility Code (the “Code”) to provide a new framework for Commission approval of alternative rates and rate mechanisms in fixed utility base rate proceedings.¹ Under Act 58, the Commission’s approval is not limited to specific types of alternative rates; instead, the Commission can consider the full range of just and reasonable rates and rate mechanisms that a utility may propose to encourage and sustain investment that enhances the “safety, security, reliability or availability of utility infrastructure” consistent with “the efficient consumption of utility service.”² As the Commission subsequently acknowledged, Act 58’s amendments to the Code create some “complexity” in light of the Proposed Policy Statement and the extensive proceedings on alternative ratemaking conducted by the Commission in this existing docket.³

¹ See Act 58 of 2018, P.L. 417 (June 28, 2018).

² 66 Pa.C.S. § 1330(a)(2).

³ See Secretarial Letter, *Alternative Ratemaking Methodologies*, Docket No. M-2015-2518883 (August 14, 2018) (extending comment period on the Proposed Policy Statement in light of Act 58).

In its Tentative Implementation Order for Act 58, the Commission made clear that it intends “to continue the investigation of the appropriateness” of the Proposed Policy Statement as the Statement’s guidance appears “to remain relevant to utilities and interested stakeholders in future Section 1308 base rate proceedings.”⁴ In explaining its determination to proceed with the Proposed Policy Statement after Act 58, the Commission emphasized its agreement with stakeholders that the Commission “should not take a one-size-fits-all approach” to alternative ratemaking, and that the “type and extent of alternative ratemaking methodologies employed by each fixed utility should be developed in a transparent manner in accordance with each utility’s unique circumstances.”⁵

PECO supports the Commission’s determination to continue its investigation of the appropriateness of the Proposed Policy Statement and agrees with the Commission that the Statement can be helpful in developing alternative ratemaking methodologies. However, PECO believes that the Commission should consider several revisions to the Statement to ensure that its provisions are consistent with Act 58 and the flexibility highlighted by the Commission in the May 23 Order⁶ as well as the Commission’s conclusion that alternative ratemaking methodologies should reflect each utility’s unique circumstances.⁷ PECO’s proposed revisions

⁴ Tentative Implementation Order, *Implementation Act of 2018 Alternative Ratemaking for Utilities*, M-2018-3003269 (August 23, 2018), p. 10 n.4. (“*Act 58 Tentative Implementation Order*”).

⁵ *Id.* (quoting the May 23 Order, p. 26).

⁶ *See, e.g.*, May 23 Order, p. 25 (emphasizing that “we are not adopting, nor precluding, any particular rate methodology or performance incentive in this proceeding”).

⁷ While Commission policy statements are not binding law, policy statements announce determinations that the Commission will seek to implement in future proceedings. *See, e.g., UGI Utils. Inc. – Gas Div. v. Pa. P.U.C.*, 677 A.2d 882, 886 (Pa. Commw. Ct. 1996) (“A general statement of policy is the outcome of neither a rulemaking nor an adjudication; it is neither a rule nor a precedent but is merely an announcement to the public of the policy which the agency hopes to implement in future rulemakings or adjudications. A general statement of policy, like a press release, presages an upcoming rulemaking or announces the course which the agency intends to follow in future adjudications.”) (quoting *Pennsylvania Human Relations Comm’n v. Norristown Area Sch. Dist.* 473 Pa. 334, 349–50, 374 A.2d 671, 679 (1977)).

for each section of the Proposed Policy Statement are discussed below, and a redline version of the Statement reflecting those revisions is attached as Exhibit A to these Comments.

§ 69.3301. Purpose and scope.

PECO generally supports the objectives listed in the Proposed Policy Statement and notes that the Commission has stated in the *Act 58 Tentative Implementation Order* that it views the policy goals of Act 58 as similar to the goals set forth in Section 69.3301. As proposed, however, Section 69.3301 appears to require that any alternative rate or ratemaking mechanism “promote” each or all of the general “Federal and State policy objectives” listed in the first sentence of the Statement (e.g., “promote distributed energy”), which the Commission “views as important policy initiatives that must be considered in designing and establishing rates for all classes of fixed utility customers.”⁸ In addition, Section 69.3301 appears to mandate that a utility’s alternative rate proposal must satisfy all of the additional objectives listed in Section 69.3301, including “avoid[ing] future capital investments.”

In order to align the Statement with Act 58 more closely, PECO recommends that the Commission revise Section 69.3301 to incorporate the General Assembly’s objectives in Act 58’s Declaration of Policy (66 Pa.C.S. § 1330(a)(2)) in place of the general reference to “Federal and State policy objectives.” The second sentence of Section 69.3301 should also provide that a utility proposal **may** include the additional objectives for utility proposals identified by the Commission without requiring that each objective be reflected in every utility proposal.

⁸ May 23 Order, p. 26.

§ 69.3302. Distribution rate considerations.

In Section 3302 of the Proposed Policy Statement, the Commission lists thirteen factors that will be considered in “determining just and reasonable distribution rates” and imposes a requirement that a utility address each of the factors in any distribution rate filing under 66 Pa. C.S. § 1308. While PECO believes that the factors identified by the Commission highlight useful issues for consideration by the Commission, utilities and stakeholders, PECO believes several revisions are appropriate to clarify the application of this section.

Application to Alternative Rates and Ratemaking. The scope of this proceeding has focused on alternative rates and ratemaking methodologies, and PECO does not believe that the Commission intended to establish new general requirements for Section 1308 base rate proceedings or traditional rates that a utility may propose.⁹ Although a party is not foreclosed from raising issues that may reflect or overlap with the factors listed in Section 3302(a) in a Section 1308 proceeding, the Commission should clarify that guidelines under Section 3302(a) (and the Proposed Policy Statement generally) apply only to alternative rates and rate mechanisms that may be proposed in a Section 1308 proceeding.

Required Factors. Section 3302 requires every proposal for an alternative rate or ratemaking mechanism to address all of the thirteen listed factors, regardless of whether the factor is relevant to the type of rate or rate mechanism actually being proposed. Not every alternative rate or ratemaking methodology may relate to energy efficiency, distributed energy, or customer assistance programs, or involve weather impacts, and PECO does not believe that a presumption that every rate or methodology **should** relate to each of those issues is consistent with the policies of Act 58 or the Commission’s flexible approach in the Proposed Policy

⁹ Cf. May 23 Order, p. 32 (explaining that “[w]ith this Order, the Commission is proposing guidance for fixed utilities and interested stakeholders on what is to be considered when investigating alternative ratemaking methodologies in a Section 1308 proceeding”).

Statement. PECO therefore recommends revising Section 3302(a) to provide that the Commission **may** consider the listed factors in determining just and reasonable rates and eliminating the proposed requirement in Section 3302(b) that a utility address all of the Section 3302(a) factors when seeking approval of an alternative rate or rate mechanism.

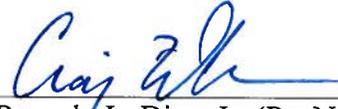
Customer Understanding and Acceptance of Rates. In Section 3302(a)(13), the Commission proposes additional requirements that an alternative rate mechanism be “understandable and acceptable to consumers” and “comport with Pennsylvania law.” While PECO believes that the Commission always has the power to consider whether a rate or rate mechanism comports with Pennsylvania law and is sufficiently understandable to customers in a utility tariff, the legality of a rate does not depend upon an individual customer’s acceptance of that rate. The Proposed Policy Statement and May 23 Order provides no guidance as to how customer “acceptance” could be established, and PECO recommends that this factor be removed from Section 3302(a). PECO also recommends striking “and comports with Pennsylvania law” as superfluous.

§ 69.3303. Illustration of possible distribution ratemaking and rate design options for the energy industry.

In Section 69.3303, the Commission identifies a number of alternative rate designs and methodologies which the Commission underscores are “for illustration only.” PECO believes the examples provided by the Commission may be helpful to utilities and stakeholders, and proposes a minor revision to clarify that critical peak pricing programs may include pricing components other than those identified by the Commission in the Statement.

PECO appreciates this opportunity to offer Comments on the Proposed Policy Statement and looks forward to working with the Commission and interested stakeholders to provide new alternative rates and rate mechanisms for PECO customers.

Respectfully submitted,



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EXHIBIT A

ANNEX A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 69. GENERAL ORDERS, POLICY STATEMENTS

AND GUIDELINES ON FIXED UTILITIES

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DISTRIBUTION RATES

§ 69.3301. Purpose and scope.

~~Due to Federal and State policy initiatives to promote the efficient use of electricity, natural gas and water, as well as policy initiatives to promote distributed energy, the fixed utilities within this Commonwealth have seen minimal, flat or even declining load growth.~~ The purpose of this policy statement is to invite the proposal, within a utility's base rate proceeding, of fixed utility distribution rate designs that further promote the objectives of 66 Pa. C.S. § 1330(a)(2) and may include these Federal and State policy objectives, reducing fixed utility disincentives for promoting these objectives, providing incentives to improve system economic efficiency, and avoiding future capital investments while ~~and~~ ensuring that fixed utilities receive adequate revenue to maintain the safe and reliable operation of their distribution systems. At the same time, an alternative rate design methodology should reflect the sound application of cost of service principles, establish a rate structure that is just and reasonable, and consider customer impacts.

§ 69.3302. Distribution rate considerations.

(a) In determining just and reasonable distribution rates under 66 Pa. C.S. § 1330(b) that promote the objectives of 66 Pa. C.S. § 1330(a)~~efficient use of electricity, natural gas or water, as well as the use of distributed energy resources,~~ the Commission may will consider whether the proposed rates or rate mechanisms, among other relevant factors:

- (1) ~~How the rates a~~Align revenues with cost causation principles as to both fixed and variable costs.
- (2) ~~How the rates i~~Impact the fixed utility's capacity utilization.
- (3) ~~Whether the rates r~~Reflect the level of demand associated with the customer's anticipated consumption levels.
- (4) ~~How the rates l~~Limit or eliminate inter-class and intra-class cost shifting.
- (5) ~~How the rates l~~Limit or eliminate disincentives for the promotion of efficiency programs.

_____ (6) ~~How the rates i~~Impact customer incentives to employ efficiency measures and distributed energy resources.

_____ (7) ~~How the rates i~~Impact low-income customers and support consumer assistance programs.

_____ (8) ~~How the rates i~~Impact customer rate stability principles.

_____ (9) ~~Are subject to How~~ weather ~~that may~~ impact ~~s~~ utility revenue ~~under these rates~~.

_____ (10) ~~How the rates i~~Impact the frequency of rate case filings and affect regulatory lag.

_____ (11) ~~If or how the rates i~~Interact with other revenue sources, such as Section 1307 automatic adjustment surcharges, 66 Pa. C.S. § 1307 (relating to sliding scale of rates; adjustments), riders such as 66 Pa. C.S. § 2804(9) (relating to universal service and energy conservation policies) or system improvement charges, 66 Pa. C.S. § 1353 (relating to distribution system improvement charge).

_____ (12) ~~Whether the alternative rate mechanism i~~Includes appropriate consumer protections.

_____ (13) Whether the alternative rate mechanism is understandable ~~and acceptable~~ to consumers ~~and comports with Pennsylvania law~~.

~~(b) In any distribution rate filing by a fixed utility under 66 Pa. C.S. § 1308 (relating to voluntary changes in rates), the fixed utility shall explain how these factors impact the distribution rates for each customer class.~~

§ 69.3303. Illustration of possible distribution ratemaking and rate design options for the energy industry.

(a) In a base rate proceeding, energy utilities may propose, among others, alternative rate designs and methodologies identified in this subsection that will be subject to Commission approval or modification. Identification of these proposals is for illustration only. It does not propose the adoption, nor preclude the consideration, of any particular design or methodology, and it does not signal, nor should it be interpreted as signaling, any predilection by the Commission for one proposal over another or any predetermination of approval by the Commission of one proposal over another.

(b) A natural gas distribution company may propose a weather normalization adjustment and/or revenue per customer ratemaking proposal. Any proposal under this subsection:

_____ (1) Must address consumer protection issues including, but not limited to, revenue adjustment dead-bands, seasonal adjustment limitations, adjustment timelines, and any just and reasonable cost of capital adjustments.

_____ (2) Must describe which rate classes are subject to the ratemaking proposal.

(c) An electric distribution company may propose critical peak pricing or similar demand-based programs that use average usage over critical peak periods as demand-based billing determinants. A critical peak pricing proposal ~~may should~~ be composed of:

(1) A fixed customer charge component reflecting metering, final line transformer and service drop cost recovery.

(2) A critical peak volumetric price or average demand component, which reflects usage over the local or nodal substations, feeders, and other related distribution system components during localized peak usage periods.

(3) A volumetric on-peak, off-peak, or other rate for recovery of other distribution costs.

(d) Optional rate designs under this subsection may be applicable to certain customer rate classes or services or designed for specific geographic locations within a service territory where such focus better serves the goals of eliminating the need for future capital investments, maximizing system utilization, or providing incentives for other Commission policies.

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