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November 20, 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: Fixed Utility Distribution Rates
Docket No. M-2015-2518883**

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 Waldock". The signature is fluid and cursive, with a long horizontal line extending to the right from the end of the name.

Audrey Waldock

Enclosure

c: Kriss Brown (kribrown@pa.gov)
Marissa Boyle (maboyle@pa.gov)
Andrew Herster (aherster@pa.gov)

methodologies. On May 30, 2017, the Company filed comments and on July 31, 2017, Duquesne Light filed reply comments to assist the PUC's inquiry.

On May 23, 2018, the Commission entered a Proposed Policy Statement Order in this proceeding ("Proposed Policy Statement Order"), which lists the factors the Commission proposes to consider when evaluating proposals for alternative ratemaking mechanisms. The Proposed Policy Statement Order was published in the *Pennsylvania Bulletin* on June 23, 2018. See 48 Pa.B. 3739. Pursuant to the Proposed Policy Statement Order, interested parties had sixty (60) days from the date of publication in the *Pennsylvania Bulletin* to file comments, *i.e.*, on or before August 22, 2018.

Shortly after publication of the Proposed Policy Statement Order in the *Bulletin*, on June 28, 2018, Governor Wolf signed into law HB 1782, otherwise known as Act 58 of 2018, which amended Chapter 13 of the Public Utility Code by adding §1330, entitled *Alternative Ratemaking for Utilities* (66 Pa. C.S. §1330). Specifically, Act 58 permits the PUC to approve an application by a utility to establish alternative rates and rate mechanisms. The Act took effect on August 27, 2018.

On August 2, 2018, in light of the passage of Act 58, various parties requested an extension to the comment period for the Proposed Policy Statement Order. By Secretarial Letter dated August 14, 2018, the Commission recognized "the importance and complexity of the issues raised in the Proposed Policy Statement Order and the passage of Act 58 of 2018" and extended the comment period by 60 days or until October 22, 2018.

As set forth in the August 14, 2018 Secretarial Letter, parties were directed to file comments by October 22, 2018 with reply comments due by November 20, 2018.¹ Duquesne Light hereby respectfully submits reply comments² for the Commission’s consideration.³

Duquesne Light is a public utility as defined in Section 102 of the Public Utility Code, 66 Pa.C.S. § 102. Duquesne Light provides electric service to approximately 590,000 customers in the City of Pittsburgh and Allegheny and Beaver Counties of Pennsylvania. As indicated above, newly enacted Section 1330 applies to natural gas distribution companies, electric distribution companies, water or wastewater utilities or city natural gas distribution operations. As a result, Section 1330 of the Public Utility Code and any related issues pertain to the Company.

II. COMMENTS

A. The Proposed Policy Statement Order Has Been Superseded by Act 58

As noted, *supra*, the Commission began a lengthy and thorough examination of alternative ratemaking mechanisms nearly three years ago. As the record developed and the Commission considered the information provided by stakeholders, the General Assembly was simultaneously undertaking legislation to address alternative utility rate mechanisms. The two efforts collided with the issuance of the Commission’s Proposed Policy Statement Order on May 3, 2018 and passage of Act 58 on June 28, 2018.

Act 58 placed an obligation on the Commission to “prescribe the specific procedures for the approval of an application to establish alternative rates” by regulation or order. 66 Pa. C. S.

¹ Duquesne Light submitted comments and reply comments to the TIO, Docket No. M-2018-3003269.

² Due to the voluminous nature of the comments in 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.

³ Duquesne Light is a member of the Energy Association of Pennsylvania, who is also submitting comments at this docket. In addition to the positions stated herein, Duquesne Light generally supports the positions articulated in EAP’s comments.

§ 1330 (d). The Commission has undertaken that responsibility by issuing its *Tentative Implementation Order*⁴ in a proceeding to finalize the procedures.

As expressed in its comments, Duquesne Light believes that the Proposed Policy Statement Order is no longer necessary as it has been superseded by Act 58, a viewpoint shared by others.⁵ As stated by Pennsylvania American Water Company “the Commission’s initiative has now been overtaken by intervening events.”⁶

Duquesne Light suggests the Commission withdraw its Proposed Policy Statement Order and proceed with implementation of Act 58.

B. Issues with the Proposed Policy Statement Order if Adopted

If the Commission deems it necessary to proceed with the Proposed Policy Statement Order, then the Company offers the following comments.

1. Reconciliation of the Policy and Goals of Proposed Policy Statement with Act 58

In its initial comments, Duquesne Light noted the inconsistencies between the Proposed Policy Statement and Act 58 with regard to policy goals.⁷ Other parties also commented on the inconsistency of policies between the Act 58 proceeding and the Proposed Policy Statement.⁸

The National Resource Defense Council, Sierra Club and Clean Air Council (the “NRDC Commenters”) stated that the “Commission should harmonize the Policy Statement with its Act

⁴ See Implementation of Act 58 of 2018 Alternative Ratemaking for Utilities at Docket No. M-2018-3003269.

⁵ See Comments of EAP at p. 4, First Energy at p. 3 and Columbia at p. 4.

⁶ See Comments of Pennsylvania American Water Company at p. 8.

⁷ See Comments of Duquesne Light at pp. 4-5. “The declaration of policy in Act 58 is markedly different, in that it is much broader in scope. In §1330(a)(1), the General Assembly declares that it is in the public interest for the Commission to approve ‘just and reasonable rates ... to facilitate customer access to new opportunities while ensuring that utility infrastructure costs are reasonably allocated to and recovered from customers and market participants consistent with the use of the infrastructure.’ (Emphasis added). Further, in §1330(a)(2), the General Assembly notes that ‘utility ratemaking should encourage and sustain investment through appropriate cost-recovery mechanisms to enhance the safety, security, reliability or availability of utility infrastructure and be consistent with efficient consumption of utility service.’ ” (Emphasis added).

⁸ See Comments of Columbia Gas at p. 4, Duquesne Light at p. 5, Keystone Energy Efficiency Alliances at p. 5.

58 Implementation Order”⁹, further noting that the policy declaration in Act 58 is different than that in the Proposed Policy Statement. KEEA also recommended “the Commission clarify the relationship between the statement of purpose and scope contained in the Order with the ‘declaration of policy’ contained in Act 58 of 2018.”¹⁰ Duquesne Light agrees with NRDC Commenters, KEEA, and others, that as it stands now, if the Proposed Policy Statement Order is adopted, the Commission will face inconsistent policies and objectives with regard to alternative rate mechanisms.

Additionally, the Commission must be mindful that the purpose and scope of Act 58 is paramount as the General Assembly is the policy-making body of the Commonwealth. In its Proposed Policy Statement Order, the Commission specifically addresses avoiding capital investment.¹¹ Duquesne Light would respectfully note that the policy goals stated in the Proposed Policy Statement run counter to Act 58.¹² It is just such an inconsistency that the Commission must carefully and thoroughly reconcile if it proceeds with the Proposed Policy Statement Order.

2. Proposed Rate Considerations Inconsistent with Act 58 and Section 1308

In the Proposed Policy Statement Order, the Commission created a §69.3302 entitled, “*Distribution rate considerations.*”¹³ In this proposed new section, the Commission sets out 13 factors it intends to utilize in reviewing alternative rate mechanisms. As previously stated by the Company, these considerations are inconsistent with the provisions of 66 Pa. C.S. §1308.

⁹ See Comments of National Resources Defense Council at p. 6.

¹⁰ See Comments of KEEA at p. 6.

¹¹ Proposed Policy Statement Order at p. 27.

¹² See §1330(a)(2) “It is the policy of the Commonwealth that utility ratemaking should encourage and sustain investment through appropriate cost-recovery mechanisms to enhance the safety, security, reliability or availability of utility infrastructure ...”

¹³ See Proposed Policy Statement at p. 27.

Duquesne Light agrees with the comments of Advanced Energy Economy Institute (“AEE”)¹⁴ and PECO¹⁵. Duquesne Light believes that utilities already consider some of the factors identified in the Proposed Policy Statement in preparing rate cases as part of the due diligence process to ensure that its requested rate relief meets the standards of just and reasonable. Subjecting each proposed rate mechanism to scrutiny to ensure that it meets each consideration will be counterproductive to developing mechanisms that meet some, perhaps many, but not all, of Act 58’s policy objectives.

3. Preferential Nature of Illustrations

If the Commission proceeds with the Proposed Policy Statement Order, the Company restates its position articulated in its comments. The proposed “illustrations”¹⁶ are not only suggestive of preferential methods for Commission approval (despite the PUC’s strained attempt to indicate otherwise) but are also rendered moot by the existence of Act 58.¹⁷ Duquesne Light is not alone in suggesting that the Commission remove its proposed §69.3303 from any final order.¹⁸

4. Recovery of Capital

As noted, *supra*, the policy objectives of Act 58 do not seek to avoid capital investment. In fact, Act 58 encourages capital investment.¹⁹ However, Act 58 does so in the context of

¹⁴ See Comments of Advanced Energy Economy Institute at p. 2 -- “While each principle may have individual merit, when combined, they may not all be simultaneously achievable, or at least, some trade-offs will need to be made.”

¹⁵ See Comments of PECO at p. 4 – “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 ...”

¹⁶ See §69.3303.

¹⁷ See Comments of Duquesne Light at p. 6.

¹⁸ See Comments of the Consumer Advisory Council at p.9; Comments of PPL Electric at p. 6; Comments of the First Energy Companies at p. 8; Comments of the Office of Consumer Advocate at p. 22; and Comments of NRDC Commenters at p. 18.

¹⁹ See §1330(b)(2) “An alternative rate mechanism established under this section may include rates under section 1307 (relating to sliding scale of rates; adjustments) or 1308 (relating to voluntary changes in rates) and may provide for recovery of returns on and return of capital investments ...”

“innovations in technology”.²⁰ The Company is interested in exploring how new technologies, such as non-wire alternatives, can enhance “safety, security, reliability or availability of utility infrastructure and be consistent with the efficient consumption of utility service.”²¹ The appropriate rate mechanism that will allow cost-recovery for such technology is the essential ingredient to realizing the General Assembly’s policy objectives.

C. Adoption of Electric Vehicles

Duquesne Light is committed to promoting the benefits of adoption of electric vehicles (“EVs”) in its service territory.²² Duquesne Light was heartened by comments supporting the use of rate mechanisms to further the adoption of EVs, including the use of a second meter for EVs.²³ Duquesne Light believes that installation of a second meter is helpful to development of tariffs that can provide measurable benefits to EV consumers. A second meter that is devoted to EV charging will also assist the Company understand how EV charging impacts its load in order to achieve such goals as load shifting and capacity utilization. It is just such change in regulations that will enable the innovative rate mechanisms envisioned by the General Assembly.

D. Timeframe for Review of Alternative Rate Mechanisms

In its comments, Penn State University suggested that the Proposed Policy Statement Order be amended in its section 69.3302 to add a requirement that requires utilities to give notice and details of any alternative rate mechanisms at least three months prior to the filing of a §1308 rate case.²⁴ Penn State notes in its comments that in a §1308 rate case proceeding the Commission must approve any proposed rates within nine months and that this is insufficient

²⁰ See §1330(a)(1).

²¹ See §1330(a)(2).

²² See <https://www.duquesnelight.com/energy-money-savings/electric-vehicles> for details on Duquesne Light’s Electric Vehicle initiatives.

²³ See Comments of AEE at pp. 5-8.

²⁴ See Comments of Penn State at pp. 10-11.

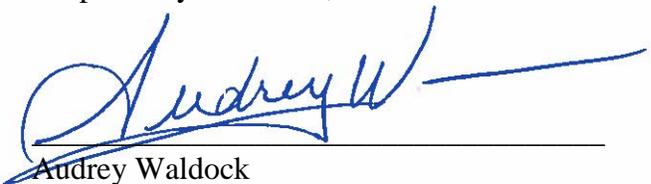
time for parties to vet any proposals. The Company opposes such suggestion. Any proposed alternative rate mechanism will not operate in a vacuum, separate and apart from the other aspects in a rate case. The utility, the stakeholders and the Commission must have all the information required for any rate case in order to evaluate where the alternative mechanism will intersect, and complement, any other rate design. By providing only a partial picture prior to the remainder of the rate case, the parties will not be better able to vet any proposals.

III. CONCLUSION

Duquesne Light appreciates the opportunity to provide comments on the Commission's Proposed Fixed Utility Distribution Rates Policy Statement. As noted above, the passage of Act 58 of 2018, which occurred after the Proposed Policy Statement was released, has not only made a majority of the current proposal in conflict with law, but also arguably unnecessary at this time.

Duquesne Light respectfully recommends that the Commission proceed no further with its Proposed Policy Statement Order and move toward prompt implementation of Act 58.

Respectfully submitted,



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