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VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor (filing room)
Harrisburg, PA 17120

In re: Alternative Ratemaking Methodologies; Docket No. M-2015-2518883;
**THE PENNSYLVANIA STATE UNIVERSITY'S REPLY COMMENTS TO
PROPOSED POLICY STATEMENT**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is The Pennsylvania State University's Reply Comments to the Commission's proposed Policy Statement in the above-referenced matter. Copies have been served in accordance with the attached Certificate of Service.

If you have any questions regarding this filing, please do not hesitate to contact me.

Very truly yours,

Thomas J. Sniscak
Whitney E. Snyder
Counsel for The Pennsylvania State University

WES/das

Enclosures

cc: Gladys M. Brown, Chairman
Andrew G. Place, Vice-Chairman
Norman J. Kennard, Commissioner
John F. Coleman, Jr., Commissioner
David W. Sweet, Commissioner
Kriss Brown (via electronic mail)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Alternative Ratemaking Methodologies

Docket No. M-2015-2518883

**REPLY COMMENTS OF
THE PENNSYLVANIA STATE UNIVERSITY
TO THE PROPOSED POLICY STATEMENT**

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Counsel for
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DATED: November 20, 2018

The Pennsylvania State University (Penn State or PSU) submits these reply comments for the Pennsylvania Public Utility Commission (Commission) to consider regarding its proposed policy statement issued for comment on May 23, 2018 (Policy Statement).

I. REPLY COMMENTS

A. Cost of Service Principles and Elimination of Cost Shifting

Penn State's Comments suggested various revisions to the Policy Statement to address two related key issues; namely that under any Alternative Ratemaking form (1) current and up to date Cost of Service studies must continue to be the polestar of ratemaking structuring and design when rates change, and (2) rates must move toward elimination of inter-class and intra-class cost shifting pursuant to *Lloyd v. Pennsylvania Public Utility Com'n*, 904 A.2d 1010, 1019-21 (Pa. Cmwlth. 2006). Penn State continues to advocate for those revisions. Various Commenters also recognize these important issues, including that encouragement of conservation cannot dictate cost allocation, which must instead be based on the longstanding and widely accepted practice of striving to match costs to the cost-causer.¹

For example, the Pennsylvania Energy Consumers Alliance, Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, Philadelphia Area Industrial Energy Users Group, PP&L Industrial Customer Alliance, and West Penn Power Industrial Intervenors Comments set forth a proposed requirement that alternative ratemaking be implemented on a customer class basis to avoid interclass and intraclass cost shifting. *Id.* at 9. Penn State agrees with this proposal

¹ See, e.g., Comments of OSBA ("Cost allocation should be based on cost causation, not dictated by rate design policy designed to encourage conservation"), Comments of Columbia Gas of Pennsylvania ("Columbia agrees that minimizing or eliminating both inter-class subsidies and intra-class subsidies is a factor that should be considered. The Company submits that additional consideration should be given to the fairness of the apportionment of total cost to the rate class based on cost incurrence to limit or eliminate inter-class cost shifting. Fairness of generating rate classes and or designing rate block intervals within rate classes in order to identify material cost of service differences within the rate class to limit or eliminate intra-class cost shifting.").

provided that cost of service studies serve to structure rates to eliminate subsidies in and among rate classes. These Comments also recommend that the Commission initiate a Rulemaking Docket that would develop regulations to ensure protection against cost-shifting. *Id.* at 10. Penn State likewise supports this proposal.

Some Commenters argue that cost of service should be a secondary consideration to promotion of efficiency or certain industries, such as solar or EV charging.² Adopting such policy in contravention of cost of service would result in discriminatory rates, be illegal under *Lloyd*, and thus such comments should be rejected. Penn State fully supports efficiency and clean energy efforts. Penn State has dedicated a specific investment of \$69 million to energy savings programs over the next five years and plans to improve its overall energy utilization by 20 percent over the next 10 years. Pennsylvania's energy utilities are essential partners in Penn State's sustainability, energy efficiency and conservation efforts. However, those efforts cannot come at the cost of implementation of illegal and discriminatory rates. While Act 58 does promote the policy of access and utilization of efficient energy measures, it expressly recognizes that facilitation of customer access to such opportunities must still "*ensur[e] that utility infrastructure costs are reasonably allocated to and recovered from customers and market participants consistent with the use of the infrastructure.*" Act 58 did not do away with cost of service studies which match cost to the cost-causer(s) being the polestar of ratemaking and Act 58 did not alter the Commission's duty to ensure rates are just, reasonable, and non-discriminatory.

² See, e.g., Comments of Natural Resources Defense Council, Sierra Club & Clean Air Council, Comments of Sunrun Inc., Comments of Greenlots.

B. Sufficient Commission Oversight

Penn State's Comments also recommended that the Commission ensure adequate oversight of any adopted alternative rates via ongoing review. Specifically, Penn State recommends that the Commission modify Section 69.3302(b) to add a provision that the Commission or a third-party auditor selected by the Commission will audit and review any implemented alternative rate mechanisms to ensure they are promoting infrastructure investment, efficiency and conservation, and reliability on an annual basis. This ongoing review should be open for participation by all parties to the rate case or proceeding in which such alternative rate mechanisms were approved and should include the ability for parties to address quality of service and other tariff provisions issues.

The Pennsylvania Energy Consumers Alliance, Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, Philadelphia Area Industrial Energy Users Group, PP&L Industrial Customer Alliance, and West Penn Power Industrial Intervenors Joint Comments also raise this concern. Those Comments propose that the Commission implement a Rulemaking Docket or at least include in its Policy Statement a limitation on the length of time (3-5 years) that an alternative ratemaking mechanism can be used before the utility itself must file a new rate case where all costs and investments are examined, including the mechanism itself. *Id.* at 6-7. Penn State supports this proposal.

C. Standby Rates

The Alliance for Industrial Efficiency's Comments highlight an important issue for developing Combined Heat & Power (CHP) and Waste Heat to Power (WHP) projects in Pennsylvania which promote efficiency. Excessive standby rates that are not correlated to cost of service discourage customers from developing efficient CHP and WHP projects in Pennsylvania.

Penn State agrees. Those Comments recommend that the Commission establish a Standby Rate Subcommittee to the CHP Working Group to improve the transparency of standby rates. This recommendation is consistent with the Commission and Act 58's policies and Penn State supports this recommendation.

D. Promulgation of the Policy Statement

Various commenters argue that the Commission should not promulgate a policy statement at this time for various reasons, including because it is allegedly unnecessary and premature.³ Penn State disagrees. First, a policy statement as a matter of law is not binding like a regulation that goes through the rulemaking process which includes the Independent Regulatory Review Commission and Legislative Committee. Consequently, no party's rights are being adjudicated nor are "binding norms" being set. Second, a policy statement is appropriate regarding this new legislation and implementation thereof as it will give utilities, consumers, and other stakeholders advance notice of what the Commission's goals and considerations are regarding the novel landscape of alternative rate regulation.

There is no downside to voicing those goals through a policy statement because it is a non-binding statement of the Commission's current understanding and goals on the subject. Given that the Commission intends to address alternative rate regulation on a utility-by-utility basis, the policy statement will give valuable guidance to interested parties while providing flexibility regarding the unique characteristics of each utility and its customers. If parties in individual proceedings believe the policy statement is ill-fitted to the particular circumstances presented, those parties can explain the bases for their assertion.

³ See, e.g., Comments of Energy Association of Pennsylvania, Comments of Met-Ed, Penelec, Penn Power, West Penn Power.

The policy statement is a guiding start to what will be an ongoing discussion of implementation of this new regulatory regime. Penn State believes it is more valuable to have advance knowledge of the Commission's current position than to leave parties wholly in the dark when attempting to implement a novel and complex ratemaking regime.

E. Illustration of Alternative Ratemaking and Rate Design Options for the Energy Industry (Section 69.3303)

Many Commenters argue⁴ that the Commission should strike the illustrative examples in proposed Section 69.3303. Penn State agrees. The Policy Statement was drafted prior to the enactment of Act 58. Act 58 expressly provides a *non-exhaustive* list of potential ratemaking and rate design mechanisms. Therefore, there is no need for the Commission to give examples, especially where the Commission expressly states that the examples given are for illustration only and do not signal a preference.

If illustrations are not necessary, it begs the question why the Commission would choose to document some types of ratemaking or rate design mechanisms and not others. Despite stating the illustrations do not imply a preference, there appears to be no other reason for setting them forth. Accordingly, Penn State agrees that because illustrations are not necessary and can lead to confusion regarding whether the Commission is in fact signaling a preference for certain types of alternative rates over others, Section 69.3303 should be stricken from the Policy Statement.

⁴ See, e.g., Comments of Consumer Advisory Counsel, Comments of Duquesne Light Co., Comments of Office of Consumer Advocate, Comments of PPL Electric Utilities Corporation, Comments of Met-Ed, Penelec, Penn Power, West Penn Power.

II. CONCLUSION

Penn State appreciates the opportunity to submit these reply comments and looks forward to participating in this ongoing proceeding.

Respectfully submitted,



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