

PENNSYLVANIA BULLETIN

Volume 54

Number 22

Saturday, June 1, 2024 • Harrisburg, PA

Pages 3011—3138

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STATEMENTS OF POLICY

Title 52—PUBLIC UTILITIES

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 69]

Utilization of Storage Resources as Electric Distribution Assets

Public Meeting held
April 4, 2024

Commissioners Present: Stephen M. DeFrank, Chairperson; Kimberly Barrow, Vice Chairperson, statement follows; Ralph V. Yanora; Kathryn L. Zerfuss; John F. Coleman, Jr.

Utilization of Storage Resources as Electric Distribution Assets; M-2020-3022877

Final Policy Statement Order

By the Commission:

On August 24, 2023, the Pennsylvania Public Utility Commission (PUC) entered a Proposed Policy Statement and Order (August 24, 2023 Order or Proposed Policy Statement Order) wherein the PUC proposed to establish a policy statement on the usage of electric storage to enhance reliability and resiliency in the electric distribution grid. The PUC published its Proposed Policy Statement and Order in the *Pennsylvania Bulletin* at 53 Pa.B. 5926 (9/23/2023). The public comment period closed on November 7, 2023. The Policy Statement, codified at 52 Pa. Code §§ 69.1951-69.1952,¹ now sets forth guidelines for usage of electricity-storage assets as electric distribution assets in the Commonwealth.

Summary of the Policy Statement

In the Proposed Policy Statement Order, the PUC addressed the responses it received from commenters in response to the PUC's Secretarial Letter issued on December 3, 2020, and the follow-up Secretarial Letter on August 12, 2021. The Secretarial Letter on August 12, 2021, posed the following inquiries to interested parties:

- (1) What are the parameters that would allow for the use of energy storage on the distribution grid? For example, what factors should be used in the consideration of the energy-storage project? Should the energy-storage project meet certain thresholds and demonstrate certain requirements, e.g., demonstration of cost effectiveness as compared to alternate measures, demonstration of need, required RFPs to solicit potential third-party providers, limitations on project size and scope, etc.
- (2) What [electric distribution companies (EDCs)] have undertaken energy-storage initiatives as a pilot program and what were the results and lessons-learned?
- (3) Under what circumstances is it appropriate to deploy energy storage as compared to traditional infrastructure upgrades?
- (4) Who should own an energy-storage asset? EDCs, third-party vendors, or some combination of both?

¹ The Proposed Policy Statement, as published, indicated that section numbers would be assigned in the Final Policy Statement Order; Sections 69.1951-69.1952 have been assigned. References herein to filings at this docket and to recaps of the August 24, 2023 Order have been aligned with the assigned section numbers.

(5) What processes should the PUC use to review requests to utilize energy storage as a distribution asset and recover associated costs?

(6) What cost recovery mechanisms should be implemented for the ownership and operation of energy-storage assets?

(7) What are the appropriate models and limitations necessary to allow energy storage to participate in wholesale power markets?

The Proposed Policy Statement Order included definitions of terms to be used in the Policy Statement. In this definitional section, the Commission proposed to define terms used in the Policy Statement that are not used anywhere else in the Public Utility Code, 66 Pa.C.S. §§ 101—3316, or the Public Utility Commission's regulations, 52 Pa. Code §§ 1.1—121.8. The terms to be defined included: "EDC-electric distribution company," "electricity-storage asset" and "non-wires solution." With these terms defined, the Proposed Policy Statement set out to guide EDCs as to when an electricity-storage asset should be considered a distribution-system asset.

With respect to setting forth a policy statement on electricity-storage as a distribution-system asset, the PUC proposed to avoid narrow definitions for electricity-storage and recognize that every project that may be suitable for electricity storage should be assessed and reviewed on its individual merits. The PUC agreed with stakeholder comments that electricity-storage should be considered as another tool for EDCs to address the issue of customer reliability and resiliency concerns of the electric distribution system. Accordingly, the final Policy Statement recognizes that EDCs may use electricity-storage systems to solve electric distribution system issues and provide grid resiliency.

Discussion

The PUC received comments from Advanced Energy United, Clean Energy Advocates (CEA),² Duquesne Light Company (Duquesne Light), Energy Association of Pennsylvania (EAP), FirstEnergy Pennsylvania Electric Company (FirstEnergy),³ Large Customer Groups,⁴ the Office of Consumer Advocate (OCA), PECO Energy Company (PECO), PJM Power Providers Group (P3), PPL Electric Utility Corporation (PPL), Pennsylvania Utility Law Project (PULP), and Solar Energy Industries Association (SEIA). Based upon a review of those comments, the PUC has modified the proposed policy statement. The PUC addresses the comments it received in the following sections.

The comments generally focused on two areas:

A. Effects of the use of electricity-storage assets by EDCs on the wholesale power markets.

B. Ownership of electricity-storage resources.

² Clean Energy Advocates are comprised of the following organizations: Vote Solar, Philadelphia Solar Energy Association, Natural Resources Defense Council (NRDC), Clean Air Council, and the Pennsylvania Solar & Storage Industries Association.

³ FirstEnergy was comprised of four EDCs: Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company, which are now merged into one EDC, FirstEnergy Pennsylvania Electric Company. See the PUC Order entered on December 7, 2023, approving the Joint Application at Docket Nos. A-2023-3038771, et seq.

⁴ Large Customer Groups is comprised of the Pennsylvania Energy Consumer Alliance (PECA), Met-Ed Industrial Users Group (MEIUG), Penelec Industrial Customer Alliance (PICA), Philadelphia Area Industrial Energy Users Group (PAIEUG), PP&L Industrial Customer Alliance (PPLICA), and West Penn Power Industrial Intervenors (WPPII).

We will address these two general areas in sections A and B and thereafter address the two Policy Statement sections in specific detail in sections C and D of this Order.

A. Effects of EDCs Using Electricity-Storage Assets on the Wholesale Market

P3 expresses concern with the impacts that EDC-owned electricity-storage assets may have on wholesale electricity generation markets and avers that this is best left to the realm of generation providers and competitive markets. P3's position is that electricity-storage used to inject power into the wholesale market would have a chilling effect on wholesale power markets and should not be allowed under the Competition and Customer Choice Act. P3 comments at 2–4. As such, P3 offers suggested changes to the definition of “electricity-storage asset,” which will be discussed in section C, *infra*.

PECO, EAP and FirstEnergy are generally dismissive of the concerns expressed by P3. PECO states that electricity-storage assets should be classified by their function, thus, eliminating the need to be classified as a generation asset. PECO reply comments at 2. EAP states that Section 69.1952 clearly provides that an EDC should consider non-wires solutions in planning, that an EDC needs to justify a request to rate base storage assets as it does for traditional infrastructure upgrades, and that such a request would be made to maintain or improve distribution reliability and resiliency. EAP reply comments at 7-8. FirstEnergy agrees that in very specific circumstances where electricity-storage is injecting power into the bulk power system or selling into the wholesale market, these assets should not be considered as distribution assets. However, FirstEnergy contends that P3's comments on electricity-storage as a generation asset are non sequitur, as all discussions by both the PUC and EDCs have focused on using electricity-storage assets as strictly distribution assets. Electricity-storage assets, as discussed in the PUC's August 24, 2023 Order, are not electric generation assets. FirstEnergy reply comments at 4-5.

Disposition

The PUC agrees with PECO, EAP and FirstEnergy that electricity-storage assets should be classified by their function. Electricity-storage assets used on the distribution grid to solve distribution-related issues serve as a distribution asset. The PUC agrees with these commenters that the use of these assets on the distribution grid for distribution-related needs properly renders them distribution assets and, therefore, not generation assets.

The PUC also agrees with FirstEnergy that in very specific circumstances where electricity-storage is used to inject power into the wholesale market, these assets would not be considered distribution assets. However, as FirstEnergy correctly points out, the focus of this Policy Statement is on electricity-storage assets used to resolve distribution-related issues. We note that, as with any other capital expense, an EDC will still be required to establish prudence and justify the need for electricity-storage.

B. Ownership of Electricity-Storage Resources

Advanced Energy United proposes adding the following additional section to the Policy Statement, “§ 69.1953. Framework for Pursuing Electricity Storage Solutions.” The contents of such a section would “emphasize that this policy statement is in keeping with the restructured competitive electricity market in Pennsylvania” and recommends that this section support leveraging competitive

market solutions as they relate to non-wires solutions and utility involvement with storage. Advanced Energy United believes that private sector investments via competitive market solutions is the most effective way to deploy storage for the benefit of Pennsylvania consumers. Furthermore, Advanced Energy United points to California's Distribution Investment Deferral Framework⁵ as an example of the type of program Pennsylvania could adopt in this regard. Advanced Energy United comments at 2-3.

SEIA does not object to EDC ownership of storage if it is used exclusively as a distribution asset. However, SEIA believes that the deployment of energy-storage systems should involve a competitive solicitation process. SEIA states that the most cost-effective way to provide the necessary services is for EDCs to issue clear and open requests for proposals for the specific services they need and to use the results of the solicitation to select the least cost-effective option, which may include third-party owned storage assets. SEIA comments at 2-3.

FirstEnergy and EAP disagree with Advanced Energy United's proposed change and assert that the PUC has provided appropriate guidance on when and how storage assets, for issues resolving resiliency and reliability, should be deployed by EDCs. Furthermore, FirstEnergy has stated that EDCs are in the best position to deploy and operate electricity-storage assets and non-wires solutions where they are needed most. FirstEnergy further states that the PUC did not provide EDCs unilateral and “in every circumstance” ownership of these electricity-storage assets. FirstEnergy reply comments at 6.

PPL also recognizes the role that third parties play in deploying electricity-storage assets, particularly utility-scale projects that can help reduce carbon emissions. Therefore, PPL encourages the PUC not to prejudice in a policy statement or otherwise whether utility or third-party ownership makes the most sense, as such a determination will often be fact-dependent on the specific circumstances of the issues that must be addressed on the distribution system. PPL reply comments at 4-5.

EAP states that the Proposed Policy Statement is broad enough to allow for third-party ownership and adheres to the well-established processes of Act 11 of 2012⁶ and/or rate-case proceedings in the Public Utility Code. Therefore, EAP opposes adoption of the changes proposed by Advanced Energy United. EAP reply comments at 10-11.

PECO does not interpret the Proposed Policy Statement as restricting third parties from owning storage assets. PECO asserts that because the PUC has jurisdiction over public utilities, the Proposed Policy Statement would apply to EDCs and not to private entities. PECO further supports a mix of ownership models, and notes that third parties could still own storage assets and non-wires solutions. PECO reply comments at 3.

Disposition

The PUC agrees with EAP, FirstEnergy, PECO and PPL. The Proposed Policy Statement neither promoted nor directed models of ownership of electricity-storage resources. It left the determination of ownership to the individual circumstances presented in rate-case proceedings. The PUC agrees with PECO that third parties may own storage assets and also agrees with PPL that the determination of ownership will be based on the facts of each distinct instance where these resources are used. Thus, the PUC declines to address or prescribe ownership models of electricity-storage resources.

⁵ <https://www.cpuc.ca.gov/industries-and-topics/electrical-energy/infrastructure/distribution-planning>

⁶ 66 Pa.C.S. § 1358.

C. Section 69.1951. Definitions

1. Electricity-Storage Asset

Commenters provided proposed changes to the definition of “Electricity-Storage Asset.” PPL suggests that the name of this definition should be changed to “Energy-Storage Asset” to avoid limiting EDCs’ ability to utilize different technologies as non-wires solutions and would more accurately reflect the PUC’s intention to avoid narrow definitions as stated on page 12 of the Proposed Policy Statement Order. PPL also suggests changing the word “injection” as it may be troublesome because there are other ways energy-storage assets may be used beyond injection back into the grid, such as load management and absorbing excess generation. As such, PPL proposes that the definition should be:

A resource that captures energy for use at a later time. Uses include improving system reliability, reducing system constraints, and balancing supply and demand.

PPL comments at 5.

OCA disagrees with PPL’s proposed changes to this definition. They contend that it creates a rift between FERC’s definition of an “electric-storage resource” and is overly broad and misses the point of the Proposed Policy Statement. OCA reply comments at 4. However, OCA states that there is a slight variance between the proposed definition and the definition used by FERC. The definition used by FERC in Order 841 defines an electric-storage resource as “[a] resource capable of receiving *electric energy* from the grid and storing it for later injection of electric energy back to the grid.” Order No. 841, 162 FERC ¶ 61,127 at 29 (Emphasis added). Therefore, OCA proposes that the word “electricity” in the PUC’s proposed definition be changed to “electric energy” to match the FERC definition. OCA comments at 6-7.

P3 believes it is important to specify the term “grid” to clearly mean “distribution grid.” As such, P3 requests the addition of the definition “grid” in the PUC’s Policy Statement to read as follows:

Grid. For purposes of the section, “grid” shall mean the distribution system managed by the EDC and shall not mean the interstate transmission system managed by PJM.

P3 comments at 5.

Large Customer Groups agree with and support P3’s proffered language. While they support the idea that electricity-storage technology provides another venue for EDCs to address customer reliability and resiliency concerns, such support must not disrupt the wholesale power market. Specifically, if an EDC were to extend electricity-storage solutions beyond distribution functions and into generation functions, the result could be an inappropriate reinstatement of vertical-integration and an unreasonable undoing of the functional unbundling of services resulting in adverse impacts to competition in Pennsylvania’s retail electricity industry. Large Customer Groups reply comments at 4.

PECO disagrees with P3’s proposed changes and asserts that this would prematurely limit when or how an EDC should utilize energy-storage assets. PECO reply comments at 3. Similarly, Duquesne Light disagrees with P3’s proposed change contending it creates confusion and is unnecessary. Duquesne Light recommends adding the words “electric distribution” before “grid” throughout the Policy Statement definitions and language as it provides the clarity P3 is seeking without adding an additional

definition that may unnecessarily remove flexibility in EDC distribution planning. Duquesne Light reply comments at 4-5.

Disposition

The PUC disagrees with the suggested changes put forth by PPL regarding the use of the name “Energy-Storage Asset” for this section and agrees with OCA that PPL’s proposed changes are overly broad. The scope of this Policy Statement is concerned with electricity-storage resources, not broader energy-storage resources.

The PUC also disagrees with PPL’s suggested change to remove the word “injection” and replace it with a broader definition. While the PUC agrees with PPL that electricity-storage devices can provide functions other than storing electricity, the PUC declines to adopt PPL’s proposed changes. The PUC agrees with OCA’s proposed change to the definition because it would more closely match FERC’s definition. As such, the proposed definition of “Electricity-Storage Asset” has been changed as reflected in final Policy Statement in Annex A.

The PUC declines to adopt P3’s proposed definition of the term “grid.” Since the scope of this Policy Statement is limited to the use of electricity-storage resources as assets on the distribution grid, adding P3’s suggested definition for grid is redundant. However, the PUC agrees with Duquesne Light’s proposal to add the words “electric distribution” before “grid” throughout the definitions to provide greater clarity. These changes are reflected in final Policy Statement in Annex A.

2. Non-Wires Solution (NWS)

Generally, most commenters agree that the proposed definition is too narrow, although there is disagreement on which aspects of the definition are too narrowly defined. Most commenters suggested modifications to the definition to address this concern.

PPL, EAP, and Duquesne Light aver that the portion of the definition that says “at a lower total resource cost” should be stricken as it implies that a total resource cost (TRC) test is to be used in determining the cost effectiveness of an NWS versus traditional infrastructure upgrades or would otherwise diminish the prudent investment standard applied to all other distribution system upgrades. PPL comments at 7; EAP comments at 5; Duquesne Light comments at 4.

Large Customer Groups disagree with this assessment and note that the PUC already declined to adopt a specific cost-effectiveness test or methodology in this proceeding and indicated that EDCs would need to justify the costs like any other traditional infrastructure upgrade. While not advocating specifically for the “lower total resource cost” language, Large Customer Groups submit that the Policy Statement should contain some type of metric that enables an objective standard of review with respect to cost. Large Customer Groups reply comments at 3.

OCA avers that the definition implies that only an EDC may invest in, and operate, a NWS when a variety of third-party developers or customers would be capable of owning storage assets. OCA proposes language that better aligns with the National Regulatory Research Institutions definition of a “non-transmission alternative” that does not mention EDCs, thereby eliminating the implication of only EDC ownership. OCA comments at 7-8. Advanced Energy United also contends that this proposed definition should be revised to avoid any suggestion that EDCs should unilaterally and in every circumstance be the

owners and operators of NWSs. Advanced Energy United suggests that the PUC revise the proposed definition to promote an approach to NWSs that encourages private sector investment and utility procurement of grid services from those competitively sourced solutions. Advanced Energy United comments at 1-2.

SEIA's comments reflect the same position as OCA and Advanced Energy United concerning who may own and operate storage assets and would like the definition to include behind-the-meter (BTM) storage solutions. SEIA provides the example that a storage asset could be deployed by an independent provider with a power-purchase agreement (PPA) in place to provide specific services to the EDC during peak times. This would allow the storage asset to be deployed during other times in wholesale markets to meet demand for regulation services, renewable integration, regional peak shaving, or reliability. SEIA comments at 2-3.

As stated supra, PECO does not interpret the Proposed Policy Statement as restricting third parties from owning storage assets because the PUC has jurisdiction over public utilities. As such, PECO asserts that the Policy Statement only applies to EDCs and not private entities. PECO also supports a mix of ownership models and supports the PUC's view that energy storage is intended as a tool for EDCs to use to increase reliability and resiliency. PECO reply comments at 3. EAP also disagrees that the proposed definition should be changed to include third-party owned storage. EAP reply comments at 5-6.

As stated earlier, EAP, FirstEnergy, and PPL believe the proposed definition is too narrow. Specifically, as proposed, it could restrict the use of electricity-storage to situations involving only "transmission congestion" or "distribution system constraints." These commenters offer definitions that remove the portion of the definition using the terms "transmission congestion" and "distribution system constraints." EAP also envisions the use of energy storage supporting distributed energy resources (DER) and renewable energy sources as well. EAP comments at 4-5, FirstEnergy comments at 4, PPL comments at 6. FirstEnergy adds that under the proposed definition, areas such as managing distribution loading, enhancing reliability and resiliency, or voltage management may not qualify as a NWS. FirstEnergy states that the comments from Advanced Energy United ignore the PUC's recognition that certain energy-storage assets can be effective tools to improve reliability by implying that they would somehow upend the competitive energy market. FirstEnergy reply comments at 3-4. Accordingly, EAP proposes the following definition:

An Electric Distribution Company (EDC) investment and operating practice that acts as a distribution asset to: improve reliability, resilience, or service; reduce congestion or system constraints; or otherwise operationally justified by the EDC at the time of the implementation.

EAP comments at 5.

FirstEnergy proposes and Duquesne Light supports striking the words "at times of maximum demand" from the proposed definition. FirstEnergy comments at 4; Duquesne Light reply comments at 3-4. However, OCA disagrees with FirstEnergy's proposal, stating that it is a key point in considering whether a NWS should be implemented. OCA reply comments at 3-4.

Disposition

The PUC recognizes the concerns put forth by Duquesne Light, EAP and PPL regarding the portion of

the definition that states "at a lower total resource cost." However, this portion of the proposed definition is not meant to imply that a TRC test must be used to determine the cost effectiveness of an NWS. As with any other proposed infrastructure upgrade, the costs of the proposed NWS would need to be justified in a rate-case proceeding, Long Term Infrastructure Improvement Plan (LTIIP), Inspection and Maintenance, or other existing processes. These existing processes allow stakeholders to provide input. In addition, the definition in the final Policy Statement does not prescribe a specific cost-effectiveness test that must be used. While the PUC recognizes that a prescribed cost-effectiveness test would provide the metrics requested by Large Customer Groups, such a prescription would be premature and difficult to apply in all applications for electricity-storage assets. Thus, the PUC declines to change this portion of the definition or prescribe a specific cost-effectiveness test.

As stated supra, the PUC agrees with Duquesne Light, EAP and PPL. The Policy Statement does not promote nor direct models of ownership of electricity-storage resources and leaves the determination of ownership to the individual circumstances presented. The PUC agrees with PECO and SEIA that third parties may own storage assets. As SEIA correctly notes, BTM electricity-storage may be a viable option to address reliability and resiliency concerns on the distribution grid. However, it would be premature and difficult to prescribe ownership models in every circumstance. Thus, the PUC declines to modify this definition to address or suggest ownership models of electricity-storage resources.

The PUC recognizes that the definition, as currently stated, may imply that electricity-storage assets for use on the distribution grid are only to be used for transmission congestion, distribution system constraints, or at times of maximum demand, as pointed out by Duquesne Light, EAP and PPL. The PUC agrees with these commenters that the proposed definition may suggest limits on the variety of resiliency and reliability benefits that electricity storage can provide. Thus, the PUC has incorporated, in part, the proposed changes put forth by Duquesne Light, EAP and PPL. We have also added "NWS" as part of the definition of "non-wire solution." These changes are reflected in the final Policy Statement in Annex A.

D. Section 69.1952. Electricity Storage as a Distribution-System Asset

Though several commenters agreed with the general intent of the proposed section, many recommended changes or revisions. OCA requests clarification that reliability improvements do not depend on EDC ownership of the asset, but rather the EDC's ability to utilize dispatch, and coordinate storage for reliability purposes. OCA further cites Massachusetts' Bring-Your-Own-Battery program⁷ where customer-owned batteries provide relief during periods of peak demand to lessen the need for additional resources. OCA comments at 9. In addition, Advanced Energy United states that the proposed section lacks clarity on how public utilities should be engaging with electricity storage as a distribution-system asset and believes that this proposed definition is not wholly consistent with the restructured nature of Pennsylvania's energy market. Advanced Energy United recommends that the PUC provide a framework in the final Policy Statement for how EDCs should be engaging

⁷ <https://www.mass.gov/media/Files/PDFs/Save/Residential/MA-Resi-Battery-Program-Materials-Final-5-4-2023.pdf>

and procuring grid services from the customers and electricity-storage providers. Advanced Energy United comments at 2.

Duquesne Light, FirstEnergy, and PPL recommend that the PUC reject any changes to the section to clarify or promote ownership models. FirstEnergy also states that the PUC did not provide EDCs with unilateral and “in every circumstance” ownership. PPL states that EDCs are in prime position to deploy and operate energy-storage assets and non-wires solutions where they are most critically needed, including in areas where the deployment of energy-storage assets may not be economical for a third party to deploy them. At the same time, PPL recognizes the important role that third parties can play in deploying energy-storage assets, particularly utility-scale projects that can help reduce carbon emissions. Duquesne Light reply comments at 4; FirstEnergy reply comments at 6-7; PPL reply comments at 4-5.

EAP states that the PUC should not alter the proposed policy statement based on Advanced Energy United’s comments as the language is broad enough to allow for third-party owned electricity storage. In addition, EAP believes that creating a separate framework for how EDCs should engage and procure storage services is duplicative and overcomplicates the guidance being offered. EAP reply comments at 9–11.

P3 is concerned that the proposed policy statement does not provide any distinction between what the proper deployment of distribution-level storage assets versus the rate basing of assets that are competing in the wholesale market. P3 proposes adding the following sentence (in bold) to this definition:

The [PUC] acknowledges that electricity-storage assets can assist in various engineered reliability solutions. As such, the [PUC] recognizes that electricity-storage assets can be used by EDCs to maintain or to increase the reliability or the resilience of the electric distribution system. The [PUC] encourages the consideration of such assets when cost effective and proper, specifically as an alternative non-wires solution. The [PUC] encourages EDCs to consider electricity-storage assets **that are small in scale and narrowly tailored to address distribution level reliability concerns** as part of their system planning.

P3 comments at 4-5.

Duquesne Light and PPL disagree with P3’s proposed changes. Duquesne Light questions what small scale means and that it is unnecessary. Duquesne Light reply comments at 5-6. PPL states that there is no need to limit reliability benefits to the distribution grid to the exclusion of the transmission system. PPL reply comments at 6.

EAP proposes replacing the phrase “cost effective and proper” with the phrase “reasonable and prudent” in the third sentence. Use of the phrase “reasonable and prudent” is a concept that includes cost effectiveness and necessity and is a term of art in utility law that is well understood and provides greater clarity to the guidance set forth in the proposed policy statement. EAP comments at 6. Likewise, Duquesne Light requests clarity on the use of the phrase “cost effective and proper” in this section and is unclear what would be considered “proper” when considering an electricity-storage asset. Duquesne Light recommends replacing this language with the word “prudent.” Duquesne Light comments at 5.

FirstEnergy wants to ensure that temporary NWSs are not excluded from the definition. As such, FirstEnergy

recommends, and Duquesne Light supports, adding “on a temporary or permanent basis” to the end of the second sentence in this definition. FirstEnergy comments at 4; Duquesne Light reply comments at 3-4.

Disposition

The PUC agrees with EAP’s assertion that the guidance set forth is broad enough to allow for either, or both, EDC-owned and third-party owned electricity-storage assets on the distribution grid. Furthermore, the PUC agrees with Duquesne Light, FirstEnergy, and PPL that the policy statement does not establish unilateral ownership of electricity-storage assets by EDCs in every circumstance. The PUC is not persuaded by comments to provide greater clarity on how electricity-storage assets should be procured, contracted, or owned.

While the PUC recognizes P3’s concerns, it is important to consider that electricity-storage assets deployed for resiliency and reliability purposes on the distribution grid may have an impact on the transmission system. However, as stated by PPL, prescribing limitations on how electricity-storage assets may be used or deployed solely to be subservient to transmission system impacts may limit the reliability and resiliency benefits these assets can provide to the distribution system. Therefore, the PUC declines to alter the definition as put forth by P3.

The PUC is persuaded by the suggestion that was put forth by EAP and echoed by Duquesne Light to replace the term “cost effective and proper” in this section of the Policy Statement. The term “reasonable and prudent” will be used and these changes are reflected in the final Policy Statement in Annex A. Finally, the Commission is persuaded by the proposed definition modification put forth by FirstEnergy and has incorporated the change in the final Policy Statement in Annex A.

Conclusion

Accordingly, pursuant to Sections 501, 504, 505, 506, and 1501 of the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 505, 506, and 1501, we have adopted, as a final Policy Statement, 52 Pa. Code §§ 69.1951 and 69.1952, as set forth in Annex A, attached hereto. We note that any issue, comment or reply comment requesting a further change to the Policy Statement or objecting to a possible change, but which we may not have specifically delineated herein, shall be deemed to have been duly considered and denied at this time without further discussion. The PUC is not required to consider expressly or at length each contention or argument raised by the parties. *Consolidated Rail Corp. v. Pa. Pub. Util. Comm’n*, 625 A.2d 741 (Pa. Cmwlth. 1993); see also, generally, *U. of Pa. v. Pa. Pub. Util. Comm’n*, 485 A.2d 1217 (Pa. Cmwlth. 1984); *Therefore*,

It Is Ordered:

1. That the Public Utility Commission adopts the Policy Statement as set forth as final in Annex A to this Final Policy Statement Order.
2. That the Law Bureau will deliver this Final Policy Statement Order and Annex A to the Governor’s Office of the Budget for fiscal review.
3. That, upon receipt of a fiscal note from the Governor’s Office of the Budget, the Law Bureau will deposit this Final Policy Statement Order and Annex A with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
4. That the Policy Statement as set forth in Annex A as final will become effective upon publication in the *Pennsylvania Bulletin*.

5. That this Final Policy Statement Order and Annex A be posted on the Public Utility Commission's website.

6. The contact person for technical issues related to this Policy Statement is David Edinger, Energy and Conservation Analyst, (717)-787-3512 or dedinger@pa.gov. The contact persons for legal issues are Joseph P. Cardinale, Jr., Assistant Counsel, (717)-787-5558 or jcardinale@pa.gov; and Tiffany L. Tran, Assistant Counsel, (717)-783-5413 or tiftran@pa.gov. The contact person for regulatory issues is Karen Thorne, Regulatory Review Assistant, (717) 772-4597 or kathorne@pa.gov.

ROSEMARY CHIAVETTA,
Secretary

ORDER ADOPTED: April 4, 2024

ORDER ENTERED: April 4, 2024

STATEMENT OF VICE CHAIRPERSON KIMBERLY BARROW

Since the beginning of electric competition in the Commonwealth, one of the goals of the General Assembly that the Commission has endeavored to carry out is to use the power of competition to minimize costs and risks that ratepayers bear, and instead allow generators to connect to the grid and compete to provide services to load.

The expansion of storage options presents difficult questions for the divested structure of our modern grid in Pennsylvania. Storage can clearly satisfy a distribution function. A storage facility can increase resilience and maintain temporary service to an area if a radial wire is knocked down. A storage facility can reduce needed peak transfer capability of a line, increasing load factor and reducing facility costs to ratepayers.

Storage facilities also have aspects that look more like generation. They can store energy when it is cheap, respond to higher locational prices to inject energy into the grid to resolve congestion, and serve load without building transmission facilities. PJM Interconnection LLC, the grid operator for the region, allows storage to participate in wholesale markets like standard generation to the greatest degree possible.

The storage policy statement offered today attempts to strike the balance between the features of storage that serve as a potential distribution asset and the features that look more like generation. I believe that storage should be considered a distribution asset under the Electric Choice Act,⁸ in order for storage to be used by Electric Distribution Companies in this manner, they must serve a distribution purpose, not a purpose served by competitive generation.

The policy statement encourages the consideration of storage as a distribution asset. Such an asset is prudent only when the competitive electricity markets are not reasonably or cost-effectively able to serve the function of the electricity-storage asset. This is consistent with our legislature's conclusion that "Competitive market forces are more effective than economic regulation in controlling the cost of generating electricity."⁹ A competitive storage facility which is not rate-based is preferable to a rate-based distribution facility, if it can serve the same purpose. The Independent Market Monitor (IMM) for PJM notes, "[i]n competitive markets, investors bear the risk. In the case of storage, the risk of technological obsolescence is extremely high as innovations are cur-

rently occurring at a rapid pace. Competitive power markets are essential to meeting the Commission's overriding goal to ensure that customer rates remain affordable."¹⁰ The IMM also notes that distributor-owned storage can act as a "significant barrier to the competitive participation of electric storage"¹¹. I agree that this outcome should be avoided. So too does the Office of Consumer Advocate (OCA) which comments in partial opposition to distributor-owned assets noting that "Some combination of third-party ownership and EDC ownership may turn out to be the model that provides the greatest level of flexibility in this area. In general, however, the OCA submits that the competitive market is likely to return the best outcomes in the way of products and services."¹²

Some of these criticisms are particularly valid given the power of smaller distributed energy resources. While historically generation has operated at a very large scale, it is becoming more apparent that customers may have options to locate storage resources directly at their electric load. These distributed competitive markets have the opportunity to serve the same resilience or congestion mitigation functions as a distributor-owned asset, and the specific functions should be considered in whether a distributor-owned storage facility is performing an acceptable and cost-effective role.

Finally, I would emphasize that as a policy statement, our guidance here does not bind us. We will evaluate the prudence or legality of a distribution asset on an individual basis, and our encouragement here should not be read to displace competitive options.

Date: April 4, 2024

KIMBERLY BARROW,
Vice Chairperson

Fiscal Note: Fiscal Note 57-342 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 52. PUBLIC UTILITIES PART I. PUBLIC UTILITY COMMISSION Subpart C. FIXED SERVICE UTILITIES CHAPTER 69. GENERAL ORDERS, POLICY STATEMENT AND GUIDELINES ON FIXED UTILITIES

ENERGY STORAGE ASSET POLICY STATEMENT

§ 69.1951. Definitions.

The following words and terms, when used in this section and § 69.1952 (relating to electricity storage as a distribution system asset) have the following meanings, unless the context clearly indicates otherwise:

EDC—electric distribution company—The term has the same meaning as defined in 66 Pa.C.S. § 2803 (relating to definitions).

Electricity-storage asset—A resource capable of receiving electric energy from the distribution grid and storing it for later injection of electricity back to the distribution grid.

NWS—non-wires solution—An EDC investment and operating practice that acts as a distribution asset to: improve reliability, resilience or service; reduce congestion or system constraints; or is otherwise operationally justified by the EDC at the time of implementation and which can defer or replace the need for specific transmis-

⁸ 66 Pa.C.S. § 2801 et seq.

⁹ 66 Pa.C.S. § 2802(5).

¹⁰ IMM Comments filed August 21, 2020, at 2.

¹¹ Id.

¹² OCA Comments filed November 24, 2021, at 9.

sion or distribution projects, or both, at lower total resource cost, by reliably reducing transmission congestion or distribution system constraints at times of maximum demand in specific distribution grid areas. This term is synonymous with “non-transmission alternative” or “NTA” which is the term used by the National Regulatory Research Institution.

§ 69.1952. Electricity-storage as a distribution-system asset.

The Commission acknowledges that electricity-storage assets can assist in various engineered reliability solu-

tions. As such, the Commission recognizes that electricity-storage assets can be used by EDCs to maintain or to increase the reliability or the resilience of the electric distribution system on a temporary basis or permanent basis. The Commission encourages the consideration of these assets when reasonable and prudent, specifically as an alternative NWS. The Commission encourages EDCs to consider electricity-storage assets as part of their system planning.

[Pa.B. Doc. No. 24-761. Filed for public inspection May 31, 2024, 9:00 a.m.]