

Pennsylvania Office of Consumer Advocate

Comments to the Draft Report On Conservation, Energy Efficiency, Demand Response And Advanced Metering Infrastructure

Investigation of Conservation, Energy Efficiency Activities, and Demand Side Response by Energy Utilities and Ratemaking Mechanisms to Promote Such Efforts

Docket No. M-00061984

On April 13, 2007, the Commission staff issued the Draft Report on Conservation, Energy Efficiency, Demand Side Response and Advanced Metering Infrastructure for comments limited to whether the Draft Report captures the discussions that have been held in the Demand Side Response (DSR) Working Groups. The DSR Working Groups were convened in accordance with the Commission's Order entered October 11, 2006 in *Investigation of Conservation, Energy Efficiency Activities, and Demand Side Response by Energy Utilities and Ratemaking Mechanisms to Promote Such Efforts* at Docket No. M-00061984. The Office of Consumer Advocate (OCA) was an active participant in the DSR Working Group and subgroups, and has provided comments on various topics. The OCA has reviewed the Draft Report prepared by Commission Staff and found that in most respects, the Draft Report captures the comments and positions of the OCA that are included in the Draft Report. In a few areas, identified below, the OCA submits that some additional detail of the OCA's position may be needed to fully capture or to clarify the OCA's position. In the area of revenue decoupling, the OCA submits that further discussion and inclusion of position papers offered by the parties is needed to fully reflect the significant discussions of this issue and the many issues that were raised on this topic.

The OCA would note its strong support for the Draft Report's General Findings from this Investigation, particularly the findings in the Draft Report that Energy Efficiency, Conservation and Demand Side Response Programs can be cost-effective methods of controlling a customer's energy bills, and can bring both direct and indirect benefits to customers. Despite the many potential benefits, programs are not widely available to all classes of customers. Because of the many potential benefits from the further development of these programs, the OCA supports the Commission's efforts through this Investigation to make cost-effective energy efficiency, conservation and demand side response programs available to those customers who wish to voluntarily participate in such programs. The OCA looks forward to the Staff's recommendations to the Commission and looks forward to continuing to work on these issues with all stakeholders.

As noted, in a few areas, the OCA submits that some additional clarification may be needed as to the OCA's position being reported. In the area of revenue decoupling, the OCA suggests that some further discussion and additional materials that were distributed to the subgroup be included with the Report. In particular, the OCA distributed a set of suggested Principles and Recommendations to serve as a guide for the consideration of the issue of revenue decoupling. The OCA requests that this document be referenced in the Report and included as an Attachment. A copy of the OCA's Suggested Principles and Recommendations is attached here for convenience.

II. SECTIONS REQUIRING ADDITIONAL CLARIFICATION OF OCA POSITION

Section IV.B.2: Voluntary vs. Mandatory Program Participation

The Report correctly states that it is the OCA's position that participation in DSR, conservation and energy efficiency programs should be voluntary for retail customers. The OCA also emphasized in its Comments on the Draft Outline that mandatory participation by residential customers in price response programs can result in hardship for many customers, particularly residential customers whose dwellings, physical limitations or family circumstances make significant price response impossible. The OCA requests that this further explanation in support of voluntary participation be included in the Report.

Section IV.B.3: Program Effectiveness and Customer Size

This section of the Draft Report discusses recommendations by the commentators that the Commission recognize that different types of programs work best for different classes of customers and that savings from the programs may vary significantly by class. In this discussion, the Draft Report correctly notes the OCA's comments that energy efficiency and conservation are likely the most cost-effective approaches for residential customers. The OCA would add, though, that it also supports programs such as direct load control programs and voluntary time-of-use rates for residential customers that are able to participate and shift usage to other time periods.

Section IV.E: Consumer Education

In this Section, the Draft Report reviews the discussion regarding the importance of consumer education to deployment of successful energy efficiency, conservation and DSR programs and reviews many of the comments and recommendations for consumer education programs. The Draft Report also recognizes that the messages regarding energy efficiency, conservation and demand side response will likely need to be coordinated with the pending proceeding, *Policies to Mitigate Potential Electricity Price Increases*, Docket No. M-00061957. The OCA would add to the summary that the educational program will need to be well-coordinated across the state and across the industries (electric and natural gas). The OCA submits that an integrated approach is necessary to most effectively communicate to consumers about energy efficiency and demand response programs.

Section VI.B: Identification of Quantifiable Goals

The Draft Report reviews the stakeholders' positions on establishing quantifiable goals such as specific targets for reduction of overall or peak demand over a certain time period. The Draft Report correctly states that the OCA was one of the stakeholders that commented on the desirability of taking a long-term perspective in setting targets, but the Draft Report did not fully reflect the OCA's proposal. To clarify the OCA's position in this regard, the OCA supports establishing quantifiable goals to be achieved through the implementation of energy efficiency, conservation and demand response programs. The OCA also recommended that the success of individual programs

and the overall impact be reviewed and evaluated periodically. As part of that evaluation, the OCA recommended that additional goals be established based on the evaluation.

Section VII.A: Program Administration

In discussing the various models for program administration, the Draft Report accurately captures the OCA's position that several different models of program administration could be workable. The OCA had raised another important issue regarding program administration. In addition to selecting a program administration model that can best coordinate programs across the state, the program administration must also ensure coordination between the programs of both electric and gas utilities. Pennsylvania natural gas customers are also mostly customers of regulated electric utilities. Coordination of the programs of natural gas companies and electric companies is vital so that opportunities for the greatest feasible demand and consumption reductions as well as efficiencies in program delivery are not lost.

Section VII.B: Implementation Through Commission Orders or Policy Statements

In this Section, the Draft Report discusses the commentators' positions on whether Commission action should occur in the form of an Order, a Policy Statement or a regulation. The Draft Report states that the OCA endorsed the idea that the process could be initiated through an Order, as opposed to a formal rulemaking process. While the OCA supported the use of Orders in certain circumstances, the OCA clarified its position that the use of Orders may only be appropriate for certain types of program administration. If, for example, the Commission determines that a statewide

administrator will design and operate the programs, a generic Order or set of Orders may be a better vehicle for timely initiation of utility demand response programs. The use of Orders, however, will only be effective if the Commission clearly sets out the extent of programs and clear goals that these programs are to achieve. It was the OCA's position that if the Commission determined to set forth detailed program requirements, regulations may need to be issued.

Section VII.C: Timelines for Implementation and Plan Durations

The Draft Report reflected the OCA's position on the timeline for implementation of the programs but did not capture the OCA's position on Plan Durations. As to the duration of a particular program or plan, the OCA recommended that program duration should be long enough to allow the market for services and products to become well established. Retailers and contractors will be reluctant to commit to a substantial market effort unless they are certain that the opportunities offered by the programs will exist for several years. For more tailored programs, the initial program duration may need to be somewhat shorter in recognition of the need for mid-course evaluation and content changes based on that evaluation.

Section VII.D.2: Pre-approved Menu of Programs

The Draft Report correctly notes that there was support for the Commission approving a menu of programs. The OCA strongly supported this approach, and strongly supported a menu of programs set forth by the Pennsylvania Coalition for Demand Response (PCDR). The Draft Report then goes on to note that the OCA

questioned whether there was a need for additional program design given the programs already identified by PCDR and others. This reference is a bit out of context. It is the OCA's position that the programs already presented by PCDR and others provide a reasonable group of *already* designed programs to establish a menu of programs that can be used statewide and deployed immediately.

The OCA also supported the further development and design of unique programs in each service territory to add to each company's menu of programs. There are large differences across Pennsylvania in the levels and types of economic activity, in the rate of demand growth, in the price of electricity, in heating loads for specific utilities, in weather patterns, and in fundamental characteristics such as whether territories are substantially urban, mixed or rural. For these reasons, some programs in addition to the menus of programs should be designed and will differ from utility to utility. Also, some customers, such as large industrial customers, have truly unique needs that can only be satisfied through specially designed programs.

In the OCA's view, program deployment of a menu of well-established programs in use in other states should not be delayed as the more unique utility-specific or customer-specific programs are designed.

Section VIII.C. No Consensus On Revenue Decoupling

Section VIII.C. of the Draft Report correctly reflects that there is no consensus on the issue of revenue decoupling. In the discussion, however, the OCA's position is not mentioned. The OCA participated actively in the subgroup meetings on this issue and distributed a position paper with a set of suggested principles and

recommendations regarding revenue decoupling. The OCA's Position Paper is attached to these Comments, and the OCA requests that it be included in the final Report to the Commission.

While all of the suggested principles and recommendations reflected in the OCA's Position Paper are important, the OCA would make three key points that the OCA requests be reflected in the text of the Report. First, if decoupling is determined to be necessary and in the public interest, it should only be considered as part of a package of cost-effective, utility-funded, energy efficiency and conservation measures and should follow the implementation of such measures. Second, any decoupling mechanism must benefit customers as well as utilities, with any cost recovery matched by actual savings. Third, the Commission should determine whether to go forward with revenue decoupling on a comprehensive policy basis for both natural gas and electric companies.

Given the importance of this subject, the OCA also recommends that the Report reflect more fully the positions of the parties on the policy and legal issues related to decoupling. The OCA also recommends that any position papers presented by the parties be included in the final Report.

III. CONCLUSION

The OCA thanks the Commission Staff for its work in the DSR Working Groups and its work in producing the Draft Report. The OCA has appreciated the opportunity to participate in the DSR Working Group on these critical issues and looks forward to working with the Commission, Staff and interested parties in advancing the development of cost-effective energy efficiency, conservation and demand response programs.

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ATTACHMENT A

**OCA POSITION PAPER – SUGGESTED PRINCIPLES AND
RECOMMENDATIONS ON REVENUE DECOUPLING
DATED FEBRUARY 22, 2007**

OCA Suggested Principles and Recommendations Regarding Decoupling February 22, 2007

If decoupling is determined to be necessary and in the public interest, it should only be considered as part of a package of cost-effective, utility-funded, energy efficiency and conservation measures.

Decoupling is not an end in itself, but is a means to prevent revenue and profit loss to utilities from utility-funded energy efficiency and conservation programs that reduce overall utility costs and customer rates. The goal is to encourage and deliver cost-effective energy efficiency and conservation measures, not simply to insulate the utility revenue stream from all changes.

If decoupling is determined to be necessary and in the public interest, it should follow, not precede the establishment of significant, cost-effective utility-funded energy efficiency and conservation programs.

Decoupling programs must benefit customers as well as utilities. An appropriate model might be the New Jersey natural gas settlements that were presented to the DSR Working Group on December 8, 2006. In the New Jersey program, lost revenues are recovered through reconciliation after the first year of the conservation program implementation. In addition, any recovery by the utility of weather-normalized incremental revenue must be matched by actual gas cost savings to consumers resulting from the utility's demand side resource programs. Petitions of South Jersey Gas Company and New Jersey Natural Gas Company, Docket Nos. GR05121019 and GR05121020 (NJBPU Order, October 12, 2006).

In terms of what utilities should recover, it is not clear whether decoupling should be done

- 1) only to compensate for revenues lost as a result of specific utility-funded demand-side programs (i.e. a lost revenue approach),
- 2) on a revenue per customer basis, in which all revenues are reconciled on the basis of usage per customer, or
- 3) on a total company revenue basis, in which all revenues are reconciled on the basis of total company usage.

There are pros and cons to each approach. For example, the lost revenue approach is targeted to the actual programs that are financed by the utility and therefore does not attempt to capture decreases or increases in sales that are unrelated to utility-funded DSR. On the other hand, this type of specific lost revenue approach does not remove the utility's overall incentive to increase sales in other respects.

Except for targeted pilot programs, the decision of whether or not to go forward with decoupling by Pennsylvania's natural gas and electric distribution companies should be made by the Commission on a comprehensive policy basis. The decision of whether to implement decoupling cannot be left solely to the discretion of individual utilities on a purely voluntary basis. If it is, then only utilities with declining sales (or declining

revenue per customer) are likely to implement decoupling; and utilities with increasing sales (or increasing revenue per customer) will likely seek to continue with traditional regulation. It is up to the Commission to determine whether decoupling is appropriate as a matter of general policy, while recognizing that utilities may have differences among themselves that should be taken into account in the specific design of a decoupling program.

Decoupling should be done in a manner that does not discourage the use of the most efficient and environmentally sound resources for a particular application, such as residential heating.

Decoupling should be accompanied by appropriate retail rate designs that encourage cost-effective conservation measures by individual customers. Results will be much better if customers – not just utilities – have the incentive to conserve. Rather than advocating higher customer charges and lower usage charges (which assure utility revenues but reduce the benefits of conservation to customers), it may be more appropriate to take exactly the opposite approach in order to maximize the benefits that customers receive from taking conservation measures. It should be noted that in its proposed electric POLR Regulations and Policy Statement, the Commission recommends the elimination of declining block rates in order to encourage conservation.

Decoupling generally should be implemented in a base rate case in which all relevant revenues, expenses and return can be considered. While it may be possible to implement decoupling outside the context of a base rate case, it is not clear how to establish the appropriate pro forma revenue and variable operating and maintenance expense bases as a starting point for decoupling, especially for utilities that have not had distribution base rate cases in many years. Also, to the extent that revenue decoupling alters a utility's overall risks of providing service, it may be appropriate to reflect that changed risk in the utility's allowed rate of return.