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December 21, 2015

VIA EFILING

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

**Re: Implementation of Act 11 of 2012; Docket No. M-2012-2293611
Comments of Metropolitan Edison Company, Pennsylvania
Electric Company, Pennsylvania Power Company and
West Penn Power Company**

Dear Secretary Chiavetta:

Enclosed for filing in the above-captioned matter are the Comments of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company to the Tentative Supplemental Implementation Order entered November 5, 2015.

Very truly yours,


John L. Munsch

Enclosures

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Implementation of Act 11 of 2012

:

Docket No. M-2012-2293611

**COMMENTS OF
METROPOLITAN EDISON COMPANY,
PENNSYLVANIA ELECTRIC COMPANY, PENNSYLVANIA
POWER COMPANY AND WEST PENN POWER COMPANY
TO THE TENTATIVE SUPPLEMENTAL IMPLEMENTATION
ORDER ENTERED NOVEMBER 5, 2015**

Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (“Companies”) submit Comments to the Tentative Supplemental Implementation Order (“Tentative Order”) of the Pennsylvania Public Utility Commission entered November 5, 2015. The Tentative Order initiated a period for Comments by interested parties concerning the Commission’s proposed supplemental procedures and guidelines to carry out the ratemaking provisions of Act 11.¹ Act 11 provides, among other things, that electric utilities may implement a distribution system improvement charge (“DSIC”) to recover costs to repair, replace or improve eligible distribution facilities. The Tentative Order provided that Comments are due 30 days after publication of the Tentative Order in the Pennsylvania Bulletin.²

¹ Act 11 of 2012 amends Chapters 3, 13, and 33 of Title 66 of the Pennsylvania Consolidated Statutes. In particular, Act 11 amends Chapter 13, 66 Pa. C.S. §1350 *et seq.* to allow for implementation of a distribution system improvement charge.

²45 Pa.B.47, November 21, 2015.

The Companies believe that effective implementation of a DSIC process will be an important and positive change in Pennsylvania ratemaking for electric distribution utilities for repair, replacement and improvement of aging electric distribution systems in the Commonwealth. The Companies appreciate the opportunity to provide their comments on the Commission's Tentative Order.

A. Uniform Financial Earnings Reports Requirement

The Commission requests comments on whether or not the Commission should remove the exemption for filing quarterly earnings reports under Chapter 71 of the Commission's regulations³ for utilities during the pendency of a base rate case. The Companies oppose removing the exemption for filing quarterly earnings reports during an active rate case.

Chapter 71 of the Commission's regulations contains long-standing provisions that are separate from the new statutory and regulatory provisions of Act 11. Chapter 71 provides for

³ 52 Pa. Code §§71.1 to 71.9.

extensive financial reporting every quarter.⁴ However, Section 71.4(c) of Chapter 71 contains an exemption that utilities need not file quarterly financial reports during a rate case proceeding.

Section 71.4(c) provides:

A public utility is exempt from the filing requirements of this section when the utility has pending before the Commission a general rate investigation under 66 Pa.C.S. § 1308(d), 1309 or 1310 (relating to voluntary changes in rates; rates fixed on complaint; investigation of costs of production; and temporary rates). The filing of quarterly financial reports is not required, for the quarters inclusive, from the date of filing of the utility's general rate increase or a complaint against the utility's overall level of rates, to the entry date of the Commission's final order. Instead of filing the reports, the public utility shall file a letter with the Secretary for each quarter in which a general rate investigation is pending.

Chapter 71 correctly exempts utilities from quarterly financial reports during a rate case in recognition that the reports will change upon the conclusion of the rate case. Moreover, Section 71.4 implicitly recognizes that companies in the process of a general base rate proceeding are

⁴ Section 71.5 requires the following quarterly financial information:

(a) The public utility shall include the following information in the financial reports required by § 71.3 (relating to filing requirements):

(1) Computations of the public utility's rate base, income available for return and capitalization in sufficient detail to demonstrate the major elements of these basic ratemaking parameters.

(2) Financial data which specifies actual per book amounts, intrastate allocation percentages, intrastate amounts, adjustments to intrastate amounts and adjusted results. The actual per book amounts for each 12-month period shall be presented in the manner reflected in the most recent audited annual report filed with the Commission.

(3) Adjustments to intrastate amounts which demonstrate the revenue, expense, tax and rate base effect of each adjustment supported by a brief narrative explanation which states the nature of the adjustment—annualization, normalization or ratemaking—the reason for the adjustment, references to prior Commission decisions and necessary computational details.

(4) A calculation of the return on common equity for the reported 12-month period based on the public utility's actual and adjusted rate base, income available for return and capitalization data.

(5) Capitalization data which sets forth a calculation of the public utility's capital structure and related ratios, the cost of debt and preferred stock and necessary adjustments to capital structure to account for known changes which have occurred during the reported 12-month period.

(b) The public utility shall present the financial reports, data and adjustments described in subsection (a) in a manner which is consistent with the schedules and format specified by the Office of Special Assistants.

subject to responding to time-sensitive data requests and discovery by the Commission and other parties. A base rate proceeding places pressures on the company's financial reporting system that can be alleviated in part by the exemption from quarterly financial reports of Chapter 71.

The Commission states that the purpose of such a new reporting requirement for quarterly financial reports during a rate case would be to determine whether the utility can "appropriately recover through their DSIC the fixed costs of all eligible plant placed in service that has not previously been reflected in rate base."⁵ The Companies believe that the transparency during rate proceedings, coupled with the Commission's suggestion that the utility should incorporate a tariff reference at the conclusion of the base rate case resetting the DSIC to zero satisfies the Commission's concerns.

B. Customer Protections – DSIC Rate Reset to Zero

1. Proposed Tariff Supplement to Reset DSIC Rate To Zero

The Commission proposes "that a utility should be required to file a tariff supplement pursuant to Section 1308(a) of the Code resetting its DSIC rate to zero if the following occur: (1) upon the effective date of the new base rates and (2) if an overearning is indicated in the utility's most recent quarterly financial earnings report."⁶ The Companies do not oppose the Commission's suggestion that a utility should file a tariff supplement providing notice when its DSIC is reset to zero in specific situations.

⁵ Tentative Order at p.7.

⁶ Tentative Order at p. 8.

The Commission also suggests, and the Companies do not oppose, “that the utility should incorporate a reference to resetting its DSIC rate to zero within the tariff supplement requesting a general rate increase under Section 1308(d) of the Code”⁷

Similarly, the Companies do not oppose the Commission’s proposal “that utilities should file their tariff supplement reflecting a zero DSIC rate simultaneously with the filing of their next quarterly DSIC update, effective upon ten-day’s notice.”⁸

2. DSIC Rate Reset To Zero Upon Effective Date of New Base Rates

The Companies do not oppose the Commission’s suggestion in the Tentative Order that the total dollar amount of eligible property placed in service as determined in a rate case final order should be the criterion to determine when the stay-out provision⁹ after a base rate case has elapsed. The Commission’s specific proposal is “that if a utility has surpassed the prospective recovery amount associated with the eligible plant placed in service and which was previously reflected in the utility’s base rates as a result of using a future test year or [fully projected future test year] FPFTY, it is then eligible to begin to recover again the fixed costs associated with any new repair, replacement or improvement of eligible property reflected in a quarterly DSIC update.”¹⁰

The Companies oppose, however, the Commission’s additional suggestion that “utilities should continue to file quarterly DSIC updates reflecting the eligible property placed into service that was associated with a repair, replacement or improvement during the stay-out period even though they are unable to recover such costs.”¹¹

⁷ Tentative Order at p. 8.

⁸ Tentative Order at p. 9.

⁹ The stay-out provision refers to the period after a base rate case when new eligible property is being repaired or improved but is not yet recoverable in a DSIC.

¹⁰ Tentative Order at p. 11.

¹¹ Tentative Order at p. 12.

The Commission's purpose in its proposal for continuing DSIC updates during a stay-out period is to reflect additional eligible property that has been placed in service during the prior quarter from which the utility is seeking cost recovery in the DSIC. The Companies do not see a benefit to making quarterly DSIC rate change filings when no rate change will occur as a result of the filings.

Moreover, the Companies believe that an additional reporting requirement for new DSIC updates is duplicative of the requirement of Section 1356 of the Code that companies file Annual Asset Optimization Plans. Annual Asset Optimization Plans are required for any utility with an approved DSIC. The elements of the AAO Plan are: (1) a description of all eligible property repaired, improved and replaced in the preceding 12 months and (2) a detailed description of all facilities to be improved in the upcoming 12 months.¹² Existing regulations covering Annual Asset Optimization Plans also provide that the Company shall submit periodic modification of its infrastructure improvement plans in the event of a major modification of the LTIP. The regulations further provide for Commission oversight of substantial compliance with the repairs, improvements or replacement of specific eligible property in the approved LTIP.¹³ The Asset Optimization Plan informs the Commission of the fixed costs of eligible property placed into service thus providing the Commission and other interested parties information about progress a company is making under its LTIP.

3. Resetting DSIC Rate To Zero Due to Overearnings

The Companies support the Commission's proposal that the utility should be permitted to recover current fixed costs of all eligible property after an overearning period ceases.

¹² Final Implementation Order, Implementation of Act 11 of 2012, M-2012-2293611, entered August 2, 2012.

¹³ 56 Pa. Code §121.6.

The Commission also suggests that, in the event of overearning, the utility should file a tariff supplement under Section 1308 of the Code to address its overearnings, and thereafter continue to use its DSIC to recover the fixed costs of the eligible property it has placed in service. The Companies believe that such a tariff supplement should be permitted but not required.

4. Residual E-Factor Portion Of The DSIC Rate Upon A Reset Of The DSIC Rate

The Commission proposes that “utilities with ongoing DSIC mechanisms should file a tariff supplement that revises their DSIC tariffs so that language is incorporated therein that allows the utility to file interim revisions to resolve the residual over/under collection or E-factor amount after the DSIC rate is reset to zero. In addition, if a utility seeks to recover an under collection from customers or refund an over collection amount to customers in a single quarter for the quarterly period commencing April 1st, this option should be clearly delineated in its tariff.”¹⁴

The Companies do not necessarily oppose filing tariff supplements to resolve residual over or under collections. However, the Companies suggest that the Commission propose specific tariff language for such revisions, and provide an additional period for review and comment.

C. Computation Of The DSIC Rate Cap

The Commission seeks comment on the “E-Factor” component of the DSIC rate mechanism. The E-Factor component of the DSIC allows for correction of under and over collections from a prior DSIC period, while the C-Factor is the basic DSIC rate. The basic rate (C-Factor) and the reconciliation component (the E-Factor) are described together in Section 1358(e) of the Code.

¹⁴ Tentative Order at p. 16.

The Commission seeks comment on whether it has statutory authority to allow an exclusion of the E-Factor for over and under collections. The Company is unaware of a statutory provision that would allow the Commission to exclude the E-factor from the C-Factor and still comply with the rate description of Section 1358(e) which addresses the E-factor and C-factor uniformly. Therefore, the five percent DSIC cap should apply to the entire rate without an exclusion of over or under collection provision contained in the E-Factor.

D. Water Utility Long-Term Infrastructure Plans

The Commission's suggestions concerning LTIIPs of water utilities do not apply to the Companies.

Conclusion

The Companies believe that Act 11 provides a positive change in ratemaking in Pennsylvania and offers an important opportunity for electric distribution companies to repair, replace and improve aging electric distribution facilities throughout the Commonwealth. The

Companies welcome the opportunity to comment on the Tentative Order and look forward to continued input and successful implementation of Act 11.

Date: December 21, 2015

Respectfully submitted,

By:



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