

COMMONWEALTH OF PENNSYLVANIA



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May 31, 2017

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Re: Alternative Ratemaking Methodologies  
Docket No. M-2015-2518883

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Comments in the above-referenced proceeding.

Respectfully Submitted,

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Enclosure

cc: Certificate of Service  
\*233906

CERTIFICATE OF SERVICE

Alternative Ratemaking Methodologies : Docket No. M-2015-2518883

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Comments in the manner and upon the persons listed below:

Dated this 31st day of May 2017.

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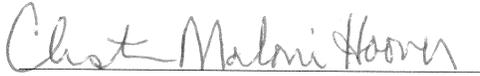
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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Alternative Ratemaking Methodologies : Docket No. M-2015-2518883

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COMMENTS  
OF THE  
OFFICE OF CONSUMER ADVOCATE

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## TABLE OF CONTENTS

<b>I. INTRODUCTION.....</b>	<b>1</b>
<b>II. COMMENTS ON TENTATIVE ORDER QUESTIONS.....</b>	<b>5</b>
<b>A. Electric Utilities.....</b>	<b>5</b>
1. Identify the alternative rate methodology(ies) each EDC is currently using, including the number and types of automatic adjustment clauses, cost trackers and separate cost recovery mechanisms. Also identify, as a percentage of total costs or revenues, the costs or revenues each separate mechanism recovers.....	13
2. If any, what alternative rate methodology(ies) could and should be used by EDCs? Regarding the proposed methodology(ies), please provide specific comments on:.....	13
a. The potential advantages .....	13
b. The potential disadvantages.....	13
c. The effects on all rate classes, with a specific focus on small volume, low-income, income-challenged and large C&I customers, as well as a discussion regarding any potential inter- or intra-class cost shifting .....	17
d. The effects on existing energy efficiency and peak demand reduction programs .....	17
e. The effects on the number and/or frequency of base rate case filings, as well as possible rate increases or decreases .....	18
3. How would the particular alternative rate methodology(ies) interact with existing mechanisms or traditional ratemaking principles currently in use or available to EDCs (e.g., the distribution system improvement charge (DSIC) or FPFTY, etc.)?.....	18
4. How would such a methodology be implemented? Specifically, in what timeframe? Is there a need for a gradual implementation or phasing-in process?.....	19
<b>B. Natural Gas Utilities.....</b>	<b>21</b>
1. Identify the alternative rate methodology(ies) each NGDC is currently using, including the number and types of automatic adjustment clauses, cost trackers and separate cost recovery mechanisms. Also identify, as a percentage of total costs or revenues, the costs or revenues each separate mechanism recovers.....	26
2. If any, what alternative rate methodology(ies) could and should be used by NGDCs and explain why would they be beneficial? Regarding the proposed methodology(ies), please provide specific comments on: .....	26
a. The potential advantages; .....	26
b. The potential disadvantages;.....	26
c. The effects on all rate classes, with a specific focus on small volume, low-income, income-challenged and large C&I customers, as well as a discussion regarding any potential inter- or intra-class cost shifting; .....	27
d. The effects on existing energy efficiency programs; and .....	28
e. The effects on the number and/or frequency of base rate case filings, as well as possible rate increases or decreases.....	28
3. How would the particular alternative rate methodology(ies) interact with existing mechanisms or traditional ratemaking principles currently in use or available to NGDCs (e.g., DSIC, FPFTY, etc.)? .....	29

4.	Address the efficacy of weather normalization adjustments currently in use, what changes should be made to the adjustments to improve them and whether they should be expanded to other NGDCs.....	29
5.	How would such a methodology be implemented? Specifically, in what timeframe? Is there a need for a gradual implementation or phasing-in process?.....	30
C.	Water and Wastewater Utilities.....	30
1.	Identify the alternative rate methodology(ies) each water and wastewater utility is currently using, including the number and types of automatic adjustment clauses, cost trackers and separate cost recovery mechanisms. Also identify, as a percentage of the total costs or revenues, the costs or revenues each separate mechanism recovers. ....	33
2.	If any, what alternative rate methodology(ies) could and should be used by water and wastewater utilities and explain why would they be beneficial? Regarding the proposed methodology(ies), please provide specific comments on:.....	34
a.	The potential advantages .....	34
b.	The potential disadvantages.....	35
c.	The effects on all rate classes, with a specific focus on small volume, low-income, income-challenged and large C&I customers, as well as a discussion regarding any potential inter- or intra-class cost shifting; .....	35
d.	The effects on the number and/or frequency of base rate case filings, as well as possible rate increases or decreases.....	36
3.	How would the particular rate methodology(ies) interact with existing mechanisms or traditional ratemaking principles currently in use or available to water and wastewater utilities ( <i>e.g.</i> , DSIC, FPFTY, etc.)? .....	36
4.	How would such a methodology be implemented? Specifically, in what timeframe? Is there a need for a gradual implementation or phasing-in process?.....	37
D.	Next Steps .....	37
<b>III. COMMENTS ON DIRECTED QUESTIONS OF VICE CHAIRMAN ANDREW G. PLACE ...</b>		<b>38</b>
.....		<b>38</b>
A.	Directed Questions for Electric Distribution Company Proposal .....	38
1.	Provide overall supportive or critical comments on the outlined advanced rate design structure. ....	38
2.	For a demand-based rate design, what system peak should be used? For example, RTO peak hours, EDC peak hours, rate class peak hours? .....	46
3.	How many hours should be used to calculate the demand billing determinant? Should there be periodic demand ratchets? Should this be measured, for example, over 1 hour, 5 hours, 10 hours, or perhaps 20 hours per billing period? Should the demand determinate change annually, seasonally, monthly? Should a daily hourly time range be established in which coincident peak will be measured? .....	47
4.	How should peak demand be measured? Should each measurement be based, for example, on a 15 minute, 30 minute, or 1 hour period?.....	47
5.	Should tiered demand rates be used?.....	47

6.	What costs should be recovered under the coincident demand charge? Which cost “bucket” should information systems, billing systems, customer service systems, customer service costs, operational expenses, or other costs (please specify) be allocated under such a new rate design? .....	48
7.	What other “rate gradualism” mechanism should be employed? .....	48
8.	What revenue streams should be excluded (e.g. § 1307 automatic adjustment revenues)? 48	
9.	While large customers generally have demand-based non-coincident peak charges, should large customer demand charges be modified to incorporate coincident peak-based charges? .....	49
10.	What would the range of cost impacts be, if any, for low income customers? Under a given model, what modifications should be considered to Low-Income/Customer Assistance Program participants to maintain affordability and ratepayer equity? .....	50
11.	What type of consumer education programs should be provided to customers when implementing alternative ratemaking methodologies?.....	50
B.	Directed Questions for Natural Gas Distribution Company Proposal.....	51
1.	Provide overall supportive or critical comments to the outlined NGDC decoupling structure. ....	51
2.	Has this proposal been successfully or unsuccessfully implemented in other jurisdictions? .....	54
3.	Are there any statutory and regulatory barriers in Pennsylvania to a revenue-per-customer decoupling for NGDCs?.....	55
4.	What are the general potential bill impacts associated with this form of decoupling? .....	55
5.	Should the use of decoupling be limited to NGDCs that are offering conservation and efficiency programs and, if so, what should be the required types and scope of such programs? .....	56
6.	Should measures of success be included in the implementation and how should the Commission ensure that incremental conservation and efficiency program benefits exceed costs? .....	56
7.	Should the Commission undertake periodic evaluations as a means for establishing the overall impacts, as well as the effectiveness of design and administration? .....	57
8.	How should the Commission design the mechanism to true-up forecast and actual utility delivery service revenues?.....	57
9.	To what rate classes should decoupling apply?.....	57
10.	What revenues streams should be excluded (e.g. § 1307 automatic adjustment revenues)? .....	58
11.	How should a “usage-per-customer” parameter be developed during the implementation of a revenue-per-customer decoupling mechanism, and how should this parameter be used to adjust future rates. Should there be separate usage per customer values for new and existing customers? .....	58
12.	What should be the frequency of the rate adjustment?.....	59
13.	Should the Commission incorporate caps on rate adjustments?.....	59
14.	How soon after the conclusion of the future test year should the Commission allow adjustments? .....	59

15. Should the Commission periodically require a complete review of costs, sales, and revenues (i.e., a general rate case or equivalent)? Please describe the suggested review process and necessary time period.....	59
16. Should there be carrying charges (interest) calculated on rate adjustments, both upward and downward? If so, how should these carrying charges be calculated? .....	59
17. What would the range of cost impacts be, if any, for low income customers? Under a given model, what modifications should be made to Low Income/Customer Assistance Program participants to maintain affordability and ratepayer equity? .....	60
18. What type of consumer education programs should be provided to customers when implementing a decoupling methodology?.....	60
<b>IV. COMMENTS ON STATEMENT OF COMMISSIONER DAVID W. SWEET .....</b>	<b>61</b>
<b>V. CONCLUSION.....</b>	<b>67</b>

## I. INTRODUCTION

On December 31, 2015, the Pennsylvania Public Utility Commission (Commission) issued a notice of *En Banc* Hearing on Alternative Ratemaking Methodologies at Docket No. M-2015-2518883 (*En Banc* Hearing Notice) to be held on March 3, 2016. The Commission also invited all interested parties to submit Comments no later than March 16, 2016. In the *En Banc* Hearing Notice, the Commission sought testimony and comments primarily in the context of energy efficiency and conservation, and demand response. A number of interested parties, including the Acting Consumer Advocate Tanya J. McCloskey, on behalf of the Office of Consumer Advocate (OCA), testified before the Commission at the March 3, 2016 *En Banc* Hearing. Additionally, the OCA and more than twenty other parties submitted initial Comments.

On March 2, 2017, the Commission issued a Tentative Order wherein it seeks additional input regarding alternative ratemaking methodologies. Specifically, the Commission seeks responses to numerous, comprehensive questions related to the reasonableness and efficiency of alternative ratemaking methodologies, as applied across the various utility industries. In its March 2, 2017 Tentative Order, the Commission expanded the scope of comments to include alternative ratemaking as applied to water and wastewater utilities. The Commission invited interested parties to submit Comments and Reply Comments addressing the issues raised in its Tentative Order.<sup>1</sup> Vice Chairman Andrew G. Place, Commissioner Robert F. Powelson, and

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<sup>1</sup> The Commission initially ordered that Comments be submitted within 45 days of the entry date of the Order and that Reply Comments be submitted within 75 days of the entry of the Order. On March 21, 2017, the OCA filed a Motion for Extension of Time, requesting that the Commission amend its Tentative Order dated March 2, 2017 to allow 90 days from the entry date of the Order for interested parties to submit Comments and 150 days from the entry date of the Order to submit Reply Comments. The Commission's Bureau of Investigation and Enforcement, the Office of Small Business Advocate, the Pennsylvania Utility Law Project, and the Energy Association of Pennsylvania also indicated that they were in support of the relief requested in the OCA's Motion. Accordingly, the Commission issued a Secretarial Letter on March 23, 2017 granting the OCA's Motion for Extension of time and setting May 31, 2017 as the deadline for Comments and July 31, 2017 as the deadline for Reply Comments.

Commissioner David W. Sweet also issued Statements on March 2, 2017, wherein they raised additional questions and issues for comment.

The OCA appreciates the opportunity to address specific questions and provide further Comments on alternative ratemaking methodologies.<sup>2</sup> There are many forms of alternative ratemaking and performance incentives, including those identified in the Commission's Tentative Order: various forms of revenue decoupling; lost revenue adjustment mechanisms; straight fixed/variable pricing; cost trackers; choice of test years; multiyear rate plans; demand charges; standby and backup charges; and a demand side management performance incentive mechanism. As the OCA discussed at length in its initial Comments, alternative ratemaking is not new in Pennsylvania. Pennsylvania utilities currently use a broad array of alternative ratemaking methods, in particular the use of cost trackers and the fully forecasted future test year. Pennsylvania's current alternative ratemaking methodologies have been targeted to achieve specific purposes and objectives set forth by the General Assembly. Pennsylvania's current alternative ratemaking methodologies and regulations also seek to balance utility benefits and consumer protections.

Regarding alternative ratemaking in the context of energy efficiency and conservation and demand response, the OCA has supported efforts to improve energy efficiency and conservation performance for many years. Over the years, Pennsylvania has developed a regulatory framework that has been successful in achieving energy efficiency and demand side

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<sup>2</sup> These Comments were prepared with the assistance of regulatory consultant Glenn A. Watkins. Mr. Watkins obtained his B.S. in economics and M.B.A. from the Virginia Commonwealth University in 1982 and 1988, respectively. Mr. Watkins is a Principal and Senior Economist with Technical Associates, Inc., an economics and financial consulting firm. Mr. Watkins conducts marginal and embedded cost of service, rate design, cost of capital, revenue requirement, and load forecasting studies involving numerous electric, gas, water/wastewater, and telephone utilities. He has provided expert testimony in numerous jurisdictions, including Alabama, Arizona, Delaware, Georgia, Illinois, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Vermont, Virginia, South Carolina, Washington, and West Virginia.

management goals. The OCA submits that with the current regulatory framework and array of alternative ratemaking methods already being employed by Pennsylvania utilities, there has been no demonstration that further alternative ratemaking methods are needed at this time.

Moreover, the concept of implementing additional alternative ratemaking methods has been evaluated and rejected by the Commission and Pennsylvania courts, and the General Assembly has effectively rejected the decoupling approach raised in the Commission's Tentative Order.<sup>3</sup> It is the OCA's position that authorizing the use of additional alternative ratemaking methods is unlikely to result in additional benefits to ratepayers, may cause harm to Pennsylvania ratepayers, and is unnecessary.

Regarding water conservation, Pennsylvania's water and wastewater utilities have not had statutory requirements to reduce usage, however, responsible use of water, including more efficient appliances, low flow toilets and showerheads, has been an important focus of education efforts by water utilities, the Commission and the OCA for many years. As discussed below, there have been other statutory changes that are alternatives to the traditional ratemaking principles that are routinely employed by water and wastewater utilities. Those alternatives to traditional rate base/ rate of return ratemaking are also intended to achieve certain purposes established by the General Assembly, but they are putting upward pressure on the rates for water service.<sup>4</sup> The OCA submits that no further alternative ratemaking mechanisms are necessary for

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<sup>3</sup> See OCA Comments on Alternative Ratemaking Methodologies, Docket No. M-2015-2518883 at 2-11, 20 (March 16, 2017) (March 16, 2016 OCA Comments); see also Testimony of Tanya J. McCloskey, Acting Consumer Advocate, Regarding Alternative Ratemaking Methodologies, Docket No. M-2015-2518883 at 4-8 (February 25, 2016).

<sup>4</sup> 66 Pa. C.S. § 1311(c) (exempts utility that owns both water and wastewater from segregating utility property and permits the utility, subject to Commission approval, to allocate wastewater revenue requirement to water customers); 66 Pa. C.S. § 1327 (Acquisition adjustment permitted if meet statutory criteria ); 66 Pa. C.S. § 1329 (valuation of municipal acquisitions based on average of two appraisals or purchase price whichever is lower, without considering depreciated original cost or whether property was contributed; deferred depreciation; continuance of Allowance for Funds Used During Construction after property becomes used and useful).

the water and wastewater industry at this time, as alternative ratemaking mechanisms already exist to realize the intended objectives.

In Sections II through IV below, the OCA will provide comments addressing the questions raised by the Commission, Vice Chairman Place, and Commissioner Sweet.<sup>5</sup> Since the questions raised by the Commission and Vice Chairman Place are organized by utility industry, the OCA will comment on alternative ratemaking as it applies to the separate utility industries.<sup>6</sup> The premise of many of the questions, however, is that a form of alternative ratemaking will be adopted or supported. To be clear, it is the OCA's position that there is no discernable benefit to further alternative ratemaking methodologies in any of the utility industries, and the Commission should not further entertain consideration of these mechanisms at this time.

As mentioned, the Commission has considered the need for alternative ratemaking mechanisms, particularly revenue decoupling, and found it to be unnecessary and inconsistent with Pennsylvania's statutory and regulatory scheme. See March 16, 2016 OCA Comments at 5-9, 20; see also Pa. Indus. Energy Coalition v. Pa. PUC, 543 Pa. 307 (Pa. 1996) (aff'g Pa. Indus. Energy Coalition v. Pa. PUC, 653 A.2d 1336 (Pa. Commw. Ct. 1995) (disallowing recovery of incentives and costs of physical facilities through the surcharge mechanism and adopting the calculation for incentives.); see also Compliance of Commonwealth of Pennsylvania with Section 410(a) of the American Recovery and Reinvestment Act of 2009, Docket No. I-2009-2099881, Order (Aug. 1, 2011); see also Energy Efficiency and Conservation Programs, Docket No. M-2014-2424864, Implementation Order at 134 (June 19, 2015); see also Pa. PUC v. UGI Penn Natural Gas Pa. PUC v. UGI Central Gas, R-2008-2079660, R-2008-2079675, Statement

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<sup>5</sup> Commissioner Powelson's Statement on Alternative Ratemaking did not raise any additional questions to which a response is required.

<sup>6</sup> The OCA questions whether it is appropriate to consider different alternative ratemaking methodologies for different utility industries unless there is a specific and unique public purpose to be achieved within that industry.

of then Chairman Cawley (August 27, 2009); see also Pa. PUC v. PG Energy, Docket No. R-00061365 (Order entered November 30, 2006) (Statement of then-Vice Chairman Cawley); see also Pa. PUC v. Duquesne Light Company, Docket No. R-00061346 (Order entered November 30, 2006) (Statement of then Vice Chairman Cawley). Additionally, the Commission has not identified any specific policy to be forwarded or benefit to be achieved for ratepayers from such mechanism. The mechanisms all seem to be directed to achieving revenue certainty for utility companies without any demonstration of the need for such revenue certainty, and without recognition of the significant reduction in risk that results from such mechanisms or the new opportunities for growth and development of the energy sector.

As such, the OCA submits that on both legal and policy grounds, the Commission should not consider further alternative ratemaking.

## **II. COMMENTS ON TENTATIVE ORDER QUESTIONS**

### **A. Electric Utilities**

Specifically related to electric utilities, Act 129 of 2008 (Act 129 or the Act) has provided a comprehensive regulatory structure for implementing energy efficiency and demand side response programs.<sup>7</sup> Moreover, EDCs in Pennsylvania are currently utilizing certain alternative ratemaking methodologies, including the Distribution System Improvement Charge (DSIC), the Energy Efficiency Surcharge, the Smart Meter Surcharge, the State Tax Adjustment Surcharge, Universal Service Riders, and the Storm Damage Expense Rider, to name a few. In light of the effectiveness of the current regulatory framework, including Act 129, and the array of alternative ratemaking methods already being employed by Pennsylvania utilities, there has been no

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<sup>7</sup> In addition to Act 129, the General Assembly, through Act 114 of 1986, included several provisions in the Pennsylvania Public Utility Code to address the implementation of energy conservation measures, provide for timely cost recovery, and provide for performance factor considerations. See 66 Pa. C.S. §§ 523(b)(4), 1319, and 1505(b). The OCA addresses these provisions in further detail under Section II(B) (related to natural gas utilities), below.

demonstration that further alternative ratemaking methods are needed at this time or would result in benefits to ratepayers.

Specifically, under Act 129, the major electric utilities in Pennsylvania are required to reduce energy consumption and peak demands by a series of statutorily imposed minimums.<sup>8</sup> See 66 Pa. C.S. § 2806.1(c), (d). The Act also establishes specific requirements to reduce the energy consumption of low income customers and the government/non-profit/education sector and establishes the annual spending cap for these programs. See 66 Pa. C.S. §§ 2806.1(b)(1)(i)(B) and (G), and 2806.1(g). Under the Act, the failure of an Electric Distribution Company (EDC) to achieve the specified reduction targets results in a financial penalty of not less than \$1,000,000 and not more than \$20,000,000. 66 Pa. C.S. § 2806.1(f)(2). Act 129, however, explicitly permits utilities to recover the costs of conservation programs in a timely manner through an automatic adjustment clause *without regard to overall earnings*. 66 Pa. C.S. § 2806.1(k)(1). While Act 129 prohibits the recovery of decreased revenues due to conservation measures between base rate cases, the Act permits the utilities to reflect reduced revenues prospectively through *pro forma* energy sales and revenue calculations in base rate cases. 66 Pa. C.S. §§ 2806.1(k)(2),(3). Further, the Act provides for continuation of these programs if cost-effective. 66 Pa. C.S. § 2806.1(b)(2).

In furtherance of its energy efficiency and demand response goals, the General Assembly in Act 129 also mandated the deployment of smart meters throughout Pennsylvania and the implementation of voluntary time of use pricing and real time pricing plans. 66 Pa. C.S. § 2807(f). Electric utilities can fully recover this significant infrastructure investment on a full and

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<sup>8</sup> The Electric Distribution Companies (EDCs) subject to Act 129 are Duquesne Light Company, Metropolitan Edison Company, PECO Energy Company, Pennsylvania Electric Company, Pennsylvania Power Company, PPL Electric Utilities Corporation and West Penn Power Company. See 66 Pa. C.S. § 2806.1(l) (limiting the applicability of Act 129 to EDCs with at least 100,000 customers).

current basis through an automatic surcharge, with a return on the capital investment. 66 Pa. C.S. § 2807(f)(7). These smart meter surcharge rate increases, including the return on equity, are permitted without regard to whether or not the utility is earning more than its allowed rate of return on an overall basis. See Id. As in the case of energy efficiency programs, however, Act 129 also specifically precludes the recovery of any decreased revenues associated with the smart meter programs or new rate designs from being recovered between base rate cases. 66 Pa. C.S. § 2807(f)(4).

The Pennsylvania electric utilities have been successful in achieving the consumption and demand reduction goals mandated by Act 129. In its recent Act 129 Energy Efficiency and Conservation Program Compliance Order, the Commission determined that all seven Pennsylvania EDCs subject to Act 129 are in compliance with the overall consumption reduction requirements established in the Act.<sup>9</sup> Act 129 Energy Efficiency and Conservation Program Compliance Order, Docket No. M-2012-2289411, Order at 3 (April 6, 2017) (Act 129 Order). The Act 129 Order also shows that over the three year Phase II time period commencing June 1, 2013, the seven major electric utilities in Pennsylvania have produced a total of 4,399,320 MWhs/yr of verified demand reductions, ranging from 118% to 185% of the required reductions.<sup>10</sup> See Act 129 Order at 7-10; see also Phase II Final Report at 13-14. Specifically, the following chart identifies the Commission’s initial verified demand reduction findings for each EDC during Phase II:

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<sup>9</sup> In the Act 129 Order, the Commission relied, in part, on the Act 129 Statewide Evaluator Phase II Final Report (Phase II Final Report). See Act 129 Order at 6. Petitions for Reconsideration on limited grounds regarding the treatment of carry over savings are currently pending before the Commission.

<sup>10</sup> This number includes any verified energy savings that exceeded the Phase I compliance target and, thus, were “carried over” into Phase II. Act 129 Order at 7; Phase II Final Report at 13-14. Without including any “carry over” energy savings, the EDCs achieved a total of 3,370,673 MWhs of electricity reductions over the Phase II time period. See Phase II Final Report at 13-14; Act 129 Order, Statement of Chairman Gladys M. Brown, Docket No. M-2012-2289411 (April 6, 2017).

	Demand Reduction Targets (MWh/year)	Verified Demand Reductions Achieved (MWh/year)	% of Reduction Target Achieved
Duquesne	276,722	510,965	185%
Met-Ed	337,753	415,422	123%
Penelec	318,813	395,313	124%
Penn Power	95,502	131,948	138%
West Penn	337,533	418,002	124%
PECO	1,125,851	1,333,298	118%
PPL	821,072	1,194,372	146%

See Act 129 Order at 7-10; see also Phase II Final Report at 13-14. Additionally, in its Act 129 Order, the Commission has determined that all major EDCs are in compliance with the low income and government/educational/non-profit consumption reduction requirements.<sup>11</sup> Act 129 Order at 3-4. The Phase II Final Report also demonstrates that over the three year Phase II time period, the seven major electric utilities in Pennsylvania spent \$1,286,220,000 on energy efficiency and demand response programs and achieved a total savings of \$2,194,356,000. Phase II Final Report at 54.

As noted, Act 129 enables electric utilities to include forecasted lower revenues as a result of the implementation of energy efficiency and demand response programs in a base rate case. Pennsylvania’s robust distribution base rate process also allows for the use of a fully forecasted future test year to be used in setting rates. 66 Pa. C.S. § 315(e). Thus, under Act 129,

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<sup>11</sup> Pennsylvania electric utilities also have long-standing low income usage reduction programs (LIURP) in addition to the Act 129 low income customer programs that address specific needs of low income customers for energy efficiency and conservation efforts.

a utility can effectively look a full two years forward from the date of its filing in determining its revenues and expenses. The impact of energy efficiency programs can be reflected in the fully forecasted *pro forma* revenues and sales estimates when determining a just and reasonable level of rates, and additional sales forecast adjustments can be considered under Act 129.

The OCA submits that addressing reduced usage in a base rate case, as Act 129 provides, is reasonable and has worked well in Pennsylvania. There has been no demonstration that this method of recovery has caused a financial burden to Pennsylvania EDCs. By reflecting the impact on sales in the context of a base rate case, the Commission can assure that prospective rates reflect the anticipated energy efficiency consumption reductions, address all other factors that may offset the need for a rate change, and address any burdens to ratepayers. Based on the pace at which Pennsylvania EDCs have filed for rate increases in recent years,<sup>12</sup> the OCA submits that EDC revenues seem stable and that any revenue reductions as a result of the implementation of energy efficiency programs have been effectively dealt with through the traditional base rate process.<sup>13</sup>

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<sup>12</sup> Please see Appendix A attached to these Comments, in which the OCA has identified the rate case filings of the major EDCs in Pennsylvania since 2000.

<sup>13</sup> The OCA also notes that, in light of the potential growth of electrification for both the transportation and heating sectors, it would be premature to conclude that any low growth usage trends on the electric side will persist. In a recent report prepared by the Brattle Group, the Brattle Group considered the issue of whether there is a compelling prospect for utility sales to reverse the current low/no growth trend and even grow dramatically over the next thirty-five years. [Electrification Emerging Opportunities for Utility Growth](http://www.brattle.com/system/news/pdfs/000/001/174/original/Electrification_Whitepaper_Final_Single_Pages.pdf?1485532518), The Brattle Group at 1 (Jan. 2017) at 1, available at [http://www.brattle.com/system/news/pdfs/000/001/174/original/Electrification\\_Whitepaper\\_Final\\_Single\\_Pages.pdf?1485532518](http://www.brattle.com/system/news/pdfs/000/001/174/original/Electrification_Whitepaper_Final_Single_Pages.pdf?1485532518) (Brattle Report). Specifically, the Brattle Report provides, in pertinent part, as follows:

A very possible deep economy-wide decarbonization pathway involves significant electrification of both transport and heating, leading to a central and ongoing role for electric utilities to generate and distribute much more electricity to end users. This role involves the efficient and reliable operation of the power system relying on a mix of centralized and decentralized carbon-free electricity production. Overall, the above paradigm presents a very positive business outlook and opportunity for utilities: continued growth of sales from centralized (i.e., non-distributed) generation as well as a crucial and likely significantly enhanced role for electricity network infrastructure and controls.

Furthermore, there has been no demonstration that EDC reliability has been suffering under the regulatory framework currently in effect. Regarding EDC reliability benchmarks and standards, the Commission noted in its most recent EDC Reliability Report, “The overall performance of the EDCs is trending in a positive direction [.]” Pennsylvania Electric Reliability Report 2015 at 52 (August 2016) (Reliability Report). The Commission explained that “EDCs are utilizing [their Long Term Infrastructure Improvement Plans] to proactively accelerate replacement of degraded distribution system components and improve the resiliency of their distribution systems through storm hardening initiatives.” Id. Further, the Commission noted, “There has also been an increase in tree trimming activity beyond historic levels for many EDCs” and that “Pennsylvania EDCs continue to improve their aggressive vegetation management programs [.]” Id. As discussed by the OCA in its initial Comments, to assist with the recovery of costs related to the accelerated infrastructure repair and replacement programs that are underway, the General Assembly has provided the DSIC. See March 16, 2016 OCA Comments at 17.

In light of the effectiveness of the current regulatory framework, including Act 129, and the surcharge recovery mechanisms in place for the electric utilities, further alternative ratemaking is not necessary at this time. The OCA discussed its concerns with further alternative ratemaking in its initial set of comments, including specific concerns related to revenue

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Brattle Report at 13.

The OCA acknowledges that as customers install solar behind the utility meter, they reduce their purchases from the utility grid and avoid some or all distribution charges. The OCA further acknowledges that as more customers install solar, the costs to support the distribution system must be paid by other customers. Revenue decoupling does not address this fundamental issue with distributed generation and may even exacerbate the concerns. These issues are being reviewed in other states where there is a significant level of distributed generation, and the OCA submits that the Commission should continue to closely watch the outcomes in those states for guidance on these matters. As to other alternative rate designs, the OCA discusses the potential harms and infirmities with some of these proposals in response to the Commission’s and Vice Chairman Place’s questions.

decoupling, straight fixed variable rate design and high fixed customer charges. See March 16, 2016 OCA Comments at 11-22. The OCA maintains these concerns.

Notably, the Commission and the Pennsylvania Supreme Court have previously considered and rejected alternative ratemaking methodologies. See March 16, 2016 OCA Comments at 5-9, 20; see also Pa. Indus. Energy Coalition v. Pa. PUC, 543 Pa. 307 (Pa. 1996) (aff'g Pa. Indus. Energy Coalition v. Pa. PUC, 653 A.2d 1336 (Pa. Commw. Ct. 1995)); see also Compliance of Commonwealth of Pennsylvania with Section 410(a) of the American Recovery and Reinvestment Act of 2009, Docket No. I-2009-2099881, Order (Aug. 1, 2011); see also Energy Efficiency and Conservation Programs, Docket No. M-2014-2424864, Implementation Order at 134 (June 19, 2015); see also Pa. PUC v. UGI Penn Natural Gas Pa. PUC v. UGI Central Gas, R-2008-2079660, R-2008-2079675, Statement of then Chairman Cawley (August 27, 2009); see also Pa. PUC v. PG Energy, Docket No. R-00061365 (Order entered November 30, 2006) (Statement of then-Vice Chairman Cawley); see also Pa. PUC v. Duquesne Light Company, Docket No. R-00061346 (Order entered November 30, 2006) (Statement of then Vice Chairman Cawley). With respect to revenue decoupling, the Pennsylvania General Assembly rejected a decoupling approach in adopting Act 129, and the OCA submits that movement toward such a mechanism without legislation would be inconsistent with the law. See March 16, 2016 OCA Comments at 12. Additionally, the OCA maintains that the adoption of further alternative ratemaking methodologies may not be effective and raises significant concerns about improper single-issue ratemaking, retroactive ratemaking, and the just and reasonable requirements of rates at 66 Pa. C. S. Section 1301. See March 16, 2016 OCA Comments at 12-22.

Further alternative ratemaking also poses significant risks to Pennsylvania ratepayers. For example, any form of alternative ratemaking lowers the risk a utility faces in providing utility services by guaranteeing at least a portion of revenue recovery. The idea that public utilities are guaranteed revenue recovery is contrary to the accepted ratemaking principle that utilities are entitled to the opportunity to earn a fair rate of return. Pennsylvania Gas & Water Co. v. Pa. Pub. Util. Comm'n, 341 A.2d 239 (Pa.Cmwlth. 1975); see also Federal Power Comm'n v. Hope Natural Gas Co., 320 U.S. 591 (1944); see also Bluefield Water Works and Improvement Co. v. Public Serv. Comm'n of West Virginia, 262 U.S. 679 (1923). Further alternative ratemaking would increase the amount of guaranteed revenue recovery and sever the balance of utility benefits and consumer protections that the current regulatory framework has successfully achieved. Guaranteed revenue recovery coupled with high returns on equity results in increased costs to ratepayers with no discernable benefit, a substantial imbalance between utility benefits and consumer protections, and rates that are potentially not just and reasonable. This scenario poses a particular concern for low to moderate income customers who may find it difficult to meaningfully participate in energy efficiency programs or to reduce their usage sufficiently to offset any increased costs associated with alternative ratemaking. See March 16, 2016 OCA Comments at 16-17, 22.

The OCA submits that there is no need for further alternative ratemaking in Pennsylvania at this time and that alternative ratemaking raises numerous legality concerns and concerns for Pennsylvania ratepayers. Below, the OCA will address the Commission's specific questions related to electric utilities and highlight the potential risks and negative effects of further alternative ratemaking.

- 1. Identify the alternative rate methodology(ies) each EDC is currently using, including the number and types of automatic adjustment clauses, cost trackers and separate cost recovery mechanisms. Also identify, as a percentage of total costs or revenues, the costs or revenues each separate mechanism recovers.**

Pennsylvania's EDCs have numerous surcharge mechanisms available under the Public Utility Code. The DSIC, the Energy Efficiency Surcharge, the Smart Meter Surcharge, the State Tax Adjustment Surcharge, Universal Service Riders, and the Storm Damage Expense Rider are among the mechanisms in use by electric utilities. Additionally, many EDCs utilize a fully projected future test year in setting rates. The percentage of each EDC's distribution revenues separated into these mechanisms will need to be provided by the EDCs.

- 2. If any, what alternative rate methodology(ies) could and should be used by EDCs? Regarding the proposed methodology(ies), please provide specific comments on:**

- a. The potential advantages**

For the reasons expressed under Section II(A) above, the OCA is not proposing any further alternative ratemaking methodologies. The OCA submits that it would be advantageous to continue utilizing the regulatory model currently in effect, as it has allowed EDCs to achieve energy efficiency and demand side management goals, improve infrastructure and maintain reliable service, and balance utility benefits and consumer protections. There is no demonstration that further alternative ratemaking will provide any additional advantages. See March 16, 2016 OCA Comments at 12-22.

- b. The potential disadvantages**

There has been no demonstration that the regulatory model currently in effect poses a significant disadvantage to EDCs or ratepayers. Again, EDCs are generally achieving energy efficiency standards and reliability benchmarks, and there are adequate consumer protections in place.

Any further alternative ratemaking, however, poses a myriad of potential disadvantages. See March 16, 2016 OCA Comments at 12-22. Further alternative ratemaking could be inconsistent with Pennsylvania law or the Commission's regulations and poses significant risks to ratepayers. As noted, any form of alternative ratemaking lowers the risk a utility faces in providing utility services by guaranteeing at least a portion of revenue recovery. As such, further alternative ratemaking would increase the amount of guaranteed revenue recovery and sever the balance of utility benefits and consumer protections that the current regulatory framework has successfully achieved. Guaranteed revenue recovery coupled with high returns on equity results in increased costs to ratepayers with no discernable benefit, a substantial imbalance between utility benefits and consumer protections, and rates that are potentially not just and reasonable.

Additionally, the various forms of alternative ratemaking all pose their own unique risks. See March 16, 2016 OCA Comments at 11-22. To highlight a few:

- **Revenue Decoupling:** There are various forms of revenue decoupling. At the most fundamental level, revenue decoupling separates a utility's cost recovery from the amount of energy it sells. Advocates of revenue decoupling often argue that the change in the usage rate occasioned by revenue decoupling is generally small when properly designed. This argument, however, ignores a critical distinction between customers who are able to participate in energy efficiency programs and reduce their usage sufficiently to offset the increased usage rate and customers who are unable to participate (or cannot participate sufficiently) in energy efficiency programs. There are many reasons why customers may be unable to engage in energy efficiency: lack of financial means to pay for the necessary investment; the lack of ownership of their residences or businesses; or

the inability to reduce energy usage any further due to health and safety concerns, to name a few. These often low to moderate income households and otherwise vulnerable households end up bearing the brunt of these increasing prices between base rate cases. Revenue decoupling could also reduce a utility's incentive for timely storm repair, as revenue decoupling will make an EDC financially indifferent to the prospect of extended outages. It is also worth noting again that the Pennsylvania General Assembly rejected a decoupling approach in adopting Act 129, and the OCA submits that movement toward such a mechanism without legislation would be inconsistent with the law. See March 16, 2016 OCA Comments at 12.

- **Lost Revenue Adjustment Mechanism:** This form of alternative ratemaking allows a utility to recover lost distribution revenues directly caused by energy efficiency measures. The OCA submits that such a mechanism could create a perverse incentive for utilities to discourage customer-initiated energy efficiency and/or improvements in building codes and standards that could result in more efficiency. This type of mechanism also presents concerns with the validity and accuracy of adjustments to isolate lost revenues.
- **Straight Fixed/Variable Pricing (SFV) and High Fixed Customer Charges:** Under SFV, all of a utility's fixed costs are recovered in a fixed monthly charge, whereas variable costs are included in usage rates. The definition of fixed cost can vary, but regardless of the accounting methodology, the outcome for the customer is the same: The customer's bill will contain a large fixed cost every

month that does not vary with usage. High fixed customer charge designs are structured similarly.

Increasing the fixed charge, whether through a straight fixed variable approach or by establishing a high fixed customer charge, creates serious concerns. First, proponents of SFV and high fixed customer charges often seek to expand the definition of “fixed costs” to encompass as many charges in the fixed component as possible, which severs the relationship between usage and the embedded costs of the utility system. Second, increasing the fixed customer charge is contrary to effective energy efficiency and conservation efforts. High fixed charge rate structures could reduce a customer’s incentive to conserve energy, because he or she will receive less of a benefit through conservation efforts.

SFV rate design and high fixed customer charges are also contrary to a long line of Commission decisions - and particularly the consistent Statements of former Chairman James Cawley - that warn against high fixed customer charges because of their negative impact on customer conservation. See Pa. PUC v. UGI Penn Natural Gas Pa. PUC v. UGI Central Gas, R-2008-2079660, R-2008-2079675, Statement of then Chairman Cawley (August 27, 2009); see also Pa. PUC v. PG Energy, Docket No. R-00061365 (Order entered November 30, 2006) (Statement of then-Vice Chairman Cawley); see also Pa. PUC v. Duquesne Light Company, Docket No. R-00061346 (Order entered November 30, 2006) (Statement of then Vice Chairman Cawley). In fact, SFV has previously been used to promote a policy of *increased* consumption in the interstate natural gas

transmission industry. See Federal Energy Regulatory Commission, Docket Nos. RM91-11-001 and RM87-34-065, Order No. 636 (Apr. 9, 1992).

The OCA submits that there has been no demonstration that further alternative ratemaking is needed. As demonstrated above, further alternative ratemaking poses a myriad of potential disadvantages. Further alternative ratemaking could be inconsistent with Pennsylvania law or the Commission's regulations and poses significant risks to ratepayers.

**c. The effects on all rate classes, with a specific focus on small volume, low-income, income-challenged and large C&I customers, as well as a discussion regarding any potential inter- or intra-class cost shifting**

Any form of further alternative ratemaking could have a substantial effect on customers, and particularly low income customers. Further alternative ratemaking would lower the risk a utility faces in providing utility services by guaranteeing at least a portion of revenue recovery. Guaranteed revenue recovery coupled with high returns on equity results in increased costs to ratepayers. This scenario poses a particular concern for low to moderate income customers who may find it difficult to meaningfully participate in energy efficiency programs or to reduce their usage sufficiently to offset any increased costs associated with alternative ratemaking. See March 16, 2016 OCA Comments at 16-17, 22. As noted, there are many reasons why customers may be unable to engage in energy efficiency: lack of financial means to pay for the necessary investment; the lack of ownership of their residences or businesses; or the inability to reduce energy usage any further due to health and safety concerns, to name a few. These often low to moderate income households and otherwise vulnerable households end up bearing the brunt of these increasing prices between base rate cases.

**d. The effects on existing energy efficiency and peak demand reduction programs**

Again, the OCA is not proposing any further alternative ratemaking methodologies at this

time. Act 129 establishes mandatory energy efficiency and peak demand reduction goals for Pennsylvania electric utilities and establishes the annual spending cap for these programs. 66 Pa. C.S. §§ 2806.1(c) and (g). The OCA submits that further alternative ratemaking will not encourage electric utilities to implement better energy efficiency and conservation programs, as Pennsylvania electric utilities have already implemented balanced, comprehensive, and robust energy efficiency programs under Act 129.

**e. The effects on the number and/or frequency of base rate case filings, as well as possible rate increases or decreases**

The OCA acknowledges that under the current regulatory framework, base rate cases may be necessary as usage patterns change if not offset by efficiency gains or further growth. Base rate cases in and of themselves are not necessarily a negative, as they provide the Commission and the parties a full opportunity to examine utility operations and align rates. By reflecting the impact on sales in the context of a base rate case, the Commission can assure that prospective rates reflect the anticipated energy efficiency consumption reductions, address all other factors that may offset the need for a rate change, and address any burdens to ratepayers. The OCA notes again, however, that EDCs do not seem to be filing an excessive number of rate increase requests.<sup>14</sup> Further extending the time between base rate cases is unlikely to result in additional value to Pennsylvania consumers.

**3. How would the particular alternative rate methodology(ies) interact with existing mechanisms or traditional ratemaking principles currently in use or available to EDCs (e.g., the distribution system improvement charge (DSIC) or FPFTY, etc.)?**

Further alternative ratemaking raises the issue of whether the alternative ratemaking methods that Pennsylvania EDCs currently use can continue to exist in a different regulatory

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<sup>14</sup> Please see Appendix A attached to these Comments, in which the OCA has identified the rate case filings of the major EDCs in Pennsylvania since 2000.

environment. The OCA submits that the effect of further alternative ratemaking on existing alternative ratemaking methods could be substantial, potentially requiring the elimination of the current methods and the recovery of costs associated with those methods rolled back into base rates if the new method is to serve its intended purpose. As noted, the alternative ratemaking methods currently in use have been specifically targeted to achieve particular goals and have been carefully crafted to balance utility benefits and consumer protections. The OCA has highlighted the disadvantages and negative effects of replacing our current regulatory framework with some other form of alternative ratemaking in response to questions 2(b) and 2(c) above.

**4. How would such a methodology be implemented? Specifically, in what timeframe? Is there a need for a gradual implementation or phasing-in process?**

Again, the OCA is not proposing any further alternative ratemaking methodologies at this time. Should the General Assembly and the Commission take action to accommodate further alternative ratemaking, further alternative ratemaking should be implemented gradually and only after all potential impacts are known. Further, the OCA submits that the implementation of any form of revenue decoupling must be accompanied by at least *all of the following consumer protections*:

- Specific authorization from the General Assembly in light of the Act 129 mandate;
- Capped adjustments;
- Prohibition against revenue requirement increase from the test period allowed;
- Specific, targeted programs;
- Clear, specific measures of success;
- Clear, automatically enforceable reliability metrics;

- Periodic evaluations as a means for establishing the overall impacts, as well as the effectiveness of design and administration;
- Reduced return on equity to reflect reduced risk to the utility;
- Implementation of mechanisms only after a base rate proceeding;
- Periodic base rate case filings;
- Correct alignment of rate structures and implementation of rate design;<sup>15</sup>
- Determination of the components impacted by decoupling;
- Storm adjustment that is limited to 24 hours following a storm event;
- Exclusion of automatic adjustment revenues (as these are already collected dollar-for-dollar);
- Implement a comprehensive policy for all utilities (i.e. not just for those with declining load);<sup>16</sup>
- Implementation in a manner that does not discourage the use of the most efficient and environmentally sound resources for a particular application (i.e. residential heating);<sup>17</sup> and

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<sup>15</sup> Decoupling must 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.

<sup>16</sup> If left to the sole discretion of the utility, the OCA submits that each utility will understandably select the type of program that most benefits its shareholders, even if that program is not necessarily the most cost-effective or beneficial to customers. For example, some types of rate programs will benefit the shareholders of utilities whose sales are growing between rate cases (as has been true for most electric utilities), while other types of programs will benefit the shareholders of utilities whose sales are declining (like many natural gas utilities). Prior to implementing any form of revenue decoupling, the Commission must balance the interests of utility shareholders and consumers and approve only those programs that best serve the overall public interest.

<sup>17</sup> Natural gas and electric utilities should also look to coordinate their efforts, as most NGDC customers are also customers of EDCs. It is vital that opportunities not be lost to produce the greatest feasible demand and consumption reductions by addressing potential gas and electric synergies.

- Adequate consumer education.

Further, the goal of any decoupling mechanism must be to encourage and deliver appropriate policy goals and consumer benefits, not simply to insulate the utility revenue stream. Decoupling programs must also be designed to benefit customers as well as utilities. The OCA submits that the implementation of any revenue decoupling mechanism must be accompanied by this full suite of consumer protections.

### **B. Natural Gas Utilities**

Regarding natural gas utilities, Pennsylvania's regulatory framework provides for implementation of energy efficiency and demand side management programs, while providing for timely cost recovery and consideration of performance factors. See 66 Pa. C.S. §§ 1505(b), 1319, and 523(b)(4).<sup>18</sup> Pennsylvania natural gas utilities have long-standing low income usage reduction programs (LIURP) that address specific needs of low income customers for energy efficiency and conservation efforts. Moreover, as with EDCs, it does not appear that Pennsylvania NGDCs seem to be filing an excessive number of rate increase requests.<sup>19</sup> Additionally, Pennsylvania NGDCs are currently utilizing certain alternative ratemaking

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<sup>18</sup> Additionally, Section 2203(8), enacted as part of natural gas competition in 1999, provides, as follows:

The commission shall ensure that universal service and energy conservation policies, activities and services are appropriately funded and available in each natural gas distribution service territory. The commission shall encourage the use of community-based organizations that have the necessary technical and administrative experience to be the direct providers of services or programs which reduce energy consumption or otherwise assist low-income retail gas customers to afford natural gas service. Programs under this paragraph shall be subject to the administrative oversight of the commission, which shall ensure that the programs are operated in a cost-effective manner.

66 Pa. C.S. § 2203(8). The OCA also notes that the Public Utility Code has a similar provision related to EDCs, which provides that universal service and energy conservation programs are available and funded in each EDC's service territory. 66 Pa. C.S. § 2804(9).

<sup>19</sup> Please see Appendix B attached to these Comments, in which the OCA has identified the rate case filings of the major NGDCs in Pennsylvania since 2000.

methodologies, including the DSIC, to assist with the recovery of costs related to the accelerated infrastructure repair and replacement programs that are underway.<sup>20</sup>

Moreover, while Act 129 applies only to electric utilities, the Public Utility Code contains other provisions that allow the Commission to order or approve energy efficiency programs for natural gas companies, *inter alia*. Specifically, Section 1505(b) provides as follows:

In determining or prescribing safe, adequate and sufficient services and facilities of a public utility, the commission may order the utility to establish a conservation or load management program that the commission determines to be prudent and cost-effective.

66 Pa. C.S. § 1505(b). Additionally, Section 1319(a) allows natural gas utilities to recover costs related to the implementation of conservation or load management programs that are found to be prudent and cost effective. Specifically, Section 1319(a) provides:

If:

(1) a natural gas or electric public utility elects to establish a conservation or load management program and that program is approved by the commission after a determination by the commission that the program is prudent and cost-effective;

or

(2) the commission orders a natural gas or electric public utility to establish a conservation or load management program that the commission determines to be prudent and cost-effective;

the commission shall allow the public utility to recover all prudent and reasonable costs associated with the development, management, financing and operation of the program, provided that such prudent and reasonable costs shall be recovered only in accordance with appropriate accounting principles. Nothing in this section shall permit the recovery of costs in a manner prohibited by section 1315 (relating

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<sup>20</sup> Pennsylvania utilities also have other automatic adjustment clauses providing dollar for dollar recovery of expenses that mitigate the need to file more frequent base rate cases. Under revenue decoupling, these automatic adjustment clauses, as well as the DSIC, would not be part of the revenue adjustment mechanism.

to limitation on consideration of certain costs for electric utilities). Nothing in this section shall permit the recovery of the cost of producing, generating, transmitting, distributing or furnishing electricity or natural gas.

66 Pa. C.S. § 1319(a).

The Commission is also required to consider a utility's efforts in pursuing cost-effective conservation and load management opportunities when determining just and reasonable rates.

See 66 Pa. C.S. § 523. Specifically, Section 523 provides, in pertinent part:

(a) **Considerations.** -- The Commission shall consider, in addition to all other relevant evidence of record, the efficiency, effectiveness and adequacy of service of each utility when determining just and reasonable rates under this title.

[...]

(b) **Fixed utilities.** -- As part of its duties pursuant to subsection (a), the commission shall set forth criteria by which it will evaluate future fixed utility performance and in assessing the performance of a fixed utility pursuant to subsection (a), the commission shall consider specifically the following:

[...]

(4) Action or failure to act to encourage development of cost-effective energy supply alternatives such as conservation or load management, cogeneration or small power production for electric and gas utilities.

[...]

(7) Any other relevant and material evidence of efficiency, effectiveness and adequacy of service.

66 Pa. C.S. § 523(b).<sup>21</sup>

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<sup>21</sup> The Commission also has other regulations and policy statements in place that allow it to monitor energy conservation efforts, ensure that certain conservation standards are met, and provide for the timely recovery of cost-effective energy conservation programs. For example, the Commission's regulations call for reporting on energy conservation initiatives through its universal service and energy conservation reporting requirements for both electric and natural gas companies. 52 Pa. Code § 54.71-78 (electric) and § 62.5 (natural gas). Through these reports, the Commission can assess the on-going efforts of the companies in their low income energy efficiency programs. As early as 1983, the Commission adopted a Policy Statement on the financing of energy supply alternatives. 52 Pa. Code §§ 69.31 to 69.36. Among the energy supply alternatives included in the policy statement were conservation and load management initiatives. 52 Pa. Code § 69.31 and § 69.34.

As is the case with electric utilities, in light of the effectiveness of the current regulatory framework, further alternative ratemaking is not necessary. The OCA discussed its concerns with further alternative ratemaking in its initial set of comments, including specific concerns related to revenue decoupling, straight fixed variable rate design and high fixed customer charges. See March 16, 2016 OCA Comments at 11-22. The OCA maintains these concerns.

Notably, the Commission and the Pennsylvania Supreme Court have previously considered and rejected alternative ratemaking methodologies. See March 16, 2016 OCA Comments at 5-9, 20; see also Pa. Indus. Energy Coalition v. Pa. PUC, 543 Pa. 307 (Pa. 1996) (aff'g Pa. Indus. Energy Coalition v. Pa. PUC, 653 A.2d 1336 (Pa. Commw. Ct. 1995)); see also Compliance of Commonwealth of Pennsylvania with Section 410(a) of the American Recovery and Reinvestment Act of 2009, Docket No. I-2009-2099881, Order (Aug. 1, 2011); see also Energy Efficiency and Conservation Programs, Docket No. M-2014-2424864, Implementation Order at 134 (June 19, 2015); see also Pa. PUC v. UGI Penn Natural Gas Pa. PUC v. UGI Central Gas, R-2008-2079660, R-2008-2079675, Statement of then Chairman Cawley (August 27, 2009); see also Pa. PUC v. PG Energy, Docket No. R-00061365 (Order entered November 30, 2006) (Statement of then-Vice Chairman Cawley); see also Pa. PUC v. Duquesne Light Company, Docket No. R-00061346 (Order entered November 30, 2006) (Statement of then Vice Chairman Cawley). With respect to revenue decoupling, as noted above, the Pennsylvania General Assembly rejected a decoupling approach in adopting Act 129 for electric utilities. The OCA submits that movement toward such a mechanism for natural gas utilities would be contrary to this stated intent. See March 16, 2016 OCA Comments at 12. Additionally, the OCA maintains that the adoption of further alternative ratemaking methodologies may not be effective and raises significant concerns about improper single-issue ratemaking, retroactive

ratemaking, and the just and reasonable requirements of rates at 66 Pa. C. S. Section 1301. See March 16, 2016 OCA Comments at 12-22.

Further alternative ratemaking also poses significant risks to Pennsylvania ratepayers. For example, any form of alternative ratemaking lowers the risk a utility faces in providing utility services by guaranteeing at least a portion of revenue recovery. The idea that public utilities are guaranteed revenue recovery is contrary to the accepted ratemaking principle that utilities are entitled to the opportunity to earn a fair rate of return. Pennsylvania Gas & Water Co. v. Pa. Pub. Util. Comm'n, 341 A.2d 239 (Pa.Cmwlth. 1975). Further alternative ratemaking would increase the amount of guaranteed revenue recovery and sever the balance of utility benefits and consumer protections that the current regulatory framework has successfully achieved. Guaranteed revenue recovery coupled with high returns on equity results in increased costs to ratepayers with no discernable benefit, a substantial imbalance between utility benefits and consumer protections, and rates that are potentially not just and reasonable. This scenario poses a particular concern for low to moderate income customers who may find it difficult to meaningfully participate in energy efficiency programs or to reduce their usage sufficiently to offset any increased costs associated with alternative ratemaking. See March 16, 2016 OCA Comments at 16-17, 22. Additionally, further alternative ratemaking could have an impact on the efforts to bring natural gas services to more of Pennsylvania's residences and businesses.

The OCA submits that there is no need for further alternative ratemaking in Pennsylvania at this time and that alternative ratemaking raises numerous legality concerns and concerns for Pennsylvania ratepayers. Below, the OCA will address the Commission's specific questions related to natural gas utilities and highlight the potential risks and negative effects of further alternative ratemaking.

- 1. Identify the alternative rate methodology(ies) each NGDC is currently using, including the number and types of automatic adjustment clauses, cost trackers and separate cost recovery mechanisms. Also identify, as a percentage of total costs or revenues, the costs or revenues each separate mechanism recovers.**

Pennsylvania's NGDCs have several alternative ratemaking mechanisms available under the Public Utility Code. The DSIC, the STAS, and the Weather Normalization Adjustment are among the mechanisms in use. Additionally, many NGDCs utilize a fully projected future test year in setting rates. The percentage of each NGDC's distribution revenues separated into these mechanisms will need to be provided by the NGDCs.

- 2. If any, what alternative rate methodology(ies) could and should be used by NGDCs and explain why would they be beneficial? Regarding the proposed methodology(ies), please provide specific comments on:**

- a. The potential advantages;**

For the reasons expressed under Section II(B) above, the OCA is not proposing any further alternative ratemaking methodologies. The OCA submits that it would be advantageous to continue utilizing the regulatory model currently in effect, as it has allowed NGDCs to pursue energy efficiency and demand side management, while balancing utility benefits and consumer protections. Moreover, the DSIC has assisted NGDCs with the recovery of costs related to infrastructure repair and replacement. There is no demonstration that further alternative ratemaking will provide any advantages or benefits to NGDCs, consumers, or the public. See March 16, 2016 OCA Comments at 12-22.

- b. The potential disadvantages;**

There has been no demonstration that the regulatory model currently in effect poses a significant disadvantage to NGDCs or ratepayers. Again, NGDCs are pursuing energy efficiency and demand side management, and there are adequate consumer protections in place.

Any further alternative ratemaking, however, poses a myriad of potential disadvantages. See March 16, 2016 OCA Comments at 12-22. Further alternative ratemaking could be inconsistent with Pennsylvania law or the Commission's regulations and poses significant risks to ratepayers. As noted, any form of alternative ratemaking lowers the risk a utility faces in providing utility services by guaranteeing at least a portion of revenue recovery. As such, further alternative ratemaking would increase the amount of guaranteed revenue recovery and sever the balance of utility benefits and consumer protections that the current regulatory framework has successfully achieved. Guaranteed revenue recovery coupled with high returns on equity results in increased costs to ratepayers with no discernable benefit, a substantial imbalance between utility benefits and consumer protections, and rates that are potentially not just and reasonable.

Additionally, the various forms of alternative ratemaking all pose their own unique risks, which the OCA identified in its initial Comments and highlighted in these Comments in response to question 2(b) as related to electric utilities. See March 16, 2016 OCA Comments at 11-22. The OCA submits further alternative ratemaking for natural gas utilities raises similar concerns.

**c. The effects on all rate classes, with a specific focus on small volume, low-income, income-challenged and large C&I customers, as well as a discussion regarding any potential inter- or intra-class cost shifting;**

Any form of further alternative ratemaking could have a substantial effect on customers, and particularly low income customers. Further alternative ratemaking would lower the risk a utility faces in providing utility services by guaranteeing at least a portion of revenue recovery. Guaranteed revenue recovery coupled with high returns on equity results in increased costs to ratepayers. This scenario poses a particular concern for low to moderate income customers who may find it difficult to meaningfully participate in energy efficiency programs or to reduce their usage sufficiently to offset any increased costs associated with alternative ratemaking. See

March 16, 2016 OCA Comments at 16-17, 22. As noted, there are many reasons why customers may be unable to engage in energy efficiency: lack of financial means to pay for the necessary investment; the lack of ownership of their residences or businesses; or the inability to reduce energy usage any further due to health and safety concerns, to name a few. These often low to moderate income households and otherwise vulnerable households end up bearing the brunt of these increasing prices between base rate cases.

**d. The effects on existing energy efficiency programs; and**

Again, the OCA is not proposing any further alternative ratemaking methodologies at this time. The OCA submits that further alternative ratemaking will not likely improve energy efficiency and demand side management in Pennsylvania. Pennsylvania's current regulatory framework has been carefully crafted to balance utility benefits and consumer protections, and there has been no demonstration that further alternative ratemaking is necessary.

**e. The effects on the number and/or frequency of base rate case filings, as well as possible rate increases or decreases.**

The OCA acknowledges that under the current regulatory framework, base rate cases may be necessary as usage patterns change if not offset by efficiency gains or further growth. Base rate cases in and of themselves are not necessarily a negative, as they provide the Commission and the parties a full opportunity to examine utility operations and align rates. By reflecting the impact on sales in the context of a base rate case, the Commission can assure that prospective rates reflect the anticipated energy efficiency consumption reductions, address all other factors that may offset the need for a rate change, and address any burdens to ratepayers. The OCA notes again, however, that NGDCs do not seem to be filing an excessive number of

rate increase requests.<sup>22</sup> Further extending the time between base rate cases is unlikely to result in additional value to Pennsylvania consumers.

**3. How would the particular alternative rate methodology(ies) interact with existing mechanisms or traditional ratemaking principles currently in use or available to NGDCs (e.g., DSIC, FPFTY, etc.)?**

Further alternative ratemaking raises the issue of whether the alternative ratemaking methods that Pennsylvania NGDCs currently use can continue to exist in a different regulatory environment. The OCA submits that the effect of further alternative ratemaking on existing alternative ratemaking methods could be substantial, potentially requiring the elimination of the current methods and the recovery of costs associated with those methods rolled back into base rates if the new method is to serve its intended purpose. As noted, the alternative ratemaking methods currently in use have been specifically targeted to achieve particular goals and have been carefully crafted to balance utility benefits and consumer protections. The OCA has highlighted the disadvantages and negative effects of replacing our current regulatory framework with some other form of alternative ratemaking in response to questions 2(b) and 2(c) above.

**4. Address the efficacy of weather normalization adjustments currently in use, what changes should be made to the adjustments to improve them and whether they should be expanded to other NGDCs.**

Columbia Gas of Pennsylvania, Inc. (Columbia) and Philadelphia Gas Works (PGW) are the two major Pennsylvania NGDCs that have weather normalization adjustments (WNAs) currently in use. Both Columbia's and PGW's WNAs have a deadband (Columbia-5% and PGW-1%). Both WNAs operate solely from October through May. The OCA also notes that PGW is a unique, cash-flow utility. The efficacy of PGW's WNA is currently being reviewed in its rate case at Docket No. R-2017-2586783. The OCA does not recommend an expansion of

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<sup>22</sup> Please see Appendix B attached to these Comments, in which the OCA has identified the rate case filings of the major NGDCs in Pennsylvania since 2000.

WNAs without a showing of the need for such a mechanism and the benefits upon such a showing. Any WNAs must include adequate limitations to recovery, including but not limited to, the following: (1) WNAs should have a deadband, (2) WNAs should be limited to winter heating seasons; (3) WNAs should operate on a real-time basis; and (4) overall rates must reflect the fact that utility risks are reduced by the WNA.

**5. How would such a methodology be implemented? Specifically, in what timeframe? Is there a need for a gradual implementation or phasing-in process?**

Again, the OCA is not proposing any further alternative ratemaking methodologies. Should the General Assembly and the Commission take action to accommodate further alternative ratemaking, further alternative ratemaking should be implemented gradually and only after all potential impacts are known. Further, in response to question 4, above, as related to electric utilities, the OCA identified a number of consumer protections that, at a minimum, would need to accompany the implementation of any form of revenue decoupling. The OCA submits that those same factors must accompany any form of revenue decoupling on the natural gas side as well.

Further, the goal of any decoupling mechanism must be to encourage and deliver appropriate policy goals and consumer benefits, not simply to insulate the utility revenue stream. Decoupling programs must also be designed to benefit customers as well as utilities. The OCA submits that the implementation of any revenue decoupling mechanism must be accompanied by the full suite of consumer protections identified in response to question 4 as related to electric utilities.

**C. Water and Wastewater Utilities**

As is the case with the EDCs and NGDCs there is no demonstration that water and wastewater utilities are in need of further alternative ratemaking methodologies. As with EDCs

and NGDCs, Pennsylvania water and wastewater utilities have not been frequently filing for rate increases in recent years<sup>23</sup>, suggesting that their revenues are stable.<sup>24</sup> Additionally, Pennsylvania water companies are currently utilizing certain alternative ratemaking methodologies, including the DSIC, to assist with the recovery of costs related to the accelerated infrastructure repair and replacement programs that are underway.<sup>25</sup>

In response to Question II.C.1, below, the OCA identifies the alternative ratemaking methodologies that each water and wastewater utility is currently using. In addition to the DSIC, these alternative ratemaking methodologies include purchased water adjustments, acquisition adjustments, single tariff pricing, combining water and wastewater revenue requirements, and under recently enacted Section 1329, 66 Pa. C.S. § 1329 (Section 1329), fair market valuation for municipal acquisitions, deferred depreciation on assets, and Allowance for Funds Used During Construction (AFUDC) for plant resulting from the municipal acquisition.

As is the case with electric and natural gas utilities, in light of the effectiveness of the current regulatory framework, further alternative ratemaking is not necessary for water and wastewater utilities. The OCA discussed its concerns with further alternative ratemaking in its initial set of comments, including specific concerns related to revenue decoupling, straight fixed variable rate design and high fixed customer charges. See March 16, 2016 OCA Comments at 11-22. The OCA maintains these concerns.

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<sup>23</sup> Please see Appendix C attached to these Comments, in which the OCA has identified the rate case filings of the three largest water companies in Pennsylvania since 2000.

<sup>24</sup> Three Class A water utilities have DSICs that are at 0% because return on equity exceeds the latest return on equity shown in the Commission's quarterly earnings reports. See Aqua DSIC filing, Docket No. M-2017-2595673 (3/20/17); Suez Water filing, Docket No. M-2017-2595906, (3/28/17), and York Water filing, Docket No. M-2017-2594997, (3/17/17)

<sup>25</sup> Pennsylvania utilities also have other automatic adjustment clauses providing dollar for dollar recovery of expenses that mitigate the need to file more frequent base rate cases. Under revenue decoupling, these automatic adjustment clauses, as well as the DSIC, would not be part of the revenue adjustment mechanism.

As discussed above, the Commission and the Pennsylvania Supreme Court have previously considered and rejected alternative ratemaking methodologies. See March 16, 2016 OCA Comments at 5-9, 20; see also Pa. Indus. Energy Coalition v. Pa. PUC, 543 Pa. 307 (Pa. 1996) (aff'g Pa. Indus. Energy Coalition v. Pa. PUC, 653 A.2d 1336 (Pa. Commw. Ct. 1995)); see also Compliance of Commonwealth of Pennsylvania with Section 410(a) of the American Recovery and Reinvestment Act of 2009, Docket No. I-2009-2099881, Order (Aug. 1, 2011); see also Energy Efficiency and Conservation Programs, Docket No. M-2014-2424864, Implementation Order at 134 (June 19, 2015); see also Pa. PUC v. UGI Penn Natural Gas Pa. PUC v. UGI Central Gas, R-2008-2079660, R-2008-2079675, Statement of then Chairman Cawley (August 27, 2009); see also Pa. PUC v. PG Energy, Docket No. R-00061365 (Order entered November 30, 2006) (Statement of then-Vice Chairman Cawley); see also Pa. PUC v. Duquesne Light Company, Docket No. R-00061346 (Order entered November 30, 2006) (Statement of then Vice Chairman Cawley). Additionally, the OCA maintains that the adoption of further alternative ratemaking methodologies may not be effective and raises significant concerns about improper single-issue ratemaking, retroactive ratemaking, and the just and reasonable requirements of rates at 66 Pa. C. S. Section 1301. See March 16, 2016 OCA Comments at 12-22.

Further alternative ratemaking also poses significant risks to Pennsylvania ratepayers. For example, any form of alternative ratemaking lowers the risk a utility faces in providing utility services by guaranteeing at least a portion of revenue recovery. The idea that public utilities are guaranteed revenue recovery is contrary to the accepted ratemaking principle that utilities are entitled to the opportunity to earn a fair rate of return. Pennsylvania Gas & Water Co. v. Pa. Pub. Util. Comm'n, 341 A.2d 239 (Pa.Cmwlth. 1975); see also Federal Power

Comm'n v. Hope Natural Gas Co., 320 U.S. 591 (1944); see also Bluefield Water Works and Improvement Co. v. Public Serv. Comm'n of West Virginia, 262 U.S. 679 (1923). Further alternative ratemaking would increase the amount of guaranteed revenue recovery and sever the balance of utility benefits and consumer protections that the current regulatory framework has successfully achieved. Guaranteed revenue recovery coupled with high returns on equity results in increased costs to ratepayers with no discernable benefit, a substantial imbalance between utility benefits and consumer protections, and rates that are potentially not just and reasonable. This scenario poses a particular concern for low to moderate income customers who may find it difficult to meaningfully participate in energy efficiency programs or to reduce their usage sufficiently to offset any increased costs associated with alternative ratemaking. See March 16, 2016 OCA Comments at 16-17, 22.

The OCA submits that there is no need for further alternative ratemaking in Pennsylvania at this time and that alternative ratemaking raises numerous legality concerns and concerns for Pennsylvania ratepayers. Below, the OCA will address the Commission's specific questions related to water and wastewater utilities and highlight the potential risks and negative effects of further alternative ratemaking.

- 1. Identify the alternative rate methodology(ies) each water and wastewater utility is currently using, including the number and types of automatic adjustment clauses, cost trackers and separate cost recovery mechanisms. Also identify, as a percentage of the total costs or revenues, the costs or revenues each separate mechanism recovers.**

Pennsylvania's water and wastewater utilities have several alternative ratemaking mechanisms available under the Public Utility Code. The DSIC, purchased water adjustments, acquisition adjustments under Section 1327, 66 Pa. C.S. § 1327 (Section 1327), single tariff pricing, combining water and wastewater revenue requirements under Section 1311(c), 66 Pa. C.S. § 1311(c) (Section 1311(c)) and under recently enacted Section 1329, fair market valuation

for municipal acquisitions, as well as deferred depreciation on plant added after acquisition, and Allowance for Funds Used During Construction (AFUDC) for plant resulting from the municipal acquisition. The water and wastewater utilities also have State Tax Adjustment Surcharges (STAS) and have had the opportunity for a DSIC since 1998 (water) and 2012 (wastewater). Some of the water and wastewater utilities also may have received approval for the creation of a regulatory asset.<sup>26</sup>

Additionally, many water and wastewater utilities utilize a fully projected future test year in setting rates. The percentage of each water and wastewater utility's distribution revenues separated into these mechanisms will need to be provided by the water and wastewater utilities.

**2. If any, what alternative rate methodology(ies) could and should be used by water and wastewater utilities and explain why would they be beneficial? Regarding the proposed methodology(ies), please provide specific comments on:**

**a. The potential advantages**

For the reasons expressed under Sections II (A) and (B) above, the OCA is not proposing any further alternative ratemaking methodologies. The OCA submits that it would be advantageous to continue utilizing the regulatory model currently in effect, as it has allowed water and wastewater utilities to provide safe and adequate service as well as pursue the identified policy goals of the General Assembly. In particular, the DSIC has assisted water and wastewater utilities with the recovery of costs related to infrastructure repair and replacement. There is no demonstration that further alternative ratemaking will provide any advantages or benefits to water or wastewater utilities, consumers, or the public.

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<sup>26</sup> Petition of The York Water Company for an Expedited Order Authorizing Limited Waivers of Certain Tariff Provisions and Granting Accounting Approval to Record Costs of Certain Customer-Owned Service Line Replacements to the Company's Service Account, Docket No. P-2016-2577404 (Order entered Mar. 8, 2017); Pa. PUC et al. v. Aqua PA, Docket No. R-2011-2267958 (Order entered June 7, 2012).

**b. The potential disadvantages**

Any further alternative ratemaking, poses a myriad of potential disadvantages, could be inconsistent with Pennsylvania law or the Commission's regulations, and poses significant risks to ratepayers. Existing alternative ratemaking for water and wastewater utilities includes Section 1329 (municipal valuation, continued accrual of AFUDC, and deferral of depreciation) which does not include the types of consumer protections included in the DSIC legislation or Section 1327. Similarly, Section 1311(c) permits wastewater revenue requirement to be shifted to water customers upon approval by the Commission which may protect wastewater customers to some degree but at a cost of increased rates for water customers. As noted above, any form of alternative ratemaking lowers the risk a utility faces in providing utility services by guaranteeing at least a portion of revenue recovery. As such, further alternative ratemaking would increase the amount of guaranteed revenue recovery. Guaranteed revenue recovery coupled with high returns on equity results in increased costs to ratepayers with no discernable benefit, a substantial imbalance between utility benefits and consumer protections, and rates that are potentially not just and reasonable.

Additionally, the various forms of alternative ratemaking all pose their own unique risks, which the OCA identified in its initial Comments and highlighted in response to question 2(b) as related to electric and natural gas utilities. See March 16, 2016 OCA Comments at 11-22.

**c. The effects on all rate classes, with a specific focus on small volume, low-income, income-challenged and large C&I customers, as well as a discussion regarding any potential inter- or intra-class cost shifting;**

Any form of further alternative ratemaking could have a substantial effect on customers, and particularly low income customers. Further alternative ratemaking would lower the risk a utility faces in providing utility services by guaranteeing at least a portion of revenue recovery.

Guaranteed revenue recovery coupled with high returns on equity results in increased costs to ratepayers. This scenario poses a particular concern for low to moderate income customers who may find it difficult to meaningfully reduce their usage sufficiently to offset any increased costs associated with alternative ratemaking. See March 16, 2016 OCA Comments at 16-17, 22. As noted, there are many reasons why customers may be unable to engage in water/wastewater efficiency: lack of financial means to pay for the necessary investment; the lack of ownership of their residences or businesses; or the inability to reduce usage any further due to health and safety concerns, to name a few. These often low to moderate income households and otherwise vulnerable households end up bearing the brunt of these increasing prices between base rate cases.

**d. The effects on the number and/or frequency of base rate case filings, as well as possible rate increases or decreases**

As the OCA is not proposing any further alternative ratemaking methodologies at this time, there would be no effect on the number and/or frequency of base rate case filings or possible rate increases/decreases.

**3. How would the particular rate methodology(ies) interact with existing mechanisms or traditional ratemaking principles currently in use or available to water and wastewater utilities (e.g., DSIC, FPFTY, etc.)?**

Further alternative ratemaking raises the issue of how the alternative ratemaking methods that Pennsylvania water and wastewater utilities currently use would interact with new alternative ratemaking methods. The effect on existing alternative ratemaking methods and rates could be substantial. As noted, the alternative ratemaking methods currently in use have been specifically targeted to achieve particular goals, but the long-term impacts of some of the alternative ratemaking methods, such as Section 1329 and Section 1311(c) are not yet known. The OCA has highlighted the disadvantages and negative effects of replacing our current

regulatory framework with some other form of alternative ratemaking in response to questions 2(b) and 2(c) above.

**4. How would such a methodology be implemented? Specifically, in what timeframe? Is there a need for a gradual implementation or phasing-in process?**

Again, the OCA is not proposing any further alternative ratemaking methodologies. Should the General Assembly and the Commission take action to accommodate further alternative ratemaking, further alternative ratemaking should be implemented gradually and only after all potential impacts are known. Further, in response to question 4, above, as related to electric utilities and natural gas utilities, the OCA identified a number of consumer protections that, at a minimum, would need to accompany the implementation of any form of revenue decoupling. The OCA submits that those same factors must accompany any form of revenue decoupling on the water and wastewater side as well.

Further, the goal of any decoupling mechanism must be to encourage and deliver appropriate policy goals and consumer benefits, not simply to insulate the utility revenue stream. Decoupling programs must also be designed to benefit customers as well as utilities. The OCA submits that the implementation of any revenue decoupling mechanism must be accompanied by the full suite of consumer protections identified in response to question 4 as related to electric utilities.

**D. Next Steps**

As discussed, the OCA submits that the Commission should not take any further steps to investigate or implement additional alternative ratemaking at this time, as the regulatory framework currently in effect has enabled resource efficiency and a balance of utility interests and consumer protections.

### III. COMMENTS ON DIRECTED QUESTIONS OF VICE CHAIRMAN ANDREW G. PLACE

#### A. Directed Questions for Electric Distribution Company Proposal

##### 1. Provide overall supportive or critical comments on the outlined advanced rate design structure.

Vice Chairman Place has developed a proposed three-part rate structure including a customer charge, a coincident peak (“CP”) based demand charge, and a volumetric energy charge. In this regard, Vice Chairman Place encourages interested parties to provide suggestions for alternatives to his proposals to the extent they believe his suggested models are unworkable or inferior to other alternative rate making concepts. Furthermore, Vice Chairman Place states that “the sole objective of this work is to thoroughly consider all concepts that have the potential to optimize utility economics and customer affordability.”

The OCA suggests that the Commission be strongly guided by a passage from the most referenced and used treatise concerning the economic and public policy aspects of public utility rate design. That being, the following statement of Professor James Bonbright in his Principles of Public Utility Rates:

The administration of *any* standard or system of rate making has consequences, some of which are costly or otherwise harmful; and these consequences may warrant rejection of one system in favor of some other system admittedly less efficient in the performance of its recognized economic functions. Thus an elaborate structure of rates designed to make scientific allowance for the relative cost of different kinds of service may possibly be rejected in favor of a simpler structure more readily understood by consumers and less expensive to administer. And thus a system of rate regulation that would come closest to assuring a company of its continued ability to earn a capital-attracting rate of return may be rejected in favor of an alternative system that runs less danger of removing incentives to managerial efficiency. The art of rate making is an art of wise compromise.<sup>27</sup>

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<sup>27</sup> Bonbright, James C., Principles of Public Utility Rate, Second Edition (1988), page 82.

It is widely recognized that the rate making process should provide a balancing of stakeholder interests wherein investors and shareholders are provided an opportunity to recover prudently incurred costs as well as provide for the opportunity to earn a fair rate of return on their investment. At the same time, this process should provide ratepayers with fair and reasonable rates that are easily understood and provide adequate price signals in order to utilize resources in an efficient manner. Finally, utilities are public service companies such that social and public policy issues must also be balanced and considered.

The OCA does not support mandatory demand charges for residential customers. The tried and true residential rate structure comprised of a reasonably low fixed monthly customer charge, based on customer cost, coupled with a volumetrically-based energy charge has been in place and worked well for investors and ratepayers for generations. This accepted residential rate structure has provided utilities with the ability to recover their costs and earn reasonable returns and at the same time has provided adequate price signals to enable residential consumers the ability to control the total cost of their energy bills through their rational decisions on how to use energy.<sup>28</sup>

While there may be purely technical merits supporting the development and use of demand charges, the reality is, the vast majority of residential customers do not distinguish between the concepts of power (kW) versus energy (kWh). Furthermore, and perhaps most importantly, there has not been any acceptance of demand charges for residential customers given its complexities and potential for unreasonable and burdensome results. Mandatory

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<sup>28</sup> Within the general spectrum of volumetric energy-based rates, there are a multitude of variations including flat usage charge rates, inverted block rates, declining block rates, and seasonal rates. These various energy charge rate structures can be tailored to individual utilities and circumstances to properly consider cost causation and cost incidence as well as provide social or public policy initiatives for low income or lifeline rates.

residential demand charges have either been flatly rejected by regulatory commissions or ultimately withdrawn by the applicants in the cases the OCA has found.

Specific examples of where mandatory residential demand charge proposals have failed include:

1. UNS Electric's (Docket No. E-04204A-15-0142) and Arizona Public Service Company's (Docket No. E-01345A-16-0036) proposals before the Arizona Corporation Commission (supported by Commission Staff) in which this single issue created more public comment and objection than any other issues in these rate cases. Ultimately, the Arizona Corporation Commission rejected mandatory residential demand charges;
2. Glasgow Electric Plant Board's (which is a municipal utility not regulated by the Kentucky Public Service Commission) implementation of mandatory residential demand charges were changed to allow all customers to opt-out of such demand charges due to considerable outcry and complaints from residential customers as well as from elected officials;
3. The provisions of Commonwealth Edison's backed legislation in Illinois to require mandatory residential demand charges was ultimately dropped due to considerable resistance from consumer groups and lack of acceptance by State legislators; and,
4. Oklahoma Gas & Electric's (Docket No. PUD201500273) proposal to require mandatory residential demands charges was dropped as part of a settlement agreement due to considerable opposition from residential customers and consumer interest groups.

In each of the above cases, consumers and other advocacy groups convincingly showed that residential customers are generally without sufficient information to identify peak demand and have limited ability to respond to such demand charges. Indeed, in the Arizona Corporation Commission's Final Opinion and Order in the UNS Electric case referenced above, the Commission found as follows:

The public distrust or antipathy to the proposal has convinced the Company and the Commission that any transition to three-part rates will require massive public education effort before we can say with any degree of certainty that mandatory residential demand rates in UNSE's service territory are in the public interest.

In the Matter of the Application of UNS Electric, Inc. for the Establishment of Just and Reasonable Rates and Charges Designed to Realize a Reasonable Rate of Return on the Fair Value of the Properties of UNS Electric, Inc. Devoted to its Operations Throughout the State of Arizona and For Related Approvals, Docket No. E-04204A-15-0142, Decision No. 75697 at 65 (August 18, 2016).

While some studies have indicated that residential demand charges have materially reduced participating customer's peak loads, such studies and results are not reflective of residential customers' ability to control peak load generally. This is because these studies have been based on voluntary demand charges in which participating customers had the ability to choose from a traditional two-part rate (customer charge plus energy charge) to a demand charge-based rate. Clearly these customers that voluntarily elected a demand charge-based rate, were knowledgeable about power versus energy and had the reasonable ability to shift or control their peak loads. As a result, studies that indicate residential peak demands have been reduced as a result of demand charges, are not indicative of the behavior and reaction of the residential population as a whole.

While residential consumers may have the ability to shift some load from a pre-defined peak period, the vast majority of residential electricity power requirements are either unavoidable or impractical to curtail during peak load times. Furthermore, if a peak period is not pre-defined (e.g., demand charge based on system coincident peak with the hours specified in advance), customers have no way of reasonably knowing when this peak will occur, let alone, of taking meaningful measures to reduce their own loads. The following are the largest residential electricity power users:

1. electric heat pumps (heat pump mode) 6 to 12 kW;
2. electric strip heating 10 to 17 kW;
3. water heater 2 to 5 kW;
4. oven 4 to 8 kW;
5. range 4 to 5 kW;
6. clothes dryer 5 kW;
7. dishwasher 1.2 kW;
8. refrigerator 0.3 kW;
9. washing machine 0.5 kW;
10. coffee maker 0.9 kW;
11. microwave 1.4 kW;
12. hair dryer 0.6 to 1 kW;
13. toaster 1 kW; and,
14. vacuum cleaner 0.75 to 1.35 kW

Although it would be rare for any household to use all of the above appliances at the same time, there is little ability for residential consumers to significantly alter their electric load

requirements without a significant change in lifestyles and/or standard of living. While consumers may be able to control their space heating load for a short duration (not to be confused with energy reduction due to lowering thermostats) or control when electric hot water heaters, refrigerators, and freezers activate for short periods of time, such cannot be generally accomplished without sophisticated “smart” home computerized equipment. While the use of electric stoves, ranges, clothes dryers, dishwashers, etc. may be somewhat discretionary in terms of when these appliances are utilized, lifestyles would be required to change simply to shave a couple of kW of load during peak periods incurred on a system-wide basis. Perhaps more importantly is the fact that residential customers have little realistic ability to know what their electric load is at any given point in time without complex and expensive equipment that is only in the earliest stages of development and are not readily available to the typical household. Without knowing the peak demand period, which is by definition an after-the-fact determination, the residential customer may be faced with volatile and unaffordable bills due to no fault of their own. These impacts can be most burdensome to low use customers, low income and fixed income customers who are without the financial ability to invest in equipment or bear the sudden increase in the bill, These impacts can also be significant on vulnerable households with small children, elderly or ill household members when electric service is needed at all times to meet health and safety requirements.

In addition, while residential classes for Pennsylvania utilities tend to have two diurnal peaks in the winter (between approximately 7:00 a.m. and 8:30 a.m. and again between about 6:00 p.m. to 8:00 p.m.) and a single late afternoon/early evening peak in the summer (about 4:00 p.m. to 6:30 p.m.), there exists considerable load diversity across residential customers. For example, rural customers tend to peak about an hour earlier in the morning and about an hour

later in the evening during the winter and about an hour later in the summer than suburban/urban customers. Furthermore, young households with no children tend to peak somewhat later than families with children.

Notwithstanding the inability of most residential customers to shed or shift significant load, the Commission should consider whether there are any potential benefits to distribution system costs even if residential customers were able to significantly shift load. Meters, service drops, and transformers are sized to meet the maximum potential load for a particular residence. Therefore, any potential load shifting will not impact the sizing or costs associated with these facilities. While primary and secondary overhead and underground conductor sizing may potentially be impacted if a circuit's maximum load is significantly reduced, virtually all utilities somewhat oversize conductors for reliability, safety, and planning purposes. With regard to distribution poles, the size, height, and number of these poles will largely be unchanged due to vertical clearance requirements and pole attachments from telecommunications and other carriers. If a distribution circuit were able to achieve significant peak load reductions due to demand charge pricing, it is possible that the future size and cost of substations would be reduced somewhat. However, this is likely a small future potential cost avoidance that would represent a very small portion of an EDC's cost structure.

Distributed generation and residential demand charges: While some utilities have advocated the need for residential demand charges due to the growth in distributed generation (primarily solar), such proposals have also been largely unsuccessful and met with considerable public and political opposition. Examples include: Georgia Power Company in its most recent rate case (Docket No. 36989); El Paso Electric in Docket No. 44941; and, Delmarva Power & Light (Delaware) in its informal collaborative for innovative rate design.

While there may be technical and cost-based arguments for demand charges associated with solar and wind distributed generation customers, residential distributed generation in Pennsylvania currently represents a very small fraction of residential customers and total residential load. Although the penetration of residential solar self-generation is growing, it is not expected that residential distributed generation will represent a significant portion of total residential customers or residential load in Pennsylvania for the foreseeable future. In the OCA's view, it is not reasonable to impose such a complicated, and potentially harmful, rate design for all residential customers to address the usage characteristics of a limited subset of the residential class.

Furthermore, while arguments concerning intra-class subsidization due to distributed generation are often made, residential rate design cannot accommodate the theoretical cost structure of every single customer. In other words, by its very nature, rate design must be somewhat of a blunt instrument to generally fit the needs, costs, and usage patterns of a large group of customers. There are many instances within the residential class that may not perfectly reflect cost causation or cost incidence such as the general accepted knowledge that it costs more to serve a rural customer than an urban/suburban customer. As a result, the Commission should not consider the establishment of mandatory demand-based rates for all residential customers based simply on the attributes of a very small subset of the total residential class or the potential cost differences that exist for this small subset of the residential population. In this regard, other mechanisms to address any issues resulting from distributed generation would be more fruitful to explore. In regard to rate design, for example, this Commission has historically considered the establishment of separate rates for different types of users within the residential class. Several

utilities in Pennsylvania had separate rates for heating and non-heating customers when the penetration of electric space heating was growing in Pennsylvania.

In summary, considering the facts that residential consumers generally have not responded favorably to the concept of mandatory demand charges, have little or no ability to respond to such demand charges, and that the traditional two-part residential electric rate consisting of a modest fixed monthly customer charge plus an energy (KWH) charge is tried and true and has passed the test of time for generations, the OCA recommends that the Commission not consider mandatory demand charges for the general residential classes.

**2. For a demand-based rate design, what system peak should be used? For example, RTO peak hours, EDC peak hours, rate class peak hours?**

The OCA strongly recommends that **no** mandatory demand charges be implemented for residential customers. However, should the Commission choose to implement a demand-based rate, it should be understood that the typical residential customer has no realistic ability to know when a system or subsystem peak period will occur – whether it be the RTO coincident peak, EDC system peak, class peak, or even circuit peak. It must also be recognized that the demand charge would apply to the distribution portion of the rates. Because an individual residential customer's load is too small to have any material impact on any distribution system's design, the use of maximum customer demands will serve little purpose other than stabilizing utilities' revenues. For example, if an individual residential customer incurs a peak load during the early afternoon, late evening, or late at night, that customer is imposing virtually no additional cost on the utility but would indeed bear high demand charges.

- 3. How many hours should be used to calculate the demand billing determinant? Should there be periodic demand ratchets? Should this be measured, for example, over 1 hour, 5 hours, 10 hours, or perhaps 20 hours per billing period? Should the demand determinate change annually, seasonally, monthly? Should a daily hourly time range be established in which coincident peak will be measured?**

For commercial and industrial rate schedules with demand charges, the traditional time period measured is the maximum sustained load for 15 minutes. A longer period of time for measuring maximum (average) load such as 1 hour, 5 hours, etc. would smooth out extremely short period spikes in power load. An exceptionally long period for measuring demand; e.g., 5 hours or more, would then equate to nothing more than a time-of-use energy pricing schedule if such demand charges were only imposed during certain diurnal periods. However, if such demand charges were imposed at any point in time during the day, customers would see little to no benefits from shifting their loads and usage patterns from on-peak to off-peak periods.

With regard to the potential for demand ratchet clauses, utilities greatly favor such provisions as it greatly guarantees and stabilizes revenue recovery. The OCA submits that the average residential customer will likely be outraged to find out that their electric bill in a given month could be based on that customer's short-term maximum load incurred 10 to 12 months previously with the customer having no knowledge that the demand period had occurred. In other words, a ratchet clause would require an abnormal peak load for a few minutes or even hours to be felt in customers' bills up to a year later.

- 4. How should peak demand be measured? Should each measurement be based, for example, on a 15 minute, 30 minute, or 1 hour period?**

See the OCA's response to question 3 above.

- 5. Should tiered demand rates be used?**

The OCA strongly recommends that no mandatory demand charges be implemented for residential customers. For the reasons cited above, residential customers typically do not want

demand charges, cannot effectively control their peak load or benefit from mandatory demand charges. The added complexity of tiered demand charges exacerbates the problems and unacceptance of demand charges for residential customers.

**6. What costs should be recovered under the coincident demand charge? Which cost “bucket” should information systems, billing systems, customer service systems, customer service costs, operational expenses, or other costs (please specify) be allocated under such a new rate design?**

The OCA strongly recommends that no mandatory demand charges be implemented for residential customers. As a result, no costs should be recovered from any form of demand charges.

**7. What other “rate gradualism” mechanism should be employed?**

As discussed earlier, the OCA recommends the Commission not deviate from the accepted traditional residential rate structure that is based on a modest fixed monthly customer charge plus a volumetric energy (KWH) charge. As the Arizona Commission found, any change would require extensive education. Due to the need for extensive education and the opportunity for changes in lifestyle and equipment, any move away from the traditional residential rate structure would need to occur over an extended period of time and would impose costs on consumers.

**8. What revenue streams should be excluded (e.g. § 1307 automatic adjustment revenues)?**

Currently, the EDCs in Pennsylvania have numerous automatic adjustment surcharges and riders that guarantee cost recovery from residential customers. Most of these automatic adjustment surcharges and riders are collected on a per kWh basis. Although the OCA strongly recommends that demand charges not be implemented for the residential class, the OCA submits that virtually all automatic adjustment surcharges and riders would need to be rolled back into

base rates and eliminated for demand charges to be meaningfully and properly implemented. This is because one of the primary purposes of mandatory demand charges is to stabilize revenue collection from the residential class.<sup>29</sup> Although it would be theoretically possible to design residential automatic adjustment clauses based on maximum KW demand as opposed to KWH usage, such rate designs and true-ups would be much more complicated and complex than the current practice.

**9. While large customers generally have demand-based non-coincident peak charges, should large customer demand charges be modified to incorporate coincident peak-based charges?**

While the use of coincident peak-based demand charges for very large industrial and sophisticated customers have proved to be beneficial for those served by vertically integrated utilities, the OCA is not aware of any such rate designs that exist in this country for distribution-only electric utilities. With regard to the distribution costs imposed by very large customers, the primary consideration should relate only to a small segment of the utility's total distribution system. This is because for very large customers, the distribution circuits serving these customers are often designed and sized according to these customers' specific load requirements. It is quite often that very large distribution customers' diurnal and seasonal load patterns differ significantly from those of the total distribution system (let alone that of an entire RTO, such as PJM).

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<sup>29</sup> It is widely accepted that revenues collected from demand charges are less volatile than those collected from energy (kWh) charges due to several factors including seasonal variations in weather that effect energy consumption more than peak loads as well as the fact that the price elasticity of demand for power is more inelastic than that for energy.

**10. What would the range of cost impacts be, if any, for low income customers? Under a given model, what modifications should be considered to Low-Income/Customer Assistance Program participants to maintain affordability and ratepayer equity?**

While residential customers generally can be harmed by demand charges, low income customers would be even more disadvantaged. Low income households have less load that they can control, avoid or shift. Therefore, their ability to control load will be even lower than that for the average residential customer with a middle-to-higher income. Furthermore, low income families have by definition, limited financial resources. These customers do not have the financial ability to invest in or install equipment that may enable them to shed load; *i.e.*, smart home technology. Finally, low income customer's appliances tend to be less efficient than those of higher income households such that demand charges imposed on this group of customers would be even more burdensome. The OCA would also note that other vulnerable households, such as those with children, the elderly or an ill family member will also be disadvantaged. To the extent the Commission were to implement mandatory demand charges for residential customers, this will compromise the affordability of electricity to low income customers and other vulnerable households as well as increase universal service program costs to all residential customers.

**11. What type of consumer education programs should be provided to customers when implementing alternative ratemaking methodologies?**

While consumer education explaining the difference between electricity power and energy may appear to be a potential mechanism to enhance the acceptability of demand charges, the concepts of instantaneous electricity power (amps coupled with volts) versus energy (kWh usage) is likely beyond the concern of the average residential consumer. Even if such education programs were able to strengthen the understanding of the physics of electricity, residential consumers would need to be educated to the fact that their electricity bills are no longer based

just on how much electricity (energy) is used on a month-by-month basis, thus potentially impeding the interest in energy efficiency and conservation. Equally challenging would be educating customers that charges may be based on a few minutes or few hours of load at an undefined time period. The OCA anticipates that the education effort would be significant and represents a potentially significant cost of the move to any alternative ratemaking methodology.

**B. Directed Questions for Natural Gas Distribution Company Proposal**

**1. Provide overall supportive or critical comments to the outlined NGDC decoupling structure.**

The OCA opposes any form of revenue decoupling for NGDCs both on legal and conceptual grounds that have been discussed in the OCA's Comments throughout this proceeding. The OCA will provide a synopsis of its legal position in response to question 3 below.

The ratemaking process is intended to provide a balancing of shareholder and ratepayer interests. From a conceptual standpoint, revenue decoupling mechanisms shift more risks to ratepayers thereby, tilting this balancing of interests. Revenue decoupling mechanisms invariably guarantee revenue recovery, which in turn, significantly reduces the risks to shareholders. At the same time, such mechanisms are typically lagged in nature such that when a NGDC "under-recovers" revenue in a given period, a surcharge will be implemented at a later date in order to collect the so-called revenue shortfall and vice versa.

This lagging creates more volatility to customers' bills because the largest factor impacting residential and small commercial natural gas usage is weather. For example, a so-called revenue shortfall in a given period is largely the result of warmer than expected weather. Notwithstanding the issue of retroactive ratemaking, ratepayers would then pay a surcharge at a later date and due to the random nature of annual and seasonal weather patterns, it is entirely

possible that the surcharge period will also include an abnormally cold weather period wherein customers will be using more natural gas and pay more in their natural gas bills. Under decoupling, these customers would then also be required to pay the prior period's surcharge due to a so-called revenue under-recovery. The opposite is also true if a utility over-recovers in one period and provides a credit in future periods. Such decoupling timing differences result in improper and confusing price signals to consumers and stifle consumers' decisions to engage in effective conservation efforts. Furthermore, revenue decoupling mechanisms reduce customers' abilities to control their natural gas bills.

With regard to any perceived need for revenue decoupling due to the hypothesis that residential usage per customer is declining, past trends in residential usage per customer are not necessarily indicative of current or expected future trends. While residential natural gas usage per customer was indeed declining during the 1990s and early-2000s, this trend has slowed, or even reversed itself, in recent years nationally as well as in Pennsylvania. Due to the very large price advantage that natural gas has over alternative heating energy sources, NGDCs are seeing numerous existing non-heating customers convert to natural gas for their space heating needs thereby, increasing a NGDC's residential average use per customer. Furthermore, due to the numerous programs in place to expand the availability of natural gas to unserved and underserved areas of the Commonwealth, many NGDCs are seeing significant residential customer growth. The vast majority of this customer growth is adding heating customers which in turn, is also increasing the utility's residential average use per customer. As an example, in the pending UGI Penn Natural Gas, Inc. general rate case (Docket No. R-2016-2580030) average residential use has been found to have actually increased since the Company's last rate case in 2009. Based on the Company's filings and its own numbers, the average residential customer

usage in the pending rate case is 106 MCF per year. This compares to the average residential consumption presented in the Company’s 2009 general rate case of 101 MCF per year.<sup>30</sup> On a State-wide basis, residential natural gas consumption has not experienced any perceptible decline during the last 10 or so years. The following table shows total residential natural gas consumption in Pennsylvania from 2006 through 2016 (note: these amounts are not weather normalized and therefore, reflect actual consumption and do not normalize for abnormally cold or warm winters):

Year	Residential Consumption (MMCF) <sup>31</sup>
2006	205,813
2007	231,305
2008	229,254
2009	227,714
2010	223,642
2011	219,446
2012	197,313
2013	237,861
2014	254,816
2015	235,635
2016	223,477
Average	226,025

Furthermore, the U.S. Energy Information Administration forecasts stable and somewhat increasing residential natural gas consumption on a country-wide basis through 2018.<sup>32</sup>

<sup>30</sup> Per Company class cost of service studies presented in Docket No. R-2016-2580030 and Docket No. R-2008-2079660.

<sup>31</sup> U.S. Energy Information Administration: <https://www.eia.gov/dnav/ng/hist/n3010pa2a.htm>.

<sup>32</sup> National residential consumption of natural gas is forecasted to increase from 12.00 BCF per day in 2016 to 12.83 BCF per day by 2018. Per U.S. Energy Information Administration Short-Term Energy Outlook, dated May 9, 2017.

The growth in number of customers alone negates any perceived need for revenue decoupling and/or counters any argument that revenue decoupling may reduce the number of rate cases and/or lengthen the time between rate cases.

Finally, if the Commission were to approve a decoupling mechanism for residential and small commercial customers, it is undisputed that such a ratemaking mechanism reduces the risks to NGDCs. At the same time, if one assumes that no revenue decoupling mechanisms are implemented for large commercial and industrial customer classes, differential rates of return between classes are by their very nature, required; *i.e.*, the required rates of return for revenue decoupled classes is lower than that for non-revenue decoupled classes. Given the level of controversy that typically surrounds class cost of service studies in general, revenue decoupling will further complicate the establishment of fair and reasonable rates across customer classes.

**2. Has this proposal been successfully or unsuccessfully implemented in other jurisdictions?**

According to the Natural Resources Defense Council, as of January 2017, 28 states have some form of natural gas revenue decoupling in place while 23 states (including the District of Columbia) do not. The OCA is not aware of any studies that have shown that revenue decoupling has improved the level of energy conservation. However, by their very nature, guaranteed revenue recovery (decoupling) mechanisms would provide a disincentive and/or negate residential consumers' conservation efforts in that consumers that aggressively participate in effective conservation, would see little to no rewards due to surcharges imposed from the so-called under-recovery of revenues established from their local utility's last general rate case. See In the Matter of the Lost Revenue Adjustment Mechanism of NorthWestern Energy, Public Service Commission of the State of Montana, Regulatory Division, Docket No. D2014.6.53, Order No. 7375a at 10-11 (Oct. 15, 2015); see also In the Matter of the Investigation into the Just

and Reasonableness of Rates as Calculated Under the Bill Stabilization Adjustment Rider of Potomac Electric Power Company, et al., Case No. 9257, et al., Order No. 84653 at 3 (Jan. 25, 2012).

**3. Are there any statutory and regulatory barriers in Pennsylvania to a revenue-per-customer decoupling for NGDCs?**

Full revenue decoupling using a revenue-per-customer approach protects a utility's revenue collections from any deviation from expected sales to actual sales, no matter the cause. The Pennsylvania General Assembly rejected a decoupling approach in adopting Act 129. While establishing automatic surcharges to recover the costs of energy efficiency, demand response, and smart meter programs, the General Assembly declared that such cost recovery shall not include "decreased revenues of an electric distribution company due to reduced energy consumption or changes in energy demand." 66 Pa. C.S. § 2806.1(k)(2); see also 66 Pa. C.S. § 2807(f)(4) (prohibiting recovery of lost or decreased revenues due to reduced electricity consumption or shifting energy demand in between base rate cases due to smart meter technology). The Commission has stated that it intends to apply these Act 129 requirements to natural gas company programs. Pennsylvania Public Utility Commission, et. al. v. UGI Central Penn Gas, Inc., Docket No. R-2010-2214415, Order at 16 (August 19, 2011).

It is further worth noting that even in the absence of the statutory prohibition against decoupling, such mechanisms raise significant concerns about improper single-issue ratemaking, retroactive ratemaking, and the just and reasonable requirements of 66 Pa. C.S. § 1301.

**4. What are the general potential bill impacts associated with this form of decoupling?**

As discussed above, revenue decoupling will increase customers' natural gas bill volatility. In addition, decoupling mechanisms will result in more frequent rate changes (up and down) between rate cases, which will lead to more customer confusion as to the prices they

ultimately pay for natural gas, thereby, hampering their ability to make rational decisions based on the price they pay for natural gas.

**5. Should the use of decoupling be limited to NGDCs that are offering conservation and efficiency programs and, if so, what should be the required types and scope of such programs?**

Decoupling mechanisms are not needed in Pennsylvania to promote, establish, and implement effective conservation and efficiency programs as such programs are already in place for some NGDCs in the Commonwealth absent decoupling. Examples include UGI Utilities, Inc., Philadelphia Gas Works, Columbia Gas and PECO Gas as well as a proposal by UGI Penn Natural Gas, Inc. in its pending general rate case. Pa. PUC, et. al. v. UGI Utilities Inc. – Gas Division, Dock. No. R-2015-2518438 (Order entered Oct. 14, 2016); Petition of Philadelphia Gas Works for Approval of Demand-Side Management Plan for FY 2016-2020, and Philadelphia Gas Works Universal Service and Energy Conservation Plan for 2014-2016, 52 Pa. Code § 62.4 – Request for Waivers, Dock. No. P-2014-2459362 (Order entered Aug. 4, 2016); Pa. PUC et. al. v. Columbia Gas of Pa., Dock. No. R-2008-2011621 (Order entered Oct. 28, 2008); Pa. PUC, et. al. v. PECO Energy Co. – Gas Division, Dock. No. R-2010-2161592 (Order entered Dec. 29, 2010); Pa. PUC, et. al. v. UGI Penn Natural Gas, Inc., Dock. No. R-2016-2580030 (Co. filed January 19, 2017). Furthermore, this Commission has stated that it will follow Act 129 principles, which do not allow for decoupling. Pennsylvania Public Utility Commission, et. al. v. UGI Central Penn Gas, Inc., Docket No. R-2010-2214415, Order at 16 (August 19, 2011).

**6. Should measures of success be included in the implementation and how should the Commission ensure that incremental conservation and efficiency program benefits exceed costs?**

Any move to alternative ratemaking, which the OCA does not recommend, should be accompanied by specific measures that identify and quantify the tangible benefits to ratepayers from such a change. Any measures, particularly in the area of conservation and energy

efficiency should be shown to exceed both the savings that have been achieved in the past and the required savings for the on-going energy efficiency plans. Measures should also ensure that energy efficiency and conservation efforts remain economic as measured by the Total Resource Cost test.

**7. Should the Commission undertake periodic evaluations as a means for establishing the overall impacts, as well as the effectiveness of design and administration?**

The OCA is of the opinion that there are no perceptible potential benefits to ratepayers as a result of guaranteed revenue recovery (decoupling) afforded to NGDCs in Pennsylvania. However, should decoupling mechanisms be implemented by the Commission, regular periodic studies should be conducted to evaluate and measure any economic or social benefits to ratepayers as well as any obtained by shareholders.

**8. How should the Commission design the mechanism to true-up forecast and actual utility delivery service revenues?**

NGDCs are currently permitted to utilize Fully Forecasted Future Test Years for ratemaking that also reflect normalized weather. Such use of forward-looking test years reduces the need for rate cases. Any true-up mechanisms between forecasted and actual throughput volumes and revenues will result in single issue ratemaking and largely negate the intent of the use of forecasted test periods authorized by statute.

**9. To what rate classes should decoupling apply?**

The OCA would be concerned with excluding any customer class if the Commission moves to alternative ratemaking methods as this could raise concerns regarding discrimination in rates.

**10. What revenues streams should be excluded (e.g. § 1307 automatic adjustment revenues)?**

Virtually all automatic adjustment riders are subject to a true-up mechanism such that decoupling is unnecessary.

**11. How should a “usage-per-customer” parameter be developed during the implementation of a revenue-per-customer decoupling mechanism, and how should this parameter be used to adjust future rates. Should there be separate usage per customer values for new and existing customers?**

The determination of a usage-per-customer can be obscure, lead to many interpretations, and needlessly add complexity to the establishment of fair and reasonable rates. For example, residential usage-per-customer varies significantly across this general class primarily as a result of those customers that utilize natural gas for space heating compared to those that do not as well as customers with larger homes and greater space heating needs compared to those with smaller homes. As importantly, residential natural gas consumption varies dramatically throughout the year such that the majority of residential natural gas consumption occurs during a few winter months. The OCA is aware of some decoupling mechanisms that actually establish a “revenue” requirement for each month of the year, which in the OCA’s opinion, is beyond any level of certainty, is arbitrary, and provides no benefits to consumers. Finally, as a result of virtually all NGDCs in Pennsylvania utilizing a Fully Forecasted Future Test Year to establish base distribution rates, residential usage is stated on a “weather normalized” basis. In this regard, there is much controversy among parties as well as individual NGDCs as to what constitutes “normal” weather in terms of the time period in which how normal weather should be defined and the methods utilized to estimate normal weather consumption. These uncertainties concerning the definition and development of normal weather usage are very complex on an annual basis, let alone, those that would be required on a subclass or monthly basis.

**12. What should be the frequency of the rate adjustment?**

As discussed earlier, any form of revenue decoupling produces a lagged rate element which results in retroactive ratemaking and sends improper price signals to ratepayers.

**13. Should the Commission incorporate caps on rate adjustments?**

If any form of revenue decoupling is considered, which the OCA does not recommend, it should absolutely include caps on the level of rate adjustments to protect customers.

**14. How soon after the conclusion of the future test year should the Commission allow adjustments?**

Should the Commission implement any form of decoupling, no adjustments should be made until at least one full year after new base rates become effective. This is because the Fully Forecasted Future Test Year in general rate cases reflects the year in which rates go into effect.

**15. Should the Commission periodically require a complete review of costs, sales, and revenues (i.e., a general rate case or equivalent)? Please describe the suggested review process and necessary time period.**

Yes. To the extent that the Commission authorizes or requires any form of decoupling, it should also require mandatory rate cases within a predefined time period (three to five years). This will provide the Commission and parties the opportunity to evaluate not only the impacts of any changes in customer usage and revenue recovery, but also changes in the cost structure of such utilities including efficiencies gained from technological change, investments in advanced technology, synergies from affiliates, etc.

**16. Should there be carrying charges (interest) calculated on rate adjustments, both upward and downward? If so, how should these carrying charges be calculated?**

At this time, interest rates remain at very low levels and may be unnecessary. Adding an interest rate calculation may complicate the bill calculation process and add to customer bill volatility.

**17. What would the range of cost impacts be, if any, for low income customers? Under a given model, what modifications should be made to Low Income/Customer Assistance Program participants to maintain affordability and ratepayer equity?**

This will vary across NGDCs within the Commonwealth. This is due to different universal service methods and approaches used across various NGDCs. For example, some low income customers' natural gas bills are based on a percentage of income, while other NGDCs implement discounts for qualifying low income customers. The decoupling adjustments, though, may increase underlying rates and increase the number of CAP customers that reach the maximum CAP credit limit.

The implementation of decoupling would also increase the volatility of non-CAP customers' bills (both non-low income and non-CAP low income customers), a volatility that would be exacerbated by the fact that non-CAP customers are required to pay the difference between "normal" full tariff rates and the revenues collected from qualifying CAP customers. The impacts on CAP customers are not able to be determined at this time as they may vary from utility-to-utility and program-to-program.

**18. What type of consumer education programs should be provided to customers when implementing a decoupling methodology?**

The OCA submits that if revenue decoupling is implemented in Pennsylvania, extensive customer education will be required to inform customers on how their natural gas bills are determined and how such mechanisms work and are employed. Such education programs will add additional costs to utilities, which must be absorbed by ratepayers thereby, increasing customers' bills.

#### **IV. COMMENTS ON STATEMENT OF COMMISSIONER DAVID W. SWEET**

As part of the Commission's issuance of its Tentative Order in this matter, Commissioner David W. Sweet issued a Statement wherein he highlighted the need for further discussion and feedback on two important issues. The first issue identified by Commissioner Sweet is the potential impacts to ratepayers from the implementation of any of the potential alternative ratemaking mechanisms being evaluated as part of this proceeding. Commissioner Sweet also placed special emphasis on the need for any potential ratemaking mechanism to deliver real benefits to ratepayers, while at the same time ensuring that more vulnerable customer segments would not suffer harm from the implementation of same.

The second issue identified by Commissioner Sweet relates to the interaction between the needed replacements of infrastructure, existing DSIC mechanisms, rate case filings and the potential implementation of any alternative ratemaking mechanisms that are being evaluated in this matter.

The OCA appreciates this opportunity to respond to the important issues identified by Commissioner Sweet. As discussed in these Comments, the OCA submits that the implementation of additional alternative ratemaking mechanisms for Pennsylvania utilities is unnecessary at this time. Many of our utilities already have a substantial number of alternative ratemaking mechanisms in place or the ability to employ same, such as the DSIC, the use of a fully projected future test year, automatic reconcilable surcharges for energy efficiency and conservation costs, universal service cost recovery, smart meter cost recovery and many more. It is important to note, however, that most of these mechanisms have been created through the processes and procedures of the General Assembly and contain corresponding measures to mitigate potential harms to ratepayers. To that end, the OCA shares Commissioner Sweet's

concerns as to possible negative impacts to ratepayers from the implementation of additional alternative ratemaking methodologies.

In the OCA's view, the ratemaking mechanisms being evaluated in this matter have the propensity to benefit utilities by guaranteeing more revenue, reducing their risk profiles, reducing utilities' incentives and need to operate in the most efficient manner possible, yet, ensuring a more robust bottom line to shareholders. Conversely, there does not appear to be any commensurate benefits that would flow in the direction of ratepayers. Additionally, the OCA would note that generally speaking Pennsylvania utilities are not seeking rate relief with any increased frequency or fervor as the attached Appendices tend to show. Accordingly, the OCA must question any real need to advance additional alternative ratemaking mechanisms at this time when it does not appear that such mechanisms are indeed needed and, alternatively, have the propensity to cause negative impacts especially to low and moderate income ratepayers.

In some fashion, the ratemaking mechanisms being evaluated here generally favor a move away from traditional volumetric pricing to more of an emphasis on fixed charges. For low to moderate income ratepayers, this scenario presents unreasonable impacts as the ability to control one's total utility bill through conservation, efficiency, or other minimalistic measures will be substantially compromised. As a general matter, lower income ratepayers have a lower volumetric usage profile as compared to the general volumetric usage of the residential class as a whole. In essence, moving towards a higher fixed charge environment reduces the ability of all ratepayers to control their total utility bill by decreasing their level of consumption, with particular harsh impacts to lower income, low-usage customers.

Further, and notwithstanding the fact that Pennsylvania has well-developed universal service and customer assistance programs, these programs do not provide a sufficient level of

protection from the potential negative impacts to lower income ratepayers. For one, many confirmed low-income customers do not participate in the utilities' customer assistance programs. This is true for a variety of reasons, including the inability of some customers to certify or recertify, and the fact that under certain percent of income customer assistance programs low-use customers choose non-participation as they attempt to achieve lower total bills through reduced consumption. In addition, many ratepayers who are low to moderate income fall just above the necessary income levels to participate in such programs. As a result, higher fixed charges and less bill reflection on volumetric usage will impact these vulnerable customer segments to a greater degree than the residential class as a whole. As discussed, the OCA submits that implementing alternative ratemaking mechanisms that would favor the use of higher fixed charges, in any fashion, would not serve to provide any discernible benefits to ratepayers and would potentially harm the most vulnerable customer sectors.

As to Commissioner Sweet's second issue regarding the interaction of any additional alternative ratemaking mechanisms with existing infrastructure replacements, DSIC mechanisms, and the frequency of rate case filings the OCA offers the following.

The filing of a general base rate case by a utility should not be viewed as a negative event. This is the historical, tried-and-true methodology that has been in use for decades in Pennsylvania and it has worked well. A rate case is an opportunity for all stakeholders to perform a complete review of the utility's finances, examine changes in the Company's operations, infrastructure, and customer mix that may have occurred since its last rate case, examine its policies and procedures, reevaluate its various tariff provisions, assess the progress toward past stated goals, and provides the chance to forward new and innovative ideas as to the provision of necessary services. Further, a rate case provides an opportunity for customers to

voice their opinions and concerns, and bring matters to light that heretofore the Commission and/or other stakeholder groups such as the statutory advocates were unaware of. And yes, often it is the case that rates will be increased. To that end, occasional increases that result in just and reasonable rates and that are designed to maintain the utility's sound financial standing while at the same time allowing the continued provision of safe, reliable service is an acceptable outcome.

Moreover, many general rate cases end in settlements where the stakeholders have collectively fashioned new, improved or innovative processes with the goal of providing a win-win situation for the utility and its customers. Of course, the OCA submits that at the close of a rate case it is the utility's obligation to take the adjusted rates and go forth to create whatever synergies and efficiencies it can in order to maintain adequate, reasonable service and also to maintain some reasonable level of rate stability for the foreseeable future. Accordingly, and to the extent that this proceeding seeks to significantly extend the time intervals between general base rate filings by Pennsylvania utilities, such an outcome may not be in the public interest.

Whether, and to what extent any of the ratemaking mechanisms under review here would actually alter the general pattern of rate case filings is an open question. Pennsylvania utilities currently have the ability to employ a fully forecasted future test year, DSIC mechanisms and a host of automatic, reconcilable surcharges that all tend to reduce risk and promote greater financial stability for the utility. It is difficult to determine whether these mechanisms have substantially altered the pattern of general base rate filings, but the primary purpose of these mechanisms has been to achieve specific objectives and provide more current recovery of costs related to these specific objectives. The OCA submits that given this fact, the implementation of

additional alternative ratemaking mechanisms would not necessarily alter the current pattern of general rate case filings.

For one, Pennsylvania utilities are in an infrastructure replacement/upgrade mode. Many of these utilities are operating under their Commission-approved long term infrastructure improvement plans (LTIIP). Under the individual LTIIPs, utilities are progressing on the repair, replacement and upgrade of facilities and using their Commission-approved DSIC mechanisms to timely recover the costs. This scenario of increased attention to infrastructure is not likely to end any time soon. All things being equal, at such time when the DSIC cap is reached and other financial concerns so dictate – utilities will seek rate relief. This is the progression of events that the General Assembly planned for and foresaw when it authorized the use of DSIC mechanisms in Pennsylvania.

The cap on DSIC mechanisms provides an important consumer protection and safeguard. The DSIC gets reset to zero during a general base rate case, where all stakeholders can review the capital projects and spending levels of that utility. Further, the DSIC can become inoperative in any period where the utility is found to be overearning based on its authorized return on equity (ROE). As to ROE levels, there are additional considerations that need to be weighed as part of this inquiry.

To be clear, the OCA submits that the implementation of additional alternative ratemaking mechanisms for Pennsylvania utilities is unnecessary at this time. The traditional rate base/rate-of-return methodology with a greater emphasis on volumetric charges continues to perform well for ratepayers and utilities. That said, should the Commission decide to authorize the use of additional ratemaking mechanisms, the ROE levels of utilities must be considered as risk is greatly reduced with the implementation of any alternative ratemaking methodology.

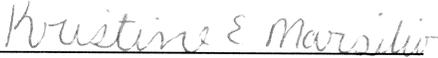
For the same reason, a general move away from volumetric pricing, if such occurs, should only be considered if the corresponding level of risk reduction is factored in to the utilities' individual ROE levels, as well as necessary consumer protections. In this manner, ratepayers may still see no discernible benefits but may at least be able to maintain a level footing as reduced ROE levels could potentially compensate for the inability to substantially impact the utility bill through conservation and efficiency measures in an environment where fixed charges increase.

The OCA thanks Commissioner Sweet for raising these important topics. To conclude, the OCA submits that the alternative ratemaking mechanisms under review here could prove beneficial for the utilities' bottom line and their corresponding shareholder interests. Conversely, the OCA sees no discernible benefits for ratepayers, and the real possibility of harm, by moving away from the current ratemaking environment.

## V. CONCLUSION

The OCA appreciates this opportunity to provide the Commission with these Comments. The OCA submits that further alternative ratemaking is not necessary at this time. Pennsylvania currently has a multitude of robust and comprehensive methodologies and mechanisms in place that properly align and balance consumers' and utilities' needs with cost-effective and efficient practices.

Respectfully Submitted,



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DATED: May 31, 2017  
233801

**BASE RATE FILINGS FOR PENNSYLVANIA ELECTRIC UTILITIES<sup>1</sup>**

<b>Utility Name</b>	<b>Date Filed</b>	<b>Docket Number</b>
Duquesne Light Company	April 7, 2006	R-00061346
	July 23, 2010	R-2010-2179522
	August 2, 2013	R-2013-2372129
Metropolitan Edison Company	April 10, 2006	R-00061366
	August 4, 2014	R-2014-2428745
	April 28, 2016	R-2016-2537349
PECO Energy Company, Electric	March 31, 2010	R-2010-2161575
	March 27, 2015	R-2015-2468981
Pennsylvania Electric Company	April 10, 2006	R-00061366
	August 4, 2014	R-2014-2428743
	April 28, 2016	R-2016-2537352
Pennsylvania Power Company	August 4, 2014	R-2014-2428744
	April 28, 2016	R-2016-2537355
PPL Electric Utilities Corporation	March 29, 2004	R-00049255
	March 29, 2007	R-00072155
	March 31, 2010	R-2010-2161694
	March 30, 2012	R-2012-2290597
	March 31, 2015	R-2015-2469275
West Penn Power Company	August 4, 2014	R-2014-2428742
	April 28, 2016	R-2016-2537359

233697

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<sup>1</sup> Only general base rate cases since 2000 are being reported.

**BASE RATE FILINGS FOR PENNSYLVANIA GAS UTILITIES<sup>1</sup>**

<b>Utility Name</b>	<b>Date Filed</b>	<b>Docket Number</b>
Columbia Gas of Pennsylvania, Inc.	January 28, 2008	R-2008-2011621
	January 28, 2010	R-2009-2149262
	January 14, 2011	R-2010-2215623
	September 28, 2012	R-2012-2321748
	March 21, 2014	R-2014-2406274
	March 19, 2015	R-2015-2468056
	March 18, 2016	R-2016-2529660
Equitable Gas Company, Now Peoples – Equitable	June 30, 2008	R-2008-2029325
National Fuel Gas Distribution	January 27, 2003	R-00038168
	September 15, 2004	R-00049656
	May 31, 2006	R-00061493
PECO Energy Company, Gas	March 31, 2008	R-2008-2028394
	March 31, 2010	R-2010-2161592
Peoples Natural Gas Company	October 28, 2010	R-2010-2201702
	February 28, 2012	R-2012-2285985
Philadelphia Gas Works	August 8, 2000	R-00005654
PGW	January 5, 2001	R-00006042
PGW	February 25, 2002	R-00017034
PGW	December 22, 2006	R-00061931
PGW	November 14, 2008	R-2008-2073938
PGW	December 18, 2009	R-2009-2139884
PGW	February 27, 2017	R-2017-2586783
T.W. Phillips Gas & Oil Co., Now Peoples - TWP	July 14, 2000	R-00005459
	February 13, 2006	R-00051178
	April 30, 2010	R-2010-2167797
	April 30, 2013	R-2013-2355886
PG Energy, a Division of Southern Union Co., Now UGI Central Penn Gas	April 3, 2000	R-00005119
	April 13, 2006	R-00061365
	January 28, 2009	R-2008-2079675
	January 14, 2011	R-2010-2214415

<sup>1</sup> Only general base rate cases since 2000 are being reported.

<b>Utility Name</b>	<b>Date Filed</b>	<b>Docket Number</b>
UGI Utilities, Inc. – Gas Division	January 19, 2016	R-2015-2518438
PFG Gas & North Penn Gas Co., Became PPL Gas Utilities, Now UGI Penn Natural Gas	June 30, 2000	R-00005277
	April 27, 2006	R-00061398
	January 28, 2009	R-2008-2079660
	January 19, 2017	R-2016-2580030

233698

**BASE RATE FILINGS FOR PENNSYLVANIA LARGE WATER UTILITIES<sup>1</sup>**

<b>Utility Name</b>	<b>Date Filed</b>	<b>Docket Number</b>
Aqua PA/PSWC	11/09/2001	R-00016750
	11/14/2003	R-00038805
	11/18/2005	R-00051030
	11/21/2007	R-00072711
	11/18/2009	R-2009-2132019
	11/18/2011	R-2011-2267958
PAWC	04/27/2001	R-00016339
	04/30/2003	R-00038304
	04/27/2007	R-00072229
	04/24/2009	R-2009-2097323
	04/29/2011	R-2011-2232243
	04/30/2013	R-2013-2355276
Suez PA/United Water PA	04/27/2017	R-2017-2585953
	01/30/2006	R-00051186
	09/16/2009	R-2009-2122887
	05/09/2011	R-2011-2232985
York Water	01/28/2015	R-2015-2462723
	03/20/2001	R-00016236
	01/24/2003	R-00027975
	04/28/2004	R-00049165
	04/27/2006	R-00061322
	05/16/2008	R-2008-2023067
	05/14/2010	R-2010-2157140
05/29/2013	R-2012-2336379	

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<sup>1</sup> Only general base rate cases since 2000 are being reported.