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July 31, 2017

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

VIA ELECTRONIC FILING

RE: *En Banc* Hearing on Alternative Ratemaking Methodologies; Docket No. M-2015-2518883

Dear Secretary Chiavetta:

Attached for filing with the Pennsylvania Public Utility Commission are the Reply Comments of the Met-Ed Industrial Users Group ("MEIUG"), the Penelec Industrial Customer Alliance ("PICA"), the Philadelphia Area Industrial Energy Users Group ("PAIEUG"), the PP&L Industrial Customer Alliance ("PPLICA"), and the West Penn Power Industrial Intervenors ("WPPII") in the above-captioned proceeding.

If you have any questions concerning this matter, please contact the undersigned. Thank you.

Respectfully submitted,

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By Charis Mincavage
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the PP&L Industrial Customer Alliance, and
the West Penn Power Industrial Intervenors

Enclosure

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Notice of *En Banc* Hearing on Alternative Ratemaking Methodologies	:	Docket No. M-2015-2518883

REPLY COMMENTS
OF THE
MET-ED INDUSTRIAL USERS GROUP, THE PENELEC INDUSTRIAL CUSTOMER ALLIANCE, THE PHILADELPHIA AREA INDUSTRIAL ENERGY USERS GROUP, THE PP&L INDUSTRIAL CUSTOMER ALLIANCE, AND THE WEST PENN POWER INDUSTRIAL INTERVENORS

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Dated: July 31, 2017

I. INTRODUCTION

On December 31, 2015, the Pennsylvania Public Utility Commission ("PUC" or "Commission") published a Notice of an *En Banc* Hearing on Alternative Ratemaking Methodologies ("Notice").

On March 3, 2016, the PUC held the *en banc* hearing to obtain information on the efficacy and appropriateness of alternative ratemaking methodologies, such as revenue decoupling (also referred to herein as "decoupling").[1] The purpose of the *en banc* hearing was to permit participants to inform the Commission on the following rate issues: "(1) whether revenue decoupling or other similar rate mechanisms encourage energy utilities to better implement energy efficiency and conservation [("EE&C")] programs in the Commonwealth; (2) whether such rate mechanisms are just and reasonable and in the public interest; and (3) whether the benefits of implementing such rate mechanisms outweigh any costs associated with implementing the rate mechanisms."[2]

Pursuant to the Commission's Notice,[3] which provided interested parties with the opportunity to submit Comments on proposed alternative ratemaking methodologies, the Industrial Energy Consumers of Pennsylvania ("IECPA"),[4] the Duquesne Industrial Intervenors ("DII"), the Met-Ed Industrial Users Group ("MEIUG"), the Penelec Industrial Customer Alliance ("PICA"), the Penn Power Users Group ("PPUG"),[5] the Philadelphia Area Industrial Energy Users Group ("PAIEUG"), the PP&L Industrial Customer Alliance ("PPLICA"), and the West Penn Power

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[1] While the Commission advertised this *en banc* hearing as a discussion on alternative ratemaking methodologies, revenue decoupling remained the focus of the testimonies and the Commissioners' discussions. Therefore, these Reply Comments will focus on revenue decoupling; however, the arguments presented herein would also apply to most alternative ratemaking methodologies.
[2] Notice of En Banc Hearing on Alternative Ratemaking Methodologies, Docket No. M-2015-2518883 (Dec. 31, 2015), available at:
http://www.puc.state.pa.us/filing_resources/issues_laws_regulations/alt_ratemaking_methodologies.aspx.
[3] *Id.*
[4] IECPA has not participated in the preparation of these Reply Comments. As a result, the opinions expressed herein should not be read to include IECPA's perspective on this matter.
[5] DII and PPUG were not involved in the preparation of these Reply Comments. As a result, the opinions expressed herein should not be read to include DII's or PPUG's perspectives on this matter.

Industrial Intervenors ("WPPII") filed Joint Comments with the PUC recommending that the Commission firmly decline to pursue decoupling. *Joint Comments of the Industrial Energy Consumers of Pennsylvania, et al.*, Notice of *En Banc* Hearing on Alternative Ratemaking Methodologies, Docket No. M-2015-2518883 (Mar. 16, 2016) ("Industrials' 2016 Comments"). As part of those Comments, the Industrials indicated that, if the PUC or the General Assembly were to adopt revenue decoupling, it must exclude large commercial and industrial ("Large C&I") customers from this alternative ratemaking form to account for Large C&I customers' unique EE&C needs. *Id.*

On March 2, 2017, the PUC issued a Tentative Order, which summarized the March 3, 2016, *en banc* hearing and provided next steps for this proceeding.[6] Specifically, the Commission requested additional input from stakeholders regarding their experiences with various forms of alternative ratemaking methodologies, including revenue decoupling. The PUC also requested responses from stakeholders on the reasonableness and efficacy of employing certain rate methodologies specifically for electric, natural gas, water, and wastewater utilities. In addition, Vice Chairman ("V.C.") Andrew G. Place and Commissioner David W. Sweet issued Statements requesting feedback from stakeholders on their proposals for alternative rate methodologies. By Secretarial Letter dated March 23, 2017, the PUC indicated Comments to the PUC's Tentative Order and accompanying Statements should be filed by May 31, 2017.

On May 31, 2017, MEIUG, PICA, PAIEUG, PPLICA, and WPPII (collectively, the "Industrials")[7] filed additional Comments in response to the Commission's March 2, 2017,

[6] Tentative Order, Docket No. M-2015-2518883 (Mar. 2, 2017).

[7] As indicated in Footnote 4 of this pleading, IECPA has not participated in these Reply Comments. Furthermore, as indicated in Footnote 5 of this pleading, DII and PPUG were not involved in the preparation of these Reply Comments. As a result, the opinions expressed herein should not be read to include IECPA's, DII's, or PPUG's perspectives on this matter.

Tentative Order ("Industrials' 2017 Comments"). In addition to the Industrials, over 20 other entities filed Comments responding to the PUC's Tentative Order.[8]

By Secretarial Letter dated March 23, 2017, the PUC established that parties would have the opportunity to submit Reply Comments[9] through July 31, 2017. Accordingly, the Industrials hereby submit these Reply Comments to respond to other parties' Comments.[10] In particular, these Reply Comments respond to other Comments regarding the deficiencies associated with revenue decoupling and the feasibility of proposals issued by PUC Commissioners.

II. SUMMARY OF REPLY COMMENTS

While the Industrials' 2016 and 2017 Comments focus on the overarching problems inherent with revenue decoupling, these Reply Comments focus on specific issues of concern in response to matters raised in other parties' Comments. Although the Industrials' 2016 and 2017 Comments raised numerous points regarding the infeasibility of revenue decoupling, none of the parties in support of alternative ratemaking have presented any response that would address these

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[8] In addition to the Industrials, Comments responding to the Tentative Order and PUC Commissioners' Statements were filed by the following parties: the Natural Resources Defense Council ("NRDC"); Peoples Natural Gas Company LLC and Peoples TWP LLC (collectively, the "Peoples Companies"); the Advanced Energy Economy Institute ("AEE Institute"); the Bureau of Investigation & Enforcement ("I&E"); the Pennsylvania Utility Law Project ("PULP"); Valley Energy, Inc., Citizens' Electric Company, and Wellsboro Electric Company ("the C&T Companies"); the Office of Consumer Advocate ("OCA"); Philadelphia Gas Works ("PGW"); the Office of Small Business Advocate ("OSBA"); the Energy Association of Pennsylvania ("EAP"); PECO Energy Company ("PECO"); Aqua Pennsylvania, Inc. ("Aqua"); UGI Utilities, Inc. – Gas Division ("UGI-GD"), UGI Utilities, Inc. – Electric Division ("UGI-ED"), UGI Penn Natural Gas, Inc. ("UGI-PNG"), and UGI Central Penn Gas, Inc. ("UGI-CPG") (collectively, "UGI Companies"); Keystone Energy Efficiency Alliance ("KEEA"); National Fuel Gas Distribution Corporation ("NFG"); the Alliance for Industrial Efficiency ("AIE"); Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company (collectively, "FirstEnergy"); Columbia Gas of Pennsylvania, Inc. ("Columbia"); PPL Electric Utilities Corporation ("PPL"); NRDC, Sierra Club, and Clean Air Council (collectively, "NRDC, *et al.*"); American Eagle Paper Mills, ArcelorMittal, E-Finity Distributed Generation, Cargill, Ecolab, Schneider Electric, Sheet Metal & Air Conditioning Contractors' National Association of Pennsylvania, and Veolia North America (collectively, "American Eagle Paper Mills, *et al.*"); Duquesne Light Company ("DLC"); the American Council for an Energy-Efficient Economy ("ACEEE"); and AARP.

[9] Although these Reply Comments elucidate the Industrials' concerns with decoupling in the context of EDCs, the Industrials note that their customer-oriented concerns with decoupling also apply equally to Natural Gas Distribution Company services.

[10] To the extent other parties' comments and rate methodologies are not discussed here, such omissions should not be interpreted to mean that the Industrials support those viewpoints or proposals.

points. Similarly, while the Industrials have raised concerns regarding intra-class cost shifting for large commercial and industrial customers, other parties' comments correctly note that revenue decoupling could result in system-wide intra-class cost shifting. Moreover, although the Industrials' previous Comments noted that revenue decoupling would be duplicative of the efforts already underway through Act 129, none of the parties in favor of revenue decoupling have presented any confirmation that revenue decoupling would provide any energy efficiency benefits separate from those received through EE&C programs currently in place in Pennsylvania. Moreover, as correctly noted by other parties, application of revenue decoupling with other regulations and requirements in Pennsylvania (*e.g.*, Distribution System Improvement Charges ("DSICs")) may exacerbate the harm to customers. Further, revenue decoupling may require modifications to utilities' rate structures, which would require careful review and consideration prior to implementation.

III. REPLY COMMENTS

The Industrials' 2017 Comments reflect customer-oriented concerns with the PUC's contemplated adoption of decoupling as a ratemaking methodology. The Industrials' concerns with decoupling can be summarized as follows: (i) decoupling is an illegal practice under the Commonwealth's current statutory framework; (ii) decoupling constitutes single-issue ratemaking and prevents the Commission from fulfilling its fundamental responsibility of ensuring that rates are just and reasonable pursuant to 66 Pa. C.S. § 1 301; (iii) even if the Commonwealth's statutes were amended to permit decoupling, it would be impossible to reconcile decoupling with just and reasonable ratemaking requirements and cost of service principles; and (iv) decoupling undercuts reliability imperatives by creating an inverse relationship between consumption and price, encouraging mediocrity and utility indifference towards provision of high-quality service. Industrials' 2017 Comments, pp. 5-8.

Despite the Industrials' efforts to draw attention to flaws in the decoupling methodology, several entities, including utilities and special interest groups, filed comments with the Commission that characterized decoupling as a viable alternative rate methodology in the Commonwealth. As discussed more fully in these Reply Comments, however, none of parties in favor of decoupling have set forth any means by which to resolve the Industrials' aforementioned concerns regarding the inherent problems with decoupling.

First, decoupling remains infeasible. Although the Industrials' prior Comments and testimony discussed the myriad of legal and practical problems with decoupling in detail, several parties continue to support this rate methodology. *See e.g.,* PPL's 2017 Comments, p. 11 (indicating it would support a multi-year rate plan with full revenue decoupling); AEE Institute's 2017 Comments, p. 8 (supporting decoupling as a "foundational part of modern ratemaking"); ACEEE's 2017 Comments, p. 1 (encouraging the PUC to approve full revenue decoupling for gas and electric utilities in Pennsylvania). Unfortunately, none of the comments in support of decoupling address the aforementioned concerns, including legality, single issue ratemaking, disparity with cost of service principles, and the undercutting of reliability. To that end, the Industrials remain unconvinced that this methodology is feasible in the Commonwealth.

Second, revenue decoupling raises concerns with cost shifting, especially as this shifting would apply among Large C&I customers. Industrials' 2017 Comments, p. 7. Even if revenue decoupling were permissible under Pennsylvania law, decoupling still presents fundamental problems with intra and possibly inter-class cost shifting.[11] Comments filed in this proceeding demonstrate a lack of understanding among parties as to how cost-shifting could occur under this model. In particular, FirstEnergy misinterprets the Industrials' concerns regarding intra-class cost shifting. FirstEnergy states that IECPA and EEI recommend excluding industrial customers from alternative rate methodologies for fear of intra-class subsidies, but "ignore the fact that such concerns apply equally to the residential and commercial classes." FirstEnergy's 2017 Comments, p. 7.

Importantly, the Industrials are not debating whether residential and commercial customers also experience intra-class subsidies. Rather, the Industrials' focus is that decoupling is problematic because it establishes rates based on overall revenues. As a result, Large C&I customers (who have already maximize their conservation efforts) will be exposed to unexpected rate changes because of other customer classes' actions. Under a decoupling framework, if most customers reduce their consumption due to conservation efforts, then all customer classes' rates would increase to guarantee the utility receives its allotted revenue. Accordingly, decoupling promotes rates that are not just and reasonable because they fail to appropriately reflect customers' cost of service. In the case of Large C&I customers, this is also problematic because, under this

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[11] The Industrials appreciate that some commenters, such as PECO, have advocated for adopting decoupling as a methodology but excluding "very large C&I" customers (in large measure because Large C&I customers' diversity in size and usage would make it difficult to develop a reasonable revenue per customer baseline for decoupling). If the PUC were to implement decoupling, the Industrials concur that Large C&I customers should be excluded. The Industrials' initial position, however, is that decoupling should be rejected as a whole given the unresolved issues associated with this rate methodology. *See* PECO's 2017 Comments, p. 8; *see also* NFG's 2017 Comments, pp. 9-10 (providing that in the gas industry, decoupling should, at a minimum, apply to residential and small non-residential customer classes but inferring decoupling would not work well as a methodology for large customer classes because of their diversity in usage and other externalities).

framework, Large C&I customers could subsidize their competitors' energy costs.[12] Moreover, if other rate classes would also experience this intra-class cost shifting, then further reason exists not to adopt decoupling. *See, e.g.,* OCA's 2017 Comments, p. 32 (indicating that even if decoupling were permissible by statute, unresolved concerns persist regarding single-issue making, retroactive ratemaking, and justness and reasonableness of rates).

Third, supporters of decoupling fail to demonstrate why this methodology is not duplicative of current conservation efforts required under Act 129. Act 129 is intended to promote the same goals that many appear to seek through decoupling. Several customer-oriented groups agree with the Industrials that the Commonwealth's current EE&C framework is, and will continue to be, effective at reducing energy consumption. *See* OSBA's 2017 Comments, p. 4 (indicating that Act 129 effectively aligns utility incentives so as to meet the PUC's EE&C goals); OCA's 2017 Comments, pp. 5-6; I&E's 2017 Comments, pp. 2-3 (indicating that the PUC's current practice, which allows utilities to propose rate changes through base rate cases, is still the appropriate practice and that Act 129 programs are working well); and AARP's 2017 Comments, p. 2 (indicating Act 129 programs are working well and EE&C programs that flourished in the Commonwealth despite a lack of decoupling mechanisms). To the extent that consumption is reduced because of these Act 129 conservation efforts, utilities can simply rely on the current and effective system of filing base rate cases as needed to obtain appropriate revenue increases.

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[12] Moreover, FirstEnergy's comments on decoupling fail to provide consistent positions on the legality of decoupling. On page 13 of its comments, FirstEnergy indicates that "[f]or several of the [alternative ratemaking] mechanisms, including . . . revenue decoupling . . . changes in legislation may not be necessary." FirstEnergy's 2017 Comments at 13. However, later in those comments, FirstEnergy states that "there are certain types of alternative ratemaking mechanisms which would likely, or necessarily, require legislative changes to begin their use in Pennsylvania. Examples of these include . . . revenue decoupling . . . ." *Id.* at 14. This conflation only serves to underscore the uncertainty surrounding the legality of implementing decoupling for EDCs and other types of utilities in the Commonwealth.

Fourth, a strong potential exists that alternative ratemaking mechanisms, such as decoupling, could harm ratepayers, especially in light of the implementation of DSICs by many utilities. Specifically, Commissioner Sweet requested comments from the parties regarding the impact of alternative rate methodologies on customers and asked parties to indicate whether any methodologies may impact replacement of infrastructure and the associated DSIC.

Regarding Commissioner Sweet's inquiry on the impact of alternative ratemaking mechanisms, the Industrials agree with the OCA: there is strong potential that alternative ratemaking mechanisms, like decoupling, could harm ratepayers, especially in light of the fact that it is unclear as to how decoupling (or any other alternative rate mechanism for that matter) would impact the general pattern of base rate cases. OCA's 2017 Comments, p. 64. To the extent that any alternative rate methodologies are adopted that would extend the time periods between base rate cases, such outcomes may not be in the public interest because rates will be subject to review on a less frequent basis. To the extent that the PUC elects to implement additional ratemaking mechanisms, the Industrials agree with the OCA that the Commission should consider reducing the return on equity levels of utilities as risk is "greatly reduced with implementation of any alternative ratemaking methodology." *Id.* at 65.

Finally, *assuming arguendo*, the Commission were to move forward with revenue decoupling, any applicable rate design would need to be carefully considered in order to provide the least detrimental impact to customers. For example, V.C. Place issued a Statement in this proceeding asking parties to comment on a proposed rate design consideration for EDCs, including a three-part rate design that would consist of an existing customer charge, a demand charge, and a volumetric charge. The customer charge would recover metering and service line extension costs based upon size of service drop of service meter provided. The demand charge would be a coincident demand charge covering basic distribution grid capital and fixed grid operating costs.[13] The volumetric charge would cover other variable costs and operating expenses. V.C. Place Statement, p. 2. Under V.C. Place's proposal, rates would gradually move to this three-part design over the course of nine years in three-year increments (*i.e.*, a third every three years). Also, cost allocation between rate classes would remain unaffected under this proposal. V.C. Place acknowledges that under this proposal, smart meters and coordinating back-office systems would need to be deployed before implementation of this ratemaking structure, and education programs would also be needed.

The majority of comments opposed this three-part rate design primarily because of: (i) concerns regarding implementation of residential demand charges (*See e.g.,* AARP, p. 2; OCA Comments, p. 39); (ii) a "one-size-fits-all" rate should not apply to EDCs (S*ee e.g.,* UGI Comments, pp. 17, 20); and (iii) basing the demand charge determinant on coincident peak usage levels is inconsistent with traditional cost of service principles (*See e.g.,* FirstEnergy's 2017 Comments, p. 15). If the PUC were to adopt V.C. Place's recommendation, the Industrials would advise the Commission to proceed with caution and avoid a "one-size-fits-all" approach. Moreover, thorough study of the potential impacts of this rate design would be necessary, including review of the implications this rate structure regarding cost of service (*i.e.*, determining whether this structure would bring rates close to the cost it takes to serve these customers). While this three-part rate resembles existing rate models, further review is essential to determine if this structure is feasible.

As discussed above, none of the parties' comments to date have provided a sufficient basis for overturning the existing regulatory framework in Pennsylvania. Moreover, none of the parties'

[13] The demand charge determinant would be based on coincident peak usage intervals during the day, month, season or year. Demand charges would be "net metered" to the extent that they reduce coincident peak demand charge.

comments have comprehensively addressed or fully responded to the Industrials' concerns regarding the implementation of revenue decoupling. Because moving away from the traditional mode of ratemaking produces no discernible benefits for ratepayers and instead presents considerable potential for harm, not only to customers' financial health but also to ongoing conservation efforts in Pennsylvania, the Commission should not implement revenue decoupling in Pennsylvania.

IV. CONCLUSION

WHEREFORE, the Met-Ed Industrial Users Group, the Penelec Industrial Customer Alliance, the Philadelphia Area Industrial Energy Users Group, the PP&L Industrial Customer Alliance, and the West Penn Power Industrial Intervenors respectfully request that the Pennsylvania Public Utility Commission consider these Reply Comments in evaluating the necessity of establishing revenue decoupling as an alternative ratemaking methodology.

Respectfully Submitted,

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