

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Fixed Utility Distribution :
Rates Policy Statement : Docket No. M-2015-2518883

**Comments of the Consumer Advisory Council to
the Pennsylvania Public Utility Commission**

I. INTRODUCTION

These comments are submitted by the Consumer Advisory Council (Council) to the Pennsylvania Public Utility Commission (Commission) in response to the Public Utility Commission's (Commission) May 23, 2018 Proposed Policy Statement Order at this docket.¹ The Order proposes a new policy statement that identifies factors the Commission will consider in setting rate and revenue designs in future rate cases for electric and natural gas distribution companies. In addition, the Commission provides what it describes as possible distribution ratemaking and rate design options. The Order was published in the Pennsylvania Bulletin on June 23, 2018, 48 Pa.B 3739, and solicited comments within 60 days of publication.

The Council is responsible for advising the Commission upon matters relating to the protection of consumer interests affected by the Commission's exercise of its jurisdiction as provided by law, and is encouraged to provide advice and input that will aid the Commission in pursuit of its regulatory duties.²

¹ Fixed Utility Distribution Rates Policy Statement, Docket No. M-2015-2518883, Proposed Policy Statement Order, May 23, 2018 ("Policy Statement Order").

² See 52 Pa. Code § 91.2. (Purposes of the Council.)

II. BACKGROUND

On May 23, 2018, in response to the testimony provided at an *en banc* hearing and the two previous rounds of comments,³ the Commission issued its Tentative Order which proposed a policy statement that “identified factors [the Commission] will consider in determining just and reasonable distribution rates that promote the efficient use of electricity, natural gas or water, the use of distributed energy resources, reduce disincentives for such efficient use and resources and ensure adequate revenue to maintain the safe and reliable operation of fixed utility distribution systems.”⁴

In parallel to the Commission’s activities, the Pennsylvania General Assembly enacted House Bill 1782, which was signed into law on June 28, 2018 as Act 58 of 2018. Act 58 added Section 1330 to Title 66 and specifically authorized various alternative ratemaking methodologies that could be approved by the Commission in the context of general base rate proceedings. Included in the types of rate mechanisms authorized by Act 58 are decoupling mechanisms, performance-based rates, formula rates, and multiyear rate plans. Act 58 is effective as of August 27, 2018. On August 23, 2018, the Commission issued a Tentative Implementation Order seeking comments in implementation of Act 58.⁵ That Order was issued to satisfy the requirements of Act 58 which required, within six months of the effective date of the legislation, the Commission, “by regulation or order” to “prescribe the specific procedures for approval of an application to establish alternative

³ See [Notice of *En Banc* Hearing on Alternative Ratemaking Methodologies](#), Docket No. M-2015-2518883, Sec. Ltr., December 31, 2015; See e.g. [Alternative Ratemaking Methodologies](#), Docket No. M-2015-2518883, Tentative Order entered March 2, 2017. (“March 2017 Order”).

⁴ Policy Statement Order at 2.

⁵ See [Implementation of Act 58 of 2018 Alternative Ratemaking for Utilities](#), Docket No. M.2018-30003269, Tentative Implementation Order entered August 23, 2018.

rates.”⁶ The Commission’s Policy Statement Order that is the subject of these comments complements its Act 58 Tentative Implementation Order in that it is designed to provide guidance to utilities and the public about the specific factors that the Commission will consider in determining whether to approve or deny any proposed alternative rate design in utility’s general base rate case.

III. COMMENTS

At the outset, the Council would like to thank the Commission for providing this opportunity to provide input into the proposed policy statement, and would like to commend the Commission for the specific considerations that it has proposed to undertake when evaluating new rate design proposals. In the Council’s experience, very few members of the public fully understand utility ratemaking and how they are billed for service. It is critical that any new means of charging customers for energy and utility consumption and the utility distribution system be done carefully, prudently, and with the end customer in mind. A rate design that the average consumer cannot understand and cannot respond to should not be approved. Fortunately, the Commission has thus far proceeded cautiously. The Council urges it to continue to do so.

Regarding the specifics of Commission’s proposed policy statement, it is broken into three sections: (1) the scope and purpose; (2) rate design considerations; and (3) illustrations of possible rate designs. As outlined more fully below, the Council commends the Commission for the first two sections of the policy statement. They provide critical context and guidance to the utilities, other stakeholders, and most significantly, the

⁶ 66 Pa. C.S. § 1330(d) (eff. Aug. 27, 2018).

Commission in its evaluation of alternative rate designs. However, as outlined in more detail below, the Council urges caution in providing illustrative examples of acceptable alternative rate designs at this stage of the process and respectfully urges the Commission to consider withdrawing Section 3303.

A. Section 69.3301 – Scope and Purpose

In Section 69.3301, the Commission sets out the purpose and scope of the policy statement. The Commission states that new ways of setting utility rates are needed due to “Federal and State policy initiatives to promote the efficient use of electricity, natural gas and water, as well as policy initiatives to promote distributed energy, the fixed utilities within this Commonwealth have seen minimal, flat or even declining load growth.”⁷ In this context, distributed energy means energy facilities that are typically owned or leased by the customer rather than the utility such as solar panels and battery storage and/or combined heat and power projects.

The Commission then states that the purpose of the policy statement is to invite the proposal “within a utility’s base rate proceeding, of fixed utility distribution rate designs that promote” the efficient use of energy as well as distributed generation, while at the same time ensuring that the overall distribution system is adequately maintained, financed, and reliable.⁸ Finally, and most critically, the Commission recognizes that whatever alternative rate design methodology is proposed must reflect traditional ratemaking

⁷ Policy Statement Order at 26.

⁸ Id.

principles such as cost of service, and must “establish a rate structure that is just and reasonable, and consider customer impacts.”⁹

The Council commends the Commission for recognizing that whatever new rate designs are implemented must be implemented in the context of a base rate case, must reflect traditional ratemaking principles, and must consider consumer impacts. The forum of a base rate case will ensure that the Office of Consumer Advocate, the Office of Small Business Advocate, the Commission’s Bureau of Investigation and Enforcement, and other interested parties will have the opportunity to provide input on the implementation of any new rate design proposals.

B. Section 69.3302 – Distribution Rate Considerations

In section 69.3302, the Commission sets forth proposed distribution rate considerations that it will consider in reviewing any proposed rate design. The Council supports the inclusion of these considerations in the policy statement and commends the Commission for identifying the specific consumer concerns that must be considered in determining whether any proposed alternative ratemaking is in the public interest.

Specifically, in section 69.3302(a)(7), the Commission requires consideration of “[h]ow the rates impact low-income customers and support consumer assistance programs.” The Council appreciates that the Commission has specifically concluded that, in determining whether an alternative rate design is just and reasonable, it will consider the impact of the rate design on low income customers and customer assistance programs. This is critical. Low income customers already face sometimes insurmountable hurdles in

⁹ Id. at 27.

keeping service connected. The Council encourages the Commission to consider adding language that specifically says that the Commission will consider whether the rates and rate design proposed **improve affordability for low income customers and are designed so as to decrease termination rates for low income customers.** By adding these specifics, in addition to the general review of the impact of rates and rate designs on low income households, the Commission will provide clarity to those seeking to implement new rate designs that they should be tailored towards increasing affordability of rates.

Additionally, the Council appreciates that the Commission will specifically consider how the proposed rate designs will “impact customer rate stability principles” (§ 69.3302(a)(8)), whether the rate mechanisms include “appropriate consumer protections” (§ 69.3302(a)(12)), and whether the alternative rate mechanism is “understandable and acceptable to consumers” (§ 69.3302(a)(12)). Each of these components is critical to evaluating whether proposed rates and proposed rate designs are just and reasonable.

The Council particularly notes the importance of ensuring that rates remain “understandable and acceptable” to customers. To the extent that the Commission expects consumers – especially residential consumers -- to “respond” to alternative rate designs, those rates cannot be so complex that a customer does not know how their energy choices will affect their bill.

C. Section 69.3303 – Illustration of possible ratemaking and rate design options

In section 69.3303, the Commission sets forth illustrations of how rates could be designed. In this section, the Commission says that utilities “may propose, among others,

alternative rate designs and methodologies identified in this subsection,”¹⁰ and states that the identified rate designs should not be viewed as “signaling any predilection by the Commission . . . or any predetermination of approval by the Commission” of any proposal over another.¹¹ Despite this, the Commission specifically lists two categories of proposals. For natural gas utilities, the Commission proposes that it could propose a “weather normalization adjustment and/or revenue per customer ratemaking proposal.”¹² For electric distribution utilities, the Commission proposes that they may “propose critical peak pricing or similar demand-based billing determinants.”¹³

The Council believes that the Commission should proceed cautiously in setting out any possible rate design options in its policy statement and urges the Commission to consider whether the § 69.3303 should be eliminated in its entirety. While the Commission correctly states that it cannot pre-determine any preference in rate design and that each design proposed must adhere to the principles set forth in § 69.3302, the Council is concerned that, by listing certain rate design proposals, and notwithstanding its assertion that it is not signaling a preference, the Commission may be sending the unintended message that these methods are acceptable or preferred. Utilities or other parties desiring to propose the rate designs that the Commission has identified in § 69.3303 may seek to justify the acceptability of these rate designs because they are listed by the Commission in a policy statement.

¹⁰ Proposed Policy Statement § 69.3303.

¹¹ Id.

¹² Proposed Policy Statement § 69.3303(b).

¹³ Proposed Policy Statement § 69.3302(c).

This is particularly problematic with respect to the Commission’s illustrative example of critical peak distribution service pricing in Section 69.3303. While the Commission previously stated that any rate designs should be “understandable and acceptable to consumers” in Section 69.3302, it then provides an illustrative example that includes, among other things, “a critical peak volumetric price or average demand component, which reflects usage over the local or nodal substations, feeders, and other related distribution system components during localized peak usage periods.”¹⁴ The Council is concerned that many (if not most) consumers would not be able to understand what this sentence means or how their rates would be set under this methodology. Whatever the theoretical merits of such a rate design might be, it is hard to reconcile such a rate with the goal that rates be understandable to the average consumer who has to pay the monthly bill.

The Council is also concerned with the suggestion that any form of critical peak pricing should serve as the standard or “default” distribution rate for the typical residential customer. While such a complex rate might make sense for some subsets of customers, such as those with rooftop solar facilities or high speed electric vehicle charging devices, it is not clear how a typical residential customer would even know when a critical peak period is occurring, let alone a localized peak period, or what actions they are supposed to take in order to avoid high peak prices. The Commission should recall that during the Polar Vortex in 2014, thousands of variable rate customers did not know that they had been hit with massive generation spot price increases until they received their bill at the end of the

¹⁴ Proposed Policy Statement § 69.330(c)(2).

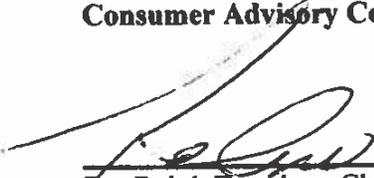
month. The Council fears that similar types of price shocks could result with any type of critical peak pricing that is offered to all customers on a default basis.

Rather than specifically list some rate approaches even on an illustrative basis, the Council respectfully submits that the Commission should consider eliminating § 69.3303 in its entirety and end its policy statement with § 69.3302

III. CONCLUSION

The Council appreciates the opportunity to provide input on the Commission's proposed policy statement and commends the Commission for the care that they have taken to ensure that consumer concerns are front and center in determining whether any alternative rate designs are just and reasonable and within the public interest. The Council invites the Commission to seek additional information from the Council and its members throughout the continued development of this policy statement and the implementation of any alternative rate design.

Respectfully submitted,
Consumer Advisory Council to the Pennsylvania Public Utility Commission


By: Ralph Douglass, Chairperson,
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