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October 22, 2018

VIA E-FILED

Ms. Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
2nd Floor, Room-N201
400 North Street
Harrisburg, PA 17120

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

Dear Secretary Chiavetta:

Enclosed please find Duquesne Light Company's Comments in the above-referenced proceeding.

Upon receipt, if you have any questions regarding the information contained in this filing, please contact the undersigned or Audrey Waldock at 412-393-6334 or awaldock@duqlight.com.

Sincerely,

A handwritten signature in blue ink that reads "Shelby A. Linton-Keddie".

Shelby A. Linton-Keddie
Manager, State Regulatory Strategy
And Senior Legal Counsel

Enclosure

c: Kriss Brown (kribrown@pa.gov)
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methodologies. On May 30, 2017, the Company filed comments and on July 31, 2017, Duquesne Light filed reply comments to assist the PUC's inquiry.

On May 23, 2018, the Commission entered a Proposed Policy Statement Order in this proceeding ("Proposed Policy Statement Order"), which lists the factors the Commission proposes to consider when evaluating proposals for alternative ratemaking mechanisms. The Proposed Policy Statement Order was published in the *Pennsylvania Bulletin* on June 23, 2018. See 48 Pa.B. 3739. Pursuant to the Proposed Policy Statement Order, interested parties had sixty (60) days from the date of publication in the *Pennsylvania Bulletin* to file comments, *i.e.*, on or before August 22, 2018.

Shortly after publication of the Proposed Policy Statement Order in the *Bulletin*, on June 28, 2018, Governor Wolf signed into law HB 1782, otherwise known as Act 58 of 2018. Rather than just opining on what types of alternative ratemaking mechanisms would be appropriate in the utility space, this law amended Chapter 13 of the Public Utility Code by adding §1330, entitled *Alternative Ratemaking for Utilities* (66 Pa. C.S. §1330). Specifically, Act 58 permits the PUC to approve an application by a utility to establish alternative rates and rate mechanisms. The Act took effect on August 27, 2018.

On August 2, 2018, in light of the passage of Act 58, various parties requested an extension to the comment period for the Proposed Policy Statement Order. By Secretarial Letter dated August 14, 2018, the Commission recognized "the importance and complexity of the issues raised in the Proposed Policy Statement Order and the passage of Act 58 of 2018" and extended the comment period by 60 days or until October 22, 2018.

Consistent with the direction set forth in the August 14, 2018, Secretarial Letter, Duquesne Light hereby respectfully submits comments for the Commission’s consideration.¹

II. COMMENTS

Duquesne Light is a public utility as defined in Section 102 of the Public Utility Code, 66 Pa.C.S. § 102. Duquesne Light provides electric service to approximately 590,000 customers in the City of Pittsburgh and Allegheny and Beaver Counties of Pennsylvania. As indicated above, newly enacted Section 1330 applies to natural gas distribution companies, electric distribution companies, water or wastewater utilities or city natural gas distribution operations. As a result, Section 1330 of the Public Utility Code and any related issues pertain to the Company.

A. Intersection of Fixed Utility Distribution Policy Statement and Act 58 of 2018

Currently, the Commission has two active proceedings addressing alternative ratemaking mechanisms as well as an ongoing proceeding to review the components of a §1308(d) general rate proceeding.² Combined, there will be two sets of comments (*TIO* and Proposed Policy Statement Order), reply comments (*TIO*), five stakeholder meetings (FPFTY Proceeding) and further comments as well as reply comments related to the process of setting rates for most utilities in the Commonwealth.

In the Act 58 *TIO*, the Commission indicated that, when evaluating alternative mechanism proposals, it “will consider policy goals contained in Section 1330(a) of the Code, as well as other applicable policy goals established by statute, regulation or case law....” *See TIO* at 2. As such,

¹ Duquesne Light is a member of the Energy Association of Pennsylvania, who is also submitting comments at this docket. In addition to the positions stated herein, Duquesne Light generally supports the positions articulated in EAP’s comments.

² In addition to this proceeding, Duquesne Light is referring to *Implementation of Act 58 of 2018 Alternative Ratemaking for Utilities*, Docket No. M-2018-3003269, as well as *Advance Notice of Proposed Rulemaking Order Re: Use of Fully Projected Future Test Year, 52 Pa. Code Chapter 53*, Docket No. L-2012-2317273 (herein, “FPFTY Proceeding”).

it appears the Commission proposes to consider the articulated policy goals in the Proposed Policy Statement Order, instead of proposing regulations implementing Act 58 at this time. As noted in the Company's comments to the *TIO*, Duquesne Light agrees that no new regulations beyond those that relate to Section 1308 are needed at this time. If in fact the Commission intends to finalize the Proposed Policy Statement regarding fixed utility distribution rates, however, due care must be taken to ensure that the policy statement does not contradict Act 58. Currently, the two appear to conflict.

B. Reconciling Proposed Policy Statement with Act 58

As articulated by the PUC, the purpose of the Commission's Proposed Policy Statement Order is to:

...[I]nvite the proposal, within a utility's base rate proceeding, of fixed utility distribution rate designs that further promote Federal and State policy objectives [to promote the efficient use of electricity, natural gas and water, as well as policy initiatives to promote distributed energy], reduce fixed utility disincentives for promoting these objectives, provide incentives to improve system economic efficiency, avoid future capital investments, and ensure that fixed utilities receive adequate revenue to maintain the safe and reliable operation of their distribution systems.³

In addition to this articulated request, the proposal continues, "At the same time, an alternative rate design methodology should reflect the sound application of cost of service principles, establish a rate structure that is just and reasonable, and consider customer impacts,"⁴ which are all core considerations under a current Section 1308 proceeding.

In contrast, the General Assembly's declaration of policy in Act 58 is markedly different, in that it is much broader in scope. In §1330(a)(1), the General Assembly declares that it is in the public interest for the Commission to approve "just and reasonable rates ... to facilitate customer

³ Proposed Policy Statement §69.3301.

⁴ *Id.*

access to new opportunities while ensuring that utility infrastructure costs are reasonably allocated to and recovered from customers and market participants consistent with the use of the infrastructure.” (Emphasis added). Further, in §1330(a)(2), the General Assembly notes that “utility ratemaking should encourage and sustain investment through appropriate cost-recovery mechanisms to enhance the safety, security, reliability or availability of utility infrastructure and be consistent with efficient consumption of utility service.” (Emphasis added).

Notably, the General Assembly nowhere suggests that rate mechanisms should avoid future capital investments, as is articulated in the current Proposed Policy Statement. Instead, the General Assembly broadens the applicability of rate recovery to include considerations such as security and availability of utility infrastructure.⁵ Further, Act 58 potentially expands where utilities can recover costs by including “market participants” in its policy declaration. These two simple words create a host of questions and opportunities for exploring who should bear the costs related to the delivery of utility service. In addition, Act 58 notes that rate mechanisms should encourage “availability of utility infrastructure.” This concept will also require significant exploration and could impact how utilities obtain revenue in the future. Unfortunately, these concepts are not addressed in the Commission’s Proposed Policy Statement Order. Accordingly, if the PUC pursues this Policy Statement, the Company encourages the Commission to revise the Proposed Policy Statement to better align with, rather than contradict, the policy goals set forth in Act 58.

C. Proposed Rate Considerations Inconsistent with Act 58 and Section 1308

In the Proposed Policy Statement Order, the Commission suggests Section 69.3302 entitled, “*Distribution rate considerations.*” As drafted, this section enumerates 13 factors that purport to “promote the efficient use of electricity, natural gas or water, as well as the use of

⁵ See 66 Pa. C.S. §1330(a)(2).

distributed energy resources” in determining just and reasonable utility rates. The factors listed step well beyond the provisions of 66 Pa. C.S. §1308. What is worse, the statement as drafted attempts to impose narrow, subjective standards on utility ratemaking evaluation that are neither based on record evidence nor shown they are needed.⁶

Furthermore, the provisions of §1308 contained in 52 Pa. Code §53.52 already identify a series of items that should be provided to the Commission in order for the Commission to properly evaluate a requested change in terms and conditions of service. Most of the remaining items listed in §69.3302 are already addressed during the rate case proceeding, either in the initial filing or in subsequent data requests, evidentiary hearings or briefs, thereby making them unnecessary as a practical matter.

D. Proposed Illustrations in Section 69.3303 are Too Restrictive and Unnecessary

In addition to the purpose and scope being in conflict with Act 58, the creation of distribution rate consideration that are largely overlapping existing §1308 considerations or too subjective to be practical, the PUC attempts to include an “illustration” of described rate designs that are too restrictive in light of Act 58, completely unnecessary, and should be deleted.

In the Proposed Policy Statement Order, the Commission states, in numerous places, that “we are not adopting, nor precluding, any particular rate methodology in this proceeding.” Surprisingly, the PUC then inexplicably lists, “for illustration only,” two suggested methodologies for natural gas distribution companies, two for electric distribution companies, and an apparent “catch-all” for geographic areas that attempt to be geographically based.⁷ These suggestions for possible rate designs are not only suggestive of preferential methods for Commission approval

⁶ See Proposed Policy Statement §69.3302(a)(2),(5),(6),(7) and (13).

⁷ See Proposed Policy Statement §69.3203.

(despite the PUC’s strained attempt to indicate otherwise) but are also rendered moot by the existence of Act 58, which specifically allows all energy, water and wastewater utilities the option of using alternative ratemaking mechanisms “including but not limited to decoupling mechanisms, performance-based rates, formula rates, multiyear rate plans, or rates based on a combination of these mechanisms ... or other ratemaking mechanisms.”⁸ At minimum, any final policy statement that includes an explanation of possible alternative rate mechanisms for utilities must list these statutorily allowed rate structures. As currently drafted, however, the Proposed Policy Statement fails to do so.

If the Commission seeks to provide illustrations for utilities without prejudging or indicating any preference as it attempts to do here, the PUC should provide the illustrations within the body of a Policy Statement Order, not in the policy statement itself. Moreover, and as has been repeated by Duquesne Light throughout these proceedings, a “one-size-fits all approach” should be avoided, and it is difficult, absent study and evaluation on a pilot basis of different options, to suggest one or two particular methods as the superior or singular path forward for any industry at this time. This is why the Company sees Act 58 as fundamentally successful, in that it allows for flexibility and various tools that can be utilized by utilities to maximize customer benefits while at the same time stabilizing Company revenue. In a balanced way, achieving these goals will help ensure that the electric distribution grid is available at a just and reasonable rate for future use.

⁸ 66 Pa. C.S. 1330(b)(1).

III. CONCLUSION

Duquesne Light appreciates the opportunity to provide comments on the Commission's Proposed Fixed Utility Distribution Rates Policy Statement. As noted above, the passage of Act 58 of 2018, which occurred after the Proposed Policy Statement was released, has not only made a majority of the current proposal in conflict with law, but also arguably unnecessary at this time.

Should the Commission proceed with this Proposed Policy Statement, the Statement needs to be revised to better align with the policy objectives of Act 58, the existing regulations and standards regarding a 1308 proceeding determination, and refrain from including any illustrative rate methodologies that conflict with the alternative ratemaking options listed in Act 58.

Respectfully submitted,

A handwritten signature in blue ink that reads "Shelby A. Linton-Keddie". The signature is written in a cursive style.

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DATE: October 22, 2018