



COMMONWEALTH OF PENNSYLVANIA

October 22, 2018

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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:

Enclosed please find the Comments to the Proposed Policy Statement Order, on behalf of the Office of Small Business Advocate ("OSBA"), in the above-captioned proceeding.

If you have any questions, please do not hesitate to contact me.

Sincerely,


Elizabeth Rose Triscari
Deputy Small Business Advocate
Attorney ID No. 306921

Enclosures

cc: Kriss Brown, PUC Law Bureau
Marissa Boyle, PUC Bureau of Technical Utility Services
Andrew Herster, PUC Bureau of Technical Utility Services

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**COMMENTS OF THE OFFICE OF SMALL BUSINESS ADVOCATE
ON PROPOSED POLICY STATEMENT ORDER**

I. INTRODUCTION

On May 23, 2018, the Pennsylvania Public Utility Commission (“Commission”) entered a Proposed Policy Statement Order at the above-referenced docket, inviting comments from interested stakeholders. Subsequently, Act 58 was enacted on June 28, 2018 (effective August 27, 2018), which amends the Pennsylvania Public Utility Code at 66 Pa. C.S. § 1330 and addresses alternative ratemaking. Due to the enactment of Act 58 and at the request of certain stakeholders, by Secretarial Letter dated August 14, 2018, the deadlines to submit comments and reply comments were extended to October 22, 2018 and November 20, 2018, respectively.

The OSBA thanks the Commission for the opportunity to submit the following comments.

II. COMMENTS

A. Comments to Order

1. Revenue Per Customer Decoupling (Order, p. 6) The Order states that “The underlying premise for RPC decoupling is that, between rate cases, a utility’s underlying cost structure is driven primarily by changes in the number of customers served.” This may arguably be true for homogeneous classes like residential, but not commercial and industrial classes which

include customers with a wide variety of load sizes and shapes. The OSBA therefore cautions against adopting a one-size-fits all revenue per customer model for all rate classes.

2. Limited Decoupling (Order, p. 7) The OSBA agrees that weather normalization mechanisms can be win-win for both ratepayers and utilities where volumetric distribution rates are used, since the utility experiences lower variations in revenues, and customers are less exposed to bill fluctuation with weather. Weather normalization mechanisms are especially beneficial to ratepayers if accompanied by a lower return on equity (“RoE”) to reflect lower utility risk. As such, weather normalization mechanisms have an advantage over other effects that decoupling might involve, such as economic variations, energy efficiency and conservation (“EE&C”), distributed generation, and changes in customer count/loads, all of which shift risk from utility to ratepayer.

In addition, the OSBA cautions against the adoption of limited decoupling rate adjustment mechanisms focused only on EE&C reductions, for several reasons. First, academic evidence is mounting that actual load reductions from EE&C programs are less than those touted in EM&V studies. Second, deriving load losses related only to EE&C effects is a complicated undertaking, and utilities and EE&C industry professionals have an economic interest in calculating higher savings rates. Unfortunately, the statutory and low-income ratepayer advocates do not have the same resources as utilities, who can prepare complicated, detailed engineering evaluations, which show why the EE&C programs have significantly reduced energy use and why it is other factors which have caused usage to increase. Third, the OSBA is concerned about any further incentive for utilities to bias their calculation of EE&C program savings upward, which a limited decoupling (or even a EE&C incentive mechanism) would do. If the Commission determines that decoupling is appropriate, it should lean towards full

decoupling with a material reduction in RoE to account for reduced sales risk. The only limited decoupling that makes sense is a weather normalization mechanism, since it reduces risk for both ratepayers and the utility.

3. Revenue Decoupling (Order, p. 11)

Material Reduction to RoE: The Commission correctly recognizes on page 11 of the Order that for revenue decoupling to result in just and reasonable rates, it must include consumer safeguards. The Commission contemplates that these consumer protections “could” include a reduced return on equity to reflect “possible” reduced business risk for the utility. Revenue decoupling necessarily results in reduced utility revenue and earnings risk. It is not a mere possibility. Moreover, the OSBA recommends that, as part of the evaluation of any decoupling mechanism, a reduction in RoE should always be evaluated and it should be material, in order to appropriately reflect reduced risk to the utility.

Promotion of Cost-Effective EE&C measures: The Commission recognizes that revenue decoupling removes the throughput incentive, such that it may promote the adoption of cost-effective EE&C measures. The OSBA urges the Commission to consider both overall cost-effectiveness *and cross-subsidization factors* when evaluating EE&C plans and the implications for alternative ratemaking. The Commission should recognize two aspects of cost-effectiveness. One is the overall effectiveness of the program, namely the ratio of total benefits to total costs, typically measured by TRC Test in Pennsylvania. The second is minimizing cross-subsidies to program participants from non-participants. Simply passing a TRC Test does not guarantee that a particular EE&C program does not involve unreasonable cross-subsidization from non-participants to participants. One focus of any rate design mechanism should be to use cost-based targeted rates to reduce the need for gross cross-subsidization programs. For example, expanded

use of time-of-use rates or demand charges may improve the economic benefits associated with energy conservation or demand reduction measures, thereby allowing the utility to reduce the subsidies needed from other ratepayers. Furthermore, the OSBA cautions that creating incentives for EE&C should not mean that variable rates are set above variable costs.

Revenue Variances Recovered on Class Basis: It appears to be assumed, but the OSBA seeks confirmation that the Commission will require that any revenue decoupling mechanism recover variances on a class-by-class basis.

4. Lost Revenue Adjustment Mechanism (LRA) (Order, p. 14)

The Commission states that any utility proposing an LRA will need to demonstrate the proposed rate does not discourage efficiency measures, among other things. The OSBA asserts that the focus should be on whether the LRA does not discourage *economically rational* efficiency measures.

5. Straight Fixed/Variable (SFV) Pricing (Order, p.16)

The Commission states that any utility proposing SFV will need to demonstrate the proposed rate does not discourage efficiency measures. Similarly, the OSBA asserts that the focus should be on whether the LRA does not discourage *economically rational* efficiency measures.

6. Multi-year Rate Plans (Order, p. 19-20)

The Commission states that any utility proposing multi-year rate plans will need to demonstrate the proposed rate plan does not discourage efficiency measures. Again, the OSBA asserts that the focus should be on whether the proposed rate plan does not discourage *economically rational* efficiency measures.

In addition, as with revenue decoupling, multi-year rate plans result in reduced utility risk and should come with a material reduction in RoE.

7. Demand Charges and Standby and Backup Charges (Order, pp. 21 and 24)

The Commission states that any utility proposing demand charges and/or standby or backup charges will need to demonstrate the proposed rates do not discourage efficiency measures. Once again, the OSBA asserts that the focus should be on whether the proposed rates do not discourage *economically rational* efficiency measures.

8. DSM Performance Incentive Mechanisms (Order, p. 26)

Echoing comments above, any incentive mechanism should be found not to discourage *economically rational* efficiency measures. The OSBA also notes that it should be recognized that incentives can take the form of both carrots and sticks. The current Act 129 legislation included only sticks. Implementing performance incentive mechanisms that include only carrots would not be appropriate. Thus, for example, if a reward program for exceeding EE&C targets is contemplated, it should also include penalties for failure to achieve the targets.

9. Rate Design First-Order Principles (Order, p. 30)

The Commission lists the first-order principles, which rate designs must address. One such principle is “costs are variable in the long run” and therefore it may be appropriate for energy utilities to design rates in a manner that minimizes long-term costs of serving existing and new loads. While it may be true that all or most costs vary in the long run, these costs may vary with (time dependent) energy use, with (customer or system) peak demand, and/or with number and type of customers. With respect, the OSBA submits that much of the Commission’s existing rate design is, in fact, long-term in nature. Costs classified as “demand-related” are often called “fixed,” but are in fact recovered with demand charges that vary with peak usage, or even with

energy charges. The OSBA recommends that the Commission make it clear that this statement does not imply that long-standing cost allocation methods should necessarily be replaced.

B. Comments to Proposed Policy Statement (OSBA proposed redlines are attached)

1. Section 69.3301

The Commission should consider clarifying that the declining load growth is only due, *in part*, to Federal and State policy initiatives. The average water and gas usage per customer has been declining for many years, whereas the average kWh usage per customer has only more recently seen to be flat or declining.

2. Section 69.3302

For the reasons outlined above, Section 69.3302(a)(5) should be modified to describe efficiency programs as “cost-effective.” Similarly, Section 69.3303(a)(6) should be modified to describe efficiency measures as “cost-effective.”

3. Section 69.3303

Section 69.3303(b)(1) should be modified to make clear that a necessary consumer protection issue to be addressed is adjustments to RoE to reflect reduced utility business risk.

Section 69.3303(b)(3) should be added to clarify that recovery of any permissible revenue variances must be on a class-by-class basis.

Section 69.3303(c) should be modified to clarify that an electric distribution company (“EDC”) may propose critical peak pricing or similar demand-based rates for distribution service rates only, not, *e.g.*, time-of-use rates for supply service.

With respect to Section 69.3303(c)(1-3), the OSBA is concerned that the Commission is establishing the only acceptable form of a critical peak pricing distribution rate, rather than leaving flexibility with the utilities to address their particular circumstances. The OSBA

respectfully suggests that these sections would be best deleted, or the introductory sentence should be modified to “A critical peak pricing proposal *may* be composed of:” If, however, the Commission intends to retain this strict definition for a critical peak pricing rate, the OSBA notes the following.

First, the OSBA seeks clarification with respect to Section 69.3303(c)(1) as to whether this stricture will imply any change to existing cost allocation policies. The OSBA respectfully submits that cost allocation should be based on cost causation, and not dictated by rate design policy designed to encourage conservation.

The OSBA also seeks clarification with respect to Section 69.3303(c)(2). Is the Commission proposing geographically differentiated demand charges within each class, reflecting localized costs and peak usages? The OSBA has significant concerns about abandoning the basic principle of “postage stamp rates” within a utility’s service territory except in extraordinary circumstances.

In Section 69.3303(c)(3), the OSBA seeks clarification on what specific costs the Commission is referring to as “other distribution costs” beyond those identified in (1) and (2).

In Section 69.3303(d), the OSBA suggest that the language “or designed for specific geographic locations with a service territory” be stricken. Also, this section should be modified to not permit optional rate classes in any proposed decoupling mechanism. Optional rates tend to attract free riders and revenue losses. Other ratepayers should not be responsible for such losses. The OSBA recognizes that this proposed edit becomes unnecessary if its proposed addition of Section 69.3303(b)(3) (recovery of any permissible revenue variances must be on a class-by-class basis) is adopted.

III. CONCLUSION

The OSBA respectfully requests that the Commission consider its comments above when contemplating a final proposed policy statement on alternative ratemaking and rate design methodologies.

Respectfully submitted,



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For:

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Dated: October 22, 2018

ANNEX A
TITLE 52. PUBLIC UTILITIES
PART I. PUBLIC UTILITY COMMISSION
Subpart C. FIXED SERVICE UTILITIES
CHAPTER 69. GENERAL ORDERS, POLICY STATEMENTS
AND GUIDELINES ON FIXED UTILITIES

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DISTRIBUTION RATES

§ 69.3301. Purpose and scope.

Due in part 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. The purpose of this policy statement is to invite the proposal, within a utility's base rate proceeding, of fixed utility distribution rate designs that further promote these Federal and State policy objectives, 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. 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.

§ 69.3302. Distribution rate considerations.

(a) In determining just and reasonable distribution rates that promote the efficient use of electricity, natural gas or water, as well as the use of distributed energy resources, the Commission will consider, among other relevant factors:

(1) How the rates align revenues with cost causation principles as to both fixed and variable costs.

(2) How the rates impact the fixed utility's capacity utilization.

(3) Whether the rates reflect the level of demand associated with the customer's anticipated consumption levels.

(4) How the rates limit or eliminate inter-class and intra-class cost shifting.

(5) How the rates limit or eliminate disincentives for the promotion of **cost-effective** efficiency programs.

(6) How the rates impact customer incentives to employ **cost-effective** efficiency measures and distributed energy resources.

(7) How the rates impact low-income customers and support consumer assistance programs.

(8) How the rates impact customer rate stability principles.

(9) How weather impacts utility revenue under these rates.

(10) How the rates impact the frequency of rate case filings and affect regulatory lag.

(11) If or how the rates interact with other revenue sources, such as Section 1307 automatic adjustment surcharges, 66 Pa. C.S. § 1307 (relating to sliding scale of rates; adjustments), riders such as 66 Pa. C.S. § 2804(9) (relating to universal service and energy conservation policies) or system improvement charges, 66 Pa. C.S. § 1353 (relating to distribution system improvement charge).

(12) Whether the alternative rate mechanism includes appropriate consumer protections.

(13) Whether the alternative rate mechanism is understandable and acceptable to consumers and comports with Pennsylvania law.

(b) In any distribution rate filing by a fixed utility under 66 Pa. C.S. § 1308 (relating to voluntary changes in rates), the fixed utility shall explain how these factors impact the distribution rates for each customer class.

§ 69.3303. Illustration of possible distribution ratemaking and rate design options for the energy industry.

(a) In a base rate proceeding, energy utilities may propose, among others, alternative rate designs and methodologies identified in this subsection that will be subject to Commission approval or modification. Identification of these proposals is for illustration only. It does not propose the adoption, nor preclude the consideration, of any particular design or methodology, and it does not signal, nor should it be interpreted as signaling, any predilection by the Commission for one proposal over another or any predetermination of approval by the Commission of one proposal over another.

(b) A natural gas distribution company may propose a weather normalization adjustment and/or revenue per customer ratemaking proposal. Any proposal under this subsection:

(1) Must address consumer protection issues including, but not limited to, revenue adjustment dead-bands, seasonal adjustment limitations, adjustment timelines, and ~~any-all~~ just and reasonable ~~cost of capital~~ adjustments to return on equity to reflect reduced business risk.

(2) Must describe which rate classes are subject to the ratemaking proposal.

(3) Must recover any permissible revenue variances on a class-by-class basis.

(c) An electric distribution company may propose critical peak pricing or similar demand-based programs that use average usage over critical peak periods as demand-based billing determinants. A critical peak pricing proposal ~~should~~ may be composed of:

(1) A fixed customer charge component reflecting metering, final line transformer and service drop cost recovery.

(2) 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.

(3) A volumetric on-peak, off-peak, or other rate for recovery of other distribution costs.

(d) Optional rate designs under this subsection may be applicable to certain customer rate classes or services ~~or designed for specific geographic locations within a service territory~~ where such focus better serves the goals of eliminating the need for future capital investments, maximizing system utilization, or providing incentives for other Commission policies. ~~Utilities shall not be permitted to include optional rate classes in any proposed revenue decoupling mechanism.~~