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**VIA eFiling**

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

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

Dear Secretary Chiavetta:

Enclosed for filing in the above-referenced matter are Reply Comments on the Proposed Policy Statement on behalf of Pennsylvania-American Water Company.

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

Very truly yours,

Susan Simms Marsh

Enclosure

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**FIXED UTILITY DISTRIBUTION RATES : DOCKET NO. M-2015-2518883**  
**POLICY STATEMENT :**

**REPLY COMMENTS OF PENNSYLVANIA-AMERICAN WATER COMPANY  
ON THE PROPOSED POLICY STATEMENT**

**I. INTRODUCTION**

On October 22, 2018, Pennsylvania-American Water Company (“PAWC” or the “Company”) submitted Comments in response to the Proposed Policy Statement issued by the Pennsylvania Public Utility Commission (the “Commission”) on May 23, 2018, in the above-referenced docket. The Company’s Comments highlighted how certain alternative ratemaking methodologies are particularly well-suited to assisting water and wastewater utilities in meeting the unique operational and financial challenges they face, while also assuring that customers’ rates are just, reasonable, lawful and non-discriminatory. PAWC also explained that any guidance that the Commission chooses to consider at this docket, whether articulated in a “final” Policy Statement or by other means, must be consistent with the legislatively-enacted terms of Act 58 of 2018 (“Act 58”) and should not attempt to restrict the scope and flexibility that Act 58 grants to utilities to propose alternative ratemaking methodologies.

The comments submitted by over 20 additional parties provide a variety of perspectives regarding whether and how the Proposed Policy Statement should be used to provide guidance regarding the approval and implementation of alternative ratemaking methodologies in the Commonwealth. PAWC’s Reply Comments address three key issues presented in the comments of other stakeholders, specifically: (1) the need to maintain the flexibility granted to utilities and the Commission in Act 58; (2) whether the Commission’s proposed alternative rate illustrations

should be removed from the Proposed Policy Statement; and (3) whether the issuance of a final Policy Statement should be deferred until after an implementation order is issued in the Commission's Act 58 docket.<sup>1</sup>

## II. REPLY COMMENTS

### A. **The Proposed Policy Statement Should Maintain The Flexibility Granted By Act 58 And Proposals To Dictate How Alternative Rates Are Designed And Evaluated Should Be Rejected**

As the Company explained in its Initial Comments, Act 58 was carefully crafted to maximize the breath of alternative methods of ratemaking that could be designed and proposed by utilities in order to afford them flexibility to match ratemaking methodologies to the characteristics of their service and to the needs and challenges they face. Many commenters joined the Company in expressing concern about actual or potential conflicts between the Proposed Policy Statement and Act 58. For example, the Energy Association of Pennsylvania ("EAP") cautioned that the Statement does not reflect the breadth of possible alternative ratemaking comments envisioned under Act 58.<sup>2</sup> In addition, Duquesne Light Company ("DLC") was one of several commenters finding Policy Statement language that alternative ratemaking mechanisms will "avoid future capital investments" to be inconsistent with Act 58.<sup>3</sup>

A number of other commenters recommended that the Commission include additional constraints in the final Policy Statement regarding the design of alternative rates and the process

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<sup>1</sup> *Implementation Act of 2018 Alternative Ratemaking for Utilities*, Docket No. M-2018-3003269.

<sup>2</sup> EAP Comments, pp. 4-5.

<sup>3</sup> DLC Comments, p. 5 ("Notably, the General Assembly nowhere suggests that rate mechanisms should avoid future capital investments, as is articulated in the current Proposed Policy Statement"); Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (collectively, the "FirstEnergy Utilities") Comments, pp. 3-4 (Proposed Policy Statement language concerning avoiding capital investments "is neither realistic nor consistent with Act 58"); Columbia Gas of Pennsylvania, Inc. ("Columbia Gas") Comments, p. 5 ("Columbia fervently disagrees with the assumption that the use of alternative rate making methodologies will avoid future capital investments.").

for their approval. For example, the Office of Consumer Advocate (“OCA”) proposed the inclusion of seven additional elements to Section 69.3302 that must be considered by the Commission when evaluating alternative rates.<sup>4</sup> The Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania, et al. (“CAUSE-PA”) recommended that utilities be required to show how an alternative rate design will encourage and incentivize energy efficiency programs and further proposed that utilities be required to address, in filed testimony, any and all considerations adopted in the final Policy Statement.<sup>5</sup> Finally, the Office of Small Business Advocate (“OSBA”) argued the Policy Statement should be revised to make clear that adjustments to return on equity are a “necessary consumer protection issue.”<sup>6</sup>

Although the Company understands that each stakeholder may have unique interests as alternative rates are designed and implemented, such interests should not be transformed into restrictions that conflict with the flexibility afforded by Act 58. For example, the OCA would have the Commission impose additional “policy goals” and require a utility seeking to implement an alternative ratemaking mechanism demonstrate that those “policy goals” “cannot otherwise be achieved under the Pennsylvania Public Utility Code or traditional ratemaking.”<sup>7</sup> However, the General Assembly, through the enactment of Act 58, has already made a legislative determination that alternative forms of ratemaking will achieve benefits for utilities and their customers. The Commission should not, through the process of implementing an existing legislative enactment, seek to amend, countermand or add to the determination of public policy that the General Assembly has articulated in the express terms of Act 58.

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<sup>4</sup> OCA Comments, p. 21.

<sup>5</sup> CAUSE-PA Comments, pp. 10-11.

<sup>6</sup> OSBA Comments, p. 6.

<sup>7</sup> OCA Comments, p. 4.

If a final Policy Statement is issued by the Commission at this docket, it should preserve the scope and flexibility that Act 58 grants to utilities to propose alternative ratemaking methodologies. Interested parties will have the opportunity to present any and all relevant concerns and considerations in the context of the utility-specific base rate proceedings contemplated by Act 58. In addition, a number of the concerns underlying the additional constraints proposed by the OCA, OSBA and CAUSE-PA are utility-specific and fact-sensitive. As such, the issues implicated by the commenters' proposals cannot properly be addressed at the policy statement level but, instead, should be considered in a proceeding where all of the relevant facts can be explored and a complete evidentiary record developed as the basis for the Commission's decision. That is the approach the General Assembly has sanctioned in Act 58, which specifically provides that "the commission may approve an application by a utility *in a base rate proceeding* to establish alternative rates and rate mechanisms."<sup>8</sup>

**B. The Illustrations In The Proposed Policy Should Be Removed**

Section 69.3303 of the Proposed Policy Statement provides alternative rate design options for natural gas distribution companies and electric distribution companies that are "for illustration only." A range of commenters recommended that the Commission remove the entire section because they believe it would send a message, even if unintended, that only particular rate design proposals are acceptable or preferred.<sup>9</sup> Furthermore, the proposed illustrations are skewed to electric and gas utilities and do not appear to consider the differing factual scenarios that apply to water and wastewater utilities.

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<sup>8</sup> 66 Pa.C.S. §1330(b) (emphasis added).

<sup>9</sup> See, e.g., CAUSE-PA Comments, p. 13; OCA Comments, pp. 21-22; EAP Comments, pp. 9-10.

The Company agrees with other commenters that Section 69.3303 has the potential to operate as a constraint on utility rate design proposals that is not consistent with Act 58 and, therefore, the Section should be eliminated in any final Policy Statement.

**C. In Light Of Current Proposed Policy Statement Provisions And New Proposals That May Conflict With Act 58, The Issuance Of A Final Policy Statement Should Be Deferred**

In their comments, the FirstEnergy Utilities explained why Act 58 obviates the need for a non-binding policy statement such as the one proposed in this proceeding.<sup>10</sup> Other commenters, while not calling for the implementation of Act 58 to displace this proceeding, cautioned that parallel proceedings could create real or potential conflicts and, therefore, recommended that the Commission issue an Act 58 implementation order at Docket No. M-2018-3003269 prior to moving forward with a final Policy Statement at this docket.<sup>11</sup>

PAWC agrees that it would be appropriate for the Commission to defer further consideration of the Proposed Policy Statement as it moves forward on an Act 58 implementation order. Once that implementation order has been issued, the Commission and stakeholders may reassess whether the issuance of a final Policy Statement at this docket would be useful and advance the purpose and intent of Act 58.

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<sup>10</sup> FirstEnergy Utilities Comments, p. 3.

<sup>11</sup> DLC Comments, p. 8 (Proposed Policy Statement arguably unnecessary in light of Act 58); EAP Comments, pp. 4-7 (the Commission should focus on current efforts to implement Act 58 and defer further consideration of Proposed Policy Statement).

### III. CONCLUSION

PAWC appreciates this opportunity to provide Reply Comments on the Proposed Policy Statement and looks forward to working with the Commission and other stakeholders on developing appropriate procedures to implement alternative ratemaking mechanisms that are now expressly authorized by Act 58.

Respectfully submitted,



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