



COMMONWEALTH OF PENNSYLVANIA

November 20, 2018

**E-FILED**

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 Reply Comments on 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,

A handwritten signature in blue ink, appearing to read "Erin K. Fure".

Erin K. Fure  
Assistant Small Business Advocate  
Attorney ID No. 312245

*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**

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

**I. INTRODUCTION**

On May 23, 2018, the Pennsylvania Public Utilities 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 and other stakeholders submitted comments on October 22, 2018.

We thank the Commission for the opportunity to submit the following reply comments, which are focused on responding to the issues of considering risk adjustments when using alternative ratemaking, setting consumer charges, identifying factors to be addressed in distribution rate considerations, and examining proposed consumer protection mechanisms. While there are many positions advanced in the stakeholders’ comments submitted to the Commission, the OSBA’s determination not to specifically address these positions in reply comments should in no way indicate the OSBA’s endorsement of these positions.

## II. REPLY COMMENTS

### A. OSBA Reply to Columbia Gas of Pennsylvania, Inc.'s Comments

Columbia Gas of Pennsylvania, Inc. ("Columbia Gas") advances the position that no additional risk adjustments to the allowed return on equity ("RoE") are necessary when utilizing alternative ratemaking.<sup>1</sup> The OSBA disagrees. The adoption of alternative ratemaking mechanisms reduces the business risk faced by utilities and shifts that risk to customers. It is therefore necessary to reduce a utility's allowed RoE as a means of protecting consumers, and compensating them for the risk they must assume.

Under existing regulation, RoE awards reflect all of the specific circumstances facing Pennsylvania utilities, including the use of a Fully Projected Future Test Year ("FPFTY") and a Distribution System Improvement Charge ("DSIC"), and excluding the availability of alternative ratemaking. If alternative ratemaking is adopted, the financial risk faced by utilities will certainly be lower than in the context of previous Commission awards. Thus, relative to previous Commission awards, RoE awards under alternative ratemaking should necessarily be lower than they have been in the past, all other factors being equal. Moreover, under many of the alternative ratemaking options under consideration, this risk is being transferred to ratepayers. The assertion by Columbia Gas that a reduction in RoE awards is unnecessary because "...the vast majority of gas utility companies nationwide employ various forms of revenue stabilization mechanisms..." is essentially a claim that the Commission has not heretofore properly considered these risks.<sup>2</sup> The OSBA disagrees. The OSBA respectfully requests that the Commission recognize that risk

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<sup>1</sup> See *Comments of Columbia Gas of Pennsylvania, Inc.* at p. 11 ("a downward adjustment to the cost of equity to recognize any theoretical risk-reducing effects of WNA [Weather Normalization Adjustment] and RNA [Revenue Normalization Adjustment] programs would be redundant to the effects of the marketplace, and is therefore inappropriate.").

<sup>2</sup> *Comments of Columbia Gas of Pennsylvania, Inc.* at p. 11.

shifting mechanisms, such as the use of a FPPTY and DSIC, along with the guaranteed cost recovery associated with any number of approved cost tracking / recovery mechanisms, are already offered through Pennsylvania's existing regulatory framework. Alternative ratemaking further decreases risk to utilities. Therefore, the OSBA requests the Commission to adopt the position that, in order to protect consumers and compensate them for the risk they will absorb, it is necessary in alternative ratemaking to recognize a utility's reduced business risk and in turn reduce that utility's allowed RoE.

**B. OSBA Reply to Comments Suggesting Deletion of Section 69.3303**

Numerous comments submitted to the Commission requested the deletion of proposed Section 69.3303.<sup>3</sup> While the OSBA does not oppose the deletion, the OSBA is concerned that Section 69.3303 is the only section in the Proposed Policy Statement where the Commission alludes to reduced risk and RoE considerations in alternative ratemaking. To ensure these issues, which are relevant to consumer protection considerations, remain included in the Commission's Policy Statement, the OSBA respectfully recommends that if the Commission ultimately deletes proposed Section 69.3303, the Commission should add the following as a consideration under Section 69.3302: "How the rates impact the business risk faced by the utilities and how that reduced risk should be reflected in the allowed cost of capital."

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<sup>3</sup> See *Comments of the Consumer Advisory Council to the Pennsylvania Public Utility Commission* at pp. 6-9; *Comments of Natural Resources Defense Council, Sierra Club, and Clean Air Council* at p. 18; *Joint Comments of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, Tenant Union Representative Network, and Action Alliance of Senior Citizens of Greater Philadelphia* at pp. 13-15; *Comments of PPL Electric Corporation* at p. 6; *Comments of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company* at pp. 6-8; *Comments of the Office of Consumer Advocate* at pp. 21-22.

### C. OSBA Reply to Comments Addressing Fixed Customer Charges

The comments of the American Council for an Energy-Efficient Economy, the comments of the Sierra Club, and the joint comments of Natural Resources Defense Council, Sierra Club, and Clean Air Council oppose rate proposals that increase the fixed customer charge.<sup>4</sup> The OSBA recommends that the Commission avoid trying to establish a one-size-fits-all methodology for setting customer charges in a policy statement.

As a matter of utility rate design, setting the customer charge involves many considerations that go beyond price signals for energy conservation. First, the criteria for customer charges for different classes involve very different considerations. For example, for the Residential class, considerations of the impact on low-income customers may be relevant. In contrast, for general service classes, the smallest customers may not be at all financially disadvantaged, and it may be that many of the small customers in these classes are not businesses at all. Second, where residential customers are relatively homogeneous in size and load patterns, a single customer charge may be appropriate. However, the customer charge for the heterogeneous general service classes should generally reflect how customer-related costs vary *within* each rate class, with larger customers often requiring larger and more expensive meters and services. Third, setting the customer charge should also consider the specific cost allocation method used by the utility, particularly for non-residential rate classes. If the cost allocation study assigns distribution system costs on a per-customer basis, it is likely to be inequitable to recover those costs on a different basis, as it will cause cross-subsidization between smaller and larger customers.

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<sup>4</sup> *Comments of Natural Resources Defense Council, Sierra Club, and Clean Air Council* at pp. 5-6; *Comments of American Council for an Energy-Efficient Economy* at pp. 3, 6; *Comments of Sierra Club* at p.1.

The OSBA respectfully submits that the rate design considerations involved in setting customer charges, including *but not limited to* those associated with energy conservation price signals, should be evaluated for each utility in the context of a base rate proceeding, where all of the relevant factors for *that utility* can be considered. The OSBA respectfully submits that the specific methodology for setting customer charges should not be determined in Commission policy statements.

#### **D. OSBA Reply to PECO Energy Company's Comments**

PECO Energy Company ("PECO") takes the position that proposed Section 69.3302 should be modified to eliminate the requirement under Section 69.3302(b) that a utility address all of the factors listed under Section 69.3302(a) when seeking approval of an alternative rate or rate mechanism.<sup>5</sup> PECO instead suggests that Section 69.3302(a) provide that the Commission may consider the enumerated factors.<sup>6</sup> The OSBA opposes PECO's suggestions and supports the Commission's position that the factors enumerated under Section 69.3302(a) are critical to the determination of just and reasonable distribution rates. Furthermore, it is the OSBA's position that Section 69.3302(b) is necessary in order for the Commission to evaluate whether the proposed distribution rates are just, reasonable, and in the public interest. Therefore, the OSBA objects to any modification of Section 69.3302 that would allow utilities to avoid addressing how each of the §3302(a) factors impacts the distribution rates for each customer class.

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<sup>5</sup> *Comments of PECO Energy Company* at p. 5.

<sup>6</sup> *Id.*

**E. OSBA Reply to Joint Comments of the Pennsylvania Energy Consumers Alliance, Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, Philadelphia Area Industrial Energy Users Group, PP&L Industrial Customer Alliance, and West Penn Power Industrial Intervenors**

In their comments, the Pennsylvania Energy Consumer Alliance (“PECA”), 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”) (collectively, “Industrial Customers”) highlighted several suggested consumer protection mechanisms that could be implemented in connection with alternative ratemaking policies. While the OSBA disagrees with the Industrial Customers that a separate Rulemaking Docket is necessary to establish consumer protection standards to accompany alternative ratemaking mechanisms, the OSBA does agree with several of the proposals advanced by the Industrial Customers in their Comments.<sup>7</sup>

The OSBA is in favor of the Commission establishing a regulation limiting the length of time that an alternative ratemaking mechanism can be used before the utility must file a new rate case and agrees with the Industrial Customers’ suggestion of no more than three to five years.<sup>8</sup> Frequent and periodic review of alternative ratemaking mechanisms will provide a level of protection to consumers by subjecting these mechanisms to regular oversight by the Commission. Because alternative ratemaking mechanisms reduce risk to utilities but increase risk to consumers, the OSBA also agrees with the Industrial Customers’ suggestions to monitor the utility’s earnings

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<sup>7</sup> See *Joint Comments of the Pennsylvania Energy Consumer Alliance, Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, Philadelphia Area Industrial Energy Users Group, PP&L Industrial Customer Alliance, and the West Penn Power Industrial Intervenors* at pp. 6-11.

<sup>8</sup> *Joint Comments of the Pennsylvania Energy Consumer Alliance, Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, Philadelphia Area Industrial Energy Users Group, PP&L Industrial Customer Alliance, and the West Penn Power Industrial Intervenors* at pp. 6-7.

to ensure that the realized Return on Equity (“ROE”) remains just and reasonable and to include a reduction in the authorized ROE to reflect the reduced earnings volatility and risk for the utility.<sup>9</sup>

In order to prevent cross-class subsidies, the Industrial Customers also request that the Commission establish a regulation requiring alternative ratemaking mechanisms to be developed, evaluated and reconciled on a customer-class basis.<sup>10</sup> The OSBA agrees that an alternative ratemaking mechanism should avoid both intraclass and interclass cost shifting. To that end, alternative ratemaking mechanisms should be reconciled on a customer-class basis.

However, the OSBA strongly disagrees with the Industrial Customers that the prevention of interclass subsidies requires alternative ratemaking mechanisms to be developed on a customer-class basis. Rather, an alternative ratemaking mechanism should be implemented in a manner that does not unreasonably discriminate against one customer class for the benefit of another. Permitting a utility to develop alternative rate mechanisms that are (1) limited to certain classes or (2) vary by customer class may unreasonably discriminate against one or more customer classes.

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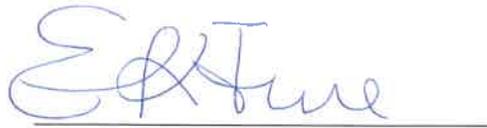
<sup>9</sup> See *Joint Comments of the Pennsylvania Energy Consumer Alliance, Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, Philadelphia Area Industrial Energy Users Group, PP&L Industrial Customer Alliance, and the West Penn Power Industrial Intervenors* at p. 5.

<sup>10</sup> See *Joint Comments of the Pennsylvania Energy Consumer Alliance, Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, Philadelphia Area Industrial Energy Users Group, PP&L Industrial Customer Alliance, and the West Penn Power Industrial Intervenors* at pp. 6-7.

**III. CONCLUSION**

The OSBA respectfully requests that the Commission consider its comments previously filed in this proceeding, as well as the reply comments above, in reviewing the efficacy and appropriateness of alternative ratemaking methodologies.

Respectfully submitted,



Erin K. Fure  
Assistant Small Business Advocate  
Attorney ID No. 312245

For:

John R. Evans  
Small Business Advocate

Office of Small Business Advocate  
300 North Second Street, Suite 202  
Harrisburg, PA 17101

Dated: November 20, 2018