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HOUSE BILL 1782 - ALTERNATIVE RATEMAKING FOR NATURAL GAS AND ELECTRIC DISTRIBUTION COMPANIES

NRG Energy, Inc. submits these comments on House Bill 1782 – Alternative Ratemaking for Natural Gas and Electric Distribution Companies. As explained in more detail below, NRG does not oppose the provisions of the bill that enable utility rate decoupling, and supports the addition of provisions that would enable certain incentive rates that reward the monopoly utilities for demonstrated improvements to the competitive market. However, NRG urges the Committee to strike the provisions of HB1782 that enable the regulated monopoly utilities to invest in and receive guaranteed cost recovery for distributed energy resources, resources which are being developed by companies operating in the competitive market, and which the utilities' competitive affiliates are free to invest in if they so choose.

Who We Are

NRG is the leading integrated power company in the U.S., with the largest and most diverse competitive electric generation portfolio and leading retail electricity platform. A Fortune 500 company, NRG owns and operates approximately 50,000 megawatts of generating capacity and its retail businesses serve nearly three million customers across more than a dozen states, including Pennsylvania. We employ 1,300 people in Pennsylvania. NRG's retail companies have more than 25 years combined experience with retail energy competition and customer service.

NRG's northeast retail business is headquartered in Philadelphia, Pennsylvania. The Company has four licensed retail companies that are actively serving residential, commercial, industrial and institutional customers across Pennsylvania – NRG Home and NRG Business, Green Mountain Energy Company, Energy Plus Holdings LLC, and Cirro Energy. These NRG retail companies offer customers a range of products including 100% renewable, cash back rewards and loyalty points.

PA Led the Nation in Recognizing the Value of Competitive Market Forces in Delivering Value to Consumers

In 1996 the Commonwealth emerged as a national leader in electricity policy when the Electricity Generation Customer Choice and Competition Act ("Competition Act") was enacted. As envisioned by the Legislature, the Act was intended to foster a robust and vibrant competitive market in Pennsylvania. Notably, in adopting the Act, the Legislature declared that:

- "Competitive market forces are more effective than economic regulation in controlling the cost of generating electricity," and that

- The "cost of electricity is an important factor in decisions made by businesses concerning locating, expanding and retaining facilities in this Commonwealth."

The Act required electric utilities to unbundle their rates and services and to provide open access over their transmission and distribution systems *to allow competitive suppliers to generate and sell electricity directly to consumers in this Commonwealth*. The Act stipulates that ***the generation of electricity will no longer be regulated as a public utility function***. Such services can be provided through the utility's competitive affiliates, which ensures that shareholders, not ratepayers, take on the risk of those investments.

The Legislature also recognized that transitioning to a competitive market would take time and would create transition costs, including costs associated with enabling customers to choose their supplier and, more significantly, utility costs that would be stranded as existing utility generating facilities would be unable to compete with lower priced generation available in the competitive market. The six largest PA utilities were authorized by the PUC to collect **$11 billion in stranded costs from ratepayers for the costs associated with what turned out to be uneconomic investments coal and nuclear generation facilities**, the recovery of which was completed in 2010.[1]

The Legislatures Should Continue the Policy Adopted in 1996 Requiring Shareholders, Not Captive Ratepayers, to Pay for Electric Generation Investments

Rather than facilitating customer access to new energy options enabled by innovations that only a robust competitive market can deliver, the provisions of HB 1782 will reduce the number of options available to consumers and stifle innovation.

House Bill 1782 includes provisions that will reverse the competitive market policy adopted 20 years ago. The bill allows the regulated monopoly utilities – both electric and gas – to once again invest in new distributed energy resources, including distributed generation like solar, energy efficiency measures, energy storage, alternative fuel vehicles and the associated infrastructure, and demand response technology. What's more, the bill guarantees full cost recovery for all of these investments and enables rates to support these investments to be automatically adjusted without PUC review.

To be clear, third parties operating in the competitive market and investing their own shareholder dollars already compete and provide all of these tools and technologies to consumers who want them. If their investments turn out to be uneconomic, only their shareholders pay the price. Identifying the right technology for the right customers at the right time is a risky business. That risk rightly belongs in the private sector. Competitive companies understand the risks involved, are willing

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[1] *The Skinny on Caps and Stranded Costs*, www.energycentral.com, John Hanger, August 7, 2003.

to take those risks, and are prepared to fail and take losses when they do not succeed, and reap the payoff when they do.

HB1782 unnecessarily requires all utility ratepayers to bear the risk of – and pay for – investments in distributed energy resources. Such investments by the regulated monopolies will have a chilling effect on competitive markets.

- Competitive companies, like NRG, will reconsider investing their dollars in Pennsylvania because they cannot compete against a regulated monopoly that gets guaranteed cost recovery for products and services that are otherwise available in the competitive market.
- The regulated monopoly utilities already have a proven track record of investing in resources and technologies that are uneconomic or unnecessary. Pennsylvania ratepayers have paid the price to the tune of $11 billion for such past investments. They should not be forced to take on this risk again.
- If the monopoly utilities want to compete in the market, they should do so through competitive affiliates. For example, PECO's affiliates are actively competing in the Pennsylvania market and are the appropriate entities to invest in and provide competitive products and services to consumers who choose them so that Exelon shareholders, not PECO ratepayers, take on the risk for these investments.

NRG urges the Committee to strike the provisions of the bill that enable the utilities to make these investments and receive guaranteed cost recovery.

Decoupling and Alternative Distribution Ratemaking Mechanisms that Enable Utilities to meet their Revenue Requirements should be permitted with Conditions

NRG is sympathetic to the challenges faced by the regulated utilities in realizing their revenue requirements. As more and more customers become engaged with their energy consumption and take steps to reduce that consumption (through the adoption of energy efficiency measures, participation in demand response programs, etc.) and reduce their carbon footprints by relying on renewable energy sources like rooftop solar, utility revenues are shrinking. That customers are getting engaged and availing themselves of the new technology is an indication that the Commonwealth's policies aimed at reducing consumption and improving energy efficiency are indeed working.

NRG does not oppose rate decoupling as a mechanism to help shore up utility revenues, but how it is implemented matters a great deal. Decoupling should be permitted in exchange for the utilities meeting performance based targets and they should be provided incentives for furthering the development of competitive markets that enable individual consumers to choose the products and services that meet their individual needs.

The regulated utilities do not have the authority to develop new generation – distributed or otherwise – and they should not have such authority because, as the Legislature clearly stated in the Competition Act, **generation is no longer regulated as a public utility function**. Instead, NRG supports providing additional incentives to the utilities that authorize them to facilitate the development of the distributed energy resource market by third parties and that rewards them if they do it well.

For example, incentives rates could be tied to third party deployment of DERs, such as incentives tied to the number of customers that receive DERs, energy storage, demand response, energy efficiency, etc. from third parties. Similarly, incentive rates could be tied to the number of customers that have opted to shop with a competitive retail supplier.

Up until the late 1990s, the utilities had incentives to grow their rate base because they got more money if they did. Our markets and policies have evolved a great deal since then and we now want exactly the opposite. We need to recraft the regulatory system to incent the utilities to do what's in the public interest – and that is to encourage and facilitate the development of the competitive markets so that they can focus on their core function of providing safe and reliable delivery service and open access to that delivery system.

Requested Action

Thank you for allowing us to share our concerns on HB 1782 with the Committee. NRG respectfully requests that the Committee revise HB 1782 by:

1. Striking the provisions of HB1782 that enable the monopoly utilities to invest in and receive guaranteed cost recovery for distributed energy resources.
2. Adopting NRG's proposal to allow incentive ratemaking that rewards the monopoly utilities for demonstrated improvements to the competitive market.

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