

COMMONWEALTH OF PENNSYLVANIA



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February 2, 2017

Rosemary Chiavetta, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

Re: Pa. Public Utility Commission
v.
City of Dubois – Bureau of Water
Docket No. R-2016-2554150

Dear Secretary Chiavetta:

Attached for electronic filing is the Office of Consumer Advocate's Exceptions to the Recommended Decision in the above-referenced proceeding.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

/s/ Christine Maloni Hoover
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PA Attorney I.D. # 50026
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Attachment

cc: Honorable Mark A. Hoyer
Certificate of Service

229307

CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission :
 :
 v. : Docket No. R-2016-2554150
 :
 City of Dubois – Bureau of Water :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate’s Exceptions to the Recommended Decision, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 2nd day of February, 2017.

SERVICE BY E-MAIL AND INTER-OFFICE MAIL

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229308

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :
 :
 v. : Docket No. R-2016-2554150
 :
 City of Dubois – Bureau of Water :

EXCEPTIONS
OF THE OFFICE OF CONSUMER ADVOCATE

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Dated: February 2, 2017

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2007 Pa. PUC LEXIS 453

I. INTRODUCTION

On June 30, 2016, City of DuBois (City) filed Supplement No. 22 to Tariff Water - Pa. PUC No. 4, with the Public Utility Commission (PUC or Commission) to become effective August 29, 2016 at Docket No. R-2016-2554150. In its original filing, City of DuBois proposed an annual increase in base rate revenues of \$257,604. This represented an approximate 33.6% increase in the City's rates to its PUC-jurisdictional ratepayers who reside outside of the City. In rejoinder, the City revised its proposed PUC-jurisdictional annual revenue requirement increase to \$229,551. City Exh. CEH-3RJ.

If the City's entire original request were approved, the total bill for an outside-city residential customer using 3,800 gallons of water per month with a 5/8-inch meter would see an increase in their bill from \$25.57 to \$34.17, or approximately 33.6% per month. The City serves approximately 697 customers outside the City in Sandy Township, Clearfield County, Pennsylvania.

The OCA's adjustments pertained to the City's proposed rate base, including plant additions and cash working capital, cost of capital, including capital structure, the cost of equity, and the tax factor, depreciation expense, operations and maintenance expenses, including administrative and general expenses, chemicals and rate case expense. The OCA's adjustments to the City's updated rejoinder position resulted in the OCA's recommended revenue requirement increase of no more than \$50,418. See Tables I and II, attached to the OCA's Main Brief. The OCA also made recommendations regarding unaccounted for water calculations and estimates, customer complaint logs, and exercising isolation valves that are necessary to provide

safe and reasonable service. These recommendations were addressed in the City/OCA Stipulation.

On January 9, 2017, the Office of Administrative Law Judge issued the Recommended Decision (R.D.) of ALJ Hoyer. The R.D. recommended rejecting the City's proposed Supplement No. 22 because the rates contained therein are not just and reasonable or otherwise in accordance with the Public Utility Code and applicable regulations. The R.D. further recommended, *inter alia*, that the Commission issue an Opinion and Order directing the City to file a tariff allowing for recovery of no more than \$97,534 in additional base rate revenue. ALJ Hoyer's recommendation adopted the OCA's adjustments to plant additions, operation and maintenance expenses, including administrative and general expenses, rate case expense, chemicals, and depreciation expense. Furthermore, ALJ Hoyer adopted the OCA's adjustments to cost of capital, including capital structure, as well as the cost of equity recommended by the Bureau of Investigation and Enforcement (I&E).

While the OCA supports nearly all of the specific determinations made in the R.D., ALJ Hoyer did not adopt the OCA's adjustment to the Transmission and Distribution Contractual Services expense. As discussed below, the OCA's adjustment should be adopted by the Commission along with the remainder of the ALJ's recommendations adopting the OCA's and I&E's adjustments.

II. OCA EXCEPTIONS

OCA Exception No. 1: The City's Transmission and Distribution Contractual Services Expense Should Be Normalized, R.D. at 29-32; OCA M.B. at 20-21; OCA R.B. at 12-14.

In his R.D., ALJ Hoyer denies the recommendation of both the OCA and I&E that Transmission and Distribution (T&D) Contractual Services should be normalized. RD. at 32. The OCA submits that T&D Contractual Services should be normalized due to the large, yearly fluctuation in the expense, as discussed below and in the OCA's Briefs.

The City claimed a pro forma expense of \$132,771 for T&D Contractual Services, which is equal to the historical test year expense. See, R.D. at 29; City Exh. CEH-1 at 16; OCA St. 1 at 29. As OCA witness Everette testified, there has been a significant fluctuation in this expense from 2013 to 2015. Ms. Everette illustrated the fluctuation as follows:

2013: \$129,587

2014: \$14,087

2015: \$132,771

OCA St. 1 at 29.

It is axiomatic that “[t]he test year concept is a basic tenet of ratemaking that forms a sound and reasonable basis for establishing a representative level of prospective rates. It allows for a reasonable measure of predictability and semi-permanence in ratemaking.” Pa. PUC v. Philadelphia Gas Works, 2007 Pa. PUC LEXIS 45, *27. Moreover, “[i]t is well established that rates in Pennsylvania are set using a test year concept. The object of using a test year is to reflect typical conditions.” Id. at 26-27 (internal citations omitted).

As explained by Ms. Everette:

Expenses included in the annual revenue requirement should represent the normal, annual level of expense. As demonstrated above, the City does not experience the same level of expense for this account every year. Normalization allows fluctuations in the account to be smoothed so that the expense included in the revenue requirement represents a normal annual level of expense.

OCA St. 1 at 30.

Accordingly, given the significant fluctuation in this expense over the last 3 years, Ms. Everette recommended a normalization of the expense for ratemaking purposes. OCA St. 1 at 29. Therefore, Ms. Everette recommended an adjustment of \$40,623 with a jurisdictional portion of \$11,216. Table II; OCA St. 1S at 15; OCA St. 1 at 30; OCA Exh. AEE-1S at line 26.

In rebuttal, City witness Heppenstall testified that the expense should not be normalized because the expense relates to unaccounted for water (UFW) and “because if the City is expected to lower its percentage of unaccounted for water it must be given the revenue requirement to combat the problem.” City St. 2R at 12.

In his R.D., ALJ Hoyer determined that “[t]he City will continue to accrue higher T&D contractual services expense in the future. I therefore recommend that the expense submitted by the City be accepted and the adjustments proposed by I&E and the OCA be rejected.” R.D. at 32. The City, however, provided no evidence that it will continue to accrue higher T&D contractual service expense in the future and has not demonstrated that it is reasonable to use the 2015 level of expense as the pro forma expense.

ALJ Hoyer described the City’s argument as follows:

According to the City, I&E’s and the OCA’s proposed adjustments to this expense category conflict with the general consensus that the City should not just continue its prior efforts, but also escalate

measures to combat Unaccounted for Water (UFW). City M.B., pp. 20-21. The City argues that this expense category is directly correlated to such efforts, as the City records contractual costs related to “water leak detection, water line break repairs, GIS mapping, road work, patching and paving concrete, etc.,” under the Transmission and Distribution (T&D) Contractual Services expense. City M.B., p. 21. The City contends that it will continue to accrue higher T&D contractual services expenses in the future. City R.B. pp. 21-22.

R.D. at 31.

Ms. Everette, however, explained in her testimony that:

First, I would note that OCA witness Fought’s recommendations focused on ways to improve the estimated non-revenue water, which would not require additional revenues. Second, utilities are not “given” revenues in rates to incentivize them to do work that needs to be done in order to comply with Commission policies. Expenses included in the revenue requirement must be known and measurable and based on normal, ongoing levels of expense. The City has not demonstrated that it is reasonable to use the 2015 level of expense as the pro forma level of expense when it is more than nine times the prior year expense. Accordingly, using a normalized level of expense is appropriate.

OCA St. 1S at 14-15.

During the evidentiary hearing, the City adopted OCA witness Fought’s recommendations to improve UFW calculations and stipulated to Mr. Fought’s recommendations. The stipulations related to UFW were as follows:

1. In future rate cases, the City will provide Unaccounted-For-Water (“UFW”) calculations in the format shown on Exhibit TLF-1 that is used by water utilities in submission of their Annual PUC Reports.

2. Within six months of a final order in this case, the City will install water meters on all water service lines connected to the Public Works Garage, City Municipal Building, Waste Water Treatment Plant, Public Library, City Pool, and the five Fire Halls. The Water Treatment Plant may not need metering if the water is withdrawn prior to the metering of the flow into the distribution system.
3. Within two months of the final order in this case, the City will require each of the Fire Companies to submit a monthly written estimate of the unmetered water used and what it was used for.
4. Upon entry of a final order in this case, the City will estimate (at the time the repair is made) the water loss of each waterline/service line leak or break that was repaired.
5. Upon entry of a final order in this case, the City will provide metered location(s) for use by the street sweeper and fire companies for their non-firefighting uses.

R.D. at 51; City/OCA Stipulation, ¶¶ 1-8; City R.B., pp. 17-18.

To meet the agreed upon City/OCA stipulations, however, the only additional costs that the City may incur would be associated with meter installation and the exercising of isolation valves.¹ Moreover, the City has not provided any support regarding a cost burden to meet the stipulations between the OCA and the City.

ALJ Hoyer, however, summarizes the City's argument as follows:

The City submits that, although I&E's and the OCA's recommendations may be reasonable for other utilities under different circumstances, firm adherence to a three-year averaging or normalization methodology for this expense would not

¹ The City had the opportunity to modify its test year claims if it believed that the City/OCA stipulations would create significant expense but the City did not modify its claim.

appropriately capture the City's projected T&D contractual expenses.

R.D. at 31.

Ms. Everett addressed this City argument as follows:

The City has not demonstrated that it is reasonable to use the 2015 level of expense as the pro forma level of expense when it is more than nine times the prior year expense. Accordingly, using a normalized level of expense is appropriate.

OCA St. 1S at 16. There is no evidence that the upcoming year's T&D contractual expense will be as high as the City has proposed through the test-year expense. Thus, the OCA recommended normalizing this expense.

The OCA proposes to normalize this irregular level of expenses to represent normal operations, which is reasonable and consistent with standard practice. As such, the OCA's adjustment of \$40,623 with a jurisdictional portion of \$11,216, should be accepted and the ALJ's recommendation should not be adopted. See Table II; OCA St. 1S at 15; OCA St. 1 at 30; OCA Exh. AEE-1S at line 26.

III. CONCLUSION

For all of the reasons discussed above and in its Main and Reply Briefs, the Office of Consumer Advocate respectfully excepts to the Recommended Decision of Administrative Law Judge Hoyer on the one issue discussed above. The Office of Consumer Advocate respectfully requests that the Commission grant this exception to the Recommended Decision.

Respectfully submitted,



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