



COMMONWEALTH OF PENNSYLVANIA

February 2, 2017

E-FILED

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

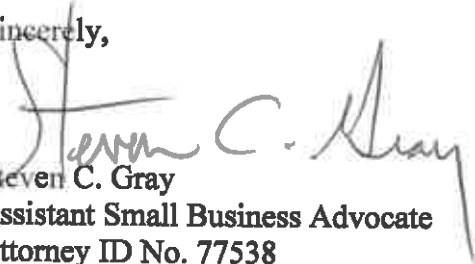
**Re: City of DuBois-Bureau of Water Request for Approval to Increase Water Rates
Docket No. R-2016-2554150**

Dear Secretary Chiavetta:

Enclosed for filing are the Exceptions to the Recommended Decision, on behalf of the Office of Small Business Advocate ("OSBA"), in the above-docketed proceeding. As evidenced by the enclosed Certificate of Service, copies will be served on all known parties in this case.

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

Sincerely,


Steven C. Gray
Assistant Small Business Advocate
Attorney ID No. 77538

Enclosures

cc: Mr. Brian Kalcic
Parties of Record

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

City of DuBois-Bureau of Water Request :
for Approval to Increase Water Rates : **Docket No. R-2016-2554150**
: **C-2016-2556342**

**EXCEPTIONS
ON BEHALF OF THE
OFFICE OF SMALL BUSINESS ADVOCATE**

Steven C. Gray
Assistant Small Business Advocate
Attorney ID No. 77538

For: John R. Evans
Small Business Advocate

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

Dated: February 2, 2017

I. Introduction

On June 30, 2016, the City of DuBois - Bureau of Water (the “City” or “DuBois”) filed Supplement No. 22 to Tariff Water - Pa. P.U.C. No. 4 with the Pennsylvania Public Utility Commission (“Commission”). The proposed tariff would provide the City with a general rate increase of \$257,604 per year.

On July 13, 2016, the Office of Small Business Advocate (“OSBA”) filed a Formal Complaint.

On September 9, 2016, a Prehearing Conference was held before Administrative Law Judge (“ALJ”) Mark A. Hoyer.

On September 14, 2016, ALJ Hoyer issued a Prehearing Order setting forth the procedural schedule in this case.

On October 5, 2016, the OSBA served the Direct Testimony of Brian Kalcic.

On November 10, 2016, an Evidentiary Hearing was held before ALJ Hoyer.

On November 29, 2016, the OSBA submitted its Main Brief.

On December 12, 2016, the OSBA served its Reply Brief.

On January 13, 2017, ALJ Hoyer issued his Recommended Decision (“RD”).

The OSBA submits the following Exceptions in response to the RD.

II. Exceptions

Exception No. 1: The ALJ erred by recommending a rate design that is inaccurate and not cost based. (RD, at 80)

In the section of the RD titled "Revenue Allocation," the ALJ stated, as follows:

The basic factor in allocating revenue is to have the rates reflect the cost of service. *Lloyd v. Pa. Pub. Util. Comm'n*, 904 A.2d 1010, 1020 (Pa.Cmwth. Ct. 2006).

RD, at 78.

The OSBA recommended that the City's proposed revenue allocation be proportionately scaled back if a revenue award was granted that was less than that originally requested by the City. *See OSBA Main Brief*, at 7-8. However, the ALJ decided that the City's proposed customer charges should be approved, as filed, and not scaled back. The ALJ observed:

I&E recommends that any scaleback of rates applicable in this case be applied to the usage proportion of rates. This is agreed to by the City.

RD, at 79-80 (footnote omitted). The ALJ concluded, as follows:

I recommend approval of the customer charge increases requested by the City. *See Appendix A*.

RD, at 80.

The ALJ continued:

I further recommend that the volumetric rates be scaled back to attain the desired revenue while maintaining the standard volumetric rate structure and the proposed increases to the customer charges.

* * *

The adjustment achieves the desired revenue increase while maintaining the revenue allocation as close to the cost of service as reasonably achievable.

RD, at 80.

Unfortunately, the ALJ did not include a proof of revenue using the recommended rate design shown in Appendix A to the RD. A proof of revenue is designed to show the total class revenues that result from multiplying individual class billing determinants by proposed rates. The resulting class revenues, when summed, show the total revenue available to the utility under a given rate design.

The OSBA attempted to verify that the ALJ's recommended rate design produces a total revenue increase of \$97,534 to the City, as recommended by the ALJ. However, the OSBA's internal proof of revenue demonstrates that the ALJ's proposed rate design is thousands of dollars off target on a total City basis. Moreover, the individual class increases that result from the ALJ's proposed rate design are not cost based, in that such increases do not reflect a proportional scaleback of the City's filed class increases. In fact, the rate design in this proceeding is driving the revenue allocation, which is exactly backwards. This is the result of three things: the ALJ granting the City its fully requested customer charge increases; the ALJ's refusal to allow those customer charge increases to be scaled back in any way; and the City's overly simplistic rate structure. Thus, the inflexibility of the rate design is causing the revenue allocation to be inaccurate.

The magnitude of the total and class revenue deviations inherent in the ALJ's recommended rate design might be a "reasonably achievable" result if this was a \$125 million dollar base rates case. However, a rate design that is thousands of dollars off in connection with a recommended revenue award of \$97,534 is not just or reasonable, nor is it in compliance with the requirements of *Lloyd*.

Exception No. 2: The ALJ erred by dismissing the OSBA recommendation to revise the City's rate structure. (RD, at 81)

In his RD, the ALJ stated, as follows:

OSBA requests that the Commission order the City to revise its tariff rate structure if the City finds it is unable to implement a cost-based class revenue allocation in its next base rate case.

I agree with the City that OSBA's concerns are premature and speculative.

RD, at 81 (citation omitted).

However, the ALJ apparently discovered that the OSBA's concerns weren't so "speculative" after all. First, the ALJ noted that granting the City its desired customer charge increases created problems:

A scaleback of the rates which is proportional to the reduction in revenues and maintains the increase in customer charges would require the creation of separate volumetric rates for each customer class. *If separate rates were not established for each customer class, a proportional scaleback of the volumetric rates which maintained the City's proposed increase in the customer charge would result in greater than allowable revenues.*

RD, at 80 (emphasis added).

Second, the ALJ recognized the limitations inherent in his recommended rate design when he stated:

I further recommend that the volumetric rates be scaled back to attain the desired revenue while maintaining the standard volumetric rate structure and the proposed increases to the customer charges. To accomplish this the volumetric rate increase was adjusted to \$5.68 per thousand gallons for consumption up to 100,000 gallons and \$4.30 per thousand gallons for consumption greater than 100,000 gallons. *See Appendix A.* The adjustment achieves the desired revenue increase while *maintaining the revenue allocation as close to the cost of service as reasonably achievable.*

RD, at 80 (emphasis added). The ALJ's proposed standard of "reasonably achievable" does not satisfy the requirements of *Lloyd*.

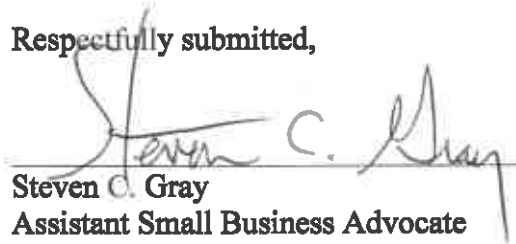
The OSBA explained the problems created by the overly simplistic rate structure employed by the City. See OSBA Reply Brief, at 4-5. The ALJ ran squarely into these problems when he tried to construct a rate design that would implement cost-based class increases while simultaneously adopting the customer charge increases requested by the City.

III. Conclusion

There is no requirement that the City be granted the exact customer charges it requested. Furthermore, the holding in *Lloyd* requires a revenue allocation and rate design that conforms to the City's cost of service study. Therefore, in view of the foregoing, the OSBA respectfully requests that the Commission:

- (a) Proportionately scale back the City's original revenue allocation as described in the OSBA's Main Brief;
- (b) Include the City's proposed customer charges in that scale back if necessary to achieve an accurate result; and
- (c) Order the City to consider expanding its rate structure in its next filed base rates case.

Respectfully submitted,


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Attorney I.D. No. 77538

For:
John R. Evans
Small Business Advocate

Office of Small Business Advocate
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Harrisburg, PA 17101

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CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served via email and/or First-Class mail (unless other noted below) upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

The Honorable Mark A. Hoyer
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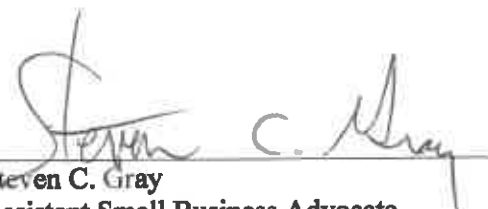
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DATE: February 2, 2017


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