



COMMONWEALTH OF PENNSYLVANIA

January 8, 2020

E-FILED

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

**Re: Pennsylvania Public Utility Commission v. Citizens' Electric Company of Lewisburg
/ Docket No. R-2019-3008212**

Dear Secretary Chiavetta:

Enclosed please find the Main Brief, on behalf of the Office of Small Business Advocate ("OSBA"), in the above-captioned proceeding.

Copies will be served on all known parties in this proceeding, as indicated on the attached Certificate of Service.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Sharon E. Webb".

Sharon E. Webb
Assistant Small Business Advocate
Attorney ID No. 73995

Enclosures

cc: Brian Kalcic
Parties of Record

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission

v.

Citizens' Electric Company of Lewisburg, PA

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Docket No. R-2019-3008212

**MAIN BRIEF
ON BEHALF OF THE
OFFICE OF SMALL BUSINESS ADVOCATE**

**Sharon E. Webb
Assistant Small Business Advocate
Attorney ID# 73995**

**For: John R. Evans
Small Business Advocate**

**Office of Small Business Advocate
Forum Place
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Date: January 8, 2020

I. Introduction

A. Procedural History

On July 1, 2019, Citizen's Electric Company of Lewisburg, PA ("Citizens' " or the "Company"), filed Supplement No. 132 to Tariff Electric-PA P.U.C. No. 14. The proposed Supplement No. 132, if approved, would provide for an increase in Citizens' annual distribution revenues of \$792,246 per year, a 16.5% increase.

The OSBA filed a Notice of Appearance on July 22, 2019. Subsequently the OSBA filed a Complaint and Public Statement on August 29, 2019.

The proceeding was assigned to Administrative Law Judges ("ALJs") Steven Haas and Benjamin Myers. By order entered August 29, 2019, the Commission suspended the implementation of Supplement No. 132 until March 30, 2020, and instituted an investigation into the lawfulness, justness and reasonableness of the rates, rules and regulations proposed in Tariff Supplement No. 132. Subsequently, on September 9, 2019, Citizen's filed a Tariff Supplement to voluntarily suspend the effective date of rates for an additional thirty (30) days until on or about April 29, 2020. A prehearing conference was held September 13, 2019 at which a litigation schedule was established.

Pursuant to the procedural schedule, the OSBA served the Direct Testimony of Brian Kalcic on October 15, 2019. On November 14, 2019, the OSBA served the Rebuttal Testimony of Mr. Kalcic. The OSBA served the Surrebuttal Testimony of Mr. Kalcic on December 4, 2019.

On December 16 and 17, 2019, Evidentiary Hearings were held before ALJs Haas and Myers.

The OSBA submits this Main Brief in accordance with the litigation schedule established at the prehearing conference and as modified by ALJs via email on December 31, 2019.

B. Legal Standards

Section 1301 of the Public Utility Code, 66 Pa. C.S. § 1301, provides that “every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the commission.”

The burden of proof to establish the justness and reasonableness of every element of the utility’s rate increase rests solely upon the public utility. 66 Pa. C.S. § 315(a). “It is well-established that the evidence adduced by a utility to meet this burden must be substantial.” *Lower Frederick Township. v. Pa. PUC*, 409 A.2d 505, 507 (Pa. Cmwlth. 1980).

Although the burden of proof remains with the public utility throughout the rate proceeding, when a party proposes an adjustment to a ratemaking claim of a utility, the proposing party bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment. *Pa. PUC v. Aqua Pennsylvania, Inc.*, Docket No. R-00072711 (Order entered July 17, 2008). “Section 315(a) of the Code, 66 Pa. C.S. § 315(a), applies since this is a proceeding on Commission Motion. However, after the utility establishes a prima facie case, the burden of going forward or the burden of persuasion shifts to the other parties to rebut the prima facie case.” *Pa. PUC v. Philadelphia Gas Works*, Docket No. R-00061931 (Order entered September 28, 2007), at 12.

Furthermore, Section 523 of the Public Utility Code, 66 Pa. C.S. § 523, requires the Commission to “consider . . . the efficiency, effectiveness and adequacy of service of each utility when determining just and reasonable rates.” In exchange for customers paying rates for service, which include the cost of utility plant in service and a rate of return, a public utility is obligated

to provide safe, adequate and reasonable service. “[I]n exchange for the utility’s provision of safe, adequate and reasonable service, the ratepayers are obligated to pay rates which cover the cost of service which includes reasonable operation and maintenance expenses, depreciation, taxes and a fair rate of return for the utility’s investors . . . In return for providing safe and adequate service, the utility is entitled to recover, through rates, these enumerated costs.” *Pa. PUC v. Pennsylvania Gas & Water Co.*, 61 Pa. PUC 409 (1986), at 415-16. *See also* 66 Pa. C.S. § 1501. As a result, the legislature has given the Commission discretionary authority to deny a proposed rate increase, in whole or in part, if the Commission finds “that the service rendered by the public utility is inadequate.” 66 Pa. C.S. § 526(a).

II. Summary of Argument

Among the contested matters, the OSBA will only address the following rate structure issues: 1) class revenue allocation; 2) rate design for the GLP-1 class; and 3) revenue allocation scale back.

As argued below, Citizens’ proposed revenue allocation fails to move all classes closer to cost of service, in violation of *Lloyd*, and should be rejected. In its place, the ALJs and the Commission should adopt the OSBA’s recommended revenue allocation, which provides for greater movement toward cost of service for Rates RS, SH, GLP-1 and OL than under the Company’s proposal.

The Company’s proposed rate design for the GLP-1 class is reasonable, but should be adjusted in accordance with the OSBA’s recommendation in the event the GLP-1 class is assigned a final increase less than proposed by the Company.

The OSBA's revenue allocation scale back proposal properly excludes the MBL class since the class fails to exhibit movement toward cost of service at the maximum increase assigned to classes under Citizens' and the OSBA's revenue allocation proposal.

III. Issues Resolved Among the Parties

IV. Rate Base

The OSBA did not submit direct testimony relating to any revenue requirement issues in this proceeding. The OSBA did submit direct testimony on revenue allocation and rate design which reflect Citizens' full rate request in this proceeding. Any such reference is intended for comparison purposes only and should not be construed as a recommendation by the OSBA that the Commission grant the Company's request in whole or in part.

V. Revenues

The OSBA did not take a position on this issue.

VI. Expenses

The OSBA did not take a position on this issue.

VII. Fair Rate of Return

The OSBA did not take a position on this issue.

VIII. Taxes

The OSBA did not take a position on this issue.

IX. Customer Rate Structure

A. Allocated Cost of Service Study

The OSBA did not contest the Company's cost-of-service study methodology.

B. Revenue Allocation

Based on the OSBA's analysis of Citizens' filing and discovery responses, Mr. Kalcic demonstrated that Citizens' proposed revenue allocation is deficient, since it is grounded upon a comparison of relative class rates of return at present and proposed rates, which does not always provide an accurate indication of the degree of movement toward cost of service. In particular, as demonstrated by the class revenue subsidies at present and Company proposed rates shown in Schedule BK-2(C), the Company's proposal fails to move all classes closer to cost of service and should therefore be rejected.¹

In support of using class revenue subsidies (rather than relative class rates of return at present and proposed rates) to determine movement toward cost of service, Mr. Kalcic observed:

By definition, if a class is not paying exactly its full cost of service, it is either: a) receiving a subsidy (i.e., paying too little); or b) providing a subsidy (i.e., paying too much). In order to determine whether or not a class is moving toward cost of service, one must ascertain whether the class's present revenue subsidy is growing or shrinking at proposed rates. If its present subsidy is growing, the class is moving in the wrong direction (i.e., away from cost of service). Conversely, if its present subsidy is shrinking, the class is moving closer to cost. In short, the proper yardstick for measuring the degree of movement toward cost of service is the change in the absolute level of class subsidies at present and proposed rates.

Whatever the claims of relative rate of return proponents, the fact of the matter is that the relative rate of return results do not measure changes in class subsidies. Therefore, the relative rate of return guideline should not be relied upon to provide an accurate indication of the degree of movement toward cost of service.²

In response, Mr. Kalcic proposed the following revenue allocation:

OSBA Statement No. 1, Schedule BK-3(C)

Mr. Kalcic explained, in detail, his revenue allocation recommendations, as follows:

¹ OSBA Statement No. 1, at.7

² OSBA Statement No 1, at 5-6

CITIZENS' ELECTRIC COMPANY OF LEWISBURG, PA

OSBA Recommended Allocation of the Company's
 Requested Increase in Distribution Revenue
(FPFTY Ending December 31, 2020)

<u>Line</u>	<u>Classification</u>	Present Base <u>Revenue</u>	OSBA Recommended Increase	
			<u>Amount</u>	<u>Percent</u>
		1	2	3
1	Residential	\$2,647,362	\$694,038	26.2%
2	Space Heating	\$24,362	\$6,387	26.2%
3	GLP-1	\$917,008	\$82,772	9.0%
4	GLP-3	\$1,110,186	\$0	0.0%
5	Municipal Lighting	\$17,615	\$4,618	26.2%
6	Outdoor Lighting	<u>\$75,307</u>	<u>\$4,880</u>	6.5%
7	Total Rate Revenue	\$4,791,840	\$792,695	16.5%
8	Other Revenue	<u>\$68,568</u>	<u>\$0</u>	0.0%
9	Total Company	\$4,860,408	\$792,695	16.3%

Source: Exh__(HSG-1),
Sch. B6-1

Under the OSBA's proposal, class increases range from 0.0% (Rate GLP-3) to 26.2% (Rates RS, SH and MBL) at the Company's requested revenue requirement level.

My recommended revenue allocation was derived via three steps. First, I assigned each rate class its cost-based increase as shown in Exh__ (HSG-1) Schedule B6-4, at line 20. Second, I adjusted the increases from Step 1 so that no class would receive (i) an increase greater than 26.2%, which is the maximum increase assigned to classes under Citizens' proposal, or (ii) a rate decrease. This step limits the resulting increase to Rates RS, SH and MBL, and provides approximately \$0.347 million of aggregate rate relief to these classes (compared to their cost-based revenue levels). When combined with the OSBA's proposal to assign no class a rate decrease, Step 2 results in a net revenue shortfall of \$0.057 million, which must be recovered from Citizens' remaining rate classes.

Third, I assigned the \$0.057 million shortfall identified in Step 2 to Rates GLP-1 and OL (i.e., Citizens' remaining rate classes), in proportion to their respective total cost of service at proposed rates.

To validate the cost-based nature of his revenue allocation proposal, Mr. Kalcic calculated the class revenue subsidies that would result from the OSBA's recommended allocation of distribution revenues in Schedule BK-4(C).³ Contrary to the Company's proposed subsidies, as shown in Schedule BK-2(C), the OSBA's recommended revenue allocation would (i) move all rate classes closer to their respective cost of service, with the exception of Rate MBL, and (ii) provide for greater movement toward cost of service for Rates RS, SH, GLP-1 and OL than under the Company's proposal.⁴ Achieving greater movement toward cost of service under its revenue allocation does not necessitate that the OSBA impose any extreme rate impacts on individual rate classes. As Mr. Kalcic demonstrated, the OSBA's recommended allocation adopts the same limit on class increases (26.2%) as utilized in Citizens' proposal.⁵ Finally, in recognition of the fact that moving the MBL class closer to cost of service would otherwise require assigning the class an increase in excess of 97.6%, Mr. Kalcic instead proposed to exclude the class from the OSBA's recommended scale back (discussed below).⁶

³ See OSBA Statement No. 1, at 8.

⁴ OSBA Statement No. 1, at 8.

⁵ OSBA Statement No. 1, at 9.

⁶ *Id.*

Furthermore, the revenue allocation proposed by Mr. Kalcic complies with the decision of the Commonwealth Court in *Lloyd v. Pennsylvania Public Utility Commission*, 904 A.2d 1010, 1020 (Pa. Cmwlth. 2006). In *Lloyd*, the Court stated that cost of service is the “polestar” guiding rates cases such as this one. Therefore, in recognition of the cost-based outcomes underpinning Mr. Kalcic’s proposed revenue allocation, and considering the legal requirements of *Lloyd*, the OSBA respectfully submits that the ALJs and Commission should adopt the OSBA revenue allocation.

C. Rate Design

1. Summary of Proposed Rate Design

The OSBA did not take issue with Citizen’s proposed rate design. As Mr. Kalcic observed, the Company’s proposed GLP-1 customer charge of \$15.00 per month is consistent with the Company’s customer cost benchmark analysis.⁷

However, in the event that the Commission assigns a lower increase than proposed by the Company, Mr. Kalcic recommended that (i) the proposed GLP-1 customer charge remain unchanged at \$15.00 per month, and (ii) the current GLP-1 energy and demand charges receive a uniform (residual) increase so as to recover the final class revenue target.⁸

Rate design naturally flows out of the resolution of many issues in a base rates case: the overall revenue requirement awarded; the cost of service study selected; and the class revenue allocation adopted. The rate design proposal for the GLP-1, set forth above, is a just and reasonable method for recovering the final costs assigned to the GLP-1 class.

Consequently, the OSBA respectfully requests that the ALJs and the Commission adopt the rate design proposal set forth in Citizens’ filing taking into consideration the modification

⁷ OSBA Statement No. 1, at 10.

⁸ OSBA Statement No. 1, at 11.

recommended by Mr. Kalcic in the event of an awarded increase that is lower than proposed by the Company.

D. Scale Back

As Mr. Kalcic demonstrated, the OSBA's recommended allocation adopts the same limit on class increases (26.2%) as utilized in Citizens' proposal.⁹ Further, OSBA's recommended revenue allocation would (i) move all rate classes closer to their respective cost of service, with the exception of Rate MBL, and (ii) provide for greater movement toward cost of service for Rates RS, SH, GLP-1 and OL than under the Company's proposal.¹⁰ In the event that the Commission awards Citizens' an increase less than the \$0.793 million shown on line 7 of Schedule BK-3(C), the OSBA recommends that the class increases shown in column 3 of Schedule BK-3(C), excluding rate MBL, be scaled back proportionally. Rate MBL should be excluded from any scale back since the class fails to exhibit any movement toward cost of service at its (maximum) assigned increase of 26.2%.

E. Summary

X. Miscellaneous Issues

N/A

⁹ OSBA Statement No. 1, at 9.

¹⁰ OSBA Statement No. 1, at 8.

XI. Conclusion

Wherefore, based upon this Main Brief and the written testimony of the OSBA, the OSBA respectfully requests that the ALJs and the Commission decide these specific issues, as follows:

Reject Citizens' proposed class revenue allocation;

Adopt Mr. Kalcic's recommended revenue allocation for the Company's rate classes;

Adopt the Company's proposed rate design for the GLP-1 rate class, as modified by Mr.

Kalcic in the event of an awarded increase that is lower than proposed by the Company ;

and

Adopt Mr. Kalcic's revenue allocation scale back proposal.

Respectfully submitted,



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Dated: January 8, 2020

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PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission :
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 v. : **Docket No. R-2019-3008212**
 :
Citizens' Electric Company of Lewisburg :

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 otherwise noted below*) upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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DATE: January 8, 2020



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