



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. Wellsboro Electric Company /
Docket No. R-2019-3008208**

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.	:	Docket No. R-2019-3008208
	:	
Wellsboro Electric Company	:	

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

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Attorney ID# 73995**

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

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

I. Introduction

A. Procedural History

On July 1, 2019, Wellsboro Electric Company (“Wellsboro” or the “Company”), filed Supplement No. 125 to Tariff Electric-PA P.U.C. No. 8. The proposed Supplement No. 125, if approved, would have resulted in an increase in the annual distribution revenues of Wellsboro by \$1,419,610 per year, a 27.7% increase.

In addition to its July 1, 2019 Tariff filing, Wellsboro filed a Petition for Waiver of Filing Requirements Under 52 Pa. Code Section 53.53, seeking relief for filing required documentation, since Wellsboro’s claim exceeded the \$1 million threshold rate increase as set forth in Section 53.53.¹ On July 22, 2019, the Office of Consumer Advocate (“OCA”), the Bureau of Investigation and Enforcement (“I&E”), and the Office of Small Business Advocate filed a joint motion to reject Wellsboro’s July 1, 2019 base rate filing for failing to comply with the requirements Section 53.53. Subsequent to the joint motion, on July 31, 2019, Wellsboro filed replacement schedules and tariff pages to revise its rate increase request.

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. 125 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, Wellsboro filed a Tariff Supplement

¹ 52 Pa. Code §53.53

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 NRS, NRH, CS and CSH classes; and 3) revenue allocation scale back.

As argued below, Wellsboro’s proposed revenue allocation moves all classes closer to cost of service, except for the small non-residential heating classes, which otherwise receive the

Company's maximum proposed class increase. Nevertheless, the ALJs and the Commission should adopt the OSBA's recommended revenue allocation, which eliminates the Company's proposed rate decrease to the POL class.

The Company's proposed customer charges for the NRS, NRH, CS and CSH service classes are not supported by Wellsboro's own customer cost analysis, and should be rejected by the ALJs and Commission. As argued below, the Company's existing customer charges for the NRS, NRH, CS and CSH classes should remain unchanged, with the balance of each class's assigned revenue requirement recovered in the class's respective energy and/or demand charge.

As argued below, Rates RSAE, NRH and CSH exhibit little or no movement toward cost of service at the maximum increase assigned to classes under Wellsboro's revenue allocation proposal. Accordingly, the ALJs and Commission should adopt the OSBA's revenue allocation scale back proposal, which properly excludes the RSAE, NRH and CSH classes.

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 Wellsboro's "scaled back" rate request of just under \$1.0 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 Wellsboro's cost-of-service study methodology.

B. Revenue Allocation

Mr. Kalcic testified that Wellsboro's proposed revenue allocation is based on 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. As a result, Mr. Kalcic evaluated the Company's proposal by examining changes in class revenue subsidies at present and Company proposed rates. Based upon his revenue subsidy analysis, Mr. Kalcic demonstrated that Wellsboro's proposal would move all classes closer to cost of service, with the exception of the Company's small non-residential heating classes (*i.e.*, Rates NRH and CSH).² As a consequence, Mr. Kalcic largely supported Wellsboro's proposal, except for the Company's proposed decrease to the POL class.³

² OSBA Statement No. 1, at 7, and Schedule BK-2(W).

³ *Id.*

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 also 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.⁴

While generally supportive of the Company's revenue allocation proposal, Mr. Kalcic recommended the following revenue allocation of Wellsboro's scaled back revenue request:

⁴ OSBA Statement No 1, at 5-6

WELLSBORO ELECTRIC COMPANY

OSBA Recommended Allocation of WEC's
Requested Increase in Base Revenue
(FPPTY Ending December 31, 2020)

Line	Classification	Present	Recommended Increase	
		Base Revenue	Amount	Percent
		1	2	3
1	Sch. 1 - RS	\$2,619,792	\$612,474	23.4%
2	Sch. 2 - RSAE	\$25,825	\$7,227	28.0%
3	Sch. 3 - NRS	\$390,322	\$66,686	17.1%
4	Sch. 3 - NRH	\$1,395	\$399	28.6%
5	Sch. 4 - CS	\$1,322,797	\$141,308	10.7%
6	Sch. 4 - CSH	\$1,109	\$316	28.5%
7	Sch. 5 - IS	\$656,296	\$169,292	25.8%
8	Sch. 6 - MSL	\$20,906	\$245	1.2%
9	Sch. 7 - POL	\$86,066	\$0	0.0%
10	Sch. 8 - EU	<u>\$7,813</u>	\$2,009	25.7%
11	Total Rate Revenue	\$5,132,321	\$999,956	19.5%
12	Other Revenue	<u>\$114,725</u>	<u>\$0</u>	0.0%
13	Total Company	\$5,247,046	\$999,956	19.1%

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

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

On page 8 of OSBA Statement No. 1, Mr. Kalcic explained, in detail, his revenue allocation recommendations, as follows:

Under the OSBA's proposal, class increases reflect the same limit of 28.2% as under Wellsboro's proposed allocation.

My recommended revenue allocation incorporates two adjustments to Wellsboro's proposal. First, I assigned no increase to Rate POL, which provides \$17,175 of rate relief to other classes (compared to Wellsboro's proposal). Second, I reduced the aggregate increase to Rates RS and IS by \$17,175, while adjusting the individual RS and IS class increases so as to provide for the same percentage movement toward cost of service for each class (as measured by the percentage reduction in their respective present subsidies).

All remaining class increases in Schedule BK-3(W) are unchanged from the levels shown in Wellsboro's proposal (see Schedule BK-1(W)).

Mr. Kalcic also calculated the class revenue subsidies that would result from the OSBA's recommended allocation of distribution revenues in Schedule BK-4(W).⁵ However, since the OSBA is not recommending any adjustments to the majority of the Company's proposed class increases, all class subsidy levels are identical across the two proposals except for Rates RS, IS, and POL. Second, with respect to Rate POL, the OSBA's recommended revenue allocation provides for the maximum movement toward cost of service for POL customers, short of assigning a rate decrease to the class. Third, the OSBA's proposal provides for uniform movement toward cost of service for Rates RS and IS.⁶

In adjusting Wellsboro's proposed revenue allocation, the OSBA does not impose any extreme rate impacts on individual rate classes. As Mr. Kalcic testified, the OSBA's

⁵ See OSBA Statement No. 1, at 8.

⁶ OSBA Statement No. 1, at 9.

recommended allocation adopts the same limit on class increases (28.2%) as utilized in Wellsboro's proposal.⁷

Furthermore, the revenue allocation modifications proposed by Mr. Kalcic comply 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 nature of Mr. Kalcic's proposed modifications to Wellsboro's revenue allocation, and considering the legal requirements of *Lloyd*, the OSBA respectfully submits that the ALJs and Commission should adopt the Company's proposed revenue allocation as modified by the OSBA.

C. Rate Design

1. Summary of Proposed Rate Design

The OSBA opposes the level of Wellsboro's proposed customer charges for the NRS, NRH, CS and CSH service classes.

As Mr. Kalcic observed, the Company is proposing to increase the customer charge for the NRS and NRH classes from \$12.22 to \$13.40 per month, or 9.7%.⁸ The basis for Wellsboro's proposed NRS/NRH customer charge as explained by Mr. Kalcic is as follows:

Per Exhibit (HSG-1) Schedule E-1C(W), Wellsboro incurs direct customer costs in the amount of \$11.92 per month to serve NRS and NRH customers. In addition, Wellsboro is proposing to recover a portion of each class's demand-related costs (\$1.48) in the monthly customer charge, which results in a proposed customer charge of \$13.40.⁹

Mr. Kalcic found Wellsboro's proposal inconsistent with its own customer cost analysis and therefore the OSBA recommends that the customer charge remain unchanged at \$12.22 per

⁷ OSBA Statement No. 1, at 9.

⁸ OSBA Statement No. 1, at 10.

⁹ See OSBA Statement No. 1 at 10 citing Wellsboro Statement No. 1 at pages 44-45.

month.¹⁰ Further, as Mr. Kalcic observed, since neither NRS or NRH customers pay a demand charge, the balance of each class's assigned revenue requirement should be recovered in the energy (\$/kWh) charge.¹¹

As Mr. Kalcic also observed, Wellsboro is proposing to increase the current energy charge for rate CS from \$32.02 to \$35.00, an increase of 9.3% per month. The basis for Wellsboro's proposed CS customer charge as explained by Mr. Kalcic is as follows:

Per Exhibit __ (HSG-1) Schedule E-1C(W), the Company incurs direct customer costs in the amount of \$20.71 per month to serve Rate CS customers. In addition, Wellsboro is proposing to recover a portion of the class's demand-related costs (\$14.29) in the monthly customer charge, which results in a proposed customer charge of \$35.00.¹²

Again, Mr. Kalcic found Wellsboro's proposal inconsistent with its own customer cost analysis and therefore the OSBA recommends that the customer charge remain unchanged at \$32.03 per month. Further, as Mr. Kalcic explained, since Rate CS customers pay a demand charge (\$/kW), the revenue shortfall associated with leaving the CS customer charge unchanged should be recovered in the class's demand charge.¹³

Lastly, Wellsboro is proposing to increase the customer charge for CSH from \$45.81 to \$58.00 per month, or 26.6%.¹⁴ The basis for Wellsboro's proposed CSH customer charge as explained by Mr. Kalcic is as follows:

Per Exhibit __ (HSG-1) Schedule E-1C(W), the Company incurs direct customer costs in the amount of \$20.71 per month to serve Rate CSH customers. In addition, Wellsboro is proposing to recover a portion of the class's demand-related costs (\$37.29) in the monthly customer charge, which results in a proposed customer charge of \$58.00.¹⁵

¹⁰ OSBA Statement No. 1, at 11.

¹¹ OSBA Statement No. 1, at 11.

¹² See OSBA Statement No. 1 at 10 *citing* Wellsboro Statement No. 1 at page 45.

¹³ OSBA Statement No. 1, at 12.

¹⁴ OSBA Statement No. 1, at 12.

¹⁵ OSBA Statement No. 1, at 13 *citing* Wellsboro Statement No. 1 at page 46.

Similar to the analysis of the NRS/NRH and CS customer charges, Mr. Kalcic found the proposed customer charge for CSH to be inconsistent with the Company's own customer cost analysis and therefore the OSBA recommends that the CS customer charge remain unchanged at \$45.91 per month. Further, as Mr. Kalcic observed, since Rate CSH customers do not pay a demand charge (\$/kW), the balance of the class's assigned revenue requirement should be recovered in the energy (\$/kWh) charge.¹⁶

In summary, Wellsboro's proposed customer charges for the NRS, NRH, CS and CSH service classes are incongruous with the Company's own customer cost analysis, and therefore the OSBA recommends that all such charges remain at their current levels.

D. Scale Back

As Mr. Kalcic demonstrated, the OSBA's recommended modifications to Wellsboro's revenue allocation adopts the same limit on class increases (28.6%) as utilized in the Company's proposal.¹⁷ In the event the Commission awards Wellsboro an increase less than the \$0.999 million request, the OSBA's recommends that the class increases shown in column 2 of Schedule BK-3(W), excluding Rates RSAE, NRH, and CSH, be reduced proportionally. Rates RSAE, NRH and CSH should be excluded from any scale back since these class exhibit little or no movement toward cost of service at the Company's proposed maximum increase.¹⁸

E. Summary

X. Miscellaneous Issues

N/A

¹⁶ OSBA Statement No. 1, at 13.

¹⁷ OSBA Statement No. 1, at 9.

¹⁸ *Id.*

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:

Adopt Mr. Kalcic's recommended modifications to the Company's proposed revenue allocation;

Reject the Company's proposed rate design, specifically its proposed customer charges for the NRS, NRH, CS, and CSH rate classes; and

Adopt Mr. Kalcic's revenue allocation scale back proposal, which excludes any scale back to the proposed increases to the RSAE, NRH and CSH classes.

Respectfully submitted,



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Dated: January 8, 2020

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission :
 :
 v. : **Docket No. R-2019-3008208**
 :
 Wellsboro Electric Company :

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).

The Honorable Steven K. Haas
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