



COMMONWEALTH OF PENNSYLVANIA

March 23, 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 Reply Exceptions, on behalf of the Office of Small Business Advocate ("OSBA"), in the above-captioned proceeding.

Copies will be served on all known parties in these proceedings, 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

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 and other parties filed their Main Briefs on January 8, 2020. Reply Briefs were submitted on January 22, 2020, in accordance with the litigation schedule established at the prehearing conference and as modified by the ALJs via email on December 31, 2019.

On February 28, 2020, ALJ Haas and ALJ Myers issued their Recommended Decision.

Exceptions were filed on March 13, 2020. The OSBA files this Reply Exception in response to Citizens' and the OCA's Exceptions.

II. REPLY EXCEPTION

A. **REPLY TO CITIZENS' EXCEPTION No. 11 and OCA EXCEPTION No. 11: The ALJs properly recommended denial of the Company and OCA Revenue Allocation Proposals (R.D. 92-106; Citizens' Exception No. 11 and OCA Exception No. 11)**

In its exceptions, Citizens' claims the ALJs erred by denying a rate decrease to class GLP-3 and, in so doing, failed to move the class as close to cost of service as possible.¹ The OCA argues that the ALJs misapplied the *Lloyd* decision by not giving appropriate weight to the other factors in their revenue allocation analysis.²

The ALJ properly rejected the proposed revenue allocations of Citizens' and the OCA in favor of an allocation that results in cost-based outcomes much like those underpinning the OSBA's proposed revenue allocation, which is similar to that of I&E's surrebuttal proposal.

¹ Citizens' Exceptions at 25

² OCA Exceptions at 27 *citing Lloyd v. PUC*, 904 A.2d 1010 (Pa. Cmwlth 2004) *Lloyd*

As to the specifics of Citizens' proposal, and as argued more fully in the OSBA's Main and Reply Briefs, the Company's proposed allocation fails to move all classes closer to costs of service and should therefore be rejected.³ Moreover, GLP-3 should not receive a rate decrease in this case because the class would exhibit significant movement toward cost of service if assigned no increase rather than a rate decrease.⁴ Finally, the ALJs noted that OSBA, OCA and I&E all agreed that GLP-3 should not be allocated a rate decrease.⁵

The OCA's Exception appears to be rooted in the idea that principles of gradualism should outweigh the ultimate goal of providing cost based rates.⁶ However, OCA's interpretation of *Lloyd* is flawed and should be rejected. In *Lloyd*, the Court stated that cost of service is the "polestar" guiding rates in cases such as this one.⁷ In their resolution of the revenue allocation, the ALJs specifically considered the positions set forth by the Company, OCA, the OSBA and I&E, and determined that I&E's proposal "best considers and balances" the factors set out in *Lloyd*.⁸

As the OSBA has demonstrated throughout this proceeding, the revenue allocation proposals of both Citizens' and the OCA fail to move all classes closer to cost of service in violation of *Lloyd*, and should be rejected. I&E's proposal, which was modified in surrebuttal, allows for the rate class with the higher relative rate of return (GLP-1) to receive more rate relief and, although not identical to the OSBA's proposal,

³ OSBA Main Brief at 5, and Reply Brief at 5-7

⁴ *Id.*

⁵ Recommended Decision at 103

⁶ OCA Exceptions at 26

⁷ OSBA Main Brief at 8, and Reply Brief at 9

⁸ Recommended Decision, 92-106

better balances the factors set out in *Lloyd*, and the goal of moving all customer classes closer to cost of service than the proposals of Citizens' and OCA.

XI. Conclusion

Wherefore, the OSBA respectfully requests that the Pennsylvania Public Utility Commission adjudicate this proceeding in accordance with the arguments presented herein and deny Citizens' Exception No. 11 and OCA's Exception No. 11.

Respectfully submitted,



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Dated: March 23, 2020

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission :
 :
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 (*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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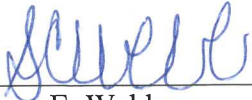
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DATE: March 23, 2020

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