



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

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

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PENNSYLVANIA PUBLIC UTILITY
COMMISSION**

v.

WELLSBORO ELECTRIC COMPANY

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DOCKET NO. R-2019-3008208

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

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

**Daniel G. Asmus
Assistant Small Business Advocate
Attorney ID# 83789**

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

**Office of Small Business Advocate
Forum Place
555 Walnut Street, 1st Floor
Harrisburg, PA 17101**

Date: March 23, 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

¹ 52 Pa. Code §53.53

September 9, 2019, Wellsboro 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 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 these Reply Exceptions in response to Wellsboro's Exceptions No. 9 and 10.

II. REPLY EXCEPTIONS

A. **REPLY TO WELLSBORO's EXCEPTION No. 9: The R.D. correctly recommended denial of Wellsboro's Revenue Allocation Proposal (R.D. 92-106; OSBA Main Brief at 6)**

In its exceptions, Wellsboro claims the ALJs erred by denying a rate decrease to the POL class and, in so doing, failed to move the class as close to cost of service as possible.² The ALJs noted that OSBA, OCA and I&E all agreed that POL should not be allocated a rate decrease.³

The OSBA was generally supportive with the Company's revenue allocation proposal, concluding that all classes would move closer to cost of service under the Company's proposal with the exception of the Company's small non-residential heating classes (*i.e.*, Rates NRH and CSH).⁴ As a result, the OSBA's recommended revenue allocation made slight adjustments to the Company's proposed increases to Rates POL, RS, and IS.⁵

The ALJ properly rejected the proposed revenue allocation of Wellsboro, which included a rate decrease for POL. As support for its proposed decrease to the rate POL, Wellsboro cites the Commission's decision in *UGI Utilities, Inc. – Electric Division* granting a decrease to a rate class.⁶ As the OSBA previously noted, Wellsboro's reliance on the UGI decision is misplaced. The Commission's decision in UGI was based on a general rejection of an alternative cost of service study and should *not* be taken as a general endorsement of rate decreases.⁷

² Wellsboro Exceptions at 22

³ Recommended Decision at 105

⁴ OSBA Main Brief at 6 and Reply Brief at 5

⁵ OSBA Main Brief at 8 and OSBA Statement No. 1-S at 2

⁶ OSBA Reply Brief at 6 (*citation omitted*).

⁷ OSBA Reply Brief at 6, *citing UGI Utilities, Inc.-Electric Division*, at 164-65. (Docket No. 2017-2650058) (*emphasis added*).

As additional support for its revenue allocation proposal, Wellsboro cites *Lloyd v. Pennsylvania Public Utility Commission*, 904 A.2d 1010, 1020 (Pa. Cmwlth. 2006). As set forth previously, the OSBA agrees that *Lloyd* confirms that cost of service is the “polestar” guiding rates cases such as this one, but notes that the POL class would move closer to cost of service under the OSBA’s revenue allocation proposal, where Rate POL would receive no increase rather than a rate decrease.⁸

B. REPLY TO WELLSBORO’S EXCEPTION No. 10: The R.D. correctly recommended denial of Wellsboro’s proposed Commercial Rate Design (R.D. 106-125; OSBA Main Brief at 9)

In its exceptions, Wellsboro claims the ALJs erred in rejecting the Company’s proposal to increase the fixed monthly charges to residential and commercial customers to include a small portion of the demand charges equal to minimum demand.⁹

In issuing their recommended decision, the ALJs properly rejected the Company’s proposal to recover demand costs within the customer charge, as Wellsboro’s arguments are unsupported by its own cost analysis and must be rejected.

As to the specifics of Wellsboro’s proposal, and as argued more fully in the OSBA’s testimony and Main Brief, the basis for Wellsboro’s proposed NRS/NRH and CSH customer charges are inconsistent with its own customer cost analysis. Furthermore, since none of such customer classes pay a demand charge, demand costs are properly recovered in class energy charges.¹⁰ As for rate class CS, there is no valid

⁸ OSBA Reply Brief at 6, *See also* OSBA Statement No. 1-S at 3 *See also* BK-1R (W), attached to OSBA Statement No. 1-R.

⁹ Wellsboro Exceptions at 23

¹⁰ OSBA Main Brief at 9. *See also* OSBA Statement No 1-S(W) at 11.

reason for the Company's proposal to recover demand costs in the customer charge since such customers currently pay a demand charge.¹¹

As the OSBA demonstrated throughout this proceeding, 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 should be rejected.

¹¹ OSBA Main Brief at 9 . See also OSBA Statement No 1-S(W) at 11.

III. Conclusion

Wherefore, the OSBA respectfully requests that the Pennsylvania Public Utility Commission adjudicate this proceeding in accordance with the arguments presented herein and deny Wellsboro's Exceptions No. 9 and 10.

Respectfully submitted,



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Dated: March 23, 2020

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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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DATE: March 23, 2020

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