

WYOMING OFFICE OF CONSUMER ADVOCATE'S  
EDITS FROM THE COMMISSION'S PROPOSED RULE REVISIONS

Section 249. Electric, Gas and Water Wholesale Public Utility Commodity ~~Purchase~~ Pass on Procedure. Pursuant to W.S. § 37-3-106 and the rate filing requirements of this Chapter, a public utility may file an application to pass on to its utility customers in ~~their~~ rates, known commodity or commodity related cost increases or decreases. ~~A utility shall file an application to pass on projected or estimated commodity related cost increases or decreases under this section only if it has in place tariffs that comply with Section 250.~~ Pass on applications under this section may be authorized, subject to public notice, opportunity for hearing, ~~and~~ refund, and the public utility's continuing burden of proof obligation, if the evidence of record shows:

(a) The pass on is for prudently incurred wholesale utility commodity cost increases ~~and or~~ decreases ~~not under this Commission's jurisdiction~~ or ~~other~~ prudently incurred commodity related costs explicitly requested and supported by the public utility or other requesting party, or the Commission, and deemed appropriate by the Commission ~~including, but not limited to,~~ such as, interstate or intrastate transmission or transportation costs, storage costs, fuel costs or other commodity-related costs. ~~mandated by appropriate regulatory agencies or courts.~~

(b) The pass on will not increase the public utility's ~~normalized~~ rate of return, and ~~the~~ its normalized rate of return on equity for its Wyoming-regulated operations, is at or below that last authorized by the Commission. ~~A pass on application filed under this section shall include a current cost and revenue study or the results of a study previously filed with the Commission within the past 12 months. The cost and revenue study shall include appropriate pro forma adjustments, supporting exhibits, written explanations and documentation to substantiate the utility's earned rate of return. If the utility is exceeding its authorized rate of return, the Commission may reduce non commodity rates accordingly.~~

(i) With each pass-on application, but no more frequently than annually, the applicant public utility shall submit documentation showing its recent level of normalized, Wyoming-regulated annual earnings and return on equity, compared to its most recently authorized return on equity. Public utilities not subject to an explicit Commission authorized return on equity shall submit documentation showing its recent level of normalized Wyoming-regulated annual earnings compared to times interest earned ratio (TIER), operating ratio, or such other key financial parameter(s) established by the Commission as a measure of the public utility's earnings.

(ii) The appropriate form and level of detail of the required supporting documentation shall be determined by the Commission, on a case-by-case basis, in consideration of the public utility's size, complexity, nature of operations, corporate structure, and other relevant factors. The public utility shall be responsible for providing documentation that provides an accurate, reliable, and supportable portrayal of its earnings.

(iii) If a *prima fascia* showing that the public utility is exceeding its authorized earnings level is made by the applicant or a party to the proceeding, the Commission, upon proper notice, may modify (e.g., reduce the increase or make the decrease larger) the applicant's request in order to reflect the amount by which earnings exceed the previously authorized return on equity or other Commission-established financial parameter(s), or the Commission may take any other duly authorized regulatory action to assure that rates and earnings remain just and reasonable.

(iv) No exceptions to this provision shall be permitted unless requested, and approved by the Commission, prior to the pass-on filing, and shall be based upon an individual public utility's showing, at an evidentiary hearing, that an exception is in the public interest.

(c) The pass on is allocated to all retail rate classes and contract customers on an equal or proportionate basis. Exceptions to the equal or proportionate class allocation may be permitted if specifically requested and justified, but only if such an exception is found to be in the public interest and necessary to preserve the long-run interest of all customer classes. ~~The Commission may consider special circumstances related to the allocation of costs to contract customers if dedicated commodity resources serve them and are not available to retail rate classes or are not a contributing factor to the pass on application. The pass on shall maintain the fundamental rate design relationship previously approved by the Commission and shall be applied equally or proportionately to all service schedules and to each of the commodity components of the current rate design.~~

(d) All pass on rates shall be filed as a separate cumulative rate rider or surcharge which may be blended into and consolidated with base rates in general rate case proceedings or as otherwise ordered by the Commission.

(e) As a part of all pass on filings under this rule, ~~including all balancing account applications under Section 250,~~ the public utility must provide supporting documentation that the gas, electric or water commodity costs sought to be included in customer rates in the pass on application are the most reasonable cost economical option ~~reasonably~~ practically available to the public utility (considering the appropriate balance of costs and risks) for the provision of safe, adequate and reliable service to retail customers, including: ~~the following:~~

(1) The documentation shall ~~demonstrate~~ describe all efforts and options realistically available to the public utility to serve its customers at the ~~lowest~~ most reasonably economic and practically available ~~possible~~ cost consistent with safe, adequate and reliable service and shall explain why the option contained in the filing was chosen. ~~Integrated resource plans or commodity acquisition plans filed to comply with this requirement must be shown to be adequate.~~

(2) Physical hedging costs that the public utility seeks to include in its pass-on rates included in the pass-on application including diversified contract terms and conditions, storage management or other measures will be considered and approved by the Commission on a case-by-case basis if found to be in the public interest. ~~-as part of the utility's least cost planning and acquisition practices and may be approved if they are in the public interest.~~

(3) Financial hedging costs that the public utility seeks to include in its pass-on rates included in the pass-on application including costs related to futures contracts, price caps, financial derivatives and other measures to achieve price stability or reduce price volatility will be considered and approved by the Commission on a case-by-case basis if found to be in the public interest. ~~as part of the utility's least cost planning and acquisition practices and may be approved if they are in the public interest.~~

(4) Records of all physical and financial hedging costs incurred by the public utility for purposes of securing its commodity portfolio shall be maintained by the public utility and included in the supporting documentation supplied by the public utility with its pass on application.

(f) Every four years, each public utility who has sought a change in its rates pursuant to these pass-on provisions during the prior four year period, shall submit for Commission review, a description and explanation of the public utility's incentives for efficient use of resources, including, but not limited to information and incentives relative to: losses and company use of energy; demand-side management programs offered in its service territory, subscription rates, and estimated costs and savings associated with the programs; the use of off-peak pricing, demand meters and rate designs, or other pricing techniques related to more limited or more economical purchases and use of fuel; and the use of storage, batteries, fuel cells, or other techniques that allow for more efficient use of energy.

(g) For each public utility that utilized these pass-on procedures within the past two years, the Commission shall biennially initiate an investigation, to determine that the use of these pass-on procedures allows for the maximum economies of the public utility's operations and purchases. Such investigation shall include an examination of the practices of the public utility relating to costs subject to the pass-on.

Section 250. Electric, Gas and Water ~~Wholesale~~ Public Utility Commodity Balancing Account ~~as the Basis for Periodic Pass-On Filings and Purchase~~ Pass on Procedures. This section shall apply ~~to~~ when a public utility has projected or estimated wholesale utility commodity costs ~~increase or decreases not under the Commission's jurisdiction or other prudently incurred commodity related costs deemed appropriate by the Commission including, but not limited to, interstate or intrastate transmission or transportation costs, storage costs, fuel costs, refunds or other costs mandated by appropriate regulatory agencies or courts that are proposed to be passed on by a utility to its customers on a regularly scheduled basis.~~ as part of its approved rates and such public utility has an approved Commodity Balancing Account and a related pass-on procedure as part of its tariffs on file with the Commission.

(a) Any public utility may seek approval of a proposed Commodity Balancing Account tariff pursuant to the provisions of this Section and the tariff filing and noticing provisions of W.S. § 37-3-106. However, such application shall only be approved if the Commission finds it to be in the public interest.

~~(b)(i)~~ The Commodity Balancing Account is a tariff mechanism that is designed to provide for dollar for dollar recovery of actual, legitimate and approved commodity or commodity related costs. In addition, it protects utility consumers by implementing an accounting procedure that measures and includes in retail rates only authorized commodity and commodity related costs incurred by the utility. Any utility may file for a proposed Commodity Balancing Account tariff pursuant to the provisions of this Section and the tariff filing provisions of this Chapter. If approved, the utility records related to the maintenance of the tariff shall be available for audit by the Commission at any time. record and account for the difference between revenues collected based on projected or estimated wholesale utility commodity costs (or commodity-related costs) and prudently incurred, Commission-approved commodity (or commodity-related) costs actually incurred by the public utility.

(ii) The pass-on procedure is a process which allows the public utility to periodically increase or decrease customer rates in order to reflect on-going projected or estimated changes in commodity and commodity-related costs, and allows for rate changes relative to customer surcharges or credits that result from credit (over-collected) or debit (under-collected) balances in the Commodity Balancing Account.

~~(e)(b)~~ The Commodity Balancing Account tariff shall address and describe in detail how the public utility will account for the major components of a Commodity Balancing Account, including the following: (1) The schedule or frequency with which the public utility will file pass-on adjustments proposed increases or decreases to rates to reflect wholesale commodity or commodity related cost changes; (2) The planned method and time period and supporting basis for projecting wholesale commodity or commodity related costs; (3) The procedure, formula, and anticipated recordkeeping measures for tracking the difference between revenues collected based on projected or estimated wholesale utility commodity costs and prudent, and Commission-approved commodity or commodity related costs actually incurred by the public utility actual-wholesale

~~commodity or commodity related costs paid and the amount actually collected in rates;~~  
(4) The time period for amortizing the balance of any over or under recovery (including associated interest on over-collections) in the Commodity Balancing Account; and (5) ~~the procedure for calculating increases or decreases in wholesale commodity or commodity related purchases using a measurement unit consistent with the utility's billing practices and tariff provisions;~~ (6) The procedure for calculating ~~and collecting~~ interest on any over ~~or under~~ collected balance in the Commodity Balancing Account.

~~(d) — All pass-on applications that reflect a change in wholesale commodity or commodity related costs through the Commodity Balancing Account must conform to the provisions of Section 249.~~

(c) — With any application seeking to change projected or estimated commodity costs, and with any application seeking to reflect changes in Commodity Balancing Account related customer surcharges or customer credits, but no more often than annually, the public utility shall be required to submit documentation showing its recent level of normalized, Wyoming-regulated annual earnings and return on equity, compared to its most recently authorized return on equity. Public utilities not subject to an explicit Commission authorized return on equity shall submit documentation showing its recent level of normalized Wyoming-regulated annual earnings compared to times interested earned ratio (TIER), operating ratio, or such other key financial parameter(s) established by the Commission as a measure of the public utility's earnings.

(i) — The appropriate form and level of detail of the required supporting documentation shall be determined by the Commission, on a case-by-case basis, in consideration of the public utility's size, complexity, nature of operations, corporate structure, and other relevant factors. The public utility shall be responsible for providing documentation that provides an accurate, reliable, and supportable portrayal of its earnings.

(ii) — If a *prima fascia* showing that the public utility is exceeding its authorized earnings level is made by the applicant or a party to the proceeding, the Commission, upon proper notice, may modify (e.g., reduce the increase or make the decrease larger) the applicant's request in order to reflect the amount by which earnings exceed the previously authorized return on equity or other Commission-established financial parameter(s), or the Commission may take any other duly authorized regulatory action to assure that rates and earnings remain just and reasonable

(iii) — No exceptions to this provision shall be permitted unless requested, and approved by the Commission, prior to the pass-on or Commodity Balancing Account related filing, and shall be based upon an individual public utility's showing, at an evidentiary hearing, that an exception is in the public interest.

(d) — The requested increase or decrease related to a change in a projected or estimated commodity or commodity related cost, or related to a Commodity Balancing Account related customer surcharge or bill credit, shall be allocated to all retail rate classes and contract customers on an equal or proportionate basis. Exceptions to the equal or

proportionate class allocation may be permitted if specifically requested and justified, but only if such an exception is found to be in the public interest and necessary to preserve the long-run interest of all customer classes.

(e) Each public utility with an approved Commodity Balancing Account shall monthly calculate the over or under recovered accumulated balance reflecting the difference between revenues collected based on projected or estimated wholesale utility commodity costs and prudent, Commission-approved commodity or commodity related costs actually incurred by the public utility. The public utility's records or supporting documentation shall reflect, as of the end of each month, the total accumulated over or under collected balance, including interest computed monthly on any over-collected balance.

~~(e) (f)~~ Interest on any over ~~or under~~-collected balance in the Commodity Balancing Account shall be computed at the rate specified ~~in Section 241(a)~~ in the public utility's tariff language specific to the provisions of the Commodity Balancing Account.

~~(f) — The utility may apply to the Commission for approval to include other costs and revenues in the Commodity Balancing Account including, but not limited to, federal agency or court authorized or mandated refunds, penalties, assessments or other costs not under the jurisdiction of this Commission.~~

(g) All rates related to this provision shall be filed as a separate cumulative rate rider or surcharge which may be blended into and consolidated with base rates in general rate case proceedings or as otherwise ordered by the Commission.

(h) As a part of all applications to change rates pursuant to this provision, the public utility must provide supporting documentation that the gas, electric or water commodity costs sought to be included in customer rates are the most reasonable cost option practically available to the public utility (considering the appropriate balance of costs and risks) for the provision of safe, adequate and reliable service to retail customers, including:

(1) The documentation shall describe all efforts and options realistically available to the public utility to serve its customers at the ~~lowest~~ most reasonably economic and practically available cost consistent with safe, adequate and reliable service and shall explain why the option contained in the filing was chosen.

(2) Physical hedging costs that the public utility seeks to include in its rates pursuant to these provisions, including diversified contract terms and conditions, storage management or other measures, will be considered and approved by the Commission on a case-by-case basis if found to be in the public interest.

(3) Financial hedging costs that the public utility seeks to include in its rates pursuant to these provisions, measures to achieve price stability or reduce price volatility, will be considered and approved by the Commission on a case-by-case basis if found to be in the public interest.

(4) Records of all physical and financial hedging costs incurred by the public utility for purposes of securing its commodity portfolio shall be maintained by the public utility and included in the supporting documentation supplied by the public utility with its application for a Commodity Balancing Account related rate change.

(i) Every four years, each public utility who has sought a change in its rates pursuant to these Commodity Balancing Account provisions during the prior four year period, shall submit for Commission review, a description and explanation of the public utility's incentives for efficient use of resources, including, but not limited to information and incentives relative to: losses and company use of energy; demand-side management programs offered in its service territory, subscription rates, and estimated costs and savings associated with the programs; the use of off-peak pricing, demand meters and rate designs, or other pricing techniques related to more limited or more economical purchases and use of fuel; and the use of storage, batteries, fuel cells, or other techniques that allow for more efficient use of energy.

(j) For each public utility that utilized these Commodity Balancing Account procedures within the past two years, the Commission shall biennially initiate an investigation, to determine that the use of these Commodity Balancing Account procedures allows for the maximum economies of the public utility's operations and purchases. Such investigation shall include an examination of the practices of the public utility relating to costs subject to the Commodity Balancing Account.

~~(g)~~(k) Nothing in this rule shall preclude the public utility from applying for or the Commission from ~~ordering~~ approving an out-of-period adjustment as may be necessary to meet special circumstances or wholesale commodity market events, provided that the public utility complies all other requirements related to the filing requirements and supporting information relative to its application, and the Commission finds such application to be in the public interest.

~~(h)~~(l) In addition to the Commodity Balancing Account tariff which defines the operation and function of the Commodity Balancing Account, the public utility shall file a retail rate summary tariff that shows for each class of service, the commodity rate approved by the Commission pursuant to this section of its rules ~~as computed under the provisions of the Commodity Balancing Account~~ and the non-commodity or distribution component~~(s)~~ of the rates.