

OFFICE OF CONSUMER ADVOCATE'S SUGGESTED CHANGES FROM THE  
PSC DRAFT CIRCULATED MARCH 28, 2005

Section 249. Electric, Gas and Water Public Utility ~~Wholesale~~ 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 rates, known commodity or commodity related cost increases or decreases. A public 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.

(a) Pass on applications for public utilities subject to an explicit Commission authorized rate of return may be authorized, subject to public notice, opportunity for hearing and refund, if the evidence of record shows:

(1) That allowing the recovery of the costs would be in the public interest and the pass on is for prudently incurred wholesale utility commodity cost increases or decreases not under this Commission's jurisdiction or other commodity related costs explicitly requested and supported by the public utility and deemed appropriate by the Commission such as interstate or intrastate transmission or transportation costs, storage costs, fuel costs, hedging costs, or other commodity-related costs ~~authorized by appropriate regulatory agencies or courts.~~

(2) That the pass on will not increase the public utility's rate of return and its normalized rate of return on equity for its Wyoming regulated operations is at or below that last authorized by the Commission. If the public utility is exceeding its authorized rate of return on equity, the Commission may, upon proper notice, modify the public utility's request in order to eliminate the amount by which earnings exceed the previously authorized return on equity, may initiate a rate investigation on its own motion to have the public utility show why its base rates should not be adjusted, or may take any other duly authorized regulatory action to assure that rates and earnings remain just and reasonable.

(i) A pass on application filed under this section shall include documentation showing the public utility's normalized, Wyoming regulated annual earnings, ~~and rate of return~~, return on rate base, and return on equity, comparing the rate of return ~~and return on equity~~ to that last authorized by the Commission.

(ii) Such documentation shall be filed with each pass-on application, but no more frequently than annually. at least annually with a pass-on filing. ~~The amount of detail and supporting~~

~~documentation included shall be described in the public utility's tariff approved by the Commission. 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 accurate, reliable, and supportable documentation that accurately portrays its earnings.

- (b) Public utilities not subject to an explicit Commission authorized rate of return shall submit documentation showing its recent level of normalized annual earnings for its Wyoming regulated operations compared to the financial parameters established by the Commission as a measure of the public utility's earnings. Pass on applications for these public utilities may be authorized, subject to public notice, opportunity for hearing and refund, if the evidence of record shows:
- (1) That allowing the recovery of the costs would be in the public interest and the pass on is for prudently incurred wholesale utility commodity cost increases or decreases not under this Commission's jurisdiction or other commodity related costs explicitly requested and supported by the public utility and deemed appropriate by the Commission such as interstate or intrastate transmission or transportation costs, storage costs, fuel costs, hedging costs, or other commodity-related costs. ~~authorized by appropriate regulatory agencies or courts.~~
  - (2) That the pass on will not increase the public utility's authorized earnings and its normalized annual earnings are at or below that last authorized by the Commission. If the public utility is exceeding its authorized earnings, using the financial parameter authorized by the Commission in the most recent determination of earnings, the Commission may, upon proper notice, modify the public utility's request in order to reflect the amount by which the financial parameter exceeds the authorized level, may initiate a rate investigation on its own motion to have the public utility show why its base rates should not be adjusted, or may take any other duly authorized regulatory action to assure that rates and earnings remain just and reasonable.
    - (i) A pass on application filed under this section shall include documentation showing the public utility's Wyoming-regulated normalized annual earnings, ~~comparing and a comparison of the~~ normalized and Commission authorized earnings to the financial parameters ~~last authorized by the Commission.~~

- (ii) Such documentation shall be filed ~~at least annually with a pass on filing with each pass on application, but no more frequently than annually.~~ The amount of detail and supporting documentation included shall be described in the public utility's tariff approved by the Commission. The public utility shall be responsible for providing accurate, reliable, and supportable documentation that accurately portrays its earnings.
- (c) The pass on shall be allocated to all retail rate classes and contract customers on an equal or proportionate basis. ~~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. 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.~~
- (d) All pass on rates shall be filed as a cumulative rate rider or surcharge separate from base rates, which may be blended into and consolidated with base rates in general rate case proceedings or as otherwise ordered by the Commission.
- (e) As part of all pass on filings under this rule, including all balancing account applications under Section 250, the public utility shall provide supporting documentation that the gas, electric or water commodity costs included in the pass on application are the most reasonable option practically available to the public utility for safe, adequate and reliable service to retail customers, including, but not limited to:
- (1) Documentation demonstrating the efforts taken by the public utility to serve its customers result in the most reasonable rate available consistent with safe, adequate and reliable service. ~~A public utility may file integrated resource plans or commodity acquisition plans for Commission review and approval and such plans shall comply with this requirement.~~
  - (2) Physical hedging costs ~~requested to be included in the pass on application that the public utility seeks to include in its pass-on rates,~~ such as diversified contract terms and conditions, storage management, or other measures shall be documented in the application and ~~will~~ shall be considered by the Commission on a case-by-case basis and may be approved if shown to result in just and reasonable rates.
  - (3) Financial hedging costs ~~requested to be included in the pass on application that the public utility seeks to include in its pass-on rates,~~ such as costs related to futures contracts, price caps, financial derivatives,

swap agreements, collars, and other measures to achieve price stability or reduce price volatility shall be documented in the application and ~~will~~shall be considered by the Commission on a case-by-case basis and may be approved if shown to result in just and reasonable rates.

(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 with the 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.

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Section 250. Electric, Gas, and Water Public Utility ~~Wholesale~~ Commodity Balancing Account as the Basis for Periodic Pass On Filings. This section shall apply when a public utility seeks to periodically increase or decrease rates to reflect the projected or estimated wholesale commodity cost increases or decreases not under the Commission's jurisdiction or other prudently incurred commodity related costs deemed appropriate by the Commission and when a public utility seeks to increase or decrease rates to reflect the difference between previously projected commodity and commodity related costs and actual, prudent commodity or commodity related expenditures. ~~such as interstate or intrastate transmission or transportation costs, storage costs, fuel costs, hedging costs, refunds or other commodity related costs authorized by appropriate regulatory agencies or courts are proposed to be passed on by a public utility to its customers on a regularly scheduled basis.~~

- (a) Any public 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. Such application shall only be approved if the Commission finds it to be in the public interest. If approved, the utility records related to the ~~maintenance of the~~ Commodity Balancing Account ~~tariff~~ shall be available for audit by the Commission at any time.
- (b) The Commodity Balancing Account is a tariff mechanism designed to account for the difference between commodity or commodity related revenues collected based on estimated or projected wholesale costs and actual, prudently incurred commodity or commodity related revenues incurred by the public utility.
- (c) 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 proposed rate adjustments to reflect wholesale commodity or commodity related cost changes; (2) The planned method, supporting basis, and time period for projecting wholesale commodity or commodity related costs; (3) The procedure and recordkeeping measures for tracking the difference between commodity or commodity related revenues collected based on estimated or projected wholesale costs and actual, prudently incurred commodity or commodity related revenues incurred by the public utility; (4) The time period for amortizing the balance of any over or under recovery in the Commodity Balancing Account; (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-rates through resulting from~~ the pass on of under or over collections accumulated in the Commodity Balancing Account must conform to the provisions of: Section 249 (a) and (b) pertaining to submission of earnings documentation that provides substantiation the public utility is earning at or below its Commission authorized rate of return on equity or other authorized financial parameter ~~and~~; Section 249(c) pertaining to the allocation of the commodity or commodity related increase or decrease among customer classes; Section 249 (e) pertaining to submission of documentation that the commodity and commodity related costs included in the application are the most reasonable option available to the public utility for the provision of safe, adequate and reliable service to retail customers; ~~and Sections 249 (f) and (g) pertaining to periodic reviews of efficiencies and incentives.~~
- (e) The public utility must make a showing of need and obtain Commission approval before charging interest on any under-collected balance in the Commodity Balancing Account. Interest on any over or under-collected balance in the Commodity Balancing Account shall be computed at the rate specified in Section 241.
- (f) The utility may apply to the Commission for approval to include other costs and revenues in the Commodity Balancing Account such as federal agency or court authorized or mandated refunds, penalties, assessments or other commodity related costs not under the jurisdiction of this Commission. The Commission shall approve the request only if it finds it to be in the public interest and the resulting rates to be just and reasonable.
- (g) Nothing in this rule shall preclude the public utility from applying for or the Commission from approving an out-of-period adjustment as may be necessary to meet special circumstances or wholesale commodity market events. Any out-of-period adjustment shall fully comply with all filing requirements and supporting documentation of Sections 249 and this section of the Commission's rules.
- (h) 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 and the non-commodity or distribution rate component.