

# **Tariff Development IV: How the NY Commission Develops an Order on Rates**

*Charles Dickson, Director,  
Office of Accounting & Finance, NYS PSC*



# Utility Rate Case Timeline in NYS

- Utility files for increased rates and 11 month review “clock” starts.
- The Commission must review the record and decide the case within that timeframe or the requested rate increase automatically goes into effect.
- The Department of Public Service Staff and other interested parties then become involved in a process to examine the basis upon which the rate request is made.

# How Utility Rates are Made in New York State

**Month 1**

**Month 11**

- The Public Service Commission (PSC) is a body of the members appointed by the Governor and confirmed by the State Senate. The PSC regulates electric, gas, telephone and water companies so that customers have reliable utility service at the lowest reasonable rates.
- The PSC is staffed by the Department of Public Service, a professional staff of accountants, engineers, lawyers, environmental specialists and consumer service representatives which represent the public in all PSC proceedings.
- In determining what rates should be, an Administrative Law Judge conducts “evidentiary hearings”. These hearings are conducted like a trial. The company’s need for the rate increase and individual cost items (e.g., fuel, construction budget) that make up the total rate increase request are examined. Staff, the company and other intervenors submit testimony, cross examine each other’s witnesses and submit briefs to the Judge.

# How Utility Rates are Made in New York State

A typical rate case takes 11 months to be decided and sets rates for one year, although a negotiated case may not follow that exact time frame and may set rates for three or more years.



## Month 1

- Utility costs to do business rise. For example, taxes and wages go up.

## Month 2

- The Company decides it needs to increase rates to cover those higher costs.

## Month 3

- The Company files a request for a rate increase with the Public Service Commission (PSC). The request includes its proposed new rates and the Company's justification for the increase.

# How Utility Rates are Made in New York State

## Month 4

- A Public Service Commission staff team, including a lawyer, accountants, engineers, financial analysts and consumer service specialists is assembled to investigate the Company's proposal. They will develop a counter proposal.
- An Administrative Law Judge is assigned to preside over the case, hear all the evidence and recommend a decision to the Public Service Commission.
- Any interested person or group can participate in the case in two ways:
  - By becoming an "intervenor" – intervenors are active throughout the process. They examine the company's proposal, submit testimony and cross examine other witnesses and participate in any negotiations.
  - By submitting comments – Public Statement Hearings are held so that interested people can comment directly to the Judge. Anyone can also write to the Judge with comments. These comments are considered by PSC staff, the Judge and the PSC itself.

## Month 5

- The Judge holds Public Statement Hearings to receive public comment on the Company's proposal.

## Month 6

- Staff, the Company and other parties may either litigate the issues raised by the Company's proposal or may negotiate a solution.

# How Utility Rates are Made in New York State

## Month 7

- All interested parties meet in informal sessions to discuss the issues in the case, the need for an increase and any other issues. They negotiate any differences in their positions.
- If agreement is not reached, the parties will litigate the case.
- If agreement is reached, the terms of the agreement are made public.
- The agreement must be approved by the PSC.
- The Judge will accept comment on the terms of the agreement. If necessary, the Judge will hold public statement hearings or evidentiary hearings on the agreement.

## Month 8

- The Judge issues a public document called the “Recommended Decision” which summarizes each party’s position on each issue in the case and presents the Judge’s opinion if rates should increase and by how much.

## Month 9

- Staff, the Company and other intervenors submit written comments on the Judge’s decision.

## Month 10

- The Judge examines these comments and provides an analysis of them to the PSC.

## Month 11

- Parties can appeal the decision to the PSC and may seek court review of the decision if the appeal fails.
- The PSC decides the case at a public meeting. It can reject, modify or approve the request for an increase. A written decision called an Opinion and Order is issued.

# How Utility Rates are Made in New York State

- Following the issuance of a Commission Rate Order in a litigated case, the company is free to request a rate change that would take effect at the end of the first year in which new rates are in place.
- If a Settlement is reached, it is generally for a period longer than one year and constrains the utility's right to file for higher rates.
- During the term of a multi-year rate plan, annual reports of earnings and deferred costs are required.