

Tariff Development IV: How a Commission Develops an Order on Rates

Paul Hudson
Public Utility Commission of Texas
Briefing for the NARUC/INE Partnership

1

Timing of Rate Cases

Rate cases when needed

- Utility may initiate case if rates are inadequate
- Commission requires regular reports of revenues and expenses and may initiate case if rates are excessive

Interval between cases provides opportunity to improve efficiency

4

Process for Setting Utility Rates

- Texas uses a quasi-judicial process for setting rates
 - Written application and testimony
 - Intervention by interested parties
 - Discovery
 - Contested hearing with cross-examination
 - Commission order
 - Appeals of orders by judicial review

2

What Triggers A Rate Case?

- Earned return is too low
 - Company initiates a rate case
- Earned return is too high
 - Commission or an intervenor initiates a rate case according to statute
 - PUCT Staff reviews the financial health of utilities annually in PUC Earnings Monitoring Reports

5

Rate Principles

- Assure rates, operations, and services that are just and reasonable to the consumers and to the utilities
- Permit the utility a reasonable opportunity to earn a reasonable return on invested capital that is used and useful in providing service to the public and reasonable and necessary operating expenses

3

Steps in Setting Rates

- Determine overall revenue requirement
- Assign revenue requirements to customer classes
- Design rates to recover revenue from each class
- Fuel rates set more frequently, may be subject to reconciliation

6

Deadlines When Setting Rates

- Commission has about 6 months to complete review and issue an order on rate application.
- Early public notice provides opportunity for public involvement.

7

Test Year Concepts

- Historical test year based on financial data for the most current 12 months for which information is available
 - In setting rates test-year costs adjusted for known and measurable changes to develop rates for rate period
- Forecasted test period—some regulatory commissions use a forecasted test year to set rates

10

Information Provided at the Beginning of a Rate Case

- Data and calculations of the requested revenue requirement
- Cost allocation data and calculations
- Testimony describing programs and supporting data
 - Rate of return, depreciation, taxes
- Historical information
 - Financial, operational, and consumption

8

Rate Design

- Rates set to:
 - Collect authorized revenue requirement for each class of customers
- Other considerations:
 - Rate stability
 - Revenue stability
 - Fairness
 - Competition
 - Time-of-use

11

Rate Case Begins

- Utility sets specific timeline
 - Considers desired effective date of proposed increases
 - Must also consider need to distribute written and published Notice of Intent
- Rate filing package (RFP) filed
- Hearing examiner(s) assigned, if appropriate

9

Hearing Examiner

- Commissioners sometimes delegate proceeding to examiner who hears testimony, develops record and issues recommendation (Proposal for Decision (“PFD”)) for Commission review and approval

12

Preliminary Procedural Actions

- “Pre-Hearing” Order sets proceeding schedule
- May also include discussion and requirements about:
 - updating supporting information regularly
 - discovery process and schedule
 - about handling “confidential” information
 - computer models for filed data

13

Hearings and Settlements

- Hearings
 - More judicial than legislative in nature
 - Presentation of evidence and development of a factual and expert record
 - Witnesses may be cross-examined by commission staff, opposing counsel and commissioners/hearing examiner, as appropriate
- Settlement conferences
 - Any settlement needs commission approval

16

Discovery

- Rate cases always involve extensive discovery
- Often onerous; always time-sensitive
 - Requires:
 - Superior project management and control
 - Technical expertise
 - Legal oversight

14

If the Commission heard the case

- The Commission will weigh the evidence and legal and policy arguments and develop a written order.
- The order will contain discussions of the parties’ positions and the Commission’s decision and findings of facts, conclusions of law, and ordering paragraphs.

17

Testimony

- For efficiency, Texas uses pre-filed, written, direct Testimony subject to live cross-examination
 - Utility’s testimony is generally filed with its application and rate filing package.
 - Other parties file their testimony after discovery but generally prior to hearing
 - Types of testimony that may be filed by parties include Direct, Rebuttal, Supplemental, Errata, etc.
 - Statements of Position may also be filed

15

If an Examiner heard the case

- The examiner will weigh the evidence and legal and policy arguments and develop a written recommendation for the Commission called a proposal for decision (PFD).
- The PFD contains discussions of the parties’ positions and the examiner’s decision/recommendation and findings of facts, conclusions of law, and ordering paragraphs for consideration by the Commission.
- Parties will file exceptions to the PFD that are adverse to their position hoping to persuade the Commission to reverse the examiner on that issue.

18

The Commission's Order

- Commission issues a written order
 - Based on record developed at hearing
 - Adopts, modifies or rejects hearing examiner's recommendations
- In response to the Commission's order, parties can make Motions for Rehearing asking the Commission to reconsider decisions made in the order.
- Tariff revised and Compliance Tariff filed that conform to the Commission's order
- Parties dissatisfied with the order can pursue appeals in the civil courts.

19

Questions?

20