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SUBCHAPTER D. RATE PROCEEDINGS
PART 61. RATE PROCEEDINGS

§ 61.1 Burden of proof

The burden of proof is upon the utility whose rates, rules and regulations relating thereto, charged or proposed to be charged, are being considered.

§ 61.2 Presumption as to existing rates

The rates, rules and regulations relating thereto that are in effect when the proceeding is initiated will not be presumed to be just and reasonable.

§ 61.3 Matters to be established by utility

(a) The utility whose rates, rules and regulations are being considered shall establish by competent testimony:

(1) the annual revenues under the existing rates, rules and regulations that are being considered and under those which said utility proposes to charge;

(2) number of units of service rendered (e.g., kilowatt-hours, M cubic feet, car miles and car hours or telephone calls) for each service classification involved, actual and proposed; and

(3) revenue per unit similarly.

(b) Such utility shall establish by competent testimony:

(1) the detailed cost of rendering the service to which such rates, rules and regulations are applicable;

(2) the cost per unit of service rendered as defined in the preceding paragraph; and

(3) other customary operating statistics.

(c) Such revenues and costs shall be:

(1) for each of the three years immediately preceding the initiation of the case;

(2) for such later periods as the progress of the proceeding will permit; and

(3) all changes in said rates, rules and regulations during the entire period shall be fully and exactly set forth.

(d) Such utility shall establish by competent testimony:

(1) comparative balance sheets at the end of the four preceding fiscal years and the latest available month;

(2) comparative income statements for the three preceding fiscal years and for the current year through the latest available month;

(3) amount and bases of charges for depreciation or amortization included in such operating expenses;

(4) earned surplus statements for the three preceding fiscal years and for the current year through the latest available month;

(5) complete and detailed statements of the merchandising and jobbing business conducted by the utility during the three preceding fiscal years and for the current year through the latest available month, including the revenues applicable thereto, the total expenses incurred in conducting this business, taxes applicable thereto and return on the property used therefor. This testimony shall be complete and in detail and shall include all costs of every kind and description; and

(6) the gas purchasing policies and load management practices and how the company is insuring that gas costs for both the test period and rate year are prudent and from the least-cost reliable sources. Such testimony should discuss both the long- and short-term gas procurement plans as well as a description of existing gas supply contracts. This testimony should be complete and in detail, including quantities as well as costs for all sources of gas supply.

§ 61.4 Expected changes

If the utility involved believes that there will be changes in revenues, expenses or income which should be considered in determining reasonable rates for the future, it shall present competent testimony to support such estimates. Speculative or conjectural data are not acceptable and all estimates must be explained in detail and the bases definitely established.

§ 61.5 Establishment of original cost and accrual depreciation

Where return is involved or claimed, the utility shall establish by competent evidence the original cost of the property used and useful in the service to which the rates, rules and regulations involved in the proceeding relate and the accrued depreciation thereon. All property not so used and useful shall be excluded (note particularly of section 61.3(d)(5) of this Part). Accrued depreciation as used herein means the loss or depletion in worth or value, compared with a specified cost new, due to all causes which bring about the ultimate retirement of the property, such as wear and tear, decay, action of the elements, inadequacy, obsolescence, changes in the art, changes in demand and requirements of public authorities. Departure from newness, estimated cost of needed repairs or that part of depreciation which may be measured by inspection alone will not be accepted as satisfactory evidence of the total amount of accrued depreciation actually existing in the property.

§ 61.6 Property acquired from affiliated interests

In the case of property acquired from affiliated interests, as defined in section 110 of the Public Service Law, there shall be shown whenever possible the original cost of such property to the corporation or person constituting such affiliated interest and the depreciation accrued by such corporation or person at the time of sale or transfer to the utility.

§ 61.7 Reproduction cost

(a) Evidence of reproduction cost need not be submitted, but if presented, it shall be primary accounts and subdivisions thereof as prescribed in the applicable uniform system of accounts prescribed by this commission and the corresponding original cost and book cost of the property as defined in this section shall be shown if the book cost differs from original cost.

(b) If evidence of reproduction cost is submitted, the accrued depreciation as herein defined, that is applicable to such reproduction cost, shall be shown by primary accounts and subdivisions thereof as provided for in section 61.5 of this Part. Reproduction costs without accrued depreciation is not an element in determining the value of the property for the purpose of computing a return and will not be accepted as such.

§ 61.8 Working capital

Any claims for working capital or other elements of value must be established by competent evidence.

§ 61.9 Amounts previously charged to other than capital accounts

Whenever amounts previously charged to operating expenses or to income accounts or to surplus are included in claimed original cost or book cost of said property, such amounts shall be clearly set forth with the date of such charges.

§ 61.10 Restriction on rate filings

(a) Whenever the effective date of any change to any public utility company's tariff schedule is suspended by order of the commission pending an investigation of that company's revenue requirement, no change of any other tariff schedule in force at the time of the commission's suspension order shall be accepted for filing without the approval of the commission, except as provided by subdivision (c) of this section.

(b) No change of any tariff schedule shall be accepted for filing without the approval of the commission, unless the changed schedule:

(1) contains a tariff leaf setting forth a schedule of surcharges designed to allocate the expense of each utility gross revenue tax, imposed by a city, a village, or the State, to the customers whose service produces revenues subject to that tax; or

(2) contains no changes other than those set forth in subdivision (c) of this section.

(c) The following proposed tariff schedule changes shall not require the filing approval required in subdivision (a) of this section:

(1) changes made pursuant to or authorized by applicable orders of the commission, such as compliance filings following rate level or rate design investigations and expressly authorized second-stage rate increases;

(2) changes in formula rates, such as the fuel and gas adjustment clause, annual factor of adjustment, annual gas surcharge or refund, gross receipts tax surcharge, and two-tier telephone rate revisions;

(3) changes in special service charges, such as late payment, no access, meter recovery, connection, field collection, seasonal turn-on and turn-off, and undergrounding charges;

(4) changes designed to offer a new or expanded service or curtail an existing service, such as telephone base rate area expansions, locality zone changes, extended area service offerings and exchange area transfers; and

(5) changes in the terms and conditions of service, other than rates and charges, without substantial revenue or customer bill effects and changes made for the movement of text to other pages to accommodate other authorized changes.

(d) Petitions for the approval required by subdivisions (a) and (c) of this section shall be:

(1) submitted to the secretary with all matter to be filed in support of the proposed change, and shall explain why the filing should be accepted prior to completion of the suspension period;

(2) served upon all parties to any proceeding which is pending to investigate a suspended schedule; and

(3) approved or denied for filing, subject to such terms or conditions as the commission may prescribe.

(e) For the purposes of this section, tariff schedule shall mean any rate, charge, form of contract or agreement, rule, regulation, service, general privilege or facility of a public utility company, or other agency subject to the commission's jurisdiction. Separate departments of public utility companies providing gas, electric and steam service under separate tariff schedules shall be considered separate entities for the purpose of this section.