

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of a Working Case to)
Consider Proposals to Create a Revenue) Case No. AW-2015-0282
Decoupling Mechanism for Utilities.)

THE OFFICE OF THE PUBLIC COUNSEL’S WORKSHOP COMMENTS

COMES NOW the Office of the Public Counsel (Public Counsel) and provides the following Workshop Comments:

Introduction

This working case was opened by the Missouri Public Service Commission (Commission) to consider the concept of a revenue decoupling mechanism for Missouri’s regulated utilities. Public Counsel cautions the Commission that what may have worked in other states may not work in Missouri.

The rate that a customer pays for utility service is dependent on a variety of factors. The precise economic cost or benefit to ratepayers of a specific project or program depends greatly on where it is implemented. For example, many of the states cited in the workshop (Massachusetts, Minnesota, Maryland, Connecticut, New York, etc...) all represent deregulated states with legislatively mandated Energy Efficiency Resource Standards (EERS). Unsurprisingly, all of these states have a greater average price of electricity (cents per kilowatt hour) for residential customers than Missouri.¹ In contrast, Missouri’s investor-owned electric utilities are not subject to EERS and effectively set their own energy efficiency targets under MEEIA. And, this is just one example of the difficulty in comparing policy objectives and

¹ U.S. Energy Information Administration. Electric Power Monthly, http://www.eia.gov/electricity/monthly/current_year/june2015.pdf

outcomes between states and why comparison with Missouri is unreliable. In order to better focus on decoupling in Missouri, Public Counsel offers the following comments.

Comments

“The Commission's principle purpose is to serve and protect ratepayers.” *State ex rel. Capital City Water Co. v. PSC*, 850 S.W.2d 903, 911 (Mo. App. W.D. 1993). (Citing *State ex rel. Crown Coach Co. v. Public Service Commission*, 179 S.W.2d 123 (1944).) The purpose of the Commission is to allow a utility to recover a just and reasonable return while at the same time protecting the consumer from the natural monopoly power that the public utility might otherwise enjoy as the provider of a public necessity. *State ex rel. Sprint Mo., Inc. v. PSC*, 165 S.W.3d 160, 161 (Mo. 2005). In determining whether rates are just and reasonable, the Commission must equally balance the interests of the regulated utility and the consumer. *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591, 603, (1944).

Public Counsel has concerns that the resulting rate impact of decoupling would unreasonably tip the balance in favor of the regulated utility by shifting risks from the utility to the consumer. Decoupling results in an imbalance because the interest of the customer to pay only for what they use is outweighed by the interest of the utility to collect as much revenue as it can. To accomplish this, decoupling adjusts rates between general rate cases. Because decoupling is primarily based on the actual sales of the utility product to the customer, the volumetric rate will need to be periodically adjusted. However, a volumetric rate that changes between rate cases does not provide sufficient protection to the customer. Notice of these periodic rate changes tends to be limited as compared to a general rate case where customers have many months to plan and have the ability to provide comment to the Commission.

Customers have no way to budget their utility expenses because they have no way to know what the rate will be or what their usage will be.

Public Counsel is also concerned that decoupling abandons the principle that customers should only pay for what they use and focuses more on ensuring revenue for the utility. Because decoupling adjusts rates between rate cases in order to ensure a specific level of revenue is collected by the utility, rates paid can be divorced from the use of the individual customer. Recently there has been a movement by utilities to shift costs from the volumetric portion of the rate to the fixed portion of the rate in order to guarantee revenue. Unreasonably high fixed customer charges impact residential customers greatly because the fixed charge must be paid irrespective of the number of residents in the home using the utility services and irrespective of efficiency steps the customer takes. A high fixed customer charge also disproportionately affects low income customers, and in turn, disproportionately affects elderly and minority customers, whose usage tends to be at the bare minimum and who may not be able to afford efficiency upgrades. Decoupling has the potential to cause rates for these customers to increase, to the benefit of higher income customers. Low-use customers would then be responsible for the same amount of revenue as high-use customers. As a result, low-use customers will subsidize the use of other customers. Therefore, decoupling is potentially discriminatory and not in the public interest.

Additionally, the rate changes customers experience may also depend on whether the utility was changing rates for any other adjustment clauses at the time, as is often the case. Each month customers' utility bills are subject to a variety of surcharges such as a fuel adjustment surcharge, energy efficiency surcharge and an environmental cost recovery surcharge. Each surcharge adds to the complexity of the customer's bill making it very difficult to determine if

the amounts are correct. Customers cannot protect themselves from billing errors if the bill is virtually impossible to understand.

Decoupling can also be seen as a potential detriment to priorities codified in other Missouri statutes. Missouri's statutes include Section 393.1040, RSMo, which states that it is "the policy of this state to encourage electrical corporations to develop and administer energy efficiency initiatives that reduce the annual growth in energy consumption and the need to build additional electric generation capacity." So it is clear that promoting energy efficiency is a high priority for the State of Missouri and the Commission. To that end, the Missouri legislature passed the Missouri Energy Efficiency Investment Act (MEEIA) under Section 393.1075, RSMo. In order to enact energy efficiency requirements under MEEIA, the Commission promulgated Rules 4 CSR 240-3.163, 4 CSR 240-3.164, 4 CSR 240-20.093 and 4 CSR 240-20.094 which provide incentives to encourage significant new utility investments in energy efficiency programs for regulated electric companies, including a recognition for "lost revenues." However, because the perceived need for decoupling is based on lower actual sales of the utility product to the customer, decoupling can be counter-productive to Missouri's goal of energy efficiency.

Missouri has also placed a priority on replacing infrastructure as a way to promote safety and financial robustness of utilities. Lost water or gas from a leaking pipe never reaches the customer and so does not produce revenue for the utility, and can be a health and safety concern. In recognition of this fact, Missouri has Infrastructure System Replacement Surcharge (ISRS) statutes, Section 393.1000 to 393.1015, RSMo, which promote the replacement of deteriorated water and gas infrastructure. Replacement of leaking infrastructure can go much further to ensuring that the utility is collecting all the revenue from its product. But, if revenue is ensured

through decoupling no matter how much water or gas actually reaches the customer, utilities may have less incentive to replace deteriorated infrastructure. Therefore, instituting a decoupling mechanism can undermine the policy rationale for an ISRS.

Also, Public Counsel believes it is not necessary for the Commission to implement decoupling. Missouri's statutes already have several provisions which protect the utility from variations in its actual revenue between general rate cases. Section 386.266.1, RSMo., allows an electric utility to seek a periodic rate adjustment outside a general rate case to reflect increases or decreases in fuel and purchased power costs. This Fuel Adjustment Clause (FAC) attempts to control one of the variable costs that are normally passed directly to customers through the volumetric or usage-based rate. Section 386.266.2, RSMo., allows electric, gas and water utilities to seek a periodic rate adjustment outside a general rate case to reflect costs of the utility to comply with federal, state or local environmental laws, regulations or rules. This Environmental Cost Recovery Mechanism (ECRM) sets up a separate surcharge for direct recovery of mandated environmental investment costs until the utility's next rate case. Section 386.266.3, RSMo., allows gas utilities to seek to make periodic rate adjustments between rate cases based on increases or decreases in residential or commercial usage due to variations in weather and conservation. Many utilities have these statutory mechanisms in place and have benefitted from them.

Additionally, the Commission has the ability to address declining usage through rate design. The Commission has many cases where rate design modifications for utilities have been explored and discussed.² But, the historically low price of natural gas, the comparatively fewer

² See Commission Case Nos. EW-2011-0372, In the Matter of an Investigation of the Effects of Rate Design Modifications Associated with Demand-Side Cost Recovery; EX-2014-0058, In the Matter of Proposed Rule 4 CSR 240-20.095 Regarding Rate Design Modifications for Demand-Side Program Cost Recovery; and EW-2015-0105,

eligible efficiency measures, and limited legislatively codified efficiency promotion has meant that decoupling-type rate design has largely been limited to straight-fixed-variable rate designs sponsored by Missouri's gas utilities. Public Counsel continues to oppose such a rate design due to the distorted price signal it sends to customers and the negative impact the design has on small usage customers. Such a design also minimizes any incentive for customers to adopt energy efficiency measures.

However, movement to an inclining block rate design structure may achieve similar decoupling-type results and policy outcomes in a more equitable and less contentious manner. An inclining block rate design can promote efficiency while at the same time revenue for the utility is protected. According to the Ameren Missouri demand-side rate study, "Ameren Missouri studies to date show that demand-side rates, specifically rates with inclining block structures, would likely reduce energy consumption by up to 1.8% per year."³ Moreover, the combination of an inclining block rate with time-of-use and critical peak pricing rate designs have the potential for reducing system peak demand by 0.8% to 3.5%.⁴ In contrast, Public Counsel has been unable to find any evidence that a decoupling mechanism, by itself, and controlling for other relevant variables, has achieved comparable reductions in energy consumption than what is produced through an inclining block rate design.⁵ Public Counsel encourages the Commission to exhaust all rate design options within the traditional cost of service framework before a decoupling mechanism is considered.

In the Matter of a Working Docket to Review the Commission's Missouri Energy Efficiency Investment Act (MEEIA) rules.

³ Commission Case No. EO-2015-0084, Volume 8, page 76.

⁴ Id.

⁵ See modeling results on decoupling and demand growth in: Arimura, T. et al. (2009) Cost-Effectiveness of Electricity Energy Efficiency Programs." Resources for the Future Discussion Paper 09-48-REV, <http://www.rff.org/files/sharepoint/WorkImages/Download/RFF-DP-09-48.pdf>

Conclusion

Decoupling does not consider all relevant factors and does not meet the fixed-rate requirement upheld by the Court in *State ex rel. Utility Consumers' Council of Mo., Inc. v. Pub. Serv. Comm'n*, 585 S.W.2d 41 (Mo. 1979). Decoupling abandons the principle that customers should only pay for what they use. It is important to note that in each of the states referenced throughout the workshop as evidence of where a successful decoupling mechanism was implemented, decoupling was specifically tied with additional ratepayer protections and/or explicit reductions in a utility's return on equity (ROE). Public Counsel would ask that in order to adequately balance the interests of the regulated utility and the consumer, any movement towards decoupling in Missouri include robust ratepayer protections and explicit reductions in ROE.

WHEREFORE, Public Counsel submits its workshop comments.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the parties of record this 2nd day of October 2015:

/s/ Christina L. Baker
