

Department of Public Service
PROGRAM INFORMATION SHEET

Program: Review of Rate Requests and Prudence: FTE - 158.75

Mandate:

Rate changes: Public Service Law 66(12) E&G, 80(10) Steam, 89-c(10) Water, 92(2) Telephone Refunds: Public Service Law section 113(2), Sale or lease of utility property: Public Service section 70 E&G, 83 Steam, 89-h Water, 99(2) Telephone

Mandated Funding Level:

None

Brief Description/History/Background:

The Department regulates the rates of all investor owned electric and gas utilities (e.g., Consolidated Edison Company of New York, Orange and Rockland Utilities, Niagara Mohawk dba National Grid, Central Hudson Gas & Electric, New York State Electric and Gas, Rochester Gas and Electric, National Fuel Gas, and KeySpan), other smaller investor owned gas companies, about 40 monopoly landline phone companies and 300 water utilities. In aggregate, utility revenues exceed \$25 billion and they annually invest about \$4.5 billion in their businesses for new construction as well as replacements and upgrades to utility lines and services, including, but not limited to distribution lines, substations, transmission lines, gas lines, telephone service and water facilities. In any given year, the Department litigates 6 to 8 major rate cases involving electric and gas utilities, and up to 30 cases involving municipal electric companies, investor owned water utilities, and investor owned telephone utilities. The statute requires that rate cases be conducted over a period of no longer than 11 months.

The proceedings require evidentiary hearings that provide the Commission with the information needed to establish a firm, factual and legal basis for any decision granting a different rate allowance than requested by the utility. Rate case related work doesn't end at the completion of the 11 month suspension period since the proceeding remains open to verify compliance with the Commission's order and any approved multi-year rate plan. This could be as simple as verifying changes in the level of property taxes or wage rates; or as complex as evaluating the company's earned return for earnings sharing purposes or compliance with fuel-related deferral mechanisms. Rate-related work occurs outside traditional cases as well. This could take the form of determining the proper disposition of property tax refunds or disposition of gains or losses on utility property sales. Finally, the Department routinely intervenes in federal rate proceedings in the electricity, gas and telephone industries to ensure that component interstate rates which are imposed upon NYS ratepayers are just and reasonable.

Issues:

Rate cases require the largest allocation of the Department's personnel time and resources. Our main legislative mandate is our jurisdiction and responsibility to review utility rate requests, coupled with our assurance of safe and adequate service. These two responsibilities, rates and service, intersect when we review utility requests for rate increases or initiate proceedings to review utility rates. The most complex of these cases involve our electric utilities, which require the commitment and management of Staff teams of up to 35 professional experts, who litigate the utility's rate request in administrative proceedings run by Administrative Law Judges. The Staff experts are engineers, accountants, financial experts, economists, energy efficiency specialists, consumer service experts and utility law experts. These cases often become complex and intense: Con Edison's request for a \$1.2 billion rate increase required three judges and hearings took more than two weeks to complete.

The maximum 11 month period for a rate request proceeding as required in the statutes means that the agency does not have the option of slowing down the process to accommodate changes in our budget. This statutory time frame creates constraints which require that Department resources be marshaled and managed to assure that investigations, testimony, and briefs are prepared and defended on very tight and disciplined time schedules. The litigation record in the largest of these cases involves thousands of pages of testimony and exhibits, hundreds of interrogatories and discovery questions, and includes field visits with witnesses and technical conferences among interested parties.

Population Served:

Entire population of NYS electric, gas, steam, water and telephone utility customers.

Performance Measures:

Number of parties served, SAPA notices pending, number of documents requested, number of documents posted, evidentiary hearings conducted, public statement hearings held, electric & gas rate cases approved.

Department of Public Service
PROGRAM INFORMATION SHEET

Program: Authorization of Tariffs: FTE - 25.25

Mandate:
Public Service Law

Mandated Funding Level:
Not established by mandate.

Brief Description/History/Background:

The rates, rules and conditions of utility service are contained in tariffs prepared by each utility in all the utility service types. Staff analyzes actual or proposed tariff filings to ensure that they reflect the orders established by the New York State Public Service Commission or the Federal Energy Regulatory Commission and that they do not negatively affect system reliability and/or service quality and that they are not discriminatory. Staff also reviews the tariffs filed by the NYISO to promote efficient and reliable bulk system operations and markets. Staff also works on generic matters on both the state and federal level that affect the tariffs used by the utilities.

Issues:

Population Served:

All gas customers served by the 19 gas utilities in the State and all electric customers served by the six major electric and two small electrics; the six major water customers served by the privately-held water companies in the State; the customers of the Con Edison owned steam system in Manhattan.

Performance Measures:

Department of Public Service
PROGRAM INFORMATION SHEET

Program: Authorization of Mergers, Acquisitions and Reorganizations: FTE - 11

Mandate:

Public Service Law section 70 E&G, 83 Steam, 89-h Water and 100 Telephone

Mandated Funding Level:

Brief Description/History/Background:

NYS utilities must obtain Commission authority for all Merger and Acquisition (M&A) transactions directly involving the utility or indirectly involving the corporate owner of the utility. Department review of such transactions is important since changes in the control of a utility and its corporate organization may have permanent effects which impact the quality of utility service and the prices paid by New Yorkers for that service. The statute requires that utilities have the burden of demonstrating that any M&A is in the public interest. In evaluating these transactions, the Department must determine whether the combined entity resulting from the transaction will be financially sound. The Department examines the method of financing the merger, the level of goodwill resulting from the transaction, the consolidated capital structure of the new corporate entity, and the corporate rules governing affiliate transactions, cost allocations, and cash transfers.

The Staff will also analyze the effects of the transaction on the utility's costs of service and operations to determine whether the utility's rates and service will be adequate going forward.

In many cases this has resulted in rate reductions produced when utilities are required to share merger synergy savings with ratepayers for a specified period of time. Finally, the Department must examine the effects of the M&A (vertical or horizontal combinations) on the markets it regulates to determine its impact on competition. Any concentration of market power from the M&A must be evaluated using appropriate tools (e.g., HHI Index) and mitigated when found detrimental to ratepayers. The proceedings for a utility M&A examination can be significant and very complex. They can involve our largest NYS utilities with multi-national utility holding companies as in the case of Iberdrola acquiring Energy East (the parent of NYSE&G and RG&E) in Case 07-M-0906. The transactions also can take many different forms (acquisition of stock, acquisition of assets, initial public offering of stock, etc.) and also be linked to rate requests by the utilities involved in the M&A. An M&A examination will require a multi-disciplined team of highly experienced auditors, financial analysts, engineers, economists, environmental experts, customer service experts and attorneys.

There will be significant discovery of all important aspects of the M&A and the Staff often presents and defends the results of its examination and its recommendations to the Commission in public hearings.

Issues:

The recent elimination of the Public Utility Holding Company Act of 1935 has increased the interest in M&A activity in New York. There is usually a major utility M&A proceeding pending at any time requiring the dedication of staff resources. Moreover, all our major water utilities are members of large and complex holding companies and various corporate restructurings have resulted in M&A petitions requiring staff examination (Case 06-W- 0490 American Water Co. IPO, Case 06-W-1367 Suez/Gaz de France merger). Finally, greater competition has caused industry restructurings and increased acquisitions of small independent telephone companies by holding companies.

Population Served:

Entire NYS population of electric, gas, water and telephone utility customers.

Performance Measures:

Department of Public Service
PROGRAM INFORMATION SHEET

Program: Authorization of Utility Financing Requests: FTE - 5.25

Mandate:

Public Service Law sections 69 (E&G), 82 (Steam), 89-f (Water), 101 (Telephone)

Mandated Funding Level:

Brief Description/History/Background:

The statute requires that all securities issues by New York State utilities be reviewed and approved by the Commission prior to issuance. Virtually every utility in the State has filed a request for approval of arrangements that enable it to finance investments in the assets needed to provide necessary utility services. The Department reviews the utility's financial condition and determines whether the investments on which the utility bases its financing request is reasonable as well as whether the utility really has the financial need to secure financing for such investments. Finally, the Department reviews the terms and conditions of the proposed financing arrangement. The combined result of this analysis and the Staff's recommendation is then presented to the Commission for its consideration.

Issues:

The responsibility of assuring that utilities issue securities at the most cost effective rates possible is critical considering that NYS electric, gas, steam, water and telephone utilities have over \$40 billion of total outstanding securities

Population Served:

Entire NYS population of electric, gas, steam, water and telephone utility customers.

Performance Measures:

Department of Public Service
PROGRAM INFORMATION SHEET

Program: Management and Operations Audits: FTE – 6.5

Mandate:

Public Service Law Section 66(19) requires the Commission to conduct management and operations audits of gas and electric corporations at least once every five years. The Commission must commence two audits each year in order to satisfy this statutory requirement. The audits are to include, but are not limited to, an investigation of utility construction program planning and operational efficiency.

Mandated Funding Level:

None established.

Brief Description/History/Background:

PSL 66(19) requires the Commission to conduct management and operations audits of gas and electric corporations at least once every five years. The audits are to include, but are not limited to, an investigation of utility construction program planning and operational efficiency. These audits are typically conducted by independent auditors/consultants under the direction and review of Department Staff. Staff drafts and issues RFPs; selects the auditor; participates in interviews; reviews workplans, work products, draft and final reports; analyzes recommendations; reviews company implementation plans; monitors implementation; testifies in rate cases regarding implementation recommendations; and reports progress to the Commission at various stages. The process from start to finish can take more than two years from issuance of the RFP to implementation of recommendations. The Management Audit Unit exists in the Office of Accounting and Finance to carry out this function and is currently staffed by five people. Staff of other offices provide input throughout the process.

Issues:

Management audits provide a necessary avenue to seek improvements in utility construction program planning and operational efficiency that can ultimately lead to better utility service at long run lower rates. The Commission must commence approximately two audits each year in order to satisfy the statutory requirement. Prior to the Commission reinvigorating the management audit process this year for Consolidated Edison and Niagara Mohawk, the last formal management audit was conducted and completed in 1994-95.

Population Served:

Entire NYS population of electric and gas utility customers.

Performance Measures:

Completion of management audits for each major gas and electric corporation once every five years. Successful implementation of audit recommendations as testified to in rate cases.

Department of Public Service
PROGRAM INFORMATION SHEET

Program: Non-Residential Consumer Service and Protection: FTE - 17.5

Mandate:

Public Service Law (PSL) and Title 16 of New York Compilation of Codes, Rules and regulations (16NYCRR) require comprehensive protections for non-residential customers of regulated gas, electric, steam, water, and telephone corporations. Protections include application for service, termination of service, billing, payment of bills and complaint handling procedures.

Mandated Funding Level:

None.

Brief Description/History/Background:

In 1987, the Public Service Commission adopted comprehensive protections for non-residential customers of gas, electric and steam utilities in the State of New York. The regulations provide clear and uniform standards governing the provision of service and are designed to ensure the fair treatment of business utility consumers. Protections include application for utility service, termination and reconnection of service, deposits, customer notices and complaint procedures. Non-residential utility customers may file a complaint relating to utility gas, electric, steam, water or telephone service, and other related matters. This complaint process allows for an investigation, informal hearing and appeal to the Commission. A statewide outreach and education program is conducted to ensure that customers are aware of their rights and responsibilities, and the protections and service available to them.

Issues:

Enforcing compliance with PSL, regulations and utility tariffs, escalating energy prices, conservation and energy efficiency measures, safe and reliable service, utility responsibilities to facilitate economic development.

Area code relief represents a growing concern as telephone numbers continue to be consumed by new devices. Area code relief represents a major inconvenience for businesses and the Commission attempts to minimize this inconvenience with ongoing oversight of telephone number distribution to carriers.

Some competitive telephone companies attempt to exit the market without notifying their customers -- a health, safety and welfare concern. Enforcement of the Commission's migration guidelines is essential to protect against loss of service and an orderly transition to another provider.

Population Served:

Non-residential customers who are served by regulated gas, electric, steam, water or telephone corporations in the State of New York.

Performance Measures:

Number of consumer contacts, complaints filed, inspection and testing of metering equipment, compliance with regulations, billing adjustments, outreach events, publications distributed, public involvement in cases and proceedings, area code relief postponed, migrations managed.