STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Mt. Carmel Public Utility co.	:	
	:	Docket No. 13-0079
	:	
Proposed general rate increase for gas service and an electric rate design revision.	:	

BRIEF ON EXCEPTIONS OF THE STAFFOF THE ILLINOIS COMMERCE COMMISSION

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The Staff ("Staff") of the Illinois Commerce Commission ("Commission" or "ICC"), by and through its counsel, and pursuant to Section 200.400 of the Commission's Rules of Practice (83 Ill. Adm. Code 200.400), respectfully submits this Brief on Exceptions in the above-captioned matter. Staff and Mt. Carmel Public Utility, Co. ("Mt. Carmel" or "Company") filed their respective Initial Briefs on August 13, 2013, and their respective Replies Briefs on August 27, 2013. Mt. Carmel filed an erratum to its Reply Brief on September 12, 2013 clarifying its position that the "Company does not contest Staff's adjustment for lobbying expenses for the current pending rate filing in this docket." (Erratum to the Reply Brief of Mt. Carmel (filed Sept. 12, 2013).) The Administrative Law Judge ("ALJ") filed the Proposed Order ("PO") on September 17, 2013. Staff generally agrees with the conclusions contained in the PO, and now files this limited Brief on Exceptions.

Exception One: Rate Design

The Commission should reject the PO's adoption of a $16 Residential Customer charge with a usage charge of $0.3291 per therm and a $50 Commercial Customer charge with a usage charge of $0.2769 per therm. These rates appear to be a compromise between the positions presented by Staff and the Company. This compromise is flawed, as such the rates will not "establish[] cost based rates, rate continuity, and . . . avoid[] . . . rate shock," as the PO appears to have intended. *See* PO at 17. The PO's recommendation suffers from the same defects as the Company's, only to a lesser degree. It is not based on any specific methodology, has no cost-basis, harms customers who are unable to control their usage, and does not result in the goals it professes to achieve. Furthermore, the PO fails to explain how the charges it would set have been derived. *Id.* For these reasons, the Commission should reject the PO's compromise solution and accept Staff's rate design proposal to increase rates across-the-board on an equal percentage basis between the customer and therm charges.

The PO's compromise is based at least in part upon the Company's rate design, which in turn is not based on any specific methodology. Staff Ex. 4.0 at 9. Thus, the flaws inherent in the Company's proposal are reflected to a lesser degree in the PO. A subjective opinion based on no specific methodology should not be given weight in decision making; however, in adopting a rate design that meets the Company halfway, the PO commits precisely this error. The PO presents no explanation of how its rates were derived and thus appears to present an outcome that is justified solely by its results. The consequence of such an approach is customer and therm charges that bear no relationship to cost. The Commission should reject setting such an arbitrary allocation, and for this reason alone should adopt Staff's proposal in its entirety.

Like the Company's rate design proposal, the PO's recommended rate design will not, if adopted, result in implementation of cost-based rates. In contrast, Staff's proposal aligns rates more closely based on cost. Staff used the most recent Commission-authorized cost study[1] to recommend a rate design for Mt. Carmel, which results in an increase of rates across-the-board equally between the customer and therm charges. Staff Ex. 4.0 at 11. Staff's rate design proposal is the only one which allows the Commission to set rates that are in any way related to cost. The compromise approach recommended in the PO cannot provide a cost-based rate because Mt. Carmel's rate design is clearly arbitrary; it bears no relationship to cost, and has a rate design proposal that is subjective. Staff Ex. 4.0 at 9; Staff RB at 3. Further, the PO does not provide sufficient reason to arbitrarily depart from cost-based rates and implement a compromise approach, but simply accepts the Company's argument that equities and demographics of its customer base are of concern, at least to the extent of being "sympathetic" to them. Inasmuch as evidence of the "equities" and "demographics" submitted by the Company is thin bordering on conclusory, see MCPU Ex. 1.0R at 7-9; MCPU 1.0S at 4-5 (discussion of customer issues consists of approximately three pages of double spaced testimony), the PO cannot be much more than "sympathetic." Such sympathy, however, is not a basis for sound rate design.

This is especially true where, as here, the PO correctly "concurs with Staff regarding the importance of cost based rates," PO at 16, and further directs the company

[1] Because the Company states that it has not made dramatic changes to its system or its business practices in the years since that previous rate case, *see* MCPU Ex. 1.0R at 6, current cost relationships should not differ significantly from historical cost relationships.

to submit a COSS with its next rate case. Id. at 17. The PO essentially states that Staff is correct regarding the principle that rates should be cost-based, and implicitly suggests that the company should not have failed to submit a COSS in this filing. Nonetheless, the PO's recommended result is non-cost-based rates. This is a departure from otherwise sound reasoning.

Contrary to the PO's finding, Staff's rate design proposal is based on a COSS, albeit not a new one, and is the only rate design approach in this docket that is based completely on the most recent Commission approved cost-based rate design. *See* PO at 16. Thus, Staff's rate design proposal to increase rates across-the-board equally between the customer and therm charges should be approved.

Therefore, Staff recommends the Commission amend the PO to adopt Staff's rate design proposal as follows:

Commission Conclusion

> The Commission approves the usage of the actual number of customers and the actual number of therms delivered for the 2011 test year for the billing determinants in this proceeding. As the Company did not perform a COSS for this proceeding, the Commission finds it appropriate to use the same class revenue allocations approved in the prior rate case, 71% of the costs to the Residential class and 29% to the Commercial class.
>
> The Commission concurs with Staff regarding the importance of cost based rates. ~~However, t~~The Commission recognizes MCPU's concerns regarding equities and demographics of its customer base and is sympathetic to the Company's desire for a gas rate design that would allow customers to mitigate an increase by reducing or controlling their gas consumption, but concludes that this approach is not in customers' best interest for the short-term or the long-term. In this proceeding, while neither the Company nor Staff relied upon a new COSS, Staff relied on one previously submitted by Mt. Carmel. Staff argues that its across-the-board increase is based on cost causation principles because the historical cost relationships have not changed since the last rate case when there was a COSS, and that this approach is consistent with this Commission's long held view that sound cost-causation principles should largely govern rate design.

Mt. Carmel did not base its rate design proposal on any such principle, but ~~Mt. Carmel~~ instead asserts that its proposal achieves the revenue requirement, has economic efficiency, is fair and equitable, simple, conserves resources and meets social goals, in particular by allowing the customer to have some control over the impact of the increase by controlling their usage. Staff disputes that Mt. Carmel's rate design achieves all of these goals.

The Commission finds that in the absence of a current COSS, it is difficult to allocate costs between the customer and therm charges~~which proposal more closely aligns with cost causation principles~~. Nonetheless, Staff's proposal is most consistent with cost-causation principles. Based on the evidence in the record, the Commission finds that Staff's proposal more closely allocates costs on a cost basis and is consistent with this Commission's long held view that sound cost-causation principles should guide rate design. . ~~the Residential Customer charge should be increased to $16 with a usage charge of $0.3291 per therm. The Commercial Customer charge should be increased to $50 with a usage charge of $0.2769 per therm.~~ The Commission believes that the rate design approved herein properly balances the ~~competing~~ objectives of establishing cost based rates, rate continuity, and the avoidance of rate shock in both the short-term and long-term. Further, the Commission directs Mt. Carmel to perform a COSS to include with its next rate filing.

Exception Two: Electric Utility Net Operating Income

Staff believes the PO uses an incorrect value for the electric utility net operating income. The PO would provide the Company with an increase in revenues or net operating income for its electric function that the Company did not request. The Company confirmed "[n]o increase in electric revenue was proposed by Company." (Mt. Carmel IB at 4.) While Staff calculated a revenue requirement for the Company's electric function, it did so only to determine that the current revenues and net operating income levels were reasonable. Staff believes this is the case, and recommends the Commission maintain Mt. Carmel's current revenues and net operating income levels. Therefore, Staff recommends the following change to page 6 of the PO:

Commission Conclusion

The Commission adopts the electric and gas operating expense statements as originally proposed by Mt. Carmel, with the adjustments to operating revenues and expenses as summarized above. The total electric utility net operating income approved for purposes of this proceeding for MCPU is $~~1,218,991~~944,974; and the total gas utility net operating income approved for purposes of this proceeding for Mt. Carmel is $196,971. The development of the overall electric and gas utility operating expense statement adopted for purposes of this proceeding are shown in Appendices A and B, respectively, to this Order.

Exception Three: Capital Structure and Cost of Long-Term Debt

The PO states it found Staff's proposed capital structure and costs of capital to be reasonable in this proceeding, but only discusses the rate of return for Mt. Carmel's gas distribution operations. Staff recommends the Commission also discuss Mt. Carmel's electric delivery service operations rate of return. As described accurately in the PO, Staff recommends Mt. Carmel's electric delivery service operation rate of return should be 7.57%. Therefore, Staff recommends the Commission amend the PO as follows:

Commission Conclusion

Staff found that based on Mt. Carmel's capital structure and costs of capital, a just and reasonable rate of return for Mt. Carmel's electric delivery service operation is 7.57% and for its gas distribution operations is 7.12%. The Commission finds Staff's proposed capital structure and costs of ~~debt~~ capital are reasonable for this proceeding. ~~Staff found that based on its capital structure and cost of debt, Mt. Carmel the just and reasonable rate of return on its net original cost gas rate base, incorporating a cost of common equity of 10.15%, is 7.12%.~~ .

Upon incorporation of the conclusions stated above, the Commission finds that MCPU's capital structure and costs of capital, results~~ing~~ in overall costs of capital that ~~of~~ may be summarized as follows:

Electric Delivery Service Operations

Class of Capital	Ratio	Cost	Liquidity Premium	Weighted Cost
Short-term debt	5.97%	2.70%		0.16%~~.~~

Long-term debt	38.60%	3.45%		1.33%
Common Equity	55.43%	9.47%	1.50%	6.08%
TOTAL	100.00%			7.57%

Gas Distribution Operations

Class of Capital	Ratio	Cost	Liquidity Premium	Weighted Cost
Short-term debt	5.97%	2.70%		0.16%~~.~~
Long-term debt	38.60%	3.45%		1.33%
Common Equity	55.43%	8.65%	1.50%	5.63%
TOTAL	100.00%			7.12%

The Commission finds ~~that~~ these overall costs of capital to be reasonable. Given that MCPU did not request an increase in electric revenues and requested a lesser increase in gas revenue than could be justified, the Commission authorizes Mt. Carmel to earn a 5.87% return on net original cost electric rate base and 6.59% on net original cost gas rate base.

Exception Four: Industrial Gas Service

The PO notes Staff's recommendation that the requirement from Docket No. 07-0357 for Mt. Carmel to provide a new COSS to Staff if a new customer begins taking service under the Industrial Gas Service class remains in place as long as the Company has a tariff for the Industrial Gas Service class under which a customer could take service. However, the PO does not reach any conclusion about this issue. Staff recommends the Commission amend the PO to include the following to confirm this requirement remains in place.

Commission Conclusion

The Commission agrees that Mt. Carmel's obligation to provide a new COSS to Staff if a new customer begins taking service under the Industrial Gas Service class remains in place as long as the Company has a tariff for the Industrial Gas Service class under which a customer could take service.

Exception Five: Large Light and Power Electric Delivery Service (Industrial Electric Delivery)

The PO notes Staff's recommendation that the requirement from Docket No. 07-0357 for Mt. Carmel to provide a new COSS to Staff if a new customer begins taking service under the Industrial Electric Delivery Service (f/k/a Light and Power Delivery Service) class remains in place as long as the Company has a tariff for the Industrial Electric Delivery Service class under which a customer could take service. However, the PO does not reach any conclusion about this issue. Staff recommends the Commission amend the PO to include the following to confirm this requirement remains in place:

> Mt. Carmel and Staff agree that Light and Power Delivery Service will be renamed to Industrial Electric Delivery Service. The Company proposes to combine the bundled rates with the delivery service rates, and cancel the current delivery service rates. Since the Industrial Electric Delivery (f/k/a Light and Power Service) class is not subject to the FAC Rider, the Company proposes to provide a credit to customers for each kWh consumed to remove the costs of purchased power embedded in base rates.
>
> Staff does not object to combining bundled rates with delivery service rates. Staff objected to the Company's initial proposal for removing purchased power costs from base rates. Staff and the Company agreed on an alternate method to remove the purchased power costs for customers in the Industrial Electric Delivery Service class. The alternative approach refers to the COSS from Docket No. 07-0357 where data was available for the last customer taking service from the Light and Power Class. With the alternative approach Company is able to calculate theoretical rates for the Light and Power class had the customer still existed.
>
> Also, Staff recommends the Commission clarify that the requirement from Docket No. 07-0357 for Mt. Carmel to provide a new COSS to Staff should a new customer begin taking service under the Industrial Electric Delivery Service (f/k/a Light and Power Delivery Service) class remains in place as long as the Company has a tariff for the Industrial Electric Delivery

> Service class under which a customer could take service. The Commission agrees that this requirement continues to remain in place for Mt. Carmel.

Exception Six: Miscellaneous General Expense

The PO does not clearly and correctly articulate the reasons for Staff's adjustments to Miscellaneous General Expense. Staff recommends the following language changes to pages 5-6 of the PO:

> Staff proposes adjustments to disallow certain expenses recorded in electric and gas miscellaneous general expense that ~~which~~ Ms. Jones states are promotional or goodwill in nature ~~from the electric and gas miscellaneous general expense. Ms. Jones asserts that~~, similar to the disallowed advertising expenses, ~~these and~~ or are donations that do not meet the criteria set forth in the Act for consideration as an operating expense. She relies upon Section 9-227 of the Act, which provides in relevant part:
>
> > It shall be proper for the Commission to consider as an operating expense, for the purpose of determining whether a rate or other charge or classification is sufficient, donations made by a public utility for the public welfare or for charitable scientific, religious or educational purposes.
>
> The Company does not object to this adjustment.

Exception Seven: Scrivener's Errors

Staff noted a handful of sentences which it believes contain scrivener's errors in the PO. Staff has addressed these in Attachment A. Unless noted otherwise, none of these corrections alter the substantive meaning of the PO. However, Staff notes that the PO states Mt. Carmel's proposed original cost rate base would yield gas net operating income of $362,508. PO at 1. Staff believes this is incorrect, and may have resulted from what Staff believes was an over-looked typographical error in Mt. Carmel's Initial Brief. *See* Mt. Carmel IB at 1. The $362,508 is the amount of the *increase* in gas net operating income, which means the final gas net operating income should be $183,177, as the company had been operating with a net operating loss of $179,331. MCPU Ex. 1.0, 10:9-10, 19-23.

Conclusion

WHEREFORE, Staff respectfully recommends the Commission approves Staff's modifications to the ALJ's Proposed Order made herein.

Respectfully submitted,

___/s/____________________

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