

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. G-5, SUB 607
DOCKET NO. G-5, SUB 608
DOCKET NO. G-5, SUB 595

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. G-5, SUB 607)	
)	
In the Matter of)	
Petition of Public Service Company of)	ORDER DENYING IN PART AND
North Carolina, Inc., to Amend Riders C)	GRANTING IN PART TARIFF
and E of Its Tariff)	AMENDMENTS, REQUIRING
)	REVERSAL OF INTEREST
DOCKET NO. G-5, SUB 608)	CHARGES, REQUIRING
)	ANNUAL REVIEW OF INTEREST
In the Matter of)	RATE, AND REQUIRING FILING
Application of Public Service Company of)	OF TESTIMONY
North Carolina, Inc., for Annual Review of Gas)	
Costs Pursuant to N.C.G.S. § 62-133.4(c) and)	
Commission Rule R1-17(k)(6))	
)	
DOCKET NO. G-5, SUB 595)	
)	
In the Matter of)	
Public Service Company of North Carolina, Inc.,)	
Filings to Reflect the Federal Tax Cuts and Jobs)	
Act)	

BY THE COMMISSION: On May 3, 2019, Public Service Company of North Carolina, Inc. (PSNC) filed a Petition to Amend Tariffs in Docket No. G-5, Sub 607, requesting to increase the interest rate on its Rider C, Customer Usage Tracker (CUT) and Rider E, Integrity Management Tracker (IMT) deferred accounts from 6.6% to 6.96%, effective January 1, 2019. PSNC noted that Section VI of Rider C states:

Interest will be applied to the Customer Usage Deferred Account at a rate of 6.6% per annum. This rate shall be reviewed annually.

PSNC further noted that there is an identical provision in Section VI of Rider E with respect to interest to be applied to PSNC's Integrity Management Deferred Account. In addition, PSNC stated that in Docket No. G-5, Sub 591 (Sub 591), PSNC's 2018 annual cost of gas review, PSNC witness Paton testified that the 6.6% interest rate was set in PSNC's last general rate case, but that the basis for the interest rate has changed due to

a reduction in PSNC's federal income tax rate. Moreover, PSNC stated that in response to a request by the Commission it filed a late-filed exhibit in Sub 591 on September 6, 2018, showing the recalculated interest rate to be 6.9%, based on PSNC's net-of-tax overall return. In its petition, PSNC stated that it inadvertently failed to file revised Rider C and E tariff sheets reflecting the revised interest rate. Finally, PSNC stated that a 0.5% reduction in North Carolina's corporate income tax rate, effective January 1, 2019, resulted in another recalculation of the applicable interest rate, from 6.9% to 6.96%.

On June 7, 2019, the Public Staff filed a letter stating that it reviewed PSNC's calculation of the proposed 6.96% interest rate and agrees that it accurately reflects PSNC's effective composite income tax rate. Further, the Public Staff stated that it reviewed the proposed changes to Riders C and E and agrees with those changes. As a result, the Public Staff recommended that PSNC be authorized to amend its Riders C and E tariffs as proposed in PSNC's petition. The Public Staff included a proposed order approving the tariff revisions requested by PSNC.

PROCEDURAL BACKGROUND

In PSNC's last general rate case, Docket No. G-5, Sub 565 (Sub 565), PSNC and the Public Staff entered into a Stipulation, later amended (Amended Stipulation). Section 15 of the Amended Stipulation stated:

Interest Rate on Deferred Gas Cost Accounts. The parties agree that beginning with the month in which the Order is issued, PSNC will use an interest rate of 6.6% per annum as the applicable interest rate on all amounts over-collected or under-collected from customers reflected in the Sales Customers Only, All Customers, and Hedging Deferred Gas Cost Accounts. The methods and procedures used by PSNC for the accrual of interest on the Deferred Gas Cost Accounts will remain unchanged.

Amended Stipulation, at 12-13 (Aug. 30, 2016).

In response to Commission questions during the Sub 565 hearing, PSNC witness Paton testified that in addition to applying the 6.6% interest rate to PSNC's Sales Customers Only, All Customers, and Hedging Deferred Accounts (Gas Cost Accounts), the same interest rate would be applied to the deferred balances for Riders C and E. Witness Paton also stated that the interest rate for all of these deferred accounts would be reviewed annually. Further, she stated that

We would most likely review it prior to each year starting up, like it would be 6.6 now. We would actually review it before 2017.

Sub 565, Tr., Vol. 6, pp. 124-25.

On October 28, 2016, the Commission issued an Order Approving Rate Increase and Integrity Management Tracker (Rate Order) in Sub 565. Among other things, the Rate

Order approved the Amended Stipulation between PSNC and the Public Staff. With respect to Section 15 of the Amended Stipulation, the Rate Order stated:

PSNC has been applying the statutory maximum of 10% authorized in G.S. 62-130(e) to balances in its Sales Customers Only, All Customers, and Hedging Deferred Gas Cost Accounts. The Stipulating Parties agreed in the Amended Stipulation that beginning with the month in which the Order is issued, PSNC will use an interest rate of 6.6% per annum as the applicable interest rate on all amounts over-collected or under-collected from customers reflected in its Sales Customers Only, All Customers, and Hedging Deferred Gas Cost Accounts. The methods and procedures used by PSNC for the accrual of interest on the Deferred Gas Cost Accounts will remain unchanged.

In response to a question from the Commission, PSNC witness Paton stated that the 6.6% is also applied to the balances in the Customer Utilization Tracker (Rider C) and the Integrity Management Tracker (Rider E). Those two riders explicitly call for a reevaluation of the rate every year, and witness Paton confirmed that the 6.6% rate applied to Deferred Gas Cost Accounts would also be reevaluated annually.

The Commission finds that a reduction in the interest rate applied to the balances in the Sales Customers Only, All Customers, and Hedging Deferred Gas Cost Accounts with the rate to be reevaluated annually is just, reasonable and appropriate and should be approved.

Rate Order, at 56.

In the Rate Order, the Ordering Paragraphs did not mention an annual review and January 1 change date for the interest rate applicable to PSNC's Gas Cost Accounts, or Riders C and E (collectively, deferred accounts). In particular, the Rate Order did not authorize PSNC to implement an annual change in the interest rate applicable to its deferred accounts without Commission review and approval.

As PSNC noted in its petition in the present docket, during the Sub 591 annual review hearing in 2018 the Commission requested that PSNC file a late-filed exhibit about the interest rate being applied to the CUT.

Commission: [i]t's our understanding that the interest rate that's utilized in conjunction with the CUT is 6.6 percent as stipulated to in the last rate case.

Witness Paton: I think that has changed because of the tax rate change. But, yes, it was the return from the last rate case and then we've recognized the tax rate changes this year actually in the federal tax cuts...I can get you the exact number, but I don't remember off the top of my head.

Commission: Okay. Because we noticed that...through 2017, 6.6 was used and then at some point 6.9 begins to be used.

Witness Paton: It's because of the tax change.

Commission: Okay. It might be helpful if we could get a late-filed exhibit on that issue.

Sub 591, Tr., pp. 60-61.

Witness Paton's reference to the "tax change" was to the reduction in the federal corporate income tax rate from 35% to 21% effective January 1, 2018. In Docket No. M-100, Sub 148, the Commission studied the impact of the federal income tax change and ordered certain utilities, including PSNC, to reduce their rates to reflect the income tax expense decrease. On December 17, 2018, the Commission issued an Order Approving Proposal and Requiring Filing of Revised Tariffs (Tax Order), in Docket No. G-5, Sub 595. In summary, the Tax Order approved PSNC's proposed plan to adjust its rates effective January 1, 2019, to reflect the 21% federal corporate income tax rate. In particular, the Tax Order required PSNC to refund to ratepayers the amount of anticipated federal income taxes received by PSNC in rates during 2018 that resulted in an over-collection of estimated income taxes because of the federal tax reduction (federal provisionally collected revenues). In addition, the Tax Order approved the correction of a computational error previously made by PSNC in reflecting a reduction in the State corporate income tax rate. With respect to interest to be included on both of these adjustments for compensation to ratepayers, the Commission stated:

[s]uch amount will be returned to customers with interest reflected at the overall weighted cost of capital approved in PSNC's last general rate case proceeding.

Tax Order, at 3.

As previously stated, on September 6, 2018, PSNC filed its late-filed exhibit in Sub 591 showing the recalculated interest rate to be 6.9%, based on PSNC's net-of-tax overall return. On September 24, 2018, PSNC and the Public Staff filed a joint proposed order. The joint proposed order did not include a finding of fact or ordering paragraph about a change in the interest rate to be applied to PSNC's deferred accounts.

In the Commission's final Order in Sub 591, the Commission determined that PSNC's gas costs during the 12-month review period, April 2017 through March 2018, were reasonably and prudently incurred, and that PSNC was authorized to recover 100% of such gas costs. Further, the Commission determined that PSNC did not need to implement an increment or decrement to its rates at that time. The Order, however, did not discuss or approve a change in the interest rate applicable to PSNC's deferred accounts. See Order on Annual Review of Gas Costs, Docket No. G-5, Sub 591 (Dec. 6, 2018).

On December 17, 2018, in Docket No. G-5, Sub 598, PSNC filed a petition requesting that the Commission reduce its rates to reflect a reduction in the North Carolina corporate income tax rate from 3% to 2.5% effective January 1, 2019. The Commission issued an order on December 21, 2018, approving PSNC's request for a rate reduction effective January 1, 2019.

PSNC's Riders C and E are reviewed and, if appropriate, adjusted two times each year. Rider C is adjusted on April 1 and October 1, and Rider E is adjusted on March 1 and September 1. The Commission's intent in approving the interest rate portion of the Rate Order was to have PSNC and the Public Staff review the interest rate applicable to PSNC's deferred accounts as part of the annual review of PSNC's gas costs, or in one of the semi-annual adjustment proceedings for each of the riders, or in a separate proceeding prior to the beginning of each year, and to make recommendations regarding appropriate changes to the interest rate. However, it appears that such annual reviews of the interest rate have not occurred, at least not on any consistent basis. For example, the last two adjustments to Rider C were made in Docket Nos. G-5, Subs 594 and 604, and the last two adjustments to Rider E were made in Docket Nos. G-5, Subs 592 and 602, but the orders from those proceedings do not mention a review or adjustment to the interest rate.

DISCUSSION AND CONCLUSIONS

The interest paid by ratepayers due to an under-collection on PSNC's deferred accounts is a regulated "rate," just as PSNC's base rates and riders are regulated rates. N.C.G.S. § 62-3(24); State ex rel. Utilities Comm'n. v. Edmisten, 291 N.C. 327, 340, 230 S.E.2d 651, 664 (1976) (a utility "rate" includes the method by which the amount to be paid by a customer is computed)

In addition, pursuant to N.C.G.S. § 62-130(e):

In all cases where the Commission requires or orders a public utility to refund monies to its customers which were advanced by or overcollected from its customers, the Commission shall require or order the utility to add to said refund an amount of interest at such rate as the Commission may determine to be just and reasonable; provided, however, that such rate of interest applicable to said refund shall not exceed ten percent (10%) per annum.

The interest on PSNC's deferred accounts compensates PSNC for carrying an under-collection (debit balance) for the period of time needed to adjust the deferred accounts, and to correct the under-collection. Conversely, the interest on deferred accounts compensates PSNC's ratepayers for PSNC's use of their money when PSNC has an over-collection (credit balance) for the period of time needed to adjust the deferred accounts, and to correct the over-collection. In principle, the idea is for PSNC to manage its deferred accounts such that neither PSNC nor its ratepayers are disadvantaged by an extended debit or credit balance. However, that principle works only when PSNC is consistent in making adjustments to its various deferred accounts, and the applicable

interest rate, in order to keep credit and debit balances at a minimum, and to fairly compensate ratepayers for the use of their money during a credit balance.

PSNC's request in this docket to increase the interest rate applicable to Riders C and E from 6.6% to 6.96% appears to include the proper mathematical calculations supporting a change. The Commission notes that PSNC applied an interest rate of 6.9% to its deferred accounts during 2018, and has applied an interest rate of 6.96% to its deferred accounts since January 1, 2019. The Commission further notes that from January 2018 through April 2019 PSNC's deferred accounts collectively had an overall net debit balance. See Monthly Reports in Docket Nos. G-5, Subs 495B (Rider C), 565C (Rider E), 586, and 600 (Gas Cost Accounts). Thus, the increased interest rate applicable to PSNC's deferred accounts as of January 1, 2018, benefited PSNC.

Under N.C.G.S. § 62-130(e), only the Commission has the authority to change the interest rate applicable to PSNC's deferred accounts. There was no Commission review or Commission approval of the interest rate increases implemented by PSNC in 2018 and 2019. As a result, those rate changes were ultra vires and cannot stand. Therefore, the Commission concludes that PSNC's request to apply a revised interest rate of 6.96% to its deferred accounts retroactively to January 1, 2019, should be denied. Further, the Commission concludes that PSNC should be required to make appropriate adjustments to its deferred accounts to reflect an interest rate of 6.6%, as last approved by the Commission in the Sub 565 Rate Order, from January 1, 2018, until the date of this Order.

PSNC and the Public Staff have performed the necessary calculations and determined that the appropriate interest rate for PSNC to apply to its deferred accounts is 6.96%. Therefore, the Commission accepts the Public Staff's recommendation to change the interest rate to 6.96%. However, as discussed above, the Commission rejects PSNC's request and the Public Staff's recommendation to apply the revised interest rate retroactively to January 1, 2019. Instead, the Commission determines that the revised interest rate of 6.96% should be applied to PSNC's deferred accounts prospectively from the date of this Order, and until further review and issuance of an order by the Commission.

The Commission strives for consistency in the proceedings in which the regulated utilities' rates are adjusted. As discussed above, PSNC's federal provisionally collected revenue account is a deferred account established by PSNC to ultimately refund to ratepayers monies provisionally collected between January 1, 2018, and the date that PSNC's base rates were adjusted to reflect the 21% federal income tax rate. In order to appropriately compensate PSNC's ratepayers for the value of their money being flowed back to them by PSNC, the Commission finds good cause to require PSNC to apply the revised interest rate of 6.96% to PSNC's federal provisionally collected revenue account prospectively from the date of this Order, and until further review and issuance of an order by the Commission.

Finally, in an effort to achieve a consistent annual review and, when appropriate, revision to the interest rate applicable to PSNC's deferred and federal provisionally collected revenue accounts, the Commission concludes that in a general rate case, or,

in years when there is not a general rate case, in the annual review of PSNC's gas costs, PSNC should be required to file testimony and supporting schedules that enable the Public Staff and Commission to review the interest rate and determine whether a change in the interest rate is warranted. Further, the Commission concludes that this review procedure should apply to the presently pending annual review of PSNC's gas costs in Docket No. G-5, Sub 608.

IT IS, THEREFORE, ORDERED as follows:

1. That PSNC's petition to amend the tariffs of Riders C and E to apply a 6.96% interest rate retroactive to January 1, 2019, shall be, and is hereby, denied.

2. That PSNC shall make appropriate adjustments to its Sales Customers Only, All Customers, Hedging Deferred Gas Cost Accounts, Rider C, and Rider E accounts to reflect an interest rate of 6.6%, as last approved by the Commission in the Sub 565 Rate Order, from January 1, 2018, until the date of this Order.

3. That PSNC shall apply an interest rate of 6.96% to its Sales Customers Only, All Customers, Hedging Deferred Gas Cost Accounts, Rider C, Rider E, and federal provisionally collected revenues deferred accounts prospectively from the date of this Order, until a change in the interest rate is approved by the Commission.

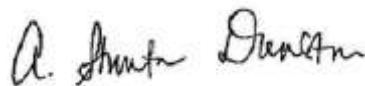
4. That PSNC shall in every general rate case, or, in years when there is not a general rate case, in the annual review of PSNC's gas costs, file testimony and supporting schedules that enable the Public Staff and Commission to review the interest rate and determine whether a change in the interest rate is warranted.

5. That PSNC shall file in its pending annual review of gas costs in Docket No. G-5, Sub 608, as soon as practicable, testimony and supporting schedules that enable the Public Staff and Commission to review the interest rate and determine whether a change in the interest rate is warranted.

ISSUED BY ORDER OF THE COMMISSION.

This the 30th day of July, 2019.

NORTH CAROLINA UTILITIES COMMISSION



A. Shonta Dunston, Deputy Clerk