

PARTICIPATING IN A NYS PUBLIC SERVICE COMMISSION RATE CASE **2019 LIFE REGIONAL MEETINGS**

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PARTICIPATING IN A NYS PUBLIC SERVICE COMMISSION RATE CASE

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PARTICIPATING IN A NYS PUBLIC SERVICE COMMISSION RATE CASE

- **Common Types of Proceedings at the PSC**
 - Major Rate Cases -- New York State Electric and Gas (NYSEG) is expected to file in Late Spring/Early Summer of 2019
 - Cable Mergers or Franchise Renewals
 - Consumer Complaints

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- How are Proceedings Begun?
 - Company Filing (e.g., **ratecases**, rate/fuel/RDM adjustments, property disposals, etc.)
 - Appeal of Consumer Complaints
 - Commission Action
 - Legislative Action (federal or state)
 - Petitions (most commonly used way to begin a proceeding)

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- Why get involved in utility rate cases?
 - They only occur every 2-3 years and there are many ways to get involved
 - They are cumulative; every unchallenged increase lifts the cost from which the next case's increase begins
 - Transparency: a chance to see inside the “black box”
 - The PSC, DPS, Company and media rarely hear from or think about the needs and interests of consumers & ratepayer stories are powerful when heard
 - It reinforces community strength as actors, rather than as mere objects of utility rate increases and policy
 - They result in direct bill impacts for NYS residential consumers

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- **Timing of a Major Rate Case (What the Statute Says) AKA Track I**
 - Under state law, a rate case is an 11 month long litigated proceeding, and a “rate plan” – the result of the litigation over the Company’s, DPS Staff’s and Intervenors’ cases – is 1 year long.
- **Months 1-4:** DPS Staff is responsible for analyzing the utility rate filing and representing the public interest.
 - The DPS team typically develops a counter-proposal to the rate filing, and occasionally opposes it.
 - Other interested groups can also file testimony and challenge the utility rate filing.
 - An Administrative Law Judge (ALJ) is assigned to preside over the case, to hear all the evidence and provide recommendations to the PSC.

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- **Timing of a Major Rate Case (What the Statute Says) – Part II**
- **Months 5-7:** Direct testimony is filed by staff and other interested groups; rebuttal testimony is filed by the utility company, and usually by intervenors; then evidentiary hearings with cross-examination of all expert witnesses are conducted.
- **Months 7-9:** Initial and reply briefs are filed with the ALJs;
 - ALJs may issue a recommended decision (RD);
 - public statement hearings are held in affected service territories.
- **Months 9-11:** Additional briefs may be filed with the PSC.
 - Commission deliberations are held in open and public meetings;
 - a written order is issued resolving all outstanding issues and matters necessary to determine the utility company's revenue requirements and the amounts to charge customers.

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- **Timing of a Major Rate Case (What actually goes down despite the Statute)
AKA Track 2**
 - This is usually what happens in rate cases, as opposed to the full litigation
 - Within month 1-5, the Company notifies the parties that it wishes to negotiate a settlement of the issues (a “**Joint Proposal**”) and submit it to the Administrative Law Judges for review
 - At this point, the Company may present a full confidential draft of a Joint Proposal, against which DPS and other parties negotiate in confidence
 - Or, the Company may confidentially negotiate its original proposed rate filing and arrive at a written document after substantial or complete negotiations

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- **Timing of a Major Rate Case (What actually goes down ...) – Part II**
 - In either case, the settlement negotiations are completely confidential until an agreed upon Joint Proposal (JP) is issued
 - The JP will have at least two parties in agreement, which are usually the Company and DPS
 - The Company and DPS will then try to convince some of the intervening parties to support the JP, which creates an opening to negotiate changes in the utility's behavior
 - Next, there will be party briefs supporting and/or opposing the JP,
 - Then there will be hearings on the JP, where the Company and DPS will defend the JP
 - DPS will then hold public statement hearings (sometimes they come earlier in the process)
 - And, 1-3 months later, there will be a RD from ALJs for the Commission

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- **How much work does it take to be a party/intervenor?**
 - **Party “lite”:** read Company, DPS & selected party filings and discovery responses; file a brief during evidentiary process or supporting/opposing JP; organize advocates/ratepayers for public statement process (or only some of the above)
 - **Party “not-so-lite”:** all the above and file discovery requests and/or cross-examine witnesses
 - **Party:** all the above and sponsor one or more expert witnesses, and prepare those witnesses for cross-examination
 - **Non-Party:** None of the above, but work the press, turn out large groups for public statement hearings, turn out large numbers of public comments, get legislators involved;
 - (Note: all these are good for parties to do too)

EXAMPLE: THE 2017 CENTRAL HUDSON RATE CASE

- PULP intervened
- Advocacy parties included Ulster County, Alliance for a Green Economy, Nobody Leaves Mid-Hudson, Citizens For Local Power and others.
- We shared our strategies and worked together on most facets of the case

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- 2017 Central Hudson Rate Case – PSC Case 17-E-0459– Timing of the Case & Party Action, See:

<http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=17-E-0459&submit=Search>

- Public comments were filed at each “inflection point” in the case; **total of 786**
- 42 parties; 16 were ratepayers, advocate groups or local groups

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- 2017 Central Hudson Rate Case – PSC Case 17-E-0459– Timing of the Case & Party Action

Examples of community involvement:

- Tom, an intervenor, posted two comments and nothing else in the case record, but wrote a series of Op Eds, went on TV and radio more than once, and organized; he also picked some conservation issues in the case and became very knowledgeable on them
 - Kevin, a Legislator, became very knowledgeable about all the case's materials and submitted expert testimony in writing and spoke at a public statement hearing opposing the requested rate increase,
 - Nobody Leaves Mid-Hudson and Citizens for Local Power joined as parties, organized over 300 public comments for the record, and helped turn out residents for the public statement hearings
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OUTCOME OF THE CENTRAL HUDSON RATE CASE

- **What Central Hudson Wanted When They Filed Their Rate Case:**

- The Company sought an increase of \$43 million in electric and \$18.1 million in gas, which would result in 13.5 percent and 18.5 percent more in delivery charges respectively for customers. CH also sought an increase to fixed charges.
- **Outcome of the rate case:**
- CH became the 1st Company to lower its “fixed customer charges” in roughly 10yrs (a 19% reduction).
- CH decreased its original rate request of 13.5 percent for electric and 18 percent for gas to 1 percent and 1.5 percent respectively in year one of the rate plan (7.8 percent and 9.5 percent total over three years; a roughly 40% reduction in their increase request).
 - The impact to customer bills will ONLY be an increase of \$1.46 and \$2.54 per month respectively in year one of the rate plan
- CH eliminated transaction fees for consumers paying their bills at walk-in locations with EBT and credit cards
- CH also agreed to: new carbon reduction measures to lower greenhouse gas output, incentives to reduce customer shutoffs, increased energy efficiency programs, EV stimulus programs, etc.

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