

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

CASE 18-E-0067 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Orange and Rockland Utilities, Inc. for Electric Service.

CASE 18-G-0068 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Orange and Rockland Utilities, Inc. for Gas Service.

**MOTION TO COMPEL DPS to RESPOND TO INTERROGATORIES from IR Sets 2-4  
(from D. Kopald to DPS)**

- I. DPS did not answer the questions in the interrogatories (sets 2-4) that I served; they should be made to answer questions as they have bearing on questions of rate design.*

In regard to IR Set No. 2 (See Exhibits 1 and 2), 21, it is not clear where the finalized detailed case analyses for the [AMI] project are. I would like to compare what is in the case analysis to current costs sought to be collected as well as net regulatory assets. I also assert that if the DPS has no defensible detailed case analysis that proves smart meters will actually do the benefits claimed, they should be moved into the investor side of the business and not be put in the ratepayer side of the business.

Question 22 is similarly relevant. It is important to know what DPS knows about back office functionality as well as how it protects privacy. See the July 2018 *Wall Street Journal* article Exhibit 4 of the first motion to compel DPS; it documents massive penetration of utilities by Russian hackers that is triggering four Department of Homeland Security (“DHS”) hearings. Obviously what O&R has budgeted for costs to deal with this issue is a question and whether they are sufficient or appropriate to the complicated task at hand, but for the DPS, the question of what new information they have will inform any cost analysis of O&R’s budgeting for software/ hardware and any other infrastructure to protect user data from hacking. What information DPS relied upon about back office infrastructure in approving AMI is related not to just an analysis of costs for these items (and whether the costs are appropriate) but is necessary to understand if this software and equipment has been proven to do what it is supposed to do; this will inform any position that should be taken on

whether some, all or none of this equipment belongs in rate base and/or expenses (which are used to calculate the rate increase) at this time.

Question 23 should be answered for the following reason: Dr. Schoechle, whose testimony I have sought to be admitted has asserted that AMI does not do anything or anything better or as well as SCADA and that there are misrepresentations that certain functions, including but not limited to outage detection are performed by AMI.

Regarding Question 24, it is the *sine qua non* of the claim that smart meters benefit the ratepayer (and should, to O&R's way of thinking be put in rate base and/or expensed) because they reduce bills. As my Father used to say, just because someone repeats something over and over again doesn't make it true. At no point has any proof of this claim that AMI had reduced customer bills and disputes been adduced. Evidence was provided in my petition for re-hearing in 17-M-0178 that they can increase bills, and there is plenty of anecdotal evidence that they have increased disputes with the utility. The evidence that has emerged from other jurisdictions, anecdotal and otherwise is that they raise bills, don't improve them or only marginally improve them over time when not being manipulated by temporary rates in a structured pilot. The DPS should be made to show what information they have supporting this notion; if they have none or have information that contradicts it, before this proceeding is closed, it will be necessary to consider whether certain AMI assets belong in rate base and/or expensed.

Question 25 presents the same issue: reduced energy use-age is touted as a major benefit; DPS has signed onto this claim; they should quantify how the DCX portal has resulted in reduced energy use-age by customers. Again, if there is no evidence of this claim, the question of whether this item belongs in rate base should be provided.

Question 26 refers to a claim that is confusing as to what it means and questionable under various interpretations: that AMI allows customers to "participate in energy markets". The DPS can clear up this confusion by explaining the value proposition of how AMI has enabled this participation

so it can ultimately be quantified. Similarly, the claim that providing a dashboard of information actually allows customers to control energy use has been debunked again by recent evidence in testimony sought to be admitted (in my original motion) that includes discussion of the British Infrastructure Group report.

Question 27 regards the claim that AMI increases system data to NYISO faster than the pre-existing system. This claim has been disputed. The DPS should explain what documentation it has to support this claim. If the claim is false, there should be a credit to the ratepayers with AMI not being put in the rate base/ expensed.

Question 28, likewise involves the claim that AMI meters “have been shown to better monitor distribution”. This claim is disputed by experts including Dr. Schoechle, whose testimony is sought to be admitted. If DPS has information to the contrary, it should be provided both as an analysis of costs of what aspect of AMI is performing this function and for consideration as to whether a credit should be made to the ratepayers and taking certain assets out of rate-base and/or moving expenses over to the investor side of the business. The costs regarding the aspects of AMI that creates the better distribution monitoring should be considered and itemized.

Question 29 involves the claim about how AMI has “reduce[d] generator emissions”. This is an oft-made claim regarding AMI that on information and belief has not been substantiated. If DPS has evidence of this, it should be provided; otherwise consideration should be made for a credit to the ratepayers with a part or all of AMI not being put into ratebase and/or expensed. The costs regarding the aspect of AMI that reduces these emissions should be considered and itemized.

Question 30 asks DPS to explain how AMI will lower the cost of integration and development for future REV-driven programs and plans across the utility enterprise. In addition the phrase “Standards based communications will allow for greater security and improved management of the meter device system, while standards for communication data structures will improve integration with other systems “ needs to be substantiated. How is greater security being achieved with a platform,

wireless delivery, that by its nature makes data less secure (than a wired system or reading the system by optical scan key)? These questions involve a cost-analysis of AMI. The portion of the AMI program responsible for delivering this integration and development benefit should also be quantified for consideration as to whether it should stay in rate base and be expensed or moved over into the investor side of the business.

Question 31 regards the question of how the AMI program provides “price signals” that have resulted in better management of electricity and gas bills. The operative phrase here is “has resulted in better management of electricity and gas bills”; the new testimony that is sought to be admitted disputes this contention. If these signals (which depend upon remote manual intervention at this juncture, which evidence from the field results doesn’t create a change in electricity use-age) are merely signals, not resulting in a measurable and/or permanent change in behavior, a credit for ratepayers should be considered by moving certain assets out of rate-base and into the investor side of the business.

Question 32 regards how the data in DPS’ possession supports customer behavior change. A certain type of customer behavior change would support the contention that AMI lowers customers’ bills. If the DPS does not have any data supporting this contention, concomitant with other evidence that suggests that AMI does not meaningfully do so, a credit should be made to the ratepayer in this proceeding and it should be considered in this proceeding whether AMI should be shifted to the investor side of the business as a result.

Question 33 asks DPS to substantiate the statement, “AMI increases the amount of information available to grid planners and operators, enabling O&R to better control voltage across the system, leading to a reduction in overall energy consumption.” This claim is disputed by Dr. Schoechle among others. Any such reduction in energy consumption should be ‘baked into the numbers’ regarding reduction in AMI costs and theoretically may be shown in the accounting of AMI and/or the formula that governs rate increases (net operating income after

tax/net regulatory assets) = rate of return. Any decrease in AMI expense accounts should manifest as lowered rates to the ratepayer. Any accounting or other such analysis should be shown to make this assessment in this proceeding. This applies as well to the other interrogatories I have served: on information and belief, there are reconciliations to show lowered costs, which should inform rate reductions and affect the rate of return.

Question 34 regards another claim about AMI benefits that is questionable; that it reduces “false service calls”. If there is no evidence of this, that should be disclosed. If there is evidence of this and it is 1 call per year or something inconsequential, this should be answered as well. This question is part of a battery of questions regarding the claims of AMI benefits. Either the DPS has evidence of same or not. If they do not, then it is prudent to consider a credit to the ratepayer and moving a portion of AMI to the investor side of the business.

Question 35 cuts to the heart of whether AMI has is improving load research data in a way that is economically superior to a pre-existing technology. The DPS should have evidence of same. This is one of several questions aimed to document AMI research benefits. If some benefits exist and others don’t, an appropriate credit should be made to the ratepayers in the formula for rate increase (such that some of AMI should be considered for the investor side of the business.

Question 36 is a general question regarding evidence of how much money is saved by AMI. By now the DPS should have evidence of this whether it is from O&R, another utility or another source. This issue bears on whether part of AMI should be moved to the investor side of the business. Ratepayers should not be paying and the rate of return should not be based on having all of AMI in net regulatory assets if there is no evidence of AMI saving money; certainly a conditional rate increase subject to demonstration of proof of this claim should be made.

Question 37 regards data in the DPS’ possession on meter failure rates over time (regarding

meter type being used). The DPS should provide any information it has substantiating these claims. I have attached in Exhibit 7, the recent order of the Kentucky Public Service Commission claiming there is no evidence that meters will last 20 years; in fact on page 3 of the order that Commission states rather damningly:

In support of their assertion that the meters have a 20-year service life, the Companies relied upon a two-word email from their vendor that read "20 years" in response to a question about the expected service life

In the motion to admit new testimony and exhibits, I put an IR in the Arizona Corporation Commission that suggests that the failure rates are higher than claimed and expected and would not justify a claim of a "20 year life". This question has a bearing on depreciation which affects the rates charged to the ratepayer.

Question 38 relates to the claim, "Please show all evidence in the DPS' possession substantiating O&R's claim that "AMI Cost Reduction Benefits [are] \$170" and that Customer and Societal Benefits [are] \$59." As discussed in the question, this assumption has likely changed over time, and DPS should provide its own calculations. My understanding from talking to their accountant, Allison, over the phone is that there is a rate decrease because of benefits saved and I would like to see how this fits into the formula to do an appropriate review of costs to make sure that the formula used for fixing the rate increase takes into account these reductions. This is an appropriate review of costs pursuant to the PSC's order in 17-M-0178.

Question 39 involves a claim that AMI has reduced costs during storms. Presumably this, like the other claims fits into the cost reduction and societal benefit calculations which I have asked to see more of from Question 38. If AMI is not performing this function, this too may affect the formula for the recovery from ratepayers, including, but not limited to the rate of return.

Question 40 involves claims about the Operational Benefits summary; how these

estimates have changed is a source of necessary review as they are likely to affect the formula for the recovery from ratepayers, including, but not limited to the rate of return.

Question 41 regards the sensitivity analysis for AMI Operational and Corporate and Capital Benefits. These numbers have never been fully justified, but in any event, they are likely to affect the expense calculation and/or net regulatory assets (and hence rate of return and revenues sought to be raised).

Question 42 poses a particularly important question regarding how future applications can technically work with AMI meters being installed. This claim is disputed by Dr. Schoechle among others and has bearing on the depreciation rate being set; this issue concomitant with the failure rate is a necessary cost analysis that is the subject of this proceeding and rate design. On information and belief, the so-called future benefits claimed in the DSIP about meters cannot work with these meters and may not even work with a software retrofit, given their capabilities (I asked O&R about whether there is a software retrofit fix. So far, there is no answer.)

Question 43 regards the only specific claim of any so-called economic benefit from the meters: Sacramento Municipal Utility District's ("SMUD") "smart home" time-of-use rate, which helped reduce customer bills by 10-13%, and, Oklahoma Gas & Electric's ("OGE") demand response program, in which 99% of participating customers saved an average of \$150 annually. I asked DPS what they know about these claims, because it is not clear how much of the smart home system can be controlled via AMI (if it is) and whether or not the time of use rate was artificially set while the data was being collected. It is also relevant whether OGE's demand response program actually works with the AMI meter or the pre-existing radio system.

Question 45 (Exhibits 5 and 6) refer to a claim that O&R made which is that the DPS tested things independently. The documents referred to in response to my query to the DPS suggest that DPS observed testing at ConEd's headquarters, but it isn't clear if the DPS itself

performed testing at ConEd's laboratory. The question continues to be, what tests did the DPS perform. If the DPS did not perform the tests, the answer is no and the question should be directly answered. If DPS is claiming they performed tests, I have asked about fire suppression, SMPS switch, moisture tests, on-off switch test and would like to know the results of these. If the meters were not tested for these things and/or the results indicate issues, the depreciation schedule should be adjusted.

The issues having to do with claims about AMI are pertinent because they may have something to do with calculations on expenses in the rate increase formula. The proven utility of AMI or lack thereof is also relevant in this proceeding as they have bearing upon the question of whether AMI net regulatory assets should be in rate base (and whether the expenses should be a basis for increasing rates on the ratepayer or whether these items should be moved to the investor side of the business and not used in a calculation for a rate increase. Other issues having to do with meter life and whether they can actually do some of the tasks claimed have bearing upon the depreciation schedule (which affects rates) and should be addressed in this proceeding and any final briefing.

Respectfully Submitted,

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