

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on October 13, 2016

COMMISSIONERS PRESENT:

Audrey Zibelman, Chair
Patricia L. Acampora
Gregg C. Sayre
Diane X. Burman

CASE 15-E-0745 - Central Hudson Gas and Electric Corporation
CASE 15-E-0746 - New York State Gas & Electric Corporation
CASE 15-E-0747 - Niagara Mohawk Power Corporation d/b/a National
Grid
CASE 15-E-0748 - Rochester Gas and Electric Corporation
CASE 15-E-0749 - Orange and Rockland Utilities, Inc.

Tariff filings to Effectuate Amendments to
Public Service Law - New §70-a (Transfer of
Street Light Systems).

ORDER APPROVING TARIFF AMENDMENTS WITH MODIFICATIONS

(Issued and Effective October 14, 2016)

BY THE COMMISSION:

INTRODUCTION

On November 20, 2015 Governor Andrew M. Cuomo signed into law Chapter 495 of the 2015 Laws of New York. Effective March 19, 2016 Chapter 495 amends the Public Service Law (PSL) by adding a new §70-a which establishes procedures for the transfer of ownership of complete street lighting systems to municipalities or other government entities. Specifically, §70-a requires utility tariffs to include a process to facilitate:

- i) the transfer of complete systems of street light equipment, including supporting infrastructure;
- ii) any required street

lighting attachment provisions; and iii) related rates and charges.

A Commission Notice Establishing Filing Requirements (Commission Notice), issued December 23, 2015, directed major electric utilities¹ to file tariff amendments conforming to the new statutory provisions within 60 days of the date of the Commission Notice and to work collaboratively and in consultation with Department of Public Service Staff (Staff) to design the tariff provisions consistently, to the extent possible. Between February 16 and February 22, 2016, Central Hudson Gas and Electric Corporation (CH), Niagara Mohawk Power Corporation d/b/a National Grid (NMPC), New York State Electric and Gas Corporation (NYSEG), Orange and Rockland Utilities, Incorporated (O&R), and Rochester Gas and Electric Corporation (RG&E) (together, the Joint Utilities) filed proposed tariffs as directed. The tariff amendments shown in Appendix A had an initial effective date of June 1, 2016, but were subsequently postponed to December 1, 2016. The Utilities requested waivers of the requirements of newspaper publication pursuant to PSL §66(12)(b) and 16 NYCRR §720-8.1 because they state the proposed changes will not materially impact their customers.

NOTICES OF PROPOSED RULE MAKING

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), Notices of Proposed Rulemaking were published in the State Register on March 16, 2016 [SAPA Nos. 15-E-0745SP1, 15-E-0746SP1, 15-E-0747SP1, 15-E-0748SP1, and 15-E-0749SP1]. The time for submission of comments pursuant to the Notices expired on May 2, 2016. On April 29, 2016, comments were

¹ Consolidated Edison Company of New York, Incorporated was not required to submit a filing because it does not own any street lighting fixtures.

received from Mid-Hudson Streetlight Consortium (MHSC) and the Ulster County Association of Supervisors and Village Mayors (UCA). On May 12, 2016, reply comments were filed jointly by the Utilities in response to the MHSC and UCA comments. On August 25, 2016, joint comments were received from the Cities of Albany, Buffalo, and Syracuse (the Cities). On September 9, 2016, reply comments were filed by NMPC in response to the Cities' comments.

COMMENTS AND DISCUSSION

Each utility as part of its tariff filing states that it complied with the Commission directive to meet with Staff and the other utilities to discuss the new requirements and to design proposed tariffs to be as consistent as possible between the utilities. The utilities' proposed tariffs, parties' comments and the Commission's determinations are presented by broad topical area in the following sections.

I) Timeframe for Utilities' Provision of Sales Price & Municipal Review Proposal

CH, NYSEG, O&R, and RG&E propose to provide a written initial sales price for the street lighting facilities within 90-days of the customer requesting this information in writing. NMPC proposes to provide the price within 45 days. All utilities propose provision of a purchase price for the same equipment only once in any 24-month period.

Comments

The MHSC and UCA comment that the utilities should have the requested information readily available on a municipality-by-municipality basis, and hence, the timeframe to respond to a price request should be shortened to 30 days. They also state that they do not see a reasonable basis to limit the

number of requests made to a utility for the purchase of street lighting assets, as the utilities update the depreciation accruals frequently and it is therefore a simple calculation. The Cities state that one request every 24-months is an unfair restriction for municipalities. The Cities suggest that since NMPC records the age, location and condition of each asset, maintained for billing and tax purposes, the calculation of the sales price is seemingly effortless. The Cities recommend that the Commission establish a 12-month period to limit the number of inquiries a utility must respond to and allow the municipalities to re-evaluate its finances each fiscal year.

The Cities also request that a municipality, after the receipt of a utility's proposal, should have up to 180 days to review and properly evaluate it. According to them, it can take time for municipal staff to properly evaluate a proposed price and for municipal councils to approve actions necessary for purchase of utility assets. The MHSC and UCA note the proposed tariffs leave the timeframe for the sale to the discretion of the utility and request that the Commission order a 60-day time frame from the date the conversion agreement is signed by both the municipality and the utility.

Reply Comments

NMPC responds to the Cities' comment about the frequency of the purchase price requests by stating that due to substantial progress it has made in moving towards an automated process to develop pricing information, it is willing to allow municipal customers to submit one purchase request in any 12-month period provided (1) it shall have no obligation to respond to any prior purchase request which is still pending, and (2) this would not preclude the utility from responding to purchase requests on more frequent basis when the utility determines in

its sole discretion that it is in the best interest of the utility and its other customers to do so.

NMPC responds to the Cities' comment for needing up to 180 days to properly evaluate its proposal stating that while it is unclear what specifically the Cities are proposing, it understands that municipalities may need time to secure required approvals for such transactions. NMPC suggests that municipalities have 60 days to commit to move forward in good faith to obtain the municipal approvals. The municipality would then have an additional 120 days after providing the commitment to secure formal approvals required to execute the purchase agreement. NMPC states failure to secure all required approvals and to execute the purchase and sale agreement without condition on the previously agreed terms within this period will constitute a rejection by the municipality of the proposal. NMPC proposes that in its sole discretion could extend this time period. According to NMPC, these provisions would provide the Cities with the full 180-day review period they have requested, and will also ensure that only those proposals that are under serious consideration by a municipality remain in the utility's queue for contract administration.

The Joint Utilities' reply to the 60-day timeframe for the completion of the sales transaction by stating negotiations take time, and because each individual street lighting system is unique, the MHSC's suggestion of a 60-day timeframe is insufficient and must be rejected.

DISCUSSION

Timeframe for Utilities' Provision of Purchase Price

The utilities' proposed tariff language allowing for up to 90 days (45 days for NMPC) to provide the purchase price to a municipality is based on the knowledge of their own systems and administrative experience. In order to respond to the

request for the initial price, a utility must gather information from billing systems and property records systems, determine the book value and age, and assemble this data to establish a proposed purchase price. While the Commission agrees with the MHSC, UCA, and the Cities that the information to be gathered for developing the purchase price should exist in readily accessible records available to the utility, the maximum 90 day period provides a buffer if high volumes of requests are received. Therefore, the response period of up to 90 days is approved as proposed by most individual utilities.² As the utilities further hone their processes through experience and the volume of requests are potentially reduced, the Commission expects the utilities to decrease the timeframe required to provide the purchase price and reflect such shorter time frames in a future tariff filing.

Frequency for Information Requests

The MHSC, UCA, and the Cities provide reasonable arguments to remove the restriction of provision of sales price to one request every 24-months. However, the MHSC's and UCA's proposal to provide unlimited price quotes could prove burdensome for the utilities. The Commission finds the Cities' proposal for provision of one price quote in any 12-month period to be more practical, and directs the utilities to allow one request in any 12-month period. As noted, this will allow municipalities to re-evaluate their financial status each year, if necessary.

² In order to be consistent with the other utilities, NMPC is directed to revise its tariffs to reflect a maximum 90 day response time for any purchase request. This will allow the Company additional time to manage partial sales requests as discussed later in this Order.

The Evaluation Period Needed by a Municipality

The modifications proposed by NMPC to the 180 day evaluation period may prove difficult for all municipalities to comply with given the varying individual processes municipalities may need to undergo before being able to commit to proceed with a purchase. Further, NMPC modifications to the 180 day evaluation period appear to indicate NMPC does not anticipate any negotiation between the municipality and the utility on the proposed purchase price. The Commission finds this inconsistent with other comments filed by the Joint Utilities that state the price at which they will sell their street lighting facilities is to be negotiated between the selling utility and the purchasing municipality. Therefore, NMPC's proposed modifications to the 180 day evaluation period is rejected and the 180 day evaluation period requested by the Cities is approved. The Utilities shall provide municipalities 180 days from the issuance of an initial proposed purchase price to commit to move forward in good faith with the purchase process.

The Transfer Period

The MHSC and UCA request a 60-day time frame for the completion of the sale starting on the date that the purchase agreement is signed by the customer and the utility. The Commission acknowledges that each negotiation is unique; however, the MHSC and UCA's request for a 60-day time frame for the completion of the sale appears to occur after the negotiation phase has concluded, and therefore, the Joint Utilities' comments are not relevant. However, the implementation of §70-a does not supersede the requirements of §70 of the Public Service Law which requires all sales to be filed with the Commission and any sale of assets with original cost over \$100,000 to be affirmatively approved by the

Commission. Under PSL §70, utilities are required to file a petition with the Commission reflecting the proposed sale, which then must comply with the requirements of the State Administrative Procedures Act (SAPA) comment period. Therefore, it is not possible for the sale to occur within the requested 60-day period. The MHSC and UCA's request is denied. The Commission will impose a requirement on the utilities to file the PSL §70 petition within 60 days of an executed purchase agreement. The utilities must include this requirement in their tariffs.

II) Elements of Purchase Price and Information Access Proposal

The Utilities state that their street lighting sale prices to municipalities will consider multiple factors. CH and O&R state that the sale price will consider market value of the street lighting system, remaining book value, applicable taxes, and any other costs which the utility will incur. NMPC states that its sale price will consider the fair value of the street lighting system, remaining book value, applicable taxes, and any other costs the utility may incur. NYSEG and RG&E state that their sale price will consider market value, remaining book value, applicable taxes due to accelerated depreciation of equipment, field audit³ and any costs which the utility may incur.

Comments

The MHSC, UCA, and the Cities push for transparency and a purchase price calculation similar to a cost-of-service model. They understand that the Commission cannot compel the Utilities to sell their assets, but they do believe that

³ The utility may perform a field audit to verify the utility infrastructure to be sold to the municipality, to determine points where the street lights interconnect with the utility distribution system, etcetera.

authority rests with the Commission to ensure that customers are treated fairly. They recommend that the Commission require each utility to adopt the same methodology for calculating the price of street lighting facilities to be sold: original cost, less accumulated depreciation, which includes accumulated net salvage. They add that the tariffs should specifically prohibit the utilities from charging any other costs or fees. The MHSC and UCA state that CH has informed municipalities that the utility is employing a net book value approach for the sale of street lighting facilities. They further support this recommendation by stating Massachusetts, Rhode Island, and Maine utilize this methodology. They suggest municipalities should receive the full benefit of the depreciation collected through utility street lighting rates. They assert that the impact of any profit made from the sale of a street lighting system is negligible, while the impact in additional costs to the municipality can be quite large. They do agree, however, that it is appropriate for the municipalities to pay the remaining un-depreciated value so that the utility is made whole by the transaction.

The MHSC and UCA also suggest that since municipalities are electric customers and not a private company seeking to profit from the asset, but rather a transaction between a utility and a customer seeking to move from one rate classification to another, the Commission has the authority to ensure that electric customers are treated fairly. They state the Commission should require greater transparency in these transactions, and level the playing field in negotiations for municipalities that are otherwise at a major information disadvantage vis-à-vis the utility. Access to any needed information to independently verify the basis of the price of street lighting facilities and costs associated with the

transfer of ownership will help the municipality to ensure the cost is reasonable and fair.⁴ Further, the MHSC and UCA recommend that language be included in the tariffs to ensure that this information will be made available to municipalities subject to a non-disclosure agreement.

Finally, the MHSC and UCA recommend that utilities offer payment options for municipalities looking to purchase street lighting facilities. They suggest that the utilities' proposed tariff filings should follow the lead of O&R's current tariff provision that reads, "The Company may contract to sell the system in increments over an agreed upon time frame or to accept payments in installments, upon payment and other terms acceptable to the Company." They further suggest that each utility should accept payments, made in installments for the street light facilities, interest free.

Reply Comments

The Joint Utilities and NMPC urge the Commission to reject the pricing methodology based on the net book value. They cite a previous determination⁵ where the Commission found it does not have the authority to force a utility to sell at a price not agreed to by the utility. The Joint Utilities also ask the Commission to reject the MHSC and UCA request to allow municipalities to pay for street lighting facilities in installments, interest free. The Joint Utilities state that forcing the utilities to forego interest would create a subsidy by other rate payers and/or shareholders. The Joint Utilities

⁴ Similarly, the Cities suggest that NMPC and other utilities include the analysis and methodology for the calculation of taxes and any other costs which the Company may incur to complete the sale.

⁵ Case 13-E-0311, Orange and Rockland Utilities, Inc. - Non-Rate, Order Denying Petition (issued May 13, 2014).

also comment that the payment options should be left to individual negotiations.

DISCUSSION

Street Light Pricing

As stated by the Joint Utilities and acknowledged by MHSC, UCA and the Cities, the Commission is not authorized to require the utilities to sell their assets. Each utility has described what factors it would consider in determining the purchase price in its proposed tariffs. The Commission finds these factors are reasonable except for the cost of the field audit, proposed by NYSEG and RG&E, which is rejected, as discussed later in this Order. While the MHSC, UCA, and the Cities suggest that the Commission should set a standardized method for setting the price of street lighting assets, this could ultimately prove detrimental due to the fact utilities are not required to sell their assets at a price derived from using a standardized methodology. If a utility refused to sell the asset at such price, the only option the municipality would have is to acquire the system through condemnation, which as the Utilities point out, would likely result in a substantially higher price to the municipalities than a negotiated price. For this reason, the Commission rejects the MHSC, UCA, and the Cities' request to require each utility to adopt the same methodology for calculating the sales price of street lighting facilities.

However, given the contribution LED street lighting conversions can play in helping the State meet its clean energy objectives, the Commission encourages utilities to consider the detrimental effect maximizing street lighting sale prices may have in the effort to facilitate LED conversions and obtainment of the corresponding greenhouse gas emission reductions.

Access to Information

The MHSC, UCA and Cities' statements regarding the access to information needed for the verification of the purchase price is valid. The utilities are directed to separately itemize each cost element of the proposed purchase price including the book value, original cost, depreciation, etcetera. An explanation of how each cost is developed should also be included. To resolve any confidentiality concerns, the utilities may require execution of a non-disclosure agreement, as deemed necessary.

The utilities are also directed to provide the costs associated with conversion of the existing utility owned lights to utility owned LED lights so that municipalities can compare the costs of purchasing with those of converting to LED lights without a purchase. For utilities which do not have LED street lighting options in their tariffs currently, this requirement would become effective when the Commission approves LED lighting options for them.

Payments for Facilities

The request from the MHSC and UCA to allow for payment through installments on purchased street lighting systems at no interest would create an unfair subsidy by other ratepayers. The Commission agrees with the Joint Utilities' position that payment options should be left to individual negotiations. If payments are made over a duration longer than one year, the rate charged will not be higher than the Weighted Average Cost of Capital, the rate being charged for other similar payment options in other areas, such as LED conversions of street lighting for company-owned assets.⁶

⁶ Case 15-E-0645, Niagara Mohawk Power Corporation D/B/A National Grid - Non-Rate, Order Adopting the Addition of LED Street Lighting Options (issued May 23, 2016).

III) Electrical Worker Qualifications

Proposal

In the proposed tariffs, each utility specifies that any personnel working on the street lighting system shall be electrically qualified to work on the system and shall be in compliance with all established standards associated with work in close proximity to electrical equipment. NMPC proposes additional standards that require the municipalities to be also in compliance with good utility practices in connection with work in close proximity to electrical equipment. NMPC would also require the municipality to indemnify it for any losses resulting from any breach of standards.

Comments

The MHSC and UCA recommend that the qualifications for the personnel performing work on the street lighting system be explicitly listed in the tariff. Further, they request that the qualifications be reasonable and utilities should not require certifications in which the Utilities do not require of their workers.

The Cities suggest that the qualifications required for municipal employees changing a street light head and luminaire on a company pole be made clear. With more transparencies in requirements and qualifications, the municipalities will be able to evaluate the purchase and costs associated without a need to shift liability to the utility.

Reply Comments

The Joint Utilities' and NMPC's reply comments ask the Commission to reject the MHSC, UCA, and the Cities' proposal to include the specific requirements of the personnel working on the municipality's electrical system in the tariffs. The Joint Utilities further state nothing in the PSL authorizes the Commission to regulate the employment practices of

municipalities choosing to purchase street lighting systems. Additionally, the Joint Utilities state that neither the utilities nor their customers should be required to bear any liability resulting from employment decisions made by municipalities electing to purchase the street lighting systems.

DISCUSSION

The utilities' proposed tariffs generally comply with the PSL §70-a requirement that lists "any personnel that work on such street lighting system will be electrically qualified to accommodate the environment within which the street light equipment shall exist and/or be in compliance with established standards associated with work in close proximity to electrical equipment". The specificity requested by the MHSC, UCA, and the Cities to be included in the tariffs is not appropriate due to the variety of regulations that need to be followed in order to maintain street lighting systems. However, to provide consistent guidance to the municipalities regarding the qualifications of the workers the Commission directs the Utilities to replace the filed language with the following:

The owner(s) of street lighting systems must provide that any personnel that work on such street lighting systems will be qualified by complying with established regulations and standards associated with the work to be conducted. To identify requirements related to safety or the construction, repair, or maintenance of the street lighting system, the owner(s) should consult among other documentation, the Occupational Health and Safety Administration ("OSHA") requirements, including but not limited to OSHA 1910.269, "The Electric Power Generation, Transmission, and Distribution" standard, the National

Electrical Code (NEC), the National Electric Safety Code (NESC), the New York State Labor Law governing how close workers (qualified) and non-workers (unqualified) can get to energized equipment at primary and/or secondary voltages, and requirements by the New York State Department of Transportation.

Additionally, NMPC has proposed language in its tariff which states terms it would require the municipality to agree to in the purchase and sales agreement which include language about indemnification of the utility by the municipality. In this Order, the Commission is not pre-judging any of the terms which will be negotiated between the utilities and the municipalities. Therefore, NMPC is directed to remove this language from its proposed tariff.

IV) Minimum Purchase Requirements

Proposal

All utilities allow customers to purchase a portion of the system instead of the complete system under the proposed PSL §70-a process. NYSEG, RG&E, and O&R, have existing language within their tariffs that allow a purchase amount of 25% of the customers' inventory, or 100 lights, whichever is greater.⁷ CH proposes that customers have the option to purchase all, or a

⁷ NYSEG and RG&E currently consider offers of purchases to be made in geographic areas which contain slightly less than the 25% minimum, provided there is some logical reason. If a customer owns 70% or more of the street lights originally owned by the companies prior to any purchase(s) made by the customer, any further purchase must encompass all remaining lights. If a proposed purchase would reduce the amount of street lights owned by the companies within the municipality to less than 15% of the lights originally owned by the companies prior to any purchase(s) made by the customer, or to less than 100 lights, completion of the proposed purchase shall be contingent upon written agreement by the customer to purchase all remaining lights within 2 years of the currently proposed purchase.

portion of its street lighting system being used to serve the customer. NMPC proposes only to allow customers to request purchase of the complete system under the PSL \$70-a process. It would let customers request purchase of portions of the system under the PSL \$70 process.

Comments

The Cities oppose NMPC's proposal for the sale of the complete street lighting system. The Cities comment that, unlike other utilities, NMPC has not offered a minimum purchase requirement option. They state that the Cities combined have a total of 55,000 streetlights owned by NMPC, with over 10,000 existing lights in each of the three cities. They cite the NYSEG proposal which allows a municipality to purchase less than 25% under certain situations and request NMPC provide similar flexibility so long as the amount of lights purchased is more than trivial. The Cities are concerned that the cost for even 25% of the lights will put an unfair burden on municipalities.

Reply Comments

NMPC responds by stating that while it believes its proposed tariffs are more flexible than other utilities' proposed tariffs, it is willing to agree that the new tariffed procedures will apply to sales of the greater of: (1) 25% of the streetlights owned by the utility and represented on the municipality's bill account prior to any purchases under the new rule and (2) 100 lights. It would impose two conditions on the purchasing municipality, first, the municipality must agree to purchase all of the components of the street lights in question and second, if the municipality seeks to purchase some but not all of the street lights on a particular circuit, the utility will have the right to require that the municipality purchase all of the street lights on that circuit. NMPC adds that its

revised proposal would apply to underground-fed lights as well as overhead lights.

DISCUSSION

Although the PSL §70-a states "...any municipality or other government entity proposing to acquire title to and transfer ownership of the complete system of street light luminaires or fixtures, all supporting infrastructure, and associated electric circuitry...", it is beneficial for municipalities to have the option of purchasing less than the entire street lighting system. Furthermore, the objective of PSL §70-a is to provide a clear and transparent process for the facilitation of sales. The Commission finds that requiring one process for the sale of the complete system and allowing for a potentially different process for the sale of a portion of the system would run counter to the legislative intent of PSL §70-a. Accounting for NMPC's revised proposal, all utilities would offer municipalities an option to purchase a portion of the street lighting system. However, as requested by the Cities, to further reduce the burden on the municipalities, the Commission directs the utilities to reduce the minimum purchase requirement to the greater of 10% of the lights or 100 lights.⁸ The utilities' tariffs should be revised accordingly.

V) Physical Separation of Systems (Disconnect Devices),
Security for Disconnect Devices, Field Audit, and
Reconfiguration Work
PROPOSAL

NYSEG, RG&E, and NMPC propose charging for a field audit. NMPC proposes charging for a field audit as part of its "Detailed Transfer Study" summarized below but NYSEG and RG&E propose field audit costs to be included in the sale price.

⁸ If a municipality has less than 100 lights owned by the utility, it will be required to purchase all of the lights.

NYSEG, RG&E, O&R, and NMPC would require physical separation of the system purchased by a municipality from the utility's system by the installation of a disconnect device. CH is the only utility which does not require physical separation.

NMPC requires customers to pay for a "Detailed Transfer Study" which entails estimating the cost for it to perform "Separation Work" and "Reconfiguration Work". According to the utility, Separation Work involves the labeling of the system to be sold along with the installation of a disconnect device, which can be installed by the customer. Reconfiguration Work, is the work required to ensure the safe and reliable delivery of electric service to the customer purchasing the street lighting facilities or the utility's other electric service customers after the separation of the street lighting facilities are transferred. In addition, NMPC proposes a requirement that disconnect devices be installed within 12-months of the transfer of the street lighting system.

NYSEG, O&R, and RG&E, each propose tariff language that states the utilities will develop estimates for the costs they shall incur to physically separate the system being sold from the rest of the distribution system, in the event that customers do not install the disconnect devices. This estimate is for the installation of the disconnect device to be installed. All three utilities state they will not charge the customer to develop an estimate for the physical separation work to be performed. They all require the installation of a disconnect device by the municipality within 24-months of the transfer of the street lighting system.

CH will not require the installation of a disconnect device and will only charge for disconnect work if requested by a municipality.

Finally, NMPC, NYSEG, O&R, and RG&E require customers to supply the utility with financial security assurance to ensure the installation of the disconnect device. The financial security to be supplied is equal to the utilities' cost to install the disconnect devices on the street lighting facilities to be sold. CH does not propose a financial security requirement because it does not require disconnect devices be installed.

Comments

The MHSC and UCA believe that a field audit or a Geographic Information System (GIS) audit⁹ should not be required at the municipalities' expense as it is the utilities' responsibility to know what it has installed and what it owns. Since this is the basis for accurately billing customers, the MHSC and UCA comment that it is unreasonable to have municipalities be responsible to pay for a field audit.

The MHSC and UCA express concerns regarding the required physical separation estimate and financial security for the installation of the disconnect devices. The MHSC and UCA state that they do not see it necessary for utilities to develop an estimate for the installation of the disconnect devices since the utilities (except CH) require municipalities to install a fused disconnect at their own expense.

The MHSC and UCA are in agreement with the three utilities' proposals of a 24-month timeframe for the municipality to install the disconnect devices. They request the requirements be included in the tariffs and be standardized across service territories.

⁹ According to the MHSC and UCA, one utility requires that municipalities perform a GIS audit as part of the "conversion agreement".

The Cities oppose NMPC's Detailed Transfer Study as it creates a burden on municipalities looking to purchase street lighting facilities. The Cities comment that, requiring municipalities to pay for such a study to determine the location of disconnect devices creates unnecessary costs with no benefit to the municipality. Further, reconfiguration work, as seen by the Cities, is work done so that clearances are met, which are established and generally accepted. The Cities argue that if the fixtures are currently in operation with or without these clearances, and current utility employees are permitted to work within these clearances, qualified personnel employed by the municipality should also be able to use the safety practices employed by the utilities' linesmen. The Cities further suggest that reconfiguration work should be resolved over time due to utility pole replacement schedules. The Cities propose that if any reconfiguration work is required for public safety, the utility should perform the work prior to the sale of the street lights or give notice to and allow the municipality to resolve the issue at an agreed upon time.

Reply Comments

The Joint Utilities state that the comments filed by the MHSC and UCA ignore the fact that financial security is required to ensure that the work is done properly and within the 24 month period allotted. The Joint Utilities continue that the estimate of the cost to install the devices is required to determine the amount of financial security a municipality must provide to cover the costs of this installation if the municipality defaults on this commitment.

NMPC states that contrary to the Cities' contention, reconfiguration work involves the relocation of NMPC's distribution facilities used to serve other customers and can be performed only by NMPC personnel. It states that other

utilities' proposed tariff language would permit the recovery of "any other costs which the (utility) may incur in order to complete the sale" and would therefore allow other utilities to charge reconfiguration costs if they incur them. NMPC further states that the only material difference between its proposal and that of the other utilities is that NMPC proposes to provide municipalities with a study that will disclose the work it would need to perform, the amount of any reconfiguration costs, and explain how the financial security requirements and reconfigurations costs were determined. It continues that the need for customers to understand the nature and extent of the work and associated costs is particularly clear in the case of the Cities, where NMPC operates large and complex lighting systems that have evolved over many years. Each of these street lighting systems is comprised of many different kinds of equipment installed at different times and under different standards. As a result, the reconfiguration work required for those transactions is likely to be substantial. NMPC adds that the cost of these studies and the work should be borne by customers purchasing the street lights.

DISCUSSION

Cost of Separation and Security Deposit

The collection of a security deposit for the utilities to install disconnect devices is appropriate to ensure that the devices are installed by the municipalities in a timely manner. The proposal to estimate the cost for the utilities to perform this work is necessary to determine the amount of financial security required. While no other utility would charge the municipality to estimate the cost, NMPC would require municipalities to pay for the cost estimate. NMPC's proposal is inconsistent with other utilities' proposals and is rejected.

The proposed tariffs by NYSEG, O&R, and RG&E requiring that a disconnect device be installed within 24-months of the transfer of the street lighting system are supported by the MHSC and UCA. The Commission finds this time period acceptable and directs NMPC to adopt the same timeframe in its tariff.

Field Audit and Reconfiguration Work

NMPC is the only utility to suggest that a field audit will be needed for every street lighting transfer, as part of its Detailed Transfer Study, while NYSEG and RG&E state that they have occasionally performed field audits under unique situations. Each utility should have records of the facilities it has and should not charge customers for a field or GIS audit. The Commission agrees with the MHSC, UCA, and the Cities that the expense for performing a field audit is unwarranted and directs the utilities not to charge purchasing municipalities for these activities.

NMPC, in its proposed tariff, is the only utility requiring the customer to pay for the cost of estimation of the reconfiguration work and the cost of the work itself. NMPC's proposal to charge for estimation of the reconfiguration work is rejected as it would unduly burden municipalities and is inconsistent with the other utilities' proposals. While NMPC states in its reply comments that it expects reconfiguration work to be substantial for the Cities, in response to a Staff information request, NMPC stated it does not expect much reconfiguration work will be required on the majority of street lighting equipment to be sold. NYSEG and RG&E indicated that typically no reconfiguration work is required. O&R stated that its policy is to sell its street lighting systems to municipalities in an "as is" condition. Accordingly, O&R does not foresee the need to reconfigure its system prior to the sale of company-owned street lights. CH would not charge for system

reconfiguration work unless requested by the municipality. Given the level of work expected, the Commission directs the following method be used by the utilities for determining whether or not the municipality should be charged. If the reconfiguration work is at the request of the customer the utility can charge the customer for the work. If the reconfiguration is at the utility's behest then the customer should not be charged. The Cities commented that reconfiguration work may not be necessary because its workers could employ all safety practice used by the utility. It is important, however, to recognize that there are multiple classifications for line workers that clearly recognize qualifications and municipal workers would need extensive training and experience before to perform certain activities performed by the utility. The municipalities and utilities should take the responsible steps to ensure the safety of their workers. Therefore, the utilities should discuss with the municipality possible reconfigurations due to safety concerns for municipal workers to determine whether the municipality wants the work to be performed by the utility or if the municipality considers its workforce to be adequately qualified to perform work without the system reconfiguration.

VI) Energy Efficiency

Proposal

PSL §70-a states that municipalities interested in purchasing street lighting systems from electric utilities may file an application, with the Commission, with the municipality's plans to retrofit the acquired fixtures with energy efficient lighting. PSL §70-a further states that the Commission must work with New York State Energy Research and Development Authority (NYSERDA) to identify energy efficiency options, or if funding is available for municipalities. The

tariffs filed by each of the utilities do not make any mention of energy efficiency measures under the transfer of ownership.

Comments

The MHSC and UCA comment that conversion to LED street lighting is perfectly aligned with the State's Reforming the Energy Vision (REV) goals to enhance customers' knowledge and tools for managing their energy bills, expand markets for energy efficiency products and services, promote system-wide efficiency, and reduce carbon emissions. They further state steep reductions in electricity use through improved efficiency can lower the cost of the Clean Energy Standard. They suggest that incentives should be created to support the conversion of street lighting systems to more energy efficient fixtures. The MHSC and UCA provide examples of electric utilities in outlying states which provide incentives to customers who switch to LED street lights. The MHSC and UCA maintain that per kWh incentives through the utility energy efficiency programs or the Clean Energy Fund would accelerate LED conversions statewide and increase energy and environmental benefits.

Reply Comments

The Joint Utilities' reply comments state that energy efficiency considerations are beyond the scope of the filing and should be presented in individual rate cases or in Reforming the Energy Vision (REV) proceedings. The Joint Utilities further state that the energy efficiency programs should not be designed to encourage the acquisition of street lighting facilities. Instead, such incentives should apply equally to conversions to more efficient lighting technologies made to municipal and utility street lighting systems alike. Lastly, the Joint Utilities comment that they see no reason why the utilities' remaining customers should be required to pay for incentive programs for municipal lighting systems when the same incentives

are not available for customers served under utility owned lighting facilities.

DISCUSSION

The increase in energy efficiency that conversions to LED street lighting can provide is the primary driver for many municipalities considering conversions. While the Commission agrees LED street lighting can play an important role in helping the State achieve its clean energy goals, directing utilities or NYSERDA to offer specific incentive programs for this purpose are outside of the purview of this proceeding. The scope of such energy efficiency incentives should be considered in the appropriate proceedings, including: utility rate cases, utility energy efficiency transition implementation plans (ETIPS), and NYSERDA's Clean Energy Fund.¹⁰ However, as the PSL §70-a calls for the Commission to identify energy efficiency or other funding which would be available for municipalities, the utilities will be required to provide information related to what, if any, utility energy efficiency incentives are available to the municipalities concurrent with their sale pricing proposal.

Further, the Commission notes through NYSERDA's Clean Energy Fund activities, NYSERDA currently offers technical support and information to support communities as they pursue LED street lighting conversions, including on-demand technical assistance, step-by-step guidance regarding options for LED street light conversions, sample Requests for Proposals for energy performance contracts to purchase and convert street lighting, and case studies of successful implementation.

Additionally, support for municipalities seeking to

¹⁰ Case 15-M-0252, In the Matter of Utility Energy Efficiency Programs and Case 14-M-0094, Proceeding on Motion of the Commission to Consider a Clean Energy Fund.

purchase and subsequently convert streetlight systems to energy-efficient LED is currently available through the New York Power Authority (NYPA). As implementation contractor, NYPA may provide and/or assist in securing financing for the purchase and conversion of streetlights to any municipality and any government entity in New York State, subject to credit approval.

Utilities are required to inform municipalities requesting sales pricing proposals that additional technical and financing support may be available to them through NYSERDA and NYPA.

VII) Transfer Agreement Related Concerns

The MHSC and UCA state that municipalities in CH, NYSEG, and O&R territories have shared with them information regarding executed agreements or proposed agreements with the utility on the transfer of assets. This information has provided visibility to MHSC and UCA as to the lack of standardization and they note they are encouraged by the utility filings that contain similar if not the same language, with some exceptions. The MHSC and UCA state some utilities are charging customers for utility removal of lights as part of the transfer agreement. According to them, the removal costs the utilities charge are already accounted for in rates and they should not be made to pay for the same service twice. They further state that municipal customers, if they remove the lights themselves, should receive a refund.

They also state that one utility charges a post-construction survey fee while also requiring that it retain the right to hire a third party inspector to oversee construction at the municipality's expense. According to the MHSC and UCA, as long as the municipal personnel performing the work are properly qualified to perform the work and are following the guidelines approved by the utility, there should be no cost to the

municipality for such inspection. The MHSC and USC further state that the tariffs should specify that the utility has the right to conduct an inspection anytime at its own expense.

DISCUSSION

Cost of Removal

The municipalities are paying for the estimated cost of removal over time in the rates they pay to the utilities. However, these payments, made to the date of purchase, would be added to the accumulated depreciation reserve which would reduce the net book value of the assets being purchased by the municipality so the customers would receive a credit for the payments they have made. Regarding whether a utility should charge the customer for the removal of the lights, the Commission will use the same rule applied for the reconfiguration work. If the removal is made at the request of the customer, the utility may charge the customer for this service; otherwise the customer should not be charged.

Cost of Inspection

The utilities are obligated to provide safe and reliable service to the customers, including the municipalities that purchase their street lighting systems, and would be interested in determining construction activities were performed correctly. If a utility finds it necessary to inspect the new system the inspections should be incorporated into and occur as part of the utility's stray voltage testing and/or inspection programs. Costs associated with these programs are recovered through the utility delivery rates.

VIII) PSC Facilitation of Sale

Proposal

In each of the proposed tariff filings, the utilities cite PSL §70-a stating that customers may file a petition with the Commission at any time to facilitate an ownership transfer

agreement. The utilities state that the customer's petition must comply with the requirements of PSL §70-a, along with the requirements of the Commission's Rules of Procedure, 16 NYCRR Part 3, and any other applicable requirements. NMPC states that a customer may file a petition with the Commission at any time to determine if there is public interest for the Public Service Commission to commence a proceeding to facilitate the sale by the utility to the customer.

Comments

No comments were received on this tariff provision.

DISCUSSION

PSL §70-a allows the municipalities to submit a petition to the Commission, at any time, to determine if there is public interest to commence a proceeding to facilitate the sale. Municipalities are encouraged to contact their respective utility before filing such a petition. If the municipality reaches a sales agreement with the utility, or if the negotiations are progressing, there would be no need to file a petition with the Commission to facilitate a sale.

The Commission orders:

1. The tariff amendments listed in the Appendix are authorized to become effective on November 1, 2016 provided each affected electric utility files further revisions as discussed in the body of this order, on not less than seven days' notice to become effective on November 1, 2016.

2. Each affected electric utility listed in the body of this Order shall file, on not less than one day's notice to become effective on November 1, 2016, any tariff revisions incorporating previously approved provisions by the Commission since the tariff amendments listed in the Appendix were filed.

3. The requirements of Public Service Law §66(12)(b) and 16 NYCRR §720-8.1 as to newspaper publication with respect to the tariff filings listed in the Appendix and the amendments directed in Clauses 1 and 2 are waived.

4. In the Secretary's sole discretion, the deadlines set forth in this order may be extended. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least one day prior to the affected deadline.

5. Upon compliance of Ordering Clauses 1 and 2, these proceedings shall be closed.

By the Commission,

(SIGNED)

KATHLEEN H. BURGESS
Secretary

SUBJECT: Filing by CENTRAL HUDSON GAS AND ELECTRIC CORPORATION
Amendments to Schedule P.S.C. No. 15 - Electricity

Original Leaf No. 224.1
Second Revised Leaf No. 224

Issued: February 19, 2016 Effective: June 1, 2016
Postponed to December 1, 2016.

SAPA: 15-E-0745 - STATE REGISTER - March 16, 2016

NEWSPAPER PUBLICATION: Waived

SUBJECT: Filing by NEW YORK STATE ELECTRIC & GAS CORPORATION
Amendments to Schedule P.S.C. No. 121 - Electricity

Original Leaf No. 61.2
Second Revised Leaf No. 61.1

Issued: February 16, 2016 Effective: June 1, 2016
Postponed to December 1, 2016.

SAPA: 15-E-0746 - STATE REGISTER - March 16, 2016

NEWSPAPER PUBLICATION: Waived

SUBJECT: Filing by NIAGARA MOHAWK POWER CORPORATION D/B/A
NATIONAL GRID

Amendments to Schedule P.S.C. No. 214 - Electricity

Original Leaves Nos. 44.0.1, 44.0.2, 44.0.3
First Revised Leaf No. 44.1
Tenth Revised Leaf No. 44

Issued: February 22, 2016 Effective: June 1, 2016
Postponed to December 1, 2016.

SAPA: 15-E-0747 - STATE REGISTER - March 16, 2016

NEWSPAPER PUBLICATION: Waived

SUBJECT: Filing by ROCHESTER GAS AND ELECTRIC CORPORATION

Amendments to Schedule P.S.C. No. 18 - Electricity

Original Leaf No. 36.1

Second Revised Leaf No. 36

Issued: February 16, 2016 Effective: June 1, 2016
Postponed to December 1, 2016.

SAPA: 15-E-0748 - STATE REGISTER - March 16, 2016

NEWSPAPER PUBLICATION: Waived

SUBJECT: Filing by ORANGE AND ROCKLAND UTILITIES, INC.

Amendments to Schedule P.S.C. No. 3 - Electricity

Original Leaf No. 304.1

Second Revised Leaf No. 304

Issued: February 19, 2016 Effective: June 1, 2016
Postponed to December 1, 2016.

SAPA: 15-E-0749SP1 - STATE REGISTER - March 16, 2016

NEWSPAPER PUBLICATION: Waived