(Decision No. R80-1958)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE: INVESTIGATION AND SUSPENSION OF TARIFF SHEETS ACCOMPANYING ADVICE LETTER NO. 8 FILED BY THE CITY OF FORT MORGAN FOR REVISION OF TARIFF COLORADO PUC NO. 5 - ELECTRIC.	INVESTIGATION AND SUSPENSION DOCKET NO. 1429 RECOMMENDED DECISION OF EXAMINER LOYAL W. TRUMBULL ESTABLISHING NEW RATES

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October 8, 1980
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Appearances: David L. Roberts, Esq., Fort Morgan, Colorado, for Respondent City of Fort Morgan;

Dudley P. Spiller, Assistant Attorney General, Denver, Colorado, for the Staff of the Commission.

STATEMENT OF THE CASE

On May 16, 1980, the City of Fort Morgan, hereinafter referred to as "Respondent," filed with this Commission its Advice Letter No. 8, accompanied by 14 revised or new tariff sheets. Respondent requested that such tariff sheets be allowed to become effective upon expiration of the normal statutory notice of 30 days duration. However, by Decision No. C80-1107, issued June 3, 1980, the Commission suspended the effective date of the proposed tariff sheets for the maximum allowable period of 210 days, expiring January 12, 1981, and set the matter for hearing on Thursday, August 21, 1980, at 10 a.m., in the County Courtroom of the Morgan County Courthouse in Fort Morgan, Colorado.

The matter was heard as scheduled before the undersigned Examiner, with testimony being heard from five witnesses and a total of 15 exhibits being offered and admitted into evidence. The matter was taken under advisement upon conclusion of the hearing pending receipt of statements of position, which were allowed to be filed within 10 days. A statement of position on behalf of Respondent has been received.

Pursuant to the provisions of 40-6-109, CRS 1973, the record and exhibits of this proceeding are now submitted to the Commission together with this recommended decision.

FINDINGS OF FACT AND CONCLUSIONS THEREON

The following facts have been found to exist, based upon all the evidence of record, and the following conclusions have been arrived at based upon such facts:

1. Respondent City of Fort Morgan purchases electricity from two different sources and transmits and sells it to customers both inside and outside the city limits of Fort Morgan. The latter class of customers are referred to as "jurisdictional" customers inasmuch as Respondent functions as a public utility, as defined by 40-1-103, CRS 1973, in its electrical service to them, and the rates and charges for such service must be established by this Commission rather than by the City Council, which establishes such rates and charges for Respondent's "non-jurisdictional" customers within the city limits. Respondent has a

total of 5,600 customers, with about 27 miles of "rural" lines which serve its jurisdictional customers. Figures for revenues and expenses in this decision relate to jurisdictional service only unless specifically stated to the contrary.

2. Respondent has agreements for purchase of firm requirements from two sources under control of the Western Area Power Authority (WAPA), both of which have demand limits which vary between the winter and summer seasons. Respondent purchases supplemental power from Morgan County Rural Electric Association (MCREA), at a substantially higher cost than the WAPA power. Although energy purchased from MCREA represented only 15.7% of total kilowatt hours used by Respondent, the cost of such energy represented 40.8% of Respondent's total adjusted wholesale power costs. This is largely because Respondent is a summer-peaking system and must purchase more energy from MCREA during the summer months in spite of the fact that its WAPA allocations are 1,000 KW higher during the summer months.

3. Respondent has chosen calendar year 1979 as its test period for analysis of its revenue and expenses, which is a reasonable and proper period for such purposes.

4. Rates for Respondent's electric utility service have historically been, and should in this proceeding be, determined in such a manner as to allow Respondent a reasonable opportunity of realizing a just and reasonable operating ratio in jurisdictional service on a fully-adjusted test-year basis. "Operating ratio" is defined for these purposes as being an expression in percentage terms of the relationship which operating costs, not including interest, taxes or transfers in lieu of taxes, bears to total utiltiy revenues (i.e., electricity sales plus other utility income). A fair and reasonable operating ratio is one which will allow the utility to cover its operating, maintenance and depreciation expenses, fulfill long-term debt obligations and have a reasonable opportunity to develop a surplus sufficient to allow it to make a reasonable contribution or transfer to the city's general fund in lieu of taxes, both sales and real property, and to maintain its financial integrity while providing necessary improvement or expansion of plant and service on reasonable financial terms.

Counsel for Respondent has submitted a statement of position which is highly critical of the use of an operating ratio in general for the purposes of this proceeding, and of the application of such approach by Staff in this proceeding in particular. While the operating ratio approach has its shortcomings in ratemaking for municipal utilities, it will have to suffice in this proceeding inasmuch as Respondent's own witnesses used such approach and there is no evidence as to Respondent's rate base, to say nothing of the problem that would be involved in determining a capital structure for Respondent.

5. By the subject filing, Respondent requests approval of rates which would afford a reasonable opportunity to realize a 75% operating ratio and which would comply with the so-called "generic case" decision, issued by this Commission in Case No. 5693, and Decision No. C79-1111, issued July 27, 1979, as amended by Decision No. C80-413, issued March 6, 1980. Although the total decision was technically stayed or postponed inasmuch as the latter decision granted rehearing as to three issues (power pooling, financing effect of requiring cooperation between REA's and non-REA Act beneficiaries, and interruptible rates for irrigation customers of Public Service Company), the decision serves as a guide for utilities seeking to file rates consonant with current Commission policy on rate design.

6. Respondent has made reasonable allocations of revenues and expenses between jurisdictional and non-jurisdictional service. Respondent

has also made appropriate revisions to its customer classes, mainly by separating residential all-electric customers from the Residential class and redefining the commercial classes.

7. Respondent had per books jurisdictional operating revenues of $275,230 for the chosen test period after revising customer classes. Respondent has proposed various in-period adjustments to expenses to annualize the effect of wage increases and wholesale power cost increases incurred during the test period and to reallocate expenses as a result of the proposed regrouping of rate classes, all of which are reasonable and proper, resulting in fully adjusted test year operating expenses of $189,956, which consist of the following:

Expenses

Purchased Power	$115,865
Distribution O&M	28,977
Consumer Accounting	12,216
Admin. & General	20,649
Subtotal	$177,707
Depreciation & Mis.	12,249
TOTAL	$189,956

8. The main issue in this proceeding has been the amount of "payments in lieu of taxes" which should be allowed to be included in Respondent's revenue requirements. "In lieu" payments are essentially transfers from a municipal utility to the city's general fund which are provided for in municipal utility rates in order to recover the opportunity cost of providing service rather than authorizing a non-municipal utility to provide electric service. These costs are basically lost real property taxes and franchise fees. Such payments may also be viewed as the return allowed to be realized on city property dedicated to utility service. Respondent has requested rates which would allow it revenues sufficient to generate $47,192 in "in lieu" payments. This figure is generally arrived at by multiplying jurisdictional revenues by 6%, non-jurisdictional revenues by 15.5%, totaling the two results, and allocating 17.1% of such total to jurisdictional service as its obligation to "in lieu" payments. The 17.1% factor represents percent of physical plant properly allocable to jurisdictional service, which is a reasonable basis for allocation of "in lieu" payments under the circum-stances of this proceeding.

Commission Staff has proposed that $14,729 be allowed, which results from allowing 2.5% of non-jurisdictional revenues of $1,566,084 for property tax equivalent, 3% of same for franchise tax, resulting in total system "in lieu" payments of $86,135, and allocating 17.1% of such total to jurisdictional service. Non-jurisdictional sales should be the basis of determining "in lieu" payments inasmuch as a municipality cannot tax property or grant a franchise in an area beyond its municipal boundaries. Such procedure results in "in lieu" payments of $14,729. Although this procedure is unavoidably imprecise insofar as property taxes are concerned, it properly recognizes the "opportunity cost" of providing electric service rather than authorizing a non-municipal utility to provide such service, and it is therefore found and concluded that Respondent should be authorized rates which will allow it to make a transfer of $14,729 to the general fund of the city.

9. Turning to Respondent's just and reasonable revenue requirements over and above operating costs, it is found that $14,035 in interest is properly allocable to interest. This figure represents interest of $3,295.92 on a 1972 bond issue and interest of $78,785.97 on a 1979 bond issue, with interest allocated to jurisdictional service in the amount of 17.1%, which is the percentage of plant allocated to jurisdictional service. Counsel for Respondent has questioned the procedure of not denominating interest as an operating expense. As he has pointed out,

the operating ratio approach was developed in order to determine revenue requirements of a given trucking company by comparing its operating results to the revenue-expense ratio of a similar group of carriers; interest was not included in expenses because it would vary greatly within the group depending on the capital structure and debt financing of each carrier.

10. In addition to interest, Respondent's rates for jurisdictional service must be sufficient to generate sufficient margins to cover the jurisdictional sector's responsibility for principal payments of $55,000 due in 1980 on the 1979 bond issue, which should also be allocated on the basis of the 17.1% plant allocation figure, resulting in $9,405 attributable to principal payments.

Respondent has budgeted $530,100 for electrical system expansion for its 1980 budget year, which is a reasonable amount; inasmuch as only $423,800 is available from bond proceeds, a balance of $106,300 must be realized from internally generated capital. There has been no objection to the 20.95% allocation factor recommended by Staff, and it is therefore found that Respondent's rates must be capable of generating an amount of $22,270 for purposes of system expansion.

It is found and concluded that rates which, will in the aggregate, afford Respondent a reasonable opportunity of realizing a 75.86% operating ratio in jurisdictional service will be just and reasonable. Respondent's present rates, which result in an overall operating ratio of 69.0% for the fully adjusted test year are found to be excessive, unjust and unreasonable.

The record should reflect that the Examiner agrees completely with the contention of counsel for Respondent that Respondent is entitled to a reasonable compensation for use of utility property devoted to jurisdictional service. As previously discussed, the operating ratio is merely one method of arriving at revenue requirements, as is the more familiar rate base approach to regulation of fixed utility rates; the former approach generally being used by this Commission with regard to municipal utilities due to a usual lack of rate base information and a lack of a capital structure. However, if Respondent seriously doubts that the operating ratio herein recommended to be allowed does not provide an adequate return, and feels that it has sufficient rate base information, approximate rate of return on rate base can be checked by applying the theorem that rate of return on rate base is equal to operating margin expenses as a percentage multiplied by capital turnover ratio.

11. Inasmuch as Respondent's present rates result in net operating revenues of $85,274, and an operating ratio of 75.86% would result in net operating revenues of $60,447, it is apparent that rates must be established which will result in a decrease in revenues of $24,827. If Respondent presently had a rate structure which recovered costs of service in accurate proportions from the various rate classes, regardless of the fact that the rates were somewhat excessive, it might theoretically be possible to adjust rates by a straight percentage. However, Respondent's present rates discriminate unduly between various classes, to the detriment of the Small Commercial and Commercial Power class, as follows:

	Total System	Residential	All Elec.	Small Comm.	Comm. Power	Irrigation
Operating Ratio	69.0%	86.6%	87.2%	45.7%	52.9%	104.1%

12. Turning to the issues inherent in the spreading of the previously determined revenue requirements, Respondent and Commission

Staff, respectively, propose rates which would result in the following overall operating ratio and operating ratios for each class of service.

	Overall	Res. Rural	All-Elec. Rural	Small Comm.	Comm. Power	Irrigation
Respondent	75.0	75.1	73.4	76.4	66.5	74.2
Staff	80.20	82.2	83.0	72.9	72.8	95.0

While there is a 5.2 percentage point spread between proposed overall operating ratios which accounts for part of the difference in proposed operating ratios for the Irrigation class, Staff contends that an operating ratio for that class which is commensurate with the overall operating ratio would require rates which would be drastically higher than the present Irrigation class rates, which result in only a 104.1% operating ratio for the fully-adjusted test year. On the other hand, Respondent points out that irrigators that are customers of Morgan County Rural Electric Association (MCREA) are paying much higher rates through an annual demand charge of $23 per horsepower and a commodity charge rate of 2.41¢ per Kwh. These two companies are so different in terms of customer density, financing and sources and cost of energy that rate comparison is of little value. However, customers are not given to close scrutiny of these differences, and there is probably some validity to the proposition that even a substantial percentage increase to an Irrigation customer does not look so substantial when the resulting rate is compared to that paid by a MCREA Irrigation customer. However, "rate history" and "continuity of regulatory treatment" are secondary to consideration of costs of service and the avoidance of undue subsidization. It is therefore found that rates for Respondent's Irrigation class of customer should be designed so as to result in a 88.6% operating ratio on a fully-adjusted test year basis.

13. Respondent has established a seasonable rate for its Irrigation class to fully price summer peak usage and to provide an incentive for off-peak use. Respondent has reviewed the advisability of seasonal rates for its other classes; such review demonstrates that its seasonal/non-seasonal rates for 1978 and 1979 were 1.12 and 1.02, respectively, substantially below the 1.2/1 average for a two-year period which would require seasonal rates to be established in the absence of compelling reasons to the contrary. Respondent has reasonably chosen not to voluntarily establish seasonal rates. Respondent has proposed a solar supplemental or "backup" rate which will be optional for existing customers and mandatory for new customers.

Respondent has considered the advisability of time-of-day and interruptible rates as load management devices and has reasonably concluded that they would not be beneficial in view of prohibitive cost and the fact that the large customers are generally food processors who already operate off-peak and who cannot readily adapt to the possibility of utility service interruption. Respondent has successfully demonstrated that costs of implementation would surely be outweighed by the foreseeable benefits in its service area.

With regard to co-generation, a local sugarbeet processor is the only consumer with suitable existing facilities, but adaptation is not presently feasible or likely due to the seasonal plant operations and the uncertain prospects of the sugar industry.

Respondent has complied with pertinent Commission directives in the generic decision with regard to residential all-electric service by providing, in addition to the basic all-electric rate, a metered demand rate which may be elected on an optional basis by existing all-electric customers but which will be mandatory for new all-electric customers.

Respondent's proposed Residential rate structure should not be approved because it embodies a straight declining block structure for energy consumption. The rate should embody an energy charge as reflected in the rates hereinafter recommended.

Respondent has otherwise complied with pertinent Commission directives and has adopted rate structures for its Small Commercial and Commercial Power classes which would recover customer costs through a flat monthly charge, energy costs on a flat per-kwh basis, and demand related costs over two or three blocks recognizing the decreasing nature of the demand cost. The Irrigation rate consists of a consumer charge and a flat energy charge for each of the two seasons.

14. Excluding "other income" from consideration of revenue requirements, Respondent's electricity sales under new rates should result in an overall operating ratio of 80.2%. Respondent should be authorized to institute the rates hereinafter recommended to be ordered, which result in the following operating ratios and increases or decreases in revenues for each customer class:

	Total System	Residential	All-Elec.	Small Comm.	Comm. Power	Irrigation
Operating Ratio (excluding "other income")	80.2%	82.2%	81.1%	76.84%	71.7%	88.6%
Revenue Increase (Decrease)	($24,827)	$5,064	$266	($39,162)	($10,595)	$5,513
Percent Increase (Decrease)	(9.02%)	4.93%	7.51%	(40.5%)	(26.2%)	17.5%
TOTAL REV.	$236,853	$107,650	$3,806	$58,536	$29,843	$37,018

The resulting rates are just, reasonable, and not unduly discriminatory and are consistent with Commission policy on rate design and methodology.

15. Pursuant to 40-6-109, CRS 1973, the Examiner recommends that the following order be entered.

O R D E R

THE COMMISSION ORDERS THAT:

1. The rates and charges contained in the tariffs accompanying Respondent's Advice Letter No. 8 shall not be allowed to go into effect except as hereinafter provided to the contrary.

2. The following rates and charges are hereby established as the legal and lawful rates and charges to be charged by Respondent City of Fort Morgan for jurisdictional electric utility service from and after the effective date of this Order:

Residential

Monthly Rate	
Consumer charge, per month	
Outside City Corporate limits:	$6.00
Usage charge:	
All kWh per month	$0.0123

Residential All Electric

Monthly Rate	
Consumer charge, per month	
Outside City Corporate limits:	$13.00
Energy charge:	
First 50 kWh, per kWh	$0.0440
Next 250 kWh, per kWh	$0.0180
All additional kWh per month	$0.0123

Small Commerical

Monthly Rate	
Consumer charge, per month	
Outside City Corporate limits:	$9.80
Usage charge:	
First 10 kWh per kW of billing demand, per kWh	$0.0495
Next 60 kWh per kW of billing demand, per kWh	$0.0180
All additional kWh, per kWh	$0.0117

Commercial Power

Monthly Rate	
Consumer charge, per month	
Outside City Corporate limits:	$44.50
Usage charge:	
First 30 kWh per kW of billing demand, per kWh	$0.043
Next 50 kWh per kW of billing demand, per kWh	$0.015
All additional kWh, per kWh	$0.010

Irrigation

Monthly Rate	
Consumer charge to be assessed once per season	
For the season from March 1 to October 31, per connected nameplate horsepower	$8.70
For the season from November 1 to April 30	$21.00
Usage charge:	
For the season from March 1 to October 31, per kWh	$0.0084
For the season from November 1 to April 30, per kWh	$0.0253

3. Respondent shall file with this Commission, no later than five days after the effective date of this Order, new tariff sheets, with a new advice letter, stating such rates. Such filing shall be for record-keeping and administrative purposes only, this decision being self-executing in all respects.

4. Investigation and Suspension Docket No. 1429 is hereby closed.

5. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if such be the case, and is entered as of the date hereinabove set out.

6. As provided by 40-6-109, CRS 1973, copies of this Recommended Decision shall be served upon the parties, who may file exceptions thereto; but if no exceptions are filed within twenty (20) days after service upon the parties or within such extended period of time as the Commission may authorize in writing (copies of any such extension to

be served upon the parties), or unless such Decision is stayed within such time by the Commission upon its own motion, such Recommended Decision shall become the Decision of the Commission and subject to the provisions of 40-6-114, CRS 1973.

(S E A L)

ATTEST: A TRUE COPY

Harry A. Galligan, Jr.
Executive Secretary

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

LOYAL W. TRUMBULL

Examiner
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