



LESSONS LEARNED FROM THE RATE CASE PROCESS

This paper is the second in a series addressing regulatory considerations for the rate case process.

Rate cases are a fact of life for utilities. Many utilities begin preparing their next rate case as soon as the prior one has finished. Rate case activity has reached levels not seen in the United States since the early 1980s, with approximately 150 rate case decisions in 2021 and 140 decisions in 2022. As of the third quarter of 2023, about 90 decisions had been issued, with an additional 116 pending rate cases spread between electric, gas, and steam companies. At least 24 more rate cases are expected to be filed by mid-2024.¹

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Inflation is on the rise and costs continue to increase in many sectors. As utilities find themselves in need of increased revenue, it is important to evaluate lessons learned from prior rate case proceedings so the next rate case will be more successful. This paper focuses on lessons learned in four areas: 1) understanding the regulatory process, 2) employing stakeholder engagement, 3) confirming data integrity, and 4) leveraging staff's experience to ensure rate case needs are met.

1

Understanding the Regulatory Process

Ensuring that internal staff who are collecting data and filing a rate case have a fundamental understanding of the regulatory process is critical to streamline the process and increase the probability of a successful outcome. Depending on staff experience, a training session may be warranted for staff to see the entire process of a rate case and the importance of their contribution to it. The benefit comes from all staffers being aware of the inner workings of the case and the need for accuracy and accountability by every member of the team.

¹ Fontanella, Lisa, et al. "Major Energy Utility Cases in Progress in the US." RRA Regulatory Focus, October 4, 2023.

Training can be accomplished in a variety of ways, including staff attendance at conferences on rates and regulation, internal training by senior team members, or the hiring of a consultant team to provide training or an online seminar. (See the MCR courses *Understanding Ratemaking* and *Becoming a More Effective Witness™* described at the end of this paper.) Your staff are meant to be experts in their field and must demonstrate their expertise in support of your rate case.



As in any part of the organization, staff experience in rates and regulatory considerations will vary. How you train, develop, and utilize your staff is critical to success. If staff are new to a rate case, it is strongly recommended to incorporate a training session early in the process so each person can understand how the pieces of the rate case puzzle fit together. Most important is that a staff member should not be a witness without thorough advanced training and preparation.

2

Employing Stakeholder Engagement

In addition to a fundamental understanding of the regulatory process, rate case success will be enhanced by consistent, honest, and frequent stakeholder engagement. The process will be smoother when you actively partner with rate case intervenors, commission staff, and the commission itself, as appropriate. This stakeholder engagement will provide important insight and potential opportunities to develop alternatives for areas of your vision that might not currently be available for consideration by the commission.

A good example is Florida's utility-owned solar programs. Florida law did not permit third-party solar developers to make retail electricity sales, nor could Florida investor-owned utilities (IOUs) earn a return on Purchase Power Agreement payments to third-party solar companies. Therefore, three Florida IOUs developed a plan to build their own solar plants. In 2016 and 2017, by telegraphing this plan and partnering with the Florida Office of Public Counsel, the utilities were able to include plans in several rate case settlements for authorization of almost 2,500 megawatts of utility-owned solar generation across Florida over the next 5 years with a contemporaneous cost recovery mechanism. The near completion of these projects in Florida has established a record of reasonable construction costs and reduced fuel costs for customers, setting up these utilities to propose additional projects of a similar nature.

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The stakeholder engagement process is also a valuable way to identify strategic partnerships with other intervenors. Open dialogue in working meetings will enhance the process.

A mid-Atlantic electric cooperative historically filed its cost-of-service study with a minimum distribution study as the most representative of internal costs. In previous rate cases, the cooperative also filed the minimum distribution study, which met with opposition from the consumer advocate. As a result, the cooperative was required to file a cost-of-service study with traditional functionalization in the next rate case. The cooperative followed that requirement but filed a second version with the minimum distribution study as well. As before, the consumer advocate opposed the minimum distribution study, but this time the cooperative also partnered with larger industrial customers who supported the alternative study. In the end, although the parties settled without a consensus on the proper cost-of-service methodology, the settlement included a new agreement that both versions would be filed in the following case, which was a step forward for the cooperative.

3

Confirming Data Integrity

Confirming the integrity of the data used is critical to rate case success. Arguments put forth in testimony, cross-examination, interrogatories, and briefs are only as good as the data provided as evidence in the case. If the data are flawed, arguments are undermined, and the company's reputation is likely damaged. According to a Harvard Business School article, "Data integrity is the accuracy, completeness, and quality of data as it's maintained over time and across formats. Preserving the integrity of your company's data is a constant process. ... Data-driven decisions can only be as strong as the data they're based on."² From initial inputs to the exhibits submitted in the filing, data will be touched, manipulated, and reviewed multiple times. The ability to maintain the integrity of the data will go a long way toward improving your rate case process and filing.



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Data integrity begins at the source: general ledgers, FERC accounting records, inventory records, and all other regulatory accounting sources that feed into the final rate case products. It is easy to get

² Cote, Catherine. "What Is Data Integrity and Why Does It Matter?" Harvard Business School Online, February 4, 2021. <https://online.hbs.edu/blog/post/what-is-data-integrity>.

complacent with source files and models, but this is where data can begin to “go wrong.” Instead of trusting files and simply updating the data, the providers of the source data must ensure that proper checks are in place to confirm that the file sent to the regulatory team rests on solid ground. If the regulatory team can trust the data they are provided, this will go a long way toward rate case preparation. When confronted with inconsistent information, the team will not have to ask “Is this data correct?” but rather “Why is the data giving this result?”

The process begins by comparing the source data to prior filings, thereby ensuring that each variation has a *raison d'être*. This will save time, not just in the filing preparation period, but also during the rate case itself. When intervenors inevitably notice the same variation, the answer to the forthcoming discovery question will already be prepared.

An important way to ensure data integrity with source documents is to build models with data import capabilities. An example of this functionality is in MCR's COST™ model: source data is never copied and pasted or, even worse, hand-entered into the cost-of-service model. Rather, source files are uploaded to the model using a simple Excel macro, moving the data automatically into the model without it being touched by human hands. This upload is time-stamped with the file location path of the source document preserved, should the source document need to be consulted later.

Even after uploading into the rate case models, the integrity of the data can remain vulnerable. Checks are built into each stage of the model to ensure data alignment between models and exhibits. For example, when cost-of-service outputs become rate design inputs, checks must exist so it will be noticed if a later change in the cost of service is not accurately reflected in the rate design. Model outputs should also be tied back to initial inputs. For example, the sum of the allocated general plant in the final cost-of-service model should equal the general plant from the input data.

4

Leveraging Staff's Experience to Ensure Rate Case Needs Are Met

Staff with slightly more experience often identify national, regional, and jurisdictional trends in what commissions are approving, what they are rejecting, and why they are making those decisions. This knowledge is invaluable to determining your rate case priorities and arguments. Knowing what intervenors spend the most time and effort on will help you be ready when those efforts are put forth. No rate case goes through the regulatory process unscathed.

Because the process is adversarial, either through negotiated settlements or at hearings and in briefs, you will never get your full ask in a rate case. However, that does not mean you cannot get what you need. Going into the rate case process with knowledge of your adversaries' priorities will help ensure that the utility's needs are accommodated.



Make a list of all issues in the rate case that will be up for contention, and rank them in priority order. Determine which areas are potential areas of compromise. If you can dangle a lesser-priority item for an adversary to argue and win, they might be less likely to argue on the things you care about the most. Utilities often get less than the full amount requested, so it should be no surprise to lose on some issues. If losing on a particular issue will garner success in other meaningful areas, that may still be a favorable outcome.

One of the best ways to prepare for the adversarial process is to prepare the intervenors and the commission in advance. The gut reaction to an unexpected request is to argue against it. Telegraphing your future requests allows time to educate the intervenors and the commission so they will be more willing to accept or even become active partners in encouraging approval of your ideas. Regulatory policy is predicated largely on precedent. If the commission has approved a similar offering by a different utility, then further innovation of that offering may be encouraged in the future. If you desire innovation, lay out your regulatory vision in prior rate cases, moving toward the innovation so that it seems both gradual and successful. Each success of the laid-out vision provides further evidence and precedent that your regulatory vision is working and will continue to work in the future. For example, if your regulatory vision is to align costs and rates, then your testimony should spell that out explicitly. In each rate case where you push for increased customer charges or introduction of demand or time-varying rates, point back to that vision. In the next rate case, do the same. For example, show how the increase in customer charges helped improve cost causation and was accepted by customers, demonstrating that the vision is working. Then, encourage continuation of that vision.

This approach does not have to be limited to rate cases. A fitting example is a committee set up by the Public Service Company of New Mexico (PNM). PNM developed a Pricing Advisory Committee that holds periodic meetings throughout the year with prospective rate case intervenors, commission staff, and other interested members of the public. During these meetings, PNM puts forth various rate and regulatory proposals that they wish to introduce in upcoming rate cases. These proposals are then workshopped by the various stakeholders involved, with the other members also presenting alternatives to PNM's proposal. While the goal is consensus before a rate case, as discussed earlier with Florida's solar programs, the benefits will accrue even without consensus as PNM has laid the groundwork for the "workshopped" proposal and vetted arguments against it. As a result, PNM will be better prepared if or when they choose to file a rate case. The proactive communication can also help build trust.

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Applying Lessons Learned

Successful innovations in the areas of staff training, stakeholder engagement, data integrity, and rate case preparation are key factors in allowing utilities to seek prudent rate recovery in an era of increasing energy efficiency, static or declining customer growth in some regions, and greening of the electric grid. As you plan your next rate case, MCR can help you consider the lessons learned in these areas and take advantage of successful innovations.

MCR COURSES FOR RATE CASE PREPARATION

Understanding Ratemaking

This course includes training on the fundamentals of ratemaking, advanced ratemaking, and contemporary topics.

Becoming a More Effective Witness™

This two-day program is customized for participants with a designated role in an upcoming hearing. In this course, MCR draws on specific pre-filed testimony from the participants and trains them use their own materials effectively.



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