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| Exhibit No.: | |
| Issues: | Interim Rates |
| Witness: | Johannes P. Pfeifenberger |
| Sponsoring Party: | Union Electric Co. |
| Type of Exhibit: | Direct Testimony |
| Case No.: | ER-2010-0036 |
| Date Testimony Prepared: | October 20, 2009 |

**MISSOURI PUBLIC SERVICE COMMISSION**

**CASE NO. ER-2010-0036**

# DIRECT TESTIMONY ON INTERIM RATES

**OF**

**JOHANNES P. PFEIFENBERGER**

**ON**

**BEHALF OF**

**UNION ELECTRIC COMPANY**
**d/b/a AmerenUE**

**Cambridge, Massachusetts**
**October, 2009**

**DIRECT TESTIMONY ON INTERIM RATES**

**OF**

**JOHANNES P. PFEIFENBERGER**

**CASE NO. ER-2010-0036**

**Q. Please state your name, title, and business address.**

A. My name is Johannes P. Pfeifenberger. My address is 44 Brattle Street, Cambridge Massachusetts 02138. I am a Principal of *The Brattle Group* (Brattle) where I lead the firm's utilities practice area. Brattle is an economic consulting firm with offices in Cambridge, Massachusetts, Washington D.C.; San Francisco; London; Brussels, and Madrid.

**Q. Please summarize your educational background and qualifications.**

A. I am an economist with a background in power engineering and over 20 years of experience in utility regulation and finance. I received a M.A. in Economics and Finance from Brandeis University and a M.S. in Electrical Engineering with a specialization in Power Engineering and Energy Economics from the University of Technology, Vienna, Austria. I am the author and co-author of numerous articles, reports, and presentations on subject areas related to electric utility regulation and restructuring, including ratemaking and regulatory policies. I testified or submitted testimony, declarations, and reports in a number of cases before the Federal Energy Regulation Commission, the Maine Public Utilities Commission, the New York Public Service Commission, the Colorado Public Utilities Commission, the Arizona Corporations Commission, the Alberta Energy and Utilities Board, the Public Service Commission of Wisconsin, the Illinois Commerce Commission, and the Missouri Public Service Commission. I have also submitted testimony and expert reports on industry restructuring, contract disputes, antitrust issues, and economic damages to the U.S. House of Representatives, the Federal Communications Commission, U.S. District

Courts, and in arbitration proceedings. Appendix A to my testimony contains a more complete description of my qualifications.

**Q. What is the purpose of your direct testimony on interim rates?**

A. The purpose of my direct testimony on interim rates is to sponsor a study conducted under my supervision regarding regulatory practices in the fifty states and how those practices affect regulatory lag.

**Q. How was this study conducted?**

A. Brattle analysts working at my direction and under my supervision surveyed state utility regulatory commission staff, reviewed utility tariffs, and compiled and examined studies and data compilations from well-respected organizations in the utility industry for the purpose of developing a study of five factors that impact the extent of regulatory lag in a jurisdiction. These organizations included Regulatory Research Associates, The National Association of Regulatory Utility Commissioners, the Edison Electric Institute, and the Nuclear Energy Institute.

**Q. What does the study consist of?**

A. The study is attached to my testimony as Schedule JPP-E1, and consists of six tables, as follows:

Table 1: Preliminary Ranking of States

Table 2: Fuel Adjustment Clause Characteristics[1]

Table 3: Time Needed for Rate Case in States

Table 4: Details Behind Temporary or Interim Rates

Table 5: Regulatory Treatment in Electric Utility Rate Cases (Forecasted, Historic or Hybrid Test Years); and

Table 6: Construction Work in Progress (CWIP)

[1] The fuel adjustment clause-related information was made a part of the record in AmerenUE's last rate case, which was concluded earlier this year.

**Q. What does the study show?**

A. The five regulatory factors that were examined, the details of which are shown in Tables 2 through 6, were assigned numerical rankings as indicated in the notes to Table 1, with a higher ranking given for regulatory factors that result in less regulatory lag. The results of those rankings are shown in Table 1. The rankings are designed to indicate which states have less regulatory lag (Minnesota has the least[2]) versus those with more regulatory lag (New Hampshire has the most). Missouri is ranked 47th, the third lowest, indicating that Missouri regulatory lag as measured by the overall ranking in this table is greater than the lag present in all but two other states.

**Q. What are the most important factors that drive Missouri's low ranking?**

A. The factors that most drive Missouri's low ranking are longer than average time needed to complete a rate case, the lack of use (historically) of interim rates, and the exclusive use of an historic test year. Many states also received higher scores for the design of their fuel adjustment clauses because they allow more frequent rate adjustments and/or because they rely on projected rather than historical costs. However, the adoption of a fuel adjustment clause in Missouri has clearly improved fuel cost recovery and has provided some mitigation of regulatory lag.

**Q. Does this conclude your direct testimony on interim rates?**

A. Yes, it does.

[2] Nebraska is excluded because it has no investor-owned utilities.

**BEFORE THE PUBLIC SERVICE COMMISSION**
**OF THE STATE OF MISSOURI**

| | | |
|---|---|---|
| In the Matter of Union Electric Company d/b/a AmerenUE's Tariffs to Increase its Annual Revenues for Electric Service. | ) | |
| | ) | Case No. ER-2010-0036 |
| | ) | Tracking No. YE-2010-0054 |
| | ) | Tracking No. YE-2010-0055 |

**AFFIDAVIT OF JOHANNES P. PFEIFENBERGER**

**COMMONWEALTH OF MASSACHUSETTS** )
) **ss**
**CITY OF CAMBRIDGE** )

Johannes P. Pfeifenberger, being first duly sworn on his oath, states:

1. My name is Johannes P. Pfeifenberger. I work in the City of Cambridge, Massachusetts, and I am employed by The Brattle Group as a Principal.

2. Attached hereto and made a part hereof for all purposes is my Direct Testimony on Interim Rates on behalf of Union Electric Company d/b/a AmerenUE, consisting of 3 pages and Schedule JPP-E1, which has been prepared in written form for introduction into evidence in the above-referenced docket.

3. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct.

Johannes P. Pfeifenberger

Subscribed and sworn to before me this 22 day of October, 2009.

Notary Public

My commission expires:

TAMMY LEE DICKISON
Notary Public
Commonwealth of Massachusetts
My Commission Expires
June 1, 2012

## Qualifications of Johannes P. Pfeifenberger

Johannes Pfeifenberger is a Principal of *The Brattle Group* where he leads the firm's utility practice area. He received a M.A. in Economics and Finance from Brandeis University and holds a M.S. ("*Diplom Ingenieur*") in Electrical Engineering, with a specialization in Power Engineering and Energy Economics from the University of Technology in Vienna, Austria. Prior to joining *The Brattle Group* in 1991, Mr. Pfeifenberger was a consultant with Cambridge Energy Research Associates of Cambridge, Massachusetts, and a research assistant at the Institute of Energy Economics in Vienna, Austria.

### TESTIMONY AND REGULATORY FILINGS

Before the Maine Public Utilities Commission, Docket No. 2008-156, *Assessment of a Maine ISA Structure as a Possible Alternative to ISO-NE Participation*, Report and Oral Testimony submitted on behalf of Central Maine Power Company and the Industrial Energy Consumer Group, May 2009.

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re: economic impacts of the proposed Devers-Palo Verde No. 2 transmission line, September and October, 2006.

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Before the State of New York Public Service Commission, *Fuel Switching and Demand Side Management*, Prepared Written Testimony on behalf of National Fuel Gas Distribution Company, Case Nos. 28223 and 29409, September 1992 (with D. Weinstein).

Mr. Pfeifenberger has also presented research findings related to mergers and network access matters to government and antitrust enforcement agencies, including the U.S. Department of Justice, the Merger Task Force of the European Community, the German Cartel Office, the German Ministry of Economics, and the White House National Economic Council.

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**Table 1 : Preliminary Ranking of States by Factors Mitigating Regulatory Lag**

| State | Fuel Adjustment Clause Factors | | Time Needed for Rate Case | Temporary or Interim Rates | Type of Test Year (Historic versus Forecast) | Construction Work in Progress (CWIP) Allowed in Rate Base | Overall Score for State | | % of Maximum Possible Score |
|---|---|---|---|---|---|---|---|---|---|
| | Adjustment Frequency | Type of FAC: Historic versus Projected | | | | | Traditionally Regulated (Out of 6) | Restructured (Out of 4) | |
| | [1] | [2] | [3] | [4] | [5] | [6] | [7] | [8] | [9] |
| **NE** | N/A | N/A | 0.0 | 0.0 | 0.0 | 0.0 | - | 0.0 | N/A |
| **MN** | 1.0 | 1.0 | 0.5 | 1.0 | 1.0 | 0.5 | 5.0 | - | 83% |
| **ND** | 1.0 | 0.5 | 1.0 | 1.0 | 1.0 | 0.5 | 5.0 | - | 83% |
| **AL** | 1.0 | 1.0 | 0.5 | 0.0 | 1.0 | 1.0 | 4.5 | - | 75% |
| **HI** | 1.0 | 1.0 | 0.5 | 1.0 | 1.0 | 0.0 | 4.5 | - | 75% |
| **MS** | 1.0 | 1.0 | 1.0 | 0.0 | 1.0 | 0.5 | 4.5 | - | 75% |
| **FL** | 0.0 | 1.0 | 0.5 | 1.0 | 1.0 | 0.5 | 4.0 | - | 67% |
| **TX** | N/A | N/A | 1.0 | 1.0 | 0.0 | 0.5 | - | 2.5 | 63% |
| **GA** | 0.0 | 1.0 | 1.0 | 0.0 | 1.0 | 0.5 | 3.5 | - | 58% |
| **IA** | 1.0 | 1.0 | 0.0 | 1.0 | 0.0 | 0.5 | 3.5 | - | 58% |
| **KY** | 1.0 | 0.5 | 0.0 | 0.0 | 1.0 | 1.0 | 3.5 | - | 58% |
| **MT** | 1.0 | 1.0 | 0.5 | 1.0 | 0.0 | 0.0 | 3.5 | - | 58% |
| **TN** | 1.0 | 1.0 | 0.5 | 0.0 | 0.0 | 1.0 | 3.5 | - | 58% |
| **CO** | 1.0 | 1.0 | 0.5 | 0.0 | 0.0 | 0.5 | 3.0 | - | 50% |
| **CT** | N/A | N/A | 1.0 | 0.0 | 1.0 | 0.0 | - | 2.0 | 50% |
| **MD** | N/A | N/A | 0.5 | 0.0 | 0.5 | 1.0 | - | 2.0 | 50% |
| **OK** | 0.5 | 0.5 | 1.0 | 0.0 | 0.5 | 0.5 | 3.0 | - | 50% |
| **PA** | N/A | N/A | 0.5 | 0.0 | 1.0 | 0.5 | - | 2.0 | 50% |
| **UT** | 0.5 | 0.0 | 0.5 | 1.0 | 1.0 | 0.0 | 3.0 | - | 50% |
| **VT** | 1.0 | 0.5 | 0.5 | 0.0 | 0.5 | 0.5 | 3.0 | - | 50% |
| **VA** | 0.0 | 1.0 | 1.0 | 0.0 | 0.0 | 1.0 | 3.0 | - | 50% |
| **WI** | 0.5 | 1.0 | 0.0 | 0.0 | 1.0 | 0.5 | 3.0 | - | 50% |
| **IN** | 1.0 | 1.0 | 0.0 | 0.0 | 0.0 | 0.5 | 2.5 | - | 42% |
| **KS** | 0.5 | 1.0 | 0.5 | 0.0 | 0.0 | 0.5 | 2.5 | - | 42% |
| **NV** | 1.0 | 0.5 | 0.5 | 0.0 | 0.0 | 0.5 | 2.5 | - | 42% |
| **OR** | 0.0 | 1.0 | 0.5 | 0.0 | 1.0 | 0.0 | 2.5 | - | 42% |
| **CA** | N/A | N/A | 0.0 | 0.0 | 1.0 | 0.5 | - | 1.5 | 38% |
| **MI** | N/A | N/A | 0.0 | 0.0 | 1.0 | 0.5 | - | 1.5 | 38% |
| **NJ** | N/A | N/A | 0.5 | 0.0 | 0.5 | 0.5 | - | 1.5 | 38% |
| **NY** | N/A | N/A | 0.0 | 0.0 | 1.0 | 0.5 | - | 1.5 | 38% |
| **OH** | N/A | N/A | 0.5 | 0.0 | 0.5 | 0.5 | - | 1.5 | 38% |
| **RI** | N/A | N/A | 1.0 | 0.0 | 0.5 | 0.0 | - | 1.5 | 38% |
| **AK** | 1.0 | 1.0 | 0.0 | 0.0 | 0.0 | 0.0 | 2.0 | - | 33% |
| **AR** | 0.0 | 1.0 | 0.0 | 0.0 | 0.5 | 0.5 | 2.0 | - | 33% |
| **ID** | 0.0 | 1.0 | 0.5 | 0.0 | 0.5 | 0.0 | 2.0 | - | 33% |
| **LA** | 1.0 | 0.5 | 0.0 | 0.0 | 0.0 | 0.5 | 2.0 | - | 33% |
| **NC** | 0.0 | 1.0 | 0.5 | 0.0 | 0.0 | 0.5 | 2.0 | - | 33% |
| **SC** | 0.0 | 1.0 | 0.5 | 0.0 | 0.0 | 0.5 | 2.0 | - | 33% |
| **WV** | 0.0 | 1.0 | 0.5 | 0.0 | 0.0 | 0.5 | 2.0 | - | 33% |
| **AZ** | 0.0 | 1.0 | 0.0 | 0.0 | 0.0 | 0.5 | 1.5 | - | 25% |
| **DE** | N/A | N/A | 0.5 | 0.0 | 0.0 | 0.5 | - | 1.0 | 25% |
| **DC** | N/A | N/A | 0.0 | 0.0 | 0.5 | 0.5 | - | 1.0 | 25% |
| **IL** | N/A | N/A | 0.0 | 0.0 | 0.5 | 0.5 | - | 1.0 | 25% |
| **MA** | N/A | N/A | 1.0 | 0.0 | 0.0 | 0.0 | - | 1.0 | 25% |
| **NM** | 0.5 | 0.5 | 0.0 | 0.0 | 0.0 | 0.5 | 1.5 | - | 25% |
| **SD** | 1.0 | 0.5 | 0.0 | 0.0 | 0.0 | 0.0 | 1.5 | - | 25% |
| **WA** | 0.0 | 1.0 | 0.0 | 0.0 | 0.0 | 0.5 | 1.5 | - | 25% |
| **WY** | 0.0 | 0.5 | 0.0 | 0.0 | 1.0 | 0.0 | 1.5 | - | 25% |
| **MO** | 0.5 | 0.5 | 0.0 | 0.0 | 0.0 | 0.0 | 1.0 | - | 17% |
| **ME** | N/A | N/A | 0.5 | 0.0 | 0.0 | 0.0 | - | 0.5 | 13% |
| **NH** | N/A | N/A | 0.0 | 0.0 | 0.0 | 0.0 | - | 0.0 | 0% |

| | |
|---|---|
| **Average** | **43%** |
| **Top Quartile** | **50%** |
| **Median** | **40%** |
| **Bottom Quartile** | **33%** |

*Sources:*

The Brattle Group primary research, Regulatory Research Associates' Commission Profiles, NARUC Compilation of Utility Regulatory Policy (1995-1996), Edison Electric Institute, and Nuclear Energy Institute.

*Notes:*

[1]: Frequency of FAC (for largest utility in state): 1 = monthly or quarterly, 0.5 = semiannually or varies, and 0 = annually. "N/A" indicates that a state's utilities are not traditionally regulated.

[2]: FAC rates (for largest utility in state): 1 = based on projected costs, 0.5 = based on historic costs, and 0 = no FAC. "N/A" indicates that a state's utilities are not traditionally regulated.

[3]: Maximum length of time between filing and decision: 1 = 6 months or less, 0.5 = 7 to 9 months, and 0 = no requirement or 10 months or more.

[4]: Use of interim rates: 1 = interim rates used and 0 = interim rates only used in emergencies.

[5]: Basis for revenue requirement test year: 1 = forecast, 0.5 = hybrid, and 0 = historic.

[6]: CWIP in rate base: 1 = broadly allowed, 0.5 = case specific or limited, and 0 = not allowed.

[7]: Sum of [1] through [6] for states with utilities that are traditionally regulated. Does not include Nebraska, a state without regulated investor-owned utilities.

[8]: Sum of [1] through [6] for states with utilities that are not traditionally regulated. Includes Nebraska, a state without regulated investor-owned utilities.

[9]: State ranking divided by maximum possible ranking (6 for states with utilities that are traditionally regulated, or 4 for states with utilities that are not traditionally regulated).

# Table 2 : Fuel Adjustment Clause Characteristics

| State | Adjustment Frequency | Historical or Projected Costs |
|---|---|---|
| Idaho | Annually | Historical (Avista) and Projected (Idaho Power) |
| Washington | Annually | Historical (Avista) and Projected (Puget) |
| Wyoming | Annually | Historical |
| Colorado | Twice per year (Aquila) and quarterly (Public Service Co) | Historical (Aquila) and Projected (Public Service Co) |
| New Mexico | Twice per year (Public Service Co) and monthly (El Paso, Southwestern) | Historical |
| Oklahoma | Varies | Historical |
| Kansas | Monthly (Kansas Gas & Electric, Westar), twice per year (Kansas City Board), and annually with quarterly updates and rate adjustments (Kansas City Power) | Projected |
| South Dakota | Annually (Black Hills), quarterly (NorthWestern), and monthly (Northern States) | Historical |
| North Dakota | Monthly | Historical |
| Minnesota | Monthly | Historical (Allete, Interstate Power, Otter Tail) and Projected (Northern States) |
| Iowa | Monthly | Projected |
| Arkansas | Annually | Projected |
| Louisiana | Monthly | Historical |
| Mississippi | Quarterly (Entergy) and annually (Mississippi Power) | Projected |
| Alabama | Quarterly | Projected |
| Tennessee | Monthly (Kingsport) and quarterly (TVA) | Historical (Kingsport) and projected (TVA) |
| Kentucky | Monthly | Historical |
| Indiana | Monthly | Projected |
| West Virginia | Annually | Projected |
| North Carolina | Annually | Projected |
| South Carolina | Annually | Projected |
| Florida | Annually | Projected |
| Georgia | Annually | Projected |
| Alaska | Quarterly (Anchorage) and twice per year (EL&P) | Projected |
| Hawaii | Monthly | Projected |
| Missouri | Twice Per Year | Historical |
| Wisconsin | Monthly, Varies | Historical (Consolidated, Superior) and Projected (Madison, Northern States, Wisconsin Electric, Wisconsin Power, Wisconsin Public Service) |
| Oregon | Annually | Projected |
| Nevada | Quarterly | Historical |
| Utah | N/A | N/A |
| Vermont | Quarterly | Historical |
| Montana | Monthly | Projected |
| Arizona | Annually (APS, UNS) and twice per year (SRP) | Projected |
| Virginia | Annually | Projected |

*Sources and Notes:*
Information from Brattle Group primary research.
Does not include Nebraska, a state without regulated investor-owned utilities.

## Table 3 : Time Needed For Rate Case in States

| Jurisdiction | Time to Issue Decision Once Case is Filed |
|---|---|
| Alabama | 7 months |
| Arizona | 12 months |
| Arkansas | 10 months |
| California | Ratesetting - 18 months; Adjudicatory - 12 months |
| Colorado | 210 days |
| Connecticut | 180 days max |
| Delaware | 7 months |
| Washington D.C. | None, but 9 month 'target' |
| Florida | 60 days - 8 months max |
| Georgia | 6 months |
| Hawaii | 9 months |
| Idaho | 7 months - 9 months max |
| Illinois | 11 months |
| Indiana | None, but 10 month 'target' |
| Iowa | 10 months |
| Kansas | 240 days - 260 days max |
| Kentucky | 5 months - 10 months max |
| Louisiana | 1 year |
| Maine | 9 months |
| Maryland | 210 days |
| Massachusetts | 6 months |
| Michigan | None, but 12 month 'target' |
| Minnesota | 8 months |
| Mississippi | 120 days |
| Missouri | 11 months |
| Montana | 9 months |
| Nebraska | Too complex to summarize |
| Nevada | 7 months |
| New Hampshire | 6 months - 1 year max |
| New Jersey | 8 months |
| New Mexico | 10 months - 13 months max |
| New York | 11 months |
| North Carolina | 9 months |
| North Dakota | 6 months |
| Ohio | 275 days |
| Oklahoma | 180 days |
| Oregon | 6 months - 9 months max |
| Pennsylvania | 7 months |
| Rhode Island | 6 months |
| South Carolina | 6 months & 5 days |
| South Dakota | 6 months - 1 year max |
| Tennessee | 9 months |
| Texas | 150 days |
| Utah | 240 days |
| Vermont | 7 months |
| Virginia | 150 days |
| Washington | 10 months |
| West Virginia | 270 days |
| Wisconsin | No limit, but typically 9 months - 12 months |
| Wyoming | 10 months |

*Sources and Notes:*
Regulatory Research Associates' Commission Profiles.

## Table 4 : Details Behind Temporary or Interim Rates

| State | Temporary or Interim Rates |
|---|---|
| **FL** | Interim increases are statutorily permitted and have been authorized, usually to become effective roughly three months after an initial filing is tendered. It is not necessary that the utility demonstrate emergency conditions in order to be permitted an interim hike. Interim increases are generally determined on the basis of the utility's achieved rate of return and cost of capital for the most recent 12-month period, utilizing the low end of the equity return range authorized in the company's previous rate case. Any interim increase is collected subject to refund. |
| **HI** | There is no statutory time limit within which a rate case must be completed. However, the PUC is legislatively required to "make every effort" to issue a decision within nine months following the filing date. Rate cases have typically taken well over a year to complete. State law calls for an interim increase to be implemented within one month after the expiration of the nine-month period to reflect any increase to which the PUC "believes the public utility is probably entitled," if the evidentiary hearing has been completed. If the evidentiary hearing has not been completed, a 30-day extension is permitted. Interim increases are subject to refund with interest. In almost all electric rate cases decided over the last 10 years, the PUC has authorized substantial interim rate increases. For a temporary, as opposed to an interim, rate increase to be authorized, utilities must satisfy certain "financial hardship" requirements. |
| **IA** | Utilities are permitted to implement interim rate increases, subject to refund, and in most rate cases, interim increases have been implemented. Such rate increase may be implemented with IUB approval, within 90 days after the date of filing of the request, based on previously established regulatory principles; or, such rate increase may be implemented without IUB approval, ten days after the date of filing of the request, with the utility filing a bond. |
| **MN** | Utilities are permitted to implement, upon PUC approval, interim rates 60 days after filing for a permanent rate increase, subject to refund, utilizing the return on equity (ROE) authorized in the company's previous case. Expenses included in interim rates must be of a "like nature and kind" to expenses included in final rates in the utility's previous case. |
| **MT** | The Commission has generally authorized interim rate changes, usually within two to four months after the date of filing. |
| **ND** | State law allows interim increases to be implemented within 60 days of the initial filing, subject to refund with interest. This provision is typically utilized in rate proceedings. |
| **TX** | Interim rate changes have rarely been sought. However, during a lengthy rate case for American Electric Power (AEP) subsidiary AEP Texas Central (TCC), that was decided in 2005, the PUC rejected requests by several parties that the company be required to implement an interim rate decrease (Final Report 8/18/05). By contrast, in its pending case, TCC was permitted to implement an interim increase due to extensive delays in the procedural schedule. In a recently completed case for Xcel Energy (XEL) subsidiary Southwestern Public Service (SWPS) the PUC allowed the company to implement the rate increase specified in a unanimous settlement on an interim basis, pending PUC consideration of the agreement. |
| **UT** | The PSC is permitted to grant an interim increase or order a decrease, subject to refund, during the pendency of a general rate proceeding. To secure an interim increase a utility "must present a compelling case without substantive opposition, that serious financial harm would result in the absence of an interim award." However, only a prima facie showing of the existence of overearnings is required to justify an interim rate decrease. The PSC has occasionally authorized interim rate increases. |

*Sources and Notes:*
Regulatory Research Associates' Commission Profiles

**Table 5 : Regulatory Treatment in Electric Utility Rate Cases**

| State | Forecast, Hybrid, or Historic Test Year |
|---|---|
| AL | Forecast |
| AK | Historic |
| AZ | Historic |
| AR | Hybrid |
| CA | Forecast |
| CO | Historic |
| CT | Forecast |
| DE | Historic |
| DC | Hybrid |
| FL | Forecast |
| GA | Forecast |
| HI | Forecast |
| ID | Hybrid |
| IL | Hybrid |
| IN | Historic |
| IA | Historic |
| KS | Historic |
| KY | Forecast |
| LA | Historic |
| ME | Historic |
| MD | Hybrid |
| MA | Historic |
| MI | Forecast |
| MN | Forecast |
| MS | Forecast |
| MO | Historic |
| MT | Historic |
| NE | N/A |
| NV | Historic |
| NH | Historic |
| NJ | Hybrid |
| NM | Historic |
| NY | Forecast |
| NC | Historic |
| ND | Forecast |
| OH | Hybrid |
| OK | Hybrid |
| OR | Forecast |
| PA | Forecast |
| RI | Hybrid |
| SC | Historic |
| SD | Historic |
| TN | N/A |
| TX | Historic |
| UT | Forecast |
| VT | Hybrid |
| VA | Historic |
| WA | Historic |
| WV | Historic |
| WI | Forecast |
| WY | Forecast |

*Sources and Notes:*

NARUC Compilation of Utility Regulatory Policy (1995-1996), supplemented with recent Brattle Group interviews.

**Table 6 : U.S. Regulatory Jurisdictions That Allow Recovery of Financing Costs During Construction**
(Based on NARUC Survey and Selected Additional Information)

| Jurisdiction | CWIP Allowed in Ratebase from 1995-96 NARUC survey | Additional Information Collected | Scope of recovery of financing costs during construction |
|---|---|---|---|
| | [1] | [2] | [3] |
| FERC | - | 50%-100% of transmission CWIP allowed in ratebase | Broadly allowed |
| AL | Full | | Broadly allowed |
| AK | No | | Not allowed |
| AZ | At commission's discretion | | Case specific |
| AR | Only to extent it will be in service when new rates become effective | CWIP associated with projects completed during either the historic test year or the pro forma year are allowed in rate base | Limited |
| CA | Only for pollution control and RD&D projects as allowed by FERC | | Limited |
| CO | Full/Partial | Colorado has allowed CWIP in rate base for specific investments on a case specific basis | Case specific |
| CT | Demonstrate negative cash flow | Prohibited by law | Not allowed |
| DE | Partial | Considered on a case-by-case basis | Case specific |
| DC | Only for pollution control | Only for pollution control | Limited |
| FL | Only when cash flow needed to maintain bond rating or where construction work not eligible for AFUDC | 2006 and 2007 legislation allows cash return on CWIP for nuclear and integrated gasification combined-cycle power plants | Limited |
| GA | Treatment not uniform | Recent CWIP treatment for a Georgia Power nuclear power plant | Case specific |
| HI | No | No | Not allowed |
| ID | No, except some short term | | Not allowed |
| IL | Yes | Only allowed for SO2 pollution control and water treatment plant | Limited |
| IN | Treatment not uniform | | Case specific |
| IA | No | 2002 legislation allows utilities to ask for ratemaking treatment determinations on a case specific basis, including CWIP in rate base | Case specific |
| KS | Partial | Recent legislation allows utilities to ask for ratemaking treatment determinations, including CWIP in rate base | Case specific |
| KY | Full/Partial | Virtually all CWIP allowed in rate base | Broadly allowed |
| LA | Full/Partial | In 2007, the LPSC created a detailed process for new nuclear plant certification and cost recovery, including CWIP recovery. | Limited |
| ME | Yes | Generally not permitted | Not allowed |
| MD | Full | CWIP included in rate base | Broadly allowed |
| MA | No | | Not allowed |
| MI | Full | CWIP generally not permitted, except for pollution control | Limited |
| MN | Full | Allows return on CWIP for certain emission reduction and transmission projects | Limited |
| MS | Treatment not uniform | | Case specific |
| MO | No | No | Not allowed |
| MT | No | | Not allowed |
| NE | Short term | [4] | [4] |
| NV | Treatment not uniform | Permitted on a case-by-case basis | Case specific |
| NH | No | Prohibited by law | Not allowed |
| NJ | Treatment not uniform | Permitted on a case-by-case basis, generally only in cases of financial distress | Case specific |
| NM | Treatment not uniform | | Case specific |
| NY | Yes, if not eligible for AFUDC; extraordinary for financial integrity | CWIP allowed in rate base when cash flow issues arise | Limited |
| NC | Partial | 2007 legislation allows CWIP in rate base for nuclear plant | Limited |
| ND | Treatment not uniform | Allows CWIP in rate base for transmission facilities | Limited |
| OH | Partial | CWIP allowed in rate base during Market Development Period (*i.e.*, transition to full competitive market) | Limited |
| OK | Partial | Generally allowed, although some conditions apply (*e.g.*, CWIP approved if project goes into service within one year or if project replaces or improves existing plant) | Limited |
| OR | No - CWIP prohibited by statute | | Not allowed |
| PA | Partial - non-revenue producing facilities; convert to/expand use of coal | | Limited |
| RI | No | | Not allowed |
| SC | Partial | CWIP allowed for coal or nuclear units that are 350 MW or larger and designed to be operated at capacity factor of at least 70%. | Limited |
| SD | No | Cash return on CWIP permitted by law, but yet to be permitted by commission | Not allowed |
| TN | [5] | CWIP can be included in rate base | Broadly allowed |
| TX | Partial, Extraordinary cases | Allowed if found necessary for utility financial integrity | Case specific |
| UT | Extraordinary cases | Not generally allowed | Not allowed |
| VT | Partial | Conditions apply | Limited |
| VA | Full | Reregulation legislation established option to obtain a rate recovery clause, including projected CWIP | Broadly allowed |
| WA | Allowed, but seldom | Costs of CWIP allowed in rate base to the extent the Commission deems reasonable | Case specific |
| WV | Partial | Some examples of CWIP allowed in rate base for pollution control | Limited |
| WI | Not included now, but return on rate base adjusted for CWIP cash return at various amounts - Case specific | On a case-by-basis, has allowed a return between 50% and 100% of CWIP for recent projects. | Case specific |
| WY | Generally no, with few exceptions | | Not allowed |

**Number of Jurisdictions Where CWIP Is Broadly Allowed in Rate Base: 6**
**Number of Jurisdictions Where CWIP Is Allowed in Rate Base on a Limited or Case Specific Basis: 31**
**Number of Jurisdictions Where CWIP Is Not Allowed in Rate Base: 14**

*Sources and Notes:*
[1]: NARUC Compilation of Utility Regulatory Policy, Table 196 (1995-1996).
[2]: Updates from Edison Electric Institute, Regulatory Research Associates, Nuclear Energy Institute, and state-specific research.
[3]: Classification based on information in [1] and [2]
[4]: Nebraska does not have any investor-owned utilities.
[5]: Not included in NARUC survey.