

Alabama Public Service Commission

Rate Case Timing/Interim Procedures

Alabama's three major utilities have been operating under Rate Stabilization and Equalization (RSE) frameworks and other formulary rate adjustment mechanisms for several years (see the Alternative Regulation and Adjustment Clauses sections). As a result, there have been no recent traditional rate cases for these utilities. However, in the event a utility were to file a traditional rate case, by law the Commission may suspend the rate application for up to six months from the proposed effective date, which generally must be 30 days after the initial filing by the utility. Emergency interim rate increases are permitted. (Section updated 6/24/10)

Arizona Corporation Commission

Rate Case Timing/Interim Procedures

ACC rules provide for major rate cases to be decided within 12 months following the Staff's certification of the sufficiency of the filing. Additionally, statutes direct the ACC to issue a final rate case decision for a major utility within 360 days from the date "a utility's rate filing is determined to be sufficient." The suspension period may be extended because of an "extraordinary event." The law provides for implementation of interim rates if a decision is not rendered within the required time frame. According to the ACC, since the Commission was established by the state constitution, the law interferes with the Commission's ratemaking authority, but this view has not been tested in court.

In Arizona Public Service's (APS') most recent rate case, a final order was issued in June 2007, about 20 months after the case was initiated. APS is a subsidiary of Pinnacle West Capital. In that case, APS had requested that the fuel and purchased power cost portion (\$232 million) of its request be implemented on an emergency basis. In May 2006, the ACC authorized APS a \$138 million emergency rate increase for fuel and purchased power expense recovery through a temporary Power Supply Adjustor through year-end 2006. The emergency increase was later extended beyond year-end 2006, when it became evident that the permanent rate case was not going to be decided by that time. (For detail on the PSA, see the Adjustment Clauses section.) (Section updated 11/13/07)

Arkansas Public Service Commission

Rate Case Timing/Interim Procedures

Each utility is required to notify the PSC of its intent to file a rate case 60 to 90 days before an application is filed. The Commission must decide a rate case within ten months of the filing. If the PSC has not issued a final decision at the end of the ten-month period, the company may place the proposed rates into effect, under bond and subject to refund. A company may not file for a base rate increase sooner than 30 days after issuance of a final order in a prior case. A utility may seek PSC approval to implement an interim surcharge for the recovery of government-required health, safety, and environmental expenditures. By law, the Commission must issue a decision within 60 days of a request for an interim increase; however, in such instances, an "immediate and impelling necessity" must be demonstrated for interim rate increases to be authorized. Accordingly, interim increases have rarely been sought or authorized. (Section updated 11/2/10)

California Public Utilities Commission

Rate Case Timing/Interim Procedures

State statutes set time limits for PUC completion of certain types of cases: general rate cases (GRCs), 18 months; and, adjudicatory (i.e., complaints), 12 months. However, no penalty or enforcement mechanism exists. Most recent GRCs have taken between 12 and 18 months to complete. In most cases in which a final decision has been issued after the beginning of the test year, the PUC has authorized the rate increase to be effective retroactive to the test year's beginning. The state's major electric and gas utilities generally file GRC's every three years. The PUC typically authorizes a rate change for the test year, and also authorizes additional ("attrition") rate changes for each of the two years following the test year.

While the PUC is permitted to authorize interim increases, such increases have not been requested or granted in recent years. In granting an interim increase, the Commission may specify whether the increase will be collected subject to refund or on a firm basis. (Section updated 6/2/10)

Colorado Public Utilities Commission

Rate Case Timing/Interim Procedures

A request for a rate change must be filed at least 30 days prior to the proposed effective date. The PUC may suspend the tariffs for 210 days from the proposed effective date. If the Commission does not act by the end of the 210 day period, the proposed rates become effective until the PUC establishes new tariffs. PUC decisions have generally been rendered within the 210-day time frame. The PUC has authorized refundable interim increases in the past. However, for the most part, interim increases have not been requested. We note that on April 19, 2010, House Bill 1365 was enacted, codifying the PUC's authority to approve interim rate for utilities subsequent to Jan. 1, 2012. (Section updated 6/14/10)

Connecticut Department of Public Utility

Rate Case Timing/Interim Procedures

Utilities are required to submit a Notice of Intent at least 30 days, but not more than 60 days, prior to the filing of an application to change rates. The DPUC may extend the normal 150-day suspension period to 180 days upon notification to all the parties. If the Department fails to issue an order by the end of the suspension period, a requested increase may be implemented subject to refund. By law, the Department must conduct a financial and operational review of each major energy utility at least once every four years.

Interim rate increases have rarely been sought or authorized for major utilities; a utility must demonstrate that a financial emergency exists. Under state law, interim rate decreases may be ordered if a utility has earned a return on equity exceeding its authorized return by at least 100 basis points for six consecutive months, or there is a finding that a utility is collecting rates that are more than "just, reasonable, and adequate." Several investigations have been triggered by the interim rate decrease law, resulting in rate reductions for certain gas utilities. (Section updated 7/13/10)

Delaware Public Service Commission

Rate Case Timing/Interim Procedures

The PSC attempts to complete rate cases within seven months from the date of filing. If, at the end of this seven-month period, the PSC has not taken final action, the utility may place the entire requested increase (that does not exceed 15%) into effect, subject to refund. Utilities may place modest interim rate hikes into effect, under bond, 60 days after the filing date. Interim increases have been implemented in several recent cases. (Section updated 11/29/10)

District of Columbia Public Se

Rate Case Timing/Interim Procedures

There is no statutory time frame within which the PSC must act on rate applications. However, the Commission has established a standard under which cases are to be completed within 90 days of the close of the record. (Section updated 9/9/10)

Florida Public Service Commission

Rate Case Timing/Interim Procedures

A requested increase becomes effective at the expiration of a 60-day period unless suspended by the PSC. The Commission is permitted to suspend a rate increase application for a maximum of eight months from the filing date. In fully litigated base rate cases, the PSC generally issues verbal decisions approximately one month prior to the end of the eight-month suspension period. Final written orders are usually issued near the expiration of the eight-month suspension period.

Under the Proposed Agency Action (PAA) procedure, which has been used in relatively non-controversial proceedings, the PSC may approve requested actions without a hearing, in which case a substantially affected party has 21 days to file a protest and request an evidentiary hearing. If no such petition is filed, the PSC ruling stands.

Interim increases are statutorily permitted and frequently have been authorized, usually becoming effective roughly three months after an initial filing is tendered. It is not necessary that the utility demonstrate emergency conditions in order for an interim hike to be authorized. 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 (see the Return on Equity section). Any interim increase is collected subject to refund with interest. (Section updated 6/23/10)

Georgia Public Service Commission

Rate Case Timing/Interim Procedures

A utility is required to give 30 days' notice when filing for a rate increase. The PSC may suspend the proposed increase for a maximum of five months, bringing the total elapsed time to six months. If no rate action is forthcoming at the end of the six months (or seven months in the case of a gas company filing for an alternative form of regulation), the utility may place the proposed rates into effect under bond and subject to refund. It has been the PSC's practice to issue rate decisions at or near the end of the suspension period. By law, the PSC may authorize interim rate increases under certain circumstances, but interim rates have not been requested in recent years. (Section updated 9/24/10)

Hawaii Public Utilities Comm

Rate Case Timing/Interim Procedures

A utility with annual gross revenue of at least \$2 million must file a Notice of Intent at least two months prior to the filing of a rate application. 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. Recently decided rate cases took three to four years to complete, although interim rate increases were authorized considerably earlier. State law calls for an interim decision 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 show probable entitlement and financial need. (Section updated 1/27/11)

Idaho Public Utilities Commission

Rate Case Timing/Interim Procedures

Major utilities are required to file a "Notice of Intent" 60 days prior to filing for a general rate increase. Once the filing is submitted, a PUC decision must be rendered within seven months. If, at the end of the seven month suspension period, a final decision has not been rendered, the Commission may suspend the rate request for an additional 60 days, bringing the maximum suspension period to approximately nine months.

Single-issue proceedings have been utilized to reflect rate recognition of new investments under a modified procedure, i.e., by written submissions rather than by hearing, which allows for a Commission decision to be issued in a shorter timeframe.

The PUC is authorized to permit interim increases; however, in order to justify an interim rate increase, a utility must demonstrate the existence of a "financial emergency or immediate need." Interim rate increases have rarely been requested. (Section updated 8/27/10)

Illinois Commerce Commission

Rate Case Timing/Interim Procedures

Utility rate case decisions must be issued within 11 months of filing. Interim rate changes are allowed, subject to refund, only after a showing of financial need by the utility, or over-recovery by the Staff. Interim increases have rarely been sought. (Section updated 6/11/10)

Indiana Utility Regulatory Commission

Rate Case Timing/Interim Procedures

Although there is no statutory time limit for URC action on rate requests, the URC has established a 10-month target time frame for decisions in major cases. However, fully-litigated rate cases have typically taken over a year to be resolved. A utility may not file for a general rate increase within 15 months after the filing date of a preceding request, unless the URC finds that the utility's financial integrity or service reliability is threatened. The Commission may authorize an interim rate increase, subject to refund, if a financial emergency exists, although interim increases have rarely been sought or authorized. (Section updated 4/26/11)

Iowa Utilities Board

Rate Case Timing/Interim Procedures

The IUB is required to render a final rate case decision within 10 months of the filing date, but may extend the case schedule in certain circumstances. Utilities are permitted to implement interim rate increases, subject to refund, and in most rate cases, interim increases have been implemented. Such a 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. (Section updated 4/14/10)

Kansas Corporation Commission

Rate Case Timing/Interim Procedures

The KCC must act to suspend a proposed rate increase in a general rate case within 30 days after the filing, or the tariffs become effective as filed. The maximum suspension period is 240 days, and if the KCC does not issue a final decision within 240 days, the rates become effective as filed. However, if hearings are in progress at the end of the 240-day period, the suspension period may be extended by up to 20 days after the conclusion of the hearings. If a company substantially amends its filing, the KCC may deem the filing to be a new application and restart the 240 day period. In addition, the company may consent to extend the 240-day period. The KCC has the authority to grant interim increases, but the utilities have seldom requested such treatment. (Section updated 8/24/10)

Kentucky Public Service Commission

Rate Case Timing/Interim Procedures

Utilities must notify the PSC of their intent to file for a rate increase at least four weeks prior to filing a formal application. The actual application must be filed no less than 30 days prior to the proposed effective date of the new rates. The Commission is authorized to suspend rates for up to five months from the proposed effective date if the utility proposes to use an historical test year. If a forecasted test year is used, the suspension period can be up to six months. If the PSC has not issued a final decision within the prescribed suspension period, the utility may implement the proposed increase subject to refund. If the Commission does not issue a final order within ten months of the original filing date, the proposed rates become permanent. Interim increases may be permitted if the PSC finds that the credit or operation of the utility would be materially impaired in the absence of such rate treatment; however, interim increases have seldom been requested and/or granted. (Section updated 12/9/10)

Louisiana Public Service Commission

Rate Case Timing/Interim Procedures

The PSC is constitutionally required to act on a rate application within one year of the filing date. If no PSC action is forthcoming, the utility may implement a proposed rate increase, under bond and subject to refund. The PSC usually decides rate cases within six to 12 months. Interim rate changes are permitted, although they are seldom requested. (Section updated 9/30/10)

Maine Public Utilities Commission

Rate Case Timing/Interim Procedures

A large utility must tender notice at least 60 days prior to filing for an increase in base rates, and must file for a rate increase at least 30 days prior to the requested effective date. The PUC may suspend rates for a maximum of eight months from the company-proposed effective date, resulting in a maximum processing time of nine months from the date of filing. The regulated utilities are prohibited from filing a rate case within one year of the filing date of a prior case, unless this provision is waived by the PUC.

Interim increases are permitted if the Commission finds that the utility will experience financial harm that could not be remedied in the ordinary course of the ratemaking process. The PUC may implement interim rates, subject to refund, for requested amounts "not subject to reasonable dispute." There have been no such requests over the past several years. (Section updated 2/10/11)

Maryland Public Service Commission

Rate Case Timing/Interim Procedures

A utility is required to give 30 days' notice when filing for a rate change. The PSC may initially suspend rates for 150 days beyond the 30-day notice period, and then for an additional 30 days. If no rate action is taken after 210 days, the utility may place the rates into effect. The PSC may allow interim rate changes, but the utilities have rarely requested such action. (Section updated 9/29/10)

Massachusetts Dept. of Public Utilities

Rate Case Timing/Interim Procedures

The DPU is required to issue a final decision in an electric or gas rate case within six months of a filing. If the Department does not act within that period, the proposed rates become effective. Under the Department's interim rate procedures, a company must demonstrate that such an increase is necessary to avoid irreparable harm to the company or its customers. Historically, interim rates have rarely been sought or authorized. (Section updated 4/13/11)

Michigan Public Service Commission

Rate Case Timing/Interim Procedures

Legislation enacted in 2008 establishes a 12-month deadline for the PSC to complete a general rate case. If the PSC does not complete a case within 12 months, the requested rate increase is automatically approved. Utilities are permitted to implement a proposed rate change on an interim basis, 180 days after a filing, in any case in which the utility utilizes a historical test year. However, if a utility utilizes a forecasted test year, it would not be permitted to implement an interim rate increase prior to the beginning of the test year. If the permanent rates established by the PSC are lower than the interim rates, the utility would be required to refund the difference, with interest. A utility is required to wait at least 12 months from the filing of its previous rate case before initiating a new case. (Section updated 2/23/11)

Minnesota Public Utilities Commission

Rate Case Timing/Interim Procedures

A written PUC order regarding a permanent rate request must be issued within eight months following a 60-day initial suspension period that commences upon the filing of a rate case. This requirement results in a maximum 10-month suspension period (unless waived by the utility), after which the proposed rates may be implemented on a permanent basis. The PUC may suspend a rate change beyond the ten-month deadline for up to an additional 90 days under certain circumstances. Oral PUC decisions are usually issued roughly one month before the end of the applicable suspension period.

Following PUC approval, utilities may implement interim rates 60 days after filing for a permanent rate increase; such rates are subject to refund, and utilize the return on equity (ROE) authorized in the company's previous case. Expenses reflected in interim rates must be of a "like nature and kind" to expenses reflected in final rates in the utility's previous case. The PUC is prohibited from allowing an interim increase until four months after a final determination in a prior case. Interim increases typically have been requested and implemented in major rate cases. (Section updated 4/13/11)

Mississippi Public Service Commission

Rate Case Timing/Interim Procedures

The PSC must decide a rate case within 120 days of the filing of a Notice of Intent. If a decision is not forthcoming within the prescribed time, the full requested increase may be implemented, under bond, on a temporary basis. Interim increases have rarely been requested or authorized. (Section updated 2/7/11)

Missouri Public Service Commission

Rate Case Timing/Interim Procedures

Utilities seeking to increase rates must file tariffs 30 days prior to the proposed effective date. The proposed tariffs may then be suspended by the PSC for 10 months. If the Commission has not issued a final decision within 11 months of the initial filing, the proposed rates become effective as filed and would not be subject to refund. The PSC may authorize an interim increase, subject to refund, if a company can demonstrate an emergency, or a near emergency situation. Interim increases have rarely been sought or authorized. (Section updated 9/15/10)

Montana Public Service Commission

Rate Case Timing/Interim Procedures

The PSC must render a final decision in a rate case within nine months of a filing. If no order has been issued by the end of the nine-month period, the utility may place a requested increase into effect, subject to refund. The Commission has generally authorized interim rate changes, usually within two to four months after the date of filing. (Section updated 11/5/09)

Nebraska Public Service Commission

Rate Case Timing/Interim Procedures

A process exists whereby municipalities and gas utilities may enter into rate negotiations. Specifically, a utility has the option to negotiate rates with the cities in which it operates. The cities have a 60-day period after a rate case is filed within which to adopt a resolution evidencing their intent to negotiate an agreed-upon rate change with the jurisdictional utility. If the PSC receives such resolutions from cities representing more than 50% of the ratepayers of the jurisdictional utility, the Commission is to certify the case for negotiation between the cities and the utility, and would take no action on the rate filing until the negotiation period and any stipulated extension have expired or an agreement regarding rates is filed. The negotiation period may not exceed 90 days after the rate filing, unless the parties agree to an extension. If an agreement is not reached during the negotiation period, the PSC would have 210 days from the end of the negotiation period to issue a decision on the rate request. If the utility takes a rate request directly to the PSC, the Commission has 210 days from the date of filing to issue a decision. The suspension period may be extended by up to an additional 60 days, bringing the total maximum suspension period to 270 days.

As permitted by law, a natural gas utility may implement an interim increase, subject to refund, 60 days after a filing if the utility is negotiating rates with the municipalities, and 90 days after the filing if rates are not being negotiated with the municipalities. Interim rate increases have been implemented in all general rate cases that have come before the PSC. (Section updated 2/17/11)

New Hampshire Public Utilities Commission

Rate Case Timing/Interim Procedures

If the PUC has not acted upon a general rate increase request within six months following the proposed effective date (the proposed effective date is generally 30 days after the date of filing), the utility may place the requested increase into effect, under bond. If the Commission has not issued a final decision within one year of the proposed effective date, the increase becomes permanent. Temporary increases may be granted if a utility demonstrates that it is not currently earning a reasonable return, or if an "emergency" exists. If the permanent rates established by the PUC are lower than the interim rates, the utility would be required to refund the difference. In recent years, temporary increases have been granted. (Section updated 5/3/10)

New Jersey Board of Public Utilities

Rate Case Timing/Interim Procedures

A utility is required to give 30 days' notice of the proposed effective date of a rate filing. The BPU may initially suspend a decision for up to eight months, but has the authority to further extend the procedural schedule. Fully-litigated cases generally have taken more than a year to complete. The Board may allow utilities to implement interim increases; however, a finding of "irreparable harm" is generally required. (Section updated 1/24/11)

New Mexico Public Regulation Commission

Rate Case Timing/Interim Procedures

The PRC must act to suspend proposed rates within 30 days of a rate filing or the tariffs become effective. If the Commission does not render a decision within ten months of the filing, an increase may be placed into effect on a permanent basis. The PRC can extend the suspension period an additional three months with cause. Subsequent Commission rulings are effective on a prospective basis only. Interim rate increases have rarely been authorized; a utility must demonstrate that it will experience immediate and irreparable injury in the absence of interim rates.

In order to expedite the construction of new electric generation and transmission lines in New Mexico, the PRC is required by law to rule on plant and transmission line siting applications within nine months of filing. Failure to act within six months serves as automatic approval. The six-month requirement may be extended for an additional six months for the disposition of environmental issues. (Section updated 2/20/08)

New York Public Service Commission

Rate Case Timing/Interim Procedures

In traditional rate proceedings, the PSC must issue a decision within 11 months of a company's initial filing. Interim or emergency rate hikes are permitted only if a utility demonstrates that its ability to raise additional capital and to maintain service would be impaired in the absence of the increase. Interim or emergency rate hikes are seldom requested. (Section updated 10/1/08)

North Carolina Utilities Commission

Rate Case Timing/Interim Procedures

When seeking a rate change, a utility must notify the NCUC at least 30 days before filing, and must submit the rate petition 30 days prior to the requested effective date. The Commission is then required to act on the rate petition within 270 days of the requested effective date, bringing the total elapsed time from filing to decision to approximately 10 months. In most instances, the NCUC has acted on permanent rate requests within six months.

Rate hearings are conducted by panels of three or more commissioners, with the panel members and panel chair designated by the NCUC Chairman. A unanimous panel decision constitutes an order of the Commission unless three commissioners not on the panel request NCUC review. Split panel decisions may be reviewed by the full Commission upon the request of one of the parties to the rate proceeding.

If no NCUC action has occurred within six months following the proposed effective date, the utility may, after providing a 10-day notice to the Commission, place an increase, not to exceed 20% for any single rate classification, into effect, under bond and subject to refund. Because the NCUC has acted on permanent rate requests within six months of the proposed effective date, this provision has not been utilized in recent years.

Interim increases may be requested for implementation earlier than the above-noted six-month time frame. However, before the NCUC can grant such an interim increase, the utility is required to demonstrate that severe financial deterioration has occurred and that emergency conditions exist. No interim increases of this type have been requested in a number of years. (Section updated 12/8/10)

North Dakota Public Service Commission

Rate Case Timing/Interim Procedures

The PSC may suspend rates within 30 days of a utility's filing. The Commission has six months from the date of suspension to issue a final order, bringing the maximum rate case duration to seven months. 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. We note that the last few rate cases that have come before the PSC have exceeded the seven month duration period; in those cases, the companies agreed to waive the statutory deadline. (Section updated 11/2/10)

Oklahoma Corporation Commission

Rate Case Timing/Interim Procedures

By law, the Commission must issue a decision within 180 days of a utility-initiated general rate case filing. If the OCC fails to act within the 180-day period, the company may implement up to the full amount of the request, on an interim basis, subject to refund. Interim rate increases are also permitted at the OCC's discretion, although such increases are seldom requested.

During periods of infrequent rate case activity, the Commission Staff conducts periodic "matrix analyses" of the utilities. As part of its analysis, the Staff examines several criteria for each company to determine whether a financial review is warranted, including the time elapsed since the utility's last rate case, cost-of-capital issues, and restructuring-related developments. The Staff does not identify or seek to quantify over-earnings, nor does it propose specific rate changes. However, the Staff may recommend that the OCC authorize the Staff to conduct a full financial review of a given company. The OCC has authorized such reviews on occasion. There is no statutory time limit within which this type of proceeding must be completed, unless an application for a rate change is filed by the utility, in which case the statutory 180-day time limit would apply. (Section updated 9/27/10)

Oregon Public Utility Commission

Rate Case Timing/Interim Procedures

Within 30 days following a rate filing, the PUC may suspend a requested increase for an initial period of not more than six months. The Commission may then suspend rates for an additional three months, bringing the maximum rate case processing time to ten months from the date of filing. Historically, fully-litigated cases have taken close to the full ten-month period. The PUC is legislatively empowered to approve interim rates; however, interim increases are generally not granted "unless the utility is under severe financial stress." (Section updated 6/16/10)

Pennsylvania Public Utility Commission

Rate Case Timing/Interim Procedures

A utility is required to provide 30 days' notice when filing for a base rate increase. The case is initially suspended for 60 days while the PUC reviews the filing for completeness and is then suspended for up to seven months, bringing the maximum elapsed time from filing to decision to nine months. A utility may be authorized an interim increase if the PUC determines that such an increase is necessary to maintain financial stability and service reliability. PUC decisions on interim petitions must be issued within 30 days. Historically, interim increases have not been requested. (Section updated 7/19/10)

Public Service Commission West Virginia

Rate Case Timing/Interim Procedures

A utility must notify the PSC 30 days prior to filing for a rate increase, and the application must be filed 30 days prior to the proposed effective date. The PSC may suspend a filing for up to 270 days from the proposed effective date. If an order is not issued by the end of the suspension period (maximum of 300 days from the filing date), the proposed rates may be implemented without refund obligation. However, the PSC may change rates on a prospective basis. Interim increases may be authorized, subject to refund, but have rarely been requested. (Section updated 7/26/10)

Public Service Commission of Wisconsin

Rate Case Timing/Interim Procedures

While there is no statutory time limit within which the Commission must act on rate applications, the PSC has decided most recent cases in eight to 10 months.

Historically, energy utilities had filed biennial general rate cases. However, most of the state's major utilities have generally filed base rate cases annually over the past several years. In some recent proceedings, utilities have requested, and the PSC has authorized, limited-issue rate case reopeners for the year following the initial test year in lieu of the company filing a full general rate case.

Interim base rate hikes are permitted, subject to refund, but none have been requested or authorized in several years. (Section updated 4/27/11)

Public Service Commission of Utah

Rate Case Timing/Interim Procedures

The PSC must act on utility rate petitions within 240 days of the initial filing, or the proposed tariffs become effective. The Commission generally has taken the full eight months to issue a decision in major rate cases. However, legislation enacted in 2009 established a 30-day application period (commencing on the date that the PSC receives an application) during which the Commission may issue an order: (1) detailing any deficiencies in a utility's rate case application and suspending the 240-day statutory period, which is to be either reset or resumed when the application is completed; or, (2) accepting a company's rate case application and not interrupting the 240-day statutory period. Therefore, it is possible for the statutory time period to extend beyond 240 days. If the PSC takes no action on a rate case application within 30 days of receiving such a filing, the application is to be deemed "complete" and the 240-day statutory time period is to continue uninterrupted.

The PSC is permitted to grant an interim increase, subject to refund, or order a decrease during the pendency of a general rate proceeding. However, legislation enacted in 2009 requires that interim rate change requests be filed with the PSC within 90 days of the date a rate application is deemed complete by the Commission. 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.

Legislation enacted in 2009 also established procedures for electric and gas utilities to file single-issue proceedings to recover costs associated with completed major plant additions. Upon receiving an application, the Commission is required to determine whether an application is complete and is to suspend the applicable statutory time period for a deficient application. The statutory clock for an application deemed deficient is to be reset or resumed when the application is deemed to be complete. The PSC must issue an order regarding the recovery of such costs within 90 days of receiving a complete application pertaining to plant additions that have received certain Commission approvals; orders regarding all other complete plant-addition applications are to be issued within 150 days (see the Integrated Resource Planning section). (Section updated 10/20/10)

Public Utilities Commission of Ohio

Rate Case Timing/Interim Procedures

A utility is required to give 30 days' notice prior to requesting a rate increase. A utility may not tender a Notice of Intent to file a new rate case until the Commission has completed action on a previous case or until 275 days have elapsed since the filing of a prior application, whichever occurs sooner. The PUC generally completes cases within nine to 10 months after the filing, although some recent cases have taken longer to complete for various reasons. The PUC may allow an interim increase if the utility demonstrates the existence of a financial emergency. (Section updated 4/17/09)

Public Utilities Commission of Nevada

Rate Case Timing/Interim Procedures

State law requires the PUC to render a decision in a rate case within seven months of the filing date. If the Commission has not issued a final order at the end of the statutory period, the requested rate increase automatically becomes effective. Since the PUC must render a decision in a relatively short time-frame, interim increases have not traditionally been requested.

The state's electric utilities, Nevada Power Company (NPC) and Sierra Pacific Power (SPP), are statutorily required to file rate cases every three years. NPC is expected to file its next rate case in June 2011 and SPP is expected to file its next rate case in June 2013. NPC and SPP are subsidiaries of NV Energy. (Section updated 4/25/11)

Public Utility Commission of Texas

Rate Case Timing/Interim Procedures

When seeking a rate increase, utilities are required to submit a complete filing 35 days prior to the proposed effective date of the new rates. The PUC may suspend a requested rate increase for 150 days from the proposed effective date, bringing the total elapsed time from the date of filing to 185 days. If no PUC decision is forthcoming within 185 days, the utility may place the proposed rates into effect subject to refund. The 185-day period may be extended under certain circumstances, with the utility's consent.

Also, the PUC monitors the utilities' earnings on an annual basis. Each May, the utilities file financial data for the previous calendar year. The PUC Staff then conducts a review of these filings and makes recommendations to the Commission concerning whether there is a potential for over-earnings. If so, the PUC may require the utility to tender a "complete rate filing package" in order to determine whether a rate change is necessary. Once such a filing is submitted, the 185-day clock applies. The PUC has occasionally exercised this option. (Section updated 1/20/11)

Railroad Commission of Texas

Rate Case Timing/Interim Procedures

When seeking a rate increase, a local gas distribution company (LDC) is required to submit a complete filing with the city or cities affected by a proposed rate change 35 days prior to the proposed effective date. The city(ies) may then suspend a requested rate increase for 90 days from the proposed effective date, bringing the total elapsed time from the date of filing to 125 days. If no decision is forthcoming within the 125-day suspension period, the proposed rates are deemed to be approved. A city may expressly deny any proposed rate increase, in which case the LDC may: maintain the existing tariffs; appeal to the RRC; or, file a new case with the city(ies). If no decision is rendered on an appeal before the RRC within 185 days, the proposed rates are deemed approved.

Pipelines, distribution utilities serving areas outside of municipal boundaries, and distribution utilities serving inside municipalities that have surrendered their jurisdiction to the Railroad Commission and that seek to increase rates are

required to submit a complete filing with the RRC 35 days prior to the proposed effective date. The RRC may then suspend a requested rate increase for 150 days from the proposed effective date, bringing the total elapsed time from the date of filing to 185 days. After 90 days from the proposed effective date, the pipeline or distribution utility may implement all or a portion of a proposed increase, under bond, and subject to refund. If no decision is forthcoming after the 185 day suspension period has elapsed, the proposed rates are deemed to be approved. (Section updated 1/20/11)

Rhode Island Public Utilities Commission

Rate Case Timing/Interim Procedures

The PUC must suspend rate increase applications within 30 days of the date of filing, or the proposed rates become effective. The maximum suspension period is eight months. The PUC must issue a final order in a rate case within 90 days of the end of hearings. Decisions in fully contested cases for the state's major utilities are generally issued at the end of the full suspension period, or about nine months from the initial filing. The PUC has the statutory authority to permit interim increases, subject to refund, but interim rate increases have seldom been requested. (Section updated 10/25/10)

Public Service Comm. of South Carolina

Rate Case Timing/Interim Procedures

A utility must give the PSC 30 days' notice of its intention to file a rate case. The Commission is required to issue a written order within six months after an application is filed, but may extend the six-month period for an additional five days. A utility may implement a requested rate increase if the PSC fails to act within six months and five days of the filing, and the Commission does not issue an order within ten days of being provided written notice of rate implementation. Any such increase is treated as an approved rate schedule. If a utility appeals a PSC order, the utility may put the requested rates in effect under bond during the appeal until final disposition of the case.

Rate increase applications may be filed no more frequently than every 12 months. However, the PSC may allow new rates to be put into effect, without hearings, when: (1) the tariffs do not require determination of the entire rate structure and overall rate of return; (2) the rates or tariffs do not result in a revenue increase; or, (3) the rates or tariffs are for experimental purposes. (Section updated 7/27/10)

South Dakota Public Utilities Commission

Rate Case Timing/Interim Procedures

Utilities are permitted to implement a proposed rate change on an interim basis, and subject to refund, if the PUC does not issue a rate case decision within six months of a utility's filing. If the Commission does not render a final decision on a rate request within one year of a utility's filing, and should the PUC ultimately authorize a lower increase than that which was in effect on an interim basis, the Commission cannot require a refund of interim rates in effect beyond 12 months after the initial filing. PUC decisions have generally been rendered within six months of a utility's filing. (Section updated 3/25/11)

Tennessee Regulatory Authority

Rate Case Timing/Interim Procedures

The TRA must act upon a rate application within nine months of the filing date. If no rate action has occurred after six months, the utility may place the proposed rates into effect, subject to refund. At the end of the nine-month period, the utility may permanently implement the requested rates if an order has not been issued. Historically, most cases have been decided within the six month time frame. The TRA has the authority to grant interim increases if a financial emergency exists, although the utilities have rarely requested such increases. (Section updated 3/11/11)

Vermont Public Service Board

Rate Case Timing/Interim Procedures

Vermont's investor-owned utilities are permitted to place requested rate changes into effect if the PSB has not acted within seven months of the proposed effective date of the proposed tariffs. A utility must provide 45 days' notice from the filing date to the proposed effective date when filing a petition for a rate increase. The PSB has the authority to allow interim increases. If the Board does not act to deny an interim rate request, the proposed increase may be placed into effect, subject to refund. We note that interim increases have rarely been requested. (Section updated 11/23/10)

Virginia State Corporation Commission

Rate Case Timing/Interim Procedures

Utilities are prohibited from increasing base rates more than once in any 12-month period. However, expedited increases (discussed below) may take effect in less than 12 months after an applicant's preceding rate increase so long as rates are not increased as a result thereof more than once in any calendar year. Legislation enacted in 2007 requires the SCC to conduct biennial earnings reviews for the state's electric utilities; the first such reviews were initiated in 2009. Legislation enacted in 2010 specifies that, beginning with cases filed after Jan. 1, 2010, the SCC will be required to render a final decision on an electric utility rate increase request within nine months following the date of the filing, with any approved rate changes to become effective within 60 days of the issuance of a final order. Prior to 2010, the electric utilities were subject to the same framework as described below for the gas utilities. We note that the SCC has allowed electric utilities to implement interim rate adjustments in the context of protracted fuel/purchased power and other rider mechanism proceedings.

For local gas distribution utilities there is no statutory time limit within which a rate case must be completed. The SCC may suspend rates for no more than 150 days from the date a general rate case filing is determined to be complete. If no decision is forthcoming within 150 days, the utility may place up to the entire requested rate increase into effect, subject to refund, with interest. General rate cases have typically taken more than the 150 days allotted to be completed, and interim increases have customarily been implemented.

SCC rules also provide for "expedited" rate proceedings, which are essentially make-whole proceedings, and are allowed to be filed by gas utilities once per year. The expedited procedure allows the utility to implement an interim rate change, subject to refund, after 30 days, and subject to applicable provisions of the law. In an expedited proceeding, a utility may not propose new policy adjustments from those previously adopted for that utility, and the return on equity sought must be consistent with the Commission's order in the company's most recent general rate proceeding. However, the companies may propose a new allocation or rate design methodology. (Section updated 3/30/11)

Washington Utilities and Transport Comm

Rate Case Timing/Interim Procedures

A utility is required to provide a minimum of 30 days' notice prior to the effective date of a proposed rate change, unless waived by the WUTC. If the Commission does not issue an order suspending the proposed rate change by the end of the notice period, the rate change becomes effective without WUTC action. The Commission may suspend rates for a maximum of 10 months from the proposed effective date. In the event that the WUTC has not issued an order within the 10-month suspension period, and if the suspension period has not been waived, the rate change becomes effective prospectively.

The WUTC has the authority to grant interim increases if a utility's financial stability has deteriorated to the point where failure to grant such an increase would harm both ratepayers and stockholders. Few such increases have been sought or granted. (Section updated 1/20/11)

Wyoming Public Service Commission

Rate Case Timing/Interim Procedures

The PSC is required to issue a rate case decision within ten months of the original filing date. The Commission has the authority to grant temporary increases, under bond and subject to refund; however, such increases have only been authorized following a showing of an immediate financial need. (Section updated 4/29/11)