

1079-G-141

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
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WASHINGTON, D.C. 20005

ORDER

December 17, 2010

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FORMAL CASE NO. 1079, IN THE MATTER OF WASHINGTON GAS LIGHT COMPANY'S APPLICATION FOR REVENUE NORMALIZATION ADJUSTMENT REQUESTING AUTHORITY TO AMEND ITS GENERAL SERVICE PROVISIONS, RESIDENTIAL SERVICE AND NON-RESIDENTIAL RATE SCHEDULES, FIRM DELIVERY SERVICE AND INTERRUPTIBLE RATE SCHEDULES RIGHTS-OF-WAY SURCHARGE GENERAL REGULATIONS TARIFF, Order No. 16101

I. INTRODUCTION

1. By this Order, the Public Service Commission of the District of Columbia ("Commission") denies Washington Gas Light Company's ("WGL" or "the Company") Revenue Normalization Adjustment ("RNA") Application. The Commission determines that it is more appropriate to consider WGL's proposal for a decoupling mechanism in the context of a fully litigated base rate proceeding.

II. BACKGROUND

2. On December 21, 2009, WGL filed a Revised Tariff Application ("Application") requesting authority to revise the Residential, Non-Residential, and Interruptible Rate Schedules and establish a new General Service Provision by implementing a RNA, which is a billing adjustment mechanism that decouples the Company's non-gas revenue collection from actual delivered volumes of gas.¹ Specifically, the RNA is a sales adjustment factor computed on a monthly basis that creates a credit or charge to be subtracted from or added to the monthly distribution charge for all firm and interruptible delivery service customers of WGL.

3. By Order No. 15659, the Commission designated WGL's RNA proposal a rate case because it requests approval of a fixed formula rate.² In a subsequent Order, the

¹ GT 08-1, *In the Matter of Washington Gas Light Company's Revised Tariff Application for a Revenue Normalization Adjustment* ("GT 08-1") filed December 21, 2009 ("Application").

² *Formal Case No. 1079, In the Matter of the Washington Gas Light Company's Application for a Revenue Normalization Adjustment Requesting Authority to Amend Its General Service Provisions, Residential Service and Non-Residential Rate Schedules, Firm Delivery Service and Interruptible Rate Schedules Rights-of-Way Surcharge General Regulations Tariff*, Order No. 15659, (January 19, 2010) ("Formal Case No. 1079"); see also GT 08-1, Order No. 15064, issued September 11, 2008.

Commission designated seven (7) issues for consideration and established a procedural schedule.³

4. In accordance with the adopted procedural schedule, WGL submitted Direct Testimony on March 2, 2010 and Supplemental Direct Testimony on April 13, 2010.⁴ The Office of the People's Counsel ("OPC"), the District of Columbia Government, Department of the Environment ("DDOE"), and the Apartment and Office Building Association ("AOBA") submitted Direct Testimony on May 17, 2010.⁵ WGL filed rebuttal testimony on June 29, 2010.⁶ The evidentiary hearings were held on July 27, 28, and 29, 2010.⁷ Initial Briefs were filed by WGL, OPC, AOBA and DDOE on August 13, 2010.⁸ All the parties, except for AOBA, filed Reply Briefs on August 26, 2010.⁹ AOBA filed its Reply Brief on August 27, 2010.¹⁰ The record closed on September 21, 2010.¹¹

³ *F.C. No. 1079*, Order No. 15760, issued April 2, 2010.

⁴ *F.C. No. 1079*, Direct Testimony and Exhibits of WGL Witnesses Paul S. Buckley ("WGL (A)"), Paul H. Raab ("WGL (B)"), Frank J. Hanley ("WGL (C)"), and James B. Wagner ("WGL (D)"), filed March 2, 2010; and Supplemental Direct Testimony and Exhibits of WGL Witnesses Paul S. Buckley ("WGL (A Supp.)") and James B. Wagner ("WGL (D Supp.)"), filed April 13, 2010.

⁵ *F.C. No. 1079*, Direct Testimony and Exhibits of the Apartment and Office Building Association Witness Bruce R. Oliver ("AOBA (A)"), the District of Columbia Department of the Environment Witness Dr. Taresa Lawrence PhD. ("DDOE (A)"), and the Office of the People's Counsel's Witnesses George E. Briden ("OPC (A)"), J. Randall Woolridge ("OPC (B)"), Yohannes K.G. Mariam ("OPC (C)"), filed May 17, 2010. On July 26, 2010, OPC filed an Errata of the Direct Testimony and Exhibits for Yohannes K.G. Mariam ("OPC (C)"). This Order will utilize the Errata testimony for its analysis.

⁶ *F.C. No. 1079*, Rebuttal Testimony of WGL Witnesses Paul S. Buckley ("WGL Buckley Rebuttal"), Paul H. Raab ("WGL Raab Rebuttal"), Frank J. Hanley ("WGL Hanley Rebuttal"), and James B. Wagner ("WGL Wagner Rebuttal") filed June 29, 2010.

⁷ *F.C. No. 1079*, Hearing Transcript, July 27-29, 2010 ("Tr. ____"). The Commission is vested with authority to set rates that are "just and reasonable." D.C. Code § 34-911 (2001 Ed.). Although there is no formula for determining what constitutes a reasonable rate, courts have defined the lower boundary of the zone of reasonableness as one that is not confiscatory in the constitutional sense, *i.e.*, it must allow the company to earn a fair rate of return on its investment, and the upper boundary as one that is not exorbitant. *See OPC v. Public Service Commission*, 797 A.2d. 719 (rates must fall within zone of reasonableness safeguarding interests of both investors and consumers).

⁸ *F.C. No. 1079*, Initial Post-Hearing Brief of AOBA ("AOBA Brief"), DDOE ("DDOE Brief"), OPC ("OPC Brief"), and WGL ("WGL Brief"), filed August 13, 2010.

⁹ *F.C. No. 1079*, Post-Hearing Reply Brief of DDOE ("DDOE Reply Brief"), OPC ("OPC Reply Brief"), and WGL ("WGL Reply Brief"), filed August 26, 2010; Post-Hearing Reply Brief of AOBA ("AOBA Reply Brief"), filed August 27, 2010.

¹⁰ Due to the illness of AOBA's expert witness, AOBA filed a motion to extend the time, by one (1) day, to file its reply brief. The Commission grants AOBA's request for a one day extension.

¹¹ On November 1, 2010 WGL sent a letter to DDOE regarding a suite of energy efficiency programs that it was submitting to the Sustainable Energy Utility ("SEU") Board. An informational copy of the letter was sent to the Commission's attention and was docketed in this matter. OPC challenges

III. DISCUSSION

Revenue Normalization Adjustment (Overview)

WGL's RNA Proposal

5. WGL's RNA is a decoupling mechanism that uses a monthly sales adjustment factor to create a credit or debit to customers' monthly distribution charges (excluding gas costs) for firm and interruptible delivery customers.¹² As explained by WGL Witness Buckley, the credit or charge represents the difference between actual revenues and the level of revenue that is consistent with the revenue requirement established in Formal Case No. 1054, the most recent gas rate case where the Commission approved a non-unanimous Settlement Agreement on WGL's 2006 rate application to increase its rates.¹³ WGL had included its RNA proposal as a part of its F.C. No. 1054 rate application but agreed to withdraw its request for a RNA, based on the stipulation that the Company could re-file the RNA proposal once the Commission ruled on the Potomac Electric Power Company's ("Pepco") Bill Stabilization Adjustment ("BSA"), a similar decoupling proposal filed by Pepco in Formal Case No. 1053.¹⁴ The Commission approved Pepco's BSA on September 28, 2009,¹⁵ and WGL re-filed its RNA on December 21, 2009.¹⁶

6. WGL Witness Raab states that the RNA proposal better aligns WGL's rate structure with its cost structure to assist in maintaining a revenue level consistent with the most recently approved revenue requirement and that the proposal removes WGL's disincentive to promote conservation and energy efficiency without reducing the

whether the docketed letter is part of the record in this case and requests clarification by the Commission of whether the placing of WGL's letter in the docket of this case will make it part of the record of this proceeding. The official record in this matter closed on September 21, 2010. The Commission will not consider any filings submitted post closure of the official record.

¹² WGL (A) at 4. *See also*, WGL (D) at 3.

¹³ WGL (A) at 4. *Formal Case No. 1054 ("F.C. No. 1054")*, *In the Matter of the Application of Washington Gas Light Company for Authority to Increase Existing Rates and Charges for Gas Service* ended with a settlement agreement between the parties. *See* Order No. 14694, issued December 28, 2007. The settling parties agreed to a \$1.4 million rate increase opposed to WGL's requested \$20 million increase. WGL agreed that it would not file another base rate case until after January 1, 2011, and that no adjustments to the ROE or rates would be implemented until expiration of the moratorium period - October 1, 2011.

¹⁴ *See Formal Case No. 1053, In the Matter of the Application of the Potomac Electric Power Company for Authority to Increase Existing Retail Rates and Charges for Electric Distribution Service, Phase II*, Order No. 15042 (August 21, 2008) ("Formal Case No. 1053").

¹⁵ *See Formal Case No. 1053, Phase II*, Order No. 15556 (September 28, 2009).

¹⁶ *GT 08-01, In the Matter of Washington Gas Light Company's Revised Tariff Application for a Revenue Normalization Adjustment* (December 21, 2009).

customers' incentive to use energy wisely.¹⁷ WGL witness Buckley contends that customers benefit from a RNA because it stabilizes the non-gas portion of customers' rates, reduces the frequency of future rate cases, eliminates WGL's disincentive to promote energy efficiency and conservation, and provides the customer with a more accurate price signal.¹⁸ In support of this position, witness Raab states that the RNA applies only to its distribution rate which is approximately one-third of a typical customer's bill. Since gas cost is the other two-thirds of a customer's total bill, there remains an incentive to minimize or reduce consumption which, in turn, will reduce a customer's bill.¹⁹

7. WGL contends that the mechanics for the RNA implementation are simple and transparent, allowing for easy application and verification by the Commission.²⁰ WGL states that the only data needed each month are the number of customers and the actual non-gas distribution revenue. The specifics of the proposed RNA Application and computations are set forth in WGL Exhibit No. D-4.²¹ In short, the proposed RNA credit or charge will be calculated by determining a monthly test year amount of revenues needed to recover the annual revenue requirement set by the Commission in F.C. No. 1054. The monthly RNA determined by the Company is calculated by customer class and by rate schedule on a per Therm basis and is submitted to the Commission at least 15 days prior to the billing cycle to which it is to be applied on a two-month lag basis. WGL proposes that the monthly RNA credit or charge be capped at \$0.05 per Therm, with any excess accounted for in a future month(s).²²

8. In support of the use of the decoupling mechanism, WGL maintains that the Company tested the mechanism and performed a backcast of the proposed RNA for the last two full calendar years since the conclusion of F.C. No. 1054.²³ WGL determined that, if the mechanism had been in place during the tested time period, the overall net credit to customers' distribution charges would have been \$8.6 million dollars, of which \$3.9 million would have been credited in 2008, and \$4.7 million would have been credited in 2009.²⁴

¹⁷ WGL (B) at 2-3, and 23-24. *See also*, Application at 5. *See also*, WGL Reply Brief at 2-3.

¹⁸ WGL (A) at 8-9, WGL (B) at 6 and 16; *see also* Application at 2.

¹⁹ WGL (B) at 3. *See also*, Application at 5.

²⁰ Tr. at 196.

²¹ *See also* Application at Proposed Tariff Fourth Revised Page No. 60 and Second Revised Page No. 61. Although not part of WGL's Application, WGL states that it is not opposed to the adoption of an Outage Adjustment that reflects the amount of revenue lost due to a major service outage as defined in the Natural Gas Quality of Service Standards ("NGQSS"). *See* WGL's Brief at 10-11, *citing* WGL (A) at 12.

²² *See* WGL D-4.

²³ WGL's Brief at 10.

²⁴ *Id.*

9. As to the issue of whether any adjustments are necessary to the Company's Return on Common Equity ("ROE"), WGL witness Hanley states that there should be no downward adjustment in connection with Commission approval of a RNA because any decrease in risk to investors associated with an RNA is already reflected in the prices of the common stocks of the proxy groups used by the witnesses to determine WGL's return on equity in F.C. No. 1054.²⁵ However, witness Hanley goes on to state that, if the Commission ultimately determines that the Company's common equity cost rate must be lowered, such an adjustment should not be the 50 basis points figure used in connection with Pepco's BSA, but should be no more than six (6) basis points. Witness Buckley states that the RNA could be adopted now during the moratorium period reflected in the F.C. No. 1054 Settlement Agreement and become effective at the conclusion of the moratorium period in October 2011.²⁶

10. With respect to the issue of approving the RNA outside a base rate case, WGL argues that the explicit terms of the F.C. No. 1054 Settlement Agreement contemplated WGL's seeking approval of the RNA outside of a base rate case.²⁷ WGL points out that AOBA and DDOE were signatories to the Settlement Agreement, and that OPC, although not a signatory to the agreement, did not oppose the Settlement Agreement.²⁸

11. WGL also states that participation in the Natural Gas Trust Fund ("NGTF") working group²⁹ demonstrates its interest and efforts in the pursuit of customer end-use energy efficiency programs through its support of DDOE in its administration of current energy efficiency programs that help educate customers on ways to save energy and reduce their bills. In addition, WGL states that it actively participates in the Sustainable Energy Utility ("SEU") Advisory Board and that the Company intends to recommend a number of natural gas energy efficiency programs once the SEU is functional and in a position to receive such recommendations.³⁰ Lastly, WGL expressed

²⁵ WGL (C) at 2-3, and 6.

²⁶ WGL A Supp. at 3.

²⁷ WGL's Reply Brief at 28.

²⁸ *Id.* at 28.

²⁹ Formal Case No. 1037 ("F.C. No. 1037"), *In the of the Investigation Into the Omnibus Utility Emergency Amendment Act of 2005, Specifically Regarding the Establishment of the Natural Gas Trust Fund Programs*, Order No. 13546, issued March 31, 2005.

³⁰ WGL's Reply Brief at 29, citing WGL (A) at 7-8; WGL (A. Supp) at 7; and, WGL Buckley Rebuttal at 8. The Clean and Affordable Energy Act of 2008 ("CAEA"), D.C. Code §8-1773 *et seq.*, created the SEU and the Sustainable Energy Trust Fund ("SETF"). The CAEA created a surcharge on electric and natural gas customers to fund the SETF in order to finance energy efficiency measures in the District of Columbia that are developed and implemented through the SEU. Initially the CAEA authorized funding of \$3 million annually for existing natural gas programs for fiscal years 2009-2011. However, the District of Columbia FY 2011 Budget Support Act of 2010 reduced the funding for such programs to \$1.5 million in fiscal year 2011.

its willingness to propose energy efficiency programs for approval by the Commission if advised to do so but does not believe that approval of the RNA should be conditioned on the approval and implementation of new natural gas energy efficiency programs.³¹

12. In sum, WGL argues that: (1) its decoupling proposal is just and reasonable; (2) decoupling is sound regulatory policy; (3) approval of a decoupling mechanism for WGL would help to resolve financial pressures caused by the mismatch between the fixed cost structure and the volumetric cost recovery mechanism aligned with usage; (4) the decoupling mechanism sends a price signal to the customers; (5) the decoupling mechanism is simple to calculate and easy to verify; and (6) decoupling enables WGL to freely promote energy conservation programs previously approved by the Commission and those approved by the SEU in the future.³² Moreover, WGL contends that aligning the customers' interest with the Company's interest to develop energy efficiency programs is in the public interest.³³ WGL also maintains that the RNA links the authorized revenues that the Company can collect to what customers pay and is a more reasonable method of recovery than the current methodology and provides a benefit to the customers. Thus, according to WGL, the proposal is just and reasonable and in the public interest.³⁴

WGL's Modified Proposal

13. WGL contends that the risk associated with weather is a significant factor for revenue volatility and that this risk can be addressed through Weather Normalization Adjustments ("WNA"). Through rebuttal testimony, WGL witnesses Wagner and Buckley put forth an alternative proposal to the RNA³⁵ which excludes the effect of weather variations from the RNA in a manner which they contend is consistent with the current mechanism in place in WGL's Virginia service territory since October 2007.³⁶

14. In further support of the alternative decoupling proposal, Witness Wagner states that, in undertaking the alternative RNA calculation, information utilized in the WNA calculation is derived from the test year in the most recent rate case. The necessary information would be the normal weather heating degree days ("HDD") for

³¹ WGL's Reply Brief at 29.

³² WGL's Brief at 5-6, citing WGL (A) at 6, and WGL A Supp. at 6-7.

³³ WGL's Brief at 6.

³⁴ *Id.* See also, WGL's Reply Brief at 8.

³⁵ WGL continues to support the original RNA proposal but submitted an alternative proposal for Commission consideration.

³⁶ WGL Brief at 12, citing WGL's witness Wagner's and Buckley's Rebuttal testimony; See WGL witnesses Buckley and Wagner Rebuttal Testimony at 13-15 and 5-8, respectively. The Company is adopting this modification to its proposal in its direct case as a viable alternative to the full RNA.

each customer class, the cost rate per Therm for each class, and the variation per HDD for each class.³⁷ The WNA monthly calculation is determined in two steps:

- (1) Volume (Therm) Adjustment equals (difference between normal HDDs and actual HDDs) times (variation per HDD by class) times (number of customer bills); and
- (2) WNA Revenue Adjustment equals (results in Step (1)) times (Cost Rate per Therm).³⁸

15. Witness Wagner goes on to state that, even though the Company has modified the RNA proposal by eliminating the effect of weather, “the mechanics of the RNA for actual revenue are exactly the same with or without the WNA.”³⁹ Witness Wagner testified that the proposed alternative can be implemented using the normal weather study which has been in use for years in establishing rates in the District of Columbia. The modified RNA proposal works by comparing the targeted level of revenue to an adjusted amount of revenues which includes what is added or subtracted with a WNA.⁴⁰ More specifically, witness Wagner states that WGL is making adjustments based on the change in actual revenues as a result of the actual weather.⁴¹

OPC's Position

16. OPC argues that the Commission should reject WGL's RNA mechanism as proposed because WGL has not only failed to demonstrate that the current rate design is insufficient to afford the Company a reasonable opportunity to earn its revenue requirement but also failed to show that the proposed revenue recovery guarantee is just and reasonable.⁴² More specifically, OPC witness Briden opines that WGL's RNA “creates a virtually guaranteed revenue stream for the Company without any showing that its current method of cost recovery is no longer just and reasonable.”⁴³ OPC witness Briden states that the record evidence does not support WGL's assertion that the RNA is necessary to remedy claimed “financial stress” or that the RNA will result in energy efficiency improvements in the District.⁴⁴ Witness Briden states that WGL's volumetric

³⁷ WGL Wagner Rebuttal at 7.

³⁸ *Id.*

³⁹ Tr. at 759.

⁴⁰ *Id.* at 758.

⁴¹ *Id.* at 758-759.

⁴² OPC Brief at 2.

⁴³ OPC (A) at 6.

⁴⁴ *Id.*

rate design has not hampered its recovering revenues in excess of its annual revenue requirement and achieving earnings in excess of its authorized rate of return.⁴⁵ As to the issue of energy efficiency improvements in the District of Columbia, OPC witnesses Briden and Mariam state that WGL has not proposed any energy efficiency programs and, instead, relies solely on possible programs developed and implemented through the SEU.⁴⁶

17. In OPC's view, WGL has not demonstrated that decoupling is good public policy because decoupling is essentially a risk shifting exercise that shifts WGL's business risk to WGL's ratepayers as possible future surcharges.⁴⁷ OPC witness Briden states that this shift of risk to the ratepayer needs to be compensated for by a lower cost of capital and lower cost of service for the utility.⁴⁸ Witness Briden opines that a lower cost of capital to the utility would not adequately compensate the ratepayer for the additional individual risk assumed when a decoupling scheme is implemented.⁴⁹

18. OPC recommends that, if the RNA mechanism is approved, it should apply to all customer classes⁵⁰ and a number of adjustments should be made to the calculation of RNA surcharges or credits.⁵¹ OPC witness Briden states that: (1) WGL should not be permitted to update its monthly revenue targets using the current number of customers in each class because this equates to a cost-tracking mechanism and would allow WGL to revise its revenue requirement outside the context of a full base rate case;⁵² (2) WGL should not be allowed to reconcile revenue variances (surcharge or credit) through a variable distribution charge because it masks WGL's purported price signal;⁵³ (3) revenue variances should be reconciled through the customer charge;⁵⁴ (4) a \$5 collar⁵⁵ should be applied to an accumulated change in the customer charge such that, if there is an accumulation of too large a change in the customer charge, it "triggers" the

⁴⁵ OPC (A) at 20-21; Tr. at 48; *see also* WGL Buckley Rebuttal at 5.

⁴⁶ OPC (A) at 23; *see also* OPC (C) at 16-17.

⁴⁷ OPC (A) at 11.

⁴⁸ *Id.* at 11-12.

⁴⁹ *Id.* at 11-17.

⁵⁰ *Id.* at 37 and 40.

⁵¹ OPC Brief at 28-32.

⁵² OPC (A) at 31.

⁵³ *Id.* at 32.

⁵⁴ *Id.* at 32-33.

⁵⁵ A collar is a predetermined range that is established in order to limit the variability of the RNA rate adjustment.

filing of a full base rate case; and (5) an “outage adjustment” should be applicable under which the RNA would be suspended to prevent the Company from being made whole for revenue shortfalls from its failure to perform.⁵⁶

19. OPC witness Woolridge takes issue with WGL’s suggestion that a ROE reduction is unnecessary or that the alternative minimal reduction of 6 basis points or .06% is reasonable. Witness Woolridge recommends that, if the Commission approves WGL’s proposed RNA, WGL’s ROE should be reduced by 50 basis points or 0.50%,⁵⁷ because WGL’s analysis in computing the equity cost rate is flawed.⁵⁸ Witness Woolridge states that his recommendation of 50 basis points is based on the following considerations: (1) the gas distribution industry is the lowest risk industry in the U.S.; (2) WGL’s District of Columbia earnings performance is better than that of WGL witness Hanley’s gas proxy groups, and Mr. Hanley’s statement that any decreased risk associated with decoupling is reflected in the stock prices of the F.C. No. 1054 proxy groups is not accurate;⁵⁹ (3) 98% of the variation in the quarterly natural gas revenues of the Company can be explained by weather, economic, and conservation variables, and, therefore, there is a very significant risk reduction potential of decoupling for WGL; and (4) ROE adjustments made by state regulatory agencies are in the 0-50 basis point range.⁶⁰ He concludes that, given WGL’s performance and the large risk reduction that can be attributed to decoupling, the top end of the 0-50 basis point range is appropriate.⁶¹ Witness Woolridge states that he is not aware of any studies which ascertained the reduction of risk associated with decoupling rate design mechanisms, but he did his own review of a number of decisions of regulatory commissions that have adopted such mechanisms for electric and gas companies and made corresponding ROE adjustments. Based on his review and analysis, Witness Woolridge determined that “an adjustment of up to 50 basis points has been used to recognize the risk reduction associated with decoupling.”⁶²

20. Witness Mariam contends that WGL has not presented District-specific evidence showing that WGL’s proposed RNA is fair, just and reasonable.⁶³ Likewise,

⁵⁶ OPC (A) at 34.

⁵⁷ OPC (B) at 3.

⁵⁸ *Id.* at 16.

⁵⁹ *Id.* at 7 and 16-17. Witness Woolridge opines that the stock prices of these proxy companies reflect a significant amount of unregulated business activity. He notes that WGL witness Hanley classified all companies as decoupled if they had a RNA-type decoupling Rate Design Mechanism (“RDM”), a Weather Normalization Adjustment, or a Straight-Fixed Variable RDM. This created an overstatement in Hanley’s average decoupling percentage for the group of gas proxy companies in F.C. No. 1054.

⁶⁰ OPC (B) at 16-17.

⁶¹ *Id.*

⁶² OPC (B) at 12-13.

⁶³ OPC (C) at 26-27.

witness Mariam opines that there is no justification to change the design of the current regulated rate for WGL in the District. He supports his position by stating that: (1) WGL has not provided evidence that energy efficiency measures in the District have caused revenue loss; (2) OPC's analyses⁶⁴ of the volatility of natural gas consumption is at odds with WGL's claims as to the reasons to implement the RNA;⁶⁵ (3) the RNA mechanism adds "another layer of volatility" to monthly bill volatility that is due to changes in purchased gas costs;⁶⁶ (4) the price that ratepayers confront is not in "real time," and thus the "RNA cannot logically be argued to serve as a price signal for consumption decisions;"⁶⁷ (5) WGL will not and has not proposed or implemented any energy efficiency measures in the District as a result of allegedly waiting until the SEU is functional;⁶⁸ and (6) WGL has not conducted and is not aware of any District-specific studies that show the relationship between natural gas usage and energy efficiency measures.⁶⁹

21. OPC requests that, if the Commission approves a RNA mechanism, the approval should be conditioned on the following:

- a. The RNA should not become effective until the completion of a base rate proceeding because: (1) current rates are based upon stale 2005-2006 test year data; (2) WGL's last fully-litigated base rate case was completed in 2003; (3) WGL is currently over-recovering its revenue requirement and earning in excess of its authorized rate of return; (4) pursuant to the Settlement Agreement in F.C. No. 1054,⁷⁰ new base rates cannot go into effect until October 2011; and (5) a delay in the effective date would allow for the start up of the SEU;⁷¹
- b. The RNA should be conditioned upon WGL's implementation in the District of Columbia of exemplary natural gas energy efficiency and conservation

⁶⁴ Exhibit OPC (C)-4 presents OPC's statistical results of analyzing consumption in the District over the period 2001-2009 by grouping data in shoulder months (April, May and October), summer months (June-September), and winter months (November-March). The results demonstrate no significant volatility in consumption.

⁶⁵ OPC(C) at 11.

⁶⁶ *Id.* at 12.

⁶⁷ *Id.* at 13.

⁶⁸ Dr. Mariam notes that WGL has not implemented any new energy efficiency programs in Maryland since a RNA was approved by the MD Commission in 2005.

⁶⁹ OPC (C) at 19.

⁷⁰ OPC was not a signatory to the Non-unanimous Settlement Agreement.

⁷¹ OPC Brief at 3.

programs with a set minimum annual expenditure level on the design and implementation;⁷²

- c. Any RNA approval for the District of Columbia should be implemented as a three-year pilot program;⁷³ and
- d. The RNA should be accompanied by a 50 basis point reduction in WGL's ROE to reflect a lowering of the Company's risk.⁷⁴

22. Alternatively, OPC witness Mariam proposes a "lost revenues" approach to make the Company revenue neutral to implementing energy efficiency programs.⁷⁵ OPC recommends that the Commission adopt a "partial" RNA mechanism that "ties the recovery of lost revenues to specific and successful energy efficiency programs implemented by WGL."⁷⁶ The proposed partial mechanism is as follows: (1) allow WGL to recover lost revenues from the implementation of energy efficiency measures; (2) allow WGL to recover fixed costs lost between rate cases due to utility funded efficiency programs or customer self-funded efficiency efforts; (3) consider only adjusting revenues for non-weather related effects that cause changes in usage; (4) gather data on this partial RNA mechanism so the Commission can determine whether it is in the best interest of consumers and society; (5) limit the "pilot-program" to three (3) years; and (6) provide for a 10% cap on any rate change compared to the base rate established in this proceeding.⁷⁷

23. With respect to WGL's alternate proposal, OPC does not support a RNA that excludes weather related impacts.⁷⁸ OPC contends that the Company has not clearly demonstrated on the record how the "weather carve out" will be achieved. However, "if the Commission is inclined to approve the alternative RNA, then OPC recommends that the Commission establish a separate phase of this proceeding to allow OPC and the other intervenors an opportunity to examine how WGL proposes to implement its weather normalization adjustment."⁷⁹

⁷² OPC Brief at 4.

⁷³ *Id.* 5.

⁷⁴ *Id.*

⁷⁵ OPC (C) at 26-28.

⁷⁶ *Id.* at 31.

⁷⁷ *Id.* at 27-30.

⁷⁸ OPC's Reply Brief at 3.

⁷⁹ *Id.*

AOBA's Position

24. AOBA is opposed to WGL's RNA proposal and argues that it is a revenue guarantee for the Company that inappropriately shifts risks traditionally borne by the shareholders to the District of Columbia ratepayers.⁸⁰ AOBA Witness Oliver opined, among other things, that: (1) WGL is not suffering any financial harm from the present ratemaking paradigm; (2) the proposed RNA mechanism is not appropriate for application to interruptible service customers; (3) the proposed monthly rate adjustment "cap" of 5 cents per Therm should not be approved because it could result in unacceptably large percentage rate increases (particularly to interruptible service customers); (4) the "cap" on monthly rate adjustments should not be greater than 5% of each rate class's average weather normal revenue per forecasted Therm of natural gas use for the month in which the rate adjustment will be applied; (5) any implementation of a RNA must be accompanied by concurrent reductions in the Company's authorized ROE and its rates charged to District consumers; (6) a 50 basis point reduction in WGL's authorized ROE would be appropriate; (7) WGL insured its risk against revenue uncertainty through the Company's purchase of weather "insurance" in the form of derivatives contracts; (8) the proposal may provide greater revenue certainty for WGL, but does not provide equitable results for ratepayers; (9) WGL has not demonstrated that energy conservation/efficiency, or the pursuit thereof, will be any greater or have any greater impacts on gas use by natural gas customers in the future than it has in the past;⁸¹ (10) WGL should provide Budgeted Therms by rate classification by month for all months of each fiscal year and should be required to get Commission approval of any changes in its Budget Therms; (11) any implementation of a RNA should be deferred until the conclusion of WGL's next rate base proceeding; (12) General Service Provision ("GSP") 26 must be modified to accurately describe the actual rate adjustment calculation mechanism; (13) GSP 26 inappropriately and unnecessarily places restrictions on the Commission's review of WGL's rate adjustment computations; and (14) the effective date for implementation of a RNA with a ROE adjustment should be when the moratorium period expires on October 1, 2011.⁸²

25. AOBA witness Oliver disagrees with WGL's contention that the RNA will eliminate the disincentive for the Company to promote energy efficiency by decoupling revenues from sales. Witness Oliver states that he does not believe WGL has suffered financially under the present ratemaking paradigm and does not believe that what WGL proposes to do in the future with respect to pursuing programs and encouraging greater energy efficiency by its customers would have a direct impact on the appropriateness of implementation of a RNA for the Company.⁸³ Moreover, witness Oliver states that, in

⁸⁰ AOBA (A) at 5-6.

⁸¹ AOBA also argues that there is no corollary between a decoupling mechanism and incentives for WGL to achieve energy efficiency and that the economy and improved products were the drivers for achieving energy efficiency and reduced energy consumption. AOBA Brief at 16.

⁸² AOBA (A) at 5-10.

⁸³ *Id.* at 49-50.

the absence of sufficient details regarding any “proposed” energy efficiency programs, he does not believe that the impact on energy use by customers or the expected revenue collections can be determined.⁸⁴

26. With respect to the ROE, AOBA argues that WGL has failed to make the case that there should be no reduction in WGL’s ROE to reflect adoption of a RNA because witness Hanley has failed to differentiate between the types of decoupling mechanisms adopted by the proxy companies in F.C. No. 1054 and full decoupling mechanisms such as WGL’s proposed RNA.⁸⁵ Witness Oliver recommends that if the RNA is adopted, consistent with Pepco’s BSA, a downward adjustment of at least 50 basis points to the ROE would be necessary, given the Company’s reduced financial risk associated with ratepayers’ guaranteeing the revenue stream to WGL and its shareholders.⁸⁶

27. In addition, AOBA argues that WGL’s backcast calculations of \$8.6 million are flawed, asserting that WGL used incorrect throughput amounts to calculate the monthly RNA billing and that the carryover for exceeding the 5 cents per Therm cap was not applied.⁸⁷ AOBA states that WGL’s conclusions also are misplaced because WGL failed to properly account for its reconciliation factor (to adjust over and under collections) in its rate design and proposed rate schedule.⁸⁸

28. AOBA recommends that Interruptible Service customers be exempted from the RNA because WGL has cited no other gas distribution utility that applies a RNA or other revenue decoupling mechanism to Interruptible Service customers.⁸⁹

DDOE’s Position

29. DDOE recommends that the Residential Essential Services (“RES”) discount customers be excluded from the RNA. However, DDOE suggests that, if the RNA is approved and the RES class of customers is included, the Commission should: (1) lower the “Current Factor” cap of 5 cents per Therm to 3 cents per Therm; (2) ensure that there is sufficient funding established by the Sustainable Energy Utility (“SEU”) for programs dedicated to low-income customers (i.e. weatherization programs); and (3) not

⁸⁴ *Id.* at 49-50.

⁸⁵ *Id.* at 46.

⁸⁶ *Id.* at 46. *See also* AOBA Brief at 15.

⁸⁷ AOBA’s Brief at 10.

⁸⁸ *Id.*

⁸⁹ AOBA (A) at 6 and 22-29.

implement the RNA until a fully functioning SEU is formed and commences administration of natural gas energy efficiency programs in the District of Columbia.⁹⁰

IV. DECISION

30. Generally, a utility's profitability is dependent on its sales volume. The concept of decoupling has been offered as a means to accomplish public policy goals of promoting energy efficiency and making a utility indifferent with respect to the reduction of energy consumption. Decoupling essentially insulates a utility's revenue from such factors as changes in sales volume, weather, and economic activity. We previously approved a similar decoupling mechanism for Pepco, and WGL urges us to do the same here. However, as we explain below, the circumstances present here are quite different from those in Pepco's BSA.

31. Unlike Pepco's BSA, which was initially part of a general rate case, WGL asks the Commission to consider its RNA in isolation. Thus, we are presented with a single issue rate case focusing on a portion of WGL's revenue requirement rather than on aggregate resources and costs and offsetting considerations. The burden is on WGL to establish that its proposed RNA is just and reasonable. Although there may be circumstances in which a single issue rate case is appropriate, we simply do not have enough information on the record in this case to avoid a distortion in the ratemaking structure that could lead to understatement or overstatement of WGL's overall revenue requirement.

32. Normally, an application for a general rate case would include current information regarding rate base, weather normalized sales, cost of capital, and operating expenses, among other things. In lieu of this information, WGL's application offers only one facet for our consideration: the revenue per customer based on the rate case Settlement Agreement. The RNA, itself, is based on revenue information used in the 2007 Settlement Agreement in F.C. No. 1054. However, that information is stale because it relies on a test period that ended over four years ago in June 2006. Moreover, in light of the settlement in F.C. No. 1054, the Commission did not fully examine WGL's rate base, revenues, and expenses, including WGL's capital structure and its ROE. Even WGL's own witness Raab testified that the most logical place to review a decoupling mechanism is in the context of a base rate proceeding.⁹¹ This problem cannot and is not corrected by simply excluding the effects of weather variation from the RNA as WGL proposed in the midst of litigation. Under these circumstances, we decline to approve the RNA proposal before us. Ultimately, the Commission finds that it is more appropriate to investigate the potential implementation of a revenue decoupling mechanism within the context of a base rate proceeding.

⁹⁰ DDOE (A) at 2. See also DDOE's Post hearing Brief at 1-2, and DDOE's Reply Brief at 6-7. See also, Tr. at 594 -595.

⁹¹ Tr. at 225.

THEREFORE, IT IS ORDERED THAT:

33. AOBA's motion for an extension of time to file its reply brief is **GRANTED**; and

34. WGL's RNA Application is **DENIED**. The Commission finds that it is more appropriate to investigate the potential implementation of a revenue decoupling mechanism in the context of a base rate case proceeding.

A TRUE COPY:

BY DIRECTION OF THE COMMISSION:

CHIEF CLERK:

**DOROTHY WIDEMAN
COMMISSION SECRETARY**

THEREFORE, IT IS ORDERED THAT:

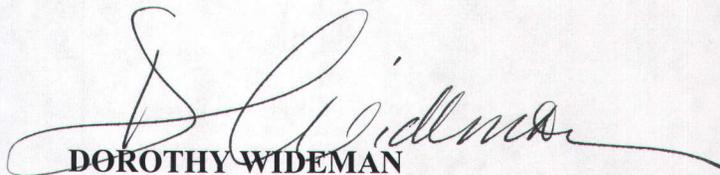
33. AOBA's motion for an extension of time to file its reply brief is **GRANTED**; and

34. WGL's RNA Application is **DENIED**. The Commission finds that it is more appropriate to investigate the potential implementation of a revenue decoupling mechanism in the context of a base rate case proceeding.

A TRUE COPY:

BY DIRECTION OF THE COMMISSION:

CHIEF CLERK:


DOROTHY WIDEMAN
COMMISSION SECRETARY