

KUMAR P. BARVE
CHAIR



FREDERICK H. HOOVER, JR.
BONNIE A. SUCHMAN
ODOGWU OBI LINTON
RYAN C. MCLEAN

PUBLIC SERVICE COMMISSION

Chair Brian Feldman
Education, Energy, and the Environment Committee
2 West Miller Senate Office Building
Annapolis, MD 21401

RE: SB 2 - Information - Investor-Owned Electric, Gas, and Gas and Electric Companies - Cost Recovery - Limitations

Dear Chair Feldman and Committee Members:

The Public Service Commission (the “Commission”) appreciates the opportunity to provide this informational testimony for SB 2. With respect to utility employee compensation, this bill: 1) removes a utility’s ability to recover the cost of all bonus compensation for any non-union employee from rates; and 2) removes the utility’s ability to recover the cost of any compensation for a supervisor that exceeds 110% of the salary of a member of the Commission. Below, the Commission outlines its current practice for evaluating whether employee base and incentive compensation are eligible to be recovered by utilities in rates, and the probable changes to this practice if SB 2 is passed.

When a utility files a case to change its base rates, the Commission has the statutory authority and obligation to determine whether costs proposed for recovery in rates are prudent and were necessarily incurred in the provision of utility service. Accordingly, during the rate case the Commission hears evidence on the appropriateness of the costs for which the utility is requesting recovery from customer rates—including executive compensation, incentive compensation, and other employee-related expenses—to determine whether such costs should be borne by ratepayers.

The Commission’s established precedent when evaluating bonus compensation is to determine what activities or goals the bonus is designed to incentivize. The Commission does not allow the recovery of employee bonuses in rates if the compensation incentivizes the attainment of financial goals that increase profits. The Commission may allow a utility to recover employee bonuses in rates only if the compensation benefits ratepayers by encouraging attainment of customer-related goals, such as those related to safety, reliability, and customer service,¹ AND the Commission finds that such expenses are necessary and proper.² If the Commission does not

¹ See *In the Matter of the Application of Potomac Electric Power Company for Authority to Increase its Rates and Charges for Electric Distribution Service*, Case No. 9286, Order No. 85028, p. 66 (July 20, 2012).

² The Commission may still disallow rate recovery of incentive compensation even if it is found to be designed to improve ratepayer services if it is not found to be proper and necessary. See e.g. *The Potomac Edison Company’s* WILLIAM DONALD SCHAEFER TOWER · 6 ST. PAUL STREET · BALTIMORE, MARYLAND 21202-6806

allow the costs to be recovered in rates, it is the utility's choice to either cut the cost or pay for it by reducing profit, which lessens shareholder earnings.

If codified, SB 2 would require the Commission to disallow all incentive compensation for any non-union employee from being included in rates. Because the Commission already does not allow rate recovery of *profit*-based incentive compensation, the function of SB 2 would be to preclude the Commission's discretion to allow recovery of *service*-based bonus expenditures if they meet the Commission's requirements for reasonableness and prudence.

For all supervisors (as defined in the bill), SB 2 would require the Commission to limit *total* compensation (as defined in the bill) recoverable from rates to no more than 110% of the salary payable to a Commission member. Essentially, this would establish a public-sector salary benchmark in place of the Commission's consideration of private-sector labor market conditions when determining compensation expenditures that can reasonably be included in rates for any supervisor. This would also necessitate a much more granular employee-by-employee compensation analysis by PSC staff and other parties during rate cases.

SB 2 could reduce utility rates or lessen rate increases in the future because of certain compensation expenses being removed from rate recovery, though this reduction may be partially tempered by an increase in employee base salaries to account for decreases in incentive pay opportunities. Additionally, if the utilities choose to cut costs rather than pay for them out of profit, the compensation packages they offer to employees may not be on par with other entities competing for talent in the same private labor markets. This could result in talent attraction or retention issues, possibly impacting utility staffing and performance.

Please contact Niki Wiggins, Director of Legislative Affairs, at irene.wiggins3@maryland.gov if you have any questions related to this informational testimony.

Sincerely,



Kumar P. Barve
Chair, Maryland Public Service Commission

Application for Adjustments to its Retail Rates for the Distribution of Electric Energy, Case No. 9695, Order No. 90847, p. 14 (Oct. 18, 2023)(where the Commission rejected the utility's request to recover COVID-related bonuses to front-line employees because they were discretionary and not necessary for the provision of service); *In the Matter of the Application of Washington Gas Light Co. for Authority to Increase Existing Rates and Charges*, Case No. 9481, Order No. 88944, p. 82 (Dec. 11, 2018) (where the Commission rejected the utility's request to recover certain incentive compensation in rates because the bonus expenses in the historical test year were related to circumstances unlikely to recur).

WILLIAM DONALD SCHAEFER TOWER · 6 ST. PAUL STREET · BALTIMORE, MARYLAND 21202-6806

410-767-8000

Toll Free: 1-800-492-0474

FAX: 410-333-6495

MDRS: 1-800-735-2258 (TTY/Voice)

Website: www.psc.state.md.us/psc/