

RRA REGULATORY FOCUS

## Rate case totals take a tumble, hit 5-year low in September

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By Monica Hlinka and Brian Collins

*Market Intelligence*

September experienced a significant level of regulatory activity with respect to rate case proceedings. However, overall rate case activity was down compared with prior years regarding both filings and decisions. For the current year, September was the second-least busiest month of 2022. In addition, September experienced the lowest number of rate case filings and rate case decisions compared to the same month in the past five years and is tied with April 2021 for the second-lowest amount of overall rate case activity.

Several measures are advancing through the legislative process at municipal, state and federal levels. Also, a few changes to state utility commissions occurred in September, with several commissioners appointed.

### The Take

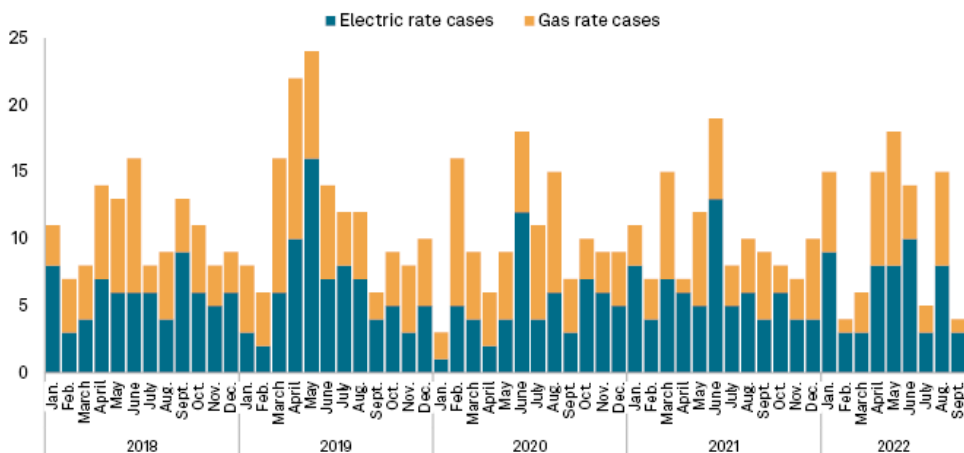
\* Rate case activity fell noticeably in September compared with the prior month, with four proceedings initiated and seven cases decided, according to preliminary data observed by Regulatory Research Associates.

\* In terms of rate case filings, late spring/early summer months tend to be busier. September tied with February for the lowest number of initial filings and was second-lowest in regard to rate case decisions, with only February and April lower at five decisions each. In total, September was the second-slowest month of 2022, with action taken on 11 cases.

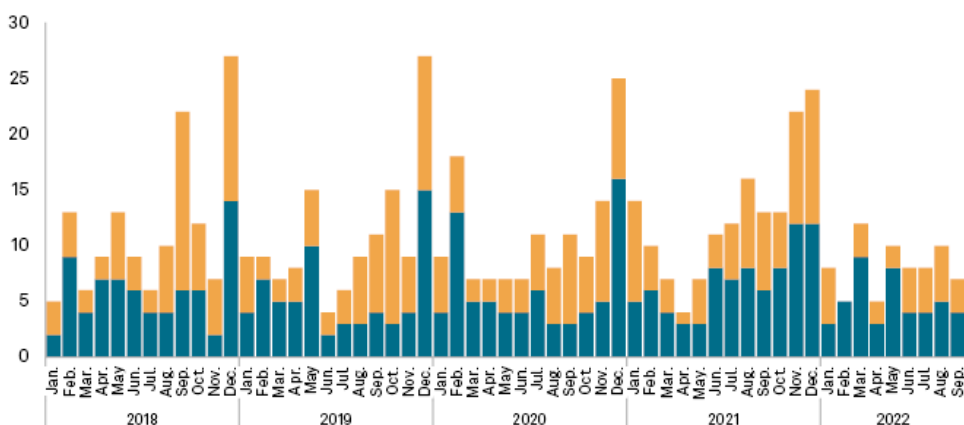
\* Regarding returns on equity, regulators authorized four new returns during the month, ranging from 9.30% to 9.50%. In the four cases filed during September that provided equity return figures, the utilities requested ROEs ranging from 10.20% to 10.95%.

### Utility rate case activity

Rate proceedings filed, 2018-2022



### Decided rate cases, 2018-2022



Preliminary data as of Sep. 30, 2022.

Source: Regulatory Research Associates, a group within S&P Global Commodity Insights.

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### Rate case filings

The accompanying table shows that three electric proceedings and one gas rate proceeding were initiated in September. The rate changes requested in these electric and gas cases aggregated to net increases of approximately \$518 million and \$8 million, respectively.

In the electric cases where the companies seek a new authorized return on equity, the utilities requested ROEs ranging from 10.20% to 10.40%. In the gas case, the targeted ROE was 10.95%.

### Rate case proceeding filings

Date filed	State	Company	Parent ticker	Docket number	Rate change (\$M)	ROE (%)	Common equity of capital (%)	ROR (%)	Rate base value (\$M)
09/01/22	SC	Duke Energy Progress LLC	DUK	D-2022-254-E	90.0	10.20	53.00	7.18	1,948.4
09/09/22	CT	The United Illuminating Co.	IBE	D-22-08-08	136.5	10.20	52.00	7.47	1,537.2
09/09/22	KS	Atmos Energy Corp.	ATO	D-23-ATMG-359-RTS	8.3	10.95	61.14	8.18	302.4
09/19/22	IN	Northern Indiana Public Service Co.	NI	Ca-45772	291.8	10.40	51.63	7.10	5,945.7

Service type: ● Electric ● Gas

Preliminary data as of Sep. 30, 2022.

ROR = rate of return.

Source: Regulatory Research Associates, a group within S&P Global Commodity Insights.

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### Resolved rate cases

Seven rate proceedings — four electric and three gas — were resolved during the month, as shown in the accompanying chart. The rate changes authorized in these cases aggregate to a known increase of \$255 million.

In one limited-issue proceeding, the rate increase reflected a previously approved equity return. In the decisions where new ROEs were specified, the companies were authorized equity returns ranging from 9.30% to 9.50%.

### Rate case proceeding decisions

Date decided	State	Company	Parent ticker	Docket number	Rate change (\$M)	ROE (%)	Common equity of capital (%)	ROR (%)	Rate base value (\$M)
● 09/08/22	OK	Oklahoma Gas and Electric Co.*	OGE	Ca-PUD202100164	30.0	9.50	53.37	NA	NA
● 09/15/22	PA	UGI Utilities Inc.*	UGI	D-R-2021-3030218	49.5	NA	NA	NA	NA
● 09/15/22	SC	Piedmont Natural Gas Co.*	DUK	D-2022-89-G	1.7	9.30	52.20	NA	NA
● 09/15/22	TX	El Paso Electric Co.*		D-52195	33.0	9.35	51.00	7.50	NA
● 09/21/22	VA	Virginia Electric & Power Co.^	D	C-PUR-2022-00006 (Rider E)	32.9	9.35	51.92	6.90	96.3
● 09/26/22	MA	Boston Gas Co.1	NG.	DPU 22-74	64.0	NA	NA	NA	NA
● 09/26/22	MA	Massachusetts Electric Co.1	NG.	DPU 22-73	43.9	NA	NA	NA	NA

Service type: ● Electric ● Gas

Preliminary data as of Sep. 30, 2022.  
 NA = not available; ROR = rate of return.  
 \* Settlement.  
 ^ Limited-issue rider.  
 1 Rate increase authorized under performance based regulation plan.  
 Source: Regulatory Research Associates, a group within S&P Global Commodity Insights.  
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### Significant rate case activity

Inflation is rearing its head in electric, gas general rate cases nationwide. Electric and gas utilities in the U.S. are requesting rate increases in growing magnitude as the industry moves toward a clean energy economy, adopts new technology and replaces aging infrastructure. As evidenced by rate case filings made so far in 2022, another factor has been listed by utilities as a driver in their rate requests — unprecedented inflation.

The Montana Public Service Commission on Sept. 27 issued an order approving NorthWestern Corp.'s application for interim electric and natural gas rate increases in the context of the utility's pending base rate case proceedings. The interim \$29.4 million increase to annual electric revenues incorporates a 9.65% return on equity (48.02% of capital) and a 6.72% rate of return. The interim \$1.7 million increase to annual gas revenues incorporates a 9.55% ROE (48.02% of capital) and an approximately 6.67% rate of return. The interim rates are to be spread evenly on a percentage basis over all customer classes.

In AltaGas Ltd. subsidiary ENSTAR Natural Gas Co.'s base rate proceeding, the Regulatory Commission of Alaska on Sept. 15 approved the utility's interim rate request, authorizing a \$1.3 million rate hike effective Oct. 1.

### Significant non-rate case activity

The month brought a modest amount of other non-rate case activity.

AES Corp. subsidiary The Dayton Power and Light Co. recently presented a slate of riders in an electric security plan, or ESP, filing for the Public Utilities Commission of Ohio's consideration. The utility requested approval of its fourth iteration of an ESP that would be in place for a three-year term beginning July 1, 2023. Amounts collected through these riders — together with new base rates that are expected to take effect in the context of the company's pending rate case — would support the company's continued investment in its electric distribution system.

On Sept. 12, the Maine Public Utilities Commission initiated an inquiry into priorities to address in grid plans to be filed by the state's investor-owned transmission and distribution utilities. The PUC seeks comments on the type of process to utilize to identify priorities, assumptions, goals, methods and tools that will assist the utility in developing a grid plan.

California natural gas utilities have proposed a series of hydrogen blending pilot projects in working distribution systems that will be geared toward the development of pipeline injection standards. In a Sept. 8 filing with the California Public Utilities Commission, Sempra subsidiaries Southern California Gas Co. and San Diego Gas & Electric Co. each put forward demonstration projects to blend hydrogen into gas distribution systems on college campuses. Southwest Gas Corp. proposed a pilot project that will deliver a hydrogen-natural gas blend to commercial customers in Truckee, Calif.

The Florida Public Service Commission approved an amended decision supporting a Duke Energy Florida LLC solar program remanded by the state Supreme Court.

Michigan Governor Gretchen Whitmer threw her weight behind an effort to reopen Palisades nuclear plant. The governor vowed to continue efforts at the state level to restart the 815.6-MW Palisades nuclear plant as the facility's owner, Holtec International Inc., seeks federal support under a \$6 billion credit program to save at-risk nuclear energy facilities.

California Public Utilities Commission staff proposed that utilities deploy a combination of energy efficiency, building electrification, and renewable electric power generation in order to allow Southern California Gas to retire the Aliso Canyon natural gas storage facility as soon as 2027.

The New Jersey Board of Public Utilities on Sept. 28 approved the route of a transmission line to connect the planned 1,100-MW Ocean Offshore Wind Farm to the grid.

The Public Utility Commission of Texas during a Sept. 29 meeting agreed to require power plant owners to factor in wind-chill temperatures to comply with a slate of new weatherization standards meant to protect the grid against extreme winter weather.

Non-rate case activity across the U.S. remains vigorous, according to an analysis by Regulatory Research Associates in an updated report published Sept. 28.

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**Legislative activity**

Washington, D.C., could become the latest East Coast city to prohibit natural gas use in new homes and commercial buildings if a divisive all-electric construction mandate survives an upcoming vote. The district's Construction Codes Coordinating Board is slated to vote in October on a proposal to prohibit fuel oil and gas hookups in new commercial buildings, including apartment complexes.

Massachusetts favors building electrification in its final energy code update. The Massachusetts Department of Energy Resources on Sept. 27 released the final language for its stretch energy code, an option followed by roughly 85% of Massachusetts towns and cities. It also introduced a more stringent specialized stretch energy code that creates additional barriers to including fossil fuel hookups in new buildings. Both codes "stretch" beyond the base energy code.

The California PUC is pursuing efforts to curb emissions from the state's energy systems and proposed that utilities deploy a combination of energy efficiency, building electrification and renewable electric power generation to reduce gas's role in the state's energy mix.

The New Jersey governor increased the state offshore wind goal to 11 GW by 2040. Under an executive order that Gov. Phil Murphy signed Sept. 21, New Jersey aims to develop 11,000 MW of offshore wind capacity by 2040, a nearly 50% increase from the previous goal of 7,500 MW.

**Federal activity**

Following the release of a sweeping permitting reform bill, Federal Energy Regulatory Commission Chairman Richard Glick stressed that state regulators will continue to play a crucial role in siting new electric transmission projects no matter the outcome of the legislation. The bill, unveiled by U.S. Sen. Joe Manchin, D-W.Va., the evening before FERC's Sept. 22 open monthly meeting, aims to speed up an electric grid buildout by overhauling the U.S. Department of Energy's existing process for designating national interest electric transmission corridors.

Return on equity policy and grid planning topped the fall agenda amid pending ROE cases with respect to the FERC. ROE policy for electric utilities is among the top issues on FERC's fall agenda in the wake of the recent opinion by the U.S. Court of Appeals for the D.C. Circuit vacating and remanding FERC's orders in the Midcontinent ISO cases. The future direction of the commission's policy will likely have significant implications for recently concluded and pending cases featuring contested ROEs.

**Commission composition-related developments**

The governor of Arkansas appointed a new chair of the Arkansas Public Service Commission on Sept. 29, attorney Katie Anderson. Anderson began Oct. 2 and will serve through Jan. 14, 2027, to complete the term of predecessor Ted Thomas, who had previously announced that he would step down effective Oct. 1.

The Sept. 21 nomination of three Pennsylvania Public Utility Commission members by Gov. Tom Wolf may signal an end to an impasse with legislators. Wolf reappointed current Vice Chairman John Coleman, a Republican, to a new term extending to April 2027. Wolf also appointed two Democrats, Stephen DeFrank and Katie Zeffuss. The Senate is expected to take up the nominations during the week of Oct. 17.

A Virginia commission seat will remain vacant due to the General Assembly's failure to act. In a special session on Sept. 7, the Virginia General Assembly failed to elect a new member to fill a vacancy on the Virginia State Corporation Commission. The three-member commission, or SCC, has been without a full complement of commissioners since Angela Navarro failed to gain reelection in January when her term expired.

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