STATE OF CONNECTICUT

PUBLIC UTILITIES REGULATORY AUTHORITY
TEN FRANKLIN SQUARE
NEW BRITAIN, CT 06051

DOCKET NO. 22-07-01RE01 APPLICATION OF AQUARION WATER COMPANY OF CONNECTICUT TO AMEND ITS RATE SCHEDULE - REMAND

July 31, 2024

By the following Commissioners:

Marissa P. Gillett
John W. Betkoski, III
Michael A. Caron

DECISION

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DECISION

I. INTRODUCTION

A. SUMMARY

In this Decision, the Public Utilities Regulatory Authority (Authority or PURA) addresses the Superior Court's remand of three issues to the Authority for further proceedings. The Aquarion Water Company of Connecticut (Aquarion or Company) filed a twelve-count appeal of the Authority's final decision with respect to the Company's rate amendment application. The Superior Court dismissed nine of the counts in whole and another in part. The remaining counts were remanded back to the Authority pursuant to General Statutes § 4-183(j).

As a result of the remand and the Authority's further review of the administrative record, the Authority increases the Company's approved revenue requirement by $96,748 for a total approved revenue requirement of $195,658,438. This increase accounts for adjustments for state and federal taxes, rate case expenses, and the Company's treatment of deferred income taxes.

B. BACKGROUND AND CONDUCT OF THE PROCEEDING

On August 26, 2022, Aquarion filed an application to amend its existing rate schedules (Application). See Docket No. 22-07-01, Application of Aquarion Water Company of Connecticut to Amend Its Rate Schedule. On March 15, 2023, the Authority issued its final decision (Final Decision). Aquarion subsequently filed an administrative appeal of the Final Decision with the Superior Court for the Judicial District of New Britain on March 30, 2023 (Superior Court), raising twelve counts of alleged errors. See Aquarion Water Company of Connecticut v. Public Utilities Regulatory Authority, Superior Court, Judicial District of New Britain, Docket No. HHB-CV-23-6078177-S (March 25, 2024).

On March 25, 2024, the Superior Court issued a Memorandum of Decision on the appeal, dismissing nine of Aquarion's counts in their entirety and a portion of the twelfth count, and remanding the remainder to the Authority. See Memorandum of Decision, Aquarion v. PURA, Docket No. HHB-CV-23-6078177-S at *2 (Memorandum of Decision). Specifically, the Superior Court remanded: (1) the fourth count, for recalculation of Aquarion's federal and state tax expenses; (2) the ninth count, for consideration of Aquarion's recovery of rate case expenses according to the standards set forth in General Statutes § 16-19e; and (3) portions of the twelfth count, for further explanation of the Authority's requirement that certain excess accumulated deferred income taxes funds accrue carrying charges at the weighted average cost of capital until the funds are returned to customers. Id., pp. 23, 27–28, 34.

The Authority reopened the proceeding to address the issues remanded by the Superior Court. Notice of Proceeding, Apr. 18, 2024.

Parties and intervenors to the rate case were notified of this reopening and given the opportunity to participate. Docket No. 22-07-01, Notice of Reopening, Apr. 25, 2024.

C. PARTIES AND INTERVENORS

The Authority recognized the following as Parties to this proceeding: Aquarion; the Office of Consumer Counsel, Ten Franklin Square, New Britain, CT 06051; and the Commissioner of the Department of Energy and Environmental Protection, 79 Elm Street, Hartford, CT 06106.

II. STANDARD OF REVIEW

Pursuant to General Statutes § 16-19, the Authority is statutorily charged with regulating the rates of Connecticut's public service companies. Companies "shall file any proposed amendment of its existing rates with the [A]uthority in such form and in accordance with such reasonable regulations as the [A]uthority may prescribe." General Statutes § 16-19(a).[1] Once a proposed amendment has been filed, the Authority "shall make such investigation of such proposed amendment of rates as is necessary to determine whether such rates conform to the principles and guidelines set forth in section 16-19e, or are unreasonably discriminatory or more or less than just, reasonable and adequate, or that the service furnished by such company is inadequate to or in excess of public necessity and convenience . . ." Id.[2]

In relevant part, General Statutes § 16-19e(a) provides that the Authority shall examine proposed rates in accordance with the following principles:

> (4) that the level and structure of rates be sufficient, but no more than sufficient, to allow public service companies to cover their operating costs including, but not limited to, appropriate staffing levels, and capital costs, to attract needed capital and to maintain their financial integrity, and yet provide appropriate protection to the relevant public interests, both existing and foreseeable . . . ;
> (5) that the level and structure of rates charged customers shall reflect prudent and efficient management of the franchise operation.

The statutory prerogative to establish just, reasonable, and sufficient utility rates is based upon principles established in two landmark United State Supreme Court cases. See Conn. Light & Power Co. v. Dep't of Pub. Util. Control, 216 Conn. 627, 635 (1990). Specifically, a regulated utility is entitled to an opportunity to recover prudent operating expenses as well as capital costs, including a fair and reasonable rate of return on capital investments. Fed. Power Comm'n v. Hope Nat. Gas Co., 320 U.S. 591, 603 (1944); Bluefield Waterworks & Imp. Co. v. Pub. Serv. Comm'n of W. Va., 262 U.S. 679, 690 (1923); see also Duquesne Light Co. v. Barasch, 488 U.S. 299, 310 (1989).

Ultimately, however, rate setting requires "a balancing of the investor and the consumer interests." In re Permian Basin Area Rate Cases, 390 U.S. 747, 770 (1968) (citing Hope, 320 U.S. at 603). Further, the Authority "is not bound to the use of any single formula or combination of formulae in determining rates. Its rate-making function

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[1] Conn. Agencies Regs. §§ 16-1-53 *et seq*. apply to rate amendment applications.

[2] General Statutes § 16-19(a) also permits the Authority to "(A) evaluate the reasonableness and adequacy of the performance or service of the public service company using any applicable metrics or standards adopted by the authority pursuant to section 1 of Sept. Sp. Sess., Public Act 20-5, and (B) determine the reasonableness of the allowed rate of return of the public service company based on such performance evaluation." However, this authority is not implicated in the present application.

. . . involves the making of 'pragmatic adjustments.'" Hope, 320 U.S. at 603 (citing Fed. Power Comm'n v. Nat. Gas Pipeline Co. of Am., 315 U.S. 575, 586 (1942)).

Within this legal framework, the public service company "has the burden of proving the proposed rate under consideration is just and reasonable." General Statutes § 16-22.

III. AUTHORITY ANALYSIS

A. COMPUTATION OF STATE AND FEDERAL TAX EXPENSE

1. Approved State and Federal Tax

In determining the Company's revenue requirement, the Authority made a number of adjustments to, among other things, the Company's cost of capital, depreciation, and operating expenses. Some of these adjustments had an effect on the Company's projected state and federal tax burden and, as such, are referred to as tax impacted adjustments. Final Decision, p. 104. In total, the Authority made $8,145,310 of tax impacted adjustments, which increased the Company's projected tax liability by $2,241,386. Accounting for disallowed revenue, the Authority calculated a total state and federal tax liability of $2,977,243. Id.

In Count Four of its appeal, the Company asserted that the Authority had understated the tax impacted adjustments, resulting in a deficiency of $2,467,012 for state and federal taxes. The Authority did not contest this count, and the Court remanded the matter for the Authority to recalculate state and federal taxes. Hr'g Tr., Jan. 11, 2024, p. 35.

2. Revised Tax Calculations

a. Summary

The Authority's calculation of $8,145,310 of tax impacted adjustments did not fully reflect the appropriate amount of tax impacted adjustments. Specifically, the Authority did not incorporate $6,745,696 in disallowed depreciation expense or $209,416 of payroll taxes. Further, additional tax impacted adjustments are required for rate case expenses and the treatment of excess accumulated deferred income taxes (EADIT) made in this Decision. As summarized in the table below, the Authority will make five tax impacted adjustments to account for depreciation, payroll taxes, rate case expenses, EADIT treatment, and additional revenue. These additional adjustments increase the total tax impacted adjustments by $9,595,574, to $17,740,884. This revised adjustment results in a revenue requirement increase for state and federal taxes of $2,640,462.

Table 1: Annual Tax Impacted Adjustments

Description of Adjustment	As Approved	As Revised	Change
Operations and Maintenance	$10,723,437	$10,723,437	-
Taxable Revenue (Late Fees)	($546,925)	($546,925)	-
Acquisition	$111,089	$111,089	-
Interest	$458,555	$458,555	-
EADIT	($2,600,846)	-	$2,600,846
Rate Case Expense	-	($57,132)	($57,132)
Depreciation/Other Tax	-	$6,745,696	$6,745,696
Payroll Tax	-	$209,416	$209,416
Additional Revenue (Remand)	-	$96,748	$96,748
Tax Impacted Adjustments	**$8,145,310**	**$17,740,884**	**$9,595,574**
State	$671,988	$1,463,623	$791,635
Federal	$1,569,398	$3,418,225	$1,848,827
Total Tax and Adjustment	**$2,241,386**	**$4,881,848**	**$2,640,462**

b. Depreciation and Payroll Taxes

The Authority made several modifications to the Company's proposed expenses, which in turn increased the Company's revenues and associated taxes. Specifically, the Authority removed $6,745,696 of depreciation expense and $209,416 for payroll taxes but did not make a corresponding adjustment for tax purposes. Final Decision, pp. 95-96, 104. This was an error, and the Authority has recalculated the tax impacted adjustments to include these expense reductions. See Table 1 above.

c. Rate Case Costs

The Final Decision adjusted downwards the Company's proposed annual amortization for rate case costs. Final Decision, p. 83. Here, the Authority has allowed the Company to recover more of its claimed rate case costs, as discussed in detail in Section III.B, Recovery of Rate Case Costs. This increases the Company's allowed revenue requirement by $57,132, i.e., the amount of the increased annual amortization for rate case costs, and decreases its taxable income by an identical amount.

d. EADIT

As discussed below in Section III.C, Excess Accumulated Deferred Income Tax, the Authority is permitting Aquarion to return EADIT to customers as originally proposed by the Company in its rate case application. As a result, the Authority will reverse the ($2,600,846) adjustment taken in the Final Decision.

e. Additional Revenue

The total allowed revenue requirement for the Company has increased due to the adjustments to the Company's tax ($2,640,462), EADIT ($2,600,846), and rate case costs ($57,132) in this Decision. The cumulative impact of these adjustments on the allowed revenue requirements is $96,748, which requires a corresponding tax impact adjustment. The amount is designated as "Additional Revenue (Remand)" in Table 1, above.

B. RECOVERY OF RATE CASE COSTS

1. Legal Standard

The Authority disallowed the Company's recovery of certain rate case expenses. Final Decision, p. 83. Specifically, the Company sought recovery of $1,050,320 in rate case costs, and the Authority allowed recovery of $364,500. Id.; see also Final Late Filed Ex. 1, Sch. WPC-3.12. In denying portions of Aquarion's recoupment of rate case expenses, the Authority stated that "[i]n cases of expenditures that inure to the benefit of both ratepayers and shareholders the Company must demonstrate that the cost sought to be recovered were incurred for the benefit of ratepayers." The Superior Court rejected this approach as the "sole legal standard" and directed the Authority to "balance the interests of ratepayers and utility companies in setting rates pursuant to the factors set forth in § 16-19e." Memorandum of Decision, p. 29.

The Authority endeavors to do so here. In determining whether the proposed rate case costs are recoverable, the Authority conducts a two-step analysis. First, the Authority must determine whether the costs are reflective of prudent and efficient management by the Company. General Statutes § 16-19e(a)(5). Importantly, the Company carries the burden of proving that its rates and, as such, its expenditures, are just and reasonable. To make this determination, the Authority examines the record evidence provided by the Company to support the rate case costs. Such evidence might include whether the Company engaged in a competitive solicitation process and compared law firms' and consultants' hourly rates and the projected number of hours to be spent on the rate case proceeding. The Authority could also consider whether the requested expenses are consistent with past rate case cost requests or with the rate case costs in other jurisdictions or industry averages. There is no brightline rule; however, the Company must provide sufficient evidence that its incurred costs were prudent.

Next, after determining the total amount of prudently incurred costs, the Authority must balance the interests of ratepayers and the Company in determining just and reasonable rates. Notably, in establishing "the level and structure of rates," the Authority must consider the principles articulated in General Statutes § 16-19e(a), including whether "there is a clear public need for the service", whether costs are necessary "to cover [the Company's] operating costs", and whether the costs "reflect prudent and efficient management of the franchise operation." General Statutes §§ 16-19e(a)(1), (4), and (5). To aid in its balancing analysis, the Authority may consider its past practices or practices in other jurisdictions.

2. Company's Proposed Legal Standard

The Company objects to the Authority's methodology. Written Exception, pp. 3-6. First, the Company asserts the Authority developed "a new two-part test" by undertaking the prudency review of costs as the initial step in establishing just and reasonable rates. Id., p. 3. However, logic dictates that, to properly balance stakeholder interests and to establish just and reasonable rates, the Authority must first establish the realm of prudently incurred costs. Shareholders have no legitimate interest in recovering imprudent costs nor do ratepayers have any interest in paying for such costs. Consequently, the initial step of excluding imprudent costs is a necessary part of ensuring "just and reasonable" rates. Notably, the Company does not explain or offer any legal

citation as to why the Authority should include imprudently incurred costs in its consideration of rates.

Second, the Company asserts that prudency is the exclusive prerequisite for cost recovery and that "this purported balancing test lack[s] any proper basis in law . . . ." Id., pp. 4-6, fn. 4 ("this 'balancing of interests' . . . is an arbitrary overlay that PURA is adding to defeat costs that are otherwise prudently incurred."). In support of its argument, the Company cites to Connecticut Light & Power Co. v. Department of Public Utility Control, 216 Conn. 627 (1990). In that case, the Supreme Court affirmed the Department of Public Utility Control's finding that Connecticut Light & Power's capacity sales "reflected managerial imprudence" and sustained the exclusion of $17.5 million from rates. Id. at 646-647. The Company appears to argue that, because the Authority properly disallowed costs on the basis of prudency in that case, the inverse must also be true — that the Authority must allow recovery of any and all prudently-incurred costs irrespective of other factors or considerations. The Company does not cite any legal precedent to support this corollary principle.

There is no question that prudency is the polestar of utility cost recovery. Notably, one of the six enumerated principles in General Statutes § 16-19e(a) states "that the level and structure of rates charged customers shall reflect prudent and efficient management of the franchise operation." General Statues § 16-19e(a)(5). However, the Company's position that prudency is the exclusive and determinative factor in setting rates is contradicted by almost a century of binding legal precedent and the plain language of Connecticut statutes. See Hope 320 U.S. at 603 ("the fixing of 'just and reasonable' rates, involves a balancing of the investor and the consumer interests."); General Statutes § 16-22 (the utility carries the "burden of proving that said rate under consideration is just and reasonable . . . .") (emphasis added); General Statutes § 16-19 (the Authority must "determine whether such rates conform to the principles and guidelines set forth in section 16-19e, or are unreasonably discriminatory or more or less than just, reasonable and adequate, ..."). Within this well-settled legal framework, prudency is an important but not exclusive factor in setting rates. The Authority is bound by this law, which the Superior Court referenced repeatedly in its Memorandum of Decision remanding this matter back to the Authority.

The Authority examined the Connecticut Light & Power case cited by the Company in support for the Company's position that a prudence review under General Statutes § 16-19e(a)(5) is dispositive as to cost recovery. However, rather than support the Company's view, the case expressly contradicts the Company's statements regarding the applicable law. Notably, the Company ignores the entire first part of the decision in which the Supreme Court states that "§ 16–19e(a)(4), in identifying the various factors that the DPUC must consider when it establishes rates for public service companies, uses language that tracks, almost verbatim, the language that the United States Supreme Court used in *Hope* when it interpreted the 'just and reasonable' requirement . . . ." Connecticut Light & Power, 216 Conn. at 635 (emphasis added). As such, the Supreme Court recognized that there are "various factors" separate and distinct from the prudency requirement of General Statutes § 16-19e(a)(5) that the Authority "must consider when it establishes rates." Id. The Company made no effort to address this portion of the Court's decision.

Further, the Connecticut Light & Power case directly contradicts the Company's stated position that "this purported balancing test lack[s] any proper basis in law." Written Exceptions, p. 6. Specifically, the Supreme Court noted that "[w]hile the court may not substitute its own balance of regulatory considerations for the balance undertaken by the agency, it must independently assure itself that the DPUC has given 'reasoned consideration' to each of the guiding factors expressed in § 16–19e(a)(4)." Connecticut Light & Power, 216 Conn. at 638. In doing so, the Court recognizes that the Authority must conduct a balancing of regulatory considerations and, equally important, that the Court is not permitted to substitute that balancing process with its own. Given the Court's express recognition of the balancing test in rate proceedings, the Company's assertion that the "purported balancing test lack[s] any proper basis in law" is suspect.[3]

3. Prudency of Rate Case Costs

As noted above, the first step in establishing just and reasonable rates is to determine whether the Company has demonstrated that an expense is prudent and subject to recovery. In its Final Decision, the Authority determined, in part, that the Company had failed to demonstrate the prudency of its rate case costs. To claim expenses exceeding a million dollars, the Company provided only conclusory documents itemizing claimed expenses without supporting documentation such as invoices or billing statements. See, e.g., Final Late Filed Ex. 1, Sch. WPC-3.12 in Docket No. 22-07-01, Application of Aquarion Water Company of Connecticut to Amend Its Rate Schedule. The Company did not provide a detailed explanation or narrative of the rate case expenses, nor did it provide evidence that it took steps to competitively solicit outside services or to manage the costs prudently, nor did it provide any comparable data with respect to rate cases from other jurisdictions. In short, the Authority was presented with a dearth of evidence upon which to make a prudency determination, rendering the record insufficient for the Authority to find that the Company's rate case expenses are prudent and reasonable. This deficiency is glaring as the Company was directly ordered to support its rate case expenses with "a detailed explanation for each of the identified expenses to include the source of the expenditure, the parties involved, whether the amounts are actual contractual commitments or estimates, and *how the amounts were derived*" along with any "additional details as appropriate." Interrog. EOE-51 in Docket No. 22-07-01, Application of Aquarion Water Company of Connecticut to Amend Its Rate Schedule (emphasis added). No such evidence was supplied, even for comparatively

[3] Notably, in the main, the Authority allows recovery of prudently incurred expenses and infrastructure investments. However, this rate case offers an example of why the determination of "just and reasonable" rates is not confined solely to a prudency review. In the Final Decision, the Authority noted with concern that the Company's "rapidly increasing level of capital investment may not be sustainable." Final Decision, p. 27. The Authority stated "[a]t some level, individual projects may be prudent, but the aggregation of even prudent projects within a short time period may not be prudent, particularly when evaluated in the context of the parameters outlined in Conn. Gen. Stat. § 16-19e." Id. (emphasis added). Following the Company's logic, it could nonetheless triple its planned investments over 5 years from approximately $900 million to $2.7 billion, and the Authority would be required to approve recovery provided each project was prudent. The result would be rates that were neither just nor reasonable. The balancing of "various factors," "regulatory considerations," and "interests" is a long-standing and essential guardrail in the legal framework for regulating monopoly utilities which are, in many ways, exempt from free market forces that might otherwise constrain costs and investments.

straightforward expenses such as the cost of transcripts that could have been substantiated with a vendor invoice or the equivalent.[4]

The absence of evidence related to the prudency of the Company's rate case costs is particularly concerning given that there is no intrinsic motivation for the Company to curtail such expenses if the Company and its outside lawyers and consultants assume such costs will be fully recovered from ratepayers. By contrast, test year expenses have an indicia of reliability because the Company is incentivized to make prudent expenditures given that its allowed revenue is fixed during that period. Rate case expenses are not subject to the same cost restraints. In a typical attorney-client or consultant arrangement, the client is incentivized to monitor the attorney's or consultant's fees and work product to avoid inefficient or unnecessary costs. At the same time, the attorney or consultant is similarly incentivized to provide efficient services to avoid the risk that billed work will be rejected by the client. However, if full cost recovery is assumed, the incentive structure has no inherent cost containment measure. As such, the requirement that the Company produce evidence in support of the prudency of the requested rate case costs is essential to ensure just and reasonable rates.[5]

4. Balancing of Interests

Notwithstanding the lack of evidence to support a prudency determination, the Authority recognizes that the Company incurred certain costs to initiate and prosecute its rate amendment application. As such, to properly balance the interest of ratepayers and the Company, the Authority will permit the Company to recover a portion of such incurred costs, as summarized in Table 2, below.

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[4] The Company provided citations to the record to suggest that the Authority "ignored the substantial evidence entered into the record on the prudence of rate case costs." Written Exceptions, pp. 7-9. The Authority reviewed each cited item carefully. As the Company seems to acknowledge, this "evidence" is an amalgamation of bald statements by Company witnesses that professional services were solicited in a competitive process. See, e.g., Interrog. Resps. OCC-171 (stating without support that its outside legal counsel was obtained "through a competitive bidding process"); RRU-352 (stating similarly that "[t]he Company sent out requests for proposals for outside legal service, depreciation, cost of service and return on equity consultants"); and RRU-411 (claiming without supporting evidence that the Company considered two bids for cost of capital consultants on a variety of factors). Merely stating that a cost was incurred via a competitive process is not substantial evidence of prudence. See Connecticut Nat. Gas Corp. v. Pub. Utilities Comm'n, 29 Conn. Supp. 379, 394 (1971) ("There is no sacrosanctity about the testimony of any company officer regardless of his position which gives such testimony any godlike fiat that must be accepted out of hand by the PUC.").

[5] The Company states that "[f]or the first time, the PFD provides guidance as to which specific types of evidence PURA considers to be probative in adjudicating prudence of rate case costs . . ." Written Exceptions, p. 7. The Company then complains that the Authority did not provide this "preference in a prior rate case decision or in an interrogatory . . . ." Id. That such obvious guidance, including "invoices or billing statements," "a detailed explanation or narrative of the rate case expenses," and "evidence that [Aquarion] took steps to competitively solicit outside services or to manage the costs prudently," was even necessary to articulate underscores the complete lack of substantial evidence in the record. The Company cannot avoid its burden of proof by claiming it does not know what evidence is "probative."

Table 2: Approved Rate Case Expenses

Description of Expense	Requested	Approved
PURA and OCC Consultants	$250,000	$250,000
Company Consultant and Legal Fees		
Legal Fees	$390,000	$195,000
Cost of Equity Consultant	$104,360	$52,180
Depreciation Consultant	$76,960	$38,480
Cost of Service/Rate Design	$69,000	$34,500
Clerical Costs		
Administrative Costs	$125,000	$62,500
Transcript Preparation	$35,000	$17,500
Total	**$1,050,320**	$650,160

In the following sections, the Authority explains its balancing of factors and interests for the requested rate case expenses.

a. Third Party Consultant Fees

The $250,000 incurred by the Company for PURA and OCC consultant fees is a proper business expense and is, therefore, recoverable. See General Statutes § 16-18a(a). As such, recovery of these expenses was fully allowed in the Final Decision, a ruling that the Authority does not disturb in this remand proceeding.

b. Consultant and Legal Expenses

In its Final Decision, the Authority disallowed the Company's request for $390,000 in legal expenses and consultant costs of $104,360 for cost of equity, $76,960 for depreciation, and $69,000 for rate design costs. In this remand proceeding, the Authority revises this decision to permit recovery of fifty percent of the incurred fees, amounting to $195,000 for legal expenses, $52,180 for the cost of equity consultant, $38,480 for the depreciation consultant, and $34,500 for the rate design consultant.

As previously discussed, the Authority is unable to make a prudency determination based on the evidentiary record before it. However, the Authority weighs the interests of the Company and ratepayers to determine whether the Company should recover any of its incurred rate case expenses. Rate case expenses implicate both shareholder and ratepayer interests. Unlike conventional operating expenses, rate case expenses are connected to an adversarial process in which the Company's lawyers and experts advocate for a rate case outcome that best serves the Company's shareholders, rather than ratepayers. For instance, in the current proceeding, the Company both requested an ROE that was higher than that which was advocated for by other parties and sought recovery for compensation expenses related to director and officer salaries and incentive compensation. Final Decision, p. 5. As such, not all rate case expenses are necessary for supplying utility service to customers. Therefore, to a certain extent, a portion of rate case expenses do not meet "a clear public need," are not necessary "to cover [the Company's] operating costs," and are not reflective of "the franchise operation." General Statutes §§ 16-19e(a)(1), (4), and (5).

Further, the Company determines how frequently to file rate applications, what issues to pursue in the proceeding, which consultants and attorneys to retain to advocate on its behalf, and whether to leverage internal resources or to utilize outside counsel or consultants to advocate on its behalf. Allocating a portion of rate case expense to shareholders would properly incentivize the Company to control its rate case expenses through improved management and cost control mechanisms.

Accordingly, in balancing the interests of ratepayers and the Company pursuant to the factors set forth in General Statutes § 16-19e, the Authority concludes that it is reasonable for the Company to recover fifty percent of its expenses for its legal representation and consultants.[6]

c. Administrative Costs

The Company requested $35,000 for transcript preparation and $125,000 for administrative costs. In the Final Decision, the Authority allowed recovery of fifty percent of these costs. Final Decision, p. 83. For the same reasons stated above with respect to legal fees and consultant costs, the Company may recover fifty percent of these expenses, as summarized in Table 2, above. As the entity that controls when rate cases occur and the Company resources that are utilized in a rate case, allocating a portion of these expenses to the Company incentivizes it to control costs and to utilize improved and more efficient management practices.

d. Amortization of Allowed Expenses

In the Final Decision, the Authority permitted an annual amortization of $72,900 for rate case expenses, reflecting a five-year amortization period for the total allowed recovery ($364,500 / 5 years) and a reduction of $137,164 from the Company's requested annual amortization of $210,064. Final Decision, p. 83. In this remand, the Authority allows an annual amortization of $130,032 for rate case expenses, reflecting a five-year amortization period for the total allowed recovery ($650,160 / 5 years), an annual reduction of $80,032 from the Company's request. Consequently, the tax impacted adjustment for rate case costs is now $80,032, a $57,132 decrease from the $137,164 calculated in the Final Decision. Id., pp. 60, 83. Because this impacts the Company's taxable income, a corresponding modification was made to the recalculation of the Company's state and federal tax obligations. See Section III.A.2.c, Rate Case Costs.

C. EXCESS ACCUMULATED DEFERRED INCOME TAX

In its Final Decision, the Authority ordered the Company to accrue carrying charges at the Weighted Average Cost of Capital (WACC) for the unrefunded balance of EADIT funds. Final Decision, p. 107. EADIT funds are a category of deferred taxes overcollected from ratepayers due to a reduction in the corporate tax rate subsequent to collection. As explained in its Final Decision, IRS normalization procedures restrict how quickly these overcollected taxes may be refunded to ratepayers. Id., p. 105. In its Memorandum of Decision, the Court remanded for further explanation the Authority's order that EADIT funds accrue carrying charges. Memorandum of Decision, p. 34.

[6] Notably, other jurisdictions have similarly divided rate case expenses in this manner. See, e.g., Docket No. ER-2019-0374, In the Matter of The Empire District Electric Company's Request for Authority to File Tariffs Increasing Rates for Electric Service Provided to Customers in its Missouri Service Area, Mo. P.S.C. (2020), p. 5; Docket No. WR05121022, In re Aqua, New Jersey, Inc., N.J.B.P.U., (Jan. 17, 2007).

In Order No. 25 of the Final Decision, the Authority required the Company to hire an independent third-party accounting firm to perform a review of the Company's quantification and categorization of its claimed EADIT funds, and to submit the results to the Authority for review. Final Decision, p. 151. The Company subsequently complied with the order, and on April 17, 2024, the Authority ruled that the independent audit satisfies Order No. 25. Motion No. 52 Ruling, Apr. 17, 2024, Docket No. 22-07-01, Application of Aquarion Water Company of Connecticut to Amend Its Rate Schedule.

Due to the satisfactory resolution of Order No. 25, the Authority finds that EADIT funds may be returned to customers as originally proposed by the Company in its rate case application. Consequently, no carrying charges are necessary, and the specific issue remanded to the Authority is now moot. Unamortized EADIT shall be returned to customers in accordance with the Company's proposed amortization schedule. Application, Sch. WPC-3.16, Docket No. 22-07-01, Application of Aquarion Water Company of Connecticut to Amend Its Rate Schedule.

IV. CONCLUSION

Based on the foregoing adjustments and recalculations, the Company's approved revenue requirement is increased by $96,748, for a total revised revenue requirement of $195,658,438, as summarized in Table 3, below.

Table 3: Revised Revenue Requirement, Docket No. 22-07-01RE01

Count	Revenue Requirement	Modification
4	State and Federal Tax	$2,640,462
9	Rate Case Expense	$57,132
12	EADIT Amortization	($2,600,846)
	Total	**$96,748**
	Approved Revenue Requirement	**$195,561,690**
	Revised Revenue Requirement	**$195,658,438**

DOCKET NO. 22-07-01RE01 APPLICATION OF AQUARION WATER COMPANY OF CONNECTICUT TO AMEND ITS RATE SCHEDULE - REMAND

This Decision is adopted by the following Commissioners:

Marissa P. Gillett

John W. Betkoski, III

Michael A. Caron

CERTIFICATE OF SERVICE

The foregoing is a true and correct copy of the Decision issued by the Public Utilities Regulatory Authority, State of Connecticut, and was forwarded by Certified Mail to all parties of record in this proceeding on the date indicated.

July 31, 2024

Jeffrey R. Gaudiosi, Esq.
Executive Secretary
Public Utilities Regulatory Authority

Date