

Background for H.227 – An act relating to the repeal of alternative forms of regulation for electric and natural gas companies
Legislative Council – March 2, 2017

- Natural monopolies
 - Rate regulation meant to approximate price/performance of competitive market
- Relevant Vermont law (Title 30)
 - § 218 – PSB has jurisdiction to ensure adequate service at just and reasonable rates
 - § 225 – Rate Schedules – change in rates
 - Utility must give 45 days’ notice to DPS and PSB
 - DPS investigates justness and reasonableness
 - DPS either recommends PSB accepts change or provides notice it opposes the change
 - If DPS opposes, PSB may open investigation (may do so on its own initiative, as well)
 - PSB investigation – fully litigated contested case (standard for IOUs)
 - Rate changes must be approved by the PSB
 - Rates remain in effect until utility requests change
 - § 226 – PSB can authorize temporary rate increases pending final determination
 - § 227 – PSB has seven months
 - § 2 – DPS Duties and Powers
 - (a)(6) – Review proposed changes in rate schedules, and represent the interests of the consuming public in proceedings to change rate schedules
 - (f) – In performing its duties, the DPS shall give *heightened consideration* to the interest of ratepayer classes who are not independently represented parties in proceedings before the PSB, including residential, low-income, and small business consumers, as well as other consumers whose interests might otherwise not be adequately represented but for the Department’s advocacy
- Traditional ratemaking – “cost of service regulation”
 - Utility has a reasonable opportunity to recover the *prudent and used and useful* costs the it incurs to serve customers, plus a reasonable rate of return (profit)
 - Cost of service = Revenue requirement
 - **Revenue Requirement = Rate Base x Rate of Return + Depreciation + Taxes + O&M**
 - Rate base = depreciated value of fixed assets (cost of debt + cost of equity)
 - Rate of return = weighted average of the cost of debt and the return on equity capital (weighted average cost of capital)
 - O&M = operations and maintenance expenses (includes labor and fuel)
 - Amounts are based on historic test year with adjustments that are *known and measureable*

- Some reasons for alternative regulation
 - To address uncertainties in input prices (like fuels) beyond utility's control
 - Regulatory lag (rates do not reflect changed conditions)
 - To improve performance incentives
 - Public policy support for renewable energy
 - Technological progress in generation and information technologies
 - Automatic rate adjustments streamline the process (less costly/burdensome)

- Alternative (non-traditional) regulation in Vermont
 - Authorized in 2003
 - GMP and Vermont Gas – first alternative regulation plans in 2006
 - Plans expire in 2017
 - (Telecom – since 1980s – different rationale)

- § 218d – PSB may approve alternative forms of regulation
 - Notwithstanding §§ 218, 225, 226, and 227
 - Plans must meet 8 requirements:
 - Give companies a clear incentive to provide least cost energy
 - Provide just and reasonable rates for all classes
 - Deliver safe and reliable service
 - Offer incentives for innovations and improved performance that advances State energy policies
 - Promote improved quality of service, reliability, and service choices
 - Encourage innovation in service
 - Establish a reasonably balanced system of risks and rewards that encourages company to operate as efficiently as possible using sound management practices
 - Provide a reasonable opportunity to earn a fair rate of return
 - Resulting savings must be shared with ratepayers, as determined by the Board
 - May alter traditional rate-making standards and procedures, if promotes the public good and meets the 8 requirements

- Allowed rate-setting mechanisms (rate adjustments) not available under traditional regulation include:
 - Quarterly rate adjustments reflecting increases or decreases in power costs
 - Annual base rate filings to reflect changes in operating costs
 - Annual earnings reconciliation based on prior year earnings

- Act No. 130 (2016) – Sec. 5f (3-year reporting requirement)
 - DPS report must summarize significant cases concluded within the past year and describe the positions taken by the Department in those cases, in alt reg or other litigation. Describe MOU negotiations.
 - AGO shall monitor one rate proceeding annually and make findings and recommendations regarding DPS advocacy in rate proceedings