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City of Clinton files complaint against Entergy with PSC

seven-year depreciation period.

The City has found case law that indicates these assets should be on a seven-year depreciation schedule. The United States Tax Court has held that street light assets owned and depreciated by an electric utility do not constitute assets used in the distribution of electricity for sale and do not fall in asset classes subject to fifteen or twenty-year depreciation periods.

Additional examples of unjust, unreasonable and excessive practices also exist. Billing documentation acquired by City leadership indicates the City is still being charged for “underground supply line (per foot installed after 1-1-1946)” and “thirty-foot Class 7 Wood Creole Pole (installed prior to 1-1-1979).”

“It is incomprehensible that Clinton is being charged for these items that have benchmark dates from seventy-four and forty-one years ago, respectively,” said Mayor Phil Fisher. “No specific installation data is provided for the vast majority of street lighting assets for which Clinton is paying.”

Prior to filing the formal complaint, the City sought clarifying information from Entergy, but said that, thus far, Entergy has not provided documentation or explanations that prove unequivocally why these charges are not unjust, unreasonable, and not materially excessive.

“These findings are unconscionable on its face, particularly given the City’s position as a guardian of taxpayer dollars,” said Fisher. “We appreciate the Public Service Commission’s willingness to take a fresh look at this matter and bring clarity for the City and other cities across the Entergy service area.”

ENTERGY RESPONDS

Entergy responded to the City’s contentions by stating, “Entergy Mississippi has been charging the correct lighting rates that are authorized by state law. Under the Public Service Commission’s oversight of Entergy Mississippi’s rates and revenue collections, Entergy would not benefit from artificially inflating its lighting rates.”

Entergy continued, “The Company provides street lighting facilities as a service to municipalities, and the intent of this service is to allow the municipalities to provide street lighting to its citizens at a lower cost than the municipality could provide on its own, which saves taxpayers money. The lighting service includes installation, maintenance and replacement of lighting facilities, and purchase and storing of inventory, among other services.”

“In 2015, our municipal street lighting rates were lowered significantly due to rate design changes requested by Entergy Mississippi and approved by the Public Service Commission.”

Entergy further commented, “We believe we have been a good corporate citizen and partner to the City of Clinton, through the payment of more than \$2 million in franchise fees alone over the past five years, donations to local community causes and help with economic development. We have been working with the City of Clinton to address its concerns, and we’re disappointed the City chose to file this complaint rather than to work with us on a potential resolution.”

“If the City’s complaint recommendations are adopted, it will actually raise rates for all of our customers,” said Entergy’s press release. “From 2008 to 2018, our rates have stayed well below the state and U.S. averages. Currently, our average residential rates are about 24% below the U.S. average.”

Mayor Phil Fisher’s Points of Response to Entergy’s Statement on April 22, 2020:

“As Mayor, I have the responsibility to assure taxpayer dollars are spent in the most efficient manner possible. I take that responsibility seriously and will investigate any opportunity to protect your money. I became aware of perpetual charges on street lighting poles and equipment and began questioning this practice. Over the last two years, the City has met with Entergy multiple times to better understand their practices and reasoning. Unfortunately, these efforts failed to achieve an acceptable resolution and forced me to file a formal complaint with the Mississippi Public Service Commission.

Below is my response to an Entergy statement made after I held a press conference exposing the practice of perpetual charges related to street lighting.”

From Entergy:

“Entergy has been charging the correct lighting rates that are authorized by state law.”

From Fisher: “Entergy’s statement is an attempt to reframe the complaint. We are challenging Entergy’s practice of charging municipalities in perpetuity. We are questioning if the rate plan (created by Entergy) is fair, just and reasonable. Put another way, how many times over must a City pay for street lighting equipment. For example, we have 331 concrete poles. Based on the \$6.89 per pole per month charge, that equals \$83 per year for this pole. Since 1979 (41 years) Clinton has paid \$3,403 for a pole that would cost \$1,200 to replace in 2020 dollars. In sum, over 41 years, we have paid \$1,100,000 for the 331 concrete poles and continue to pay.

From Entergy: “In 2015, our municipal street lighting rates were lowered significantly due to rate design changes requested by Entergy Mississippi and approved by the Public Service Commission... From 2008 to 2018, our rates have stayed well below the state and U.S. averages. Currently, our average residential rates are about 24% below the U.S. average.”

From Fisher: “Again, Entergy is trying to rewrite the narrative. This complaint is not about residential rates, but about charging for poles and equipment in perpetuity. Asserting that the rates for residential customers will increase is a scare tactic and deliberately meant to redirect the facts presented by the City. Furthermore, from 2016 to 2018, Entergy MS has raised residential rates approximately 22%. An analysis of Entergy rate schedules revealed that Entergy did not reduce the cost of lighting fixtures, as they stated in their press release. The changes made by Entergy, at that time, were to remove overcharges to lighting that were unjust, unreasonable, and materially excessive.

From Entergy: “The lighting service includes installation, maintenance and replacement of lighting facilities, and purchase and storing of inventory, among other services.”

From Fisher: “Our request is that once Entergy has recovered the purchase (hard) costs of durable equipment pieces (ex. concrete poles and brackets) via monthly billings to the City, and the equipment is fully depreciated per regulatory requirements, that portion of the charge be removed/adjusted from the monthly billing.”

From Entergy: “We believe we have been a good corporate citizen and partner to the City of Clinton, through the payment of more than \$2 million in franchise fees alone over the past five years...”

From Fisher: “Again, this is not about franchise fees. We acknowledge Entergy has been a valued partner with the City of Clinton, and we hope to continue and develop that relationship moving forward. However, I find it unfortunate that a multi-billion-dollar corporation would defend charging taxpayers over ten times for a piece of equipment, then threaten the PSC and citizens of the community with scare tactics (a rate increase) should our position be justified.”

From Entergy: “We have been working with the City of Clinton to address its concerns, and we’re disappointed the City chose to file this complaint rather than to work with us on a potential resolution.”

From Fisher: “As mentioned in our filing, we have met with Entergy several times over the past two years, offered to assist in rate design by providing a municipal perspective, and made multiple requests in attempts to work with them. Over the last year, Entergy has failed to provide inventories and requests for rate justification. Entergy has refused to negotiate in good faith.”

From Entergy: “If the City’s complaint recommendations are adopted, it will actually raise rates for all of our customers.”

From Fisher: “This is an attempt to scare residential customers. Again, Entergy is trying to rewrite the narrative. This discussion is not about residential rates, but about poles and equipment relative to street lighting. It is about the charges for the poles and equipment that continue in perpetuity. Asserting that the rates for residential customers will increase is a scare tactic and deliberately meant to redirect the facts presented by the City. Any rate increases must be submitted to and approved by the PSC. Entergy does not have the authority to raise rates on a whim.”