

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Montana-Dakota Utilities Co.,
a Division of MDU Resources Group, Inc.
2016 Electric Rate Increase Application**

Case No. PU-16-666

DIRECT TESTIMONY AND EXHIBITS

OF

NANCY BROCKWAY

On behalf of AARP

February 24, 2017

1 **Q. Please state your name and business address.**

2 A. Nancy Brockway, 10 Allen Street, Boston, MA 02131

3 **Q. On whose behalf are you testifying in this case?**

4 A. My testimony is being filed by AARP.

5 **Q. Please describe AARP.**

6
7 A. AARP, with its nearly 38 million members in all 50 States and the District of Columbia,
8 Puerto Rico, and U.S. Virgin Islands, is a nonpartisan, nonprofit, nationwide organization
9 whose mission is to help people turn their goals and dreams into real possibilities,
10 strengthen communities and fight for the issues that matter most to families such as
11 healthcare, employment and income security, retirement planning, affordable utilities,
12 and protection from financial abuse. In North Dakota, AARP has approximately 87,000
13 members.

14 **Q. Please describe your professional experience.**

15 A. I have over 30 years' experience in utility regulation and consumer protection, including
16 five years on the New Hampshire Public Utilities Commission, 9 years as a staff member
17 of two different U.S. state regulatory commissions and the National Regulatory Research
18 Institute, and 7 years as a consultant and expert witness. My resume and list of
19 testimonies is attached as Exh. NB-1.

20 **Q. Have you testified before this Commission before?**

21 A. No, this is the first time I have testified before this Commission.

22 **Q. Have you testified before other Commissions?**

23 A. Yes. I have provided expert witness testimony on 75 occasions on utility consumer
24 protection, cost of service, smart metering, residential rate design, low-income rates,
25 utility energy efficiency and demand response, and mergers and acquisitions, in utility

1 proceedings before 31 state or provincial regulatory commissions.

2 **Q. What are the topics of your testimony?**

3 A. I have been asked to review a Cost of Service Study (“COSS”) performed by Montana-
4 Dakota Utilities Company (“Company”), and to review the residential rate design. I
5 address the proposed increase in the customer charge. As part of that discussion, I will
6 address the proposed classification of distribution plant as demand-related or customer-
7 related, and the double-allocation of distribution-related customer minimum costs to
8 residential customers.

9 **Q. Please summarize your conclusions and recommendations.**

10 A. The Company’s proposed increase in the customer charge for residential is unwarranted;
11 it is not supported by sound regulatory theory, and it would have unacceptable adverse
12 impacts on low-use residential customers. There are reasons to reduce the customer
13 charge; and in any case, the customer charge should not be increased.

14 **Q. What does the Company propose to do to the customer charge for residential**
15 **customers?**

16 A. The Company proposes to increase the customer charge for Residential Rate 10 from
17 \$0.35 per day to \$0.65 per day.

18 **Q. By how much does MDU propose to increase the customer charge monthly?**

19 A. The Company is proposing to increase the customer charge by over 80%. Today MDU’s
20 Basic Service Charge is \$10.63/month. Statement N, page 7. The Company’s proposal
21 would increase this customer charge by \$9.12 per month (85.8%) to \$19.76 per month.¹

22 **Q. What justification does the Company offer for increasing the Basic Service Charge**
23 **by 85.8%?**

¹ Assuming an average 30.4 days per month → $\$19.76/\$0.65 = 30.4$. Aberle Direct Testimony p. 7, lines 1-3.

1 A. According to Ms. Aberle, the proposed Basic Service Charge “reflects the customer
2 component identified by [MDU witness Bruce R.] Chapman in the embedded class cost
3 of service as shown on Statement M, page 1.” The calculation shown there is the division
4 of the customer costs allocated to residential under the Company’s COSS by the number
5 of monthly bills for the class ($\$18,917,000/960,036 = \19.70). This matches closely the
6 $\$19.76$ rate shown by Ms. Aberle in her testimony for such costs (assuming an average of
7 30.4 days per month).

8 **Q. Does the Company explain why in its view the allocated fixed customer costs should**
9 **be recovered 100% on the customer charge?**

10 A. Yes. Ms. Aberle testifies that there are several justifications for doubling the customer
11 charge:

- 12 1. The Basic Service Charge component of each rate schedule has been set at or nearly
13 at the cost per customer component identified in the embedded class cost of service
14 study, ...[a]s described by Mr. Chapman and as shown on Schedule M-1...
- 15 2. The Basic Service Charge can be likened to a connection charge for access to service.
16 Customers are already accustomed to paying a fixed monthly charge for access to
17 services such as traditional wired phone service, cell phone service, city utilities, etc.
- 18 3. It is imperative that appropriate fixed costs be collected through the Basic Service Charge
19 in order to minimize intra class subsidies and provide customers with the appropriate
20 price signal.
- 21 4. In all classes, increasing the Basic Service Charge to the amount identified as necessary
22 to recover fixed costs, does not provide a disincentive to wisely use energy. Customers'
23 conservation efforts are rewarded through lower bills because of lower energy
24 consumption. For example, 76 percent of the costs assigned to be recovered under Rate
25 10 will continue to be recovered on a volumetric basis ...

26
27 Aberle Direct, pages 9-10.

28
29 **Q. Did Ms. Aberle claim other benefits from increasing the customer charge by 85.8%**
30 **as proposed?**

31 A. Yes. Ms. Aberle listed the following additional benefits:

- 32
33 • Mitigating the impact of significantly colder or warmer than normal weather
34 on customers' bills.

- 1 • Mitigating the impact abnormal weather has on the Company's ability to
2 recover fixed costs.
- 3 • Residential customers' bills will be more stable as approximately 24 percent
4 of the total bill will be fixed each month and not dependent on changes in
5 weather.
- 6 • Provides a better match of revenues to the investment made to serve each
7 customer. If fixed costs are not recovered from fixed charges, average or
8 higher than average use customers subsidize low use customers regardless of
9 the reason a customer uses less energy than average.

10
11 Aberle Direct, page 10.

12
13 **Q. Do you agree with the reasons the Company puts forth to justify an 85.8% increase**
14 **in the fixed customer charge?**

15 A. No. The significance of the reasons put forth by the Company is overstated, and the
16 Company argument does not address significant problems the increase in the customer
17 charge will cause to some residential customers. With respect to whether the COSS
18 fairly and reasonably captures the costs associated with the customer function, below I
19 discuss reasons why the COSS likely overstates the customer component.

20 **Q. Why you do not agree with the suggestion that the proposed Basic Service Charge**
21 **can be likened to a connection charge for access to service which customers are**
22 **accustomed to paying?**

23 A. The access charges customers pay for wired telephone service are promoted by the
24 utilities, are adopted by government, and do not reflect customer choice. They have crept
25 up over the last several decades in those areas where former monopoly
26 telecommunication companies try to keep revenues up as customers leave for
27 competitors. Those customers who retain their wired regulated phone service are known
28 to reflect inertia. The fact that some customers are accustomed to such charges does not
29 mean they are fair or should be replicated. In addition, Ms. Aberle uses a non-standard
30 definition of “price signal” in this argument. In response to AARP Data Request Set 1,
31 Question 35, she states that “In the context of the referenced testimony, price signal
32 means that prices charged to customers are set in a manner that effectively recover the
33 type of costs necessary to provide service where fixed costs are recovered through a fixed

1 charge type and variable costs are recovered through a volumetric charge.” Price signal
2 means a signal to the customers incenting them to use the product in a desired way,
3 which is a different concept from the way the Company uses the term here.

4 **Q. Do you agree that the proposed Basic Service Charge minimizes intra class**
5 **subsidies?**

6 A. No. The question assumes that including any COSS customer-related costs in the energy
7 charge is by definition an intra-class subsidy. First, to the extent the COSS overstates the
8 customer component, under the same reasoning the proposed Basic Service Charge
9 creates a subsidy of high use customers by low-use customers. Below I discuss
10 theoretical problems with the classification and allocation of distribution costs. Further,
11 the definition of subsidy is malleable; for example, the definition based on embedded
12 costs is not the same as a definition of subsidy at incremental or marginal costs. Finally,
13 there are countervailing values that must be balanced to achieve a just and reasonable
14 customer charge.

15 **Q. Do you agree that increasing the Basic Service Charge to the amount identified by**
16 **MDU as equivalent fixed costs “does not provide a disincentive to wisely use energy”?**

17 A. No. The use of a double-negative weakens the strength of the argument. In any event,
18 because using energy wisely includes using electricity efficiently and using no more than
19 needed, a higher energy charge should incent customers to use electricity wisely.
20 Increasing the fixed portion of the monthly residential utility bill, and correspondingly
21 decreasing the energy charge, will indisputably reduce the rewards that a customer
22 experiences as a result of their conservation and energy efficiency efforts.

23 **Q. Do you agree that the proposed Basic Service Charge mitigates the impact of**
24 **significantly colder or warmer than normal weather on customers' bills, mitigates**
25 **the impact abnormal weather has on the Company's ability to recover fixed costs, and**
26 **that makes residential customers' bills more stable if the customer charge?**

27 A. The underlying premise of these arguments is that having more costs recovered through a
28 fixed charge implies a lower reliance on the energy charge to recover costs. It cannot be

1 disputed that the Basic Service Charge does not change from month to month, whereas
2 weather can move the energy charge. But that observation alone does not establish that
3 the level of bill stability attained is worth the impacts that a higher customer charge has
4 on lower usage customers. If a bill is *always* excessive or unaffordable, it is worse than a
5 bill that sometimes may be too high or unaffordable. Further, the utility is not at risk if it
6 leaves the customer charge at its present level; the utility has not shown any evidence that
7 it has suffered from an inability to recover its costs because of abnormal weather.
8 Indeed, between rate cases the utility may actually earn above its authorized rate of return
9 should weather drive higher-than-normal sales.

10 **Q. Do you agree that the proposed customer charge provides a better match of revenues**
11 **to the investment made to serve each customer?**

12 A. No. The statement is not clear. To the extent it is a restatement of the argument that the
13 proposed high customer charge minimizes intra-class subsidies, I have addressed this
14 issue above.

15 **Q. Is it customary for a utility to recover 100% of its allocation of customer costs from**
16 **the fixed monthly customer charge?**

17 A. No. Utilities often set a reasonable customer charge for residential customers, and collect
18 any remaining allocated customer costs in the per kWh charge.

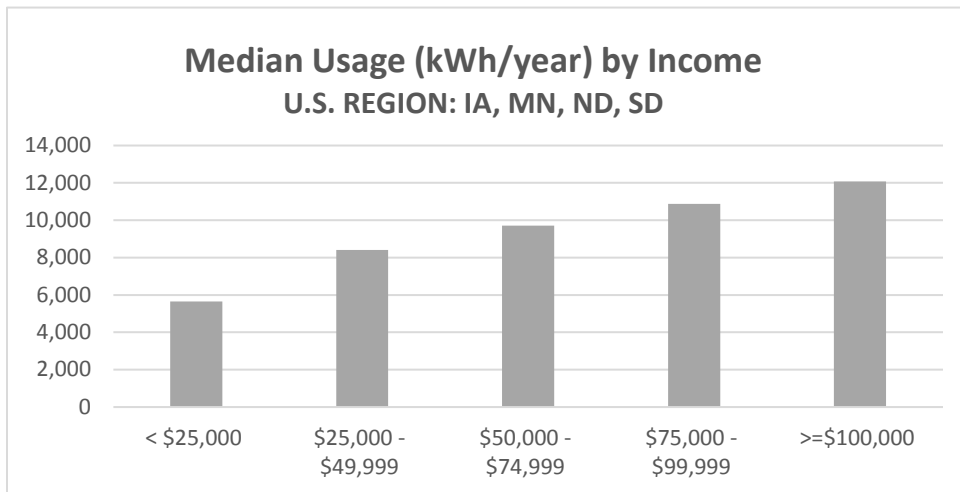
19 **Q. Will a high customer charge fall more heavily on some customers than others?**

20 A. Yes. High customer charges have a disproportionate adverse effect on low-use
21 customers. On average, elderly customers and low-income customers use less electricity
22 that other customers. My Exhibit NB-2 shows that most elderly and low-income
23 customers in the Census region including North Dakota use less than the average amount
24 of power. They would be among the customers hardest hit by an 85.8% increase to the
25 Basic Service Charge. Further, in response to AARP Data Request Set 1, Question 39,
26 the Company provides typical bills for customers with average usage, and with usage
27 above or below the 25th percentiles of usage. The results show that the effective rate per

1 kilowatt-hour (kWh) rises as the usage is reduced. The highest usage customers have a
2 below-average effective rate, and the lowest usage customers have an above-average
3 effective rate.

4 **Q. Is there further evidence that usage can be tied to income levels, with lower income**
5 **households using the least, on average?**

6 A. Yes. Analysis done by the National Consumer Law Center based on the 2009 Residential
7 Energy Consumption Survey (RECS) shows that in the Iowa/Minnesota/North
8 Dakota/South Dakota states of the West North Central Census Division of the Midwest
9 Census Region, median annual electricity usage increases in a fairly straight line fashion
10 from households at the lower ends of the income range to the highest:²



11
12 **Q. Does MDU have demographic information regarding its customers, to aid it and the**
13 **Commission in understanding how various cost increases and rate designs will affect**
14 **different sorts of customers?**

15 A. No. In response to AARP Data Request Set 1, Question 3, MDU acknowledged that it

² National Consumer Law Center, which has cross-tabulated 2009 Residential Electric Consumption Survey (RECS) data for various characteristics. The table below is taken from their publication *Utility Rate Design: How MANDATORY MONTHLY Customer FEES Cause Disproportionate Harm; U.S. REGION: IA, MN, ND, SD*; © Copyright 2015, National Consumer Law Center, used with permission.

1 has limited demographic information concerning its customers, and stated that the most
2 recent survey performed regarding residential energy use and various demographic
3 information was performed in 2006. While some of that information is likely still of
4 value, the fact that it was obtained 10 years ago limits its usefulness. One item that is
5 worth noting is that over 20% of MDU's customers in 2006 were renters. *Id.*,
6 Attachment A, page 5. Renters tend to have lower usage and lower income than
7 homeowners.

8 **Q. Are the low-usage customers year-round, or seasonal customers?**

9 A. MDU does not have a breakout "of customers with electric service for properties that are
10 seasonal use." MDU Response to AARP Data Request Set 1, Question 2. A customer
11 can have year-round service in his or her primary residence and still have very low usage.

12 **Q. Have you examined a bill frequency analysis for MDU in this case?**

13 A. No. In response to an information request, MDU stated that it has not prepared a bill
14 frequency analysis for this case. Response to AARP Data Request Set 1, Question 1.

15 **Q. Is there other information in the record which supports your statement that lower-
16 usage customers will receive higher percentage bill impacts given the proposed
17 increase in the customer charge?**

18 A. Yes. MDU prepared bill comparison annual effects analyses. The residential Rate 10
19 analysis is presented at page 28 of Statement N. Exhibit NB-3, attached, summarizes this
20 information.

21 **Q. What is the maximum bill increase percentage targeted by the Company for any
22 given class?**

23 A. As Ms. Aberle testifies at page 5, line 23, MDU allocated the costs such that no class
24 received an average increase higher than 10.8171 %. I note that this level is premised on
25 the Company's proposed return on equity, which at 10% is higher than needed.

26 **Q. Why do you say that a 10% ROE is higher than needed?**

1 A. I understand Staff’s witness will propose an ROE lower than 10%. This would be
2 consistent with the most recent aggregation of allowed returns published by the
3 Regulatory Research Associates, a well-known subsidiary of Standard & Poors which
4 collects information on revenue requirements and regulatory determinations regarding
5 utilities. See Lillian Federico, *Themes in Utility Markets & Regulation: 2016 & Beyond*
6 *February 3, 2017*, available at [http://marketintelligence.spglobal.com/our-](http://marketintelligence.spglobal.com/our-thinking/ideas/themes-in-utility-markets-regulation-2016-beyond-february-3-2017%C2%A0)
7 [thinking/ideas/themes-in-utility-markets-regulation-2016-beyond-february-3-](http://marketintelligence.spglobal.com/our-thinking/ideas/themes-in-utility-markets-regulation-2016-beyond-february-3-2017%C2%A0)
8 [2017%C2%A0](http://marketintelligence.spglobal.com/our-thinking/ideas/themes-in-utility-markets-regulation-2016-beyond-february-3-2017%C2%A0). In addition, MDU enjoys the benefit of interim rates in North Dakota,
9 which practically eliminates regulatory lag, reducing the risk to MDU of not recovering
10 100% of its required revenues. The allowed ROE should appropriately recognize the
11 lower risk profile associated with interim rate relief. [In this context, I should note that
12 Ms. Aberle in her direct testimony, at page 10, claims that higher fixed charges mitigate
13 “the impact abnormal weather has on the Company's ability to recover fixed costs,” but in
14 response to AARP Data Request Set 1, Question 38, she downplays the notion that this
15 reduced risk has any impact on the Company’s cost of capital. These positions are
16 inconsistent.

17 **Q. Will each residential customer’s bill increase be limited to 10.82%?**

18 A. No. Lower usage customers will see bill increases higher than the class average, in some
19 cases by a large margin. Almost 40% of residential electric customers will see bill
20 increases of 15% or more. Over a quarter of MDU residential customers will see electric
21 bill increases of 20% or more under MDU’s proposed rate design. Such large increases
22 are not consistent with the ratemaking value of gradualism.

23 **Q. Will such customers be able to avoid these very high percentage increases by**
24 **changing their behavior?**

25 A. No. Since the Basic Service Charge is a flat fee, charged regardless of customer usage,
26 there is little a lower use customer can do to mitigate the overall percentage increase in
27 their monthly bills.

1 **Q. If more revenue is recovered via a flat charge, what will be the impact on consumers**
2 **to conserve power?**

3 A. Customers will receive a lower usage charge, and will have less incentive to take
4 measures to use power more efficiently.

5 **Q. What is causing this distribution of high increases to low-use customer?**

6 A. The doubling of the customer charge drives this distribution of bill impacts.

7 **Q. Does the Company acknowledge the need for balancing return requirements and**
8 **fair rates?**

9 A. Yes. In developing the maximum class-wide increase of 10.82 %, MSU determined that
10 mitigation was necessary “in order to balance the fair return standard with the recognition
11 of customer impacts.” Aberle Direct, p. 5, lines 18-20.

12 **Q. Has the Company applied this concept of mitigation to intra-class bills?**

13 A. No. Within the overall class revenue requirement, MDU’s rate design choices determine
14 what bills will be, and the resulting percentage increase encompasses a wide range, from
15 a zero increase for the highest usage customers to an increase of over 50% for the very
16 smallest usage customers.

17 **Q. Have other Commissions recently issued decisions on proposed increases to**
18 **customer charges?**

19 A. Yes. On February 9, 2017, in Docket Nos. E-01933A-15~0239 and E-01933A-15-0322,
20 the Arizona Corporation Commission rejected the proposal of the Tucson Electric Power
21 Company to raise its customer charge for basic residential service. The Company had
22 requested it be increased from \$10 to \$15 (a 50% increase). No increase was allowed.

23 On September 30, 2016, in its Order in Docket No. 15-155, the Massachusetts
24 Department of Public Utilities rejected a proposal by National Grid affiliates to institute a
25 ratcheted tiered customer charge, with some customers to be charged as much as \$20 per
26 month, depending on an annual snapshot of their demand. The customer charge was set

1 at a fixed \$5.50 per month.

2 On June 3, 2016, the Minnesota Public Utilities Commission, in its rate case order in
3 Docket No, G-008/GR-15-424. rejected the request of CenterPoint gas company to raise
4 its customer charge from \$9.50 to \$11.75.

5 **Q. Turning to the amount of revenues the Company states should be borne by the**
6 **customer charge, please state how the Company allocates customer-related costs?**

7 A. The Company allocates customer-related costs based on the relative numbers of
8 customers in the class.

9 **Q. Please describe how the Company classifies distribution costs.**

10 A. As explained by MDU's witness Bruce R. Chapman, the MDU COSS classifies
11 substation costs as demand-related and meter costs as customer-related. The COSS uses
12 two methods to classify costs in FERC Accounts that cover poles, towers, and fixtures
13 (Account 364); overhead conductors and devices (Account 365); underground conduit
14 (Account 366); underground conductors and devices (Account 367); and line
15 transformers (Account 368). Chapman Direct at p. 11-12. MDU uses the minimum-size
16 method for Accounts 364 to 367, basing the classification on a hypothetical
17 representative one-mile system. The COSS uses the zero-intercept method to classify
18 transformers (Account 368).

19 **Q. What distribution costs can properly be classified as customer-related?**

20 A. Meters, service drops and customer service costs can be classified as customer-related.
21 The attempt to identify a portion of other distribution costs as customer-related is subject
22 to controversy. Indeed, the pre-eminent theorist on rate setting, James C. Bonbright,
23 argued in his classic treatise that it is "indefensible" to include the costs of a minimum-
24 sized distribution system among customer-related costs.³

³ Bonbright, *Principles of Public Utility Rates*, 1961, p. 348.

1 **Q. Are there other problems with classifying a minimum-system cost estimate as**
2 **customer-related?**

3 A. Yes. It has been understood for decades that use of a minimum system (including zero
4 intercept) causes a double-counting of demand costs for those whose demand is at or
5 below the load-carrying capacity of the minimum system.

6 **Q. Does MDU argue that it should have the right to determine which cost of service**
7 **study method to use, as the utility?**

8 A. No. I originally read Mr. Chapman to be making that point in his testimony at page 9,
9 lines 13-14 where he says “utilities have broad discretion, typically, in selecting an
10 allocation method” among the various methods recognized. In response to an AARP data
11 request, however, he clarified that he did not mean to argue that the utility’s choice of
12 method should be honored, but rather that there are many allocation methods that are
13 recognized by NARUC. Response to AARP Data Request Set 1, Question 10.

14 **Q. Are you proposing a dollar amount of distribution costs to exclude from customer**
15 **classification, or a dollar adjustment to mitigate the double-counting problem?**

16 A. No. I raise these theoretical problems with the minimum system and related distribution-
17 cost classifications and allocations to underscore that the COSS is not a universally-
18 accepted approach to cost allocation, and that one cannot justify doubling the Basic
19 Service Charge merely by pointing to the results of the MDU COSS.

20 **Q. Are there questions regarding the use of a 12 CP allocator for production**
21 **resources?**

22 A. Yes. The 12 CP method focuses on relative monthly coincident peaks, and does not
23 consider capitalized energy. Utilities plan production resources not only to minimize
24 peak costs, but to minimize energy costs. Mr. Chapman agrees with this observation:

25 Utilities design production systems to serve peak loads while satisfying reliability
26 requirements, and to do so in a manner that attempts to minimize cost over all
27 hours throughout the year.
28

1 AARP Data Request Set 1, Question 20.
2

3 Mr. Chapman also stated in response to AARP Data Request Set 1, Question 17, that
4 among other things, the Company does take into account “objectives related to
5 minimizing energy.” At the same time, Mr. Chapman argues that “the objective of cost
6 minimization does not dictate which method of generation function cost allocation a
7 utility should utilize.” *Id.*, Question 20. While the objective of cost minimization does
8 not “dictate” which method of generation function cost allocation a utility should use,
9 allocators should recognize the factors driving production cost investments. As the
10 Manual states, the common objective of all the production classification and allocation
11 methods “is to allocate production plant costs to customer classes consistent with the cost
12 impact the class loads impose on the utility system.” 1992 Electric Utility Cost
13 Allocation Manual [NARUC Manual], at 39. To the extent that baseload or intermediate
14 plant is selected to reduce overall costs, including energy costs, the energy purpose of
15 such investments should ideally be recognized in classification and cost allocation. The
16 NARUC Manual recognizes that there is evidence that “energy loads are a major
17 determinant of production plan costs,” and that therefore “cost of service analysis may
18 incorporate energy weighting into the treatment of production plant costs.” NARUC
19 Manual at 49.

20 **Q. Are you recommending a different production plant allocator than the 12 CP**
21 **method chosen by MDU in this case?**

22 A. No. I have not conducted an alternative analysis of production plant allocation for this
23 case. My purpose in raising this issue is again to point out that a peak-only allocator may
24 not best match the factors that drive production plant investment. As a result, use of a 12
25 CP allocator may introduce a further question as to the fairness of class allocations in this
26 MDU COSS.

27
28 **Q. Please summarize your testimony and conclusions.**

1 A. The Commission should reject MDU's proposal to double the customer charge. An ideal
2 decision would lower the present customer charge, to relieve low-use customers from the
3 unmitigable impact of the flat monthly fee. High customer charges burden low-use
4 customers, and low-income and elderly customers are disproportionately lower usage
5 customers. Moreover, applying increases to the fixed portion of residential bills, rather
6 than the energy usage portion, reduces the control that customers have over their bills and
7 weakens their incentive to conserve energy or engage in energy efficiency measures.

8 **Q. Does this complete your direct testimony?**

9 A. Yes.

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EXPERIENCE

- Principal, NBrockway & Associates, utility consulting (2003 to present)
- Director of Multi-Utility Research and Policy (NRRI, 2/08 – 10/08)
- Commissioner, New Hampshire Public Utilities Commission (1998-2003)
- Utilities consultant and attorney, National Consumer Law Center (1991-1998)
- General Counsel, Massachusetts Department of Public Utilities (1989-1991)
- Staff Attorney, Assistant General Counsel, Massachusetts Commission (1986-1989)
- Hearings Officer, Senior Staff Attorney, Maine Public Utilities Commission (1982-1986)
- Executive Director, Maine Legal Services for the Elderly, Inc. (1981-1983)
- Staff Attorney, Directing Attorney, Pine Tree Legal Assistance, Inc. (1979-1981)
- Staff Attorney, UMass Student Legal Services (1977-1979)
- Staff Attorney, Western Massachusetts Legal Assistance, Inc. (1976-1977)
- Staff Attorney, Legal Aid Society of New York (1974-1976)

NARUC COMMITTEE MEMBERSHIPS AND PUBLIC SERVICE

- NARUC Energy Resources and Environment Committee
- NARUC Consumer Affairs Committee (Vice-Chair)
- Consumer Affairs Committee, New England Conference of Public Utility Commissioners (Chair)
- Steering Committee, National Council on Competition in the Electric Industry
- ISO-NE Advisory Committee
- NEPOOL Review Board Advisory Committee
- NARUC Ad Hoc Committee on Competition in the Electric Industry
- NARUC Committee on Communications
- FCC Joint Conference on Accounting
- North American Numbering Council
- NBANC Board of Directors

OTHER PUBLIC SERVICE

- Board Chair, PAYSAmerica, Inc., 2004-2008
- Member, New Hampshire Site Evaluation Committee, 1998-2003
- Independent Conservation & Load Management Expert, MA Energy Office, 1991-1993.
- Member, Massachusetts Energy Facility Siting Board
- Member, Massachusetts Board of Registration of Allied Mental Health and Human Services Professional
- Member, Energy and Transportation Task Force, President's Council on Sustainable Development

BAR MEMBERSHIPS

Massachusetts (retired)
Maine (retired)
New York State

EDUCATION

BA with honors, 1970, Smith College, Northampton, MA
J.D., 1973, Yale Law School, New Haven, CT

NANCY BROCKWAY: TESTIMONIES				
Case name	Client Name	Topic	Jurisdiction & Docket No.	Date(s) Filed
In the Matter of the Application of Pepco for Adjustments to its Retail Rates for the Distribution of Electricity	Office of People's Counsel	Rate treatment of legacy meters; metrics for smart meter progress evaluation; unmonetized benefits	Maryland Public Service Corporation Case No. 9418	7/6/16 9/1/16
In the Matter of the Application of Baltimore Gas and Electric Company Inc. for Adjustments to Its Electric and Gas Base Rates	Office of the People's Counsel	Rate treatment of legacy meters; metrics for smart meter progress evaluation; customer acceptance of smart meters; smart meter education; cyber security and privacy	Maryland Public Service Commission Case No. 9406	2/8/16 3/21/16
In the Matter of the Commission's Investigation of Potomac Edison Company's Meter Reading Frequency, Estimates of Bills, and Compliance with Tariff:	Office of the People's Counsel	Prudence of utility's meter reading process and performance	Public Service Commission of Maryland Case No. 9319	7/25/15
In the Matter of the Merger of Exelon Corporation and PHI Holdings, Inc.	Office of the People's Counsel Via Synapse	Risks of merger on ability to regulate resulting firm; reasons for/versus merger approval, grid modernization	Public Service Commission of Maryland Case No. 9361	12/8/14 1/7/15 1/21/15 4/6/15
In the Matter of the Application of Northern States Power Company For Authority to Increase Rates for Electric Service in Minnesota	AARP	Rate Case: Decoupling, customer charges, ROE	Minnesota Public Utilities Commission Docket No. E002/GR-13-86	7/5/74 6/5/74
Application of Entergy Louisiana, LLC for Authority to Change Rates, Approval of Formula Rate Plan and for Related Relief for Operations in Algiers	AARP	Formula Rate Plans, Return on Equity, Recovery of Cancelled Plant Costs, Retroactive Ratemaking, Rate Design	New Orleans City Council UD-13-01	9/18/13 2/3/14
Application of Entergy Gulf States for Authority to Change Rates, Approval of Formula Rate Plan and for Related Relief	AARP	Formula Rate Plans, Return on Equity, Recovery of Cancelled Plant Costs, Retroactive Ratemaking Rate Design	LA PSC U-32707	10/11/13
Application of Entergy Louisiana, LLC for	AARP	Formula Rate Plans, Return on Equity, Recovery of	LA PSC U-32708	8/7/13

Authority to Change Rates, Approval of Formula Rate Plan and for Related Relief		Cancelled Plant Costs, Retroactive Ratemaking Rate Design		
Joint Application of Peoples Natural Gas, Inc. and others for Authority to Purchase Equitable Gas Company, and other approvals.	Pennsylvania Office of Consumer Advocate	Impact of proposed merger on customer service and universal service.	PA PUC Docket Nos. A-2013-2353647; A-2013-2353649; A-2013-2353651	7/24/13 9/6/13
Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc.	Public Utility Law Project of New York	Rate case - Low-income programs, revenue requirements, grid modernization	New York PSC Case Nos. 13-E-0030 and 13-G-0031	5/31/13 6/1/13
IMO First Energy Companies' Smart Meter Deployment Plan	Pennsylvania OCA	Smart meter customer education, impacts on vulnerable customers, privacy, cybersecurity	PA PUC Docket Nos. M-2013-2341990 to M-2013-2341994	4-2-13
IMO Duquesne Light Company Final Smart Meter Implementation and Procurement Plan	Pennsylvania OCA	Education, impacts on vulnerable customers, and cyber-security elements of AMI implementation plan	PA PUC Docket No. M-2009-2123948	10-9-12
IMO Southern Maryland Electric Cooperative Request for Authorization to Proceed with Implementation of an AMI	Maryland Office of the People's Counsel	Regulatory policy on pre-approval and current cost recovery of AMI costs by Maryland cooperative	Maryland PSC Case No. 9294	9/25/12
WUTC v. Avista (rate case)	Washington State Attorney General/Public Counsel	Prudence of smart grid pilot investments/policy considerations for expansions beyond pilots	Washington UTC Docket No. UE-05-120436 et al	9/19/12
Massachusetts Electric Company and Nantucket Electric Company, d/b/a National Grid; Application for Approval of Smart Grid Pilot under § 85	Low Income Affordability Network	Need for granular information on experience of low-income and low-use customers in critical peak pricing pilot	Massachusetts DPU Docket No. 11-129	4/9/12
IMO Application of Arizona Public Service Company to determine the fair value of the utility property of the company for ratemaking purposes, to fix a just and reasonable return...and to approve rate schedules...	AARP	Decoupling, risk and reward, Rate Design	Arizona PSC Docket No. E-01345A-11-0224	1/25/12 1/18/12 12/2/11 11/18/11
In the Matter of the Merger of Exelon Corporation and	Maryland Office of the People's Counsel	Impact of proposed merger on ability of MPSC to regulate BGE effectively	Maryland PSC Case No. 9271	1/20/12 10/26/11 10/12/11

Constellation Energy Group, Inc.				9/16/11
IMO Rocky Mountain Power Company Rate Case	AARP	Rate design, risk and reward	Wyoming PSC Docket No. 20000-384-ER-10	4/11/11
Amended Project Development of Duke Energy Carolinas, LLC for Approval of Decision to Incur Nuclear Generation Pre-Construction Costs	South Carolina Coastal Conservation League	Prudence of further investment in Summer nuclear plan	South Carolina PSC Docket No. 2011-20-E	4/6/11
Petition of PECO Energy Company for approval of its smart meter technology procurement and installation plan: petition for approval of PECO Energy Company's initial dynamic pricing and customer acceptance Plan	Pennsylvania Consumer Advocate	Implementation of Smart Grid plan and preparation for dynamic pricing introduction.	Pennsylvania PUC Docket No. M-2009-2123944	12/23/10; 1/12/11
In the Matter of: An investigation of natural gas retail competition programs	AARP Kentucky	Introduction of retail gas competition.	Kentucky PSC Case No. 2010-00146	6/21/10; 9/21/10
Alberta Smart Grid Inquiry	Office of the Utilities Consumer Advocate	Status of Smart Grid Developments in North America	Alberta Utilities Commission Application No. 1606102 Proceeding ID. 598	6/12/10 [report]
In the Matter of WMECO Smart Grid Pilot Program, filed per Section 85 of the Green Communities Act	Low Income Weatherization and Fuel Assistance Program Network, Massachusetts Energy Directors' Association	Smart Grid pilot design	Massachusetts DPU Docket No. 09-34	5/5/10
Nevada Power and Sierra Pacific Power Integrated Resource Plans	Attorney General, Bureau of Consumer Protection	AMI security, privacy and customer acceptance	Nevada PSC Docket Nos. 10-02009 10-03023	4/26/10
Application of Louisville Gas & Electric Co. for an Adjustment of its Electric and Gas Base Rates	AARP	Cost allocation and rate design	Kentucky Public Service Commission Case No. 2009-00549	4/22/10
In the Matter of NSPI Application to Approve Nova Scotia's Electricity Demand Side Management Plan for 2011	Consumer Advocate appointed by the Utilities and Review Board	DSM program design and evaluation	Nova Scotia UARB Docket No. P-884(3)	4/9/10

In the Matter of the NSTAR Smart Grid Pilot Program, filed per Section 85 of the Green Communities Act	Low Income Weatherization and Fuel Assistance Program Network, Massachusetts Energy Directors' Association	Smart Grid pilot design	Massachusetts DPU Docket No. 09-33	11/6/09
Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company for Approval of Smart Meter Technology Procurement and Installation Plan	Pennsylvania Office of Consumer Advocate	Smart grid deployment; demand response and energy efficiency.	Pennsylvania PUC Docket No. M-2009-2123950	10/21/09
IMO Potomac Electric Company and Delmarva Power & Light Company Request for the Deployment of an Advanced Metering Infrastructure and Establishment of Regulatory Assets	Maryland Office of People's Counsel	Smart grid deployment; demand response and energy efficiency.	Maryland PSC Case No. 9207	10/20/09
Petition of West Penn Power Company d/b/a Allegheny Power for Expedited Approval of its Smart Meter Technology Procurement and Installation Plan	Pennsylvania Office of Consumer Advocate	Smart grid deployment; demand response and energy efficiency.	Pennsylvania PUC Docket No. M-2009-2123951	10/16/09
IMO BG&E Authorization to Deploy a Smart Grid Initiative and to Establish a Surcharge Mechanism for the Recovery of Cost.	Maryland Office of People's Counsel	Smart grid deployment; demand response and energy efficiency.	Maryland PSC Case No. 9208	10/13/09
IMO DTA of FortisAlberta, Phase I/II, 2010-2011	Utilities Consumer Advocate of Alberta	Smart grid deployment	Alberta Utilities Comm'n App. No. 1605170	10/9/09
IMO Unutil and National Grid Smart Grid Plans per Section 85 of the Green Communities Act	Low Income Weatherization and Fuel Assistance Program Network, Massachusetts Energy Directors' Association	Smart Grid pilot design	Massachusetts Department of Public Utilities Docket Nos. 09-32 and 09-31	8/31/09

Columbia Gas Rate Case	AARP	SFV rate design, miscellaneous fees, recovery of uncollectibles via rider	Kentucky PSC Case No. 2009-00141	7/29/09
Appalachian Power Company, etc. ENEC proceeding	Covenant House and West Virginia CAG	Impact of proposed rate increase on low-income customers and means to improve collection procedures.	West Virginia PSC Case No. 09-0177-E-GI	5/26/09
In Re Combined Application of South Carolina Electric and Gas	Friends of the Earth	Need for and cost of proposed Summer nuclear power plant; alternatives including energy efficiency and renewables.	South Carolina Public Service Commission, Docket No. 2008-196-E.	Direct: 10/17/08 Surrebuttal: 11/17/08
Nova Scotia Power, Inc.	NS UARB Consumer Advocate	Proposed general rate increase, rate design.	Nova Scotia Utility and Review Board, P-886	12/07
Pike County Commissioners v. PCL&P	Pennsylvania Office of the Consumer Advocate	Options to address rate shock in transition to uncapped competitive POLR rates	Pennsylvania Public Utilities Commission, Docket No. C-20065942	11/06 (hearing in January 07)
Nova Scotia Power, Inc.	NS UARB Consumer Advocate	Extra Large Industrial Interruptible Rates	Nova Scotia Utility and Review Board, P-883	8/06
UGI/Southern Union, Proposed Merger	Pennsylvania Office of the Consumer Advocate	Impacts of the Proposed Merger on Ratepayers and Rates, Risks and Benefits of Proposed Merger, Synergies, Reliability	Pennsylvania Public Utilities Commission, Docket Nos. A-120011F2000, etc.	5/06
SEMCO Energy Services Gas Cost Recovery Plan	PAYS America, Inc.	Relationship Between DSM and Gas Costs	Michigan Public Service Commission, Docket No. U-14718	5/06 (not admitted)
Re: Electric Service Reliability and Quality Standards	Delaware Public Service Commission	Application of Proposed Rules to Competitive Suppliers and Cooperatives	Delaware Public Service Board, Docket No. 50	1/06
Exelon/Public Service Electric & Gas, Joint Petitioners	New Jersey Division of the Ratepayer Advocate	Risks and Benefits of Proposed Merger of Exelon and PSE&G, Options for Assuring Benefits and Mitigating Risk	New Jersey Board of Public Utilities, BPU Docket No. EM05020106 OAL Docket No. PUC-1874-05	11/05-12/05
Nova Scotia Power, Inc.	NS UARB Consumer Advocate	Economic Development Rates	Nova Scotia Utility and Review Board, P-882	10/05
Nova Scotia Power, Inc.	NS UARB Consumer Advocate	Revenue Requirements, Cost Allocation, Rate Design, Demand Side Management, Economic Development Rates	Nova Scotia Utility and Review Board, P-882	10/05 – 11/05
Bay State Gas Company	Local 273	Customer Service, Reliability, Low-Income Protections, Revenue Requirements	Massachusetts DTE, Docket No. 05-27	7/05
Nova Scotia Power, Inc.	Nova Scotia Utility and Review Board	Domestic Consumer Perspective on Proposed Rate Case Settlement Agreement	Nova Scotia Utility and Review Board, P-881	1/05

Cincinnati Bell Alternative Regulation	Communities United for Action	Universal Service and alternative regulation of telephone service	PUCO, Case No. 96-899-TP-ALT	12/97
UGI-Electric Utilities, Inc.	Pennsylvania OCC	Universal Service issues in electric restructuring plans; including efficiency funding	PA PUC, No. R-00973975	1997
West Penn Power Co.	“	“	PA PUC, No. R-00973981	1997
Duquesne Light Co.	“	“	PA PUC, No. R-00974101	1997
PECO, Inc.,	“	“	PA PUC, No. R-00973953	1997
PP&L	“	“	PA PUC, No. R-00973954	1997
Met Ed.	“	“	PA PUC, No. R-00974008	9/97
Penelec	“	“	PA PUC, No. R-00974009	9/97
In the Matter of the Electric Industry Restructuring Plan	New Hampshire Legal Services	Low-income rates and DSM, impacts of restructuring on low-income consumers	New Hampshire Public Utilities Commission, D.R. 96-150	Nov., Dec. 1996
Notice of Inquiry/ Rulemaking. Establishing the procedures to be followed in electric industry restructuring.	Mass. CAP Directors Association, Mass. Energy Directors Association, named Low-Income Intervenor	Electric industry restructuring	Massachusetts Department of Public Utilities, D.P.U. 96-100.	to 10/98
Telecom Universal Service Docket	Pennsylvania Office of Consumer Advocate	Rate rebalancing, universal service, telephone penetration.	Pennsylvania Public Utilities Commission Docket No. I-00940035	1996
In Re: Complaint of Kenneth D. Williams v. Houston Lighting and Power Co.	Named Low-Income Consumers	Customer service, rate design, demand-side management, revenue requirements	Texas Public Utilities Docket No. 12065	1994-5
Open Access Non-Discriminatory Transmission Services ... and Recovery of Stranded Costs	Direct Action for Rates and Equality, Providence, Rhode Island	Open transmission access in interstate commerce, and stranded costs recovery.	FERC, Nos. RM95-8-000, RM94-7-000.	1994-5
Bath Water District, Proposed Increase in Rates	Maine Office of Public Advocate	Water district cost allocation, rate design, low-income water affordability	Maine Public Utilities Commission, Docket. No. 94-034	12/94, 3/95
Application of Ohio Bell Telephone Co. for Approval of Alternative Form of Regulation	Legal Aid Society of Cleveland and Dayton	Definition of universal telecommunications service, proposal for Universal Service Access program (USA).	Public Utilities Commission of Ohio, Case No. 93-487-TP-ALT	5/4/94
Pennsylvania PUC vs. Bell Telephone of Pennsylvania	Pennsylvania Public Utility Law Project	Definition of "universal telecommunications service"	Pennsylvania PUC No. P-930715	filed 12/93

Exhibit NB-1

Joint Application for Approval of Demand-Side Management Programs, etc.	LG&E; Legal Aid Society of Louisville, other Joint Applicants	Cost-effective DSM programs for low-income customers; collaborative process to design DSM programs; cost allocation and cost recovery.	Kentucky PSC No. 93-150	11/8/93
Texas Utilities Electric Company	Texas Legal Services Center	Costs and benefits of DSM targeted to low-income customers	Texas PUC No. 11735	1993
Texas Utilities Electric Company	Texas Legal Services Center	Proposed Maintenance of Effort Rate for low-income customers	Texas PUC No. 11735	1993
Philadelphia Water Department	Philadelphia Public Advocate	Costs of Unrepaired System Leaks	Philadelphia Water Comm'r.	1992
New England Telephone	Rhode Island Legal Services	DNP for non-basic service	Rhode Island PUC, No. 1997	1991
Kentucky Power Co.	Kentucky Legal Services	Low Income Rate	Kentucky PSC No. 91-066	1991
Investigation into Modernization	Invited by Commission	Impact of modernization costs on low income telephone users	New York PSC	1991

**EXHIBIT NB-2
USAGE BY AGE OF HEAD OF HOUSEHOLD
CENSUS REPORTING GROUP:
IOWA, MINNESOTA, NORTH DAKOTA, SOUTH DAKOTA
2009**

AGE OF HOUSEHOLDER	MEAN AVERAGE ELECTRICITY USAGE [kWh]
Less than 65	11,210
65 or older	9,135
All Households	10,719

AGE OF HOUSEHOLDER	MEDIAN AVERAGE ELECTRICITY USAGE [kWh]
Less than 65	9,401
65 or older	7,306
All Households	8,940

RATIOS

Mean usage, householders 65 or older as percent of all customers: 85%
Ratio: usage householders 65 or older to usage all other households: 81%

Median usage, householders 65 or older as percent of all customers: 82%
Ratio: usage householders 65 or older to usage all other households: 78%

Montana-Dakota Utilities Co.,
Case No. PU-16-666
2016 Electric Rate Increase Application

Direct Testimony and Exhibits
of Nancy Brockway
on behalf of AARP

SOURCE:

Data: 2009 EIA Residential Energy Consumption Survey
Calculations: John Howat, Senior Analyst, National Consumer Law Center

SOURCE: Statement N

Exhibit NB-3

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Overall Annual R10 Bill Increases by Percent of Customers

<u>Customers</u>	<u>Total Customers</u>	<u>Average Monthly Use</u>	<i>Percent Customers</i>	<u>Bill Increase Range</u>
600	600	4202	<i>1%</i>	< 0%
42,721	43,321	1245	<i>42%</i>	1% - 10%
19,623	62,944	558	<i>19%</i>	10% - 15%
11,768	74,712	370	<i>11%</i>	15% - 20%
7,427	82,139	264	<i>7%</i>	20% - 25%
5,123	87,262	196	<i>5%</i>	25% - 30%
6,251	93,513	133	<i>6%</i>	30% - 40%
3,549	97,062	79	<i>3%</i>	40% - 50%
5,590	102,652	29	<i>5%</i>	> 50%

39% Customers with bill increase at least 15%

27% Customers with bill increase at least 20%