



# NEWS RELEASE

**U.S. ARMY CORPS OF ENGINEERS**

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## **It helps to be proactive when it comes to utility rate intervention**

By Karl Thompson

Utilities are big business. With the Army's utility bill expected to surpass \$1.4 billion this fiscal year, it is crucial that we look for ways to control costs when and where it makes sense. We are seeing sharp increases in electrical and gas billings and will likely continue to do so. These increases are attributed to soaring fuel costs, increasing environmental and security costs, carbon taxes, etc; however, as strange as it might seem, conservation is also driving up costs as utilities are revenue driven.

Deregulation of the retail electricity market in the 1990s is also a factor for the rate increases we are experiencing. This primarily is caused by the expiration of reduced rates and frozen rate caps that were implemented by respective state commissions to encourage competition. However, the level of competition that deregulation was expected to generate, and for which was envisioned to be a major utilities self-regulating measure to keep rates competitive, did not occur.

Utilities have been constrained by these rate freezes and caps and have accumulated deferred maintenance and operational costs. These deferred costs coupled with loss of revenue now are putting utilities in a state where they can no longer absorb and accumulate the deferred costs. As a result, utility companies are seeking rate increases to not only recoup these deferred costs but to get reimbursed for other escalating operational and maintenance costs.

Over the last several years, the average rate case increase requested was 8.1 percent, and the average rate case approved was 5.6 percent. Based on the last six years' historical trend and volatility, the probability that prices will continue to rise is greater than 87 percent.

In spite of the fact that we cannot accurately forecast when a utility will file a rate increase request, we can still be proactive. One action that has had significant repayment is the rate intervention taken by Army when a utility proposes a change in rates, terms or conditions of service to the government. Federal Acquisition Regulation (FAR) 41 and Army Regulation (AR) 420-41 provide procedures for working a rate increase.

Generally, we undertake intervention efforts whenever significant rate increases are proposed, where utility operating costs are declining, or where the military installations are paying a disproportionate share of the utility's return on investment. Experience has proven that without intervention and representation, the federal government, with its perceived "deep pockets," will likely pay a disproportionate share of any increase that is negotiated or litigated, or be deprived of its fair share of rate reductions ordered by the regulatory commission. Since 1999, the U.S. Army Engineering and Support Center, Huntsville, has intervened in 55 cases which produced in excess of \$102 million in savings and cost avoidance.

Energy and utilities managers should review all notices received from their utility providers; particularly those that propose a change in rates, terms or rate structure. Most states require that consumers be notified of any rate change prior to implementation. Additionally, most Army utility contracts provide for a notice of a proposed rate change be given to the affected Army installation, which typically are sent with the monthly utility invoice. Should you receive a notice of a proposed increase that will affect your billing, contact the U.S. Army Engineering and Support Center, Huntsville, ATTN: CEHNC-ISP-EG, Karl S. Thompson (256) 895-1275, 4820 University Square, Huntsville, AL 35816.

Should intervention action be warranted, this office will initiate action to provide necessary counsel and expert witness support to protect the Army's consumer interest. Expert witness support and testimony is highly technical and can focus on a variety of topics ranging from traditional revenue requirements, rate design, industry restructuring, or return of investment and cost of service. On an average, a rate case will take about 6-9 months for a final ruling; however, this hinges primarily on the commission's prescribed procedural schedule and the complexity of the rate design factors and cost of service allocations.

Take advantage of us – let us know should you receive a notice of a planned rate increase. You play a vital part in helping us help you control escalating utility costs and to ensure we continue to receive fair and reasonable utility rates.

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#### Acronyms

FAR - Federal Acquisition Regulation

AR - Army Regulation

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