

DE 11-216 PSNH Proposed Alternative Default Service Rate

Office of the Consumer Advocate's Closing Statement

December 20, 2011

This case requires the Commission to consider whether Public Service Company of New Hampshire's (PSNH's) proposed Alternative Default Energy (ADE) Rate meets the requirements of applicable law. Unfortunately, despite the Commission's clear guidance to PSNH in DE 10-160, the migration investigation docket, and the fact that small customers continue to pay higher rates due to how migration impacts PSNH's default service rate, the Company's proposal is not lawful. The proposal also does not address the root cause of the cost shifting resulting from migration, and also may not even help address the impacts of that cost shifting. Therefore, the Commission must reject it as proposed.

RSA 369-B:3, IV(b)(1)(A) requires that the price of PSNH's default energy service "shall be PSNH's actual, prudent, and reasonable costs of providing such power." PSNH's ADE proposal violates this requirement because it includes a penny "add" that the Company admits is not based upon the cost to provide the service, but instead is based on the Company's judgment that a penny seems right – and happens to be close to the amount necessary to recover certain costs related to the mercury scrubber. The Company even admitted at hearing that the amount of the adder was arbitrary. Therefore, because the ADE proposal does not represent PSNH's actual costs of providing energy service, there is no legal basis to approve it.

PSNH has stated that the adder is proposed for two purposes, one of which is to provide additional revenues in the event that the Company's estimate of the cost of providing ADE service is too low. However, this purpose is suspect given the Company's admission at hearing that it is possible that the proposed ADE rate will be too low to recover the actual costs of

providing that service. The Company also proposes that any under-recovery of rate ADE will be paid by all regular default energy service customers. However, this proposal completely undermines the purpose of having a rate ADE, which is to reduce the costs and risks to default energy service customers resulting from migration.

PSNH's second reason for the adder is that it will provide benefits to all regular default service customers. However, if no customers take ADE service, there is no benefit to regular default service customers. And as discussed above, if the actual cost of providing ADE is higher than the ADE rate, there will be harm to regular default service customers. In addition, customers eligible for the ADE rate could game the system, increasing the risk of harm to those who are not eligible to take it. Therefore, these purported benefits are illusory at best.

The ADE as proposed also must fail because it is discriminatory. PSNH has proposed a rate that will not be available to all customers. The Commission clearly stated in its migration Order that "[t]o be consistent with the policy principles of RSA 374-F, such rates must be cost-based and **non-discriminatory** and should not have an adverse effect on competition." Order No. 25,256 at p. 32 (emphasis added). Hearing Exhibit 6 shows that PSNH will not offer ADE to all customers who have migrated in part due to billing software changes that would be necessary. This contradicts RSA 374-F:3, VI which requires that "[r]estructuring of the electric utility industry should be implemented in a manner that benefits all consumers equitably and does not benefit one customer class to the detriment of another . . . [c]osts should not be shifted unfairly among customers." It also violates RSA 378:10, which prohibits preferences or discrimination in rates. The Company also has not done any analysis on the potential impacts on competition.

Hearing Exhibit 7 shows that as of September 2011, 1,447 residential customers, 9,351 small general service customers, and 188 public street lighting customers had migrated to a

competitive supplier. Under PSNH's proposal, if these customers wish to return to default service, they cannot take ADE service. Such disparate treatment amounts to illegal rate discrimination.

Perhaps most troubling for small customers is that the ADE rate, which would not be available to small customers even if they have migrated, is so much cheaper than regular default service. For example, the regular default service was calculated at 7.91 cents/kWh for 2012 in DE 10-215. By contrast, the marginal cost to serve incremental load contained in the ADE rate is estimated to be 6.33 cents/kWh. That implies that the cost related to PSNH using its own plants to provide regular default service is 1.58 cents/kWh more than the cost of buying power from the market. And that does not even include the additional estimated costs related to the mercury scrubber, for which PSNH has proposed to add an additional 1.18 cents/kWh to regular default service, for a total proposed default service rate of 9.09 cents/kWh in 2012. This clearly illustrates the excess costs that PSNH's aging fleet is costing ratepayers, which is a driver for migration, and also shows that the ADE rate is unjust, unreasonable, discriminatory, and does not address the causes or effects of migration.

The Commission's Order in the migration docket stated that "[i]t could prove useful if PSNH were to work collaboratively with the parties and Staff in the development of appropriate alternative default service pricing mechanisms." Order No. 25, 256 at p. 33. PSNH failed to do so, as the OCA, a party in DE 10-160, was not consulted prior to the filing of the ADE rate. PSNH also admitted that it did not seek any customer feedback. If interested parties had been consulted, the OCA would have pointed out the problems discussed above with the proposed rate. Such a collaborative approach would have been much more efficient than proposing a rate that the Commission must now reject.

We respectfully request that the Commission reject the proposed ADE rate and require PSNH to work with interested parties and Staff in the development of a new proposal that actually addresses the cost shifting problems resulting from migration – a problem that only exists for PSNH’s default service customers.

Respectfully submitted,



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