

STATE OF NEW HAMPSHIRE
BEFORE THE
NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

Docket No. DE No. 11-216
PSNH Alternative Energy Service Rate (Rate ADE)

TESTIMONY OF AUGUST G. FROMUTH

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Mr. Fromuth served for seven years in Washington in the Reagan Administration’s Commerce Department as a Deputy Assistant Secretary. Mr. Fromuth was educated at George Washington University (BA) and Johns Hopkins School of Advanced International Studies.

PNE is the only New Hampshire-based competitive supplier, with applications for supplier licenses pending in Massachusetts and Rhode Island.

Freedom Logistics is a licensed competitive supplier in Maine and a licensed broker in a number of New England states, including New Hampshire. Its main focus has been the management of load asset accounts of large customers in New England that participate directly in the ISO-NE wholesale market (“MPEU’s”). Freedom Logistics is also licensed competitive supplier in Maine.

INTRODUCTION

The concept of an alternative default service rate appears to have emerged in Docket No. DE 10-160, *Customer Migration*. In its decision issued at the conclusion of that proceeding, the Commission appeared to be focused upon an alternate rate to “discourage the misuse or long-term use of default service:”

Though there is conflicting evidence as to whether customers who have left default ES for competitive supply will return if ES prices are lower than the market, the potential is certainly there under the current pricing structure to the detriment of residential and smaller commercial customers who have little choice but to remain on ES even as market prices fluctuate above and below ES rates. This ability of customers to move in and out of PSNH’s default ES creates uncertainty in volume, costs, and associated risks for PSNH in planning energy procurement for its default energy service load. For example, in a rising wholesale price environment where market rates are above PSNH’s ES rates, PSNH may have to procure additional energy at a price higher than its average costs to meet the additional load of returning customers who had previously migrated to competitive supply but who return to default service to take advantage of a lower price. PSNH’s purchase of additional supply would raise the average cost and rate to serve all default ES customers in the process. To help defray the costs of this risk, it is reasonable that PSNH be allowed to charge customers who return to its default service an alternative default service rate reflecting the marginal cost to serve that load. **The proper design of a separate rate or rates will**

discourage the misuse or long-term use of default service and allow PSNH to recover the actual costs of providing that service consistent with RSA 369-B:3, IV (b)(1)(a).

Order No. 25,256, DE 10-160 (July 26, 2011) at p.31 (Emphasis added.)

On September 23, 2011, PSNH filed a Petition testimony and related exhibits describing its proposed alternative energy service rate (Rate ADE). The Commission denied PSNH's Petition in Order No. 25,320 (January 26, 2012).

On April 27, 2012, PSNH filed testimony and related exhibits describing its proposed redesigned alternative energy service rate (Rate ADE) and illustrative tariffs.

According to Order No. 25,368 (May 24, 2012):

“[t]he filing raises, *inter alia*, issues relating to whether the marginal cost of energy service in the ADE rate is based on PSNH's actual, prudent and reasonable costs of providing such service consistent with RSA 369-B:3, IV(b)(1)(A), and is just and reasonable as required by RSA 378:7, and the appropriate manner to consider the recovery of the prudent costs of complying with the requirements of RSA 125-O:11 et. seq.”

Moreover, in Order No. 25,372 (June 8, 2012), the Commission further stated that:

[m]any factual issues will need to be developed in order for the Commission to determine, pursuant to RSA 369-B:3, IV(b)(1)(A), RSA Chapter 374-F, and RSA 378:7, whether the proposed redesigned ADE is reasonable and serves the public interest.

In accordance with the above-referenced Orders, the purpose of this testimony is to develop the relevant factual issues needed in order for the Commission to determine, pursuant to RSA 369-B:3, IV(b)(1)(A), RSA Chapter 374-F, RSA 378:7, and RSA 125-O:11, whether the proposed redesigned ADE is reasonable and serves the public interest.

II. APPLICABLE LAW

Consistent with the above-referenced prior Orders of the Commission applicable to this proceeding, and based upon advice of counsel, this testimony assumes that the following laws are applicable to this proceeding and govern the design of Rate ADE:

1. The purpose of RSA 374-F is to “harness[] the power of competitive markets.”¹ A restructured industry will require unbundling of prices and services and at least functional separation of centralized generation services from transmission and distribution services.²

¹ RSA 374-F:1, I

² *Id.*

2. By law, Default Service means electricity supply that is available to retail customers who are otherwise without an electricity supplier.³ Additionally, “[d]efault service should be designed to provide a safety net and to assure universal access and system integrity.”⁴

3. Moreover, “if the commission determines it to be in the public interest, the commission may implement measures to discourage misuse, or long-term use, of default service.”⁵

4. By law, “[t]he price of such default service shall be PSNH’s actual, prudent, and reasonable costs of providing such power. . . .”⁶ Moreover, PSNH shall supply all default service offered in its retail electric service territory from its generation assets and, if necessary, through supplemental power purchases in a manner approved by the commission.⁷

6. The costs of the Scrubber must be recovered through default service.⁸

III. ANALYSIS

A. Issues with respect to RSA 374-F

According to PSNH, Rate ADE is a default energy service rate that complies with the requirements of RSA 374-F. However, as noted above, default service is only “available to retail customers who are otherwise without an electricity supplier.” The very purpose of Rate ADE is to entice customers away from an existing competitive supply. In the absence of Rate ADE, these customers clearly would not otherwise be without a supplier. PSNH erroneously believes that default service is for any customers who, for whatever reason, elect not to have a competitive supplier supply their energy.⁹ If they select Rate ADE, according to PNH, they won’t otherwise have a supplier.

As noted above, by law the purpose default service is only to provide a safety net and to assure universal access and system integrity. The design of Rate ADE most assuredly has nothing to do with providing a safety net or assuring universal access as envisioned by RSA 374-F.

The purpose of New Hampshire’s restructuring law is to “harness the power of competitive markets.” The design of Rate ADE PSNH is proposing to take on the role of a competitive supplier by means of offering a discounted default service rate targeted to customers who have migrated to

³ RSA 374-F:2, I-a

⁴ RSA 374-F:3, V, (c)

⁵ Id.

⁶ RSA 369-B:3, IV, (b)(1)(A).

⁷ Id.

⁸ RSA 125-O:18

⁹ PSNH Response to Q-PNE-FEL-001: “Upon approval of Rate ADE, the Availability section of Default Energy Service Rate DE will be modified so that Rate DE will no longer be available to customers who qualify for service under Rate ADE. Therefore, if a customer has not chosen a supplier and does not otherwise qualify for Rate DE, Rate ADE will be the only rate available to such customers.”

competitive suppliers.¹⁰ Any utility-sponsored program intended to draw customers away from the competitive market has the potential to cause substantial harm to the objectives of RSA 374-F.

Additionally, according to PSNH, Rate ADE would be in existence indefinitely.¹¹ The PUC does not appear to have any authority to implement a default service option to encourage long-term use of default service. Instead, the PUC should instead be adopting measures to discourage long-term use of default service as suggested in its Order No. 25,256, *supra*.

A. Issues with respect to RSA 369 -B

Pursuant to RSA 369 -B, the price of default service under Rates DE and ADE shall be PSNH's actual, prudent, and reasonable costs of providing such power; moreover, PSNH must both supply all default service under Rates DE and ADE in the first instance from its own generation assets.

Rate DE is clearly based upon actual booked costs which are subject to audit by Commission Staff. In contrast, Rate ADE is based upon estimated marginal costs. A marginal cost is nowhere reflected on PSNH's books of account.

There cannot be two very different definitions under RSA 369-B for the term "actual costs:" one based on booked costs (Rate DE), and the other based upon estimated marginal costs (Rate ADE). An "actual" cost is a booked cost as utilized in the calculation of Rate DE for over ten years.

Moreover, PSNH's proposed calculation of Rate ADE admittedly does not include any costs for marketing or outreach programs, or costs for administration, promotional materials, marketing, sales and customer service.^{12 13} Therefore, Rate ADE cannot credibly claim that it is based upon "actual costs." There is no margin built into Rate ADE to cover any of these costs which may well be substantial.

B. Issues with respect to RSA 125-O:18

All of the costs of the Scrubber are required to be recovered through Rate ADE. PSNH is proposing to recover only the non-operating costs of the Scrubber through Rate ADE.¹⁴ In contrast, PSNH has conceded that it has not included operating costs because "cost allocations" would have to be made.¹⁵ Therefore, since the calculation of Rate ADE does not include operating as well as non-operating costs of the Scrubber, it does not comply with the mandate of RSA 125-O:18.

¹⁰ PSNH Response to Q-PNE-FEL-008: "PSNH does not compete for customers in the same manner as a competitive supplier. However, PSNH seeks to offer customers alternatives that provide benefit to all other customers.

¹¹ PSNH Response to Q-PNE-FEL-11: "PSNH does not know how long Rate ADE will be in existence."

¹² PSNH Response to Q-PNE-FEL-22: "PSNH has not formulated any marketing or outreach programs... ." .

¹³ PSNH Response to Q-PNE-FEL-33: "Please see the response to OCA-02, Q-OCA-002 and PNE-FEL-02, Q-PNE-FEL-002."

¹⁴ PSNH Response to Q-PNE-FEL-55: "Rate ADE is comprised of PSNH's marginal cost and the non-operating costs of the scrubber which are the Company's actual, prudent and reasonable costs of providing such power.

¹⁵ PSNH Response to Q-PNE-FEL-55: "Unlike non-operating costs, which are readily identifiable, operating costs associated with the Scrubber cannot be easily determined. Cost allocations would have to be made for plant costs such as labor and administrative and general expenses. Rather than base the adder on allocated cost, PSNH

V. SUMMARY AND CONCLUSION

For all of the foregoing reasons, the Commission should not approve Rate ADE as proposed, or any variant thereof. Default service is intended to be a “last resort” supply of electricity, not a competitive supply provided by PSNH to entice customers away from the competitive market.

Proposed Rate ADE is not based upon “actual costs” as that term has been defined and applied for at least a decade in accordance with RSA 369-B. Moreover, PSNH’s proposed calculation of Rate ADE admittedly does not include any costs for marketing or outreach programs, or costs for administration, promotional materials, marketing, sales and customer service.

Moreover, the PUC does not appear to have any authority to implement a default service option to encourage long-term use of default service. Finally, Rate ADE does not include the operating costs of the Scrubber as it must in order to comply with RSA 125-O:18.

In conclusion, allowing PSNH to offer this rate class is anti-competitive. It would reverse years of progress in creating sustainable alternatives to the dominance of PSNH in the provision of commodity energy. And it would confuse end users who have been messaged, repeatedly, by PSNH personnel and senior management, that PSNH is totally indifferent from whom they buy energy. Now PSNH wants to advocate a return to PSNH default service by those end users who have migrated by offering a price that is a discount to the “shelve price” of default service.

Furthermore, following the introduction of choice in the electric marketplace, New Hampshire has realized investment commitment and employment growth from the many companies now engaged in this commerce. A major objective of NH’s electricity restructuring law was to foster cost competition with the host utilities; end users have spoken and now more than three quarters of the largest ones buy their power elsewhere. Public policy through the terms of three Governors, statutes and regulations -- and now the marketplace -- have been directionally consistent for over a decade on how the New Hampshire electric marketplace should evolve. The Public Utilities Commission should reinforce that policy by rejecting PSNH’s ADE rate request.

proposes that the adder only include non-operating costs.”