◄ This document has Bookmarks by Order Number and Petitioner for easier navigation.

[Go to End of 79511]

Re Northern Utilities, Inc.

DF 83-2, Order No. 16,136

68 NH PUC 1

New Hampshire Public Utilities Commission

January 5, 1983

ORDER amending a utility's short-term debt borrowing limitation.

SECURITY ISSUES, § 98 — Kinds and proportions — Short-term notes — Limitations and factors.

[N.H.] Although a utility's short-term borrowing was supposed to be limited to 10 per cent of its net fixed capital account, where the company had recently completed a fuel inventory financing, had made additions, improvements, and extensions to its plant, and would not be able to negotiate long-term financing, the commission authorized a much higher level of short-term debt for the company.

BY THE COMMISSION:

ORDER

WHEREAS, Northern Utilities, Inc., a New Hampshire Corporation having its principal place of lousiness in Portsmouth, New Hampshire, and operating as a gas utility under the jurisdiction of this Commission, on December 30, 1982, filed with this Commission a petition changing its short-term borrowing limitation from $8,500,000, as ordered in Order No. 16,009 issued November 19, 1982 (67 NH PUC 839), to $8,000,000; and

WHEREAS, expiration of Order No. 16,009, places the Company under Supplemental Order No. 7446, which authorizes the Company to issue and have outstanding aggregate short-term indebtedness in amount not to exceed 10% of its net fixed capital account rounded to the highest $10,000; and

WHEREAS, as of December 23, 1982 the Company completed a Fuel Inventory Financing which reduced the level of short-term bank debt to approximately $5,000,000; and

WHEREAS, the Company expended $1,624,275 in eleven months ending November 30, 1982 for additions, extensions and improvements to plant and equipment and estimates capital expenditures of $1,931,700 in 1983; and

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WHEREAS, the net fixed capital of the Company as of November 30,1982 was $21,555,303 against which the Company would be entitled to have outstanding $2,156,000 of short-term notes; and

WHEREAS, the Company was not able to solicit long-term financing during 1982 under the indenture which bonds New Hampshire property; and

WHEREAS, the Company requests that the short-term debt limit be set at $8,000,000 for a period of at least six months in order to gain experience under its Fuel Inventory Financing,

Page 1

ordered in Order No. 16,002 issued November 22, 1982 (67 NH PUC 841); it is

ORDERED, that Northern Utilities, Inc. be, and hereby is, authorized to issue and sell, and from time to time to renew for cash its note or notes payable less than 12 months after the date thereof in an aggregate principal amount not exceeding $8,000,000; and it is

FURTHER ORDERED, that authority to renew its notes up to an aggregate amount of $8,000,000 shall expire as of June 30, 1983, at which time the Company will be required to submit its plans for future financing and to redefine the level of short-term debt based on its experience with the Fuel Inventory Financing; and it is

FURTHER ORDERED, that on or before January 1 and July 1 of each year, the Company will file with this Commission a detailed statement, duly sworn by its Treasurer, showing the disposition of the proceeds of the notes herein authorized until the expediters of the whole of said proceeds shall be fully accounted for.

By order of the Public Utilities Commission of New Hampshire this fifth day of January, 1983.

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NH.PUC*01/07/83*[79512]*68 NH PUC 2*Gas Utilities Supply and Demand

[Go to End of 79512]

Re Gas Utilities Supply and Demand

DL 83-5, Order No. 16,124

68 NH PUC 2

New Hampshire Public Utilities Commission

January 7, 1983

ORDER adopting a docket to assess management planning in the areas of gas supply, demand, and quality.

BY THE COMMISSION:

ORDER

WHEREAS, in Report and Order No. 16,010 in Docket DR 80-29 (67 NH PUC 854), the Commission ordered the regulated gas utilities to submit forecasts of gas supply and demand and their algorithm for producing such forecasts; and

WHEREAS, the Commission may require such reports setting forth statistics and facts, and require such reports be verified by oath pursuant to RSA 374:15; and

WHEREAS, the Commission has the power to investigate and ascertain the quality of gas supplied by public utilities and the methods employed by public utilities in supplying gas pursuant to RSA 374:7; and

Page 2

WHEREAS; the Commission has the power and the duty to keep informed as to all public utilities in the state pursuant to RSA 374:4; and

WHEREAS; management planning for gas supply will affect the costs of such gas utilities in the future; and

WHEREAS, such costs will be proposed to be collected at some time in the future; and

WHEREAS, the authority of the Commission to make orders directly affecting rates is plenary pursuant to RSA 374:3; it is hereby

ORDERED; that Docket DL 83-5 is hereby opened to receive all documents ordered to be prepared and provided pursuant to Report and Order No. 16,010; and it is

FURTHER ORDERED, that in, such docket, the sufficiency and quality of management planning for gas supply and demand will be considered including methods for improving upon such planning processes as well as such further reports from the gas utilities as the Commission may require now and in the future; and it is

FURTHER ORDERED, that a procedural hearing to establish a schedule for discovery shall be held on February 24, 1983 at the offices of the Commission in Concord, New Hampshire at 10:00 A.M.

By Order of the Public Utilities Commission of New Hampshire this seventh day of January, 1983.

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NH.PUC*01/07/83*[79513]*68 NH PUC 3*New England Telephone and Telegraph Company

[Go to End of 79513]

Re New England Telephone and Telegraph Company

DR 82-363, Order No. 16,126

68 NH PUC 3

New Hampshire Public Utilities Commission

January 7, 1983

ORDER accepting tariff revisions for the provision of telephone Centrex services.

BY THE COMMISSION:

ORDER

WHEREAS, New England Telephone and Telegraph Company filed with this Commission on December l, 1982 certain revisions to its Tariff NHPUC No. 70 pertaining to the provision of Centrex services; and

WHEREAS, the Commission finds such revisions in the public good; it is

ORDERED, that the following revisions to Tariff No. 70 be, and hereby are, approved for effect on December 31, 1982:

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Part III Section 1, 15th Revised Page 9 Section 23, 9th Revised Pages 1 and 2 Section 23, 17th Revised Page 3 Section 23, 15th Revised Page 4 Section 23, 12th Revised Page 5 Section 23, 29th Revised Page 9 Section 23, Original Pages 9A and 9B Section 23, 17th Revised Page 12 Section 23, 5th Revised Page 13D through 13H and 13J Section 23, 1st Revised Page 13K Section 23, 3rd Revised Page 13L Section 23, Original Pages 13M, 13N, 13P, 13Q, 13R Section 33, 2nd Revised Page 4 Section 40, 7th Revised Page 1.2

By order of the Public Utilities Commission of New Hampshire this seventh day of January, 1983.

==========

NH.PUC*01/12/83*[79514]*68 NH PUC 4*Public Service Company of New Hampshire

[Go to End of 79514]

Re Public Service Company of New Hampshire

DF 82-307, Supplemental Order No. 16,139

68 NH PUC 4

New Hampshire Public Utilities Commission

January 12, 1983

APPLICATION for authority to issue and sell common stock; granted.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

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WHEREAS, our Order No. 16,090 dated December 29, 1982 (67 NH PUC 955), issued in the above-entitled proceeding, authorized Public Service Company of New Hampshire to issue and sell not exceeding five million (5,000,000) shares of Common Stock, $5 par value; and

WHEREAS, following negotiations with underwriters, the Company has submitted to this Commission the details concerning the sale of said Common Stock, which contemplate the issue and sale of FIVE MILLION (5,000,000) shares of said Common Stock by the Company to underwriters who will make a public offering thereof, as set forth in the Underwriting Agreement between the Company and the underwriters, a copy of which is to be filed with the Commission, said Common Stock to be sold at a price to the Company of $ 18.295 per share; and

WHEREAS, after due consideration, it appears that the issue and sale of said Common Stock upon the terms, including the price, hereinabove set forth or referred to, is consistent with the public good; it is

ORDERED, that Public Service Company of New Hampshire be, and hereby is, authorized to issue and sell at a price of $18.295 per share in cash

Page 4

FIVE MILLION shares of its Common Stock, $5 par value, said stock to be sold at said price of $18.295 per share to underwriters who will make a public offering thereof, as set forth in the Underwriting Agreement between the Company and the underwriters; and it is

FURTHER ORDERED, that on or before July first and January first in each year, said PSNH shall file with this Commission a detailed statement, duly sworn to by its treasurer or assistant treasurer showing the disposition of the proceeds of said securities, until the expenditure of the whole of said proceeds shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this twelfth day of January, 1983.

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NH.PUC*01/14/83*[79515]*68 NH PUC 5*Public Service Company of New Hampshire

[Go to End of 79515]

Re Public Service Company of New Hampshire

DF 82-33 1, Order No. 16,140

68 NH PUC 5

New Hampshire Public Utilities Commission

January 14, 1983

PETITION by an electric company to extend the maturity date of term notes; granted.

SECURITY ISSUES, § 98 — Kinds and proportions — Term notes — Extension of maturity date.

[N.H.] The commission allowed an electric company to extend the maturity date of term notes where it was deemed preferable to extend the due date rather than repay the notes at maturity, so as to allow the use of other permanent financings in meeting the company's heavy construction financing needs.

APPEARANCES: Frederick J. Coolbroth and D. Pierre G. Cameron, Jr., for the petitioner.

BY THE COMMISSION:

Opinion by LOVE, chairman: By this unopposed petition filed November 17, 1982, Public Service Company of New Hampshire (the "Company"), a corporation organized and existing under the laws of the State of New Hampshire and operating therein as an electric public utility under the jurisdiction of this Commission, seeks authority pursuant to the provisions of RSA 369 to further extend the maturity of term notes originally issued pursuant to our Order No. 12, 991 dated December 19, 1977 (62 NH PUC 336),

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and now outstanding under Order No. 15,413 dated January 5, 1982 (67 NH PUC 8), in the aggregate amount of $25,000,000

A hearing was held on the petition at the Commission offices in Concord on December 23, 1982. At the hearing, various questions were asked of the Company concerning recent developments involving the Seabrook project and PSNH's financial situation. Included in this inquiry were questions concerning recent events and announcements as to the cost of Seabrook, alterations in the completion dates, recent PSNH financial forecast runs, bond ratings, actions by PSNH's Seabrook partners, and changes in the number of employees to be used by PSNH at Seabrook II in 1983.

At the hearing, Charles Bayless, Financial Vice President, testified that the petition was to extend until January 13, 1984, the maturity of $25,000,000 in principal amount of term notes now outstanding and payable on January 11, 1983. The seven lending banks and the amount each has chosen to lend the Company are as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

```
Citibank, N.A.                     $5,000,000
The First National Bank of Boston  5,000,000
Manufacturers Hanover Trust
Company                            5,000,000
Morgan Guaranty Trust
Company of New York                5,000,000
Bank of America National
Trust and Savings Association      2,000,000
Continental Illinois National Bank
and Trust Company of Chicago       2,000,000
Shawmut Bank of Boston, N.A.       1,000,000
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Mr. Bayless testified that the Company and the banks were currently negotiating the proposed extension of maturity and that the Company is not seeking any other changes in terms. These proposed terms provide for interest to be paid quarterly at fluctuating interest rates per annum equal to the sum of 116% of the base commercial lending rate charged from time to time by the First National Bank of Boston, plus 1/4% and that the principal or any portion in integral multiples of $1,000,000 may be repaid at any time upon three days notice.

These terms remain almost identical, if not identical, to the terms originally put forward when this term note was first undertaken. It would appear that the intervening changes to PSNH have had neither a positive nor a negative impact on the terms. Witness Bayless testified that the Company finds it preferable to extend the maturity of the term notes rather than repaying them at maturity so as to allow the use of other permanent financings to be utilized to meet the Company's heavy 1983 construction financing requirements.

The Company submitted a balance sheet as of the thirtieth of September, 1982 reflecting actual and pro formed for the extension of the $25,000,000 Term notes.

The term notes presented in this proceeding are routine financial instruments of indebtness and their use will be for among other purposes a construction program that PSNH has a vested right to complete. Re Public Service Co. of New Hampshire (1982) 122 NH 1062, 51 PUR4th 298, 454 A2d 435. By this decision, the Supreme Court has set forth that PSNH has a vested right to complete both units at Seabrook and that any questions regarding the prudency of the use of these proceeds or any other prudency question regarding their construction program be deferred until said construction program is asked

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to be borne by ratepayers in their electric rates.

Based upon the foregoing analysis, the Commission approves the proposed financing as for a lawful corporate purpose and thereby approves the extension of the term loans.

The Commission as noted earlier requested information on the new reduction in the workforce at Seabrook II. The Commission had been notified by counsel that the reduction of 1000 should not be compared to the 2600 figure that appeared in the media. The Commission asked for the proposed construction workforce without the reduction or without the delay of the second unit. The Commission received this data and the data was marked as Exhibit 4 in this proceeding. The Commission then asked Mr. Bayless which number the 1000 work-force should be compared to so as to measure the effect of this reduction. The Commission has been told by Public Service that we have misunderstood prior testimony about employee levels and the Commission was anxious to inform itself of the proper level of employees and how much a reduction this down to a 1000 workers reflected.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Item 1

SEARROOK STATION
Unit 2 Only — Manpower
Per November 1982 Estimate
Commercial Operation Unit 2 — 3/31/87

DirectIndirectSub-Total

	ManualManual	*Manuals Only*	*Non-Manuals*	*Total*	
1983 — January	8134	280	1,114	309	1,423
February	882	297	1,179	328	1,507
March	1,150	387	1,537	424	1,961
April	1,355	455	1,810	479	2,289
May	1,487	504	1,991	515	2,506
June	1,390	468	1,858	542	2,400
July	1,856	625	2,481	649	3,130
August	1,886	635	2,521	693	3,214
September	1,868	631	2,499	714	3,214
October	2,172	732	2,904	861	3,765
November	2,075	700	2,775	861	3,636
December	2,686*	856	3,542	1,085	4,627
Average	1,637	548	2,184	622	2,806
	Bayless	Merrill	Cameron		

Number given to press.

The Commission had requested the above table in a request for information. We had also heard from PSNH via affidavit that the partners had agreed to a "1983 construction program for Seabrook Nuclear Power Plant #2 pursuant to which cash expenditures of approximately $80,000,000 would be made on the construction of Unit 2 *an average construction*

Page 7

workforce of approximately 1000 would be continued on Unit 2 during 1983."[1(1)]

The Commission, which held the hearing on December 23, 1982, believed that the freshness of the partners meeting two days previously would allow for a quick comparison of the "average construction workforce of approximately 1000" to what would have occurred with no slowdown.

The answers we received were as follows: First, Mr. Bayless confirmed that the comparison to the 2600 figure he had made in the press was in error. Second, he stated that the more proper comparison was to the average of column 1, direct manual, or 1,637. He testified that he had received his information from Paul Welsh, Yankee Atomic Electric Company, overseers of the Seabrook project. He noted that there would be more than 1000 people since this figure didn't include column 2 or 4, either the indirect manual or the non-manual workers. Third, Mr. Cameron then testified that his understanding was that the 1000 workers was the absolute maximum and included all workers, direct manual, indirect manual and non-manuals. It was his testimony that the 1000 workforce compared to the final or fifth column, which averaged 2806. Under Mr. Cameron's understanding, 1000 meant 1000, and his source was Mr. Merrill. This conflict was disturbing to all present, and there was the promise of a more definitive statement to be sent later by Mr. Merrill. Fourth, Mr. Merrill sent an affidavit stating in essence that both Mr. Cameron and Mr. Bayless were wrong, and the comparison number was the average of column 3, or 2,184. This would allow for additional non-manual (or supervisors) beyond 1000. Thus, the workforce according to Mr. Merrill will be larger than 1000.

Three different answers from three of the top four corporate officers two days after a formal presentation is made to the partners on the extent of the revised workforce is what we received.

The Commission was also informed that Duff and Phelps had downgraded PSNH's bond ratings based upon the 4470 increase in the price of the Sea-brook project.

Our Order will issue accordingly.

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ORDER

Based upon consideration of the foregoing report, which is made a part hereof; it is

ORDERED, that Public Service Company of New Hampshire be, and hereby is, authorized to extend until January 13, 1984, the maturity of its Term Notes in the aggregate amount of $25,000,000 presently payable on January 11, 1983, to the banks as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Bank	Amount
Citibank, N.A.	$5,000,000
The First National Bank of Boston	5,000,000
Manufacturers Hanover Trust Company	5,000,000
Morgan Guaranty Trust Company of New York	5,000,000
Bank of America National Trust and savings Association	2,000,000
Continental Illinois National Bank and Trust Company of Chicago	2,000,000
Shawmut Bank of Boston, N.A.	1,000,000

and bearing interest at fluctuating rates per annum equal at all times to

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the sum of 116% of the base commercial lending rate charged from time to time by The First National Bank of Boston, plus 1/4%.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of January, 1983.

FOOTNOTE

[1]Affidavit, December 21, 1982 by D. Pierre G. Cameron, Jr., General Council concurring December 21, 1982 — Partners Meeting.

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NH.PUC*01/14/83*[79516]*68 NH PUC 9*Hampton Water Works Company

[Go to End of 79516]

Re Hampton Water Works Company

DR 81-283, Fourth Supplemental Order No. 16,141

68 NH PUC 9

New Hampshire Public Utilities Commission

January 14, 1983

ORDER approving a water company's step increase rate adjustment as formulated at a settlement conference.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, the Commission in Second Supplemental Order No. 15,619, dated May 1, 1982 (67 NH PUC 295), in this docket provided for a Second Step Increase, in accordance with the provisions of Settlement Document No. 1, for effect on January 1, 1983; and

WHEREAS, the petitioner on December 8, 1982, filed a 19 page document with the Commission supporting an $81,546 annual increase in conformance with the guidelines laid down for the Step Increase; and

WHEREAS, Mr. Traum and Mr. Lessels of the Commission staff on December 15, 1982, sent an exhaustive data request on the filing to the Company which was responded to in two parts on December 23, 1982 and January 4, 1983; and

WHEREAS, all parties involved in the initial phase of the docket were supplied copies of all documents herein related, and were invited to participate in a settlement conference held on January 6, 1983 at the Commission offices in Concord; and

WHEREAS, the result of the aforementioned conference was summarized in a letter of agreement submitted to the Commission on January 12, 1983, and not disputed by any party; it is

ORDERED, that Hampton Water Works Company be allowed to increase its rates to customers by $35,500 on an annual basis effective January 1, 1983; and it is

FURTHER ORDERED, that the Third Step Increase allowed by the Commission in Second Supplemental Order No. 15,619 (67 NH PUC 295) shall be enlarged to encompass the following actual increases or decreases in

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annual costs then being incurred by the Company for purchased power and property taxes. In addition the step increase will reflect the actual cost rate of the 14.0% General Manage Bonds due in 1997, which was estimated to be 14.50% in the Second Step Increase.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of January, 1983.

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NH.PUC*01/17/83*[79517]*68 NH PUC 10*Continental Telephone Company of Maine

[Go to End of 79517]

Re Continental Telephone Company of Maine

DR 82-367, Supplemental Order No. 16,143

68 NH PUC 10

New Hampshire Public Utilities Commission

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January 17, 1983

ORDER accepting a telephone company's compliance tariff sheets for selective calling services.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, Commission Order 16,093 (67 NH PUC 959), rejected Section 7, Original Sheet 3 of the Continental Telephone Company of Maine tariff, NHPUC No 4 — Telephone; and

WHEREAS, said order directed the filing of Section 7, 1st Revised Sheet 3, said sheet to indicate the following rates for Selective Calling Services:

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

Toll Band 1 $0.95
Toll Band 2 1.25
Toll Band 3 1.60; and
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WHEREAS, Continental Telephone Company of Maine on January 4, 1983 filed such revised sheet in compliance; it is

ORDERED, that Section 7, 1st Revised Sheet 3, Continental Telephone Company of Maine tariff, NHPUC No. 4 — Telephone, be, and hereby is, approved for effect on January 7, 1983.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of January, 1983.

==========

NH.PUC*01/17/83*[79518]*68 NH PUC 11*New England Telephone and Telegraph Company

[Go to End of 79518]

Re New England Telephone and Telegraph Company

DE 83-17, Order No. 16,145

68 NH PUC 11

New Hampshire Public Utilities Commission

January 17, 1983

ORDER approving a telephone company's tariffs as revised to include procedures for submarine construction.

BY THE COMMISSION:

ORDER

WHEREAS, Commission Order No. 15,775 in Docket DE 82-147 (67 NH PUC 551) required New England Telephone to incorporate procedures for submarine construction in its tariff; and WHEREAS, the Company's filing of Part A, Section 2, 1st Revised Page 1 of its tariff,

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NHPUC No. 75, is deemed satisfactory compliance with said order; it is

ORDERED, that Part A, Section 2, 1st Revised Page 1 be, and hereby is, approved for effect on February 2, 1983.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of January, 1983.

==========

NH.PUC*01/17/83*[79519]*68 NH PUC 11*Granite State Telephone Company

[Go to End of 79519]

Re Granite State Telephone Company

DR 83-16, Order No. 16,146

68 NH PUC 11

New Hampshire Public Utilities Commission

January 17, 1983

PETITION by a telephone company to implement special calling services; granted.

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BY THE COMMISSION:

ORDER

WHEREAS, Granite State Telephone has filed with this Commission certain pages to its tariff, NHPUC No. 6 — Telephone, said pages proposing the addition of both Circle Calling and Granite State Calling services; and

WHEREAS, this Commission has indicated in past cases that the offering of such services, standardized among New Hampshire's telephone utilities, is for the public good; it is

ORDERED, that Section 5, Original Sheets 6-11, Granite State Telephone tariff, NHPUC No. 6 — Telephone, be, and hereby are, approved for effect on February 1, 1983; and it is

FURTHER ORDERED, that the availability of such services be widely publicized among affected exchanges.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of January, 1983.

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NH.PUC*01/17/83*[79520]*68 NH PUC 12*Continental Telephone Company of New Hampshire, Inc.

[Go to End of 79520]

Re Continental Telephone Company of New Hampshire, Inc.

DR 83-18, Order No. 16,147

68 NH PUC 12

New Hampshire Public Utilities Commission

January 17, 1983

ORDER affirming the deregulation of party-line customer premises equipment.

BY THE COMMISSION:

ORDER

WHEREAS, the Federal Communications Commission in its Public Notice of December 10, 1982 issued guidance to Independent Telephone companies on the implementation of Computer II; and

WHEREAS, said document included information on the party-line CPE indicating that it would be deregulated effective January 1, 1983; and

WHEREAS, said information prompts certain wording in the Continental tariff which indicates party-line CPE remains regulated and subject to tariff provisions; and

WHEREAS, Continental has filed revised tariff pages conforming to the FCC mandate, deleting said party-line restrictions; it is

ORDERED, that Section 2, 3rd Revised Sheet 3; and Section 3, 4th Revised Sheet 3, Continental Telephone Company of New Hampshire, Inc. tariff, NHPUC No. 11 — Telephone, be,

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and hereby are, allowed to become effective February 4, 1983.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of January, 1983.

==========

NH.PUC*01/17/83*[79521]*68 NH PUC 13*Continental Telephone Company of Maine

[Go to End of 79521]

Re Continental Telephone Company of Maine

DR 83-15, Order No. 16,148

68 NH PUC 13

New Hampshire Public Utilities Commission

January 17, 1983

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ORDER affirming the deregulation of party-line customer premises equipment.

BY THE COMMISSION:

ORDER

WHEREAS, the Federal Communications Commission in its Public Notice of December 10, 1982 issued guidance to Independent Telephone companies on the interpretation of Computer II; and

WHEREAS, said document included information on the party-line CPE indicating that it would be deregulated effective January 1, 1983; and

WHEREAS, said information prompts certain wording in the Continental tariff which indicates party-line CPE remains regulated and subject to tariff provisions; and

WHEREAS, Continental has filed revised tariff pages conforming to the FCC mandate, deleting said party-line restrictions; it is

ORDERED, that Section 2, 2nd Revised Sheet 3; and Section 4, 5th Revised Sheet 3, Continental Telephone Company of Maine tariff, NHPUC No. 4 — Telephone, be, and hereby are, allowed to become effective February 4, 1983.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of January, 1983.

==========

NH.PUC*01/17/83*[79522]*68 NH PUC 14*Information to Consumers

[Go to End of 79522]

Re Information to Consumers

DRM 82-28, Fourth Supplemental Order No. 16,149

68 NH PUC 14

New Hampshire Public Utilities Commission

January 17, 1983

ORDER requiring utilities to distribute new consumer information pamphlets concerning emergency winter termination rules.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

Order by AESCHLIMAN, commissioner: WHEREAS, the Commission has adopted rules 503.03(g), 303.03(g) and 101.01(m) concerning information to consumers; and

WHEREAS, the Consumers' Rights and Responsibilities pamphlet is now available for

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distribution; and

WHEREAS, the rules require that a simple bill stuffer concerning the pamphlet be sent at least three times a year; and

WHEREAS, since the publication of the pamphlet the Commission has adopted a new emergency rule concerning winter terminations; that it is hereby

ORDERED, that all pamphlets distributed during the winter period include an insert detailing the provisions of the emergency winter termination rules; and it is

FURTHER ORDERED, that samples of these inserts and of the bill stuffers be sent to the Consumer Assistance Division.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of January, 1983.

==========

NH.PUC*01/18/83*[79523]*68 NH PUC 14*Concord Electric Company

[Go to End of 79523]

Re Concord Electric Company

DR 81-97, Sixth Supplemental Order No. 16,150

68 NH PUC 14

New Hampshire Public Utilities Commission

January 18, 1983

PETITION by an electric company to adjust rates to reflect pension fund costs; granted.

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EXPENSES, § 49 — Employee pensions — Past obligations — Current recognition — Reasonableness.

[N.H.] Although it may be reasonable to spread payments to a pension fund out over a long period of time when those payments are going toward a past service obligation, it may be just as reasonable to give the payments current recognition where the payments have been made and pledged to be retained in good faith and where there have been no allegations of unreasonableness, imprudence, or fraud.

BY THE COMMISSION:

Opinion by LOVE, chairman: Concord Electric Company filed a petition for an increase in

rates related to a second step provision allowed pursuant to this docket. This second step increase was allowed through specific provisions of our Report and Order No. 15,145 issued on October 6, 1981 (66 NH PUC 389).

The Commission allowed this second step increase by Report and Order No. 15,960 on November 3, 1982 (67 NH PUC 762). However, the Commission reserved judgment on the proper treatment of certain pension fund costs.

The Company has asked that the pension costs be allowed to remain at the same level as found in the original rate case, or $254,077. The Company actually paid this level to the pension fund. Since this level was actually paid, the question becomes whether or not there are any contentions or evidence of imprudence, mismanagement, fraud, excessive spending, or unreasonableness. There is no such evidence or contention.

The question raised by Staff is given that some of the payment made is going towards a past service obligation, isn't it more reasonable to fund this over a longer period of time? The answer is yes. It would be more reasonable to spread these costs out over time; however, it is not per se unreasonable to spread the costs over a shorter period of time.

Where here there is a question of timing, where valid arguments can be raised so that either a decision approving or disapproving the present recognition of the expenses can be sustained, the Commission must weigh the factors and use its judgment. Where here the Company has in good faith paid the money into the pension fund and is pledging to keep it there, the Commission finds that management decision to be of value and, therefore, will approve a rate adjustment of $29,542 on an annual basis specifically for the pension fund. No other costs can be paid for with these funds, and they are to be collected on a per-KWH basis.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that Concord Electric Company is to file tariff pages reflecting the increase set forth in this Report for effect on all bills rendered on or after February 1, 1983.

By Order of the Public Utilities Commission of New Hampshire this eighteenth day of January, 1983.

==========

NH.PUC*01/20/83*[79524]*68 NH PUC 16*Concord Natural Gas Corporation

[Go to End of 79524]

Re Concord Natural Gas Corporation

DE 82-8, Sixth Supplemental Order No. 16,156

68 NH PUC 16

New Hampshire Public Utilities Commission

January 20, 1983

ORDER clarifying the items the commission wants included in a gas company's report on its gas distribution system modifications.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, on December 17, 1982, this Commission issued Fifth Supplemental Order No. 16,064 (67 NH PUC 938), requiring that Concord Natural Gas Corporation file on or before January 6, 1983, two reports, the first being their entire report in final form as to a distribution system analysis, and the second being a report on the actions the Company has taken or will take because of the findings of the first report; and

WHEREAS, on December 29, 1982, the Company filed a Motion for Clarification and Other Relief requesting precisely what information the Commission wants the Company to include in each of the two reports and further asks whether the tentatively scheduled hearing on January 11, 1983 will still be held, and if so, for what purpose; and

WHEREAS, staff has advised the Commission of its satisfaction as to the Company's methods of analysis, assumptions, and results of the distribution analysis, following its meeting with Company officials on November 22, 1982; it is

ORDERED, that the Company's Motion for Clarification and Other Relief is granted; and it is

FURTHER ORDERED, that the Company shall provide, on or before January 6, 1983, a single report which will constitute a detailed historical narrative of the assumptions, procedures, and findings which led the Company to make certain modifications to its gas distribution system, and shall include, as a minimum, the following:

1. Reason for initiating study 2. Contract negotiations and arrangements 3. Assumptions used in analyzing existing system 4. An analysis of each computer run, with assumptions for each case. 5. Final computer run results. 6. Identification of specific high pressure and low pressure locations resulting from final computer run. 7. Company actions resulting from study 8. Up-grade test procedures and results 9. Summary of distribution system analysis

and it is

FURTHER ORDERED, that the need for a scheduled hearing on January

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11, 1983 will be determined after a Commission staff analysis of the final report.

By Order of the Public Utilities Commission of New Hampshire this twentieth day of January, 1983.

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[Go to End of 79525]

Re Laconia Water Works

Intervenor: City of Laconia

DR 82-260, Supplemental Order No. 16,157

68 NH PUC 17

New Hampshire Public Utilities Commission

January 21, 1983

APPLICATION by a water company for increased rates; granted.

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1. DEPRECIATION, § 31 — Factors — Service lives — Contributed plant.

[N.H.] A water company was directed to extend the service lives of its plant equipment in order to lower its high depreciation expenses and to prevent total capital recovery before their useful lives had expired, and the company was prohibited from taking depreciation on contributed plant since there should be no recovery when there has been no capital outlay. p. 18.

2. DISCRIMINATION, § 42 — Between classes — Flat and meter rate customers — Water.

[N.H.] A water company was ordered to institute metered service for all its customers in order to eliminate the inequities that had been created by some customers paying metered consumption charges while others paid quarterly unmetered rates. p. 19.

3. RATES, § 595 — Water — Future increases — Equal percentage increases.

[N.H.] A water company was admonished to monitor its rate schedules and to increase future rates by an equal percentage increase to all customer classes and schedules. p. 19.

APPEARANCES: Roger L. Matthewman, superintendent; David Connors CPA; Kenneth Boehner, city manager, for the city of Laconia.

BY THE COMMISSION:

REPORT

On July 22, 1982, Laconia Water Works filed certain revisions to its tariff

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which would increase annual revenues by $137,242 (30%). On September 13, 1982, Order No. 15,877 was issued suspending this filing. A public hearing was held on December 16, 1982.

Laconia submitted audited December 31, 1981 financial statements prepared by John E. Rich & Co., C.P.A.'s, which included the necessary data for PUC Finance Staff to compute an average rate base after adjustments for depreciation of Contributed Capital, Municipality and Individual Aid to Construction, and Operating Income for base year 1981.

The average Plant in Service was based on average December 31, 1980 and 1981 Gross Plant less unfinished construction, depreciation reserves, contributions in aid to construction, and non-utility building. Added was a working capital of average materials and supplies and four (4) months operating and maintenance expense which calculated to an average rate base of $1,967,382.

Net Operating Income of $65,412 is calculated by adjusting CPA's statement water operating income of $72,912 reduced by operating expenses of equipment operating costs, bad debts, etc., increased by adjustment to depreciation of above mentioned contributions-aid to construction.

A weighted cost rate of 7.90% was calculated as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

	Amount	*Cost Rate*	*Cost*	*Weighted Cost Rate*
Long Term Debt	$ 247,000	3.91%	$ 9,657	
General Obligation Bond (5 yr.)	300,000	10.60%	31,800	
Equity (Retained Earnings)	1,817,712	8.00%	145,417	
	$2,364,712		$186,874	7.90%

Return on equity of 8.0% was determined to be fair and equitable to enable the water works to realize a return to meet necessary expenses and debt obligations as well as consideration of increased operations expected within the next few years.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Rate Increase is:	
Rate Base	$1,967,382
Weighted Cost of Capital	.0790
Net Operating Income	$ 155,423
Operating Income — Test Yr. 1981	65,412
Allowed Revenue Increase	$ 90,011

Depreciation

[1] Service lives used on some plant equipment such as mains, 40 years, Hydrants, 33 years, meters 10 years, and services, 33 years, are shorter than NARUC averages and also shorter than those used by other New Hampshire utilities. The use of these short lives results in a high depreciation expense and the recovery of capital dollars many years before the useful life of the plant has expired. We recommend the following: Mains, 60 years; Hydrants, 50 years; Services 40 years; Meters 40 years.

As noted elsewhere in this Report, Laconia has been taking depreciation

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on contributed plant which this Commission has disallowed in numerous cases recently before us. Depreciation is designed to recover the cost of a capital item over its useful life, therefore, where there has been no capital expenditure by the utility, there should be no recovery.

Unmetered Rate

[2] Laconia testified that it is presently serving some 34 customers under an unmetered rate schedule, all of whom are in the City of Laconia and, therefore, not under our jurisdiction. However, the revenue received, or not received, impacts on the rates charged to customers in Gilford who are under our jurisdiction.

This rate schedule as presently designed has a charge of $7 per quarter which is just equal to the $7 minimum charge of the metered rate. However, the metered rate has a consumption charge for usage over the minimum allowance. The unmetered customer is, then, allowed unlimited usage of water for a charge equal to the metered minimum allowance of 500 cubic feet. The inequity built into this rate should be eliminated by serving all customers through a metered service.

Rates — General

[3] Laconia is seeking a higher percentage increase in the unmetered and metered minimum charges. The rationale for such increases is that in prior proceedings and authority granted, these charges were not adjusted, nor did Laconia then seek their adjustment. The difference now sought is an additional 13%.

In this Report, we have determined that increased revenues of $90,011 should be allowed. An initial increase of 13% to the unmetered and metered minimum, would produce revenues of $14,877 (4087 customers × $.91 × 4) leaving $75,134 to be derived from a 16.4% increase to all rate schedules.

This is not good rate making and we suggest that Laconia monitor all its rate schedules such that future increases will be an equal percentage increase to all, or studies performed to justify any deviation.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing report, which is incorporated herein by reference; it is hereby

ORDERED, that 1st Revised Pages 10, 12, and 13; and 2nd Revised Pages 11 and 14 of tariff NHPUC No. 3 — Water of Laconia Water Works are rejected; and it is

FURTHER ORDERED, that 2nd Revised Pages 10, 12, and 13, Issued in Lieu of 1st Revised Pages; and 3rd Revised Pages 11 and 14, Issued in Lieu of 2nd Revised Pages, shall be filed to reflect an increase in annual revenues of $90,011, allocated as detailed in the attached Report.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of January, 1983.

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NH.PUC*01/21/83*[79526]*68 NH PUC 20*Merrimack County Telephone Company

[Go to End of 79526]

Re Merrimack County Telephone Company

DR 83-35, Order No. 16,169

68 NH PUC 20

New Hampshire Public Utilities Commission

January 21, 1983

ORDER approving revised depreciation rates for a telephone company.

BY THE COMMISSION:

ORDER

WHEREAS, Merrimack County Telephone Company filed a petition for the represcription of depreciation rates for a major portion of their plant facilities including, but not limited to buildings, central office equipment, terminal equipment, cable, furniture and office equipment; and

WHEREAS, Merrimack County Telephone Company has filed a depreciation accrual rate study based upon the remaining lives of the plant in those accounts at year end 1981; and

WHEREAS, Merrimack County Telephone Company has requested that the effective date for the revised depreciation rates be January 1, 1982; and

WHEREAS, rapid technological advancements and changes throughout the telephone industry due to deregulation, divestiture and removal of customer premises equipment (CPE) have precipitated the need to recover capital costs over the remaining useful lives of the subject plant; and

WHEREAS, the Commission staff has reviewed the depreciation accrual rate study and, with the stipulation that the company add a 5% salvage factor for terminal equipment, account 231.1 and change the related depreciation rate to 21.3%, the staff recommends approval of the depreciation rates formulated therein; it is

ORDERED, that the revised depreciation rates are hereby approved; and it is

FURTHER ORDERED, that Merrimack County Telephone Company is allowed to book the subject rates effective January 1, 1982.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of January, 1983.

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NH.PUC*01/24/83*[79527]*68 NH PUC 21*Joe W. Howard v Manchester Gas Company

[Go to End of 79527]

Joe W. Howard v Manchester Gas Company

DC 82-347, Order No. 16,160

68 NH PUC 21

New Hampshire Public Utilities Commission

January 24, 1983

COMPLAINT alleging excessive gas bills and seeking an abatement; dismissed.

PAYMENT, § 17 — Billing, metering, and collections — Disputes — Abatement — Conditions.

[N.H.] The commission cannot abate or waive any part of a utility bill when there is no proof that a meter has been misread, mistested, or maintained in improper working order, but the commission may waive late charges that accumulate while a billing dispute is before the commission.

BY THE COMMISSION:

On November 23, 1983, the Commission received a telephone complaint concerning a bill dispute between Joe W. Howard Jr. and Manchester Gas Company.

Mr. Howard claimed that he was a customer for a four month period ending approximately October 31, 1982. During that period his gas bill averaged 39 therms per month except for the last and final bill which increased to 139 therms. The household uses gas for heating and hot water.

The Company responds by stating they read the meter at least twice. They also pulled the meter and tested it. The meter tested within the tolerance set by the Commission. It was also stated that the next renter of the apartment used approximately the same number of therms in November as charged to the Howards.

The customer could not demonstrate that the meter was misread or not working properly. He could not show that the gas company did not follow the standards or rules of the Commission and further could not support his position that the gas did not flow through the meter into the residence.

Under the circumstances the Commission is not in a position to abate or waive any part of the bill except that portion charged as a late fee while the bill was in dispute before the Commission.

Our Order will issue accordingly.

ORDER

Based upon consideration of the foregoing Report; which is made a part hereof; it is hereby

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ORDERED, that the complaint be, and hereby is, dismissed.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of January, 1983.

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NH.PUC*01/25/83*[79528]*68 NH PUC 22*Winter Termination Rules

[Go to End of 79528]

Re Winter Termination Rules

Intervenors: Public Service Company of New Hampshire, Exeter and Hampton Electric Company, Concord Natural Gas Corporation, Northern Utilities, Inc., Gas Service, Inc., Volunteers Organized in Community Education, Community Action Program, Family and Housing Law Clinic of Franklin Pierce Law Center, and New Hampshire People's Alliance et al.

DRM 82-304, Order No. 16,164

68 NH PUC 22

New Hampshire Public Utilities Commission

January 25, 1983

ORDER amending winter termination rules.

PAYMENT, § 33 — Methods of enforcing — Denial of service — Termination for nonpayment — Winter rules.

[N.H.] The commission increased the level of utility bill arrearages needed before winter gas or electric service may be terminated and ordered that no customer sixty-five years or older shall have service terminated unless expressly authorized by the commission, but in recognition that the different arrearage levels between heating and nonheating customers appears to protect nonheating customers more, the commission opened a docket to investigate whether nonheating customers should be protected against termination at all.

BY THE COMMISSION:

Opinion by AESCHLIMAN, commissioner:

I. *PROCEDURAL HISTORY*

In December 1981 on the recommendation of Staff, the Commission initiated a rulemaking to re-evaluate the winter termination rules. Extensive hearings were held around the State to receive public comment, and the Commission received written comments from utilities and consumer organizations. As a result of its investigation, the Commission issued Report and Order No. 15,952 on October 28, 1982 (67 NH PUC 746), which established this docket to

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consider two specific changes to the rule.

The two proposed rule changes involved are: (1) increasing the accumulated arrearage during the winter period for heating customers to $300 before a customer could be subject to termination; and (2) requiring that no termination of customers 65 and over (rather than 70 and older) be allowed without Commission approval.

In order to alleviate any uncertainty prior to the beginning of the winter period on December 1, the

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Commission adopted these changes on an emergency basis on November 23, 1982. A hearing on the question of emergency adoption of the proposed rule was held on November 22, 1982.

In regard to adopting these changes in the permanent rule, the Commission has received written comments from the following utilities and consumer organizations: Public Service Company of New Hampshire; Exeter & Hampton Electric Company; Concord Electric Company; Manchester Gas Company; Concord Natural Gas Corporation; Northern Utilities, Inc.; Gas Service, Inc. Volunteers Organized in Community Education (VOICE); Community Action Program (CAP); and Family and Housing Law Clinic of Franklin Pierce Law Center. In addition, the Commission received comments and exhibits from several of the utility companies and consumer organizations, including the New Hampshire People's Alliance, and from numerous individuals at a public hearing held December 22, 1982.

II. *COMMENTS*

All of the gas companies submitted testimony objecting to the $175 arrearage limit for non-space heating customers. Manchester Gas, Northern Utilities and Gas Service submitted data showing that average usage for the winter period for non-heating customers was substantially below the $ 175 amount. Manchester Gas indicated that the average monthly bill for non-heating customers was $21.44; Northern Utilities reported that the average accumulation for a non-space heating customer during the winter period was $59.41; and Gas Service estimated the average monthly bill to be about $25.

The gas companies generally felt that the winter termination rules should apply only to space heating customers and that the $300 arearage limit was too high. In addition, all of the gas companies supported the concept of a minimum monthly bill. Concord Gas also proposed security deposits for new customers and a mandatory budget program for customers exceeding $175 in arrearage, coupled with a no winter shut-off policy without written permission from the PUC.

Public Service Company believed that there was no need for revisions in the current rules. PSNH also suggested the following two changes as minimum revisions to the proposed rule: (1) specify *electric* space heat to clarify this from customers using auxiliary plug-in space heaters; and (2) modify the rule to acknowledge the difficulty of identifying all persons over 65.

Exeter & Hampton Electric Company opposed adopting the $300 arrearage limit for heating customers on the basis that it would allow the accumulation of large arrearages which the

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customers would have difficulty in paying off. The Company suggested a budget arrangement for non-heating customers in lieu of the $175 provision.

Concord Electric Company reported that one out of four disconnects from May — August 1982 were for heating customers unable to keep their payment arrangements. The Company recommended a required minimum payment during the winter period.

VOICE supported the proposed

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amendments and recommended that the Commission require companies to: (1) be able to distinguish and identify heating from non-heating customers; and (2) notify customers of the changes through bill stuffers and inserts in the consumer pamphlet.

CAP elaborated on the problems associated with distinguishing the two categories of customers and identifying those over 65. CAP pointed out that unusually high usage patterns among non-space heating customers could indicate almost total reliance on appliances (ovens, portable heaters, etc.) for the principal source of heat. They suggested that utilities should be on the alert for such situations and give them special attention, including referrals to social service agencies. CAP also offered to help identify elderly customers to utilities.

The Family and Housing Law Clinic supported the increase in arrearage, stating that it would provide an additional cushion for their truly needy clients. The Clinic opposed the minimum payment proposals and believed current repayment provisions were adequate. As an alternate to a minimum payment, they would prefer to have the protections of the winter termination rules tied to an "eligibility to pay" standard similar to the policy adopted by the Massachusetts Department of Public Utilities. The Clinic also proposed that the Commission require the submission of data from the utilities which would provide more relevant evidence in evaluating or targeting termination rules.

The New Hampshire People's Alliance supported the adoption of the provisions in the proposed rule. NHPA members continued to urge further modifications, especially to include families with young children and handicapped persons in the rule providing specific protection to elderly citizens.

III. *COMMISSION ANALYSIS*

This rulemaking was initiated to consider two specific changes in the winter termination rules arising from the Commission's re-evaluation of the rules in DRM 81-374. Since no opposition was raised to lowering the age limit from 70 to 65 for qualification for the special protection to the elderly, the Commission considers the question of raising the arrearage level for "heating customers" to $300 to be the only issue in this proceeding. Many of the comments offered by the parties go well beyond the specific issues of the proposed rule and should more appropriately be addressed in additional rulemaking(s).

The Commission believes that the testimony and comments support the need to increase the arrearage allowance for heating customers. Testimony provided by Exeter & Hampton Electric Company indicates that the average monthly bill for an electric heating customer during last year's winter period was approximately $130. CAP presents estimates to show how much electric

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heat $300 would buy from Public Service Company after allowing for non-heating usage to illustrate their conclusion that $300 would not allow a heating customer to go through the winter period without any payments. Similarly, estimates for gas heating customers for last year's winter period provided by Gas Service, Inc. show that the average monthly bill was approximately $120. Thus, the present permanent rule, which sets a $175 arrearage

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limit for all customers, would be reached in less than two months usage by a heating customer.

While the evidence supports the need to raise the arrearage amount for heating customers, the testimony raises questions about the appropriateness of the $175 figure for non-heating customers. Although the proposed rule does not change the arrearage limit for non-heating customers from the present rule, the establishment of two categories — heating and non-heating customers — has focused attention on the reasonableness of the $175 arrearage limit for non-heating customers.

The data presented by the utilities shows that the $175 arrearage limit far exceeds the average accumulated monthly bills of non-heating gas customers for the four-month winter period. Manchester Gas presented testimony showing that the average monthly bill for a non-heating account was $21.55. Gas Service, Inc. gave an approximate monthly figure of $25. Northern Utilities reported that the average accumulation for a non-space heating customer during the winter period was only $59.41. This data would indicate that the $175 limit for a non-heating gas customer would allow such a customer to go through the entire winter period with no payment.

The data presented by Exeter & Hampton Electric Company (for non-heating customers) showed that the winter period monthly bills for non-heating customers averaged $42 a month. Thus, while the non-heating electric customer has higher average bills than the non-heating gas customer, the four-month total may still be less than the $175 arrearage limit.

The effect of this situation is that both the present rule and the proposed rule provide greater protection to non-heating customers than to heating customers, although the discrepancy is less under the proposed rule. This effect was not the intention of the Commission in adopting winter termination rules. The intent of the rule is to provide reasonable protection during the winter period against termination, not to allow the possibility of avoiding payment during this period altogether. While the Commission does not believe that the utilities have demonstrated that customers who could otherwise pay are abusing this rule, the Commission does believe that the gas utilities, in particular, have raised a legitimate issue concerning the reasonableness of the $175 arrearage for non-heating customers.

The difference in usage levels between non-heating gas customers and non-heating electric customers indicates that a distinction should be made in the rules applicable to each. In this regard, the Commission also notes that whereas electricity is needed to operate other heating equipment, i.e., oil furnaces, wood furnaces and blower fans, this is not the case with gas.

The establishment of heating and non-heating categories has also raised the problem of determining which customers are heating customers and which are not. As CAP correctly points

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out, there is no easy rate class definition to identify customers who are entitled to the extra protection. CAP also presents valuable testimony from their experience in home visits to low-income families about the actual heating methods used on an emergency basis by some of these families. The utilities generally indicated that they would identify heating customers by usage. From all of the testimony, the Commission

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concludes that some standard of usage is the only practical way to identify heating customers. However, the Commission believes that this issue has not been adequately addressed.

NHPA and other witnesses have again raised the issue of providing specific protection through the winter termination rules to families with young children and handicapped persons. While the Commission believes that these families are as much in need of protection as the elderly, the Commission believes that it is not administratively possible to handle these cases through adoption of a rule. To attempt to do so would require the Commission to adopt some definition of families with young children and handicapped persons, and then the utilities would have to attempt to identify which of their customers fell into these categories. The Commission believes that it is much better to handle these cases as they are referred to the Commission. The Commission has the power to order continued service, and it has been the policy of the Commission, and will continue to be the policy of the Commission, to order continued service for families with small children or handicapped individuals unless the utility can demonstrate extraordinary circumstances to support termination.

Based upon the testimony received, the Commission reaffirms the findings made in its Report of October 28, 1982 in DRM 81-374. The Commission also finds that the evidence supports adopting the proposed rule providing additional protection to elderly customers and to heating customers. The Commission believes that it is not appropriate to change protection levels during the winter period and accordingly will adopt the rule as proposed and implemented on an emergency basis for this winter. However, the Commission also-finds that there is a need to further investigate the reasonableness of the arrearage limits and the means for identifying heating customers prior to next year's winter period. In addition to the reasons cited previously, there will be a continuing need to review the specific arrearage levels due to increases in gas and electric rates. Accordingly, the Commission will open a new docket (DRM 83-31) to address these specific issues. The Commission would like all commentators to address the following questions: (1) is it appropriate to provide specific protection to non-heating gas customers in the winter termination rules; (2) if so, what is a reasonable arrearage amount to set; (3) what arrearage level should be set for non-heating electric customers; (4) should the Commission use some percentage of bill standard rather than establishing arrearage limits; (5) what usage level should be established to identify gas and electric heating customers; (6) are there other appropriate means for identifying heating customers.

The Commission also finds that on a longer term basis there is a need to assess the effect of the termination rules on increased receivables and bad debts and to determine whether the rules are, in fact, being abused by customers who would otherwise pay. This longer term review should also consider the appropriateness and feasibility of refining the present rules so that they are targeted to those in greatest need of protection. This review should consider the question of

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mandatory budget plans for customers with chronic payment problems and the appropriateness of identifying

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financial need in order for the rules to apply.

The Commission believes that this longer term review cannot be completed by next winter because the data that is necessary to make conclusions on these issues will take some time to develop. For example, the Commission believes that it is necessary to obtain data concerning receivables and bad debts in a non-recessionary year to determine the effect of the rules as opposed to the effect of the economic recession. The Commission also agrees with the testimony of the Family and Housing Law Clinic that the data presently available on residential shut-offs is not adequate to make good decisions regarding such issues as minimum payments or demonstration of need. The Commission will direct Staff to call a meeting of all the commentators in this proceeding to start the process of identifying data collection which will facilitate the resolution of these issues.

Accordingly, the Commission will adopt the rule as proposed, will open Docket DRM 83-31 to address the two issues specified prior to the next winter period, and will direct Staff to call a meeting of the commentators for the purposes indicated.

Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the attached rule is adopted; and it is

FURTHER ORDERED, that Docket DRM 83-31 is opened to receive information for the purposes specified; and it is

FURTHER ORDERED, that Staff call a meeting of commentators on the winter termination rules to specify and begin data collection pursuant to the guidelines outlined in the Report.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of January, 1983.

ADOPTED RULES

PUC 303.08(k)(2)(4)

and

PUC 503.03 (k)(2)(4)

(2) For the duration of the winter period, an accumulated arrearage of $175 or less, for non heating customers, or $300 or less for heating customers, all of which first appears as an arrearage rendered during the winter period shall not subject a residential customer to termination of service in his/her primary residence.

(4) No residential customer, whether hearing or non hearing, age 65 or older shall be terminated or subject to termination during the winter period without express written

authorization of the Commission.

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NH.PUC*01/26/83*[79529]*68 NH PUC 28*Granite State Gas Transmission, Inc.

[Go to End of 79529]

Re Granite State Gas Transmission, Inc.

DF 82-273, Order No. 16, 165

68 NH PUC 28

New Hampshire Public Utilities Commission

January 26, 1983

PETITION by a gas transmission company for a reduction in utility assessments levied against it; denied.

COMMISSIONS, § 58 — Expenses and compensations — Fees and assessments against utilities.

[N.H.] The commission found that a utility assessment rendered against a gas transmission company, representing fees relative to regulation and intervention at the federal level, had been reasonable even though the company's parent corporation had also been assessed, as the commission found that, in looking at the total regulatory scheme over time, the fees mirrored meaningful regulatory activities and were not so disproportionate as to amount to revenue measures or duplicated fees.

APPEARANCES: Eaton W. Tarbell and Margaret H. Nelson on behalf of Granite State Gas Transmission, Inc.

BY THE COMMISSION:

REPORT

On May 14, 1982, Joseph A. Raffaele, Controller for Granite State Gas Transmission (hereinafter the Complainant), directed a letter to this Commission which challenged the applicability to Complainant of the Utility Assessment as set forth in RSA 363:A et seq. That letter submitted two reasons in justification of that position. Mr. Raffaele subsequently testified to those same reasons on November 18, 1982 at which time the May 14, 1982 letter was accepted in evidence as Exhibit 4.

One of the two arguments submits that the assessment is duplicative in the instant case. Apparently the Complainant's parent company, Northern Utilities, is also assessed even though 95% of Complainant's sales in New Hampshire are made to Northern. The second argument claims that since expenses to be defrayed by the objectionable assessment are related to

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regulation they are "unwarranted" because Complainant is subject to FERC regulation relative to tariffs.

Although addressed later in more detail, in brief the first argument can only have merit to the extent a second fee exceeds additional regulatory efforts whereas the second argument amounts to a non sequitor. To amplify the latter observation, simply because the FERC sets Complainants tariffs does not encompass the universe of regulatory concern with Complainant.

Originally the total fee of $12,220.40 (Exhibit 1 as supplemented by 1TR33) was contested, however, during the hearing it was eventually agreed part of that total was appropriate. Although no specific amount was specified the Complainant agreed it

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should support the gas safety program find further agreed it would be appropriate if assessed on the basis of the direct gas sales to the Pease Air Force Base. It should be noted at this point that when Complainant agrees to the propriety of any portion of the assessment he has implicitly recognized the FERC is not the only regulatory body properly concerned with Complainants affairs. Thus the Commission dismisses that argument.

During the hearing it was charged that Tennessee Gas Pipeline is not assessed pursuant to the same statute even though its situation is similar to Complainants. This comparison is obviously made by the Complainant to point out allegedly unequal treatment. However, the solution is not to eliminate assessment of Complainant, inasmuch as the Commission believes its necessary and proper, but instead to commence assessing Tennessee. This will in fact be initiated in subsequent assessment periods.

Still remaining is the question of duplicative assessment. Underlying this argument is the claim that meaningful regulation is not provided for the fee charged. At the hearing Complainants counsel submitted the same issue in a somewhat different format by stating that the law in New Hampshire holds that fees must be incidental to regulation and not primarily for raising revenues. The Commission does not take issue with counsels understanding of the law. We do not agree, however, that the fees assessed relative to the regulation provided are disproportionate so as to amount to a revenue measure nor are they unreasonably duplicative. This difference in view as seen by the Commission results from our focus on the total regulatory scheme over time.

In discussing that scheme, let us first note there is no dispute that the Complainant is a utility pursuant to RSA 362:2, nor is it disputed that the statutes provide authority to the Commission to investigate interstate matters that affect New Hampshire. (RSA 363:22 and 363:23) These statutes do not, however, require investigations be provided on a yearly basis. Moreover it has become clear recently that substantial advantages may be gained by the intervention of state authorities in FERC cases regarding both gas rebates and wholesale tariffs. As the character of regulation in Washington, D.C. becomes more subject to frequent changes the wisdom of a regulatory scheme that permits intervention becomes ever more apparent. However, the magnitude of a fee acceptable to Complainant based on sales to Pease is approximately $500. Meaningful intervention at the FERC or otherwise would cost many times that insignificant amount. Intervention limited by such an assessment would be practically non-existent.

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Furthermore, at the state level desk audits and on-site audits (the last being as recent as 1978) in addition to other projects have required this Commission to expend time and effort on matters pertaining to the Complainant. Therefore, the Commission finds the assessment does in fact bear a reasonable relation to regulation provided by the Commission. It is not simply a revenue measure and it is not for all practical purposes duplicative.

It should also be noted that even where actual duplication may occur it is not per se unreasonable when it's the product of a reasonable legislative

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scheme designed to cover the costs of regulation. Perhaps not perfect, the current process is nonetheless reasonable. A perfect recovery mechanism may not exist. For example, prior to 1967, the Commission attempted to make an assessment based on work hours devoted to a particular class of utility. That approach proved to be unworkable. Many projects involved multiple utilities and regulatory principles in general and it was never clear what expense should or should not be assessed to a particular utility. As a result of the frustrations and inaccuracies of that system it was concluded that a utility's revenues as a percent of total revenues in New Hampshire for that class of utility was a reasonable indication of the amount of time and effort afforded that utility by the Commission. Nothing in this record convinces us otherwise.

Based on the foregoing the Commission finds its current assessment for Complainant to be fair and reasonable.

Our Order will issue accordingly.

ORDER

Based upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that just cause not being shown, Complainant's prayer for relief requesting a reduction in the utility assessment levied on Complainant is hereby denied.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of January, 1983.

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NH.PUC*01/26/83*[79530]*68 NH PUC 30*Gas Service, Inc.

[Go to End of 79530]

Re Gas Service, Inc.

DR 82-276, Fourth Supplemental Order No. 16,166

68 NH PUC 30

New Hampshire Public Utilities Commission

January 26, 1983

MOTION for reconsideration of a gas company's fuel costs; denied.

PROCEDURE, § 33 — Rehearings — Grounds for granting — New evidence or arguments.

[N.H.] A motion for rehearing will be denied where the motion presents no new evidence or arguments but merely reiterates the case the company had previously offered.

BY THE COMMISSION:

Opinion by AESCHLIMAN, commissioner: On December 21, 1982, a hearing was held on Commission Order No. 15,957 (67 NH PUC 752). As a result, the Commission issued Third Supplemental Order No. 16,080 on December 28, 1982 (67 NH PUC 948).

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On January 17, 1983 Gas Service, Inc. (hereinafter referred to as "Gas Service" or the "Company") filed a Motion for Rehearing and Other Relief (hereinafter referred to as the "Company's Motion") from the Commission's Third Report and Supplemental Order No. 16,080. The Company's Motion sought reconsideration of the Commission's disallowance of $60,258 in propane costs and $1,900 in related financing charges from the Company's 1982-83 winter period CGA calculations. After a complete review of he Company's arguments, we have decided to deny the Motion for Rehearing and Other Relief.

During the hearing of December 21, 1982, the Company had full notice of the issues and concerns of the Commission and the Company was given a full opportunity to present evidence. The Company's Motion presents no new evidence or arguments which warrants a departure from the findings and conclusions of our Third Supplemental Report and Order No. 16,080. Rather, the motion contains a reiteration of argument which was already presented to the Commission and evidence in the form of an Affidavit of Larry T. Stagney (Exhibit A) and a January 13, 1983 letter from W. P. Fiske to Larry T. Stagney (Exhibit B) which contain information available long before the December 21, 1982 hearing date. The Company's motion contained no explanation about why the information contained in Exhibit A and Exhibit B could not have been offered at the hearing of December 21, 1982. Accordingly, the Commission is of the opinion that the Company's Motion does not state reasons sufficient to justify a rehearing. Cf., O'Loughlin v New Hampshire Personnel Commission (1977) 117 NH 999, 1004. This conclusion would not change even if the new information had been presented at the December 21, 1982 hearing.

Accordingly, we find that the record contains sufficient evidence to support our findings and conclusions in Third Supplemental Report and Order No. 16,080. Based upon the foregoing, the Commission denies the Motion for Rehearing and Other Relief filed by Gas Service, Inc.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the Motion for Rehearing and Other Relief of Gas Service, Inc. be, and hereby is, denied.

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By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of January, 1983.

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NH.PUC*01/27/83*[79531]*68 NH PUC 32*Information to Consumers

[Go to End of 79531]

Re Information to Consumers

Intervenor: Volunteers Organized in Community Education

DRM 82-28, Fifth Supplemental Order No. 16,167

68 NH PUC 32

New Hampshire Public Utilities Commission

January 27, 1983

ORDER providing for compensation for a consumer advocate intervenor.

COSTS — Attorney's fees — Consumer intervention — Compensation by utility.

[N.H.] Where a consumer group was found to have substantially and meaningfully contributed to a utility proceeding, the commission determined that the group was eligible for compensation by the utility involved, based upon documented expenses related to attorney's fees, and photocopying, mailing, and travel costs, and the commission said that the award of such compensation could be taken as an expense for rate-making purposes in the utility's next rate case.

BY THE COMMISSION:

Opinion by AESCHLIMAN, commissioner:

REPORT

In Report and Order No. 15,644 (67 NH PSC 332), the Commission found VOICE eligible for consumer compensation in this docket. Order No. 15,644 specified that Consumer compensation applied solely to Public Service Company of New Hampshire and that any claim against other utilities was denied. This Order further instructed VOICE to present evidence as to substantial contribution pursuant to Rule 205.02 upon completion of this docket. On December 22, 1982, VOICE filed a request for a finding of substantial contribution and for an award of compensation together with supporting documentation.

The Commission received an objection dated December 29, 1982 from attorneys for Concord Natural Gas Corporation and Gas Service, Inc. requesting that these companies be excluded from any award of compensation. As noted above, this issue has already been addressed specifically in

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Order No. 15,644. The Commission further notes that it has repeatedly been made clear in every proceeding concerning consumer compensation under the Public Utility Regulatory Policies Act (PURPA) that the only utility against whom compensation can be assessed is Public Service Company of New Hampshire. The Commission would hope that other gas and electric utilities would not continue to incur legal expenses addressing this issue.

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FINDINGS

Substantial Contribution

Since this docket was opened in February 1982, VOICE has commented extensively on three drafts of the pamphlet and proposed rules, presented oral testimony at two hearings and participated as a member of the Consumer Pamphlet Committee.

While some of the specific recommendations, which VOICE lists as being adopted by the Commission, were also advocated by other commentators, the Commission does find that VOICE has made a substantial contribution. VOICE consistently commented on areas misunderstood by consumers that needed additional clarification and simplification. Many of these recommendations were included in the final draft of the pamphlet.

In addition, the Commission incorporated several suggestions of VOICE's in Report and Order 15,933 (67 NH PUC 714), including the bill stuffer requirement and consumer representation on the Committee.

VOICE has made a contribution on the Consumer Pamphlet Committee through recommendations on final layout, areas to highlight in the text and printing specifications.

Amount of Compensation

The Commission will continue to apply the following standards previously adopted.

(1) Time spent on compensation is not subject to an award of compensation.

(2) Prevailing salaries paid to in-house counsel of similar experience and training serve as a reasonable standard for compensation. The Commission has adopted a range of $10-$25 per hour.

*(3) Pursuant to Rule 205.02, the Commission will set PSNH's liability according to the portion properly allocated to PSNH giving consideration to the total number of utilities involved in the proceeding.

*(4) The appropriate assessment for PSNH will be determined in the same manner that the Utilities Assessment Tax is calculated, according to gross revenues.

(5) Photocopying, mailing and travel expenses related to preparation of a PURPA position are eligible expenses for compensation.

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*The listing of other utilities relative to (3) and (4) is only for the purpose of calculating PSNH's share, and the Commission reiterates that these utilities are not liable for an award.

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Based upon these standards, the Commission calculates the allowable compensation in this case as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Attorney's Fees	*Hours*	*Rate*	*Total*
Linder	78	$25	$1,950.00
Henry	64.75	15	971.25
Travel			34.24
Photocopying			98.69
Mailing			35.80
Miscellaneous			23.50
			$3,113.48
PSNH Allocation (73.155%)**	2,277.67		

**See Attachment A.

Page 33

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that VOICE is awarded $2,277.67 for consumer compensation in this docket; and it is

FURTHER ORDERED, that Public Service Company of New Hampshire will render to VOICE $2,277.67; and it is

FURTHER ORDERED, that this award will be an allowed expense for ratemaking purposes to be charged to regulatory expense.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of January, 1983.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

ATTACHMENT A

ASSESSMENT RATIO BY GROSS REVENUES (8/26/82)

COMPANY

Concord Electric
Exeter & Hampton Electric
Granite State Electric
N.H. Electric Coop.
PSNH
Northern Utilities, Inc.
Gas Service, Inc.
Manchester Gas
Concord Natural Gas

TOTAL

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NH.PUC*01/27/83*[79532]*68 NH PUC 35*Littleton Water and Light Department
[Go to End of 79532]

Re Littleton Water and Light Department

DR 83-13, Order No. 16,168

68 NH PUC 35

New Hampshire Public Utilities Commission

January 27, 1983

REQUEST by a municipal utility for a waiver of commission tariff filing requirements for its regulated customers vis-a-vis its municipal customers; granted.

BY THE COMMISSION:

ORDER

WHEREAS, Littleton Water and Light Department filed a request for a 6 percent rate increase effective January 10, 1983 reflecting increases in the cost of power purchased from New England Power; and

WHEREAS, Littleton provides service to 44 customers under the jurisdiction of this Commission; and

WHEREAS, Littleton has requested waivers of the Commission's tariff filing requirements on the grounds that special treatment of the 44 customers vis-a-vis the 2,939 municipal customers not under the jurisdiction of this Commission would be difficult and unfair; it is hereby

ORDERED, that 6th Revised Page 7, 1st Revised Page 7A, 7th Revised Page 9, 7th Revised Page 10, 5th Revised Page 11 and 7th Revised Page 13 are hereby approved for effect January 10, 1983 on the grounds that the requested rate increase is found to be just and reasonable; and it is

FURTHER ORDERED, that for good cause shown, the requested waivers of the Commission's tariff filing requirements are granted.

By Order of the Public Utilities Commission of New Hampshire this twenty-seventh day of January, 1983.

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NH.PUC*01/28/83*[79533]*68 NH PUC 36*Granite State Electric Company
[Go to End of 79533]

Re Granite State Electric Company

DR 81-361, Fourth Supplemental Order No. 16,170

68 NH PUC 36

New Hampshire Public Utilities Commission

January 28, 1983

ORDER altering an electric company's recoupment recovery charge to compensate for the late issuance of the order authorizing the charge.

APPEARANCES: As noted previously.

BY THE COMMISSION:

Opinion by LOVE, chairman: By Order No. 16,118 (67 NH PUC 990), the Commission allowed a recoupment recovery 14 ¢ per 100 KWH over the month of January, February and March 1983. Due to the lateness of that order being issued, the January bills did not reflect this decision. Consequently, the Commission will amend that Report and Order to allow for a 21 ¢ per 100 KWH recovery in February and March of 1983. The Commission will require the Company to file a statement detailing whether they have over or undercollected and to what extent. Granite State Electric is to file new tariffs reflecting this alteration. In all other aspects, however, the conditions and statements in Report and Order No. 16,118 remain in force.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that Granite State Electric is to file tariff pages to reflect an addition of 21¢ per 100 KWH's for usage billed in the months of February and March, 1983; and it is

FURTHER ORDERED, that the reconciliation set forth in the Report is to be filed with the Commission on or before April 1, 1983.

By Order of the Public Utilities Commission of New Hampshire this twenty-eighth day of January, 1983.

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NH.PUC*01/28/83*[79534]*68 NH PUC 37*Patricia Begin Nast v Public Service Company of New Hampshire

[Go to End of 79534]

Patricia Begin Nast v Public Service Company of New Hampshire

DC 82-220, Second Supplemental Order No. 16,171

68 NH PUC 37

New Hampshire Public Utilities Commission

January 28, 1983

MOTION by an electric consumer for rehearing on consumer's liability for prior unpaid bills in the name of another; granted in part and denied in part.

PAYMENT, § 11 — Liability for payment — Landlord or tenant — Cotenants.

[N.H.] Notwithstanding any alleged utility payment arrangements agreed upon by cotenants, where one tenant pays a service connection charge and receives the benefit of service at the residence, that tenant may be held liable for all bills, even if service is in the other tenant's name, since payment of the connection fee is evidence of acknowledgement of some responsibility for the bills.

APPEARANCES: Richard A. Cohen on behalf of Patricia Begin Nast; Pierre Caron on behalf of Public Service Company of New Hampshire (PSNH).

BY THE COMMISSION:

Opinion by LOVE, chairman:

REPORT

Patricia Begin Nast and her three children have resided at 81 Park Street in Northfield, New Hampshire since mid-July 1982. PSNH seeks $297.87 for electric service previously furnished at 881 Union Avenue in Laconia. PSNH has also requested an $80.00 security deposit. The electric service was taken out in the name of Michelle Freeman at the Laconia address. Ms. Begin Nast benefitted from electric service supplied at the Laconia address while she resided there. The only payment made by either Ms. Begin Nast or Ms. Freeman was a $21.00 payment made by Ms. Begin Nast to turn the electric service on.

A hearing was held before Commissioner Paul R. McQuade on August 11, 1982. At the conclusion of that hearing, Commissioner McQuade requested that the electricity be turned on immediately at Ms. Begin Nast's Northfield address, that Ms. Begin Nast pay PSNH the $80.00 security deposit requested, and that Ms. Begin Nast was responsible for the $297.87 bill and was required to pay it off in installments of $50.00 per month with the first payment being due on September 1, 1982.

The attorney for Ms. Begin Nast contends that such a finding is in error

Page 37

based on the contention that Ms. Begin Nast cannot be held responsible for an account in Ms. Freeman's name. References were made to Komisarek v New England Teleph. & Teleg. Co. (1971) 111 NH 301, 303, 304, 91 PUR3d 205, 282 A2d 671. Additionally, it is offered to hold Ms. Begin Nast responsible for another person's bill would violate common law and would be unjust, unreasonable and discriminatory and in violation of RSA 374:1 and 2 and RSA 378:10.

It is the testimony of Ms. Begin Nast that through an agreement allegedly arrived at between her and Ms. Freeman, certain expenses associated with the residence in Laconia were to be paid

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by Ms. Freeman and certain other expenses were to be paid by Ms. Begin Nast. For example, the gas bill was to be paid by Ms. Begin Nast, and it is her testimony that the electric bill is to be paid by Ms. Michelle Freeman. Neither Ms. Begin Nast nor PSNH appear to know the whereabouts of Ms. Freeman.

After conclusion of the arguments presented in this case, the Commission finds that Ms. Begin Nast and her three children received the benefit of electricity at the Laconia residence in question and by paying $21.00 to have the electricity turned on she acknowledged some responsibility for the bill. Her inability to pay this previous bill substantiates the need to require a security deposit, because this is clear evidence of a bad credit history.

Whatever the arrangements between Ms. Freeman and Ms. Begin Nast, those are more properly raised in a collection proceeding brought by PSNH. However, the Commission finds the $80.00 security deposit was lawfully requested and due immediately pursuant to Commission rules and regulations.

The Commission will require PSNH to seek recovery of a portion of these costs from Ms. Freeman. However, in the interim, Ms. Patricia Begin Nast is found to be liable for the entire amount of $297.87 to be paid back in eight (8) monthly installments of $37.00, together with full payment of the current bill. Failure to adhere to this arrangement will result in PSNH having the right to immediately terminate service at the Northfield residence.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the Motion for Rehearing is granted in part and denied in part; and it is

FURTHER ORDERED, that the full Commission adopts the findings set forth in the attached Report.

By Order of the Public Utilities Commission of New Hampshire this twenty-eighth day of January, 1983.

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NH.PUC*01/28/83*[79535]*68 NH PUC 39*Boston and Maine Corporation

[Go to End of 79535]

Re Boston and Maine Corporation

Intervenor: New Hampshire Department of Public Works and Highways

DX 82-78, Order No. 16,184

68 NH PUC 39

New Hampshire Public Utilities Commission

January 28, 1983

PETITION for authority to remove automatic protection signals at a railroad crossing; granted.

CROSSINGS, § 68 — Protection and safety — Signals — Removal.

[N.H.] Where a railroad crossing was no longer used for train operations, the commission found the public would not be harmed by the removal of the automatic protection signals from the crossing.

APPEARANCES: John Adams for the Boston and Maine Corporation; John Hickey for the New Hampshire Department of Public Works and Highways.

BY THE COMMISSION:

REPORT

By petition filed February 25, 198, the Boston & Main Corporation seeks authority to remove the automatic crossing protection at the Candia Road Crossing in the Town of Candia. Hearing thereon was held at Concord on April 28, 1982, at which no one appeared in opposition to the granting of the petition.

This crossing is the intersection of a State maintained highway and the Manchester-Portsmouth Branch of the Railroad Corporation. On January 25, 1982, the United States District Court, District of Massachusetts, issued its Order No. 615 approving the abandonment of this line between East Manchester and Rockingham Junction.

No train operations are being conducted on this line. It is the desire of the petitioner to remove the signals to save maintenance and inspection expense.

The Department of Public Works and Highways is not opposed to the removal of signals unless they have been installed within the past fifteen years. The files of this Commission indicate that the signals were originally installed at this crossing prior to 1920.

Testimony was introduced pertaining to the removal of the crossing but since this subject is not contained in the petition and the petitioner does not desire to remove the rails at this time no action can be taken thereon.

Upon consideration of all the facts

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the Commission is of the opinion that permission should be granted to remove the signals as requested. Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the Boston & Maine Corporation be, and hereby is, authorized to remove the automatic crossing protection signals at the Candia Road Crossing on its Manchester-Portsmouth Branch, situated in the Town of Candia approximately 0.4 miles west of the location of the former Candia Railroad Station.

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By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of January, 1983.

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NH.PUC*01/28/83*[79536]*68 NH PUC 40*Connecticut Valley Electric Company

[Go to End of 79536]

Re Connecticut Valley Electric Company

Intervenors: Office of Consumer Advocate and Sinclair Machine Products, Inc.

DR 82-67, Seventh Supplemental Order No. 16,185

68 NH PUC 40

New Hampshire Public Utilities Commission

January 28, 1983

PETITION by an electric company to increase rates pursuant to a settlement agreement; granted.

EXPENSES, § 35 — Abandoned plant costs — Purchased power costs — Recovery in general rates.

[N.H.] An electric company was allowed to increase its rates pursuant to a settlement agreement in order to reflect increased expenses in purchasing power from its parent, but the company was not allowed to include in the rate increase any of its abandoned nuclear plant costs.

APPEARANCES: Dom S. D'Ambruoso and Stephen J. Allenby for the petitioner; F. Joseph Gentili for the Consumer Advocate; David William Jordan for Sinclair Machine Products, Inc.; Kenneth E. Traum, assistant finance director and George Gantz, rate analyst for the PUC staff.

BY THE COMMISSION:

REPORT

Connecticut Valley Electric Company (herein referred to as "the Company",

Page 40

"Conval", or the "subsidiary") filed on February 25, 1982 for authority to pass a $1,259,000 increase in its purchased power expense from its sole supplier and parent, Central Vermont Public Service Company (CVPS) to its retail customers for effect April 1, 1982.

The increase is attributable to Federal Energy Regulatory Commission (FERC) approval of CVPS' rate filing R-S-2 effective January 1, 1982.

On March 18, 1982, by Order No. 15,538 the Commission suspended the filing.

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On March 26, 1982, the Commission issued an Order of Notice setting hearing for April 23, 1982 at 10:00 A.M. at the Commission's office in Concord.

As a result of said hearing, per Supplemental Order No. 15,917, dated September 30, 1982 (67 NH PUC 683), the existing rates were made temporary rates subject to the provisions of RSA 378:29, effective April 23, 1982.

A 2nd Supplemental Order was issued on September 30, 1982.

Per 3rd Supplemental Order No. 15,923, dated October 8, 1982 (67 NH PUC 697), the Commission denied $359,000 of the requested increase, excluding among other items the portion dealing with the abandoned nuclear units of Pilgrim II and Montague.

Per 4th Supplemental Order No. 16,024, the Commission granted the Company's Motion for Rehearing and set the matter down for rehearing on December 21, 1982.

Per 5th Supplemental Order No. 16,044, dated December 13, 1982 (67 NH PUC 901), as a consequence of the Company's Motion for Rehearing, temporary rates were made effective on all service taken on or after April 1, 1982.

Per 6th Supplemental Order No. 16,075, dated December 20, 1982, the Commission granted the motion of Sinclair Machine Products, Inc. to continue the hearing of December 21, 1982. The hearing was rescheduled for January 21, 1983 at 9:30 A.M. at the Commission's office in Concord.

At the close of hearings on the 21st, all parties, with the approval of the Commission entered into settlement conferences. As a result of those conferences, on January 25, 1982, all parties appearing at the January 21, 1983 hearing entered into a settlement agreement which was supplied to the Commission on January 27, 1983.

Some highlights of the settlement are:

(1) abandoned nuclear plant costs of the Company for the twelve (12) months ended December 31, 1982, are excluded from this rate increase, and shall not be included in any future PPCA unless previously approved in a general rate case. (2) the Company shall be entitled to recoup the difference between the revenue incorporated in the settlement and the temporary rates, after estimating (and later reconciling of) the amount of the refund which will be forthcoming from CVPS pursuant to the reconciliation provision of rate RS-2 (CVPS rate schedule FERC NO. 108, Paragraph P. 2). (3) The settlement increases the Company's annual base operating

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revenues by approximately $2.4 million which includes an increase of the energy dollars in base rates and a corresponding reduction of FAG revenues of approximately $1.2 million. The result is a net increase of approximately $1.2 million. (4) The Company shall withdraw all appeals currently filed in the N.H. Supreme Court.

The Commission finds the Settlement Agreement to be in the public interest and therefore accepts it.

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Our order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing report which is incorporated and made a part of this order, it is hereby

ORDERED, that Connecticut Valley Electric Company, Inc. shall increase its rates and be allowed recoupment in line with the Settlement Agreement accepted in the attached Report.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of January, 1983.

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NH.PUC*01/31/83*[79537]*68 NH PUC 42*Hanover Water Works Company

[Go to End of 79537]

Re Hanover Water Works Company

DR 82-319, Supplemental Order No. 16,186

68 NH PUC 42

New Hampshire Public Utilities Commission

January 31, 1983

PROPOSAL by a water company for general tariff revisions; accepted as modified.

----

1. RATES, § 304 — Installation and connection charges — Water pipes — Customer responsibility.

[N.H.] A water company's tariffs were revised to provide that, while the company would install and maintain service pipes from a main to a customer's property, the customer would be responsible for the cost of such installation, and the customer would also be responsible for both the cost and installation of pipes from the property line to the premises to be served. p. 43.

2. PAYMENT, § 11 — Liability for payment — Landlord or tenant — Water bills.

[N.H.] The commission eliminated a water company's tariff provision that stated that the owner of a premise served could be held responsible for the bill of a tenant. p. 43.

3. SERVICE, § 188 — Extensions — Burden of cost — Water pipes — Limited free allowance.

[N.H.] A water company was ordered to retain in its tariffs an allowance of 25 feet free distance per customer on an extension of company mains. p. 43.

APPEARANCES: Edward S. Brown, ex-vice

president, Hanover Water Works Company; David Jordan for Jack H. Nelson and Dresden Management Corporation.

BY THE COMMISSION:

REPORT

On October 21, 1982, Hanover Water Works Company (Hanover), filed a new tariff designated NHPUC No. 6 — Water, providing for general tariff revisions which did not include any change to existing tariff rates. The changes filed, resulted in revision to more than 50% of the pages of tariff NHPUC No. 5 — Water, and in accordance with PUC 1601.05 (b), a complete new tariff was filed. A public hearing in this matter was held on December 21, 1982.

The revisions proposed by Hanover are accepted, subject to the following changes:

ARTICLE 2

[1] *Service Pipes*, shall be revised to state specifically that:

The service pipe/connection from the main to the customers property line shall be installed and maintained by the utility with the actual installation cost, including labor and materials, paid for by the customer.

The service pipe from the property line to the premises served shall be installed and maintained by the customer. Such installation by the customer or his agent, shall be in a manner and of materials and size as approved by the utility and paid for by the customer.

The requirement, under Section e. of this Article, for the installation of a pressure reducing valve, shall be eliminated. The Commission's Rules & Regulations for Water Utilities specify that a utility shall maintain not more than 125 psig at the service connection.

ARTICLE: 7

Connections with Other Systems. The reference for approval should refer to the State of New Hampshire, since this Commission would be directly involved. Further, it is our opinion that this section should specify that no cross connection will be allowed with the Hanover water system and *any* other system unless protected.

ARTICLE 9

[2] *Billing and Payment for Service*. The statement that the owner of a premise served shall be responsible for the bill of a tenant, shall be eliminated. The customer of record is responsible for all billing under the rules of this Commission and the tariff. (Article 9 e)

ARTICLE 12

Seasonal Use. This Article shall be eliminated since it is covered in Article 11 and the tariff rate schedules.

ARTICLE 15

Ownership Change This Article should be eliminated since it is covered in Article 9e.

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ARTICLE 17

[3] *Extension of Mains*. Hanover has proposed the elimination of the allowance of 25 feet free distance per customer on an extension of water Company mains. The presently approved tariff does not provide this allowance to a developer.

Exhibit 4 submitted by Hanover attempted to justify the conclusion

Page 43

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of no free distance on the basis that the company would furnish the material for the service, connection, based on a 3/4" service, from the main to the customers property line. This has been deleted in the proposed tariff such that the customer must pay the total installed cost from the main to the premise served. Exhibit 4 also used 1978 data to develop a justified investment per customer. A use of 1981 and current data supports a continued allowance of about 25 feet per customer.

This allowance should remain as specified in the presently effective tariff. Section h of this Article should be eliminated as the cited New Hampshire law, Chapter 526 — Laws of 1967, applied only and specifically to Manchester Water Works.

ARTICLE 20

Previous Tariff Repealed. This Article should be eliminated as unnecessary since the acceptance by this Commission of any tariff revision supersedes those previously in effect.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Based upon the foregoing Report which is made a part hereof; it is hereby

ORDERED, that Tariff NHPUC No. 6 — Water, of Hanover Water Works, which was suspended by Order No. 15,981, be and hereby is rejected; and it is

FURTHER ORDERED, that Hanover Water Works shall file a new tariff designated NHPUC No. 7, issued in lieu of NHPUC No. 6, bearing the effective date of this Report and Order, and including the terms and conditions as set forth in this Report; and it is

FURTHER ORDERED, that Page 1, title page, shall bear the designation "Authorized by NHPUC Order No. 16,186 in case DR 82-319 dated January 31, 1983.

By Order of the Public Utilities Commission of New Hampshire this thirty-first day of January, 1983.

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NH.PUC*01/31/83*[79538]*68 NH PUC 45*Gas Service Inc.

[Go to End of 79538]

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DE 83-37, Order No. 16,187

68 NH PUC 45

New Hampshire Public Utilities Commission

January 31, 1983

PROPOSAL by a gas company to revise tariffs applicable to new nonresidential customers with dual fuel capacity; accepted.

BY THE COMMISSION:

ORDER

WHEREAS, on January 4, 1983, Gas Service, Inc. filed proposed changes to its Tariff No. 6, Section 17 — Controlled Attachment Policy, 1st Revised Page 34, to become effective February 1, 1983; and

WHEREAS, this proposed filing extends the base usage period from January 1977-December 1978 to January 1977-June 1982 and allows for special contracts between the Company and non residential customers whose gas fuel requirements may be met by alternate fuels; and

WHEREAS, upon investigation, the Commission determined that existing customers should be exempt from certain of these requirements; and

WHEREAS, on January 27, 1983, Gas Service filed 2nd Revised Page 34, issued in lieu of 1st Revised Page 34 to satisfy the Commission's requirements; and

WHEREAS, upon further investigation, the Commission has determined that the change is in the public interest; it is

ORDERED, that 2nd Revised Page 34, issued in lieu of 1st Revised Page 34, of the Gas Service Inc. tariff NHPUC No. 6 — Gas be and hereby is approved for effect on February 1, 1983.

By Order of the Public Utilities Commission of New Hampshire this thirty-first day of January, 1983.

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NH.PUC*01/31/83*[79539]*68 NH PUC 46*Sunapee Hills Water Company

[Go to End of 79539]

Re Sunapee Hills Water Company

DE 82-268, Second Supplemental Order No. 16,189

68 NH PUC 46

New Hampshire Public Utilities Commission

January 31, 1983

PETITION to allow a residential association to collect customer billing revenues of a water company pending the sale and transfer of the company to the association; granted.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, Donald Seymour as President of Sunapee Hills Water Company represents by letter dated July 22, 1982 (Exhibit 4) that because of health considerations and an inability to obtain financing that he can no longer operate the water system; and

WHEREAS, by undated letter on stationary bearing the heading of Sunapee Management and Maintenance Company (Exhibit 2), Donald Seymour, with the concurrence of this Commission, authorized the "Sunapee Hills Assoc." (Association of Sunapee Hills, Inc.) to collect revenues from the third quarter 1983 billings to be used to operate the water system; and

WHEREAS, Donald Seymour and the Association of Sunapee Hills, Inc. are presently negotiating for the sale of the water system; and

WHEREAS, as of this date no agreement as to purchase price has been reached; and

WHEREAS, Donald Seymour by letter dated January 27, 1983, has authorized the Association to continue collecting revenues from customer billings; it is

ORDERED, that the Association of Sunapee Hills is authorized by this Commission to collect customer billing revenues for the operation and maintenance of the Sunapee Hills Water Co. system for the fourth quarter of 1982 and the first quarter of 1983 unless and until a sale and/or transfer of this water system is made; and it is

FURTHER ORDERED, that a chlorinator shall be installed, by the operator of this water system, at the infiltration well and that such installation shall be accomplished by March 14, 1983.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of January, 1983.

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NH.PUC*01/31/83*[79540]*68 NH PUC 47*W.V.G. Associates

[Go to End of 79540]

Re W.V.G. Associates

DE 82-222, Supplemental Order No. 16,190

68 NH PUC 47

New Hampshire Public Utilities Commission

January 31, 1983

PETITION by a water system for interim rates pending its application to operate as a franchise;

granted.

RATES, § 630 — Interim rates — Water — Public utility status as a factor.

[N.H.] The commission authorized a water system to charge all its customers, residential and otherwise, on an equal interim basis even though the system's franchise petition to operate as a public utility had not yet been approved.

RATES, § 630 — Interim rates — Water — Public utility status as a factor.

[N.H.] Statement, in a dissenting opinion, that until a system has been authorized or franchised as a public utility, the commission cannot lawfully establish permanent or temporary rates for the system. p. 48.

Before Love (dissenting), chairman.

APPEARANCES: Thomas C. Platt, III, for W.V.G. Associates.

BY THE COMMISSION:

REPORT

On August 6, 1982, W.V.G. Associates filed a petition for a franchise to operate as a water public utility in a limited area in the Town of Thornton, New Hampshire.

On January 4, 1983, a hearing was held on the petition in the Commission offices at Concord, New Hampshire.

The water system operated by W.V.G. Associates serves 60 condominium style units, an indoor and an outdoor swimming pool owned by W.V.G., a restaurant and bar also owned by W.V.G. and also provides water wholesale to Albert S. Moulton who further distributes the water to 17 owners of lots in the Moulton Village Subdivision. At the present time, no charge is made by W.V.G. Associates for this service. The petitioner is to submit the known or estimated value of the plant presently installed to service all its customers, as well as estimated operating expenses so that permanent rates can be set and approved by this Commission. In the interim, we believe that some charge should be made as temporary rates for the duration of this proceeding.

The system is unmetered and we recognize that in such systems there generally are gross inequities as to billing and consumption. We recognize also that the restaurant and bar, and the swimming pool, though owned by W.V.G., must carry their proportionate share of the expense to operate the total water system — including service to 17 homeowners.

W.V.G. has estimated an annual cost

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to serve of $65 which we will accept as temporary rates and will order that it be applied to all customers including the Moulton subdivision, the swimming pool, and the restaurant-bar.

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Our Order will issue accordingly.

LOVE, chairman, dissenting: I cannot accept the establishment of temporary rates as a lawful practice unless and until there is a demonstration that WVG Associates has the proper level of expertise, financial support and resources to be viewed as a public utility. RSA 378:27, the establishment of temporary rates, is a statute whose provisions are only applicable to utilities. There has been no determination that WVG Associates is a franchised public utility. In fact, further proceedings will be held to evaluate whether or not WVG Associates should be recognized as a franchised public utility in the Town of Thornton, New Hampshire.

The Commission recently discussed the relevant factors that must be taken into consideration before allowing an entity to be granted public utility status. See Re International Generation & Transmission Co., Inc. (1982) 67 NH PUC 322. WVG Associates should spend considerable time reading that decision. Furthermore, the experiences of Mt. Springs Water and Sunapee Water should be too fresh in our minds to rush into granting utility status to another small water company destined to service less than 25 customers.

Finally, I would note that absent a finding that WVG Associates is in fact a public utility, the implementation of a $65 rate pursuant to RSA 378:27 is an unlawful order.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report which is made a part hereof; it is hereby

ORDERED, that a charge of $65 shall be applied against each customer of W.V.G. Associates, as outlined in the attached Report, as temporary rates for all service rendered as of January 1, 1983.

By Order of the Public Utilities Commission of New Hampshire this thirty-first day of January, 1983.

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NH.PUC*01/31/83*[79541]*68 NH PUC 49*Fuel Adjustment Clause

[Go to End of 79541]

Re Fuel Adjustment Clause

Intervenors: New Hampshire Electric Cooperative, Inc., Concord Electric Company, Exeter and Hampton Electric Company, Granite State Electric Company, Municipal Electric Department of Wolfeboro, Littleton Light Department, Woodsville Water and Light Department, and Connecticut Valley Electric Company, Inc.

DR 83-28, Order No. 16, 191

68 NH PUC 49

New Hampshire Public Utilities Commission

January 31, 1983

ORDER setting fuel adjustment clause rates for electric utilities.

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AUTOMATIC ADJUSTMENT CLAUSES, § 59 — Practice and procedure monthly proceedings — Requirement in case of "rolled-in" rate.

[N.H.] Where an electric utility's cost of fuel was "rolled into" base rates on an estimated forward looking basis eliminating a lagging fuel adjustment clause and resulting in more stable and comprehensible rates, no new rate was stated for the utility in the fuel adjustment clause order issued monthly by the commission.

BY THE COMMISSION:

ORDER

WHEREAS, the Commission in correspondence dated March 2, 1982, sent to the New Hampshire Electric Cooperative, Inc., Granite State Electric Company, Connecticut Valley Electric Company, Inc., Exeter & Hampton Electric Company, Municipal Electric Department of Wolfeboro, Concord Electric Company, Woodsville Power and Light Department, and Littleton Water & Light Department by the Commission's Executive Director and Secretary in relation to DR 82-59, notified the utilities that the Commission will not automatically schedule FAC hearings for those utilities which file monthly unless requested or needed by one of those utilities; and the Commission would not automatically schedule FAC hearings in the two off months for those utilities which have a quarterly FAC rate; and

WHEREAS, no utility maintaining a monthly or quarterly FAC requested a hearing scheduled, but Granite State Electric Company requested a reduction in its FAC rate; and

WHEREAS, this is one of the two off months for quarterly FAC utilities; it is

ORDERED, that the Commission in DR 81-340, Third Supplemental Order No. 15,986, dated November 10, 1982 (67 NH PUC 784) of the N.H. Electric Cooperative, Inc. rolled the

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cost of fuel on an estimated forward looking basis into base rates, thus eliminating the lagging Fuel Adjustment Clause and resulting in more stable and comprehensible rates; and

WHEREAS, the rolled in rate will remain in effect for approximately one year, unless a hearing is requested by any party, no new rate will be stated for the New Hampshire Electric Cooperative, Inc. in this month's FAC order; and it is

FURTHER ORDERED, that 7th Revised Page 19A of Concord Electric Company tariff, NHPUC No. 8 — Electricity, providing for a fuel surcharge of $0.358 per 100 KWH for the months of January, February and March, 1983, be, and hereby is, permitted to remain in effect for the month of February, 1983; and it is

FURTHER ORDERED, that 7th Revised Page 19A of Exeter and Hampton Electric Company tariff, NHPUC No. 15 — Electricity, providing for a fuel surcharge of $0.492 per 100 KWH for the months of January, February and March, 1983, be, and hereby is, permitted to

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remain in effect for the month of February, 1983; and it is

FURTHER ORDERED, that 3rd Revised Page 57 of Granite State Electric Company tariff, NHPUC No. 10 — Electricity, providing for an oil conservation adjustment of 15.1 cents ($0.151) per 100 KWH for the months of January, February and March, 1983, be, and hereby is, permitted to remain in effect for February, 1983; and

WHEREAS, Granite State Electric Company filed 4th Revised Page 30 to its tariff, NHPUC No. 10 — Electricity, providing for a reduction in its FAC rate for the remainder of the 1st quarter of 1983, and said filing has been received and accepted by the commission; it is

ORDERED, that 4th Revised Page 30 of Granite State Electric Company tariff, NHPUC No. 10 — Electricity, providing for a fuel surcharge for the months of February and March, 1983, of $0.94 per 100 KWH be, and hereby is, permitted to go into effect for February, 1983; and it is

FURTHER ORDERED, that 25th Revised Page 11B of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 6 — Electricity, providing for a fuel surcharge of $3.38 per 100 KWH for the month of February, 1983, be, and hereby is, permitted to become effective February 1, 1983; and it is

FURTHER ORDERED, that 109th Revised Page 6 of Littleton Light Department tariff, NHPUC No. 1 — Electricity, providing for a fuel surcharge of $1.21 per 100 KWH for the month of February, 1983, be, and hereby is, permitted to become effective February 1, 1983; and it is

FURTHER ORDERED, that 77th Revised Page 10-B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for a fuel surcharge credit of ($0.93) per 100 KWH for the month of February, 1983, be, and hereby is, permitted to become effective February 1, 1983; and it is

FURTHER ORDERED, that 74th Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for an energy surcharge credit of ($0.37) per 100 KWH for the month of February, 1983, be, and hereby is, permitted

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to become effective February 1, 1983.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of January, 1983.

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NH.PUC*02/01/83*[79542]*68 NH PUC 51*Granite State Electric Company

[Go to End of 79542]

Re Granite State Electric Company

DR 82-327, Order No. 16,194

68 NH PUC 51

New Hampshire Public Utilities Commission

February 1, 1983

PURCHASED power cost adjustment approved as temporary rates; hearing ordered on related abandoned plant issues.

AUTOMATIC ADJUSTMENT CLAUSES, § 13 — Purchased power cost adjustment — Corresponding wholesale rate — Temporary approval.

[N.H.] While approving an electric utility's purchased power cost adjustment on a temporary basis where the corresponding wholesale rate was approved by the Federal Energy Regulatory Commission subject to refund, the commission ordered a hearing to settle issues regarding abandoned plant, oil back-out measures, and reserve capacity raised by commission staff.

APPEARANCES: Michael Flynn, for Granite State Electric Company.

BY THE COMMISSION:

Opinion by LOVE, chairman: On November 5, 1982, Granite State Electric filed Original Page No. 31C and 31D corresponding with Purchase Power Cost Adjustment (PPCA) No. W-5(I) for effect January 1, 1983 and PPCA No. W-5 for effect March 1, 1983.

On September 30, 1982, the Federal Energy Regulatory Commission (FERC) allowed the corresponding wholesale rates W-5(I) and W-5 of New England Power Company (NEPCO) subject to refund.

A hearing was held on December 13, 1982, in which Staff raised numerous questions about the filing. In particular, Staff raised certain considerations as to the full increase, W-5, in the following areas:

> 1. abandoned plant; 2. accounting for compensating absences in vacation pay; 3. rate of return on common equity; 4. unfunded tax reserve; 5. proposed NEPCO's retention of investment tax credits; 6. a change in the accounting methods used to calculate AFUDC, from gross to net; 7. previous under and over-collections associated with the PPCA.

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Many of these issues are being raised both at the FERC and the state commissions. These concerns voiced by Staff relate primarily to the full increase associated with W-5. The Commission will allow as temporary rates the tariff pages filed corresponding to PPCA W-5(I). This temporary rate is to begin being collected on all bills rendered on or after February 1, 1983.

The Commission believes that there are some remaining issues to be resolved before granting, in whole or in part, the approval sought for W-5 for effect March 1, 1983. Therefore, the Commission would ask the Company to address the following concerns at a hearing to be held on February 11, 1983 at 9:30 A.M.:

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1. NEPCO-Granite State Electric seeks recovery of certain costs associated with the abandonment of Pilgrim II. Pilgrim II was originally put forward as being necessary based upon one of two arguments, whether to back out oil or to meet growth and energy demand. Has NEPCO-Granite State Electric done anything in terms of oil back-out since the date that Pilgrim II was proposed? If the answer is yes, NEPCO-Granite State Electric is to file testimony discussing its oil back-out measures. 2. Does NEPCO-Granite State Electric believe that it will have an adequate reserve for the next ten years? If the answer is yes; what are NEPCO-Granite State Electric's assumptions as to growth and electricity demands and the units and capacity that will be available to meet its demands. Testimony is to be filed. On this point. 3. The Commission will require Granite State Electric to provide a reconciliation of all Purchase Power Cost Adjustments initiated or approved after January 1, 1980. 4. NEPCO-Granite State Electricis to file testimony on any changes, alterations, settlements, or other events associated with the W-5/ W-5(I) filing before the FERC.

The Commission will expect NEPCO-Granite State Electric and the Commission Staff to set forth any concerns that they have relating to this docket so that the Commission may issue an order concerning W-5 by March 1, 1983. The Commission would also ask that NEPCO-Granite State Electric and the Staff address the question of whether the FERC rate became effective with all usage on all bills rendered on or after January 1, 1983. Depending on the evidence presented, the Commission will resolve any remaining questions concerning the billing of this rate and thereby any revenue shortfall to Granite State Electric for the month of January, 1983. The Commission will expect to resolve this issue on or after its February 11, 1983 hearing. The Commission will allow the tariff pages associated with W-5(I) to be added to all bills rendered on or after February 1, 1983.

Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

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ORDERED, that tariff pages filed in this docket associated with the W-5(I) filing before the FERC are approved for all bills rendered on or after February 1, 1983; and it is

FURTHER ORDERED, that a hearing into the remaining issues in this case is hereby scheduled for 9:30 A.M. On February 11, 1983 at the Commission offices, 8 Old Suncook Road, Concord, New Hampshire.

By Order of the Public Utilities Commission of New Hampshire this first day of February, 1983.

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NH.PUC*02/01/83*[79543]*68 NH PUC 53*Public Service Company of New Hampshire

[Go to End of 79543]

Re Public Service Company of New Hampshire

DF 82-306, Supplemental Order No. 16,196

68 NH PUC 53

New Hampshire Public Utilities Commission

February 1, 1983

SUPPLEMENTAL order authorizing the sale by an electric utility of unsecured debentures for cash.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, our Order No. 16,091, dated December 29, 1982 (67 NH PUC 956), issued in the above-entitled proceeding, authorized Public Service Company of New Hampshire to issue its unsecured Debentures (the "Debentures"), in a principal amount not exceeding $100,000,000; and

WHEREAS, following negotiations with underwriters, the Company has submitted to this Commission details concerning the sale of the Debentures, including the principal amount, the term and purchase price thereof, and the interest rate thereon, the principal amount of the Debentures being $100,000,000, said term being eight years from February 1, 1983, said price of the Debentures being ninety-seven and twenty one hundredths percent (97.20%) of the principal amount, and said interest rate being fourteen and 3/8 percent (14.38%) per annum, all in accordance with the Underwriting Agreement, a copy of which is to be filed with the Commission; and

WHEREAS, after due consideration, it appears that the issue and sale of $100,000,000, of the Debentures hereinabove described under the terms and conditions of the Debenture Indenture, dated as of February 1, 1983, upon the terms presented to this commission, including the term, purchase price and interest rate hereinabove set forth or referred to, is consistent with the public good; it is

ORDERED, that Public Service

Page 53

Company of New Hampshire be, and hereby is, authorized to issue and sell for cash its 14.3/8% Debentures due 1991, in the principal amount of one hundred million dollars ($100,000,000) at a price of ninety-seven and twenty one hundredths percent (97.20%) of the principal amount, said Debentures to bear interest at the rate of fourteen and 3/8 percent (14.3/8%) per annum; and it is

FURTHER ORDERED, that all other provisions of said Order No. 16,091 of this Commission are incorporated herein by reference.

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By order of the Public Utilities Commission of New Hampshire this first day of February, 1983.

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NH.PUC*02/02/83*[79544]*68 NH PUC 54*Gas Utility Service

[Go to End of 79544]

Re Gas Utility Service

DE 81-320, Supplemental Order No. 16,198

68 NH PUC 54

New Hampshire Public Utilities Commission

February 2, 1983

SUPPLEMENTAL order approving notices sent to gas utilities regarding their obligations to provide services within their franchised areas.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, the Commission had received customer complaints concerning refusals by gas utilities within the State to provide service within their service territories, and

WHEREAS, the Commission was also concerned about other services and programs involving residential homes; and

WHEREAS, a public hearing was scheduled to hear responses from gas utilities concerning these issues; and

WHEREAS, several gas companies had testified to their service policies during other recent proceedings before the Commission, and

WHEREAS, staff had investigated all customer complaints and resolved such in the public interest; and

WHEREAS, the Commission has reviewed all information pertaining to these issues; and

WHEREAS, the Commission is satisfied that the recent notices sent to all gas utilities stating their obligations and responsibilities under state statute to provide services within their franchise area addresses the issues adequately; it is hereby

ORDERED, that Docket No. DE 81-320 be and hereby is closed.

By Order of the Public Utilities Commission of New Hampshire this second day of February, 1983.

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NH.PUC*02/03/83*[79545]*68 NH PUC 55*Laconia Water Works

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[Go to End of 79545]

Re Laconia Water Works

DR 82-260, Second Supplemental Order No. 16,199

68 NH PUC 55

New Hampshire Public Utilities Commission

February 3, 1983

SECOND supplemental order specifying effective date for revised rate schedules filed to reflect increased revenues.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, Order No. 16,157 in DR 82-260 (68 NH PUC 17) specified that Laconia Water Works shall file new tariff pages to reflect increased annual revenues in the amount of $90,011; and

WHEREAS, Order No. 16,157 did not specify the date when revised rate schedules would become effective; it is

ORDERED, that revised tariff pages filed in accordance with the Report and Order No. 16,157 shall become effective with all bills rendered on or after February 1, 1983.

By Order of the Public Utilities Commission of New Hampshire this third day of February, 1983.

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NH.PUC*02/03/83*[79546]*68 NH PUC 55*Northern Utilities, Inc.

[Go to End of 79546]

Re Northern Utilities, Inc.

DR 82-275, Supplemental Order No. 16,203

68 NH PUC 55

New Hampshire Public Utilities Commission

February 3, 1983

REHEARING of order setting cost of gas adjustment for natural gas utility.

AUTOMATIC ADJUSTMENT CLAUSES, § 53 — Undercollections — Cost of gas — Winter

period — Utility forecasting and purchasing performance.

[N.H.] While setting a cost of gas adjustment on rehearing, the commission allowed the utility to recover previously unrecognized winter period undercollections over fifteen months where: (1) propane and gas purchases were made without any overt signs of mismanagement, (2) improvements were being made in forecasting, and (3) the utility received additional gas as a result of a merger with another utility.

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APPEARANCES: Eaton W. Tarbell for Northern Utilities, Inc.; Kenneth E. Traum, assistant finance director, and Daniel D. Lanning, PUC examiner, for the PUC staff; Michael W. Holmes, hearing examiner.

BY THE COMMISSION:

On November 29, 1982, Northern Utilities, Inc. filed a Motion for Rehearing of this Commission's November 8, 1982, Order No. 15,983 (67 NH PUC 773).

On December 13, 1982, the Commission responded in Report and Second Supplemental Order No. 16,042 (67 NH PUC 897), by scheduling a hearing for December 17, 1982, relative to the Tennessee rate to be effective January 1, 1983, and relative to the exclusion of one-half of the Company's undercollection from the 1981-1982 winter CGA. In addition all questions raised relative to the gas roots program were to be considered in DR 82-350, which was incorporated in this docket.

The Company's motion relative to all other issues was denied.

Per requests of the Company, the hearing date was postponed until January 13, 1983, on which date a duly noticed public hearing was held at the Commission's offices in Concord. During the course of the hearing the Company submitted 3 additional exhibits, sponsored by 2 witnesses.

The first witness, James D. Simpson, Rate Manager for Northern Utilities, Inc. sponsored Exhibit 51, Schedule JDS-9, which included items within and beyond the limited scope of these proceedings as established in Second Supplemental Order 16,042. Mr. Simpson included actual November, 1982 results, the January 1, 1983 Tennessee Gas Pipeline known increase, an estimate of the February 1, 1983 Tennessee Gas Pipeline rate change, updated produced gas cost estimates, collection from February 1 to April 30, 1983, rates of the undercollection as estimated for November 1982, December 1982; and January 1983; $0.0224/therm to commence the recoupment over 15 months of the one-hall of the 1981-82 winter period CGA undercollection previously placed in abeyance with said undercollection including the $78,507 plus interest previously removed relating to the Gas Roots program; and a known increase in rates by Bay State to all off-system customers as approved by the Massachusetts D.P.U. effective December 1, 1982, amounting to approximately $4,000 in this period.

Per a request of Mr. Traum of the P.U.C. Staff Mr. Simpson submitted Exhibit 52 to more closely conform with the Commission's directive. This exhibit incorporated actual November,

1982, results; the January 1, 1983 Tennessee Gas Pipeline increase; collection from February 1, 1983 to April 30, 1983, of the undercollection as estimated for November, 1982, December, 1982, and January, 1983; and $0.0224/therm to commence the recoupment over 15 months of the one-half of the 1981-82 winter period CGA undercollection previously placed in abeyance with said undercollection including the $78,507 plus interest related to the Gas Roots Program.

Exhibit 52 requests a revised CGA rate of $0.4063/therm, while Exhibit 51 requested $0.4313. The currently approved rate is $0.3672/therm; while the Company's original Winter Period CGA 1982-34 CGA request filed on October 1, 1982, was $0.4460/therm.

Working from Exhibit 52 the Commission

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will accept usage of actual November, 1982 results subject to audit and further study at the time of reconciliation; inclusion of the January 1, 1983 TGP increase; inclusion of the estimated November, 1982 through January 31, 1983, undercollection in establishment of rates for February 1, 1983 through April 30, 1933, as consistent with the 6 month planning period of the CGA; and the proposed recoupment methodology of the balance of the prior Winter Period CGA pending adjustment of the Gas Roots situation per DR 82-350.

In accepting the Company's proposal of spreading the remaining one-half of the 1981-82 Winter Period CGA undercollection over 15 months commencing February 1, 1983, at an 8% interest factor, the Commission finds:

> (1) The Company was partly at fault due to forecasting errors, but improvements are being made in this area; (2) Propane purchases and other supplemental gas purchases were made without any overt signs of mismanagement; but will be subject to closer Commission scrutiny in the future; and (3) Purchases of gas from or through affiliates were also made without any overt signs of mismanagement, but will be subject to closer Commission scrutiny in the future; and (4) Northern did receive additional natural gas as discussed in its merger with Bay State.

These last points were supported by Company witness Ellis as well as Simpson.

Subsequent to the foregoing events and conclusions, the Commission received a letter from Northern on January 26, 1983. That letter referenced an attached affidavit of Mr. Simpson which sought certain revisions to Exhibit No. 52. It was requested that recognition be given to a FERC order reducing the Tennessee rate that became effective January 1, 1983. It is noted that this revision is to be made to a rate that was supposedly known and certain as of the date of the last hearing in this matter. Furthermore, it is instructive to note a number of gas utilities in the state asserted in late 1982 that the January 1, 1983 increase was even then known and certain. Nonetheless it appears that:

> "Tennessee Gas Pipeline Company ("Tennessee") has filed a reduction of $.0676 per Mcf to its PGA rate with FERC, retroactive to January 1, 1983. This reduction is to comply with an FERC order requiring that settlement payments made to Atlantic Richfield Company, Mobil Oil Corporation and Sun Exploration and Production be passed through to Tennessee's interstate customers via adjsutments to the PGA (this

settlement agreement is summarized in Exhibit 27, Attachemnts A and B in DR 82-275.)" January 24, 1983 affidavit of Simpson, page 2.

Consistent with its recognition of the applicable increase the Commission will also include the reduction.

In addition to the change just discussed, the January 26, letter implores the Commission recognize yet another Tennessee rate increase pending before the FERC and allegedly due to

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become effective February 1, 1983. With a mind toward reducing to more manageable proportions the number of issues and uncertainty in this docket the Commission denies that request.

The Commission recognizes and appreciates the company's desire to work closely with the Commission Staff as exemplified by Mr. Simpson's request to sit down with Mr. Traum to go over weather normalization adjustment for forecasting purposes.

The Commission will accept the CGA rate of $0.4063/therm for February 1, 1983 — April 30, 1983 found on Exhibit 52 as revised per Mr. Traum's request but reduces it to $0.3987/therm in recognition of the FERC reduction. It is further recognized the figures on Exhibit 52 relating to gas roots will need to be adjusted upon completion of DR 82-350.

Our order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that Northern utilities, Inc., consistent with said Report, file tariffs to take effect February 1, 1983.

By order of the Public Utilities Commission of New Hampshire this third day of February, 1983.

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NH.PUC*02/03/83*[79547]*68 NH PUC 58*Bedford Water Corporation

[Go to End of 79547]

Re Bedford Water Corporation

DE 81-333, Third Supplemental Order No. 16,207

68 NH PUC 58

New Hampshire Public Utilities Commission

February 3, 1983

INVESTIGATION concerning chronic supply problems experienced by a small water utility.

SERVICE, § 140 — Inability to serve — Chronic supply shortages — Water utility.

[N.H.] Where a small water utility had experienced chronic supply problems and prior investigations by the commission resulted in no solution to the problem, the commission ordered the utility to file either: (1) a petition to increase revenues to provide adequate service to customers, (2) an agreement transferring the utility to its customers for appropriate value, or (3) a petition to transfer for value the ownership of the utility to some other corporate entity having the financial resources to provide adequate service to the customers.

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BY THE COMMISSION:

Opinion by LOVE, chairman: This case was opened by the Commission to address supply problems that the Bedford Water Corporation (Bedford) experiences in the Spring of each year, and which generally continue until early Fall; and the lack of response by Bedford to staff inquiry.

The Bedford system was approved by the State of New Hampshire in 1974 to serve 55 homes based upon a use of 400 gallons per day for each home. At the present time, 60 homes are served and the demand far exceeds the available supply.

The Commission has, in this docket and other dockets involving this Company, attempted to order the necessary capital expenditures so that the provisions of RSA 374:1 requiring adequate and safe service are satisfied. The Commission held a public hearing with the customers in October of 1982. In that public hearing the Commission explained that there were very few options available to the Commission. One option discussed at the public hearing was an examination into the possibility of Manchester Water Works extending their lines to interconnect into this system. The costs of such an interconnection would be extraordinarily expensive and clearly a Supreme court decision would be necessary to clarify the Commission authority to order extensions outside a given municipality by a water entity serving that municipality.

The second avenue explored was for the customers to examine buying the system. A committee was formed consisting of consumers of the system, however, it is our understanding that as of this date nothing has been achieved through negotiations.

The third avenue discussed was the potential of levying a fine on the owners of the Bedford Water Corporation for their failure to provide adequate service and their failure to adhere to the Commission rules and regulations. Whatever the merit of this third avenue, such order benefits that is not achieved for greater amounts of water.

Since none of the avenues discussed at the public hearing have been demonstrated to be viable in terms of providing adequate water supply to the residents the Commission will close this docket. However, clearly the Bedford Water Corporation under its existing revenues and existing management is not living up to its statutory responsibilities to provide adequate service. Consequently, within two months of the date of this Order the Bedford Water Works is to appear

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before this Commission with either (A) a petition to increase revenues to provide adequate service to these customers; (B) an agreement transferring the Bedford Water Corporation to the customers for appropriate value; or (C) a petition to transfer the ownership of this Corporation to some other corporate entity for value, said corporate entity is to have the financial resources to provide adequate service to these customers.

The Commission will open a new docket in two months upon the receipt of one of the following. Failure to provide one of the three listed remedies or a suitable equivalent will result in placing the record of this docket together with all other records of the Commission before the Attorney General for appropriate action.

This case is now closed. Our Order

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will issue accordingly. February 3, 1983

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that this case is closed; and it is

FURTHER ORDERED, that within two months Bedford Water Corporation is to file either (A) a petition to increase revenues to provide adequate service to customers; (B) an agreement transferring the Bedford Water Corporation to the customers for appropriate value; or (C) a petition to transfer the ownership of this Corporation to some other corporate entity for value, said corporate entity is to have the financial resources to provide adequate service to these customers.

By order of the Public Utilities Commission of New Hampshire this third day of February, 1983.

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NH.PUC*02/09/83*[79548]*68 NH PUC 60*Gas Service, Inc.

[Go to End of 79548]

Re Gas Service, Inc.

DR 80-179, Eighth Supplemental Order No. 16,208

68 NH PUC 60

New Hampshire Public Utilities Commission

February 9, 1983

PETITION for temporary races pending investigation of a natural gas step increase; granted.

RATES, § 635 — Rates pending investigation — Potential for irreparable injury to utility — Proposed gas rate step increase.

[N.H.] The commission granted a request by a natural gas utility for temporary rates where its tariff pages for a proposed step increase had been suspended pending investigation and the commission found that an additional hearing was necessary; the temporary rate would permit the utility to recover the level of increase found reasonable by the commission back to the original effective date of their filing, eliminating the possibility of causing the utility to suffer irreparable injury through due regulatory process.

APPEARANCES: Charles H. Toll, Jr., for the petitioner.

BY THE COMMISSION:

REPORT

Gas Service, Inc. ("GSI", or the "Company") filed on December 13, 1982 a petiion for a step increase in the amount of $911,460. Tariff pages N.H.P.U.C. No. 6 First Revised Page 2 and First Revised Page 3, included with said petition had an effective date of January 12, 1983. On December 28, 1982, this Commission issued Seventh

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Supplemental Order No. 16,084 which ordered said tariff pages suspended pending investigation.

In response to Order No. 16,084 GSI filed a petition requesting temporary rates. Such temporary rates were requested to be at a level not lower than the Company's presently effective rates.

On February 4, 1983 the Commission held a duly noticed hearing to review the petitioned step increase. Through that hearing many adjustments were made to said petition by both the Company and the staff. It was found during this hearing that still other parts of GSI's petition remain, questionable, and because it was necessary to schedule an additional day for hearing, it is our opinion that GSI should be allowed temporary rates on the pending step increase.

The temporary rate level will be the same as the Company's presently effective basic rates. In addition these rates will be effective for service rendered as of January 12, 1983.

This order will permit the Company to recoup the level of increase found reasonable by this Commission back to the original effective date of their filing. In doing so, we have eliminated the possibility of causing the Company to "suffer irreparable injury" through due regulatory process.

Our order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the Company's current rates shall be considered to be temporary rates; for

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service provided on and after 1/12/83; and it is

FURTHER ORDERED, that these temporary rates shall remain in force until the Commission sets permanent rates relating to the step increase, and then be subject to recoupment.

By order of the Public Utilities Commission of New Hampshire this ninth day of February, 1983.

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NH.PUC*02/09/83*[79549]*68 NH PUC 62*Woodsville Municipal Electric Department

[Go to End of 79549]

Re Woodsville Municipal Electric Department

DR 82-135, Second Supplemental Order No. 16,209

68 NH PUC 62

New Hampshire Public Utilities Commission

February 9, 1983

REQUEST by electric cooperative to reflect increased cost of purchased power; granted.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, the Commission, having reviewed the evidence in this case, finds that Woodsville's request to reflect the increased costs of purchased power is just and reasonable; and

WHEREAS, the increase in cost of purchased power requested amounts to $75,812.30 on an annual basis for the total of Department sales, or $.007924 per KWH as estimated; and

WHEREAS, the matter of New Hampshire Electric Cooperative's purchased power costs were resolved in Docket DR 81-340, it is hereby

ORDERED, that Woodsville Municipal Electric Department is hereby authorized to charge its customers under the jurisdiction of this Commission the increased cost of purchased power; and it is

FURTHER ORDERED, that the following tariff pages are approved for immediate effect:

5th revised page 10A
8th revised page 10A-1
3rd revised page 11
3rd revised page 12
4th revised page 14
3rd revised page 16
3rd revised page 17
3rd revised page 19

3rd revised page 21
3rd revised page 25
3rd revised page 28
3rd revised page 29
3rd revised page 31
3rd revised page 32

By order of the Public Utilities Commission of New Hampshire this ninth day of February, 1983.

==========

NH.PUC*02/09/83*[79550]*68 NH PUC 63*Kearsarge Telephone Company

[Go to End of 79550]

Re Kearsarge Telephone Company

DR 83-48, Order No. 16,210

68 NH PUC 63

New Hampshire Public Utilities Commission

February 9, 1983

TELEPHONE utility contract to provide PBX service approved by the commission.

BY THE COMMISSION:

ORDER

WHEREAS, Kearsarge Telephone Company has filed with this Commission copies of its Special Contract No. 1, said contract outlining its agreement to furnish PBX telephone service to Colby-Sawyer College; and

WHEREAS, said contract specifies rates and terms not otherwise outlined in the Company's tariff, NHPUC No. 5 — Telephone; and

WHEREAS, investigation has shown that special circumstances exist regarding said telephone service, rendering the terms and conditions of said contract just and consistent with the public interest; it is

ORDERED, that Special Contract No. 1 of Kearsarge Telephone Company be, and hereby is, approved for effect as of the date service is established; and it is

FURTHER ORDERED, that Kearsarge Telephone Company advise the Commission by letter the date of service cited above.

By order of the Public Utilities Commission of New Hampshire this ninth day of February, 1983.

==========

NH.PUC*02/09/83*[79551]*68 NH PUC 64*Merrimack County Telephone Company

[Go to End of 79551]

Re Merrimack County Telephone Company

DR 83-49, Order No. 16,211

68 NH PUC 64

New Hampshire Public Utilities Commission

February 9, 1983

PETITION for withdrawal of offerings by a telephone utility; granted.

SERVICE, § 275 — Telephones — Withdrawal of offering — Availability from alternate sources — Forecasted usage.

[N.H.] The commission granted a proposal by a telephone utility to delete from tariffed offerings both the shoulder rest and its joint user service where the shoulder rest had been available at cost for customer convenience and was currently available from other sources and where no customer currently uses the joint user service and no such customers were foreseen.

BY THE COMMISSION:

ORDER

WHEREAS, on January 28, 1983, Merrimack County Telephone Company filed with this Commission certain revisions of its tariff, NHPUC No. 7 — Telephone, said revisions proposing the deletion of the Shoulder Rest and Joint User Service offerings; and

WHEREAS, the shoulder rest has been available at cost solely for customer convenience, and currently is available from various alternate sources; and

WHEREAS, no customer partakes of Joint User Service, nor are any such customers foreseen in the future; it is

ORDERED, that Index, 2nd Revised Page 9; Part III, Section 5, 1st Revised Page 3, and Section 10, 1st Revised Page 1, Merrimack County Telephone Company tariff, NHPUC No. 7 — Telephone, be, and hereby are, approved for effect on February 28, 1983.

By order of the Public Utilities Commission of New Hampshire this ninth day of February, 1983.

==========

NH.PUC*02/15/83*[79552]*68 NH PUC 65*Androscoggin Electric Corporation

[Go to End of 79552]

Re Androscoggin Electric Corporation

Additional applicant: Public Service Company of New Hampshire Hampshire

DL 83-53, Order No. 16,215

68 NH PUC 65

New Hampshire Public Utilities Commission

February 15, 1983

APPLICATION for approval of long-term contract governing purchase of power by an electric utility from a small power producer; granted.

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1. COGENERATION, § 19 — Long-term contract — Small power producer — Deviation from standard pricing.

[N.H.] Even though a long-term contract between an electric utility and small power producer for sale of power to the utility set a higher price in the early years of the agreement than standard and also provided a guaranteed minimum price for the first ten years, the commission approved the contract finding that the pricing changes resulted in a present value not greater than what would have resulted from a standard agreement. p. 65.

2. COGENERATION, § 19 — Long-term contract — Small power producer — Full avoided cost.

[N.H.] When reviewing a long-term contract for purchase of power by an electric utility from a small hydroelectric power producer, the commission was concerned only with whether the rate established in the contract was sufficient to reflect the utility's full avoided cost and to encourage the development of the optimum number of shall power producers. p. 65.

BY THE COMMISSION:

ORDER

[1, 2] WHEREAS, a long-term contract was signed on January 14, 1983 between Androscoggin Electric Corporation and the Public Service Company of New Hampshire for the sale of all electric energy produced by the Androscoggin Electric Corporation at its Pontook hydroelectric generating facility located in Dummer, New Hampshire on the Androscoggin River to the Public Service Company of New Hampshire; and

WHEREAS, the Commission has reviewed the said contract and finds that, with the exception of *Article 3. Price*, it conforms to the PSNH standard contract which has been filed with this Commission; and

WHEREAS, the provisions of *Article 3. Price*, while they increase the payment to

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Androscoggin Electric Company in the early years above that of the standard contract and provide a guaranteed minimum price for the first ten (10) years, result in a present value no greater than that of *Article 3. Price* in the standard long-term contract; and

WHEREAS, Commission reservations concerning the PSNH standard long-term contract relate only to whether the rate established in the contract is sufficient to reflect the

Page 65

Company's full avoided cost and encourage the development of the optimum number of small power producers; it is hereby

ORDERED, that the contract reached by mutual agreement between Androscoggin Electric Corporation and the Public Service Company of New Hampshire dated January 14, 1983 is hereby approved and the docket may be closed.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of February, 1983.

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NH.PUC*02/15/83*[79553]*68 NH PUC 66*Public Service Company of New Hampshire

[Go to End of 79553]

Re Public Service Company of New Hampshire

DE 83-46, Order No. 16,217

68 NH PUC 66

New Hampshire Public Utilities Commission

February 15, 1983

APPROVAL of special contract relating to construction of a line extension financed in part by customer payments.

BY THE COMMISSION:

ORDER

WHEREAS, Public Service Company of New Hampshire on January 28, 1983 filed Special Contract NHPUC No. 43 with King Ridge Inc., a rate GV customer, relating to the construction of a line extension in New London, New Hampshire; and

WHEREAS, the contract provides for payments from the customer towards the cost of extending, enlarging and rebuilding the Company's facilities to supply the customer's premises in accordance with prior practice and currently effective Tariff NHPUC No. 27; and

WHEREAS, such contract is found to be in the public good; it is

ORDERED, that Special Contract NHPUC No. 43 is hereby approved.

By Order of the Public Utilities Commission of New Hampshire this fifteenth day of February, 1983.

==========

NH.PUC*02/15/83*[79554]*68 NH PUC 67*Merrimack County Telephone Company

[Go to End of 79554]

Re Merrimack County Telephone Company

DR 83-54, Order No. 16,218

68 NH PUC 67

New Hampshire Public Utilities Commission

February 15, 1983

PROPOSAL by telephone utility to provide screening service designed to decrease fraudulent use of "third-number" calling; granted.

BY THE COMMISSION:

ORDER

WHEREAS, Merrimack County Telephone Company (Merrimack) has proposed certain revisions to its Tariff No. 7 — Telephone, said revisions adding a so-called "Billed Number Screening Service" (BNS); and

WHEREAS, such service is designed to decrease fraudulent use of "third number" calling, and to reduce or eliminate customer bother caused by verifying collect and third-number calls; and

WHEREAS, this customer service is found to be for the public good; and

WHEREAS, Merrimack proposes to waive service connection charges resulting from application for such service through an initial period ending June 30, 1983; it is

ORDERED, Index, Third Revised Page 1; and Part V, Section 7, Original Page 1, Merrimack County Telephone Company tariff, NHPUC No. 7 — Telephone, be, and hereby are, approved for effect March 1, 1983; and it is

FURTHER ORDERED, that the Company waive service connection charges for implementing this customer service to existing customers through June 30, 1983; and it is

FURTHER ORDERED, that information regarding this useful service be widely disseminated among Merrimack's customers by the Company.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of February, 1983.

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NH.PUC*02/15/83*[79555]*68 NH PUC 68*C.H. Peterson et al.

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[Go to End of 79555]

Re C.H. Peterson et al.

DE 82-317, Order No. 16,219

68 NH PUC 68

New Hampshire Public Utilities Commission

February 15, 1983

PETITION for discontinuance of water service; granted.

SERVICE, § 277 — Water — Discontinuance of service — Ability to earn a profit — Alternate source of supply.

[N.H.] The commission granted a petition by the owners of a small water system to discontinue service where the system served only four customers and could not be operated at a profit because rates set by deeded or contractual rights were insufficient to cover expenses; and where all but one of the customers agreed to drill individual wells and the remaining customer had the capacity to do so.

APPEARANCES: H.C. Peterson for C.H. and Verna Peterson.

BY THE COMMISSION:

REPORT

By a petition filed November 1, 1982, C.H. and Verna Peterson are seeking authority to discontinue a water system serving 8 customers on Governor's Island, Gilford, New Hampshire. This system has not been franchised by the Commission.

A hearing was held on December 21, 1982, at which the petitioner maintained that this system cannot be operated at a profit since the rate charged each customer is by deeded or contractual rights which have been insufficient to cover operation and maintenance expenses. It was further represented that as of the date of this hearing, only four customers were being served.

After conclusion of the hearing, Counsel for the petitioner represented in letters to this Commission, that two of the remaining four customers have drilled individual well supplies and one has agreed to develop an individual well during the Spring of 1983. No agreement has been reached with the one remaining customer. A view of this customer's lot and its physical dimensions indicate sufficient land to locate a well system.

It is our opinion that for the reasons here shown, and previous Commission decisions in similar matters (Re Northern View Water Supply Co., Inc. [1980] 65 NH PUC 357; Re Jackson

Water Works, D-E6176), that the water system owned by C.H. and Verna Peterson on Governor's Island, Gilford, New Hampshire shall be allowed to discontinue water service as of October 1, 1983.

Our Order will issue accordingly:

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ORDER

Upon consideration of the foregoing Report which is made a part hereof; it is hereby

ORDERED, that the water system owned by C.H. and Verna Peterson on Governor's Island, Gilford, New Hampshire is authorized to discontinue water service as of October 1, 1983.

By Order of the Public Utilities Commission of New Hampshire this fifteenth day of February, 1983.

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NH.PUC*02/16/83*[79556]*68 NH PUC 69*Connecticut Valley Electric Company, Inc.

[Go to End of 79556]

Re Connecticut Valley Electric Company, Inc.

DR 83-55, Order No. 16,220

68 NH PUC 69

New Hampshire Public Utilities Commission

February 16, 1983

REQUEST for purchased power cost adjustment; granted.

AUTOMATIC ADJUSTMENT CLAUSES, § 13 — Purchased power — Wholesale rate increase — Costs associated with abandoned plant.

[N.H.] The commission approved a purchased power cost adjustment where the electric utility proposing the adjustment removed amounts associated with abandoned plant from the wholesale rate increase necessitating the adjustment.

BY THE COMMISSION:

ORDER

WHEREAS, Connecticut Valley Electric Company, Inc. (Con Valley) on December 28, 1982, filed a request to increase the Purchased Power Cost Adjustment (PPCA) by $90,429 as of February 1, 1983 to reflect the 1983 wholesale rate RS-2 charged by Central Vermont Public

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Service Company (CVPS) as approved by the Federal Energy Regulatory Commission (FERC); and

WHEREAS, Con Valley amended its request on February 7, 1983 to reflect the terms of an agreement adopted by the parties in Docket DR 82-67 and approved by the Commission in Order No. 16,185 (68 NH PUC 40) regarding the 1982 Wholesale Rate RS-2, and specifically removed the $6,011 from the $90,429 that related to costs associated with the abandonment of Pilgrim II and Montague; and

WHEREAS, the amended filing

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conforms with Commission Order No. 16,185 and the policies established therein; and

WHEREAS, the 1983 RS-2 Rate charged by CVPS will be reconciled in accordance with the FERC procedures in about May of 1984 to account for any over or undercollection from Con Valley, and Con Valley intends to reflect that and all other reconciliations in its retail rates, it is hereby.

ORDERED, that Con Valley's amended request is found to be just and reasonable, and 8th Revised Page 17 of Con Valley's Tariff NHPUC No. 4 is hereby approved for effect on all bills rendered on or after February 1, 1983; and it is

FURTHER ORDERED, that Con Valley shall refund to its customers any refund from CVPS resulting from the ultimate reconciliation of the 1983 RS-2 rate and Con Valley correspondingly may file for a charge to its customers for any additional charge from CVPS resulting from said reconciliation.

By Order of the Public Utilities Commission of New Hampshire this sixteenth day of February, 1983.

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NH.PUC*02/22/83*[79557]*68 NH PUC 70*Dunbarton Telephone Company

[Go to End of 79557]

Re Dunbarton Telephone Company

DR 82-98, Second Supplemental Order No. 16,221

68 NH PUC 70

New Hampshire Public Utilities Commission

February 22, 1983

ORDER accepting settlement setting revenue and rate structure for telephone service.

DISCRIMINATION, § 229 — Telephones — Mileage charge effect on suburban and rural

customers.

[N.H.] A telephone rate structure which included mileage charges that increased in amount as the distance to the center of the town where the utility was located increased was found to be discriminatory against suburban and rural customers; the commission approved the overall rate structure after removal, by settlement, of the mileage charges.

BY THE COMMISSION:

Opinion by LOVE, chairman: On October 5, 1982, Dunbarton Telephone Company filed proposed changes to its Tariff No. 5 to become effective on November 5, 1982. This filing was an update of the previous filing provided on March 25, 1982. Hearings on the filing have led to a proposed stipulation between the Dunbarton Telephone Company and Staff, the only two parties that have shown an interest in this proceeding.

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Upon review of the stipulation agreement, the Commission sets the agreement as reasonable, both as to the revenue level set and the rate structure determined. The proposed revenue effect would be an increase of nearly $14,000. Some of this revenue is already being collected pursuant to Order# 15,581 wherein the Commission approved key telephone service, touch calling and custom calling.

The overall rate of return in the settlement is 8. 14% which the Commission finds to be within the zone of reasonableness. The rate base is accepted as reasonable at the level of $718,608. This level reflects a working capital inclusion of $14,775. The overall revenue increase of 5.7% is found to be reasonable.

The overall rate structure is approved. The settlement, which is accepted, eliminates mileage charges. These charges, which increase in amount as the distance to the center of town increases, is discriminatory against rural and suburban customers.

The settlement agreement also provides for Dunbarton Telephone to present a statement which presents electrical KWH usage by month. When the Seabrook nuclear station begins operating, the Commission will allow a step increase for the increase in electricity prices for Dunbarton Telephone. In this fashion small utilities like Dunbarton can be assured of recovery of such a major expense rise without having to weave through the regulatory maze seeking relief for an expense change beyond their control. The rate shock from Seabrook will be of such a large consequence for Dunbarton, that earnings could be significantly affected absent this provision.

The rates set forth in the settlement are to become effective on all bills rendered on or after March 1, 1983.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing report which is incorporated and made a part of this order; it is hereby;

ORDERED, that the settlement agreement is accepted as reasonable as to revenue and rate structure; and it is;

FURTHER ORDERED that the rates set forth in the settlement agreement are to be effective on all bills rendered on or after March 1, 1983; and it is;

FURTHER ORDERED, that another step increase is allowed for the increased cost of electricity when the Seabrook Nuclear plant becomes operational.

By Order of the New Hampshire Public Utilities Commission this twenty second day of February, 1983.

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NH.PUC*02/24/83*[79558]*68 NH PUC 72*Columbia Water Company, Inc.

[Go to End of 79558]

Re Columbia Water Company, Inc.

DE 81-194, Supplemental Order No. 16,224

68 NH PUC 72

New Hampshire Public Utilities Commission

February 24, 1983

ORDER authorizing water utility to discontinue service.

SERVICE, 277 — Water — Discontinuance of service — Customer liability prior to end of service.

[N.H.] Where the commission found that an officer of a water company requesting exemption from utility status had been paying operating and maintenance expenses for the utility but the customers were not billed and did not contribute to the operating expenses, the commission ordered the utility to bill its customers and authorized it to cease operations one year from the date of the order.

BY THE COMMISSION:

REPORT

Columbia Water Company (Columbia) through its Attorney, Edward J. Reichert, petitioned this Commission for exemption from utility status under the provisions of RSA 362:4. After investigation and consideration, Order No. 15,001 (66 NH PUC 270) was issued, effective July 21, 1981, granting exemption to Columbia.

On August 26, 1982, the four current customers of Columbia filed a petition requesting that

Order No. 15,001 be rescinded. A public hearing on this matter was held on October 7, 1982.

Edward J. Reichert attended this hearing as Attorney for the landowners, ie, New England Non-Profit Housing Development Corporation of Concord, New Hampshire and for the Housing Assistance Council, Inc. of Washington, D. C. The record will also show that Edward J. Reichert is listed as clerk of Columbia Water Company Inc. as of November 27, 1978.

From the records available and testimony of Attny. Reichert, it appears that Columbia ceased sending bills to its customers in 1979 and that since that time Attny. Reichert has been paying the electric bill and for a necessary repair during a recent winter. The customers have neither been billed or contributed to the operating expenses.

This Commission has allowed the discontinuance of water public utilities because of economic reasons or deficit operation (Re Northern View Water Supply Co., Inc. [1980] 65 NH PUC 357; Re Jackson Water Works, D-E6176), when it was determined to be in the public good. In this case, Attny. Reichert, the sole appearing officer of Columbia, has been paying certain bills and acknowledged such responsibility further by petitioning for utility exemption. We do not, however, believe that the customers receiving service from this water system should

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continue to be exempt from paying for such service.

It is our opinion that Columbia shall bill its customers to recover the operation and maintenance expenses, including the cost of billing, and shall continue the operation of this system for one year from the date of this Report and Order. During this twelve month period, the current customers will have the opportunity to purchase the assets of Columbia or to install individual well supplies. Failure of any customers to pay the billed charges during this period will be grounds for disconnecting service in accordance with the Rules and Regulations of this Commission.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that Columbia Water Company, Inc. shall henceforth bill its customers to recover the operating and maintenance expenses; and it is

FURTHER ORDERED, that Columbia Water Company, Inc. is authorized to cease operation one year from the date of this Report and Order.

By Order of the Public Utilities Commission of New Hampshire this twenty-fourth day of February, 1983.

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NH.PUC*02/24/83*[79559]*68 NH PUC 73*Public Service Company of New Hampshire

[Go to End of 79559]

Re Public Service Company of New Hampshire

Intervenor: United Engineers and Contractors, Inc.

DF 83-57, Order No. 16,225

68 NH PUC 73

New Hampshire Public Utilities Commission

February 24, 1983

ORDER requiring filing of contractual documents prior to consideration of proposed long-term financing.

PROCEDURE, § 16 — Production of evidence — Contractual documents — Proposed financing — Nuclear generating facility.

[N.H.] The commission ordered an electric utility to file copies of all contractal documents between the utility and the general contractor engaged in construction of a

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nuclear plant before it could decide on the propriety of a proposed long-term note between the utility and the contractor; the commission also requested copies of all contractual documents between the same contractor and a representative co-owner of the construction project.

BY THE COMMISSION:

REPORT

The Commission, to be able to pass upon the question of whether this proposed financing is in the public good, finds it relevant to be made aware of the entire relationship between United Engineers & Contractors, Inc. (UEC) and Public Service Company of New Hampshire (PSNH). Since UEC is the general contractor at the Seabrook site, the existence of all contracts and amendments between these two Companies is relevant to the financing so the Commission can be aware and distinguish between financial obligations pursuant to the note and contractual obligations relating to the completion of the Seabrook facility in an efficient and timely manner.

The Commission's concern relates to the ability of PSNH as well as other owners to insure that existing contractual obligations relating to Seabrook are adhered to and not interfered with by the proposed financing.

Since the records of the Commission do not appear to contain copies of the contracts between PSNH and UEC, the Commission will pursuant to its powers under RSA 365:6, 10, 14 require that three (3) sworn copies of all contracts, amendments, and revisions thereto between United Engineers and Contractors, Inc. and Public Service Company of New Hampshire be filed with the Commission no later than 10:00 a.m. on February 28, 1983. This request includes any

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agreements, contracts, papers, documents, understandings, oral contracts, records, or any other relationship that PSNH views as binding on UEC and/or PSNH. Furthermore, pursuant to RSA 365:6, 10, 14 the Commission will also require three (3) sworn copies of all contracts, amendments and revisions thereto between United Engineers & Contractors, Inc. and Yankee Atomic Electric Company as representative of the Seabrook owners which relate to Seabrook. This request includes any agreements, contracts, papers, books, records, documents, papers and revisions and amendments thereto which establish in PSNH's opinion legal obligations as to the construction of the Seabrook nuclear facility.

Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is incorporated into this Order and made a part hereof; it is hereby

ORDERED, that three (3) sworn copies of all the documents requested in the Report are to be delivered to the Commission on or before 10:00 a.m. On February 28, 1983; and it is

FURTHER ORDERED, that copies of this Report and Order are to be hand delivered to the firm of Sulloway, Hollis, Godfrey and Soden and to the Public Service Company of New Hampshire central business offices at 1000

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Elm Street on the date of this Order.

By order of the Public Utilities Commission of New Hampshire this twenty-forth day of February, 1983.

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NH.PUC*02/24/83*[79560]*68 NH PUC 75*Public Service Company of New Hampshire

[Go to End of 79560]

Re Public Service Company of New Hampshire

Intervenor: United Engineers and Contractors, Inc.

DF 83-57, Supplemental Order No. 16,226

68 NH PUC 75

New Hampshire Public Utilities Commission

February 24, 1983

ORDER requiring attendance of all owners of nuclear plant at financing proceeding.

PARTIES, § 2 — Affiliated interests — Co-ownership of nuclear plant under construction —

Appearances at individual financing hearings.

[N.H.] Where the commission found that approval or disapproval of financing for a nuclear plant proposed by an electric utility might affect the other owners of the plant, it required the attendance of representatives of all plant owners at the financing proceeding to: (1) raise any concerns about the financing or its terms, (2) protect their own interests or those of their customers, (3) answer commission questions regarding the effect of the proposed financing on the other owners, and (4) raise any objections or provide support for the financing.

BY THE COMMISSION:

The Commission recognizes that approval or disapproval of the proposed financings may affect the interests of other owners of the Seabrook nuclear plant. Furthermore, due to the nature of this financing, the lead owner borrowing from the general contractor for all owners, the other Seabrook owners may have certain relevant evidence as to specific terms and specific conditions that the Commission should consider in passing judgment on the proposed financing. Consequently, the Commission will, pursuant to the provisions of RSA 374-A, the provisions of RSA 365 and the provisions of RSA 374, require that duly authorized legal representatives of each Seabrook nuclear plant owner be in attendance at the March 3, 1983 hearing in this docket for purposes of (1) raising any concerns or considerations

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as to the financings or its terms, (2) to protect and advocate their own interests and that of their customers, (3) to answer Commission questions that may arise as to the effect of this financing on the interests of other owners in the Seabrook project, and (4) to raise any and all objections to the financing or to provide support for the financing.

Each utility that is an owner in the Seabrook plant is to have all necessary financial and legal representatives present at the Commission's hearing on March 3, 1983 at 10:00 AM. Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that all owners in the Seabrook project comply with the incorporated Report; and it is

FURTHER ORDERED, that all Seabrook Nuclear Plant owners are to have appropriate representatives in attendance as full parties in this proceeding which begins formal hearings on March 3, 1983 at 10:00 a.m.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of February, 1983.

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NH.PUC*02/24/83*[79561]*68 NH PUC 76*Public Service Company of New Hampshire

[Go to End of 79561]

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Re Public Service Company of New Hampshire

DR 82-333 Third Supplemental Order No. 16,227

68 NH PUC 76

New Hampshire Public Utilities Commission

February 24, 1983

ORDER extending authorization of revised electric rate tariff.

RATES, § 855 — Rates pending investigation — Cost-of-service settlement — Rate design pending investigation.

[N.H.] The commission allowed minor electric rate design changes made in conjunction with a cost-of-service settlement to remain in effect until such time as rate design issues were settled by separate proceeding.

BY THE COMMISSION:

Opinion AESCHLIMAN, commissioner: By Order No. 16,120 (67 NH PUC 991), this Commission closed Docket No. DE 82-61, the Consultative Process, and instructed that rate design issues would be raised in this docket, DE 82-333, so as to allow all

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parties to have input. In particular, the Commission stated that it "will not foreclose the rights of any person to raise rate design issues in DR 82-333". In addition, Order No.16,120 authorized revised tariff pages to be filed for a two month period only.

This Commission received a letter from Community Action Program (CAP) on January 31, 1983 relative to Order No. 16,120, and its relation to the proceedings in DR 82-333. In particular, CAP offers an interpretation of their position in DR 82-61 which would allow any parties in DR 82-333 including the parties in DR 82-61 to pursue rate design consultations, on a voluntary basis, and to present and support rate design proposals in DR 82-333.

In addition, a letter from Public Service Company of New Hampshire was received on February 9, 1983 relative to Order No. 16,120.In particular, PSNH outlines the five rate design changes which took place on January 1, 1983 in accordance with Order No. 16,120 in DR 82-61; and suggest that these changes be allowed to continue past the end of February.

At the duly noticed hearing in DR 82-333 on February 11, 1983, this Commission indicated that the proceedings in DR 82-333 could not go forward without representation from the Consumer Advocate, a position required by state law and currently unable to be filled, and that

procedural determinations in DR 82-333 could, therefore, not be made at this time. Nevertheless, the Commission can, and should, clarify its intent with respect to Order No. 16,120 and, additionally, must address the issue of an appropriate tariff for the period subsequent to February 1983.

The Commission's primary concern with respect to the December settlement agreement in Docket DR 82-61 rests with any implied approval of the methodology and results behind PSNH's tariff filing initiating DR 82-333. The Commission wants the parties to understand clearly that the Commission does not accept and has not, in any way, approved that revenue allocation or the studies upon which it is based, or any other rate design issue addressed by PSNH's tariff filing in this docket.

Given that understanding, and the fact that the tariff in question was suspended by Order No. 16,144, the Commission can address the concerns raised by CAP and PSNH.

With respect to the specific and relatively minor tariff changes which took place on January 1, 1983 pursuant to DR 82-61, the Commission agrees with PSNH that the changes are desireable, and therefore, in the public interest, and should continue past the end of February. The Commission will, therefore; approve the continuation of the currently effective tariff until such time as the tariff is changed pursuant to action in this or some other docket (such as ECRM proceeding).

With respect to CAP's suggestion that parties be allowed to continue consultations on rate design in DR 82-333, this Commission indicates that it does not want to limit the parties in attempts to resolve rate design issues in settlement or consultation, as long as the rights of all parties in DR 82-333 are fully respected. In particular, we note that the position of the Consumer Advocate with respect to design issues and the procedure for resolving these issues in DR 82-333 cannot be known at this time. Should any or all parties in

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DR 82-333 wish to consult on rate design issues they may do so. Due to the Commission staff's unique position in regard to proceedings before this Commission and the requirement that we protect the rights of all parties, the Commission indicates that George Gantz of the staff is authorized to consult with other parties on rate design issues in DR 82-333. Mr. Gantz will not discuss such consultations or the rate design issues involved in DR 82-333 with the Commission or with any Commission staff members who may be advisory to this Commission on rate design issues in DR 82-333.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report which is made a part hereof; it is hereby

ORDERED, that the tariff filed in compliance with Order No. 16,120 is approved and may continue in effect until further order of this Commission.

By Order of the Public Utilities Commission of New Hampshire this twenty-fourth day of February, 1983.

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NH.PUC*02/25/83*[79562]*68 NH PUC 78*Concord Natural Gas Corporation

[Go to End of 79562]

Re Concord Natural Gas Corporation

DE 82-272, Second Supplemental Order No. 16,228

68 NH PUC 78

New Hampshire Public Utilities Commission

February 25, 1983

REHEARING of order setting penalties for natural gas safety standard violations.

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1. COMMISSIONS, § 11 — Obligation to protect public safety.

[N.H.] The obligation to protect the safety of the public is paramount to all other responsibilities entrusted with the commission. p. 80.

2. SERVICE, § 334 — Natural gas — Safety violations — Penalties — Good faith effort to correct.

[N.H.] Where safety violations by a natural gas utility existed for at least; 23 days and the commission ordered fines for only one day in each of the areas of operation in which multiple violations existed, a plea by the utility that no fines should be levied because of the good faith efforts to correct the violations was rejected. p. 80.

3. APPEAL AND REVIEW, § 6 — Right to review — Presentation of evidence available at original hearing.

[N.H.] The commission is not required to grant a rehearing so that a party may have a second chance to present evidence or conduct cross-examination that could have been presented in the original hearing. p. 80.

4. SERVICE, § 491 — Notice and Hearing — Natural gas safety standards — Applicable penalties.

[N.H.] Where a state statute (RSA 374:7-a) explicity authorized penalties to be imposed

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for natural gas safety violations, the commission rejected an argument by a penalized utility that it had insufficient notice that the commission may impose penalties for those violations. p. 81.

5. SERVICE, § 67 — Federal natural gas safety regulations — State jurisdiction — Formal adoption.

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[N.H.] The commission can continue to enforce federal regulations concerning natural gas safety standards even though they are not formally adopted pursuant to a state statute (RSA 541-A). p. 82.

6. SERVICE, § 332 — Natural gas — Safety standards management discretion Responsibility for violations.

[N.H.] Where utility management is given the opportunity to decide how to provide safe reliable service the utility must accept the responsibility for allowing serious safety violations to occur and continue prior to the time they were spotted by the commission staff. p. 84.

APPEARANCES: Orr and Reno, PA by David W. Marshall, on behalf of Concord Natural Gas Corporation

BY THE COMMISSION:

REPORT

On December 29, 1982, the Commission issued Report and Order No. 16,094 which found that Concord Natural Gas Corporation ("Company") violated gas safety standards for at least 125 days in seven areas of operation. These areas of operation were:

1) Corrosion control program 2) LNG/LP facilities 3) Emergency valves 4) Regulator vaults 5) Maintenance of mains 6) Company personnel 7) Pressure relief

As a result of these findings and pursuant to RSA 374:7-a, the Commission imposed a fine of $1,000 for each of the violations in the areas of corrosion control, LNG/LP facilities, emergency valves, regulator vaults, maintenance of mains and pressure relief. In addition, the Commission imposed a fine of $10,000 for the violations in the area of company personnel. We also provided that the $10,000 fine for company personnel violations will be suspended if the Company demonstrates in a hearing to be held prior to March 31, 1983, that it has taken adequate action to train personnel.

The Company filed a Motion for Rehearing and Other Relief which did not specifically seek a modification of the Commission's findings *vis a vis* the Company's violations of gas safety standards, but rather requested, *inter alia*, that the Commission vacate its assessment of civil penalties. In support of its Motion, the Company's "major" contentions were that the penalties should be vacated because:

1) The Company's good faith efforts at compliance render the imposition of penalties unjust, inappropriate and unlawful; 2) The Commission's adoption of Staff recommendations, which were a part of the record, was not supported by evidence of record and, accordingly, the imposition of penalties is unlawful, 3) The Commission violated the due process rights of the Company because it did not formally provide notice that it may assess civil penalties pursuant to RSA

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374:7-a if it found that gas safety violations exist; and

4) The Commission did not properly adopt the federal gas safety regulations and, accordingly, the Commission lacks the authority to enforce the standards contained in those regulations.

[1] In ruling on the Company's Motion for Rehearing and Other Relief, we are mindful of the extremely serious nature of the Company's safety violations. In addition, as stated in our Report and Order No. 16,094 (67 NH PUC 960, 968), our obligation to protect the safety of the public is paramount to all other responsibilities entrusted with the Commission. In view of these considerations, we have carefully considered the Company's contentions and for the reasons discussed *infra*, we do not believe that they present sufficient reasons to re-examine our original findings and conclusions. Accordingly, the Company is directed to continue to take steps to eliminate the safety violations which exist on its system. In addition, except as explicitly provided herein, we will deny the Company's request to vacate the assessment of penalties.

The Company's Good Faith Attempts to Redress the Commission's Concerns

[2] The Company contends that the record supports a finding that it has engaged in good faith efforts to redress the Commission's concerns about the safety violations on its system. I the Company's view, this renders our imposition of penalties inappropriate and unlawful. We cannot accept the Company's contention that its attempts to correct its safety problems act as a barrier to the assessment of any civil penalties under RSA 374:7-a. It is true that, pursuant to RSA 374:7-aII, we must consider the good faith of the person charged in determining whether and how much to compromise the penalty authorized in RSA 374:7-a I. In fact, the Commission did consider good faith efforts of the Company to correct its safety violations when we decided to impose a minimal fine. It must be remembered that the Commission found multiple safety violations which had been in existence for at least 125 days. These findings would have been sufficient to support the imposition of a penalty well in excess of the $200,000 maximum allowed by the statute. However, in view of several mitigating factors, including the efforts of the Company to correct the violations, the Commission opted to impose a fine for only one day in each of the six areas of operations where multiple violations exist. The penalty imposed for violations in the remaining area, training of Company personnel, is also low. It was imposed for only ten days of violations and it is subject to suspension if the Company is able to show that it has taken steps to adequately train its employees. In view of the gravity of the violations, we believe that we gave more than sufficient consideration to the good faith of the Company and the size of its business when we decided to impose only a minimal penalty.

The Record Support of the Commission's Findings

[3] The evidence supporting our findings is discussed in detail in our Report and Order No. 16,094. It is not necessary here to repeat that analysis. We will only note that the Staff presented

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its report on the record and that the Company had a full opportunity at that time to cross-examine the Staff. We are not persuaded that a company decision to not attempt to refute every allegation made by the Staff somehow mandates that we allow an opportunity to make a better record on rehearing. The Commission is not required to grant a rehearing so that a party may have a second chance to present evidence or conduct cross-examination that could have

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been presented in the original hearing. Cf., O'Laughlin v New Hampshire Personnel Commission (1977) 117 NH 999, 1004 (Personnel Commission could properly find that no good cause for rehearing exists when plaintiff failed to explain why "new evidence" could not have been presented at original hearing.)1(2)

Accordingly, for the reasons set forth herein and in our Report and Order No. 16,094, we conclude that our findings are supported by evidence of record.

Notice

[4] The Company's contention here is of two parts: first, the Commission did not notify the Company that one of the issues in the instant proceeding was whether to impose civil penalties and if so, in what amount; second, the Commission did not provide timely notice of the October 6 and October 15 hearing days. We shall consider each part in turn.

The Company's assertion that it must be notified that the Commission may impose penalties for gas safety violations improperly focuses on the issue of penalties rather than the violations. The penalties flow from the violations and, in this case, are explicitly authorized by RSA 374:7-a. Thus, the Company was or should have been fully aware that penalties could be imposed if the Commission found a violation. In fact, the Company was aware that penalties could be imposed (Docket No. DR 82-34, Tr at 4-31 -4-32). To a large extent, concern with the issue of penalties was one of the factors leading to the Company's Objection of September 7, 1982, which objection requested that a separate docket be opened (Id.) Upon filing of the objection, the Commission granted the relief sought by the Company and opened a new docket (Second Supplemental Order No. 15,909, September 29, 1982). That Order did notify the Company formally that the docket was opened to examine gas safety issues. Moreover, prior to the initial hearing, the Company received a copy of the report of Commission Staff which contained detailed allegations of safety violations, with citations to the applicable safety regulations. That report was entered into evidence (Exhibit No. 1) and the Company had a full opportunity to address itself to the specific violations contained in the report. Accordingly, since the Company had full and sufficient notice that the docket was opened to examine specific gas safety violations, it also had sufficient notice that penalties could be imposed if the Commission found that those violations did, in fact, exist.2(3)

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With respect to the Company's assertion of lack of adequate notice of the second hearing day, we would note that the second hearing day was initially postponed at the request of Counsel for the Company (Tr. at 101). Counsel should have been prepared for hearing at the date initially scheduled and has not in fact complained that he was at all prejudiced (*e.g*., by the inability to schedule a witness) by having the second hearing date scheduled at the call of the Commission. Accordingly, we find that sufficient notice was provided.

Applicability of Regulations

[5] The Company asserted that we could not impose penalties for failure to comply with regulations because those regulations were not adopted in strict compliance with the provisions of RSA 541-A. While we are concerned that certain technical administrative requirements may

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not have been met, we conclude, for the reasons set forth below, that the penalties were properly imposed even if the Commission did not properly adopt controlling federal regulations.

First, we must examine the enabling statute which authorized the penalty. RSA 374:7-aI provides, *inter alia*:

> Any person who violates any provision of RSA 370:2 *or any standards or regulations* promulgated thereunder by the public utilities commission, relative to gas pipelines, shall be subject to a civil penalty ... (Emphasis supplied)

It is important to note that penalties are authorized for violations of (1) standards; or (2) regulations. Although standards are often considered synonymous with regulations, that cannot be the case here. The legislature would not have used superfluous language to provide for penalties for violation of standards or regulations if it had only intended to provide penalties for violations of regulations. This is reinforced by the legislative history of RSA 374:7-a. That statute was passed in 1969 for the purpose of bringing the State in compliance with the Natural Gas Pipeline Safety Act, PL 90-481 (1968) ("NGPSA") so that the State could enforce the safety standards established by the federal regulations.[3(4)] Thus, when the legislature authorized the Commission to impose penalties for violation of standards in addition to regulations, the standards must have included, *inter alia*, those contained in the federal regulations promulgated pursuant to the NGPSA.

Second, the standards at 49 CFR Parts 192 and 193 are applicable to the Company as a matter of federal law. Those regulations were properly promulgated by the United States Department of Transportation pursuant to the NGPSA. Thus, there can be no argument that the safety standards to which the Commission held the Company were either undefined or excessive. The Company knew or should

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have known in detail what the applicable safety standards are. This distinguishes the instant situation from what occurred in Re Denman (1980) 120 NH 568. There, the Court held that a regulation of the New Hampshire Board of Taxation which was verbally promulgated by an auditor while on a site inspection of the taxpayer could not be enforced. In the instant proceeding, this Commission, pursuant to NGPSA § 5(a), RSA 370:2 and RSA 374:7-a, is enforcing properly promulgated detailed written regulations which are applicable to the Company. The Company certainly recognizes the applicability of the standards *(See*, Docket No. 82-34, Tr. at 4-31). Even in its Motion for Rehearing and Other Relief, it has not called into question the validity of the safety standards, their applicability to the Company or whether there was sufficient notice of the specific safety standards to which the Company would be held; rather, the only objection is to the imposition of a penalty because of an alleged technical deficiency in the Commission's adoption of the federal rules.[4(5)]

Finally, even if we were to assume *arguendo* that federal regulations must be adopted pursuant to RSA 541-A to be applicable here, we would note that under the Company's argument, those regulations (with the exception of the portions pertinent to LNG safety standards) were validly adopted and effective at least until 5/1982. See, Re Rules and Regulations Prescribing Standards for Gas Utilities (1970) 55 NH PUC 797. The Company's

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violations did not appear overnight; our findings indicate that the Company has been in violation for some period of time which must have extended back before May 4, 1982.[5(6)] *(See e.g.*, Report and Order No. 16,094 [67 NH PUC at pp. 969, 970].) Thus, even if we were to accept the Company's argument, we would have the discretion to find, on the basis of the instant record, that violations of Public Utilities Commission Rule 20 occurred during the period of time that the rule was in effect. However, since we have concluded that we may continue to enforce the federal regulations, we need not make findings and conclusions about when the violations first occurred and what penalties should be assessed for violations of pre-existing regulations.

The $10,000 Penalty for Inadequate Training

In addition to its four major contentions, the Company objected to the assessment of a $10,000 penalty for inadequate training of its personnel. The Company's objection centered on whether the record supported the Commission's findings, whether the standard of adequate training was adequately

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defined for the purpose of suspending the penalty and whether the Commission's action was in effect a prospective penalty.

As discussed *supra*, we have found adequate support in the record to support our findings of inadequate training. It is a violation which simply must be expeditiously corrected.

We also believe that our Report and Order No. 16,094 (67 NH PUC at p. 972) in combination with the material contained in Exhibit No. 1 and the regulations at 48 CFR §§ 192.605, 192.615 and 192.617 specifically define the standards to be applied. The Company has been and continues to be on notice that these are the applicable standards.

The final issue of whether the Commission may assess a prospective penalty is not pertinent here. The penalty was imposed in Report and Order No. 16,094. The only issue is whether it will be subsequently forgiven. However, since we are more interested in ensuring adequate corrective action rather than in assessing penalties, and since our imposition of the $10,000 penalty seems to have confused the Company, we will vacate that portion of the Report and Order which assessed the $10,000 penalty for inadequate employee training. In its place, we will issue a Rule to Show Cause why a $10,000 penalty should not be imposed for inadequate employee training. A hearing on the Rule to Show Cause will be scheduled prior to March 31, 1983. At that hearing, the Company may show that it had taken adequate steps to redress the training violations found in our Report and Order No. 16,094 (67 NH PUC 960) under the standards that have already been cited herein. If the Company fails to show that it has taken adequate steps to redress the violations, a $10,000 penalty will be assessed at that time.

Conclusion

[6] We must emphasize again that we have not lightly assessed these penalties. The serious nature of the gas safety violations and their long-standing nature leave us no other choice. It is no answer to contend that the Company began to recognize and correct the violations when they were notified of their existence by the Commission's Gas Safety Inspector. Under our system of regulation, management in the first instance is given the opportunity to decide how to provide

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safe reliable service. E.g. Grafton County Electric Light & Power Co. v New Hampshire, 77 NH 539, 540, PUR1915C 1064, 94 Atl 193. This opportunity carries with it the responsibility to affirmatively ensure that the Company's system is constructed and operated within minimum safety standards. Thus, the Company must accept the responsibility for allowing serious safety violations to occur and continue to exist prior to the time they were spotted by Commission Staff.

However, it is not our intent to be punitive; that is one of the reasons why the penalties were assessed at a minimal level. The Commission expects no more and no less than Company compliance with minimum safety standards. In view of the existing situation, the Company can expect Commission support in its effort to redress its 0safety violations.

Our Order will issue accordingly.

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SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the $6,000 penalty previously assessed Concord Natural Gas Corporation is reaffirmed; and it is

FURTHER ORDERED, that the $10,000 penalty assessed Concord Natural Gas Corporation in our Report and Order No. 16,094 for inadequate training of personnel be and hereby is vacated; and it is

FURTHER ORDERED, that a Rule to Show Cause why a penalty of $10,000 for violation of gas safety standards pertinent to personnel training be issued; and it is

FURTHER ORDERED, that a hearing on the Rule of Show Cause is scheduled for March 28, 1983 at 10:00 A.M. at the Commission Offices; and it is

FURTHER ORDERED, that at the same hearing we will continue to monitor Concord Natural Gas Corporation's efforts to bring its system into compliance with applicable gas safety standards; and it is

FURTHER ORDERED, that Concord Natural Gas Corporation's Motion for Rehearing and Other Relief is denied in all other respects.

By Order of the Public Utilities Commission of New Hampshire this twenty-fifth day of February, 1983.

FOOTNOTES

[1]We also have examined Appendix A of the Company's Motion for Rehearing and Other Relief. While we are not commenting on the adequacy of the information contained therein for other purposes, we would note that the information pertinent to the Company's attempts to redress its safety problems confirms the existence of those problems.

[2]The Company's assertion would have been stronger if it had been denied the opportunity to present evidence pertinent to the mitigation of penalties. However, the Company did present

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evidence on its good faith *(see*, citations contained in paragraph 11 of the Company's Motion for Rehearing and Other Relief.) The Commission gave due weight to that evidence when it decided to impose only a minimal penalty *(see*, discussion on the Company's Good Faith Attempts to Address The Commission's Concerns, *supra)*.

[3]*See*, NGPSA § 5 (State Certifications and Agreements). *See also*, NGPSA § 11 (a) (1) which provides for penalties which are identical to those adopted in New Hampshire at RSA 374:7-aI and NGPSA § 11(a) (3) which allows mitigating circumstances to be considered which are substantially similar to those adopted at RSA 374:7-aI.

[4]If we were to accept the Company's view of the matter, we would have no choice but to refer our findings to the Office of Operations and Enforcement of the Department of Transportation. That Office would have the ability to assess penalties for payment to the United States Treasury which either equal or do not equal the minimum penalties imposed by the Commission. In addition, pursuant to NGPSA § 11(a) (2), the Office of Operations and Enforcement could impose an additional penalty of $50,000 above any other penalties to which the Company may be subject for violations of LNG safety standards. The New Hampshire statutes do not contain a comparable provision. Since we believe that this Commission has the authority to assess civil penalties and to exercise its discretion as it did here to fashion minimal penalties so that all parties may focus on correcting the violations, we need not speculate about the level of any federal penalties that may otherwise have been assessed.

[5]The record indicates that since Concord Natural Gas never implemented the federal standards, the violations have existed for each and every day for over twelve years. In this light the Commission's penalty is hardly severe.

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NH.PUC*02/25/83*[79563]*68 NH PUC 85*Chichester Telephone Company

[Go to End of 79563]

Re Chichester Telephone Company

DE 83-63, Order No. 16,229

68 NH PUC 85

New Hampshire Public Utilities Commission

February 25, 1983

ORDER approving telephone utility tariff revisions.

BY THE COMMISSION:

ORDER

WHEREAS, Chichester Telephone Company, on February 11, 1983, filed with this Commission certain revisions to its tariff, NHPUC No. 3 — Telephone, said revisions effecting only minor textual changes, without change to rate or regulation; and

WHEREAS, the Commission finds such clarifying changes to be for the public good; it is

ORDERED, that Index, 1st Revised Sheets 1 and 2; Section 1, Original Sheet 1A and 1st Revised Sheet 1; Section 2, 1st Revised Sheet 2; Section 3, 1st Revised Sheets 2, 5, 6, and 9B; and Section 4, 3rd Revised Sheets 2 and 3 of Chichester Telephone Company's

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tariff, NHPUC No. 3 Telephone, be, and hereby are, approved for effect March 17, 1983; and it is

FURTHER ORDERED, that public notice of these minor tariff changes be, and hereby is, waived.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of February, 1983.

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NH.PUC*02/25/83*[79564]*68 NH PUC 86*Concord Natural Gas Corporation

[Go to End of 79564]

Re Concord Natural Gas Corporation

DF 82-189, Supplemental Order No. 16,230

68 NH PUC 86

New Hampshire Public Utilities Commission

February 25, 1983

SUPPLEMENTAL order granting gas utility request to increase short-term borrowing limit.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, Concord Natural Gas Corporation, a New Hampshire corporation having its principal place of business in Concord, New Hampshire, and operating as a gas utility under the jurisdiction of this Commission, February 18, 1983, filed with this Commission a request to increase its short-term borrowing limitation from $1,250,000 to $1,350,000; and

WHEREAS, the Company's request is necessary for payments on debts during their peak borrowing period; and

WHEREAS, Concord Natural Gas Corporation alleges that it will need to have an available line of short-term credits up to $1,350,000 to meet these cash requirements, and has this line of credit available; it is

ORDERED, the Concord Natural Gas Corporation be, and hereby is, authorized to issue and sell, and from time to time renew, for cash its notes payable due less than 12 months after the

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date thereof in an aggregate principle amount not exceeding $1,350,000; and it is

FURTHER ORDERED, that the notes shall bear interest at a rate that is reasonable compared to similarly situated utilities.

FURTHER ORDERED, that the authority to renew these notes up to an aggregate amount of $1,350,000 shall expire as of March 7, 1983, at which time the aggregate level will revert to $1,250,000; and it is

FURTHER ORDERED, that on or before January 1 and July 1 of each year, the Company shall file with this Commission a detailed-statement, duly sworn by its Treasurer, showing the

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diposition of the proceeds of the notes herein authorized until the expenditures of the whole of said proceeds shall be fully accounted for.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of February, 1983.

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NH.PUC*02/25/83*[79565]*68 NH PUC 87*Kearsarge Telephone Company

[Go to End of 79565]

Re Kearsarge Telephone Company

DR 82-355, Second Supplemental Order No. 16,231

68 NH PUC 87

New Hampshire Public Utilities Commission

February 25, 1983

SECOND supplemental order approving revised telephone tariff pages concerning unbundling of customer premises equipment.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, Order No. 16,116 (67 NH PUC 988) rejected certain tariff pages of Kearsarge Telephone Company and directed the filing of replacements; and

WHEREAS, the Company filed such revised pages on February 23, 1983, and review of same verifies compliance with the earlier order; it is

ORDERED, that the revised pages to Kearsarge Telephone Company tariff NHPUC No. 5 Telephone, indicated on Attachment A to this order, be, and hereby are, approved for effect as of January 1, 1983.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of

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February, 1983.

ATTACHMENT A

Section 1 — Sheet 6 — Third Revision Section 2 — Sheet 1 — Fifth Revision Section 2 — Sheet 1A — Fourth Revision Section 2 — Sheet 1B — First Revision Section 3 — PREFACE — Original Section 3 — Sheet 7 — Fifth Revision Section 3 — Sheet 12 — Third Revision Section 3 — Sheet 13 — Fourth Revision Section 3 — Sheet 14 — Third Revision Section 3 — Sheet 15 — Second Revision Section 3 — Sheet 17 — First Revision Section 3 — Sheet 19 — First Revision Section 3 — Sheet 20 — Third Revision Section 3 — Sheet 20A — Second Revision Section 3 — Sheet 21 — First Revision Section 3 — Sheet 22 — Fourth Revision Section 3 — Sheet 27-33 — First Revision Section 3 — Sheet 34-36 — Third Revision Section 3 — Sheet 37-40 — Fourth Revision Section 3 — Sheet 40A-40C — First Revision Section 3 — Sheet 46 — Second Revision Section 3 — Sheet 49 — Fourth Revision Section 3 — Sheet 54-59 — First Revision Section 3 — Sheet 60 — Second Revision Section 3 — Sheet 61 — Third Revision Section 3 — Sheet 62-64 — Second Revision Section 3 — Sheet 65-70 — First Revision Section 7 — Sheet 26 — Second Revision

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Section 7 — Sheet 26A — First Revision Section 10 — Sheet 1-12 — First Revision Section 11 — Sheet 1-2 — First Revision Section 11 — Sheet 3-39 — Original

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NH.PUC*02/25/83*[79566]*68 NH PUC 88*Granite State Electric Company

[Go to End of 79566]

Re Granite State Electric Company

DE 82-21, Sixth Supplemental Order No. 16,240

68 NH PUC 88

New Hampshire Public Utilities Commission

February 25, 1983

ORDER approving settlement agreement on rehearing of avoided cost rates.

APPEARANCES: Michael Flynn, Granite State Electric Company; Timothy Taylor, Baltic Mills.

BY THE COMMISSION:

REPORT

In its Report and Fourth Supplemental Order No. 15,999 (November 19, 1982 [67 NH PUC 819]) the Commission established an avoided cost rate and a methodology for calculating that

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rate for Granite State Electric Company (Company). On December 9, 1982 the Company filed a Motion for Rehearing. That Motion was granted by the Commission in Fifth Supplemental Order No. 16,058 (December 16, 1982). On February 22, 1983, the parties filed an Offer of Settlement which resolves all of the issues which were to be addressed on rehearing.

After due examination of the Offer of Settlement, the Commission finds that its terms are reasonable and in the public interest. Accordingly, we will approve the Offer of Settlement and terminate this docket. Since the Offer of Settlement refines the methodology for calculating the Company's avoided cost, it will be attached to this Report and Order as Appendix A and made a part hereof.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Based upon the foregoing Report, which is made a part hereof and Appendix A which is attached hereto and made a part hereof; it is hereby

ORDERED, that the Offer of Settlement filed by the parties is approved; and it is

FURTHER ORDERED, that all parties comply with the provisions of the Report and Fourth Supplemental Order No. 15,999 as amended by the Offer of Settlement; and it is

FURTHER ORDERED, that the rehearing on this docket is otherwise terminated.

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By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of February, 1983.

OFFER OF SETTLEMENT

This Offer of Settlement is jointly sponsored by Granite State Electric Company (Granite), Baltic Mill, a hydro-electric facility in Enfield, New Hampshire (Baltic Mill), and Staff of the Public Utilities Commission (Staff), collectively referred to as "the parties."

At the Commission's direction (letter of Secretary Iacopino, January 14, 1983), the parties met in an attempt to agree on the method for calculating the rate (the QF rate) that Granite will pay for energy purchased from qualifying small power producers. As a result of these discussions, the parties reached a full settlement that they now present for Commission review.

Granite, Baltic Mill, and Staff believe that taken as a whole this Offer of Settlement represents a reasonable basis for resolution of the issues in this docket, and the parties request its approval by the Commission.

ARTICLE I

Agreement

1.1 Rebuttal Testimony

Granite agrees to withdraw the rebuttal testimony of its witness, Dr. Frederick H. Pickel.

1.2 Weighting by Energy

The parties agree for settlement purposes to the methodology, originally proposed by Staff,

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for determining the non-time-of-day QF rate by weighting the peak- and off-peak rates according to the peak- and off-peak energy generated by New England Power Company (NEP).

1.3 Time-of-Day Rates

(a) Purchases by Granite from QFs with an installed capacity of 100 kilowatts or above shall be at rates which vary according to the time of day. The necessary time-of-day meter shall be installed at the QF's cost and otherwise in accord with Supplemental Order No. 14,797 and Second Supplemental Order No. 14,910 (issued March 20 and April 20, 1981 in Docket No. DE 80-246). Granite will file a tariff specifying the cost it will charge QFs for the installation of time-of-day meters.

(b) The requirement of time-of-day purchases, referred to in subparagraph (a), shall not apply to Baltic Mill, which presently is Granite's only QF supplier 100 kilowatts or above. Baltic Mill at its option and cost, or Granite at its option and cost, may install and maintain a time-of-day meter and thereafter purchases from Baltic Mill shall be at time varying rates.

(c) At its option and cost, Granite may install and maintain a time-of-day meter at a QF with an installed capacity between 30 and 99 kilowatts. Thereafter, purchases from such QFs will be at time varying rates. Granite now has no QFs on its system with an installed capacity between 30 and 99 kilowatts.

(d) A QF with an installed capacity under 100 kilowatts, which does not have a time-of-day meter installed pursuant to subparagraph (c), shall be paid the averaged rate unless the QF decides at its option and cost to install a time-of-day meter. Granite shall install a time-of-day meter in these circumstances

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under the tariff referred to in subparagraph (a).

1.4 Variable Inventory Expense

The measure of inventory expense avoided by QF purchases shall not be a ratio based on charges under Pru-Lease, but shall be a ratio equal to the value of annual carrying charges on one day's maximum usage of # 6 oil at NEP's Brayton Point Unit No. 4 divided by total fuel expense for that unit.

1.5 Losses

(a) The losses avoided by purchasing energy from a QF with an installed capacity under 100 kilowatts shall be 150 percent at the average variable line and transformation losses shown in Appendix A to this settlement offer.

(b) The losses avoided by purchasing energy from a QF with an installed capacity of 100 kilowatts or above shall be the actual avoided losses determined through a study done for each individual QF by Granite at its cost.

(c) The losses avoided by purchasing energy from Baltic Mill shall be 12.46%, which has been determined by a study. Granite agrees to analyze whether power factor influences the losses avoided by purchases from Baltic Mill and, if so, Granite will revise the 12.46% figure.

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(d) Granite shall file a tariff describing the general method for calculating losses for QFs 100 kilowatts or above.

1.6 Prospective Reconciliation

The reconciliation of the six month QF rate shall be based on actual fuel expense and estimated operation and maintenance expense. The method of calculating the incremental to average cost ratios, which determine the prospective six month QF rate and which form the basis for the reconciliation to actual fuel expense, is shown on Appendix B to this settlement offer.

1.7 Retroactive Adjustment

(a) After the New Hampshire Supreme Court's remand of a previous QF rate, Granite agreed to pay its existing QFs (Baltic Mill and two small residential windmills) a rate based on NEP's avoided fuel cost. Also, Granite volunteered to retroactively adjust its payments if a new QF rate by the Commission were higher.

(b) The parties agree to the use of a 100 megawatt increment/decrement in running the production cost model to calculate the retroactive adjustment.

(c) Granite filed for rehearing of the Commission's Fourth Supplemental Order No. 15,999 (issued November 19, 1982), which established a new QF rate in response to the Supreme Court's remand. Because the rehearing request would delay the calculation of a retroactive adjustment based on a final Commission order, Granite volunteered to make an interim retroactive adjustment for existing QFs based on Order No. 15,999 (*see* page 3 of Report to Order No. 16,106, issued December 29, 1982 in Docket No. DR 82-330). Accordingly, Granite paid: Baltic Mill $ 13,371.05 on December 23, 1982; Jim Griffiths $0.93 with the January power bill; and John Dodds $ 8.23 with the January power bill.

(d) The payments referenced in subparagraph (c) were made with the understanding that Granite would recoup

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from the QFs any difference between a final Commission rate and the rate specified in Order No. 15,999. For settlement purposes, Granite will allow Baltic Mill to retain one-half of the difference; Granite will recoup the balance through power bills to Baltic Mill for the months of April, May, and June 1983. Granite will not seek recoupment of any portion of the difference from Mr. Griffiths or Dr. Dodd.

1.8 Effective Date and Filing Deadlines

(a) The parties agree that the QF rate approved by the Commission in Docket No. DR 82-330 for the first six months of 1983 (Order No. 16,106, issued December 29, 1982) should remain in effect through March 1983. If the Commission approves this settlement offer, Granite will file revised QF rates based on the settlement for energy to be purchased in April, May, and June 1983. This filing will be made with the second quarter fuel factor and OCA rate. The revised QF rates will be calculated by applying the settled methodology to the six months of estimated fuel and O&M cost information that was submitted by Granite on December 16, 1982 as part of its first quarter 1983 fuel factor application. At the end of the six month period January-June 1983,

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Granite will perform a reconciliation and adjust for any difference greater than 10% between the estimated and actual energy rates that were in effect in the two quarterly sub-periods.

(b) Granite will use best efforts to submit the tariff sheets referred to in paragraphs 1.3(a) and 1.5(d) not later than May 1, 1983 and will attempt to do so with the second quarter 1983 fuel filing.

1.9 Moratorium

The parties agree not to petition the Commission for, or recommend in any way, changes to the settled method of calculating the energy QF rate for Granite, or changes to issues resolved in this Offer of Settlement, until January 1, 1985. The parties are free to petition or otherwise recommend that the Commission consider other issues, which include but are not limited to a capacity component of the rate and issues decided by the U. S. Supreme Court in American Electric Power Co., Inc. v Federal Energy Regulatory Commission.

1.10 Termination of Docket

Approval by the Commission of this Offer of Settlement terminates this docket.

ARTICLE II

Conditions

2.1 The making of this Offer of Settlement does not constitute an admission by a party that an allegation or contention regarding the settlement issues is true and valid.

2.2 The making of this Offer of Settlement establishes no principles, and approval of the offer by the Commission shall not constitute a determination by the Commission as to the merits of any allegation or contention regarding the settlement issues.

2.3 The discussions that have produced this Offer of Settlement have been conducted on the explicit understanding that they were and shall remain privileged.

2.4 This Offer of Settlement is expressly conditioned upon the Commission's approval of all its provisions

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without change or condition. If this offer is not approved by the Commission, it shall be deemed withdrawn and shall not constitute a part of the record in this proceeding or be used for any other purpose. Respectfully submitted, Larry Smukler New Hampshire Public Utilities Commission 8 Old Suncook Road Concord, New Hampshire 03301 (603) 271-2431 Attorney for Staff of the Public Utilities Commission Dated: Feb. 22, 1983 Warren H. Taylor, or Timothy Taylor Baltic Mill Enfield, New Hampshire 03748 (603) 632-5452 For Baltic Mill Dated: Feb. 23, 1983 Michael Flynn 25 Research Drive Westborough, Massachusetts 01581 (617) 366-9011 Attorney for Granite State Electric Company Dated: Feb. 18, 1983

Appendix A

Offer of Settlement

1981 AVERAGE LOSS STUDY

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4. Line Loss Factors By Rating Period and Voltage Level, as a Decimal (LL)

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Voltage Level	Peak, Off-Peak or Total Period	Line Loss	Cumulative Line Loss
(1) Transmission	PEAK	0.0183	0.0183
(2) Subtransmission	PEAK	0.0190	0.0376
(3) Distribution	PEAK	0.040	0.0792
(4) Secondary	PEAK	0.0073	0.0871
(5) Transmission	OFF-PEAK	0.0105	0.0105
(6) Subtransmission	OFF-PEAK	0.0068	0.0174
(7) Distribution	OFF-PEAK	0.0230	0.0408
(8) Secondary	OFF-PEAK	0.0042	0.0452
(9) Transmission	TOTAL PERIOD	0.0142	0.0142
(10) Subtransmission	TOTAL PERIOD	0.0126	0.0270
(11) Distribution	TOTAL PERIOD	0.0310	0.0588
(12) Secondary	TOTAL PERIOD	0.0057	0.0648

(a) Transmission includes 345kV, 230kV, 115kV (b) Subtransmission includes 69kV, 46kV, 34.5kV, 23kV, 13.8kV,11.5kV (c) Distribution includes 34.5kV, 13.8kV, 13.2kV, 12.47kV, 4.16kV, 2.4kV (d) Secondary includes Distribution below 2.4kV

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Line Loss Factor — Method

The Line Loss Factor for peak load period was calculated by:

1. Assuming that the peak period represents the first 4160 hours of the load duration curve. 2. Determining % losses (1983) on transmission, subtransmission, distribution, and secondary systems at the following load levels: a. 100% b. 89% c. 77% d. 66% Where the levels encompass (a) Transmission — 345Kv, 230Kv, 115Kv (b) Subtransmission — 69Kv, 46Kv, 34.5Kv, 23Kv, 13.8Kv, 11.5Kv (c) Distribution — 34.5Kv, 13.8Kv, 13.2Kv, 12.47Kv, 4.16Kv and 2.4Kv (d) Secondary — Distribution below 2.4kV 3. Percentage load loss at each system level is the average of the percentage load loss at the load levels listed above. 4. Line loss factor at a specific system level (transmission, subtrans, or dist.) is the product if the losses up through that load level, i.e., line loss factor at distribution load level is:

[Equation below may extend beyond size of screen or contain distortions.]

$LLF_d = (1 + \% LL_{st}) (1 + \% LL_t) (1 + \% LL_d)$

100 100 100

Where:

LL_d = line loss factor at distribution system level $\% LL_{st}$ = % line loss subtransmission $\% LL_t$ = % line loss transmission

Line loss factor for off peak load period was calculated by:

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1. Assuming that the off peak period represents the remaining 4600 hours of the load duration curve. 2. Determining the % losses (1983) on transmission, subtransmission, distribution, and secondary systems at the following load levels: a. 66% b. 54% c. 42% d. 31% 3. Percentage load loss at each system level (transmission, subtransmission, distribution, secondary) is the average of the % load loss at the load levels listed above. 4. Load loss factor at a specific system level is the product of the loss factors up through that load level, i.e., loss factor at distribution load level is:

[Equation below may extend beyond size of screen or contain distortions.]

$LLF_D = (1 + \% \ LL_{st}) \ (1 + \% \ LL_t) \times (1 + \% \ LL_d)$

100 100 100

Line loss factor for the entire period was calculated in the same manner as for the peak and off peak periods using the entire load duration curve.

The % losses at each system level is the weighted average of the % load loss at the following load levels:

a. 100% b. 89% c. 77% d. 66% e. 54% f. 42% g. 31%

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[Graphic Not Displayed Here]

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NH.PUC*03/01/83*[79567]*68 NH PUC 95*Granite State Electric Company

[Go to End of 79567]

Re Granite State Electric Company

DR 82-327, Supplemental Order No. 16,235

68 NH PUC 95

New Hampshire Public Utilities Commission

March 1, 1983

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ELECTRIC utility purchased power rate adjustment approved by state commission as temporary rates subject to refund.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

ORDERED, that the purchased power rate W-5 temporarily approved by the Federal Energy Regulatory Commission under bond and subject to refund is hereby approved pursuant to RSA 378:27 as temporary rates subject to refund by this Commission, and it is

FURTHER ORDERED, that this W-5 rate be applied to all kwh's of usage appearing on bills rendered on or after March 1, 1983, and it is

FURTHER ORDERED, that Granite State Electric/New England Power is to report any developments such as negotiated settlements occuring in the FERC case within three days of their occurence with sufficient documentation so as to allow for a final order in this proceeding, and it is

FURTHER ORDERED, that Granite State Electric is to provide a reconcilliation of the over or undercollections related to the implementation of both the W-5-I, the temporary rates associated with billing of W-5 and the final rates associated with W-5.

By Order of this Commission this first day of March, 1983.

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NH.PUC*03/02/83*[79568]*68 NH PUC 96*New Hampshire/Vermont Solid Waste Project

[Go to End of 79568]

Re New Hampshire/Vermont Solid Waste Project

Intervenor: Connecticut Valley Electric Company, Inc.

DR 82-343, Order No. 16,232

68 NH PUC 96

New Hampshire Public Utilities Commission

March 2, 1983

ORDER approving sale of power to an electric utility from a proposed waste energy project and

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rates and other terms of the sale.

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1. COGENERATION, § 1 — State policy — Alternate energy — Nonnuclear and nonfossil fuel sources — Solid waste project.

[N.H.] While reviewing the sale of power from a proposed solid waste project to an electric utility, the commission found that a state law (RSA 362-A) provides that the public interest is met when the commission provides for small scale diversified sources of supplemental electrical power generated using alternate nonnuclear and nonfossil fuel sources. p. 97.

2. COGENERATION, § 25 — Avoided costs — Long-term contract — Long-run benefits to ratepayers.

[N.H.] The commission approved the purchase of electricity by an electric utility from a proposed solid waste project at initial rates that might exceed the utility's projected avoided costs where it found that over the term of the sales contract the long-run cost would be less than or equal to projected avoided cost and therefore ratepayers would benefit by obtaining power from the proposed project. p. 97.

APPEARANCES: Peter W. Brown and Robert A. Olson for New Hampshire/Vermont Solid Waste Project and Steven J. Allenby.

BY THE COMMISSION:

Opinion by LOVE, chairman: This proceeding arises pursuant to Commission authority under RSA 362-A:5. There existed at the beginning of these proceedings a dispute between a small power producer and the utility as to the rate and other terms involving the sale of energy from a proposed waste energy site. The proposed facility is for a facility of 3.6 MW capable of burning 10 tons per hour of solid waste at full load or the equivalent of 60 — 67,000 tons per year.

While there did exist a significant dispute as to the terms governing the rates involving the sale of energy from the project, through the extraordinary efforts of Counsel for Connecticut Valley, Energy Law Institute Counsel for NH/VT Solid Waste Project, and Staff Economist, Dr. Sarah Voll, there has been submitted to the Commission a settlement agreement. Upon consideration of the terms of this settlement, the exhibits in evidence, the data responses and our general knowledge of the costs of new facilities proposed for operation in the remaining decades of

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this century, the Commission finds the proposed settlement as reasonable and in the public interest.

[1] RSA 362-A:1. states that the public interest is met when there is provision made for small scale and diversified sources of supplemental electrical power. Other sources are viewed as being uncertain and the state's interest is to specifically develop alternative energy sources which are defined as non nuclear and non fossil fueled. RSA 362-A:2 Acceptance of this settlement is found as a necessary step to insure the development of this site and such development is found to be in the public interest and over the life of the project at rates that are just and reasonable. RSA 378:7.

Connecticut Valley and its successors and assignees agree to purchase for a period of twenty years all energy and capacity of the project at a price of 9¢ per kilowatt hour beginning on January 1, 1986 or the Commercial Production Date whichever is later. Any power produced prior to the Commercial Operation Date shall be purchased at the rate set by this Commission pursuant to the Limited Electric Producers Act or the Public Utility Regulatory Policies Act of 1978. The rate is to be adjusted on each anniversary of the Commercial Operation Date or January 1, 1986 by a factor calculated as a percentage increase or decrease of the Gross National Product Implicit Price Deflator. This adjustment process is found to be reasonable and is accepted.

[2] The Commission finds that the initial price together with the subsequent escalation formula is reasonable and Connecticut Valley will be allowed to recover the costs paid under this contract through Connecticut Valley's energy cost recovery mechanism and that no guarantee need be provided by the project to protect the ratepayers. While there exists the possibility that during the early years of the contract the cost of project power may be greater than CV's projected avoided costs, the same is found to be true as to other projects under construction such as Millstone III and Seabrook I and II. Consequently, the Commission accepts the proposed terms and finds the arrangement reasonable.

Connecticut Valley under the settlement and pursuant to this order is obligated to present to the FERC the issue of a potential adjustment to their wholesale rate due to the fact that Connecticut Valley is purchasing power from the project. This obligation arises in the first FERC proceeding after a date six months after the Commercial Operation Date.

The Project agrees that every attempt will be made to produce electricity on a schedule most advantageous to Connecticut Valley consistent with the need to dispose of waste.

The Commission accepts all provisions, without change or condition, of the settlement agreement.

While the initial price of electricity sold pursuant to this contract may be above what is then the Limited Electrical Energy Producers Act (LEEPA) rate for dependable power, the Commission finds that in the long run this power will be the same or less than Connecticut Valley's projected avoided cost and therefore Connecticut Valley Ratepayers will be benefited by obtaining power from this source.

The Commission finds that there is a reasonable probability that this project will deliver

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power pursuant to the contract for the established contract

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term of twenty years and therefore no reserve bond or special guarantee is required to protect the rate-payers for the early years of the contract when the cost of this power may be greater than Connecticut Valley's projected avoided cost. The Commission finds that this probability is larger for this facility than others presently being constructed within New England and New York.

The Commission believes that the rates paid pursuant to this contract are reasonable and that they should and will be recovered by means of the energy cost recovery mechanism contained in Connecticut Valley's tariff.

Finally, the Commission finds that through its actions Connecticut Valley Electric has demonstrated a willingness to follow the direction of the New Hampshire legislature to insure the development of alternative energy sources and that their actions in this docket have furthered the public interest. The Commission finds that projects like these, which eleminate the dependency upon foreign oil while at; the same time provide a solution to our waste problems, are in the public interest. The last finding is that Staff activities in this docket through the efforts of Staff Economist, Dr. Sarah Voll, are exemplary.

Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the Commission accepts all provisions of the Settlement Agreement without change or condition; and it is

FURTHER ORDERED, the terms set forth in the Settlement Agreement and repeated in the Report are found to be in the public interest and just and reasonable.

By Order of the Public Utilities Commission of New Hampshire this second day of March, 1983.

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NH.PUC*03/02/83*[79569]*68 NH PUC 99*Public Service Company of New Hampshire v Earl S. Carter

[Go to End of 79569]

Public Service Company of New Hampshire v Earl S. Carter

DE 82-256, Second Supplemental Order No. 16,234

68 NH PUC 99

New Hampshire Public Utilities Commission

March 2, 1983

SECOND supplemental order reaffirming order fixing value of land taken by a utility.

EMINENT DOMAIN, § 8 — Compensation — Comparable sales method — "Before and after test."

[N.H.] When determing the value of land taken by a utility, the proper method to measure the damages to the land owner is a comparable sales method that results in an opinion as to the "before and after test"; a simple showing of comparable sales is an insufficient method of showing market value.

BY THE COMMISSION:

REPORT

The Commission held an evidentiary hearing on October 22, 1982 and thereafter issued Report and Order No. 16,005 (67 NH PUC 852) fixing a value of the land taken by the utility company. Subsequently, the landowner requested a rehearing wherein he could submit testimony of value by a real estate appraiser with the aid of counsel. The Commission scheduled a hearing on January 11, 1983. At said hearing the real estate appraiser for the land owner submitted an appraisal which set forth a comparable sales method.

The Company objected to the evidence stating that the proper measure of damages is a comparable sales method, that results in an opinion as to the "before and after test". The landowner disagrees and rests on its position that a showing of comparable sales is a sufficient method of showing market value.

The Commission finds that the Company's position is the proper method of determining value in these circumstances and affirms its decision in Order No. 16,005. Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that Order No. 16,005 is hereby reaffirmed.

By order of the Public Utilities Commission of New Hampshire this second day of March, 1983.

==========

NH.PUC*03/02/83*[79570]*68 NH PUC 100*Northern Utilities, Inc.

[Go to End of 79570]

Re Northern Utilities, Inc.

DR 82-275, Fourth Supplemental Order No. 16,236

68 NH PUC 100

New Hampshire Public Utilities Commission

March 2, 1983

ORDER increasing cost of gas adjustment.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, in Report and Supplemental Order No. 15,983, dated 11/08/82 (67 NH PUC 773), page 4, the Commission stated, "This Commission will exclude the February 1, 1983 Tennessee rate increase until such time as the actual revised tariffs have been filed and placed into effect by the FERC"; and

WHEREAS, Northern Utilities, Inc., in correspondence to the Commission dated March 1, 1983, requested a CGA revision to reflect the February 1, 1983 FERC known increase, among other items; and

WHEREAS, the February 1, 1983 increase results in cost increases to Northern Utilities, Inc., of approximately $160,000 for the balance of this Winter Period CGA; it is

ORDERED, that Northern Utilities, Inc. may increase its CGA rate for the balance of this Winter's CGA period by $0.0294 ($160,000 ÷ 5,439,292 therm)/therm; and it is

FURTHER ORDERED, that Northern Utilities, Inc. must petition this Commission for a hearing on any additional revisions desired in its CGA.

By Order of the Public Utilities Commission of New Hampshire this second day of March, 1983.

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NH.PUC*03/02/83*[79571]*68 NH PUC 101*Walnut Ridge Water Company, Inc.

[Go to End of 79571]

Re Walnut Ridge Water Company, Inc.

DF 83-29, Order No. 16,238

68 NH PUC 101

New Hampshire Public Utilities Commission

March 2, 1983

ORDER authorizing water company to expend funds for development of an alternative water supply.

APPEARANCES: Peter A. Lewis, president, and Stephan J. Noury for the petitioner; Kenneth E. Traum, assistant finance director, Robert B. Lessels, water engineer, New Hampshire Public Utilities Commission; Michael W. Holmes, hearing examiner.

BY THE COMMISSION:

By this unopposed petition filed on January 20, 1983, Walnut Ridge Water Company, Inc. of Atkinson, New Hampshire, requested authority to issue and sell $100,000 of appropriate securities to develop an alternative water supply.

Per order of this Commission dated January 21, 1983, the Commission established the date of February 28, 1983 at 10:00 A.M. at its offices in Concord for a public hearing on the petition. Publication of said Order of Notice was properly published and the public hearing was held accordingly.

At the hearing the petitioner revised its petition to request authority to increase its borrowing to at least $150,000 and possibly more.

The reason for the Company's petition is one over which this Commission feels it has no

option other than approval. Through no fault of the utility, all of its water sources, 6 wells, have been found to have radiation problems, and must be replaced by alternate sources per order of the N.H.W.S.&.P.C.C.

After extensive investigation the utility has tested and developed an acceptable water source in Salem, N.H. which is approximately 800 feet from Atkinson and 2.1 miles from the existing water system.

This proposed financing would be used to buy the well land including the state required protective radius of 400', drill 2 wells, lay pipes to connect to the current system, etc.

Since these costs are all estimates at this time and the Company hasn't proposed a specific financing mechanism, the Commission will in general terms approve of the Company spending the funds for the indicated purpose, and once the new wells are in service will entertain a filing from the Company for timely rate relief.

As far as approval of a specific financing method is concerned, the Commission will require the utility to submit a letter prior to entering into any long term financing outlining the financing it wishes to enter into, and any alternatives which it rejected. The Commission will then issue a timely

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order giving the utility the authority to enter into the financing, if deemed acceptable.

Our order will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that Walnut Ridge Water Company, Inc. be, and hereby is, authorized to expend funds for development of an alternative water supply; and it is

FURTHER ORDERED, that the Company submit a letter on its preferred financing mechanism for further Commission approval.

By order of the Public Utilities Commission of New Hampshire this second day of March, 1983.

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NH.PUC*03/02/83*[79572]*68 NH PUC 102*Derry Water Department

[Go to End of 79572]

Re Derry Water Department

DE 82-283, Supplemental Order No. 16,239

68 NH PUC 102

New Hampshire Public Utilities Commission

March 2, 1983

ORDER authorizing municipal water department to operate as a public utility in designated areas.

APPEARANCES: Rodney A. Bartlett, superintendent, Derry Water Department.

BY THE COMMISSION:

REPORT

By a petition filed February 22, 1983, the Derry Water Department seeks authority to operate as a public water utility in certain limited areas in the Town of Londonderry.

The area sought, that is easterly of Route 93, is presently being served by Derry and that area in the vicinity of Nashua Road (Rte. 102) and McAllister Drive is to relieve a condition of contaminated well supplies serving an apartment complex and an area of single family homes. The Derry Water Department is presently supplying water to the Londonderry Green Apartment Complex by means of a tank truck. The plan exists to construct a permanent pipeline from the Derry well field to the Londonderry Green area.

Testimony given in this case shows

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that the maximum day demand very nearly approaches the present safe yield of the Derry Water supply. We note also that Derry is presently seeking additional supplies from several sources. It is with this concern that we will grant the franchise in the Londonderry Green area (Nashua Road — McAllister Drive) to be effective for a six month period to extend from the date of this Report. At the end of this six month period, we will consider the question of whether Derry has taken the necessary steps to serve this area on a permanent basis and whether such service by Derry for the long term is in the public good. This matter will be handled through written Staff data requests of Derry. The area sought that is easterly of Route 93 shall be permanent with this Report and Order.

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Evidence also indicates that those areas in Londonderry that are at or above elevation 340 MSL cannot be served at a minimum pressure of 20 psig in accordance with Rules and Regulations of this Commission. Any customer at such elevation that desires service as available shall acknowledge the acceptance of service at pressures less than specified by this Commission. Any booster installation must be approved by the Derry Water Department.

Our Order will issue accordingly:

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report which is made a part hereof; it is hereby

ORDERED, that the Derry Water Department be, and hereby is authorized to operate as a water public utility in a limited area in the Town of Londonderry, bounded and described as follows:

> Beginning at a point on the town line between Derry and Londonderry, said point being approximately 2250 feet southerly along said line from the intersection of said line and Route 102; thence westerly along the property line of Londonderry tax lot 10-51 to a point on the right-of-way of Rt. 93 approximately 850 feet south of the centerline of Route 102; thence northerly along said right-of-way of Route 93 to a point of said right-of-way approximately 500 feet northwesterly of Route 102; thence in a general northeasterly direction parallel and 500 feet northwest of the centerline of Route 102 to a point on the centerline of Londonderry Road, so called; thence northwesterly along the centerline of Londonderry Road, so called, to a point 1200 feet northwest of the centerline of Route 102; thence in a general northeasterly direction 1200 feet northwest and parallel to the centerline of Route 102 to a point on the Derry and Londonderry town line; thence southerly along said town line to the point of beginning;

and it is

FURTHER ORDERED, that the Derry Water Department be and hereby is authorized to operate as a public water utility for a period of six months beginning with the date of the Report and Order, in the Town of Londonderry, bounded and described as follows:

> Beginning at a point on the southerly

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> right-of-way line of Route 102, Nashua Road, so called, said point being the intersection of said right-of-way line and the southerly right-of-way line of McAllister Drive, so called; thence southerly approximately 640 feet; thence southwesterly approximately 862

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feet; thence southeasterly approximately 1001 feet; thence northeasterly approximately 687 feet, thence southeasterly approximately 98 feet, thence northeasterly approximately 355 feet; thence northwesterly approximately 885 feet; thence northeasterly approximately 1345 feet, thence northwesterly approximately 620 feet; thence northeasterly approximately 355.9 feet; thence northwesterly approximately 860 feet to a point, said point being the intersection of the northerly right-of-way line of McAllister Drive, so called, and the southerly right-of-way line of Route 102, so called; thence southwesterly along the southerly right-of-way line of Route 102 to the point of beginning;

and it is

FURTHER ORDERED, that service to these areas shall be at the rates, terms, and conditions as specified in the tariff of the Derry Water Department filed with this Commission. By Order of the New Hampshire Public Utilities Commission this second day of March, 1983.

==========

NH.PUC*03/03/83*[79573]*68 NH PUC 104*Fuel Adjustment Clause

[Go to End of 79573]

Re Fuel Adjustment Clause

Intervenors: New Hampshire Electric Cooperative, Inc., Concord Electric Company, Exeter and Hampton Electric Company, Granite State Electric Company, Municipal Electric Department of Wolfeboro, Littleton Light Department, Woodsville Water and Light Department, and Connecticut Valley Electric Company, Inc.

DR 83-56, Order No. 16,241

68 NH PUC 104

New Hampshire Public Utilities Commission

March 3, 1983

ORDER implementing fuel adjustment clauses.

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BY THE COMMISSION:

ORDER

WHEREAS, the Commission in correspondence dated March 2, 1982, sent to the New Hampshire Electric Cooperative, Inc., Granite State Electric Company, Connecticut Valley Electric Company, Inc., Exeter & Hampton Electric Company, Municipal Electric Department of Wolfeboro, Concord Electric Company, Woodsville Power and Light Department, and Littleton Water & Light Department by the Commission's Executive Director and Secretary in relation to DR 82-59, notified the utilities that the Commission will not automatically schedule FAC hearings for those utilities which file monthly unless requested or needed by one of those utilities; and the Commission would not automatically schedule FAC hearings in the two off months for those utilities which have a quarterly FAC rate; and

WHEREAS, no utility maintaining a monthly or quarterly FAC requested a hearing scheduled; and

WHEREAS, this is one of the two off months for quarterly FAC utilities; it is

ORDERED, that the Commission in DR 81-340, Third Supplemental Order No. 15,986, dated November 10, 1982 (67 NH PUC 784) of the New Hampshire Electric Cooperative, Inc. rolled the cost of fuel on an estimated forward looking basis into base rates, thus eliminating the lagging Fuel Adjustment Clause and resulting in more stable and comprehensible rates; and

WHEREAS, the rolled in rate will remain in effect for approximately one year, unless a hearing is requested by any party, no new rate will be stated for the New Hampshire Electric Cooperative, Inc. in this month's FAC order; and it is

FURTHER ORDERED, that 7th Revised Page 19A of Concord Electric Company tariff, NHPUC No. 8 — Electricity, providing for a fuel surcharge of $0.358 per 100 KWH for the months of January, February and March, 1983, be, and hereby is, permitted to remain in effect for the month of March, 1983; and it is

FURTHER ORDERED, that 7th Revised Page 19A of Exeter and Hampton Electric Company tariff, NHPUC No. 15 — Electricity, providing for a fuel surcharge of $0.492 per 100 KWH for the months of January, February, and March, 1983, be, and hereby is, permitted to remain in effect for the month of March, 1983; and it is

FURTHER ORDERED, that 3rd Revised Page 57 of Granite State Electric Company tariff, NHPUC No. 10 — Electricity, providing for an oil conservation adjustment of 15.1 cents ($0.151) per 100 KWH for the months of January, February, and March, 1983, be, and hereby is, permitted to remain in effect for March, 1983; and it is

FURTHER ORDERED, that 4th Revised Page 30 of Granite State Electric Company tariff, NHPUC No. 10 — Electricity, providing for a fuel surcharge for the months of February and March, 1983, of $0.94 per 100 KWH be, and hereby is, permitted to remain in effect for March, 1983; and it is

FURTHER ORDERED, that 26th Revised Page 11B of the Municipal Electric Department of

Wolfeboro tariff, NHPUC No. 6 — Electricity, providing for a fuel surcharge of $2.48 per 100 KWH for the month of March,

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1983, be, and hereby is, permitted to become effective March 1, 1983; and it is

FURTHER ORDERED, that 110th Revised Page 6 of Littleton Light Department tariff, NHPUC No. 1 — Electricity, providing for a fuel surcharge of $1.38 per 100 KWH for the month of March, 1983, be, and hereby is, permitted to become effective March 1, 1983; and it is

FURTHER ORDERED, that 78th Revised Page 10-B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for a fuel surcharge credit of ($0.70) per 100 KWH for the month of March, 1983, be, and hereby is, permitted to become effective March 1, 1983; and it is

FURTHER ORDERED, that 75th Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for an energy surcharge credit of ($0.08) per 100 KWH for the month of March, 1983, be, and hereby is, permitted to become effective March 1, 1983.

By order of the Public Utilities Commission of New Hampshire this third day of March, 1983.

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NH.PUC*03/03/83*[79574]*68 NH PUC 106*Town of Conway

[Go to End of 79574]

Re Town of Conway

DX 82-211, Supplemental Order No. 16,242

68 NH PUC 106

New Hampshire Public Utilities Commission

March 3, 1983

ORDER authorizing the construction of a public crossing.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, the Commission on November 8, 1982, issued Order No. 15,984 (67 NH PUC 778) authorizing the Town of Conway to lay out and construct a public crossing at grade over the tracks of the Maine Central Railroad Company at engineering station 2747 + 56 in accordance with plans on file at the office of this Commission marked DX 82-211; and

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WHEREAS, a new plan has been filed to indicate the taking of the land on which the crossing is located as provided for in the testimony taken at the hearing which is accepted as Petitioner's Exhibit No. 3; and

WHEREAS, an agreement has been reached between the Town of Conway and the Maine Central Railroad Company as to said taking and the price thereof; it is

ORDERED, that Order No. 15,984 be, and hereby is, amended to authorize

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the laying out and construction of a public crossing at grade at engineering station 2747 + 56 (Mile Post 59.35) in accordance with plans on file at the office of this Commission, marked DX 82-211, Petitioner's Exhibit No. 3; and it is

FURTHER ORDERED, that said Order No. 15,984 shall in all other respects remain in full force and effect.

By Order of the Public Utilities Commission of New Hampshire this third day of March, 1983.

==========

NH.PUC*03/08/83*[79575]*68 NH PUC 107*Civil Defense Agency v Public Service Company of New Hampshire

[Go to End of 79575]

Civil Defense Agency v Public Service Company of New Hampshire

DC 83-78, Order No. 16,245

68 NH PUC 107

New Hampshire Public Utilities Commission

March 8, 1983

ORDER approving civil defense assessment.

BY THE COMMISSION:

Opinion by LOVE, chairman: The Civil Defense Agency, through petition of the Attorney General's Office, has requested that an assessment be made against Public Service Company of New Hampshire (PSNH) pursuant to RSA 107-B:1 (supp) for $1,000.30. The representation was made that PSNH does not object to this assessment. I approve this assessment pursuant to my authority under RSA 107-B. My order will issue accordingly.

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ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that $1,000.30 is assessed against PSNH pursuant to RSA 107-B:1 (supp) for purposes of paying the court reporter fees incurred by the Civil Defense Agency.

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NH.PUC*03/09/83*[79576]*68 NH PUC 108*Boston and Maine Corporation

[Go to End of 79576]

Re Boston and Maine Corporation

DX 83-79, Order No. 16,246

68 NH PUC 108

New Hampshire Public Utilities Commission

March 9, 1983

ORDER authorizing removal of crossing protection.

BY THE COMMISSION:

ORDER

WHEREAS, Kimball Street in Franklin has been closed due to an unsafe bridge; and

WHEREAS, the Boston and Maine Corporation — Debtor has requested authority to remove the crossing protection from Kimball's Crossing due to its age and being structurally unsound; it is

ORDERED, that the Boston and Maine Corporation — Debtor, be and hereby is authorized to remove the crossing protection at Kimball's Crossing in Franklin; and it is

FURTHER ORDERED, that in the event that Kimball Street is reopened to highway traffic, crossing protection will be reinstalled by the railroad.

By Order of the Public Utilities Commission of New Hampshire this ninth day of March, 1983.

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==========

NH.PUC*03/09/83*[79577]*68 NH PUC 108*Boston and Maine Corporation

[Go to End of 79577]

Re Boston and Maine Corporation

DX 83-80, Order No. 16,247

68 NH PUC 108

New Hampshire Public Utilities Commission

March 9, 1983

ORDER authorizing removal of grade crossing protection.

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BY THE COMMISSION:

ORDER

WHEREAS, the Boston and Maine Corporation — Debtor has requested authority to remove the grade crossing protection at the North State Street crossing in Concord intersection with the Claremont Branch and;

WHEREAS, the track has not been used for many years with considerable vegetation in the track area and the rails have been paved over thereby making them impassable; it is

ORDERED, that the Boston and Maine Corporation — Debtor be and hereby is authorized to remove the highway grade crossing protection at North State Street crossing in Concord AARDOT 845402S; and it is

FURTHER ORDERED, that should service be reinstated on that line at some future period, the crossing protection shall be reinstalled without further action of this Commission.

By Order of the Public Utilities Commission of New Hampshire this ninth day of March, 1983.

==========

NH.PUC*03/09/83*[79578]*68 NH PUC 109*Seacoast Railroad Safety

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[Go to End of 79578]

Re Seacoast Railroad Safety

Intervenor: Boston and Maine Corporation

DX 81-383, Third Supplemental Order No. 16,248

68 NH PUC 109

New Hampshire Public Utilities Commission

March 9, 1983

ORDER closing docket after the resolution of railroad safety concerns.

APPEARANCES: John Pendleton for Boston and Maine Corporation.

BY THE COMMISSION:

Opinion by LOVE, chairman: The Commission initiated this docket to resolve safety concerns relating to track in and around the Community of Greenland. Individual citizens from Greenland had contacted the Commission concerning the track condition and the speed of trains going across the track. Of particular concern were those carrying LPG.

The Commission dispatched its railroad inspector to the scene and pictures taken at that time confirmed the need to undertake track repair. The Commission ordered the necessary improvements to the track and a reduction in speed of the trains.

The work on the track located in and around Greenland has been undertaken by the Boston & Maine Corporation

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with diligence. Our railroad inspector has informed us that the repairs undertaken have corrected the situation in Greenland. Letters from citizens bordering the tracks have also expressed their satisfaction with the work performed. Consequently, the Commission will close this case as it relates to the Community of Greenland. The Commission notes its appreciation for the efforts undertaken by the Boston & Maine Corporation in improving the track condition.

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This docket at its beginning did purport to review some additional concerns in the Community of Portsmouth. However, this was subsequently reserved for discussion and resolution in DX 81-387. The Commission will discuss the Portsmouth situation in our decision in that docket. This case as to Greenland is, however, closed.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that this docket is hereby closed.

By order of the Public Utilities Commission of New Hampshire this ninth day of March, 1983.

==========

NH.PUC*03/09/83*[79579]*68 NH PUC 110*New England Telephone and Telegraph Company

[Go to End of 79579]

Re New England Telephone and Telegraph Company

DR 82-371, Supplemental Order No. 16,249

68 NH PUC 110

New Hampshire Public Utilities Commission

March 9, 1983

ORDER accepting settlement agreement on the terms of the sale of telephone instruments.

APPEARANCES: Jeanne S. Conroy, for New England Telephone and Telegraph Company; Dr. Sarah P. Voll, Bruce Ellsworth, Gene Sullivan, Ed Stubbs and Michael Burke on behalf of staff

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BY THE COMMISSION:

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Opinion by LOVE, Chairman:

I. *Procedural History*

On December 15, 1982 the New England Telephone Company filed revisions to its tariff, NHPUC No. 75 proposing to sell telephone instruments previously offered only on a lease basis. This equipment includes Standard, Trimline, and Princess Sets in either rotary-dial or touchtone. The telephones that would be provided would be from inventory subject to availability. No new purchases can be made by the Company after December 31, 1982. Consequently, this proposal involves inventory up to and including that date. Under the proposal consumers would retain the opportunity to lease sets. The Commission suspended the filing on December 30, 1982 by Order No. 16,110. Meetings between Staff and New England Telephone have continued since that date since there has been no formal intervention. The sale of sets will bring additional revenue to the Company while at the same time offering consumers the opportunity to buy instead of lease which for some customers is a preferable option. A hearing was held in the Commission offices on March 9, 1983 and the result was a stipulated agreement that was offered to the Commission for its evaluation.

II. *Commission Analysis*

The settlement agreement is found to be reasonable as to all of the subjects covered within its scope. The issue of sale price was resolved in terms of a compromise that would allow the minimum sale price to be the Company's estimated cost in their Exhibit 1-B-1. The maximum sale price is agreed to be the proposed price included in the tariff. The Company is to sell the units between and including the limits of this range.

The issue of warranties was raised, and the Commission accepts the resolution of the parties as to this issue. In-place sets are to be sold with a 30-day warranty; refurbished sets are to be sold with a 90-day warranty. New sets will not be sold.

The issue of notice to the public reached a suitable result wherein the Company's advertising program, "Let's Talk", is to be supplemented by two additional notices.

III. *Accounting Treatment*

The Commission has determined that the Company will account for the net gain associated with the sale of sets by crediting the gain to the depreciation expense account in the year in which the gain is realized. This accounting treatment will mitigate the loss of lease revenues which the Company realizes at the present time from those telephone sets.

Based upon the foregoing, the Commission accepts the settlement agreement as reasonable as to rates and in the public good.

Our Order will issue accordingly.

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SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby ORDERED, that the Settlement

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Agreement is found to be reasonable as to rates and in the public good, and the sale of sets is to begin immediately; and it is

FURTHER ORDERED, that the accounting treatment set forth in the Report is hereby accepted.

By Order of the Public Utilities Commission of New Hampshire this ninth day of March, 1983.

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NH.PUC*03/09/83*[79580]*68 NH PUC 112*Continental Telephone Company of New Hampshire

[Go to End of 79580]

Re Continental Telephone Company of New Hampshire

DF 83-43, Order No. 16,250

68 NH PUC 112

New Hampshire Public Utilities Commission

March 9, 1983

ORDER permitting the issue and sale of unsecured promissory notes.

APPEARANCES: Charles H. Toll, Jr., for the petitioner.

BY THE COMMISSION:

Opinion by LOVE, chairman: Continental Telephone Company of New Hampshire filed a

petition to issue and sell unsecured promissory notes pursuant to RSA 369. A duly noticed hearing was held at the Commission offices at which the Company presented Witness Noyes for purposes of sustaining their burden of proof.

Witness Noyes presented the Company's rationale for issuing this type of routine financing at this time. He presented his analysis of interest rate trends and the proper relationship for Continental between long and short term financings. The Commission finds the testimony offered by Witness Noyes to be both impressive and persuasive.

The Commission finds that the issuance of $1,000,000 of 12% promissory notes due March 1, 1988 to a specific note purchaser is in the public good. The interest rate and the terms are found to be reasonable. The application of the proceeds of these promissory notes toward payment of short term indebtedness for borrowed money used for telephone plant construction and for general corporate purposes is found in this case to be reasonable.

The issuance and sale of these promissory notes is found to be in the public good both as to the type of financing and the terms. Therefore, the Commission grants approval for this financing pursuant to its statutory

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under RSA 369. Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the applicant, Continental Telephone Company of New Hampshire, Inc. be, and hereby is, authorized to issue and sell at private sale for cash equal to the aggregate principal amount thereof, twelve percent (12%) promissory notes, due March 1, 1988, in the aggregate principal amount of one million dollars ($1,000,000), said notes to be dated the date of issue, to mature March 1, 1988, to bear interest at the rate of 12% per annum payable on March 1 and September 1 of each year, commencing September 1, 1983, and to be in the form attached as Exhibit A to, and to be issued pursuant to, a note agreement dated as of January 1, 1983, between the applicant and Union Mutual Life Insurance Company, the note purchased; and it is

FURTHER ORDERED, that Continental Telephone Company of New Hampshire, Inc. be, and hereby is, authorized to apply the proceeds of the issuance and sale of said notes toward payment of the applicant's short-term indebtedness for money used for telephone plant construction, and for the applicant's general purposes; and it is

FURTHER ORDERED, that on January first and July first of each year, Continental Telephone Company of New Hampshire, Inc. shall file with this Commission a detailed statement, duly sworn to by its Treasurer or Assistant Treasurer, showing the disposition of the proceeds of the notes hereby authorized to be issued, until the expenditure of the whole of said proceeds shall have been fully accounted for.

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By order of the Public Utilities Commission of New Hampshire this ninth day of March, 1983.

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NH.PUC*03/11/83*[79581]*68 NH PUC 113*Gas Service, Inc.

[Go to End of 79581]

Re Gas Service, Inc.

DR 80-179, Ninth Supplemental Order No. 16,214

68 NH PUC 113

New Hampshire Public Utilities Commission

March 11, 1983

PETITION for natural gas rate step increase; granted as modified.

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1. RATES, § 276 — Step increase — Scope of proceeding — Updating of rate base — Supplier refunds — Natural gas utility.

[N.H.] While reviewing a request by a natural gas utility for a step increase the commission found that issues concerning both the updating of rate base and adjustments for suppliers refunds were beyond the scope stated for the step increase. p. 115.

2. REVENUES, § 2 — Estimate for future — Erosion adjustment — Price changes other than rate structure — Increases associated with deregulation of natural gas.

[N.H.] The commission rejected a revenue erosion adjustment proposed by a gas utility in its request for a step rate increase where the erosion adjustment failed to take into account price changes other than rate structure changes; namely the 67 per cent increase that occurred in the cost of gas adjustment due to the deregulation of natural gas. p. 115.

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APPEARANCES: Charles Toll for the petitioner; Kenneth Traum, assistant finance director, and George Gantz, rate analyst for the public utilities commission staff.

Before Love, chairman.

BY THE COMMISSION:

In Report and Fifth Supplemental Order No. 15,532, issued March 11, 1982 (67 NH PUC 193, 47 PUR4th 262), the Commission provided the Company the opportunity to file for a step increase approximately one year from the date of the Order. The issues reserved for consideration were as follows:

1. Whether revenue erosion occurred as a result of the structure change
2. Property tax increases if any
3. Insurance increases if any
4. Public utility tax assessment increase if any
5. Updated cost of capital and capital structure, while freezing the cost of common equity at 15.5%
6. Reasonable wage increases and fringe benefits if any
7. Net increases in computer hard-ware, software, and/or a programmer.

Gas Service, Inc., a New Hampshire public utility, filed for such a step increase on December 31, 1982, for effect January 12, 1983, in the amount of $911,460 on an annual basis.

Per the Commission's 7th Supplemental Order No. 16,084, dated December 28, 1982, the increase was suspended pending investigation and staff audit.

Duly noted public hearings were held at the Commission's offices in Concord on February 4 and 9, 1983.

Per the Company's request, the Commission per Report and 8th Supplemental Order No. 16,208 dated February 9, 1983 (68 NH PUC 60) set temporary rates for this step increase effective with all service rendered on or after January 12, 1983.

The Company's $911,460 initial request was broken down into the following areas:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

1. Revenue Erosion Adjustment	$193,442
2. Supplier Refund	39,613
3. Oper. & Maint. Exp.	343,831
4. Taxes — Property & Payroll	104,368
5. Cost of Capital & Rate Base	230,206
	$911,460

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During the course of the February 4 hearing, the Company submitted Exhibit

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9 which reduced the annual increase requested to $827,000 as a result of PUC audit findings, calculation errors, etc.

The $84,000 reduction can be attributed to a $ 1 06,000 reduction in items 3 and 4 above, and a $22,000 increase in item 5.

Later in the hearing the Company submitted Exhibit 12 which further reduced their request by $42,557 from item 1 to $784,443 overall.

[1] At the behest of Mr. Traum of the Commission Staff, the Commission ruled that two aspects of the Company's filing were beyond the scope stated for the step increase. These areas were updating rate base and adjusting for supplier refunds. In both cases the Commission eliminated the increases without prejudice.

These modifications reduce the rate request by $264,625. The Commission finds reasonable the alteration in the cost of capital from 13.28% to 13.30%. The Commission also finds reasonable the adjustment to rate base of $22,850 to reflect refunds ordered in this docket by previous orders.

These adjustments lead to the following:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

```
1. Rev-Erosion Adjustment      $193,442 - 42,557= $150,885
2. Supplier Refund             39,613 - 39,613 = -0-
3. O & M Expense               343,831
                               - 106,000        = 342,199
4. Taxes-Payroll & Property    104,368
5. Cost of Capital & Rate Base 230,206 + 22,000 - 247,012= 5,194
                               _______________ __________________________
                               $911,460        $498,278
```

Several other reductions were brought to the Commission's attention and agreed to by the parties. They are:

(a) $1,707 related to payroll allocations

(b) $104 related to a property tax discount offered.

The Commission accepts the adjustment proposed for holding company organization. However, the Commission accepts the adjustment based upon a different rationale than offered by the Company. There were larger expense levels associated with the organization than requested by the Company. However, a portion of these expenses are attributable and should be allocated to non-utility operations. The result is what was requested by the Company.

[2] The final area of dispute is the remainder, $150,885, of the requested revenue erosion adjustment. The Company had already reduced the revenue erosion adjustment by $42,557 Exhibit 12). The Commission finds that the entire revenue erosion adjustment must be eliminated due to the failure of the Company to carry their burden of proof. The Commission finds the Company's proposed methodology to be fatally flawed.

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While the Company sought to make some allocation on the basis of conservation and economic conditions for rate G customers, the 22% allocation is found to be unsupportable. The Commission does not find reasonable or persuasive the Company's contention that rate D customers, residential, have not had their usage affected by general economic conditions.

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The Company has not taken into consideration the dramatic drop in oil prices which for customers that have duel fuel capability leads to switches regardless of rate design.

However, the failure of Gas Service to take into account price changes other than the rate structure change is found to be unreasonable. Gas Service links their revenue erosion as occurring because of the rate structure change. Yet, the maximum level of additional rate change for a G class customer was 5%. Totally ignored is the 4% overall rate increase granted and most importantly the 67% increase that occurred in the cost of gas adjustment due to de-regulation of natural gas.

The Company's contention that a maximum 5% additional increase led to a 78% revenue erosion where during the same time period other factors increased by similar levels or substantially higher levels is unsupportable. The Commission finds that these other factors are the basic overall increase and the large rise in the CGA and are far more likely to cause revenue erosion due to escalations in price.

The Company, in gauging the effect of Class G of the general economic conditions, rested their analysis solely on unemployment rates of the current year versus 1975 recession in the Nashua area. The analysis is faulty due to the failure to consider the Laconia area as well. The Commission finds that other factors other than employment need to be examined to update the impact of general economic conditions on usage. These additional factors include industrial output and examination of individual concerns such as Nashua Corporation which is facing major economic troubles.

The Commission also finds the calculation of the volume loss in total to be incorrectly done and not a reasonable methodology. The Company calculated the adjustment for the months of April through October. Yet, the Company used a degree day sensitivity adjustment on a year round basis ending February, 1979. There has not been the proper analysis to establish that these different time periods are of a sufficient statistical fit.

For all of the above stated reasons, the Commission cannot accept an adjustment for revenue erosion as proposed in this filing.

In summation the Commission will accept a step increase of $345,582 calculated as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

	Co. Orig. Request	*Co. Revisions*	*Staff Supported Changes*	*Commission Decision*
1. Revenue Erosion	$193,442	- 42,557	- 150,885=	$-0-
2. Supplier Refund	39.613		- 39,613 =	-0-
3. O & M Expense	343,831			
	- 106,000	-1,707	- 104 =	340,388
4. Taxes — Payroll & Property	104,368			

5. Cost of Capital & Rate Base	230,206	+ 22,000	-247,012	5,194
	$911,460	-126,557	-439,321	$345,582

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Rate Change

In line with the Company's request and not having heard any evidence to the contrary, the Commission will order the rate increase to be spread in an even percentage across both rate classes and rate blocks, with the customer charge remaining at $3.10 per month.

Rate Commencement

As stated in 8th Supplemental Order No. 16,208; the Company was granted temporary rates effective with all service rendered as of January 12, 1983. In accordance with the Company's request, and to try to as equitably as possible to match the recoupment with the proper customers, the Company will be authorized to make the recoupment over a 2 month period commencing as soon as possible

Our order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the Company is entitled to a step increase of $345,582 on an annual basis; and it is

FURTHER ORDERED, that the increase shall be spread on an even percentage across both rate classes and rate blocks, with the customer charge set at $3.10 per month; and it is

FURTHER ORDERED, that the recoupment of the short fall in temporary rates will be collected over a 2 month period, commencing as soon as possible.

By order of the Public Utilities Commission of New Hampshire this eleventh day of March, 1983.

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NH.PUC*03/11/83*[79582]*68 NH PUC 117*Mountain Springs Water Company

[Go to End of 79582]

Re Mountain Springs Water Company

Intervenor: Mountain Lakes District

DR 82-334, Second Supplemental Order No. 16,251

68 NH PUC 117

New Hampshire Public Utilities Commission

March 11, 1983

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MOTION for rehearing denied.

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PROCEDURE, § 32 — Rehearings and reopenings — Pending court decisions.

[N.H.] The commission denied a motion for rehearing, stating that it was reasonable to wait where related issues were pending before various state courts and resolution of those issues was imminent.

APPEARANCES: Daniel Laufer for Mountain Springs Water Company; Darrell Hotchkiss for Mountain Lakes District.

BY THE COMMISSION:

REPORT

On November 8, 1982, Mountain Springs Water Company (Company) filed Fifth Revised Page 21 of its Tariff for Water Service. That filing was for the sole purpose of imposing a one time surcharge of $134.00 for each general service ratepayer to finance certain work on the Company's well filtration system. On December 17, 1982, the Commission issued Report and Supplemental Order No. 16,062 (67 NH PUC 936), which dismissed the Company's petition without prejudice and closed the docket. The Commission found *inter alia* that related issues are already before various state courts and, since resolution of those issues is imminent, it is reasonable to wait. The Commission also found that the Company's filing was deficient. Finally, the Commission removed any Order that it may have issued regarding the treatment of the well filtration system. The Company filed a timely Motion for Rehearing. For the reasons set forth in our Report and Supplemental Order No. 16,062 and herein, we deny the Company's Motion.

In its Motion for Rehearing, the Company avers without statutory or other support nine reasons why Report and Supplemental Order No. 16,062 is unlawful, unjust, and unreasonable. We find all nine reasons to be without merit. It is clear that the issues involved in this docket are the necessity, method and cost of cleaning the well-filtration system. Since the Company has not yet incurred any cost, that issue is simply not ripe for ratemaking treatment. Moreover, since the issues are the necessity, method and cost of cleaning the well-filtration system and since those issues will soon be resolved in related proceedings, the Company has not been harmed by the Commission's decision to defer action without prejudice until those underlying issues have been resolved.

Our Order will issue accordingly

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the Motion for Rehearing of Mountain Springs Water Company be, and hereby is, denied.

By order of the Public Utilities Commission of New Hampshire this eleventh day of March, 1983.

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NH.PUC*03/11/83*[79583]*68 NH PUC 119*Public Service Company of New Hampshire

[Go to End of 79583]

Re Public Service Company of New Hampshire

DF 83-58, Order No. 16,262

68 NH PUC 119

New Hampshire Public Utilities Commission

March 11, 1983

ORDER authorizing electric company to issue and sell preferred stock.

SECURITY ISSUES, § 132 — Scope of proceedings — Prudence of construction.

[N.H.] Questions of prudence regarding an electric company's construction program were deferred until the ratepayers were asked to bear the cost of construction in rates, and the issuance of securities was approved to finance a construction program which, the commission stated, the company had a vested right to complete.

APPEARANCES: Pierre G. Cameron and Frederick J. Coolbroth for Public Service Company of New Hampshire.

Before Love, chairman.

BY THE COMMISSION:

By this unopposed petition filed February 15, 1983, PSNH seeks authority to issue and sell not exceeding 1,400,000 shares of preferred stock, $25 Par Value. Order of Notice was issued and the Commission held a hearing on March 3, 1983 at 9:00 a.m.

The issuance of preferred stock presented in this proceeding is a routine financial instrument of equity that will be used for, among other purposes, a construction program that PSNH has a vested right to complete both units at Seabrook and that any questions of prudency as to the use of these proceeds or any other prudency question regarding PSNH's construction program be deferred until said construction program is asked to be borne by ratepayers in their electric rates.

Based upon the foregoing analysis, the Commission approves the proposed financing as for a lawful corporate purpose and thereby approves the issuance pursuant to RSA 369.

Our Order will issue accordingly.

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ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that Public Service Company of New Hampshire (PSNH) is authorized to issue and sell not more than 1,400,000 shares of preferred stock, $25 Par Value; and it is

FURTHER ORDERED, that on or before January first and July first in each year, said PSNH shall file with

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this Commission a detailed statement, duly sworn to by its treasurer or assistant treasurer showing the disposition of the proceeds of said securities, until the expenditure of the whole of said proceeds shall have been fully accounted for.

By Order of the Public Utilities Commission of New Hampshire this eleventh day of March, 1983.

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NH.PUC*03/11/83*[79584]*68 NH PUC 120*Wilton Telephone Company

[Go to End of 79584]

Re Wilton Telephone Company

De 83-12, Order No. 16,263

68 NH PUC 120

New Hampshire Public Utilities Commission

March 11, 1983

ORDER directing telephone company to refile revised tariff pages on the unbundling of customer premises equipment.

APPEARANCES: Richard Samuels for Wilton Telephone Company.

Before Love, chairman.

BY THE COMMISSION:

The Commission issued Report and Order No. 15,896 on September 23, 1982 directing all telephone utilities not already "unbundled" to file with the Commission no later than December 1, 1982 revised tariff pages to reflect separation of Customer Premises Equipment from Local Exchange Rates. The Commission was attempting to ensure that the effective date, which would be 30 days hence, would align itself with the effective date of the Federal Communications Commission mandate of January 1, 1983 in its Computer Inquiry II decision.

The Commission, through a letter bearing my signature dated December 2, 1982, requested that all utilities file by December 8, 1982 with the Commission any matter they desired to have

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resolved by the end of the year.

Wilton Telephone in this docket filed on January 4, 1983 tariff pages and a letter signed by Mr. Draper dated December 17, 1982. The tariff pages filed requested recognition of the rates as effective January 1, 1983, three days prior to filing.

This case is extremely disturbing, in that for no apparent reason we are now involved with conflicts between federal and state law, a direct violation of a Commission direction, and a failure to file a report required by the Commission at the time indicated by the Commission. In addition, there is a violation of the FCC Order.

The next time an order or a direction

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of this Commission is disobeyed by Wilton, the Commission will be required to take appropriate action through the Attorney General's Office.

Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the following revised pages of Wilton Telephone Company tariff, NHPUC No. 5 — Telephone, be, and hereby are rejected:

Index — 1st Revised Page 2 Part I — 1st Revised Page 9 Part II — Section 1, 2nd Revised Page 1 Part III — Section 1, 1st Revised Pages 2 and 3 Section 2, 1st Revised Pages 1 and 2 Section 5, 1st Revised Pages 1-4 Section 14, 1st Revised Pages 2 and 7 Section 16, 1st Revised Page 1;

and it is

FURTHER ORDERED, that Wilton Telephone Company refile revised tariff pages in lieu of those rejected, said pages to bear an effective date of April 1, 1983; and it is

FURTHER ORDERED, that public notice be given in the form of onetime publication of a summary of the filing, in accordance with PUC 1601.05 (j).

By Order of the Public Utilities Commission of New Hampshire this eleventh day of March, 1983.

==========

NH.PUC*03/11/83*[79585]*68 NH PUC 121*New England Telephone and Telegraph Company

[Go to End of 79585]

Re New England Telephone and Telegraph Company

Intervenor: New Hampshire Telecommunications Association

DR 82-328, Supplemental Order No. 16,264

68 NH PUC 121

New Hampshire Public Utilities Commission

March 11, 1983

ORDER approving restructure of rate design for wide area telecommunications services and message telecommunications services.

RATES, § 589 — Telephone — Person-to person calls — Attempt charge.

[N.H.] The commission adopted a charge for attempted person-to-person calls to reduce the incidence of fraud and to insure that those imposing costs on the telephone system paid those costs.

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APPEARANCES: Peter Guenther and Jeanne S. Conroy for New England Telephone and Telegraph Company; Thomas W. Blinn for the New Hampshire Telecommunications Association; Dr. Sarah P. Voll, Bruce Ellsworth, Robert Camfield, Ed Stubbs, Gene Sullivan and Michael Burke for the commission staff.

Before Love, chairman.

BY THE COMMISSION:

REPORT

I. *PROCEDURAL HISTORY*

On December 1, 1982, the New England Telephone Company (herein after referred to as "NET" or the "Company") filed with the Commission a tariff providing for the restructuring of the existing Wide Area Telecommunications Service (WATS) and Message Telecommunications Service (MTS) offerings. The Commission suspended the tariff filings pending decision by the Commission. Public Hearings were held on December 15, 1982 and January 17 and 19 of 1983. At these three public hearings the Commission heard the results of the Commission Staff's discovery and their recommendations. The testimony of Alan P. Murphy, District Manager of Network Pricing was provided by NET to support their tariff filing. A statement was provided by Thomas W. Blinn on behalf of the New Hampshire Telecommunications Association. Briefs were requested and subsequently received on February 3, 1983.

II. *NEW ENGLAND TELEPHONE POSITION*

New England Telephone proposes a restructuring of the rate levels associated with MTS and WATS. NET presented Alan Murphy as a witness to support the Company's position. Mr. Murphy noted that NET is already facing competition for long distance calling and the resale and sharing of WATS and MTS on an interstate basis. NET anticipates competition on an intrastate basis. Before other long distance carriers begin to compete, NET sees the restructuring of MTS

and WATS rates so as to strengthen NET's competitive position.

NET contends that the present rates for these services are not reflective of their true costs. To remedy this situation, NET proposes major changes to WATS. WATS customers tend to be major users of the telephone system. At the present, there are two classes of rates for both inward and outward WATS customers. One of these options is full time WATS whereby there is a flat charge of $575 a month. A second option is on a measured time basis with an initial ten-hour time period for $125 and charges for each additional hour of usage thereafter.

NET proposes the elimination of the full time WATS options and the ten-hour initial period for measured WATS customers. In substitution, NET offers a totally usage sensitive pricing schedule, which is offered as being more in accordance with the cost to provide the service. This greater relationship to costs and the greater ability for a customer to control costs

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are offered as reason to accept NET's proposal as more equitable than the status quo. Furthermore, this proposal would reduce the existing opportunity for a reseller to use WATS as a mechanism to underprice MTS by having its customers receive resold WATS instead of opting for MTS.

NET Witness Murphy testified that he expects a revenue increase of $225,000 from change in the WATS rate structure. The breakdown of this revenue change is a net $25,000 from repricing and an increase of $200,000 resulting from increased demand due to a lowering of rates for most WATS customers.

The proposed MTS restructure was testified to as resulting in an offsetting loss of revenue approximately equal to the revenue increase from the WATS restructure. The NET proposal seeks to alter the rates charged the five classes contained within the definition of message telecommunications service. NET's proposal is for a reduction in the major component of MTS service, Direct Distance Dialing (000) of $2,257,800. Increases are proposed for the other four components; Customer Dialed Calling Card, Operator Station To Station, Person to Person, and Coin Paid Station to Station.

NET's focus in this portion of their proposal is to restructure the rates so that DDD rates are the focus with all other charges related to DDD. The contention by NET is that the proposed rates are more reflective of cost. There are a variety of changes made in the proposed restructure, including an introduction of an incremental charge for Coin Paid Station to Station, rate period specific billing, application of the interstate method for billing time-of-day discounts for all MTS messages, revised rate structure for Conference Service and the elimination of the resulting legal holiday treatment for MTS calls.

III. *NEW HAMPSHIRE TELECOMMUNICATIONS ASSOCIATION POSITION*

The New Hampshire Telecommunications Association contends that the proposed WATS changes are unreasonably large for major telephone users. The Association contends that while the inflation rate is only 3-4%, NET continues to receive double digit increases in rates. The Association contends that the proposed increase will increase net revenues by significantly more than that estimated by NET. Proceedings before the FCC are cited by the Association as a reason

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to postpone consideration of this increase in WATS.

IV. *COMMISSION STAFF POSITION*

The Commission Staff agrees with NET that the alterations in the WATS rates are justified by proper cost allocations. Staff finds benefit in the substantial number of measured WATS customers who will experience lower rates. Staff does not accept the estimated demand effect of $200,000. Their contention is that the price changes, both downwards and upwards, are of a non-traditional magnitude. Consequently, Staff rejects historical experience as being an accurate forecasting tool and instead recommends that the Commission require a method whereby the revenues from these two services are tracked two years.

As to MTS, Staff does have major disagreements with the NET proposal.

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While agreeing that DDD rates should be the focus of all NTS pricing, Staff does not find that the proposed incremental changes for the other service reflect costs. Staff finds that the incremental charge should be as close as possible to cost and Staff has particular concern with maintaining coin and calling card surcharges.

While agreeing that their proposal to reduce the level of incremental charges will negatively impact the proposed reduction in DDD rates, Staff contends that the incremental charges should be closer to cost. Staff also rejects the proposed $1.00 differential between credit card calls and station-to-station calls. They contend that their differential of 40¢ multiplied by a number of calls will adequately bring home the economic signal.

Staff also recommends the adoption of a person or station attempt charge of 75¢ on all person-to-person and station-to-station calls. This suggestion is in response to the present situation in which fraud is occurring through using person-to-person calls as a signaling device at no expense to the places of the call. The revenue from this charge is to be applied to reduce DDD rates.

Staff also raised the issue that within municipalities the cost of any initial call should only be 10¢. While the Commission has achieved toll-free calling within municipal boundaries, there has existed the exception of coin phone calls. Staff seeks to limit this exception even further by not having credit card customers charged for the incremental charge for credit card calls going to a municipality wherein the coin phone is located. Instead, Staff opts for the normal 10¢ charge.

Staff generally agrees with the elimination of resulting holidays, because of their confusing nature. Further more, Staff also agrees that the calls should be rate period specific and that the time-of-day discount be calculated on the entire call.

V. *COMMISSION ANALYSIS*

The Commission accepts the WATS filing as proposed. The impact of this filing has significantly different impacts on various WATS customers. As evidenced by the exhibits, there are significant percentage decreases and increases, as well as numerous customers, with minimal levels of impact in both directions. Overall, 95% of the 1772 measured outward WATS customers will experience a decrease. Yet, 95% of the measured inward WATS customers will

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experience an increase. Of the full time outward WATS customers, there will be an equal number of increases and decreases. While full time inward WATS customers will generally experience an increase, there exists the potential for offsetting decreases from changes in the measured service and MTS restructuring. However, whatever the individual customer impact, the Commission must eliminate rate discrimination pursuant to RSA 378:10.

The telephone industry, which has traditionally operated as a monopoly, is facing competition from many quarters as a consequence of regulatory and courtroom decisions triggered by rapid advances in telecommunication technologies and federal determination that competition rather than universal service is the new standard for the industry. This new concept of competition has necessitated the elimination of previous subsidization of certain

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services by other services. The new economic theory in the telephone industry is that cross-subsidization reduces the nation's aggregate wealth by misallocating scarce resources and causing losses of economic efficiency.

The issue before us was whether this revision in rate design is closer to actual costs than the present rate design. We find that NET has sustained its burden as to issue and, therefore, we so hold.

The Commission also finds that to preserve its financial integrity so that NET may adequately serve both its stockholders and ratepayers, NET must be in a position to compete fairly with its competitors. We find that NET's attempt to position itself so as to effectively compete while still preserving its day-to-day service obligations in the public interest. Consequently, the Commission approves the revisions in the WATS rate design proposed by New England Telephone.

As to the Company's filing on MTS, the Commission finds that there is a need to modify the NET proposal. The Staff raised questions as to whether the NET proposal was in excess of cost and, therefore, modified. The following chart is illustrative of the differences between the two positions:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

SERVICE	*COMPANY PROPOSAL*	*STAFF PROPOSAL*	*COMMISSION DECISION*
Calling Card	$ .40	$ .30	$ .30
Coin	$ .50	$ .40	$ .40
Operator Station-To-Station	$1.40	$ .70	$1.40
Person-To-Person	$2.50	$ 1.90	$2.50

The Commission accepts Staff's proposed change to calling card and coin as being more in line with actual unit resource costs. However, we also find the NET position reasonable as to Operator Station-To-Station and Person-To-Person. We accept as reasonable the NET contention that strict adherence to the Staff position for these latter services would fail to recognize that these operator handled calls are extremely sensitive to inflationary pressures, since they include operator wages.

The Commission also finds reasonable to preserve the large portion of the major reduction

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proposed for DDD customers. Under NET's original proposal, DDD rates would be reduced by $2,257,800. Under Staff's proposal, the DDD reduction would amount to only $329,953. By adopting a modified plan of each proposal the reduction to DDD customers is $2,091,540.

The Commission believes that DDD rates could be further lowered by adoption of a person-to-person attempt charge. The Staff proposal is found to be reasonable, both as to its rationale and the price. NET appears willing to await tests being run in Maine on this aspect of telephone fraud. The Commission will require NET to file such a rate in its revised tariffs in this docket, at the Staff rate of 75¢. The Commission finds such a filing reasonable. In this type of situation, someone is presently paying for the misuse of telephone lines. The Commission has a preference that

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these expenses be paid by those who inflict them on the system, not the day-to-day residential and business customer.

The Commission adopts the remainder of the NET filing under the heading of MTS as reasonable. The Commission will, however, make two modifications to this acceptance. The first is that we accept as reasonable and, therefore, will require that Staff's proposal as to credit card calls within the municipality be granted. The Commission also finds wisdom in the tracking of revenue proposal put forth by Staff in their Attachment A to their memo. The Commission will require this revenue tracking with quarterly reports.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that all tariff pages filed by New England Telephone (NET) in relation to WATS are hereby approved; and it is

FURTHER ORDERED, that all tariff pages in accordance with NET's MTS filings are approved to the extent that they are consistent with the Commission Report; and it is

FURTHER ORDERED, that revised tariff pages are to be filed in accordance with the Commission Report where the proposed tariff pages differ from the Report.

By Order of the Public Utilities Commission of New Hampshire this eleventh day of March, 1983.

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NH.PUC*03/11/83*[79586]*68 NH PUC 126*Gas Service, Inc.

[Go to End of 79586]

Re Gas Service, Inc.

DR 82-276, Fifth Supplemental Order No. 16,268

68 NH PUC 126

New Hampshire Public Utilities Commission

March 11, 1983

ORDER modifying previous report on cost of gas adjustment filing requirements.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

Whereas at the hearing on December 21, 1982, on Gas Service, Inc.'s motion for rehearing and other relief filed with this Commission on November 22, 1982, it was agreed that all parties would consult to attempt to resolve the problem relative to future cost of gas adjustment information to be provided to this Commission; and

Whereas, the Commission's staff,

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the Utility Advocate of Community Action Programs Belknap & Marrimack Counties, Inc., and Gas Service, Inc., have agreed to the following change in this Commission's Report of November 2, 1982.

Upon consideration of the foregoing facts and of the substance of the proposed change; it is

ORDERED, that item 5) on page 10 of said Report be changed to read as follows, effective on the date of the Report:

5) monthly filings with the Commission during each cost of gas adjustment ("CGA") period that will show the projected CGA over/under collection at the end of the CGA period concerned, using the Company's latest estimates (whether initial or partially or fully revised) and in accordance with pertinent Commission orders. All changes from CGA filings for that period as approved by the Commission should be explained whether known or estimated. No change in the Company's CGA prescribed by the Commission will be made without the Company's being given an opportunity to present pertinent evidence at a duly noticed hearing.

By Order of the Public Utilities Commission of New Hampshire this eleventh day of March, 1983.

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NH.PUC*03/11/83*[79587]*68 NH PUC 127*Manchester Water Works

[Go to End of 79587]

Re Manchester Water Works

DE 82-267, Order No. 16,272

68 NH PUC 127

New Hampshire Public Utilities Commission

March 11, 1983

PETITION for authority to extend franchise area; granted.

CERTIFICATES, § 129 — Duration of certificate rights — Franchise extension.

[N.H.] According to New Hampshire statutory law (RSA 374:27), any franchise extension must be exercised within two years after being granted.

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APPEARANCES: Frederick H. Elwell, director, Manchester Water Works; Armand A. Dugas, public works director, Bedford, New Hampshire.

BY THE COMMISSION:

REPORT

By a petition filed on September 20, 1982, Manchester Water Works seeks authority to extend its franchise area further into Bedford, New Hampshire in an area generally bounded by the Merrimack River on the east, South River Road on the west, and southerly to Stebbins Pond.

At a public hearing on this matter, held on February 15, 1983, Mr. Elwell and Mr. Dugas testified that there has been no building in the area sought and thus no new requests for water service beyond that presently being served in the existing franchise area. Mr. Dugas also testified that he knew of no immediate plans for building that would require service.

This Commission, in DR 81-388, spoke to and expressed concern that any franchise extension must be exercised within two (2) years after being granted in accordance with New Hampshire statute RSA 374:27. In the immediate case, there is no representation that the statute requirement will be met.

As we have stated before, this Commission is very much in favor of the expansion by water systems with the available supply and especially those which furnish good water service as does Manchester. We are also mindful that franchise areas not exercised within two years shall not be exercised thereafter without seeking new authority. The area in Bedford, granted to Manchester in DE6503 and Order No. 11,000 ([1973] 58 NH PUC 39), which has never been exercised, is such an area.

It is our opinion that Manchester Water Works and the Town of Bedford should file a new petition to include that area that would comply with RSA 374:27.

The authority sought in this case is granted due to the representation by the selectmen that the franchised area will be used within two years.

Our Order will issue accordingly.

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ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that this petition is granted; and it is

FURTHER ORDERED, that this docket is closed.

By Order of the Public Utilities Commission of New Hampshire this eleventh day of March, 1983.

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NH.PUC*03/16/83*[79588]*68 NH PUC 129*Merrimack County Telephone Company

[Go to End of 79588]

Re Merrimack County Telephone Company

DR 83-86, Order No. 16,275

68 NH PUC 129

New Hampshire Public Utilities Commission

March 16, 1983

ORDER authorizing telephone company to impose bad check charges.

BY THE COMMISSION:

ORDER

WHEREAS, PUC 403.38 authorizes telephone utilities to impose bad check charges — the greater of $5.00 or 5% of the value of the instrument; and

WHEREAS, Merrimack County Telephone Company has filed revised tariff pages implementing such bad-check-charge provisions; it is

ORDERED, that Index, 2nd Revised Page 8; and Part I — General Regulations, 1st Revised Page 8, be, and hereby are, approved for effect April 1, 1983; and it is

FURTHER ORDERED, that Merrimack County Telephone Company advise this Commission by letter the number of bad checks received, the number of penalties imposed, and the revenues gleaned from sane, for each quarter through March 31, 1984.

By order of the Public Utilities Commission of New Hampshire this sixteenth day of March, 1983.

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NH.PUC*03/18/83*[79589]*68 NH PUC 129*Public Service Company of New Hampshire

[Go to End of 79589]

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Re Public Service Company of New Hampshire

DE 81-312, 13th Supplemental Order No. 16,278

68 NH PUC 129

New Hampshire Public Utilities Commission

March 18, 1983

ORDER denying motion to restrict scope of proceedings.

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By the COMMISSION:

REPORT

On January 7, 1983, Public Service Company of New Hampshire (PSNH) filed a "Renewed Motion to Define Scope of Proceedings and for Other Procedural Orders". Subsequently, on March 4, 1983, PSNH filed a "Request for Ruling on the Motion to Define Scope of Proceedings and for Other Procedural Orders,". The essence of these motions requests that the Commission restrict the scope of proceedings by, *inter alia*, not "re-examining ... the appropriateness of the Seabrook project", and that the Commission further identify the "intentions" of the Commission "with respect to the use of the results of [the] proceeding".

The Commission in response to a similar motion filed by PSNH earlier in this case specifically determined the scope of the proceedings. Report and Order No. 15,375. We decline to alter that ruling in response to PSNH's present motions at this time. The Commission's authority with respect to conducting an investigation such as this has been affirmed by the Court in Re Public Service Co. of New Hampshire (1982) 122 NH 1062, 51 PUR4th 298, 454 A2d 435. What findings the record of these proceedings will justify, and the authority of the Commission with respect to the action it may take in light of those findings, are maters which we expect the parties to address in their post-hearing briefs. The Commission will look to all of the parties for their guidance, particularly with respect to the significance of the Court's decision in Re Public Service Co. of New Hampshire, *supra*. But we will not prejudge the question of the authority of the Commission in this matter and will not determine the final disposition of PSNH's motion until the Commission can review all of the evidence in the proceeding, as well as the briefs of the parties. At such time as the Commission issues its report and any orders in this matter, the concerns of PSNH will be addressed.

The request of PSNH is denied accordingly.

SUPPLEMENTAL ORDER

In accordance with the accompanying Report, which is made a part hereof; it is hereby

ORDERED, that the Public Service Company of New Hampshire's Request that the Commission act on the Company's January 7, 1983 motion prior to receiving briefs from the parties is denied.

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By Order of the Public Utilities Commission of New Hampshire this eighteenth day of March, 1983.

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NH.PUC*03/18/83*[79590]*68 NH PUC 131*Rules and Regulations for Gas Service

[Go to End of 79590]

Re Rules and Regulations for Gas Service

DRM 83-52, Order No. 16,281

68 NH PUC 131

New Hampshire Public Utilities Commission

March 18, 1983

ORDER modifying rules and regulations for gas service.

BY THE COMMISSION:

ORDER

WHEREAS, this Commission exercises general supervision of all privately owned gas utilities; and

WHEREAS, that general supervision assures that each utility shall furnish such service and facilities as shall be reasonably safe and adequate and in all other respects just and reasonable; and

WHEREAS, the Natural Gas Pipeline Safety Act of 1968 (Public Law 90-481) resulted in Minimum Federal Safety Standards applicable to gas pipeline companies under this Commission's jurisdiction; and

WHEREAS, the Natural Gas Pipeline Safety Act provides that enforcement of these standards may be delegated to a state agency if that agency annually certifies that, inter alia, it has adopted each Federal Safety Standard as set forth under 49 CFR Parts 191, 192, and 193 as published in the Federal Register; and

WHEREAS, this Commission has so certified on an annual basis since November 8, 1971; and

WHEREAS, that portion of the certification relative to the adoption of the Minimum Federal Safety Standards was predicated on the issuance of Commission Order No. 10,169 dated December 31, 1970 (55 NH PUC 797); and

WHEREAS, it appears that said Order may have lapsed in May of 1982; and

WHEREAS, it is the Commission's intent to continue as the agent in support of the Natural Gas Pipeline Safety Act; it is hereby

ORDERED, that Chapter PUC 500 — Rules and Regulations for Gas Service be, and hereby

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are, adopted as follows:

PUC 501.01 *Application of Rules and Regulations*

(c) Any inter-state gas transmission company subject to the Federal Energy Regulatory Commission is exempt from all but Parts PUC 501, PUC 506, PUC 508.01, PUC 508,02, PUC 508.03 of these rules.

PUC 506.01 *Standard Practice*

The Commission adopts, as Gas Safety Standards, the federal standards as set forth under 49 CFR Part 191, 192, and 193 together with such subsequent amendments as may properly become effective.

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PUC 506.02 *Construction and Maintenance*

Except as modified herein or by municipal regulations within their jurisdiction, where in either case the provisions are not less stringent that the Federal Safety Standards, each utility shall construct, install, operas and maintain its plant structures, equipment and gas pipelines in accordance with the Federal standards adopted by PUC 506.01, and in such a manner as to best accommodate the public, and to prevent interference with service furnished by other utilities insofar as practical.

(k) *Operating and Maintenance Procedures*

Each utility shall operate, inspect, and maintain its system in accordance with a plan required to be filed with this office under the provisions of 49 CFR 192.17 issued October 16, 1970 (35 FR 16405, October 21, 1970), and any subsequent amendments thereto as may properly become effective.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of March, 1983.

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NH.PUC*03/21/83*[79591]*68 NH PUC 132*New England Power Company

[Go to End of 79591]

Re New England Power Company

DF 83-71, Order No. 16,269

68 NH PUC 132

New Hampshire Public Utilities Commission

March 21, 1983

ORDER granting exemption from regulations concerning security issues and indebtedness.

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BY THE COMMISSION:

ORDER

WHEREAS, by Order No. 15,556 (DF 79-33) of this Commission dated March 26, 1982 (67 NH PUC 264), New England Power Company was granted an exemption from Commission Regulations permitting it to issue and renew from time to time, its Bonds, Notes or evidence of indebtedness payable less than twelve (12) months after the date thereof, in an aggregate amount thereof outstanding at any one time (not including any such indebtedness which is to be retired with the proceeds of any such issue or renewal) not in excess of $195, 000,000; and

WHEREAS, that exemption was to expire on March 31, 1983, unless extended

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by order of this Commission; and

WHEREAS, New England Power on March 2, 1983 requested authorization to extend the exemption; and

WHEREAS, New England Power Company has submitted projected construction expenditures of $316 Million, which include an estimated investment of approximately $230 Million in nuclear projects of which $124 Million is projected for Seabrook I and II, for the period January 1983 through March 1984; and

WHEREAS, New England Power Company estimates that the expenditures for construction and other purposes will exceed the amount of internally generated funds available for such purposes and that the disparity in funds needed and funds available will be greatest in early 1984, unless $65 Million of planned long-term financing is completed, when funds needed could exceed available funds by over $194 Million cumulatively; and

WHEREAS, New England Power Company seeks extension of this authorization action in order to have flexibility in the timing of long-term financings; it is

ORDERED, that New England Power Company be, and hereby is, authorized from time to time, to issue and renew its Bonds, Notes or other evidences of indebtedness payable in less than twelve (12) months after the date thereof, in an aggregate amount thereof outstanding at any one time (not including any such indebtedness which is to be retired with the proceeds of any such issue or renewal) not in excess of $195 Million; and it is

FURTHER ORDERED, that the exemption contained herein shall expire on March 31, 1984, unless extended by order of this Commission; and it is

FURTHER ORDERED, that on January First and July First of each year said New England Power shall file with this Commission a detailed statement, duly sworn to by its treasurer showing the disposition of the proceeds of said Notes, Bonds, or other evidence.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of March, 1983.

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NH.PUC*03/21/83*[79592]*68 NH PUC 133*Granite State Electric Company

[Go to End of 79592]

Re Granite State Electric Company

DF 83-72, Order No. 16,270

68 NH PUC 133

New Hampshire Public Utilities Commission

March 21, 1983

ORDER authorizing the issuance of short-term securities.

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BY THE COMMISSION:

ORDER

WHEREAS, by Order No. 15,884 (DF 82-201) of this Commission dated September 16, 1982 (67 NH PUC 630), Granite State Electric Company was granted authorization to increase its short-term indebtedness to an aggregate amount not in excess of $5,500,000 (not including such indebtedness which is to be retired with the proceeds of any issue or renewal of the indebtedness); and

WHEREAS, Granite State Electric Company, on March 2, 1982, sought to increase its authority to issue its short-term notes from $5,500,000 to $6,000,000; and

WHEREAS, Granite State Electric Company estimates that its construction expenditures and sinking fund obligations on long-term notes will exceed internally generated funds and will require authorization to increase its short-term indebtedness to an aggregate amount not in excess of $6,000,000; and

WHEREAS, this Commission after investigation and consideration finds that said request is consistent with the public good; it is

ORDERED, that Granite State Electric Company, without first obtaining the approval of this Commission, be and hereby is, authorized from time to time to issue and renew its notes, bonds, and other evidences of indebtedness payable less than twelve months from the date thereof, in an aggregate amount thereof outstanding at any time (not including borrowings which are retired with the proceeds of any new borrowings) not in excess of $6,000,000; and it is

FURTHER ORDERED, that on January First and July First of each year said Granite State Electric Company shall file with this Commission a detailed statement, duly sworn to by its Treasurer, showing the disposition of the proceeds of said notes, bonds, or other indebtedness.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of March, 1983.

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[Go to End of 79593]

Re Lakes Region Water Company, Inc.

Intervenor: Balmoral Homeowners Association

DR 81-203, Fifth Supplemental Order No. 16,283

68 NH PUC 134

New Hampshire Public Utilities Commission

March 21, 1983

PETITION by water company for increased revenues; granted, as modified.

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1. RATES, § 257 — Kinds and forms of rates and charges — Delinquent charge — Bad check charge.

[N.H.] To further strengthen a water utility's ability to collect its lawfully approved rates, the commission required the utility to assess a delinquent charge on overdue balances, and bad check charges. p. 137.

2. EXPENSES, § 12 — Amortization of abnormal expenses.

[N.H.] Where the useful life of equipment was found to be three years, the commission amortized the cost of the equipment over a three-year period. p. 138.

3. EXPENSES, § 114 — Income and excess profits taxes.

[N.H.] An amount for state business profits tax was disallowed where it was found to be nonrecurring. p. 140.

4. RATES, § 605 — Water utilities — Availability charges.

[N.H.] The commission eliminated an availability charge assessed by a water company against vacant lots and directed that the revenues be recovered under a general service rate. p. 145.

5. RATES, § 608 — Water utilities — Particular fixtures and attachments.

[N.H.] A water company's fixture rate was replaced with a flat rate for general service to simplify the billing process for the company and customers and to reduce company expenses. p. 145.

6. RATES, § 603 — Water utilities — Minimum bills.

[N.H.] The commission ordered a water company to implement a minimum charge with

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metered service to recover fixed charges such as depreciation, amortization, insurance, property taxes, and rent. p. 145.

APPEARANCES: Dom S. D'Ambruoso for Lakes Region Water Company, Inc.; Edgar D. McKean, III, for Balmoral Homeowners Association.

Before Love, chairman.

BY THE COMMISSION:

I. *Procedural History*

On June 30, 1981, Lakes Region Water Company, Inc. (Lakes Region or Company) filed certain revisions to its tariff providing for a re-design of its rate schedules, with no increase in revenue, which revisions were suspended by Order No. 15,013 (66 NH PUC 279).

On March 12, 1982, Lakes Region filed certain revisions to its tariff providing for an increase in annual revenues of $16,834 and a consolidation of this filing with that filed on June 10, 1981. The March 12, 1982 filing was suspended by Order No. 15,585.

On May 25, 1982, a hearing was held on the Company's petition for temporary rates. After hearing, Report and Order No. 15,699 (67 NH PUC 382) were issued setting the existing rates as temporary rates, effective June 9, 1982.

By letter dated July 21, 1982, the Company notified the Commission of "an emergency situation" at its Paradise Shores water system, relating to the loss of yield on one of its wells on this system. Because of Lakes Region's claim that the absence of any increase in revenues made it difficult to obtain financing to correct this supply problem, Third Supplemental Order No. 15,769 (67 NH PUC 547) was issued to allow an increase in temporary rates of $7,650.

Public hearings on the petition for an increase in permanent annual revenues were held on September 7 and September 20, 1982.

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II. *Operating Expenses*

A. *General Observations*

This case has required an inordinate effort by the Commission staff and the Commissioners. There is a substantial level of inconsistent or incorrect data responses, exhibits and testimony. Many later responses and exhibits were in conflict with earlier documents.

There is a certain level of difficulties associated with any small water utility rate case. However, the Commission staff conducted an audit in September of 1981 in which specific instructions were given as to the maintenance of time sheets and records, the proper accounting for expenses associated with other water systems and non-utility activity. In many instances, there were improper account entries. The Commission finds that much of this additional expense for proceeding through the regulatory process could have been avoided if greater attention had been given to the Commission rules, the Commission chart of accounts, and earlier staff

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direction.

B. *Superintendance and General Office Salaries*

The Company seeks an increase in the allocations to accounts No. 2701, Superintendance, and No. 2791, General Office Salaries, for a 10% inflation adjustment. The Commission finds that the Company has failed to demonstrate the reasonableness of the adjustment. There has been no demonstration that 10% inflation is a reasonable rate for the future. Estimates like these offered by the Company have been consistently found by this Commission not to satisfy the requirement that the expenses are known or measureable. Re Hanover Water Works Co. (1979) 64 NH PUC 480.

In this evidentiary record, there are additional reasons to disallow the inflationary adjustment. The 10% adjustment was not made for billings associated with other non-utility operations. Furthermore, despite both Commission and Staff instruction, there was no effort to maintain time sheets until mid-1982. Contrary to the Company's assertion in brief, time records did not appear until after May 25, 1982.

The Commission will allow $15,000 for Superintendance and $6,273 for Office Salaries. The Commission will require that there be an allocation for insurance and employee benefit expenses to non-utility operations for all future rate cases. Failure to make this adjustment this time will act as an attrition offset. However, a failure to make this adjustment will not be sanctioned in future proceedings.

C. *Maintenance of Pumping Equipment*

The total amount sought in this account, No. 2726, was $1,416. Exhibit A revealed that $166 related to a pump and fittings which should have and will be capitalized for purposes of this report. The elimination of this item leaves a remainder of $1,250, which we find to be reasonable.

D. *Uncollectible Accounts*

In 1981, the Company booked $8,884 as a credit during the year from revenues but didn't write off any amounts due, thus resulting in an uncollectible accounts reserve of $13,384. The Commission, as noted later in this opinion, is removing the availability

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charge as an appropriate charge. Since the history of this utility's accounts receivable is found to stem from the imposition of the availability charge, the Commission finds it proper to retain the $13,384 reserve and will not allow any additional amounts to be added to this reserve.

[1] To further strengthen the utility's ability to collect its lawfully approved rates, the Commission will require the utility to assess any delinquent customer a 1.5% per month charge on any overdue balances, as well as all court costs, attorney fees, filing fees for any necessary collection actions and $5.00 or 5% of the face of the check, whichever is greater for any check that is failed to be honored by the banking institution in which the account is registered.

E. *General Office Expense*

The original submission was $2,357 for this expense account. This account includes a variety

of expenses, including office supplies, telephone, social security, unemployment compensation and miscellaneous.

Correspondence provided in response to Staff inquiry revealed that $460.79 of social security expense and $52.46 of unemployment expense, while originally included, should have been $360.71 and $40.70, respectively. These updates reflect a 74% allocation factor to Lakes Region with the remainder associated with non-utility operations or a separate utility operation.

The Commission also finds that such an allocation should be made for office supplies as well. The non-utility operations of excavating, plowing, together with the servicing of a separate water utility all from the same office, require this allocation. The submission moved from $2,357 to $2,661 during the presentation of the case. We will allow as reasonable $1,969. The Commission directs that a more accurate method is direct allocations to each and every business service or enterprise provided out of the office.

F. *Regulatory Commission Expense*

Exhibit 2 demonstrated a request of $226 for this account, No. 2797. Staff cross-examination led to an exclusion of $72.38 of expenses associated with Wentworth Cove Water Company, a separate water utility enterprise. The remaining $153 consists of rate case notice and utility assessment tax expenses. The Commission will accept this remaining number. Although the assessment shown is higher than the level assessed by the Commission, the Commission is now aware that its new assessment will be higher in the future than in the past.

G. *Miscellaneous General Expense*

The total sought in this account, No. 2801, was $605. The breakdown provided does not add up to the number requested. There are two entries of $545 for tools and $55 for testing fees. The Commission will allow this level, $600, with the caveat that the large expense for tools should have been capitalized. Further, our allowance is not here an acceptance of the recurring nature of this expense but rather as an offset to attrition.

H. *Rent*

The Company originally requested a pro formed figure of $3,165. In response to No. 12 of Exhibit 9, the Company

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agreed that 10% of these expenses should be allocated to Went-worth Cove. The Commission will make this adjustment and arrive at a figure of $2,849.

I. *Franchise Requirement*

The Company requested an amount of $120 but again did not make an allocation to Wentworth Cove. We will make such an allocation and reduce the $120 by 10% to $108.

J. *Transportation Expenses*

The Company in Exhibit 2 has requested $5,087 for transportation expense for 1982, which is the expense booked in 1981 to Account No. 2811, transportation equipment.

A simple request was made by Staff as to the breakdown of these costs. Exhibit 10 was

provided in response. This response covered three sheets. However, the items did not add up to the $5,087. Nor did the items add up to other numbers suggested by the Company, such as in Exhibit 20 for this account, $7,141, or $5,749, another submission. Rather, the total of all the items was $6,912. The Company's response is not acceptable by commonly accepted accounting principles. The three different number submissions were all wrong and all caused considerable confusion and unproductive uses of regulatory time.

This expense level includes allocation of 1 1/2 trucks, whereas, there is only one employee who has reason to use a truck. Cross-examination revealed that the trucks in question are used for snow plowing, trash collection, contracting business, personal affairs, and high school trips. The intervenor labels these uses as clear examples of shoddy accounting practices and an improper allocation between utilities and utility versus non-utility enterprises. The Staff contends that there is a failure to substantiate these expenses and that almost any allocation is wrong due to the absence of records.

Both intervenor and Staff focus on the number of miles, 30,000 for each year for three years on one of the trucks. The furthest distance via map measurement is 35 miles and these outlying areas are only checked once a week. Furthermore, during most of 1981, the Company also used another pick-up truck. Both trucks were replaced in 1981 and it is now represented that the replacement vehicles will only be used 50% and 100%, respectively, by the water company.

The Commission finds that the Company failed to carry its burden of proof as to these expenditures. The Company has not provided the requisite level of proof to justify two trucks where there is only one plant employee. The mileage level charged to the system is found to be unreasonable. Consequently, as of January 1, 1983 Lakes Region is to carry only one truck on its books. Furthermore, the Company is placed on notice that use of this vehicle is to be strictly accounted for in terms of Lakes Region, Wentworth Cove and non-utility use. Future rate case submissions are to include documentation of its use and expenses.

[2] Exhibit 10 includes an entry for December 1981 of $862 for two tires for a backhoe. On Exhibit 9, the Company states that the useful life of tractor tires is approximately three years. Consequently, the Commission finds it reasonable to amortize this expense

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over a three-year period beginning with the accounting for 1981 expenses.

The Company is to go back to January 1, 1983 and adjust all expenses on its books so as to reflect proper allocations for equipment use between Lakes Region, Wentworth Cove and non-utility use. Percentage allocations will not be acceptable in the future that cannot be directly and quickly traced to Company records.

In summation, the Commission will accept $5,013 as the proformed account #2811 to be used in calculating rates for Lakes Region customers. The following breakdown is provided to illustrate this finding:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Account #2811

1. Gas and Oil

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2. Maintenance
Less Backhoe —
Amortization

TOTAL
3. Other
Less Toyota
Expenses


TOTAL ALLOWED
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K. *Depreciation*

Depreciation rates were discussed at this hearing and the water company reminded that any rate chosen on new plant items, or proposed changes to existing rates, must be submitted to the Commission for review and approval prior to their use. The following depreciation lives shall be used for the test year 1981 allocations and shall be ongoing, for assets not fully depreciated as of December 31, 1981:

> ACCOUNT *2308* Structures: 50 years. We find no justification for the continuing use of 20-year lives on two buildings at Paradise Shores. *2316* Pumping Equipment: 10 years *2328* Purification Equipment: 10 years *2330* Other Prod. Equipment: 50 years *2356* Mains: 50 years *2365* The valve and shut-off included in this account shall be included in Account 2356. The heater shall be included in Account 2379. *2372* Office Equipment: 10 years We will accept a five-year remaining life on the used copier. All other office equipment shall be depreciated over a 10-year life. *2373* Transportation Equipment Backhoe: 10 years Trucks: 7 years *2375* Shop Equipment: 15 years The $2,000 of shop equipment as detailed by Lakes Region and acquired in 1973 shall retain a 10-year service life. Any further additions shall be at 15 years. *2377* General Tools & Implements: 3 years Commission records of the amount claimed by Lakes Region in this account are at best unclear from the settlement conferences of DR 80-44. We will thus accept the amount of $3,700.46 and note that the account will be fully depreciated as of December 31, 1982. Any further additions to account 2377 must be reviewed by staff before entry on the books of account, and future depreciation life so determined. In the future, the Commission expects the utility to keep its tools under closer scrutiny as they are expected to last more than one year. *2378* Communication Equipment: 10 years *2379* Miscellaneous General Equipment: 15 years The equipment acquired in 1973 shall retain a 10-year service life. That acquired in 1980, and all future additions shall be at 15 years.

In account 2372 Office Equipment and 2373 Transportation Equipment,

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we have made allocations to Wentworth Cove and the Masons non-utility business.

The first fixed capital accounts shall be adjusted to reflect these dollars.

Depreciation expense by account then becomes:

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[Graphic(s) below may extend beyond size of screen or contain distortions.]
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CostDepreciation Expense

2372	$ 799	$ 88
2373	$29,771	$2,730

[Graphic(s) below may extend beyond size of screen or contain distortions.]

ACCOUNT	*AMOUNT*	*DEPR EXPENSE*
2308	78,380.54 — 2,000 amort. as of 12/31/81	$ 1,528
2316	16,189.63 — 2,357.28 full deprec. + 166	1,400
2328	755.23 — 255.23 fully deprec.	50
2330	443.57	9
2356	168,117.70	3,362
2372	74% of 1,079.90 = 799	88
2373	40,3591 ÷ 72% or 44% = 29,771	2,730
2375	2,000	200
2377	3,700.46	1,233
2378	366.00	37
2379	1,358.26 + 83.99 = 1,442.25	125
	Less CIAC @ 80,702 + 1800 = 27.3%	$10,762
	302,131	2,939
		7,823
New well $2,780 ÷ 50 yrs. depr. life		56
New pump $1,715 ÷ 10 yrs. depr. life		172
		$ 8,051

[1]$130 unaccounted for between PUC annual report and Company's
depreciation schedule, and for rate base purposes, the PUC utilized

[Graphic(s) below may extend beyond size of screen or contain distortions.]

72% of $27,608 (backhoe) =	$19,878
72% of $ 8,295 (Chevy) =	5,972
44% of $ 8,911 (Toyota) =	3,921
	$29,771

We are concerned with the number of tools expensed each year by Lakes Region, under Account 2801. In 1981, $545 and in 1980, $971 were charged to this account. In the future, all purchases of tools shall be capitalized under account 2375 or 2379 and depreciated over the life assigned to those accounts.

L. *N. H. Business Profits Tax*

[3] The utility has booked $250 as the 1981 NHBPT. Since the time of that booking the NHBPT regulations have been altered so the utility will not incur a $250 minimum charge in the future and will be able to take advantage of utility tax losses to cover any income for tax purposes for the near term. This expense is found to be non-recurring and is, consequently, disallowed.

M. *Amortization*

As detailed in this Report, we are requiring the amortization of certain transportation equipment expenses over a three-year period, i.e.,

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

	Annual
Backhoe Tires	$ 207
Total — Account No. 2504	$ 207

N. *Property Taxes*

In the test year, the Company did not book any property taxes, nor did it proform any amount for such in its filing. The Commission Staff in its audit found that in fact there were property taxes paid and we will thus recognize $512 as an ongoing annual amount. This is a further illustration of the accounting difficulties associated with this filing.

III. *Rate Base*

The Company originally submitted a rate base in Exhibit 2 of $181,918. This was calculated using the beginning and end of year, 1981; average for fixed assets of $307,241, less depreciation reserve and contributions in aid of construction of $147,981, plus $1,325 for materials and supplies, plus $21,333 for four months working capital-operation and maintenance expense.

The Commission has numerous problems with this filing. Starting with gross plant and referring to the write-up in this report on depreciation and vehicles, the Commission calculated gross plant as follows [see p. 142.]

IV. *Cost of Capital*

The Company in Exhibit 2 requested a cost of capital of 9.7% overall. This amount included $194,676 of long term debt at 9.38%, $2,342 of short term debt at 16.63%, and $10,000 of equity at 12.0%.

The Commission has a number of concerns about these amounts. First, the long term debt includes approximately $162,345 of stockholder loans per the PUC annual report, but when a breakdown of such was requested and provided by the Company on page 8 of a September 27, 1982 correspondence, the total was slightly under $140,000, a figure which was also used in the Company's brief.

Originally, in Exhibit 13, response 15, the Company stated, "Regarding long-term debt to stockholders, the Company has no records". This was reiterated in the Company's brief.

In addition, as asked by Mr. Traum and responded to by Attorney D'Ambruoso of T3-50:

> Mr. Traum — "Thank you. When the Company increases debt outstanding by a mechanism of not paying its stockholders in cash their salaries, has it petitioned this Commission for approval to increase the amount of long term debt?" Mr. D'Ambruoso — "No."

Proceeding on the stockholder debt, Attorney McKean on T3-65 asked about the existence of the original note and interest rate. Per a response of Mr. Connor's, a copy of the original note is not available, while reference was made to Exhibit 11, response 2. This response states: owner's

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equity as of December 31, 1974 was $221,917.91; on January 1, 1975, $211,917.91 was allocated to Notes Payable; later as a result of an IRS audit for years 1974 and 1975, $44,911 of this was disallowed.

As of January 1, 1981, which follows the Company's last rate case test year,

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[Graphic Not Displayed Here]

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per the 1981 tax return, the loans to stockholders as shown on page 8 of the September 27, 1982 correspondence was $91,958.08. Since that time the utility has not requested approval from this Commission or its investigation of any additional long term debt or borrowings from any source so we will assign a 0% interest rate to the $70,387 (194,676 — 91,958 — 4,072 — 25,200 — 3,059) of capital computation which was cost of capital computation which was not approved by this Commission and arising in a highly questionable way since January 1, 1981. If the Commission was to accept the Company's approach we would, in the long run, be practically guaranteeing the utility its rate of return, no matter how inefficiently it was managed. Put simply, if rates were structured to allow the stockholders $15,000 in annual salaries and instead the stockholders opted to spend that $15,000 on items later disallowed by the Commission, under the Company's present accounting practice, the $15,000 accrued unpaid salary would become a long term debt to be repaid by future rates plus interest, thus making rate payers pay the cost of non-frugal management practices.

An additional problem we have with the Company's cost of capital calculation is related to the equity calculation. The Company has negative total equity, due to operating loses, booked through the years, being greater than the $10,000 original investment noted previously; yet the Company opted to ignore the negative retained earnings and request a return on the $10,000.

The Commission will agree with the Company to the point of not unduly penalizing it by building into the capital structure the true equity figure of ($84,836), but will, use $0 instead. This handling continues to recognize the continuing stockholder loan-investment question and where those amounts should be booked, if booked at all.

In conclusion the Commission will accept a cost of capital of 6.23%, calculated as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

	Amount	*Cost Rate*	*Capital Cost*	*Wgtg. Cost*
Long Term Debt	$ 70,387	0%	$ 0	
	124,289	9.38%	11,658	
	194,676		11,658	
Short Term Debt	2,342	16.63%	616	
Equity	0	-	0	
	$197,018		$12,274	6.23%

V. *Operating Revenue*

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The Lakes Region 1981 Annual Report reflected operating revenues of $75,461.28. Of this total $2,588 was related to a non-recurring surcharge which will be proformed out, as well as $1,800 of contributions in aid of construction which the Company had mistakenly book as revenues.

These proformas are offset by the PUC staff's findings that the utility had incorrectly booked $1,835 of revenue below the line. This finding and revised treatment was agreed to by the Company in its September 27, 1982 response.

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No proforma growth adjustment was deemed appropriate.

In summation the Commission will accept $72,908 (75,461 - 2,588 - 1,800 + 1,835) as the correct proformed revenue figure for the test year.

VI. *Revenue Requirement*

Summarizing the Commission's findings in a manner similar to Exhibit 2, the allowable utility on-going expense levels are as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Superintendance	$15,000
Other Prod. Labor	267[1]
Other Prod. Materials Expenses	1,879[1]
Maint. Pumping Equip.	1,250
Maint. Other Prod. Equip.	79[1]
Power Purchased	4,105[1]
Maint. of Mains	243[1]
Maint. of Services	45[1]
Uncollectible Accts.	0
Gen. Office Salaries	6,273
Gen. Office Supplies Expense	1,969
Supervision & Special Services	4,427[1]
Regulatory Comm. Exp.	153
Insurance	2,321[1]
Employee Welfare	939[1]
Misc. Gen. Expense	600
Maint. of Gen. Prop.	418[1]
Rent	2,849
Franchise Requirement	108
Trans. Exp.	5,013
Depreciation	8,051
N.H.B.P.T.	0
Amortization	207
Prop. Taxes	512
TOTAL	$56,708

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[1]Commission accepted utility's filed amount, or briefed amount.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Total Allowable Utility Oper. Exp.	56,708
plus: Return Requirement	
DF($157,791 × 6.23%)	9,830
Proformed Revenue	66,538

In this case the difference means the Company's permanent rates for 1981 are too high on a proforma basis and the Commission will reduce them by $6,370 in order to bill customers $66,538 on an annual basis.

The Company will be ordered to refund the overcollection retroactive to the inception of temporary rates and the later increase in temporary rates, over the next two quarterly billings.

VII. *Rate Case Expenses*

The Company, in Appendix "C" of its brief, stated that it incurred $13,133.36 of rate case expenses and requested a two year amortization of such. This amount seems extraordinarily large in comparison to the limitation placed on the Commission for outside experts.

In RSA 365:38 the "amount charged to the utility by the Commission in any such case shall not exceed three-quarters of one percent of the existing valuation of the utility investigated."

The Commission recognizes it already has more expertise on its staff than the utility, but it also recognizes that its staff's time is limited and decisions must be made accordingly to be fair to ratepayers and stockholders.

Recognizing that 3/4 of 1% of the utility's rate base of $157,791 is $1,183, a figure of one-eleventh the magnitude requested by the Company. The Commission is disturbed by the level of costs this Company has incurred by comparison to other small water utilities. Therefore, an additional hearing will be scheduled at which time the Company will be given a further opportunity to support its rate case expense request.

VIII. *Water Supply at Lakes Region Paradise Shores*

Mr. Mason informed the Commission Staff on July 19, 1982, that one of

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the two wells serving Paradise Shores had dropped from a normal yield of 50 GPM to about 5 GPM. Staff instructed Mr. Mason to immediately contact a reliable well company to investigate the possibility of rehabilitating the affected well. On July 20, 1982, Mr. Mason reported that such an estimate had been received and he was instructed by the staff to proceed. When no action was taken, he was again instructed on July 22 to proceed. At the hearing in this case, it was learned that he had proceeded with the establishment of a new well, with no contact or further discussion with staff.

Mr. Mason and the water company are hereby put on notice that instructions received from

this Commission's staff are to be followed as directed or appealed to the Commission. We will not tolerate this lack of compliance from any utility and any further occupance by Lakes Region will be dealt with under the statutes.

IX. *Rates*

Lakes Region now employs a $30 annual availability charge against vacant lots, and a fixture rate for all general service customers.

[4] There is general dislike for an availability charge by customers of those systems under our jurisdiction that use such a rate with the dislike translating into delayed payment or refusal to pay at all. It is our decision that the availability rate shall be eliminated and that all revenues now authorized shall be recovered under a general service rate.

[5] Lakes Region has proposed to replace its existing fixture rate with a flat rate for all general service. We will accept this, as we are not convinced that the fixture rate produces any more equitable billing than other unmetered rate schedules. We also recognize that a flat rate or charge will simplify the billing process for the Company and the customers and accordingly reduce Company expenses.

The Company, in its trial brief (pg. 4), contends that a Commission mandated rate structure, which also included a minimum charge, has attributed to its inability to earn the revenues allowed in its prior rate case DR 80-44. It also maintains that this rate structure is ineffective.

The decision in DR 80-44 permitted the customer who uses the water Company's facilities only intermittently, or seasonally, to pay an amount more equal to his usage or demand on the system. The flat rate, or any unmetered rate schedule, that does not recognize the limited usage of these customers, is totally unfair. Good management would recognize that a portion of its customers are intermittent, would perform studies to account for this and design its rate, even unmetered, to derive revenue more fairly related to use of the product. Proper ratemaking would not assess the same charges to the customer who uses the product for 2 or 6 months, as it does the customer whose usage covers 12 months.

[6] We are ordering the Company, elsewhere in this Report, to meter all its customers by July 1, 1983. At that time, we will expect a metered rate schedule that will include a minimum charge designed to recover the fixed costs of this water system which would apply to all connected customers.

In the interim, we will direct the use of a minimum charge similar to that ordered in DR 80-198 i.e.: a charge against all connected customers that

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will recover certain fixed charges, i.e.: depreciation, amortization, Insurance, property taxes, and rent, which continue on the physical plant necessary to serve all customers. A $4.00 a month minimum charge will be applied in all months in which the water company's curb valve is closed, derived as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Insurance	$2,321
Depreciation	8,051

Rent	2,849
Tax — Real Estate	512
Amortization	207
Regulatory Comm. Exp.	153
Franchise Requirement	108
	14,201 = $45/year
	314 customers = Approx. $4/month

X. *Meters*

It is this Commission's policy that all water systems under our jurisdiction shall be metered and in this Report and Order we are requiring that Lakes Region install meters on all its systems. It is also a requirement under our Rules and Regulations Prescribing Standards for Water Utilities, that a meter be installed to determine production at each source of supply.

The metering of each system and source of supply shall be completed by July 1, 1983, with the expense of such metering allowed in the rate base at that time, after submission and review by Staff. We will expect the Company to seek proposals from several manufacturers and distributors before selection.

XI. *Connection of Service Charge*

Lakes Region has proposed a $35 charge for connection or reconnection of a customers service, however, it has made no cost study or analysis to support this amount. Staff's estimate of $5.00 for gas (26 miles round trip to furthest point) and on man hour set at $10, for a total of $15, should be more than compensatory. We will accept $15.00 for this tariff charge.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that 1st Revised Page 2, 3, and 6 of Tariff, NHPUC No. 2 — Water, Lakes Region Water Company, Inc. suspended by Order No. 15,013 (66 NH PUC 279), are hereby revoked; and it is

FURTHER ORDERED, that 2nd Revised Page 2 of Tariff, NHPUC No. 2 — Water, Lakes Region Water Company, Inc. suspended by Order No. 15,585, is hereby revoked; and it is

FURTHER ORDERED, that Lakes Region Water Company, Inc. shall file new tariff pages marked and designated in accordance with Commission tariff filing rules, bearing the authorization of this Report and Order, and the effective date of June 9, 1983; and it is

FURTHER ORDERED, that the new tariff pages shall reflect all conditions and directives as detailed in this Report and Order, including a flat rate for all general service customers designed to recover $66,538 annual revenues; and it is

FURTHER ORDERED, that the issue of rate case expenses shall be the

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subject of an additional Commission hearing; and it is

FURTHER ORDERED, that a hearing will be held on March 28, 1983 at 1:00 p.m. at the offices of the Commission concerning the issue of rate case expenses.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of March, 1983.

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NH.PUC*03/22/83*[79594]*68 NH PUC 147*Tilton and Northfield Aqueduct Company, Inc.

[Go to End of 79594]

Re Tilton and Northfield Aqueduct Company, Inc.

DR 82-51, Fourth Supplement Order No. 16,285

68 NH PUC 147

New Hampshire Public Utilities Commission

March 22, 1983

ORDER allowing step increase.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, this Commission in its Report and Order No. 15,894 (67 NH PUC 641) recognized the need for a step increase to be granted to Tilton & Northfield effective with April 1, 1983 billing, which would alter permanent rates on an annual basis by $8900 plus the known change in property taxes and BC/BS, from the test year end level; and

WHEREAS, Tilton & Northfield has submitted evidence that this step increase should be in the amount of $11,777.34; it is hereby

ORDERED, that Tilton & Northfield be allowed to increase its rate to reflect an increase in revenues of $11,777.34, or a 6% increase to be applied to all rate schedules; and it is

FURTHER ORDERED, that the requirement in Report and Order No. 15,894 that Tilton & Northfield shift its metered rate schedule to a flat rate, shall be accomplished in two steps ie: by the elimination of the last or fourth block at this time and the third block at the next rate adjustment filed by Tilton & Northfield; and it is

FURTHER ORDERED, that new tariff pages shall be filed to reflect the changes herein ordered.

By Order of the Public Utilities Commission of New Hampshire this twenty-second day of March, 1983.

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NH.PUC*03/22/83*[79595]*68 NH PUC 148*Continental Telephone Company of New Hampshire, Inc.

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[Go to End of 79595]

Re Continental Telephone Company of New Hampshire, Inc.

DR 83-100, Order No. 16,291

68 NH PUC 148

New Hampshire Public Utilities Commission

March 22, 1983

ORDER deleting two-party service in a telephone company exchange.

BY THE COMMISSION:

ORDER

WHEREAS, Continental Telephone Company of New Hampshire, Inc. has an approved criterion established in its tariff, NHPUC No. 11 specifying that if the rolls of two-party customers in an exchange drops below 3% of the total subscribers within that exchange, those customers shall convert to one-party service or to four-party service; and

WHEREAS, the Company now advises this Commission that, as of January 1983, the percentage of two-party customers within the Hollis exchange had dropped to 2.82% of the total subscribers in that exchange; and

WHEREAS, the Company finds it appropriate to eliminate the two-party service therein; and

WHEREAS, the Commission finds such in accord with established procedures; it is

ORDERED, that Section 3, Third Revised Sheet 2 of Continental Telephone Company of New Hampshire, Inc. tariff, NHPUC No. 11, be, and hereby is, allowed effective on April 7, 1983.

By order of Public Utilities Commission of New Hampshire this twenty-second day of March, 1983.

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NH.PUC*03/25/83*[79596]*68 NH PUC 148*Keene Gas Corporation

[Go to End of 79596]

Re Keene Gas Corporation

DE 83-102, Order No. 16,296

68 NH PUC 148

New Hampshire Public Utilities Commission

March 25, 1983

ORDER establishing docket to review gas rates.

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PROCEDURE, § 1 — Opening dockets — Requests for rate increase.

[N.H.] Where the commission received a letter from a gas company requesting an emergency temporary rate increase that did not comply with tariff filing requirements, but the commission found that the company might have legitimate grounds for a rate increase, a docket was established for the purpose of reviewing the company's rates.

BY THE COMMISSION:

ORDER

WHEREAS, on March 21, 1983, this Commission received a letter from Keene Gas Corporation marked as an "Emergency Request for a temporary rate increase to be effective April 1, 1983 and to be made permanent;" and

WHEREAS, said letter fails to comply in any way to the requirements of this Commission regarding requests for rate increases; and

WHEREAS, Keene Gas may, nevertheless have legitimate grounds for a rate increase; it is hereby

ORDERED, that docket DR 83-102 is established pursuant to Keene Gas Company's letter for the purpose of reviewing the Company's rates; and it as

FURTHER ORDERED, that Keene Gas shall immediately file a proposed tariff and a report of proposed rate changes along with a letter of transmittal that explains exactly what the Company is requesting and cites the statutory basis for such a request; and it is

FURTHER ORDERED, that Keene Gas make a good faith effort to comply with the Commission tariff filing requirements under Section 1603.03 of the Commission Rules and Regulations by filing all reasonably available documents as soon as possible but prior to the initial hearing in this docket.

By Order of the Public Utilities Commission of New Hampshire this twenty-fifth day of March, 1983

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NH.PUC*03/28/83*[79597]*68 NH PUC 149*Northern Utilities Inc.

[Go to End of 79597]

Re Northern Utilities Inc.

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DR 83-95, Order No. 16,297

68 NH PUC 149

New Hampshire Public Utilities Commission

March 28, 1983

ORDER approving contract for seasonal firm sales of gas.

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BY THE COMMISSION:

ORDER

WHEREAS, on March 7, 1983 Northern Utilities filed Special Contract 48 for Seasonal Firm Sales of Gas; and

WHEREAS, upon review, the Commission finds said contract to be reasonable and in the public interest, it is hereby

ORDERED, that Northern Utilities Inc. Contract No. 48 is hereby approved.

By Order of the Public Utilities Commission of New Hampshire this twenty-eighth day of March, 1983.

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NH.PUC*03/28/83*[79598]*68 NH PUC 150*Civil Defense Agency v Public Service Company of New Hampshire

[Go to End of 79598]

Civil Defense Agency v Public Service Company of New Hampshire

DC 83-78, Supplemental Order No. 16,298

68 NH PUC 150

New Hampshire Public Utilities Commission

March 28, 1983

ORDER vacating previous order.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, Order No. 16,245 (68 NH PUC 107) was issued by the Commission on March 8, 1983; and

WHEREAS, it has come to the attention of the Commission that funds of Public Service Company of New Hampshire have been used to fulfill the obligation of court reporter fees

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incurred in Docket No. DE 81-304 and for good cause being shown; it is hereby

ORDERED, that Order No. 16,245 is vacated and set aside.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of March, 1983.

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NH.PUC*03/28/83*[79599]*68 NH PUC 151*Fuel Adjustment Clause

[Go to End of 79599]

Re Fuel Adjustment Clause

Intervenors: New Hampshire Electric Cooperative, Inc., Concord Electric Company, Exeter and Hampton Electric Company, Granite State Electric Company, Municipal Electric Department of Wolfeboro, Littleton Light Department, Woodsville Water and Light Department, Connecticut Valley Electric Company, Inc. and Community Action Program

DR 83-69, Order No. 16,302

68 NH PUC 151

New Hampshire Public Utilities Commission

March 28, 1983

ORDER authorizing decreased fuel rates for certain electric companies.

AUTOMATIC ADJUSTMENT CLAUSES, § 10 — Authorization — Cost elements — Fuel costs — Rate reduction.

[N.H.] Where the cost of oil had decreased and the use of hydroelectric generation had increased, the commission authorized certain electric companies to reduce their rates through an adjustment to their automatic fuel clauses.

APPEARANCES: Margaret Nelson for Concord Electric Company and Exeter and Hampton Electric Company; Michael Flynn for Granite State Electric Company; Gerald Eaton for the Community Action Program; Kenneth E. Traum and Sarah P. Voll for the PUC staff.

BY THE COMMISSION:

REPORT

The Public Utilities Commission held a duly noticed public hearing on the fuel adjustment clause filings of Concord Electric Company, Exeter & Hampton Electric Company, and Granite State Electric Company, for the second quarter of 1983 at its offices in Concord on March 24, 1983.

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Concord Electric Company and Exeter & Hampton Electric Company were represented by one witness, William H. Steff. Concord had a FAC rate of $0.358/100 KWH approved for the first quarter of 1983, while Exeter & Hampton Electric Company had a rate of $0.492/100 KWH.

In developing the second quarter of 1983 estimates, the most significant inputs are liased on revised estimates provided by the companies' sole electricity supplier, PSNH, of $0.03419775/KWH for March, 1983, $0.02622061/KWH for April, 1983, $0.03106098/KWH for May, 1983 and $0.02975140/KWH for June, 1983.

Based on this and taking the amount of fuel expense rolled into base rates into account, Concord's revised proposed rate for the second quarter 1983 is a credit of ($0.661)/100

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KWH while Exeter & Hampton's is a credit of ($0.884)/100 KWH. These are reductions in both cases.

PSNH's estimates are lower this quarter due to lower oil costs and less total generation. Another reason for a lower rate being charged ultimate customers is overcollections by both companies coming into the second quarter of 1983.

The Commission believes these requested rates for both companies are in the public good and our Order will issue accordingly.

Granite State Electric Company (GSEC) in its FAC, OCA, and QF filings and presentations, was represented by 2 witnesses during the course of the March 24, 1983 hearing.

On balance, the Company requested the FAC rate be lowered by 25¢ /100 KWH to 69¢ /100 KWH, while the OCA rate would be decreased by 6.4¢ /100 KWH to $0.087/100 KWH.

The OCA decrease as principally due to a lower estimated differential between oil and coal costs and less coal generation, as Salem Harbor Unit 2 will have reduced generation in the quarter due to scheduled maintenance.

A percentage of the cost savings resulting from the lessened coal-oil differential is one reason for the reduction in the FAC request, principally lower oil costs. Another reason is higher hydroelectric generation. These factors were partially offset by an undercollection brought into the quarter.

Since all calculations were made in similar fashion to past filings, the Commission believes the requested rates of $0.69/100 KWH for the second quarter of 1983, FAC and $0.087/100 KWH for the second quarter 1983, OCA are in the public good, and our Order will issue accordingly.

As far as the Qualifying Facility Purchased Power Rate is concerned, since the rates as filed were calculated in accordance with the Commission's 6th Supplemental Order No. 16,240 in DE 82-21 (68 NH PUC xxx), the Commission accepts the rates.

For a typical 500/KWH residential customer, there will be significant savings from the Commission's decision. Rates will be reduced by $5.10 per month for Concord Electric customers; $6.88 per month for Exeter and Hampton customers; and $1.57 for Granite State

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Electric customers. These rate reductions have a variety of causes connected to them. However, the primary reason for these rate reductions is the decreased cost of oil used in the generation of electric power.

Our Order will issue accordingly:

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the Commission in correspondence dated March 2, 1982, sent to the New Hampshire Electric Cooperative, Inc., Granite State Electric Company, Connecticut Valley Electric Company, Inc., Exeter & Hampton Electric Company, Municipal Electric Department of Wolfeboro, Concord Electric Company, Woodsville Power and Light Department, and Littleton Water & Light Department by the Commission's Executive Director and Secretary in relation to DR

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82-59, notified the utilities that the Commission will not automatically schedule FAC hearings for those utilities which file monthly unless requested or needed by one of those utilities; and the Commission would not automatically schedule FAC rate; and

WHEREAS, no utility maintaining a monthly FAC requested a hearing scheduled; and

WHEREAS, this is not one of the two off months for quarterly FAC utilities, hearings were held for Concord Electric Company, Exeter & Hampton Electric Company, and Granite State Electric Company; it is

ORDERED, that the Commission in DR 81-340, Third Supplemental Order No. 15,986, dated November 10, 1982 (67 NH PUC 784) of the N.H. Electric Cooperative, Inc. rolled the cost of fuel on an estimated forward looking basis into base rates thus eliminating the lagging Fuel Adjustment Clause and resulting in more stable and comprehensible rates; and

WHEREAS, the rolled in rate will remain in effect for approximately one year, unless a hearing is requested by any party, no new rate will be stated for the New Hampshire Electric Cooperative, Inc. in this month's FAC order; and it is

FURTHER ORDERED, that 8th Revised Page 19A of Concord Electric Company tariff NHPUC No. 8 — Electricity is hereby denied; and it is

FURTHER ORDERED, that 9th Revised Page 19A of Concord Electric Company tariff, NHPUC No. 8 — Electricity, providing for a fuel surcharge credit of ($0.661)/100 KWH for the months of April, May and June, 1983, be, and hereby is, permitted to go into effect for the month of April, 1983; and it is

FURTHER ORDERED, that 8th Revised Page 19A of Exeter & Hampton Electric Company tariff, NHPUC No. 15 — Electricity is hereby denied; and it is

FURTHER ORDERED, that 9th Revised Page 19A of Exeter & Hampton Electric Company tariff, NHPUC No. 15 — Electricity, providing for a fuel surcharge credit of ($0.884) per 100 KWH for the months of April, May end dune, 1983, be, and hereby is, permitted to go into effect

for the month of April, 1983; and it is

FURTHER ORDERED, that 4th Revised Page 57 of Granite State Electric Company tariff, NHPUC No. 10 — Electricity, providing for an oil conservation adjustment of 8.7 cents ($0.087) per KWH for the months of April, May and June, 1983, be, and hereby is, permitted to go into effect for April, 1983; and

FURTHER ORDERED, that 5th Revised Page 30 of Granite State Electric Company tariff, NHPUC No. 10 — Electricity, providing for a fuel surcharge for the months of April, May and June, 1983, of $0.69 per 100 KWH be, and hereby is, permitted to go into effect for April, 1983; and it is

FURTHER ORDERED, that 27th Revised Page 11B of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 6 — Electricity, providing for a fuel surcharge of $3.51 per 100 KWH for the month of April, 1983, be and hereby is, permitted to become effective April 1, 1983; and it is

FURTHER ORDERED, that 111th Revised Page 6 of Littleton Light Department tariff, NHPUC No. 1 — Electricity, providing for a fuel surcharge of $1.73 per 100 KWH for the month of April, 1983, be, and hereby is, permitted

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to become effective April 1, 1983; and it is

FURTHER ORDERED, that 79th Revised Page 10-B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for a fuel surcharge credit of ($0.38) per 100 KWH for the month of April, 1983, be, and hereby is, permitted to become effective April 1, 1983; and it is

FURTHER ORDERED, that 76th Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for an energy surcharge credit of eight cents ($0.08) per 100 KWH for the month of April, 1983, be, and hereby is, permitted to become effective April 1, 1983.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of March, 1983.

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NH.PUC*03/29/83*[79600]*68 NH PUC 154*Lakes Region Water Company, Inc.

[Go to End of 79600]

Re Lakes Region Water Company, Inc.

Intervenor: Balmoral Homeowners Association

DR 81-203, Sixth Supplemental Order No. 16,303

68 NH PUC 154

New Hampshire Public Utilities Commission

March 29, 1983

REQUEST by a water company to implement a surcharge for the recovery of rate case expenses; granted as modified.

EXPENSES, § 92 — Rate case expenses — Components — Accounting costs.

[N.H.] In assessing a water company's rate case expense, the commission found that the legal, transcript, and publication cost components were proper but it disallowed some of the accounting costs where it found the costs were inaccurate or incomplete.

APPEARANCES: Dom S. D'Ambruoso for Lakes Region Water Company, Inc.; Edgar D. McKean, III, for Balmoral Homeowners Association; Kenneth E. Traum and Robert B. Lessels for the PUC staff.

BY THE COMMISSION:

The Commission on pages 18 and 19 of its Report and Order in this docket dated March 21, 1983, stated (68 NH PUC 144):

The Commission is disturbed by the level of costs this Company has

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incurred by comparison to other small water utilities. Therefore, an additional hearing will be scheduled at which time the Company will be given a further opportunity to support its rate case expense request.

In accordance with the Report and Order, a duly noticed public hearing was held at the Commission's offices in Concord March 28, 1983.

At issue specifically was the Company's request to amortize $13,133.36 of rate case expenses over a 2 year period.

Level of Expenses

The Commission's concern here is that for a customer base of approximately 314, the requested recoupment equates to $41.83 per customer.

By any standard, this figure seems excessive, but rather than just labeling $13,133 as excessive, the Commission questions how the figure grew to this level. The Company's breakdown as shown in Appendix "C" of its brief shows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Legal Expenses	$8,319.72
Accounting Expenses,	$3,377.90
Transcripts	$1,342.10
Publication	$ 93.64

The Commission accepts the legal, transcript, and publication expense; but not accounting. As was stated on page 2 of the March 21, 1983 Report and Order in this docket, "There is a substantial level of inconsistent or incorrect data responses, exhibits and testimony".

This level of response was continued in the hearing of March 28, 1983, at which the Company submitted a "Worksheet of Accounting Expense", which to put it mildly, was not a professional document in appearance or clarity and certainly sufficient to lead one to question about $1,000 of the $3,370.90 total, no acceptable response was forthcoming.

It is actions like this which lead us to the belief that inaccurate and/or incomplete responses have resulted in more requests which only served to further increase the rate case expenses.

In this docket the Commission will only deny $1,000 of the $13,133.36 requested, but will notify the Company that all its accounting costs will be closely scrutinized in the future.

Amortization Period

The Commission normally allows rate case expenses to be amortized over 2 to 3 years based on the frequency with which the specific utility files for rate relief, the rate effect on customers, reasonableness, etc.

In this case we will allow $12,133.36 to be surcharged over 30 months, resulting in a monthly surcharge to customers of approximately $1.29/month/customer. The Company will submit an accounting of this surcharge annually and once the recoupment is completed.

Our order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that Lakes Region Water Company, Inc. shall file revised tariff pages incorporating approval by

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this Commission to surcharge customers for $12,133.36 of rate case expenses over 30 months.

By Order of the Public Utilities Commission of New Hampshire this twenty-ninth day of March, 1983.

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NH.PUC*03/30/83*[79601]*68 NH PUC 156*Hudson Water Company

[Go to End of 79601]

Re Hudson Water Company

DR 82-253, Second Supplemental Order No. 16,299

68 NH PUC 156

New Hampshire Public Utilities Commission

March 30, 1983

PETITION for rate increase; granted, as modified.

APPEARANCES: James Hood, Alice Briggs, and John R. McLane for the Hudson Water Company; Kenneth E. Traum, assistant finance director, and Robert B. Lessels, water engineer, for the PUC staff.

BY THE COMMISSION:

REPORT

On October 18, 1982, Hudson Water Co. filed certain revisions to its tariffs providing for increased revenues of $316,912 (22.8%) for effect on 11/18/82. Previously, on 9/02/82, the Company notified the Commission of its intent to file for a rate increase. At that point in time, the Consumer Advocate's position was still filled by F. Joseph Gentili, Esquire who did not file an appearance in the case, so the Commission has decided it proper to continue, although the Consumer Advocate's position has been vacated since that time, and remains vacant.

No other parties requested full intervenor status at public hearings on temporary rates in Concord on 11/30/82, at a procedural hearing on permanent rates again in Concord on 12/17/82, or at a public hearing in Windham on 1/11/83.

The Commission on 12/02/82 issued Supplemental Order No. l 6,023 (67 NH PUC 871) which established the presently existing rates of Hudson Water Co. as temporary rates with all service rendered on or after 12/0/182.

During this period of time the P.U.C. staff sent the Company 69 data requests which were responded to in a timely manner.

On February 18, 23, and 24, 1983,

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the P.U.C. staff and Company representatives met in Concord for the purpose of negotiating a settlement proposal. The parties arrived at a Stipulation Agreement which was presented as an exhibit to the Commission in a duly noted public hearing in Concord on 2/24/83.

The stipulation reduced the $316,912 requests to $195,134 while allowing for a step increase or decrease around 12/01/83. The step increase would in general cover cost changes in purchased power; rate case expenses over a $28,000 estimate; computerizing the Company's financial systems; real property taxes net of available discounts; tank painting and reconditioning; public utility assessment; insurance; certain pension and FICA changes; and 50% of wage and related fringe increases, all tax adjusted.

The reduction negotiated in the proposed rate increase is due to reductions in the following:

(1) Rate base from $4,013,879 to $3,983,414 due to utilization of a 13 month average ending 12/31/82, and removal of Preliminary Survey and Investigation costs from working capital. (2) Rate of Return on Equity reduced from 17.0% to 15.5%, with

specific reopener provisions and thickening of the equity participation provisions. (3) Attrition allowance reduced from 75 basis points to 25 basis points. (4) Overall rate of return including the attrition allowance reduced from 14.73% to 13.76%. (5) Proformed operating revenues were increased by $4,504 over the Company's estimate to recognize growth. (6) Proformed operating expenses were reduced by $50,259 (net of income taxes due to a reductions in

[Graphic(s) below may extend beyond size of screen or contain distortions.]

(a) non-capitalized labor	$6,455
(b) purchased power	5,455
(c) N.H. Assoc. of Utilities	825
(d) Insurance, survey costs	1,000
(e) Property taxes	11,026
(f) Computer conversion	1,873
(g) Tank painting	3,500
(h) Transportation	665
(i) Well reconditioning	6,650
(j) Rate case expenses	9,016
(k) Depreciation	3,794
	$50,259

(7) Another item of the agreement relates to the utility's charging for public fire protection on a per-hydrant basis only, thereby eliminating the inch-foot charge portion of the rate structure. (8) The Company still maintains a triple declining block rate structure for some metered customers. As part of the stipulation, the third block would be dropped now, and the second block would be dropped at the time of the step increase. Also at the time of the step increase the Company will have the opportunity to apply for a rate increase if revenue erosion due to the flattening of rates occurs and can be proven.

The Agreement was provided the Commission for acceptance or denial in its entirety and not to be precedent setting.

After reviewing all of the terms of the Agreement, the Commission feels all parties did an excellent job in negotiating, feels it is in the public good, and accordingly accepts it. Our order will issue accordingly.

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There were several items not covered by the Agreement that were the subject of testimony at the 2/24/82 hearing which are yet to be discussed. They are:

(1) Seabrook cost impact.

(2) Temporary rate surcharge.

(3) Spreading of the $195,134 agreed increase among the 5 systems.

Seabrook Cost Impact

In numerous dockets the Commission has recognized that once Seabrook Unit I comes on line and goes into rate base and thus increases rates, all utilities in the state purchasing power at retail from P.S.N.H. will immediately see dramatic increases in their purchased power costs. In order to avoid regulatory lag and expenses and to shelter the stockholders from dramatic erosion

in their allowed rate of return, over which they don't have much control, the Commission will now authorize Hudson Water Co. to file for a step increase as soon as it can reasonably quantify its increased purchased power cost due to inclusion of Seabrook Unit I in P.S.N.H. rates.

Our order will issue accordingly.

Temporary Rate Surcharge

This Commission set up the utility's permanent rates as temporary rates effective 12/01/82, in Report and Supplemental Order No. 16,023 dated 12/02/82. Recognizing that this report and order sets new permanent rates higher by an annual level $195,134; the utility is allowed to recoup the revenue short fall from 12/01/82 to the date of this order.

To balance customer finances, understanding, equity, and company concerns, the short fall maybe collected thru a one time surcharge on each customer's next quarterly bill.

Our order will issue accordingly.

Increases to Divisions

The utility is comprised of 5 divisions serving anywhere from 2,373 customers in the Town of Hudson to 57 customers in the Williamsburg system, with present average residential rates varying from $157 for the Goldenbrook system to $316 for the Hudson system.

Taking into account the current rates of the different divisions, the time lapses since the last rate increases, the investments in each system since those rate increases, higher costs to serve due to inflation, quality of service, etc; the customers of the 4 smaller divisions particularly must realize that the cost of service improvements must be born by the individual system, and in actuality they have not have been contributing their fair share to the utility's earning.

In particular, the presently effective rates have remained unchanged for several years in Golden Brook 1980 (65 NH PUC 486), W & E Artesian Well 1976 (61 NH PUC 11), and Williamsburg 1979 (64 NH PUC 357). Since acquiring these systems Hudson Water Company has made capital improvements which increase each systems reliability and provide for more efficient operation. Piping system "dead ends" are being eliminated, meters have been replaced and upgraded, master meters have been installed at each source of supply, and improved pumping equipment has been installed where necessary.

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In determining proper revenue allocations between the different systems comprising the Hudson Water System, one must consider such diverse factors as the utility's investment per customer in each system, and the cost to provide services to each customer.

Looking at the Company's allocations of costs versus revenues per system per customer, we come up with the following illustrative table as developed from data in Exhibit 2:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

System	*Fully Allocated Costs based on Company Exh.*	*Proforma Present Revenues*
Hudson	$369	$316
Litchfield	428	276

Williamsburg	387	218
Goldenbrook	308	157
W & E	418	229

As can be seen from this table, which is solely based on the utility's inputs, no system fully covered its cost of service, but the Hudson system comes the closest.

For these reasons where the utility originally requested a 22.8% increase for these 4 smaller divisions, the Commission will allow a 20.0% increase.

In the case of the Hudson division, the approved increase will be reduced from 22.8% overall to approximately 13.2%.

The table can now be revised as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

System	*Company Costs*	*New Rate Levels*
Hudson	$369	$358
Litchfield	428	331
Williamsburg	387	262
Goldenbrook	308	188
W & E	418	275

This shows that per the Company's filing, the Hudson system comes the closest to covering its costs per exhibit 2, and narrows the gap in the case of the other divisions.

The Company will in addition be required to file in conjunction with the upcoming step increase, a cost of service study by divisions to further correct this discrepancy.

Our order will issue accordingly.

Conversion Factor

During the course of the January 11, 1983, public night hearing in Windham, one individual brought to the Commission's attention the potential for confusion on the part of the average customer as the company meters and bills in cubic feet, which is an abstract term to many, while gallons are more understandable. Therefore, the Commission hereby directs the Company to either bill in gallons or provide the conversion factor of cubic feet to gallons for the benefit of its customers.

Our order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report which is made a part hereof; it is hereby

ORDERED, that Hudson Water Company may increase its permanent rates by $195,134 on a permanent basis; and it is

FURTHER ORDERED, that Hudson Water Company may surcharge its customers in their next quarterly billing for the shortfall in temporary rates since 12/01/82; and it is

FURTHER ORDERED, that Hudson Water Company may file for step increases as outlined in the attached

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Report for effect on or after 12/01/83 and once Seabrook related purchased power cost increases are known; and it is

FURTHER ORDERED, that Hudson Water Company may file tariff pages spreading the rate increases to divisions and rate blocks per the attached Report.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of March, 1983.

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NH.PUC*03/31/83*[79602]*68 NH PUC 160*Public Service Company of New Hampshire

[Go to End of 79602]

Re Public Service Company of New Hampshire

DE 81-312, 14th Supplemental Order No. 16,300

68 NH PUC 160

New Hampshire Public Utilities Commission

March 31, 1983

ORDER clarifying the scope of a new planning docket for an electric company.

BY THE COMMISSION:

Commission's Response to Public Service Company of New Hampshire's Motion for Rehearing

On March 22, 1983, Public Service Company filed a motion for rehearing. of the Commission's March 18, 1983 Report and Order No. 16,278 (68 NH PUC 129). In light of this motion, the Commission believes that certain points which it believed had been understood in regard to the Supreme Court decision need to be further clarified.

Following the Supreme Court decision and even prior to the filing of PSNH's motion of January 7, 1983, the Chairman stated on the record the intent of the Commission that any report and order in this docket would be entirely consistent with the Supreme Court's decision in Re Public Service Co. of New Hampshire (1982) 122 NH 1062, 51 PUR4th 298, 454 A2d 435. The Commission interprets this consistency with the Court order to include the following points:

1. The Seabrook certificate and relitigation of the certificate is not an issue in this docket.
2. The Commission will not reconsider PSNH's authority to pursue construction of Seabrook in accordance with the certificate nor its vested right to build both units of Seabrook as determined by the Supreme Court. 3. The Commission will not make any findings as to the prudency or imprudency of PSNH's involvement in Seabrook.

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4. The Commission does not intend that any findings in this docket be used to determine

either inclusion or exclusion of Seabrook costs in rate base. Such questions as inclusion or exclusion from rate base can only be resolved after a properly noticed hearing on the subject and only when PSNH is requesting rate treatment for Seabrook. 5. The Commission will not order or direct the Company in any way relative to the construction of Seabrook.

In the way of further clarification, the Commission will emphasize that this docket is for planning purposes. The Commission is attempting to begin reasonable planning for the future and that planning requires by its very nature some data base and findings relative to energy supply and demand. Any particular concern that may arise from this docket will require an adequately noticed hearing and disposition in another docket.

To the extent that this clarification addresses points which may have been unclear to PSNH, their motion is granted. However, to the extent that the Company has requested a further redefinition of the scope of this proceeding or of a determination of issues prior to briefing, their motion is denied.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that Public Service Company of New Hampshire's motion for redefinition is granted in part and denied in part.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of March, 1983.

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NH.PUC*03/31/83*[79603]*68 NH PUC 161*Public Service Company of New Hampshire

[Go to End of 79603]

Re Public Service Company of New Hampshire

DE 81-312, 15th Supplemental Order No. 16,301

68 NH PUC 161

New Hampshire Public Utilities Commission

March 31, 1983

MOTIONS relating to procedural issues following the end of a proceeding; granted in part and denied in part.

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1. PROCEDURE, § 16 — Production of evidence — Objections — Timeliness.

[N.H.] Motions objecting to certain exhibits offered in a proceeding will be denied where the

movant had ample opportunity to cross-examine, refute, or rebut each of the exhibits in the course of the proceeding. p. 162.

2. PROCEDURE, § 16 — Production of evidence — As part of the record — Timeliness.

[N.H.] Requests to make any exhibits, data, or responses a part of the record should come during the course of a proceeding, as it is contrary to commission policy to accept a motion relating to all data and responses at the end of a proceeding. p. 162.

BY THE COMMISSION:

Commission's Response to Outstanding Procedural Motions of the Parties

Exhibits

[1] Public Service Company of New Hampshire has raised objections in part or in whole to the following exhibits: 28, 29, 32, 58, 75, 98, 140, 144 and 149. The Commission believes that PSNH has had ample opportunity to cross examine, refute or rebut each of these exhibits. The Commission has consistently used its discretion to admit any evidence which might provide it with information in this proceeding. Whether the Commission should give any weight in its deliberations to these or other exhibits is an issue appropriate for briefing. Accordingly these motions are denied.

Likewise the Commission will deny CLF's motion to exclude Exhibit 89.

Testimony

CLF has moved to strike certain portions of Mr. Hogan's rebuttal testimony and Staff has moved to strike certain pages of Mr. Brown's rebuttal testimony. The Commission rejects these motions for the same reasons stated above.

Response to Data Requests

[2] CLF has moved to mark all data requests and responses in this proceeding. PSNH has objected to this request based on the inability to have an opportunity to clarify the responses or to provide additional information through redirect examination or rebuttal. Furthermore, PSNH objects on the basis that marking all data requests and responses has not been the practice of the Commission as established in prior cases. Upon review of the arguments presented by the parties and consideration of all other matters, the Commission rejects CLF's motion to mark all data requests and responses. The Commission does so on the basis that CLF has been provided the opportunity, as has PSNH and Staff, to present any part or all of the data requests and responses during the lengthy course of this proceeding. If CLF wished to have these responses and requests made part of the record, they should have introduced them earlier in the proceeding, as it is against Commission practice to accept a motion including all data responses and requests at the end of a proceeding.

CLF Motions Re: Costs of Participation

CLF has filed interrogatories and requests for documents from PSNH and Staff regarding the costs each has

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incurred in the preparation of this case. CLF contends that this information will be essential for the Commission to evaluate the reasonableness of CLF's expenses in the event that the Commission finds CLF's contribution to this case merits an award of compensation. The Commission agrees. However, the Commission believes that the issue of compensation and determination of substantial contribution must await a Commission decision in the case. The Commission further believes that this information should be submitted directly to the Commission rather than to the parties. The Commission will determine what information is required at the appropriate time and consequently denies CLF's request for responses from the parties regarding costs incurred.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the motions addressed in the Report are denied and granted as set forth in the Report.

By Order of the Public Utilities Commission of New Hampshire this thirty-first day of March, 1983.

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NH.PUC*04/01/83*[79604]*68 NH PUC 163*Gas Utilities

[Go to End of 79604]

Re Gas Utilities

Intervenors: Concord Natural Gas Corporation, Manchester Gas Company, Gas Service, Inc., Northern Utilities Inc., and Community Action Program

DL 83-5, Supplemental Order No. 16,305

68 NH PUC 163

New Hampshire Public Utilities Commission

April 1, 1983

ORDER establishing the scope of proceedings and time schedules for an investigation into management planning for gas supply and demand.

APPEARANCES: David W. Marshall for Concord Natural Gas Corporation, Manchester Gas Company, Gas Service, Inc., Northern Utilities, Inc.: Gerald Eaton for Community Action Program; Larry Smukler, staff.

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BY THE COMMISSION

REPORT

On January 7, 1983, the Commission, by Order No. 16, 124 (68 NH PUC 2), opened this docket to investigate, among other things, the sufficiency and quality of management planning for gas supply and demand.

On February 24, 1983, a hearing was held at the Commission's offices as directed by Order No. 16,124 Staff offered an exhibit representing a suggested list of issues to be addressed within the scope of the proceedings, and also prepared a suggested schedule. The hearing was recessed until March 21, 1983 at 10:00 a.m. in order to give the parties an opportunity to make specific recommendations as to the specific scope of the proceedings.

On March 16, 1983, Staff met with the other parties in the proceeding to discuss the specific proposals which were to be offered to the Commission.

The March 21, 1983 hearing was held as scheduled. Staff offered a document entitled "Staff Proposal for Procedural Hearing" which was represented as being accepted by all parties. That proposal is as follows:

A. Substantive Scope

The Staff proposes that the major gas utilities be required to submit testimony and exhibits on the following issues:

1. *Demand* Forecast for next 10 years on a design day, seasonal and annual basis. In addition to all other relevant demand factors the forecast should consider what effect, if any, the following factors will have on demand: a. Cross elasticity with oil, electricity, propane or renewables; b. Conservation; c. Expansion of service territories; d. Price, including but not limited to: (1) effect of deregulation; (2) effect of take or pay contracts; (3) effect of pricing policy. 2. *Supply* Forecast for next 10 years on design day, seasonal and annual basis. In addition to all other relevant supply factors, the forecast should consider what effect, if any, the following factors will have on supply: a. Pipeline gas deliveries; b. Canadian gas; c. Supplemental sources including but not limited to: (1) Sources (2) Quantities (3) Prices for new technologies d. Storage e. Price, including but not limited to: (1) effect of take or pay contracts; (2) Pipeline gas prices under existing and prospective contracts; (3) marginal cost; (4) effect of deregulation. 3. *Management Alternatives* a. Utility sponsored conservation plan including, but not limited

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to: (1) Implementation (2) Financing (3) Estimates of costs (4) Estimate of benefits b. Optimal mix of supplemental sources. c. Management steps to ensure that future supply meets anticipated demand to the end of the century. d. Take or Pay Contracts (1) Presently in effect (2) Future needs (3) Opportunities, as appropriate, to extend or terminate. e. Federal and state regulatory incentives and barriers to management ability to affect supply or demand, or respond to projected changes in the supply or demand picture. f. Ratemaking and rate design.

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B. Nature of Forecasts

The staff recognizes that all forecasts contain varying degrees of uncertainty. Accordingly, the Staff recommends that the companies not be required to project hard and fast forecasts of gas supply and demand. Rather, it would be more appropriate to use forecasts which estimate a realistic range of probable supply and demand. As a part of this range, the companies may wish to submit several alternative supply and demand scenarios.

C. Probable Outcomes

The Staff recommends that the Commission provide that no order will be issued in *this* proceeding which requires gas company management to either take action or refrain from taking action. Rather, this docket is primarily for the purpose of: (1) Informing the gas companies, the Commission and the Staff on the substantive issues; and (2) Reviewing and, where appropriate, improving planning procedures for the gas companies, the Commission and Staff. However, the Staff recommends that the Commission explicitly provide that: (1) a record of the data, testimony and exhibits will be made in this proceeding; (2) the Commission will analyze that record; (3) the Commission will issue a Report and Order which will contain findings based on its analysis of the record; and (4) the record and the Commission's Report and Order will be available to the Commission and others for use in other proceedings. Of course, it will be impossible to state what the nature of the Report and Order will be and what use will be made of the record of this docket until that record is made and closed.

SCHEDULE

The Companies indicated that they would be able to complete the preparation of their direct submissions by the end of May. Accordingly, the Staff recommends that the Commission adopt the following schedule:

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

June 1 1983:  Gas Company Direct Testi-
              mony and Exhibits due.
June 17 1983: Due date for First Data Re-
              quests
July 8 1983:  Due date for initial Re-
              sponses to Data Requests
              and Status Report.
Aug. 19 1983  Completion of Data Re
              sponses
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Additional schedule to be determined by the Commission after August 19, 1983.

The Company requests that hearings

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be scheduled only after both Company and Staff testimony has been submitted, allowing for appropriate time for discovery.

The staff also recommended that an abbreviated scope of proceedings be established for Keene Gas Company, Claremont Gas Light Company and Southern New Hampshire Gas Company.

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COMMISSION FINDINGS

The Commission accepts the Scope of Proceedings as applicable to the four companies represented by counsel. It also accepts the time schedule recommended by the parties.

The Commission finds, however, that some of the issues applicable to the natural gas companies do not apply to the regulated propane-air companies. Our establishment of the proper issues for these companies is made without their input because, except for Keene Gas Company, they elected not to participate in the procedural process. We will set forth the following Scope of Proceedings for Keene, Claremont, and Southern New Hampshire with the provision that we will, if requested, address concerns regarding the applicability of specific issues by any of the three affected companies.

Scope of Proceedings for Small Companies

1. *Demand*

Forecast for next 10 years on a design day, seasonal and annual basis. In addition to all other relevant demand factors, the forecast should consider what effect, if any, the following factors will have on demand:

a. Cross elasticity with oil, electricity, propane or renewables; b. Conservation; c. Expansion of service territories.

2. *Supply*

Forecast for next 10 years on design day, seasonal and annual basis. In addition to all other relevant supply factors, the forecast should consider what effect, if any, the following factors will have on supply:

a. Storage

b. Price

3. *Management Alternatives*

a. Utility sponsored conservation plan including, but not limited to: (1) Implementation (2) Financing (3) Estimates of costs (4) Estimates of benefits b. Management steps to ensure that future supply meets anticipated demand to the end of the century. c. Federal and state regulatory incentives and barriers to management ability to affect supply or demand, or respond to projected changes in the supply or demand picture. d. Ratemaking and rate design.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Based upon the foregoing Report which is made a part hereof; it is hereby

ORDERED, that the Scope of Proceedings

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and time schedules as designated in the foregoing Report be and hereby are accepted.

By Order of the Public Utilities Commission of New Hampshire this first day of April, 1983.

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NH.PUC*04/01/83*[79605]*68 NH PUC 167*New England Telephone and Telegraph Company

[Go to End of 79605]

Re New England Telephone and Telegraph Company

DR 82-371, Second Supplemental Order No. 16,307

68 NH PUC 167

New Hampshire Public Utilities Commission

April 1, 1983

ORDER accepting revised tariffs for the sale of certain telephone instruments.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, Commission Order No. 16,249 (68 NH PUC l 10) approved a Stipulation Agreement devised for the sale of certain telephone instruments previously furnished on a lease-only basis; and

WHEREAS, said order approved a range of prices established for these sales, allowing the Company flexibility to set the price within said range to ensure optimum sales; and

WHEREAS, the Company has filed revised pages to reflect this range of prices; and

WHEREAS, the Commission finds such tariff page revisions in compliance with its earlier order; it is

ORDERED, that the following revisions to New England Telephone and Telegraph Company tariff, NHPUC No. 75, be, and hereby are, approved for effect March 9, 1983:

Part C — Section 2 — Page 1, Second Revision

— Section 4 — Table of Contents, Page 2, !Second Revision

— Page 1, Second Revision

— Page 21, First Revision

— Page 22, First Revision

— Page 23, First Revision

and it is

FURTHER ORDERED, that public notice be given as outlined in the referenced Stipulation Agreement, with certified copies of these notices provided to the Commission.

By order of the Public Utilities Commission of New Hampshire this first day of April, 1983.

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NH.PUC*04/01/83*[79606]*68 NH PUC 168*Merrimack County Telephone Company

[Go to End of 79606]

Re Merrimack County Telephone Company

DR 83-109, Order No. 16,308

68 NH PUC 168

New Hampshire Public Utilities Commission

April 1, 1983

ORDER approving the tariff relocation of key telephone services and equipment.

BY THE COMMISSION:

ORDER

WHEREAS, Merrimack County Telephone Company filed with this Commission certain proposed revisions to its tariff, NHPUC No. 7 — Telephone, for effect April 20, 1983; and

WHEREAS, said revisions effect the transfer of Key Telephone Service and Key Equipment from said tariff's current section to one of superseded services; and

WHEREAS, said transfer results from decisions by the Federal Communications Commission under the Computer Inquiry II docket which detariffed such equipment procured by a telephone utility after December 31, 1982; and

WHEREAS, Merrimack County Telephone Company's inventory of said equipment as of December 31, 1982 could not support needs of a new customer on a tariffed basis; and

WHEREAS, the Commission finds tariff relocation of key telephone service and equipment consistent with the FCC ruling and for the public good; it is

ORDERED, that the following pages of the Merrimack County Telephone Company tariff, NHPUC No. 7 — Telephone, be, and hereby are, approved for effect on April 20, 1983:

Index — 1st Rev. Pg. 7 2nd Rev. Pgs. 4 and 5 3rd Rev Pgs. 3 and 6 4th Rev. Pg. 1 Pt. III, Sec. 25 — Key Telephone Service and Key Equipment, 1st Rev. Pg. 1 Sec. 40 — Superseded Services, Orig. Pgs. 6 and 6.1 through 6.8

By order of the Public Utilities Commission of New Hampshire this first day of April, 1983.

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NH.PUC*04/01/83*[79607]*68 NH PUC 169*Connecticut Valley Electric Company, Inc.

[Go to End of 79607]

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Re Connecticut Valley Electric Company, Inc.

DR 82-67, Eighth Supplemental Order No. 16,309

68 NH PUC 169

New Hampshire Public Utilities Commission

April 1, 1983

ORDER accepting a compliance filing by an electric company.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, Connecticut Valley Electric Company, Inc. filed, on February 25, 1983, tariff pages intended to comply with Commission Order No. 16,185 (68 NH PUC 40) authorizing revenue recoupment for the period April 1, 1982 to February 1, 1983; and

WHEREAS, the filing appears to, comply with the instructions and intent of Order No. 16,185; and

WHEREAS, the filing is found to be just and reasonable; it is hereby

ORDERED, that Connecticut Valley Electric 4th Revised Page 15 of tariff NHPUC No. 4 is hereby approved.

By Order of the Public Utilities Commission of New Hampshire this first day of April, 1983.

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NH.PUC*04/01/83*[79608]*68 NH PUC 169*New England Telephone and Telegraph Company

[Go to End of 79608]

Re New England Telephone and Telegraph Company

DR 83-88, Order No 16,310

68 NH PUC 169

New Hampshire Public Utilities Commission

April 1, 1983

PROPOSAL to implement a modified semipublic coin telephone service; accepted.

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BY THE COMMISSION:

ORDER

WHEREAS, New England Telephone and Telegraph Co. has filed with this Commission

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certain tariff revisions proposing an "Extended Network Interface" said interface being a modification to the semi-public service currently offered, providing privacy to the coin telephone users; and

WHEREAS, said proposal also removes "sight and sound" restrictions from customer's location of the extension telephone giving added flexibility; and

WHEREAS, both the privacy and flexibility afforded by the ENI are found by the Commission to be in the public interest; it is

ORDERED that the following revisions to the New England Telephone and Telegraph Company Tariff No. 75 be and hereby are approved for effect on April 15, 1983.

Part A — Section 4 — Table of Contents 1st Revised Page 1 Section 4 — 1st Revised Page 5 Section 8 — Table of Contents 1st Revised Page 1 Section 8 — 1st Revised Pages 2, 3, and 4 Section 8 — Original Page 5

By Order of the Public Utilities Commission of New Hampshire this first day of April, 1983.

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NH.PUC*04/01/83*[79609]*68 NH PUC 170*Continental Telephone Company of Maine

[Go to End of 79609]

Re Continental Telephone Company of Maine

DR 82-206, Supplemental Order No. 16,311

68 NH PUC 170

New Hampshire Public Utilities Commission

April 1, 1983

PETITION by a telephone company to increase its service connection charges; rejected.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, on July 20, 1982, Continental Telephone Company of Maine filed tariff revisions by which it proposed increases in its service connection charges; and

WHEREAS, said filing was suspended by Order No. 15,786 pending investigation and decision thereon; and

WHEREAS, rather than appear at hearing on March 22, 1983 to defend said filing, the Company now seeks further suspension to await the outcome of a similar filing in its Maine jurisdiction; and

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WHEREAS, the Commission finds that further delay in this matter is not in the public

interest; it is

ORDERED, that Section 6, 5th Revised Sheet 2 of Continental Telephone Company of Maine tariff, NHPUC No. 4 — Telephone, be, and hereby is, rejected.

By order of the Public Utilities Commission of New Hampshire this first day of April, 1983.

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NH.PUC*04/01/83*[79610]*68 NH PUC 171*New Hampshire Department of Public Works and Highways

[Go to End of 79610]

Re New Hampshire Department of Public Works and Highways

Intervenor: Boston and Maine Corporation

DX 83-20, Order No. 16,312

68 NH PUC 171

New Hampshire Public Utilities Commission

April 1, 1983

PETITION for authority to construct a grade crossing over railroad tracks; granted.

CROSSINGS, § 45 — Separation of grades — Reasons for approving or disapproving — Financial ability — Safety.

[N.H.] The highway department was authorized to construct a crossing at grade at a railroad intersection where the commission found it was not economically feasible to separate the crossings by use of a bridge or underpass and where the grade crossing was deemed safe because of infrequent train operations, automatic signal devices, and unobstructed views.

APPEARANCES: Roderick Cyr for the department of public works and highways; John Adams, Thomas Trovato, chief, maintenance of communications and signals, Edward P. Croteau, trainmaster, George Thayer, engineer of crossings for the Boston and Maine Corporation.

BY THE COMMISSION:

REPORT

By petition filed January 12, 1983, the Department of Public Works and Highways seeks authority to construct a public crossing, at grade, over the tracks of the Boston and Maine Corporation in the Town of Jefferson. Hearing thereon was held at the office

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of this Commission in Concord on February 22, 1983.

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The Department of Public Works and Highways has designed a Federal Aid Project identified as AFN-044-1 (3), N.H. Project No. 5-3256-A. It is a portion of an over-all improvement to a ten mile stretch of N.H. Route 115 leading from U.S. Route 3 near Whitefield to U.S. Route 2 in the Town of Jefferson. For the purpose of this proceeding it involves a section two and three tenths miles in length extending from a point on Route 115 south of Jefferson Station thence in an easterly direction to a point on the same Route No. 115 east of the Israel River Bridge. A public hearing was held before the Governor's Council Layout Commission on February 9, 1981, following which the project was authorized. It is hoped to advertise the project so that work may commence during the summer of 1983, with a hoped for completion date in the Fall of 1984.

The new highway approach to the crossing from the south or west, is tangent for more than 1,000 feet. The plans provide for two travel lanes twelve feet in width with additional lanes fourteen feet in width for stopping lanes for vehicles carrying hazardous commodities and school buses, or other vehicles, that may be required to stop at highway-railroad grade crossings. A climbing lane would be continued in a northerly direction north of the crossing because of an ascending grade on that portion of the new highway. The approach from the north will also be tangent for more than 1000 feet approaching the intersection of Valley Road and the crossing.

Valley Road will intersect the new route 115 approximately 175 feet north of the crossing. This road consists of what is now Route 115 to the west and continues eastward as Valley Road to Randolph. This intersection will be controlled by stop signs on Valley Road.

To conform to the grade of the new highway it is proposed to raise the railroad track nine inches which will require track work for a total distance of approximately eight hundred feet. The super-elevation will also be reduced from two inches to three-fourths of an inch for better highway alignment. Since the railroad grade in this location is almost level west of the crossing, the new grade will be ascending at the rate of 0.048% for Berlin bound trains on that approach and will descend at the rate of 1.04% after passing over the crossing. The highway will intersect the railroad tracks at an angle of approximately 55 degrees and will be designed for speeds of 60 miles per hour.

Highway traffic presently averages about 1,000 cars per day of which truck traffic is estimated at between ten and fifteen percent. It is projected that this will increase to 1500 cars in twenty years. It is proposed to protect the crossing by the installation of automatic flashing lights. Due to the width of the crossing they will be mounted on cantilevers to eliminate the possibility of obscuring the post mounted lights by vehicles required to stop before passing over the crossing.

All costs of installing the crossing, the installation of automatic flashing lights, and the regrading of the railroad track will be borne by the Department of Public Works and Highways. The highway surface will be maintained by the State, but the crossing and protection devices are to be maintained

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by the railroad in accordance with the present statutes.

The cost of the 2.3 mile project is estimated at $4,000,000.00 but the State has not yet received a detailed estimate of the cost of the crossing and the installation of the automatic protection.

Petitioners witness testified that several proposed locations were considered before the instant proposal was adopted. Low ground subject to flooding and the high cost of rights-of-way at other locations were some of the factors that resulted in adopting the present location. The possibility of an overhead highway bridge was considered, but the complications of the Valley Road intersection and the bridge over the Israel River, both of which are a short distance north of the proposed crossing precludes a separation of the grades at a reasonable cost.

The introduction of a new grade crossing is strenuously opposed by witnesses for the Corporation. It is claimed that Federal Funds in the amount of $800,000.00 is available annually for this State for use in the separation of grade crossings and there is presently a carry-over of $400,000.00 which has not been used for this purpose. It also objects to introducing another grade crossing even though it is protected by automatic flashing lights because of the maintenance costs which, under present statutes, is the duty of the Railroad Corporation and amounts to over $3,000.00 annually. It is pointed out that there is a heavy volume of trucks operating in this vicinity and with the long downhill tangent approach for southbound vehicles they will be approaching at "Break-neck Speed" even though it is proposed to post the maximum authorized speed of fifty miles per hour.

There is presently one freight train operating in each direction on a daily basis six days per week. They consist of usually four or five locomotives with from fifty to sixty cars, 25% of which might contain hazardous materials such as chlorine, L. P. Gas, fuel oil and other corrosive or explosive materials. Maximum authorized train speeds are twenty-five miles per hour. The proposed change in track grades and super-elevation are not objected to from the standpoint of train operations. While the new location of Route 115 will take considerable traffic from the present grade crossing at Jefferson Station, it is not proposed to close the crossing or change the protection there, which was installed approximately two years ago.

It is the Railroad Corporation's position that the proposed highway change is of no benefit to it, but on the contrary will benefit its competitors on the highway and create a liability because of the danger of collisions, ever present at all such crossing however protected; also, to the additional cost of maintenance of the crossing and protective devices. It requests that the decision of the Commission be withheld until appropriate proceedings can be considered by the Legislature at its present session, on a request to change the statutes to permit the use of public funds for the maintenance of grade crossings and the protective devices following the installation thereof.

A policy of understanding between the State of New Hampshire, Department of Public Works and Highways, and the Trustees of the Boston and Maine Corporation concerning the construction, reconstruction and maintenance

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of Highway-Railroad Grade Crossings and grade separation executed April 16, 1981 was introduced as Exhibit No. 2. Section VI of this agreement deals with the establishment of a new

grade highway-railroad crossing when proposed by the State. It provides:

> 1. The rehabilitation of the track structure, including tract; drainage and fabrication of the crossing surface, will be accomplished by Railroad forces with the expenses being borne by the State. 2. The maintenance of the track and appurtenances within the crossing area will be performed by Railroad forces at Railroad expense. 3. The maintenance of the crossing surface will be performed by that State at its sole expense or by Railroad forces on a l00% recollectable basis. 4. The installation of automatic crossing protection will be accomplished by Railroad forces. All costs being recollectable from the State. 5. Maintenance of the automatic crossing protection will be performed by Railroad forces.

A clause is also contained in the agreement whereby it is understood that the provisions in this policy of understanding are subject to approval by the New Hampshire Public Utilities Commission, and may vary on a case by case basis as determined by the Public Utilities Commission. This Commission is aware of, and in sympathy with, the efforts to eliminate grade crossings if possible and when such is not possible to provide proper protection for the safety of the public. It is realized that the safest way to eliminate the hazards of grade crossings is to provide for a separation by constructing an overhead bridge or an underpass. The accepted protection by all authorities for necessary grade crossings is the installation of automatic flashing lights, actuated by a train approaching on the track circuits for single track lines, and the addition of gate arms protecting the approach lanes on multiple track crossings, or in some instances where traffic congestion is likely to occur at single track crossings.

It is generally accepted that public authorities cannot provide foolproof protection for highway travellers under all conditions at grade crossings, at highway intersections, and at other locations where accidents can occur either due to mechanical failure, the variable weather conditions affecting traction and visibility, and the inattention or negligence of the operators of vehicles.

The testimony in this proceeding indicates that alternatives to a grade crossing at this location have been studied, that it is not within the realm of economical reality to separate the grades at the location proposed and also that railroad traffic is minimal, only one train in each direction six days per week, and operated at speeds of not more than twenty-five miles per hour.

Under these circumstances and with due consideration to reasonable and adequate safety the Commission is of the opinion that a grade crossing protected with automatic flashing lights with practically an unlimited view for approaching highway traffic should provide for sufficient safety for all and that our consent thereto should be

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given. Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the Department of Public Works and Highways be, and hereby is, authorized to lay out and construct a public crossing at grade in the Town of Jefferson over the tracks of the Boston and Maine Corporation line between Berlin and Woodsville in accordance

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with plans on file at the office of the Commission marked DX 83-20, Exhibit 1; and it is

FURTHER ORDERED, that the crossing authorized herein shall be protected by the installation of Automatic Flashing Lights to be installed on masts and cantilevers in a manner satisfactory to the Commission; and it is

FURTHER ORDERED, that all costs of construction of the crossing and the installation of Automatic Flashing Lights, and necessary track adjustments shall be borne by the said New Hampshire Department of Public Works and Highways.

By order of the Public Utilities Commission of New Hampshire this first day of April, 1983.

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NH.PUC*04/05/83*[79611]*68 NH PUC 175*New England Telephone and Telegraph Company

[Go to End of 79611]

Re New England Telephone and Telegraph Company

DR 82-328, Second Supplemental Order No. 16,316

68 NH PUC 175

New Hampshire Public Utilities Commission

April 5, 1983

ORDER releasing a telephone company from implementing attempt charges on person-to-person calls.

RATES, § 589 — Telephone — Toll charges — Person-to-person calls — Attempt charges.

[N.H.] Where the commission found that the level of telephone fraud was lower than believed, that the cost of implementing an antifraud program would not be cost effective, and that a neighboring state was conducting an experiment into such a program, the commission released a telephone company from its obligation to bill an "attempt charge" for person-to-person calls.

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BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, on March 11, 1983 this Commission in Supplemental Order No. 16,264 (68 NH PUC 121) ordered New England Telephone Company to institute a 75¢ person attempt charge on its person-to-person calls, in order to reduce fraudulent use of this service; and

WHEREAS, the Company has submitted new testimony which indicates that the level of fraud is considerably lower than that which was previously estimated; and

WHEREAS, the testimony also estimated that the cost of implementation is far greater than the benefits of revenue from the person attempt charge plus savings from elimination of fraudulent uncharged calls; and

WHEREAS, NET intends to conduct an experiment with person attempt charges in 1984 in Maine which will develop programs that will automate the procedures necessary to institute person attempt charges; and

WHEREAS, such automation will substantially reduce the cost of implementation in other Jurisdictions; it is, therefore

ORDERED, that the New England Telephone Company is released from its obligation to institute person-to-person attempt charges pending the results from the NET experiment in Maine.

By Order of the Public Utilities Commission of New Hampshire this fifth day of April, 1983.

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NH.PUC*04/05/83*[79612]*68 NH PUC 176*New Hampshire Department of Public Works and Highways

[Go to End of 79612]

Re New Hampshire Department of Public Works and Highways

Intervenors: Boston and Maine Corporation and Town of Milford

DX 83-47, Order No. 16,317

68 NH PUC 176

New Hampshire Public Utilities Commission

April 5, 1983

PETITION by the highway department for authority to reconstruct a grade crossing; granted.

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CROSSINGS, § 60 — Reconstruction — Grade crossings — Warning signals.

[N.H.] The highway department was authorized to reconstruct a grade crossing at a railroad track and to install flashing lights and bells on masts rather than on cantilevered arms in order to minimize expenses and maximize warning capabilities.

APPEARANCES: Roderick Cyr for the New Hampshire Department of Public Works and Highways; John Adams for the Boston and Maine Corporation; Robert Courage, superintendent, department of public works, for the town of Milford.

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BY THE COMMISSION:

REPORT

By petition filed January 31, 1983, the New Hampshire Department of Public Works and Highways seeks authority to reconstruct a grade crossing known as Nashua Street, which is also N.H. Highway Route 101A, which crosses the single track line of the Boston and Maine Corporation's Nashua-Bennington Branch in the Town of Milford. Hearing thereon was held at Concord on March 23, 1983, at which time no one appeared in opposition to the granting of the petition.

This crossing is identified by the Federal Number AAR-DOT 844 282A. It carries through traffic on the East-West Route 101A and is not protected by other than the required crossing signs and whistling of approaching trains. Street lights adjacent thereto were installed some years ago to improve the visibility of trains occupying the crossing.

The highway crosses the tracks at an acute angle of 28°. For the purposes of this Report the highway will be considered as running North toward Milford and South toward Nashua and the railroad track West toward Milford and East toward Nashua. The highway when approaching southerly from Milford is on a 5° curve to the right. There is a pole line on the west-side of the highway which, in addition to the curvature limits the view of approaching eastbound trains. There is an intersecting road on the east-side of this approach leading from a cemetery approximately 150 feet from the crossing.

The highway approach from the south is tangent for several hundred feet. There is a wooded growth on the right-hand side of this approach restricting the view of westbound trains, and there is an asphalt drive intersecting this approach from the west directly opposite the center of the crossing. Both the highway and railroad tracks are relatively flat with no grades to interfere with either highway or railroad vehicles. The highway at the crossing is 34 feet in width with a five-foot sidewalk at its westerly side. Because of the acute angle of intersection the length of the crossing is approximately 80 feet.

No change is contemplated with respect to the location of the crossing, but it will be replaced by a new crossing of the paved type. Posted highway speeds are 30 miles per hour with an estimated 9,000 vehicles per day.

Rail service on this line consists of a trip in each direction five days per week. Train speeds are limited to 15

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miles per hour unless the train consist includes tank cars with propane gas in which case the maximum speed is reduced to ten miles per hour.

It is proposed to install automatic flashing lights to be activated by the trains with an approach circuit long enough to provide 25 seconds warning at the maximum authorized train speeds.

To adequately provide for all approaches it is proposed to install three signal masts. One would be placed at the right-hand side of each approach on Route 101A with back lights so that a

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double automatic flashing red light would be visible in both directions. The mast at the right-hand side of the highway approach from the north would be located four feet west of the sidewalk and twelve feet north of the railroad track and would have an additional set of lights focused at the cemetery exit to warn the operators entering Route 101A before reaching the crossing. The second mast would be at the southerly approach eight feet east of the pavement and twelve feet south of the track. A third mast would be installed at the left-hand side of the approach from the north, eight feet from the edge of pavement and twelve feet from the track. This would provide a set of lights focused along the highway approach from the north to provide a greater warning to those approaching via the 5° curve with a second set of lights to be focused in a westerly direction to warn operators of vehicles approaching from the asphalt drive which serves a private residence and an oil company.

The Railroad Corporation is not opposed to the building of the crossing or the installation of the flashing signals. Testimony entered on its behalf, however, suggests that signals should be installed on cantilever arms rather than the three masts as proposed. It is also pointed out that it is strenuously opposed to having to maintain the crossing protection signals estimated to be in the vicinity of $3,000.00 annually.

Present statutes, RSA 373-10 do not give this Commission authority to apportion costs to State, Cities or Towns for the maintenance of crossing protective devices located within the limits of its right-of-way. The testimony in this proceeding and in a previous case indicates that the General Court will be asked to change the statutes. Until appropriate action is taken this responsibility must remain with the Railroad Corporation.

While there may be some advantages in the erection of flashing lights on cantilever arms, but with the crossing on a skew there would still be problems with focusing extra signals toward the intersecting entrances from the cemetery north of the crossing and the asphalt drive directly opposite the same. It is believed that the cantilevers would require additional expense and would not provide any more positive warning than the lights installed on masts which will be clearly visible to persons approaching from each direction. No testimony was presented relative to the installation of a pedestrian bell. Since there is a pedestrian sidewalk located adjacent to the northerly highway approach it is apparent that there are pedestrians who frequent the crossing and accordingly a bell should be installed on the mast at this location to warn pedestrians who may not be in a position to observe the flashing lights.

Upon consideration of all the facts

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the Commission is of the opinion that the petition should be granted. Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the New Hampshire Department of Public Works and Highways and the Boston and Maine Corporation be, and hereby are, authorized to reconstruct the grade crossing in the Town of Milford at the intersection of Highway 101A (Nashua Street) and the Nashua

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Bennington Line of Railroad No. AAR-DOT 844 282A, and to install automatic flashing light protection in accordance with plans on file at the office of the Commission marked DX 83-47; and it is

FURTHER ORDERED, that (1) the mast at the west side of the highway approach from the north shall be equipped with a set of lights focused in each direction along Route 101A and a set of lights focused toward the cemetery exit, and a pedestrian bell; (2) the mast adjacent to the south approach of Route 101A shall have a set of lights focused in each direction along said highway, and (3) the mast east of the north approach to the crossing shall carry a set of lights focused in each direction along Route 101A and a third set of lights focused toward the asphalt drive; and it is

FURTHER ORDERED, that the cost of the reconstruction of the crossing, and the installation of the warning lights and bell shall be apportioned 90% to the State of New Hampshire and 10% to the Town of Milford.

By order of the Public Utilities Commission of New Hampshire this fifth day of April, 1983.

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NH.PUC*04/06/83*[79613]*68 NH PUC 179*Andrew J. D'Angelo v Gas Service, Inc.

[Go to End of 79613]

Andrew J. D'Angelo
v
Gas Service, Inc.

DC 82-299, Second Supplemental Order No. 16,233

68 NH PUC 179

New Hampshire Public Utilities Commission

April 6, 1983

ORDER dismissing natural gas customer complaint.

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SERVICE, § 336 — Natural gas — Thermal unit standard — Customer complaint — Billing inconsistency.

[N.H.] The commission dismissed a complaint by a natural gas customer that a utility sold him gas containing less than 1,000 Btu per cubic foot in violation of its tariff where the complaint was based on a comparison of two monthly bills and an analysis of both the calendar and degree days presented on the bills and where the company presented substantial evidence that it had in fact delivered gas in excess of its Btu requirement and evidence of other factors having an effect on usage.

APPEARANCES: Connie R. Flanigan, on behalf of Gas Service, Inc.; and Andrew J. D'Angelo, pro se.

BY THE COMMISSION:

REPORT

This case involves a complaint and request for relief by a retail customer of Gas Service, Inc. (hereinafter the "Company"). In general, Mr. D'Angelo, the customer, alleges Commission regulations and orders designed to protect him have been violated by the Company resulting in a monetary loss to him. He believes he has been sold gas containing less than 1000 BTU's/cubic foot in violation of the Company's Commission approved tariff. He also claims the Company has illegally filed deceptive or inaccurate reports with the Commission, to wit E-6 Reports. Moreover, it is his recommendation the Commission grant a 10% refund to Tilton Division rate-payers for the February 1982 billing period. As a point of clarification, the Company has a Tilton Division and a Nashua Division. The Tilton Division is often referred to interchangeably as the Laconia Area or Laconia Division.

Events leading to this case occurred during the last half of 1981 and early 1982 although as to the complainant's personal involvement, Mr. D'Angelo noticed upon receipt of his February 1982 bill that it was higher than his January bill whereas the days included in the February bill were fewer than those included in the January bill. Specifically, the January bill covered the period 12/11/81 to 1/15/82 (35 days) and the February bill the period 1/15/82 to 2/12/82 (25 days). Mr. D'Angelo sought an explanation from the Company. In a written response (Exhibit 18) Mr. William J. Lydon, Manager, explained that degree days have a closer relationship to gas usage than calendar days. Having made that explanation he then points out elsewhere in the same letter that total January billed degree days was 1561 versus 1430 for February. Since there were more degree days for January, this would lead the reader to believe the January bill should exceed February's, which is Mr. D'Angelo's position. At a minimum, the Company's letter is confusing.

It is certainly not surprising after the Company attributes 95% of its explanation in said letter (Exhibit 18) to degree days even beginning with an opening sentence stating without any qualifiers that "gas usage is based on degree days ... " Exhibit 18, page 1, that Mr. D'Angelo based his original complaint to the Commission on the concept of degree days. (See Exhibit 20.)

However, a brief comment at the end of the letter cautions that one should recognize factors other than

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degree days can affect usage, going on to mention several examples. As it turns out from testimony and exhibits in this case, those other factors are indeed extremely critical and cause February use to exceed January use in spite of the higher January degree days.

During his testimony, Mr. D'Angelo related that after his initial inquiry in early 1982 he did not pursue the matter further until the fall of 1982. His account of events indicates it was

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dissatisfaction with the Company's response to his outdoor gas grill problems during the summer of 1982 that resulted, at least partly, in his renewing the matter in the fall. On October 1, 1982 Mr. D'Angelo revived his charge (Exhibit 19) in a letter to the Company giving them seven days to convince him he was wrong before proceeding further. Remaining unsatisfied on October 8, 1982, Mr. D'Angelo filed a letter with the Commission setting forth his views and their basis. That letter, referred to previously as Exhibit 20, is Mr. D'Angelo's complaint against the Company.

Thereafter a November 9, 1982 meeting was held between the parties including as observers State Representatives Barbara Bowler and George Lamprey. That attempt to resolve matters failed. Mr. D'Angelo reported that meeting to the Commission in a November 11, 1982 letter (Exhibit 21) expressing continuing dissatisfaction and pointing out that in his opinion an explanation received at the meeting, about measuring wet gas and dry gas, demonstrated the Company's lack of consistency. More importantly, he also stated that had genuine E-6 Reports from the Tilton Division been filed in the first place it would have summarily cleared up the dispute. He then requested a hearing date be set without delay. On the other hand, the Company in reporting its version of the November 9 meeting to the Commission (November 10, 1982 letter to the Commission-Exhibit 22) listed at some length the documents provided Mr. D'Angelo in an attempt to resolve matters. Briefly, the Company provided, in part: material showing factors other than temperature that affect gas consumption; Tennessee Gas Pipeline invoices reflecting heat content in excess of 1000 BTU/cu.ft. for natural gas delivered during the period in question; an independent analysis showing LNG heat content in excess of 1000 BTU's for the same period; the heat content of propane and how it was determined; and a computer print out showing the total quantity of gas used, heat content of each type and the overall daily heat content of gas for the period in question. Since all of this data was specific to the Tilton Division it would seem that if it was accurate it would supplement prior E-6 Reports for the same period and thus satisfy Mr. D'Angelo's criteria to summarily dispose of the matter. Instead Mr. D'Angelo chose not to accept those documents as legitimate and the Commission is now being asked to render a decision on their reliability. They have accordingly been made exhibits in this matter along with other proofs.

At the hearing on January 24, 1983 it became apparent that the Company based its case on a step by step algorithm to arrive at the daily heat content of its product. Their case explains any variations in use given equivalent degree days as a result of "other" factors. Mr. D'Angelo's case rests on the theory

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that so called other factors remained constant or alternatively that it was possible air was accidentally pumped into the system diluting the heat content of distribution system gas.

The Company pursued its position only to a very limited extent through cross examination instead relying on its direct case. One of those limited areas of inquiry of Mr. D'Angelo revealed he was an all use customer, i.e. space heat, water, stove, dryer, and outdoor grill. Perhaps the Company implies by this that the more use one makes of gas, the less likely monthly consumption patterns will remain consistent. If so, the Commission draws the same conclusion. Cross examination also revealed that Mr. D'Angelo was caretaker of a neighbor's home while the

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neighbors were vacationing during the period in question. Since this neighbor experienced basically the same billing anomaly as Mr. D'Angelo, it is Mr. D'Angelo's position his neighbors case proves his claim since it is logical to assume the neighbors usage patterns would have been the same each month. Company exhibits refute this conclusion contending instead that in addition to consumer habits there are other factors which influence gas use even in an unoccupied dwelling, such as wind velocity and cloud cover. Exhibits 34 and 35.

Mr. Paul Johnson, President of Paul Johnson Associates, Inc., of Boston, Massachusetts was the main witness for the Company. His qualifications as an expert witness include extensive experience and academic credentials. (Exhibit 25). In addressing the issue of factors other than degree days that influence usage he testified that not only wind velocity but wind direction or the direction in which a house faces can have a significant impact on usage. In his opinion the variance observed by Mr. D'Angelo is explained by those many factors which he further divides into two categories; those that affect unoccupied dwellings and those additional factors that occur in occupied dwellings. Exhibits 34 and 35 respectively.

In preparing for this case, Mr. Johnson visited the Company's plant and observed its operations as well as reviewing its books and records. In his opinion and based on his experience, those Company documents used by him in reaching his opinions are reliable and authentic.

Mr. Johnson's primary conclusion, a conclusion accepted by this Commission, is that the gas received by Mr. D'Angelo and all other Tilton Division customers was well in excess of the required minimum 1000 BTU/cu.ft.

Reiterating: Mr. Johnson's conclusion is based on a step by step presentation. He first shows the percentage mix of different gases (LNG, propane, natural) sold in a distribution mix for the two billing periods (Exhibits 26 and 27). These exhibits also set out the claimed BTU content for each type of gas. Since each type exceeded 1000 BTU's individually it is clear the distributed gas must have exceeded 1000 BTU's. In turn proof is offered demonstrating why each individual type of gas exceeded 1000 BTU's. Exhibit 1 is Tennessee Gas Pipeline Company's invoices portraying the quantities and quality of gas delivered in Hudson and Concord for the periods in question. Exhibit 2 is an affidavit of daily calorimeter tests by Tennessee. Exhibit 8 is an independent LNG analysis showing LNG BTU exceeded 1000. By far the

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largest body of evidence in the form of testimony and exhibits was directed at the BTU content of propane-air gas. To this end the relationship between heat content and specific gravity was first explained; for propane relative to air and then for propane-air relative to natural gas. (Exhibit 3) Next it was explained that when gas was being made at the Laconia plant the procedure was monitored by an instrument called a Ranorex which simultaneously provides a record for the relative specific gravities experienced during the process. Copies of those records were introduced as Exhibits 4, 5, and 6. Explanations in conjunction with those Exhibits demonstrate convincingly that the final mixture of propane-air and natural gas exceeded 1000 BTU/cu.ft. The record also shows there was daily calibration of Ranorex equipment. The Commission thus accepts the expert testimony concluding the Ranorex equipment was accurate

within a percent or two of a calorimeter.

Mr. Marini of the Commission staff testified that due to the way the Company's system is designed for making gas and distributing it, excessive air could only be introduced intentionally. Mr. Johnson's testimony confirmed this conclusion. There is not even a hint in this case of any evidence indicating such an act.

It was also Mr. Marini's testimony that if below standard gas had been sold it would have resulted in a large number of complaints due to malfunctioning gas appliances. Testimony shows that Tilton Division gas appliances are designed and adjusted to operate properly on natural gas that has a heat content of 1000 BTU/cu.ft. Any significant level below this heat content would result in numerous customer complaints. No other complaints are on. record for the period in question. All of Mr. Marini's testimony including his opinion that BTU content was properly maintained was based on many years experience in the industry and his own personal investigation of the Laconia plant including its records and equipment.

Mr. D'Angelo's attempt to impeach the Company's credibility by claiming it was inconsistent to use both wet readings and dry readings was unsuccessful due to Mr. Johnson's testimony which explained a dry reading is nothing more than a wet reading adjusted for water vapor, a normal procedure in the gas industry and one which permits the BTU content of gas containing differing amounts of water vapor to be compared on a consistent basis.

Another concern expressed by Mr. D'Angelo centers on the Company not having an operating calorimeter at its Laconia plant during the period in question. A calorimeter is an instrument that continually monitors the BTU content per cubic foot of gas as it enters the distribution system. It simultaneously produces a hard copy of the result that can be filed and saved for later verification purposes if necessary. Assuming the machine was functioning properly it is obviously an easy matter to obtain the exact BTU content for any prior date. When customers are being billed on a therms basis, it is absolutely necessary that a properly calibrated calorimeter be used to determine the exact heat content of the delivered product. Where on the other hand customers are being billed, as in the present case, on a cubic foot receive basis, it is only required that each cubic foot contain no less than 1000 BTU's. Thermal billing versus

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volume billing was explained to Mr. D'Angelo during his visit to the Company on November 9, 1982 (Exhibit 22 page 2).

In keeping BTU content over 1000 when billing on a volume basis a reasonable BTU safety margin is always used. Generally this results in the customer receiving a windfall. Although not marked specifically as an exhibit, attachment C to Exhibit 22 reveals that this did occur in Mr. D'Angelo's case whereby volume billing for the period in question noted him an approximate $13.00 savings over what thermal billing would have cost for the period in question.

Looking further into Mr. D'Angelo's concern regarding the lack of a calorimeter at Laconia, first the Commission notes that there is no requirement in its rules that a gas distributor have more than one calorimeter while at all times in question there was an operating calorimeter at the Nashua plant. Second, the heat content of Laconia gas required on E-6 Reports can be accurately determined without a calorimeter as demonstrated by Exhibit 23 (the amended E-6 Reports).

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Nonetheless it does appear that in order to simplify the process of determining BTU content for the E-6 Reports, the Company normally maintains an operating calorimeter at the Laconia plant.

Of considerable concern to Mr. D'Angelo is the inaccuracy found in E-6 Reports filed with this Commission. After the calorimeter breakdown in Laconia the Company relied on the Nashua calorimeter readings for its E-6 Reports for both locations. This procedure was reasonable during the summer when all sales at both locations consisted of only natural gas. During that time the BTU content at both locations would logically be identical. Unfortunately, the different peak shaving requirements at each location during the winter rendered that procedure inapplicable. Subsequently, the Company calculated the heat content prevailing during the two months in question and has filed amended E-6 Reports. (Exhibit 23) Of greater importance, the Commission Staff was aware of the breakdown situation, negating any possibility of Company deception and the Commission finds none. Still, it is recognized by the Commission that if the original Reports had been filed containing Laconia readings as amended; Mr. D'Angelo's inquiries may have been easily satisfied. Indeed, if they had been calculated, and it is clear from this record they could have been, Mr. D'Angelo's confidence in the Company's explanations may have been sufficient to have avoided this hearing. Convenience is not a sufficient justification for submitting Reports that are less accurate than otherwise possible.

Mr. Marini's testimony also implies the original requirement for having a calorimeter was to determine the BTU content of "manufactured" gas. The Company no longer "manufactures" gas although it still "makes" gas, the latter being the mixing process during peak shaving. It is obviously necessary to determine the heat content of manufactured gas before it can be mixed or sold directly. A calorimeter is an answer to that problem; but a calorimeter is not needed for "mixing" because the BTU content of each gas in the mix is already known or otherwise verifiable. Thus recognition of the original requirement for calorimeters simply confirms the above conclusions.

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It is clear from the record that a calorimeter would not have resulted in significantly different results than the Company's computer print-out calculations for the January/February period (Exhibit 16), therefore, we accept as accurate the amended E-6 Reports.

Other than the confusion that may have been created by the E-6 Reports, the Commission finds that the Company has made every reasonable effort to explain its procedures to Mr. D'Angelo and specifically finds it has not sold gas to Mr. D'Angelo or others in the Tilton Division service territory that is below standard, nor has it attempted in any way to deceive this Commission in Reports filed with this Commission.

The Commission also notes that its own Staff has offered its assistance to Mr. D'Angelo regarding an energy audit. (Exhibit 13)

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that this complaint is dismissed.

By order of the Public Utilities Commission of New Hampshire this sixth day of April, 1983.

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NH.PUC*04/06/83*[79614]*68 NH PUC 185*New England Telephone and Telegraph Company

[Go to End of 79614]

Re New England Telephone and Telegraph Company

DR 82-328, Third Supplemental Order No. 16,322

68 NH PUC 185

New Hampshire Public Utilities Commission

April 6, 1983

ORDER accepting revised telephone tariffs.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, Commission Order No. 16,264 (68 NH PUC 121) directed New England Telephone and Telegraph Company to file revised tariff pages in conformance to the Report attached thereto; and

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WHEREAS, said Company, on March 30, 1983, filed tariff revisions to meet this requirement; and

WHEREAS, the Commission finds that the revisions so filed meet the requirements of the Report, other than matters for which a rehearing has been petitioned; it is

ORDERED, that

Part A, Section 5, 1st Rev. Pgs. 22 and 28 " 8, 1st Rev. Pg. 1 " 9, Table of Contents, 1st Rev. Pg. 1 1st Rev. Pgs. 1, 3, 5, 9, 11, 13, 14, 50 and 67; and " 10, Table of Contents, 1st Rev. Pg. 1 Original Pg. 4.1 1st Rev. Pgs. 5 and 6

of New England Telephone and Telegraph Company tariff, NHPUC No 75, he, and hereby are, approved for effect April 11, 1983.

By order of the Public Utilities Commission of New Hampshire this sixth day of April, 1983.

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NH.PUC*04/06/83*[79615]*68 NH PUC 186*Public Service Company of New Hampshire

[Go to End of 79615]

Re Public Service Company of New Hampshire

DF 83-58, Supplemental Order No. 16,323

68 NH PUC 186

New Hampshire Public Utilities Commission

April 6, 1983

ORDER authorizing the issuance of preferred stock.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, our Order No. 16,262 dated March 11, 1983 (68 NH PUC 119), issued in the above-entitled proceeding, authorized Public Service Company of New Hampshire to issue and sell not exceeding one million four hundred thousand (1,400,000) shares of Preferred Stock, $25 par value; and

WHEREAS, following negotiations with underwriters, the Company has submitted to this Commission the details concerning the number of shares of Preferred Stock to be sold, and the price, dividend rate and other terms thereof, which contemplate the issue and sale of one million four hundred thousand (1,400,000) shares of a new series of its Preferred Stock, $25 par value, designated "Sinking Fund Preferred Stock 13% Dividend Series, $25 par value", either to the public through an offering by underwriters

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on behalf of the Company, or to underwriters who will make a public offering thereof, or both, said Preferred Stock to be sold bearing a dividend rate of thirteen percent (13%) per year, at a price to the Company of twenty-five dollars ($25.00) per share, and to provide for a mandatory sinking fund under which seventy thousand (70,000) shares will be redeemed annually beginning May 15, 1988, and for optional redemption of an additional one hundred thousand (100,000) shares on each mandatory sinking fund redemption date, with compensation to the underwriters in the aggregate amount of one million three hundred thirty thousand dollars ($1,330,000), all as set forth in the Underwriting Agreement between the Company and the underwriters, a copy of which is to be filed with the Commission; and

WHEREAS, after due consideration, it appears that the issue and sale of said Preferred Stock upon the terms, conditions and price, hereinabove set forth or referred to, is consistent with the public good; it is

ORDERED, that Public Service Company of New Hampshire be, and hereby is, authorized to issue and sell at a price of twenty-five dollars ($25.00) per share in cash one million four hundred thousand (1,400,000) shares of its Sinking Fund Preferred Stock 13% Dividend Series, $25 par value, as hereinabove set forth, with compensation to underwriters in the aggregate amount of one million three hundred thirty thousand dollars ($1,330,000), said Stock to be sold at said price of twenty-five dollars ($25.00) per share, either to the public through an offering by

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underwriters on behalf of the Company, or to underwriters who will make a public offering thereof, or both, all as set forth in the Underwriting Agreement between the Company and the underwriters; and it is

FURTHER ORDERED, that all other provisions of said Order No. 16,262 of this Commission are incorporated herein by reference.

By order of the Public Utilities Commission of New Hampshire this sixth day of April, 1983.

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NH.PUC*04/07/83*[79616]*68 NH PUC 187*New England Telephone and Telegraph Company

[Go to End of 79616]

Re New England Telephone and Telegraph Company

DR 83-124, Order No. 16,326

68 NH PUC 187

New Hampshire Public Utilities Commission

April 7, 1983

ORDER approving a telephone company's high capacity private-line data transmission service.

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BY THE COMMISSION:

ORDER

WHEREAS, on March 7, 1983, New England Telephone and Telegraph Company (NET) filed certain revisions to its tariff No. 75, said revisions proposing the addition of High-Capacity Private Line Service (HCPL) cable of transmission of digital signals at the rate of 1.544 Mbps; and

WHEREAS, the Commission recognizes that the growing industry of New Hampshire has, and/or will have, the need for such high-capacity data service, and has determined that the NET filing for the provision of same is in the public interest; it is

ORDERED, that Part B, Section 3; Table of Contents, 1st Revised Page 1; and Original Pages 5-9, New England Telephone and Telegraph Company tariff, NHPUC No. 75, be, and hereby are, approved for effect on April 6, 1983.

By order of the Public Utilities Commission of New Hampshire this seventh day of April, 1983.

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NH.PUC*04/07/83*[79617]*68 NH PUC 188*New England Telephone and Telegraph Company

[Go to End of 79617]

Re New England Telephone and Telegraph Company

DE 83-64, Order No. 16,330

68 NH PUC 188

New Hampshire Public Utilities Commission

April 7, 1983

PETITION for authority to install submarine telephone cables; granted.

TELEPHONES, § 2 — Construction and equipment — Submarine cables.

[N.H.] A telephone company was authorized to install and maintain submarine plant in state-owned waters where the plant was necessary for providing adequate service and there was no objection to its installation.

APPEARANCES: Wayne Snow, engineering manager, for the petitioner.

BY THE COMMISSION:

REPORT

On February 28, 1983, the New England Telephone Company filed with this Commission a petition seeking authority to place and maintain submarine plant across State-owned public waters in Moultonboro, New Hampshire under Lake Winnipesaukee, said crossing from pole 852/4-1 on the shoreline in Moultonboro,

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New Hampshire to pole 852/4-2 on Foley Island in Moultonboro, New Hampshire.

The Commission issued an Order of Notice on February 28, 1983 directing all interested parties to appear at a public hearing at 10:00 a.m. on March 31, 1983 at the Concord offices of the Commission. The Petitioner was directed to publish a public notice in a newspaper having general circulation in the area served. In addition to the publication of said notice, copies of the hearing notice were directed to George Gilman, Commissioner, DRED; John Bridges, Director, Department of Safety; and the Office of the Attorney General.

An affidavit of publication indicating that publication was made in the Union Leader on March 4, 1983 was received in the Commission's office at Concord, New Hampshire on March 9, 1983.

Wayne Snow, Engineering Manager, explained that the crossing is designed to provide telephone circuits in the New England Company's Center Harbor exchange. It will consist of a five pair submarine cable extending underground from Pole 852/4-1 on the shoreline in

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Moultonboro, New Hampshire, to Lake Winnipesaukee, thence on the Lake bottom a distance of approximately 375 ft. to the shoreline of Foley Island in Moultonboro, New Hampshire, and thence underground approximately 20 ft. to Pole 852/4-2 on Foley Island. The crossing will be constructed and maintained in accordance with the Minimum Federal Safety Standards in order to meet the reasonable requirements for service to the public.

The Commission noted that no objections were filed or expressed at the hearing. In fact, no intervenors or interested parties were in attendance.

The petition was properly publicized, and proper notification was given to the public as to the proposed installation.

The Commission finds this petition for a license to place and maintain submarine plant crossing State-owned waters in Moultonboro New Hampshire under Lake Winnipesaukee to be in the public interest.

Our Order will issue accordingly.

ORDER

Based upon the foregoing Report which is made a part hereof; it is

ORDERED, that authority be granted to New England Telephone and Telegraph Company to place and maintain submarine plant crossing State-owned waters in Moultonboro, New Hampshire under Lake Winnipesaukee, said crossing from Pole 852/4-1 on the shoreline in Moultonboro, New Hampshire to pole 852/4-2 on Foley Island in Moultonboro, New Hampshire.

By Order of the Public Utilities Commission of New Hampshire this seventh day of April, 1983.

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NH.PUC*04/07/83*[79618]*68 NH PUC 190*National Regulatory Research Institute

[Go to End of 79618]

Re National Regulatory Research Institute

Intervenors: Concord Electric Company, Exeter and Hampton Electric Company, Granite State Electric Company, New Hampshire Electric Cooperative, Inc., Concord Natural Gas Corporation, Gas Service, Inc., Manchester Gas Company, Northern Utilities, Inc., Hampton Water Works Company, Hudson Water Company, Public Service Company of New Hampshire, and New England Telephone and Telegraph Company

DF 82-85, Second Supplemental Order No. 16,333

68 NH PUC 190

New Hampshire Public Utilities Commission

April 7, 1983

ORDER asserting authority to require utilities to support a national research institute.

EXPENSES, § 119.1 — Research, development, and demonstration — National research institute — Commission authority.

[N.H.] The commission held that it has the power to require utilities under its jurisdiction to contribute to a research institute sponsored by the National Association of Regulatory Utility Commissioners, finding that: (1) its statutory authority to employ technical experts in rate cases covers the institute's provision of technical information and advice to the commission; (2) research expenses related to the institute are essentially the same as those allowed utilities for the research activities of their respective professional associations; and (3) the institutional research expenses are very minimal.

APPEARANCES: Dom D'Ambruoso on behalf of Concord electric Company, Exeter and Hampton Electric Company, Granite State Electric Company, New Hampshire Electric Cooperative, Inc., Concord Natural Gas Corporation, Gas Service, Inc., Manchester Gas Company, Northern Utilities, Inc., Hampton Water Works Company and Hudson Water Company; D. Pierre G. Cameron, Jr., on behalf of Public Service Company of New Hampshire; Bruce P. Beausejour on behalf of New England Telephone and Telegraph Company, Dr. Douglas N. Jones, director and professor of public utility economics at Ohio State University and the Honorable Leigh H. Hammond, North Carolina Utilities Commission and chairman of the NRRI board of directors, on behalf of the National Regulatory Research Institute.

Before Love, chairman.

BY THE COMMISSION:

I. *PROCEDURAL HISTORY*

The Commission by Order dated March 29, 1982 (67 NH PUC 267),

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and signed by Commissioner Aeschliman and myself initiated this docket. As noted in that Order, the National Association of Regulatory Utility Commissioners passed Resolution #2 at its November 1981 annual meeting. This resolution called upon the various commissions to assist in the funding of the National Regulatory Research Institute (NRRI). The level of assistance allocated to New Hampshire was $20,587, consisting of $8,594 related to electric utilities, $804 for gas utilities, $9,314 for the telecommunications utilities and $1,515 for water utilities. As this case proceeded, this level of support was subsequently reduced as will be discussed *infra*.

In the Commission's initial order, there were set out two issues. First, whether the Commission had the legal authority to assess these costs, and, second, whether these expenses for NRRI are in the public interest and thereby chargeable to utilities and ultimately to their customers as an above-the-line expense. This docket was opened for resolution of these matters and any others felt to be of consequence by the parties or the Commission.

Initially, a hearing was set for April 22, 1982, but such hearing was postponed to June 11,

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1982 in response to a motion filed by the group of utilities represented by Mr. D'Ambruoso, hereinafter referred to as the "Association of New Hampshire Utilities" or the "Association".

Testimony was heard from the Honorable Mr. Leigh H. Hammond, a member of the North Carolina Commission and Dr. Douglas N. Jones, Director of the National Regulatory Research Institute. Briefs were subsequently submitted.

II. *NRRI AND NARUC POSITION*

Commissioner Hammond testified that in his opinion based upon five years as a Commissioner there was a need to provide a solid foundation for unbiased and independent research activities so as to provide meaningful support for the public policy decisions issued by regulators.

Both he and Dr. Jones testified as to the history of the National Regulatory Research Institute and the developments that led to the NARUC resolution.

Commissioner Hammond indicated many states, including his home state of North Carolina, were in the process or had already implemented measures to provide funding for NRRI. The NRRI's proven track record of assistance to state commissions was cited as one of the reasons behind the swift action.

As an experienced regulatory commissioner, Hammond noted that the dollars involved were miniscule when compared with the approval of utility expenses related to the Gas Research Institute (GRI) and the Electric Power Research Institute (EPRI).

Dr. Jones, the Director of the National Research Institute, described NRRI as a response to a frequently expressed need by the state regulatory community for an independent research institute to examine the increasingly complex public policy issues that confront state regulation. NRRI's role, as described by Dr. Jones, was to help strengthen state commission regulation by providing independent policy research, expert assistance and technical training programs.

The proposal for funding the NRRI was described by Dr. Jones in great

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detail. The operations are governed by a seventeen-member Board of Directors with eleven members being state commissioners. The remaining six members are evenly divided between the university and the public.

The staff was testified to as reflecting expertise in the areas of economics, law, engineering, finance, accounting and public administration. These staff people have worked on various research projects, which have consummated in a series of reports on a variety of subjects of interest, including rate design, power pooling, measured telephone service, cogeneration and avoided costs, marginal pricing of gas, fuel adjustment clauses, water regulation and water rate design, cost overruns in utility plant construction and telephone cost separations procedures.

NRRI has also testified as to providing technical assistance for state commissions on site in individual cases. Again, these cases have spanned the most common and complex issues facing regulators in the regulation of each involved industry, electric, gas, telephone and water.

Another aspect of NRRI's services to state commissions was in the area of educational

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services. Dr. Jones testified that nearly four hundred commission staff and commissioners from forty-seven states had participated in these sessions.

As to the clients of NRRI, Dr. Jones testified that NRRI only works for state and federal regulatory commissions. According to Dr. Jones, NRRI does not sponsor research for either utilities or consumer advocate groups.

The relationship between NRRI and the State of New Hampshire Public Utilities Commission was the subject of further testimony provided by Dr. Jones. Dr. Jones stated that New Hampshire has benefitted from its relationship with the NRRI. Attendance at NRRI seminars in time-of-use rates, cost of service, power plant productivity, implementation of the National Energy Act, cogeneration and general regulatory conference. Our library, as noted by Dr. Jones, consists of volumes of the studies performed by NRRI.

The organizational board and the procedure for allocating revenue from each state was discussed by Dr. Jones. Initially, New Hampshire for the period of July 1, 1982 to June 30, 1983 was to pay $20,587. This was broken down into smaller amounts by utility industry with the results being $9,314 for telecommunications; $8,954 for electricity; $1,515 for water; and $804 for the gas industry.

Subsequent events have resulted in a reduced level of compensation with the total request now dropping to the sum of $7,728.00. This breaks down into industry classifications as follows: $3,496 for telecommunications; $3,361 for electricity; $569 for water; and $302 for the gas industry.

The procedure used for allocation is based upon operating revenues of the various industries as a portion of the national revenue totals for each industry.

III. *ASSOCIATION OF NEW HAMPSHIRE UTILITIES*

The Association of New Hampshire Utilities objects to any responsibility for these costs being imposed upon any of its utility members. The Association claims that the Commission is without authority to directly assess a public utility to make a contribution to NRRI, either through the rate case

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process or as the result of a rulemaking or generic proceeding. The Association, while noting that the Commission does have the statutory authority to require utilities to pay the expenses incurred by the Commission in the performance of its duties relating to public utilities in this State, contends that any such expenses must survive the legislative budgetary process. Also of concern to the Association is the question of the standard to be used for NRRI contributions and the necessity for the imposition of controls as to costs.

Finally, the Association perceives certain inequities in the funding proposal that is believed to be in need of correction.

The statutory argument as to the Commission's authority begins with the position that the Commission only has the authority specifically granted by statute or by implication therefrom. As support for this contention, the Association cites Blair v Manchester Water Works (1961) 103

NH 505, 42 PUR3d 237, 175 A2d 525. The Association. contends that if the Commission is to find authority for a recovery of NRRI expenses from utilities, such authority must be found in either RSA 363-A — the Public Utilities Assessment Tax; in RSA 365:37 — Expenses of Investigation; or in RSA 365:38 — Expenses Associated with a Rate Proceeding. The Association claims that no other statutes in Title XXXIV reveal any jurisdiction, power or authority for assessments of NRRI expenses.

The Association discusses the three statutes and their legislative history. The Association reaches the conclusion that the Commission can only use RSA 363-A for purposes of assessment to utilities if, and only if, the New Hampshire legislature approves the expenditure to NRRI specifically and then appropriates money specifically for the NRRI. For the Commission to act otherwise would be in the Association's opinion a direct violation of RSA 9:19 and that the Commissioners would become personally liable for the amount expended for purposes of NRRI. The Association takes great care to specifically underline the provisions of this statute for our concern. RSA 9:16 and 17 are also raised as preclusions to use RSA 363-A as a mechanism for funding NRRI.

The remaining two statutes, RSA 365:37 and 365:38, are said to be specifically related to certain proceedings which, according to the Association, do not apply in this instance.

The public interest is also of concern to the Association. The Association contends that the Commission should make sure that the set-aside program discussed by NRRI is in place so that New Hampshire ratepayers will receive the direct benefit from NRRI activities. The Association is very concerned that New Hampshire ratepayers directly benefit from NRRI research that directly benefits New Hampshire.

The Association calls upon the Commission to establish a mechanism to insure that there is a relationship between the funding and the services provided. The Association is also concerned that New Hampshire might be asked to carry a larger share if other states don't provide their proportionate share. The Association contends that the Commission should provide some protection against other states receiving the value of our ratepayers' money and should consider that some other states have not joined as of the

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date of the hearing in providing contributions.

The Association also argues against any formula based in revenues and instead suggests that volume of sales is more equitable.

Finally, the Association contends that the Commission should distinguish this type of expense from dues to EPRI, GRI and other industry research institutions. Those contend the Association are an exercise of management decision in which the Commission has the final decision as to their applicability.

IV. *NEW ENGLAND TELEPHONE COMPANY'S POSITION*

New England Telephone Company (NET) challenges the authority of the Commission to impose NRRI costs on either New Hampshire utilities or their customers.

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To support this contention, NET cites the New Hampshire constitution as stating that no charge can be levied upon the people without legislative approval or authority from that body. Part I, Article 28. From that beginning, NET proceeds to analyze various statutes and the authority granted by those statutes to the Commission. While acknowledging that the Commission's authority and powers are quite broad, NET reaches the conclusion that the funding of an independent research group is not within that range of regulatory authority and powers.

NET notes that the closest statute, RSA 365:38, while allowing for the Commission to hire experts, still does not allow for general study but rather for a specific study relating to a pending rate issue.

In addition to raising arguments as to authority, NET also challenges whether contributions to NRRI are in the public interest. One of the alleged threats to the public interest is that while New Hampshire may pay its share, several commissions may decline to do so leading to a subsidization of research to non-participating commissions/states.

Another weakness is described as the absence of control as to the work performed and the subjects studied.

NET argues that there is not the appropriate level of control by state regulatory agencies. NET contends that the Commission is without the specific right to direct which projects are pursued or the amount allocated to them. NET notes that the level of the target budget has inflated over five times the 1979-1980 level, or $5,250,000, which according to NET demonstrates the lack of controls associated with the proposed funding vehicle.

Finally, NET contends that the NRRI proposal does not clearly provide that funding obtained from telephone ratepayers will actually be used for telecommunications research.

Based upon their analysis, NET recommends that the research activities of NRRI be funded on a case-by-case basis.

V. *COMMISSION ANALYSIS*

The Commission finds that there does exist the proper statutory authority to allocate the expenses associated with the New Hampshire share of NRRI expenses to the utilities that we regulate. The Commission finds that the statutory authority to allocate the costs to the utility arises from various

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statutes, both together and individually.

The first statute the Commission finds as providing the authority to allocate the costs is RSA 374:5-a. While this statute was not discussed by the objecting utilities in their briefs it does clearly provide the Commission the authority to utilize and employ a technical expert to provide assistance in evaluating the cost factors relating to the effective use of substantial investments made by utilities regulated by this Commission. We find authority to assess NRRI pursuant to RSA 374-5-a.

At the present time, all of the electric utilities in this State are expending either directly or indirectly substantial sums for new generating capacity. Such investments raise issues as to cost

control, effective generation mix, the relationship of small power production, fuel recovery mechanisms and, specifically, efficiency standards for penalties and/or benefits associated with proper operation and maintenance of these facilities. In each of these instances, NRRI has in its recent history provided technical papers on these subjects which have been and will continue to be used by this Commission. These areas are of special concern to the Commission and are relevant to dockets presently before the Commission, such as DE 81-312 — Supply and Demand, DE 83-62 — Small Power Producers, DR 82-333 — Public Service Company Rate Request: to name but a few.

Pricing of utility service and supply and demand questions have been raised in both the gas and electric utility industries. Pending dockets DE 83-5 — Gas Supply and Demand, DE 81-312 — PSNH Supply and Demand, DE 82-61 — Consultative Rate Design Process are examples of cases where technical issues on marginal cost pricing, supply options, rates for new versus established customers have arisen. Again, NRRI has provided valuable technical assistance in these areas in the very recent past through the studies performed on these issues as to both industries.

The telephone industry has been undergoing major changes. NRRI has been examining many of the more complex issues such as cross-subsidization and the strengths and weaknesses of measured service, to name a few. Again, these studies are relevant to our work in DR 82-328, New England Telephone; DE 82-206, Continental Telephone.

The NRRI has been nearly the only non-industry source for research on the water utility industry. Their examination of marginal cost issues and supply problems have been used by the Commission in various water rate cases.

RSA 365:37 allows the Commission *inter alia* to impose upon a regulated utility the cost of experts retained by it during the course of an investigation. RSA 365:38 is the comparable provision applicable to rate proceedings. These statutes clearly authorize the Commission to impose costs upon a particular public utility when it is the subject of an investigation or a rate proceeding. If the Commission finds value in using experts for technical assistance, then these provisions clearly allow for the imposition of costs on the respective utility.

The Commission has relied on the general technical assistance provided by NRRI in every utility rate proceeding and investigation conducted by the Commission in the past four years. We

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as a small Commission could not duplicate this information nor could it be attainable at such a low cost. The Commission finds that the specific publications, studies and assistance of NRRI over the recent past has been of value and that the Commission could not fulfill its statutory obligations to set reasonable rates without access to NRRI and its extraordinarily competent staff. It would be unduly restrictive, inefficient, and expensive to hire a new consultant for each proceeding when sufficient relatively inexpensive competent general help is available. The Commission finds that there is authority to assess NRRI costs pursuant to RSA 365:37 and 38. The Commission further finds that NRRI's expertise is necessary if the Commission is to fulfill its statutory obligation to remain informed pursuant to RSA 374:4.

The arguments beyond the question of authority can also be summarily dismissed. The

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argument that some states may not contribute their share seems entirely inconsistent with previous utility positions to adopt research expenses associated with EEI, EPRI, GRI and Bell Laboratories as reasonable expenses for ratemaking. Rate recognition of these expenses has been the subject of numerous regulatory decisions state commissions have split over these organizational expenses with some allowing all, some allowing none and others allowing some set percentage. Yet this Commission has not accepted arguments that due to the failure of other utilities to support these organizations, research activities, we should reject these expenses in total. Rather, we have accepted these expenses as reasonable except where there are financial difficulties or lobbying or other political activities involved.

As to the level of expenses, the amount pales in comparison to that expended by these collective utilities for research and technical assistance. Furthermore, the NRRI board of directors has public representation insuring a more adequate check than the utility sponsored research organization mentioned earlier.

The Commission will assess these NRRI expenses based upon our finding that NRRI has been used in some fashion over this proceeding's duration for every utility assessed. Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the following expense levels are assessed to the following utilities, with said assessments due on or before April 19, 1983.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

UTILITY ASSESSMENT

COMPANY
Hampton Water Works Co.
Hanover Water Works Co.
Hudson Water Company
Pennichuck Water Works Company
Tilton & Northfield Aqueduct Co.
Bretton Woods Telephone Co.
Chichester Telephone Co., Inc.
Continental Telephone Co. of Maine
Continental Telephone Co. of N.H.
Dixville Telephone Company
Dunbarton Telephone Company
Granite State Telephone Co.

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

COMPANY	*AMOUNT*
Kearsarge Telephone Company	$25.52
Meriden Telephone Company	2.44
Merrimack County Telephone Co.	24.47
New England Telephone Company	3,326.79
Union Telephone Company	13.98
Wilton Telephone Company	8.04
Claremont Gas Light Company	3.08
Concord Natural Gas Corp.	33.55

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Gas Service, Inc.	124.72
Keene Gas Corporation	5.88
Manchester Gas Company	62.54
Northern Utilities	70.18
Petrolane-Southern NH Gas Co., Inc.	2.02
Concord Electric Company	142.84
Connecticut Valley Electric Co.	55.79
Exeter & Hampton Electric Co.	147.55
Granite State Electric Co.	190.23
N.H. Electric Cooperative, Inc.	$178.13
Public Servic Company of N.H.	$2,646.45

and it is

FURTHER ORDERED, that utilities after paying their assessment on or before April 19, 1983 are hereby provided the opportunity to file revised tariff pages to reflects said level of NRRI expenses in their rates.

By Order of the Public Utilities Commission of New Hampshire this seventh day of April, 1983.

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NH.PUC*04/07/83*[79619]*68 NH PUC 197*Hudson Water Company

[Go to End of 79619]

Re Hudson Water Company

DR 82-253, Third Supplemental Order No. 16,334

68 NH PUC 197

New Hampshire Public Utilities Commission

April 7, 1983

ORDER authorizing a water rate increase for the general service class.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, Order No. 16,299 (68 NH PUC 156), authorized an increase of $195,134 in annual revenues for Hudson Water Company to be distributed variously among its New Hampshire operating divisions; and

WHEREAS, a part of the "Stipulation Agreement" arrived at in this case contained a provision that the revenue requirement allocated to fire protection shall remain unchanged from that derived under rate schedules in 14th Revised Page 19 and 15th Revised Page 21 of tariff NHPUC No. 7; it is

ORDERED, that the increased revenues allowed in Report and Order No. 16,299 shall be recovered by application to the General Service rate schedules of Hudson Water Company tariffs.

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By Order of the Public Utilities Commission of New Hampshire this seventh day of April, 1983.

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NH.PUC*04/08/83*[79620]*68 NH PUC 198*Concord Electric Company

[Go to End of 79620]

Re Concord Electric Company

Intervenor: Cable Association

DE 82-244, Supplemental Order No. 16,335

68 NH PUC 198

New Hampshire Public Utilities Commission

April 8, 1983

PETITION for a cable television franchise; dismissed without prejudice.

PROCEDURE, § 10 — Dismissal without decision on merits — Factors — Stale record.

[N.H.] Without reaching the substantive issues in a cable television case, the commission dismissed a petition without prejudice so that it could be refiled in the future after a question as to the commission's membership is settled and after new data could be obtained to replace the stale record.

APPEARANCES: Joseph S. Ransmeier, Esquire and Dom S. D'Ambruoso, Esquire for Concord Electric Company; Thomas D. Rath, Esquire for the Cable Association.

BY THE COMMISSION:

Opinion by LOVE, chairman: The Commission has received a motion by the Cable Association asking for a dismissal of the pending petition by Concord Electric Company. On April 6, 1983, a response was filed by Concord Electric contending that instead of a dismissal, a hearing should be scheduled.

The Commission is presently going through a change in its membership. The issues in a proceeding such as this one involve legal interpretations, policy considerations, a determination of the public interest and investigation of legislative intent. It is clear that such a proceeding to be done correctly will take a period of time that is longer than my remaining days on the Commission.

Clearly, a more professional record, together with a consistent Commission membership, can be achieved if this case is dismissed without prejudice for refiling at some later date. The pleadings reveal concern about previous actions by myself, which could rather than resolve the

issues likely to arise in this docket. The Commission sent this case to the Court because of a desire to prevent substantial regulatory expenses to either the cable industry or Concord Electric. Given that these efforts were unsuccessful, it is clear that a fresh beginning is far more appropriate than this stale record.

This Commission believes that refiling by the Petitioner after the change in our membership is more appropriate, and we dismiss without prejudice

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solely for this reason. Nothing in this opinion should be construed as forming judgment on the substantive issues in this case. We will require any refiling by Concord Electric to be served upon Mr. Rath and Mr. Cianelli on the same day that the filing is made with the Commission.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the Petition is dismissed without prejudice.

By Order of the Public Utilities Commission of New Hampshire this eighth day of April, 1983.

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NH.PUC*04/12/83*[79621]*68 NH PUC 199*Boston and Maine Corporation

[Go to End of 79621]

Re Boston and Maine Corporation

DX 82-236, Second Supplemental Order No. 16,341

68 NH PUC 199

New Hampshire Public Utilities Commission

April 12, 1983

ORDER establishing minimum inspection schedules for railroad tracks, trains, and train operators and engineers.

BY THE COMMISSION:

REPORT

On August 16, 1982, a railroad accident occurred on the Boston/Concord line of the Boston and Maine Corporation in the Town of Hooksett, in which twelve (12) rail cars loaded with coal for the Public Service Company of New Hampshire Merrimack Station were derailed. The accident was one of six derailments which have occurred in Hooksett and Manchester since mid 1976.

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Commission records revealed that the accident frequency on that line was significantly higher than that of other lines under its regulatory jurisdiction. On its own motion, it opened Docket DX 82-236 on August 18, 1982, and by Order No. 15,813, directed that a public hearing be set for 10:00 a.m. on September 10, 1982 at the Commission's offices at 8 Old Suncook Road, Concord, New Hampshire for the purpose of hearing testimony by the Boston and Maine Corporation as to the causes of such accidents and as to the policies and procedures being implemented to prevent future accidents. It directed that prefiled testimony from Company witnesses be submitted to the Commission on or before September 3, 1982, and Ordered the Boston and Maine Corporation to make public notice of its Order twice in a newspaper

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having general circulation in the area encompassed by the investigation.

On September 10, 1982, a certificate of publication was filed with this Commission attesting to the certificate being published in the Union Leader on September 2, 1982. The Boston and Maine Corporation was represented at the hearing by Sidney Weinberg, Esq. Representative John Hoar appeared Pro Se. The Commission offered Walter King, Staff Track Safety Inspector; and Mr. Allison MacDowell, Safety Specialist, Federal Railroad Administration, Boston. Company witnesses included Mr. Vincent Terrill, Vice President of Engineering; Mr. William Grabske, Vice President Equipment; and Mr. W.G. Furey, General Superintendent.

Mr. Terrill testified that the Manchester/Hooksett line is comprised of 112 pound rail, and is maintained at levels which exceed Class III requirements. Operating speed limits established by the Federal Railroad Administration set maximum speeds of Class III track at 40 MPH for freight trains. The Company self-imposes a 25 MPH speed limit on coal train travel through the Manchester/Hooksett section which is five MPH lower than the Company's normal operating policy of 30 MPH. The 25 MPH limit has been imposed since August 11, 1982. The section is patrolled twice a week by a qualified inspector. The scheduling of patrols is not determined or governed by the coal train schedules. The frequency of patrols in that section is equal to the frequency in all other sections carrying that degree of load.

The 112 pound rail is typical of the system over which the coal train travels from Rotterdam, New York. Of the approximately 230 miles of B & M track between those two points, approximately half, or 109 miles, is 112 pound rail. An additional 70 miles is of 115 pound rail, and 45 miles is of 132 pound rail. The remaining 6 miles is of 100 pound rail, none of which is in New Hampshire.

Mr. Terrill also testified as to the inspection procedures utilized by the railroad. In addition to the twice weekly patrols by qualified inspectors, the railroad uses track geometry cars at least twice a year in order to verify the geometry of the track, and it also conducts Sperry tests on an infrequent basis to obtain an x-ray of the entire rail line in order to identify internal defects. He also explained an ongoing testing program that is being conducted in Bennington, New Hampshire by the Boston and Maine, the Federal Railroad Administration, the Association of American Railroads, and the American Railway Engineering Association for the specific purpose of determining the effect that coal car travel has on rail sections. Additionally, the B & M is involved in a test project with the Transportation Systems Center, in developing a device to

determine cross leveling of a track by an over the rail vehicle. Mr. Terrill noted that the device had been run over the Manchester/Hooksett line two (2) days before the derailment. He suggested that no schedule had been developed for the use of this equipment, but that five or six times a year would be desireable for proper monitoring.

Mr. Furey was called to the witness stand to explain the Company's standards for train crew qualification. He indicated that although there are no

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federal requirements governing the experience that a crew needs in order to operate trains over particular sections of track, that B & M has its own requirements. They must go before a train master or a road foreman of engines and qualify on the physical characteristics of the track, the signal systems and the general nature of the territory in which they are to operate. An examination is taken before the superintendent, and until qualifications are met, a fully qualified pilot must be on board the locomotive. He testified that it is impossible for a crew who has not been qualified to operate a train through that segment. A B & M Training Center in Billerica, Massachusetts, is used by all enginemen in reviewing the rules. It is the Company's desire to have all enginemen trained at the Training Center on an annual basis.

Mr. Furey further testified as to the Company's monitoring of speed tapes to assure compliance with operating practices. Although speed tapes are not required by regulations, they are frequently found on engines, and are routinely reviewed by the Company Staff. The last two derailments have had speed tape equipment on board, and the trains were found to be operating within their prescribed limits.

Mr. Grabske testified to the train inspection practices of the railroad. Coal trains receive an initial terminal brake test and a condition inspection at Brownsville, Pennsylvania, at Youngstown, Ohio and at Dewitt, New York prior to coming onto the B & M system. At Dewitt, New York, it is inspected as a run through unit coal train. The proper certification is fixed in accordance with the Federal Regulations Title 49, Paragraph 232.19. A further brake test is made at Bow, New Hampshire, before the empty train departs for the mines. Following the brake test at Bow, the train receives a running repair inspection by B & M crews at Mechanicville, New York. Cars with deficiencies are removed from the train.

FRA Inspector, MacDowell, testified that the unit coal train is one of the most highly inspected trains on the rail. The Federal Railroad Safety Administration exercises safety authority in five different disciplines: track, motive power and equipment, signal and train control, operating practices, and hazardous materials. Mr. MacDowell's specific area of expertise concerns track safety. His duties involve the supervision over inspecting all tracks within New England and coordinating efforts between Federal Track Inspectors and those State Track Inspectors that have qualified for the state participation effort.

Mr. MacDowell testified that he has inspected the Manchester/Hooksett line with the New Hampshire Track Safety Inspector, Mr. King. He found the sections of track to be in compliance with all FRA Class III standards which include cross ties, track geometry, switches, and other track components. He found no significant differences in the track geometry or construction of the track in that area which led him to believe that it was more susceptible to problems than in

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other inspected areas. He testified that the 112 pound rail is adequate for the tonnage traveling over that section. In the area of inspection frequency, he testified that the FRA has no minimum frequency schedule, but that the inspection schedule followed by the Boston and Maine Corporation

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is adequate and meets the national average.

Mr. King testified that he had conducted investigations into each of the six noted derailments on the Manchester/Hooksett line. He did not find track deficiencies as the probable cause of the accident, although he indicated that some related track problems might have contributed to the derailments. He confirmed that the Company had conducted a Sperry test of the line on November 12 and 13, 1981, that he had reviewed records of that inspection, and had found no internal flaws.

Mr. King testified that his inspection schedule for all New Hampshire lines allowed him to make annual inspections of most main lines. The Manchester/Hooksett line, however, has been inspected twice this year, and a third one is planned. The inspections revealed no track related deficiencies. Mr. King observed that there were no characteristics of that line which led him to believe that it is a particularly hazardous line, and it was his opinion that the line qualifies as Class III track allowing for a maximum speed of 40 MPH for freight trains.

Upon cross-examination as to the possibility that the remaining four disciplines regarding rail safety, Mr. King offered that it was his judgment that (1) hazardous material did not contribute to the accident, (2) signal problems did not contribute to the accidents, (3) track safety was not a significant contributing factor to the accidents, (4) motive power and equipment was a contributing cause to the accident, and (5) operator practice is a possible contributing factor. He suggested that these latter two disciplines in question, equipment and operator practices have not been studied enough in the frequencies of these derailments.

COMMISSION ANALYSIS

The Commission has listened with great interest to the testimony in these proceedings. It is encouraged by the testimony of company representatives who assure us that the inspection programs committed to its rail lines in New Hampshire, and specifically in the Manchester/Hooksett area, meet and in most cases, exceed the requirements placed upon it by Federal and State performance standards. They show, in fact, that the inspection program directed at the Manchester/Hooksett line exceeds that which it imposes upon itself on its other lines. We are further encouraged by their participation in the accident demonstrations in conjunction with the Association of American Railroads, the American Railway Engineering Association, and Transportation Systems Center.

However, despite the Company's best intentions, and despite their sincere efforts to minimize rail accidents, there remains a history of six (6) major derailments of the coal train in a 61/2 mile section of track since June 15, 1976. As a result of these accidents, a total of 71 coal cars have been derailed causing significant delays in other rail traffic and resulting in estimated damage of $943,138 to equipment and $125,243 to track structure, a total of $1,068,381 into the Concord area to the Boston and Maine Corporation, and extreme safety concerns to the public particularly

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to those who are employed or live adjacent to the railroad line.

We have also learned through these proceedings that the accident frequency

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of this particular segment, while unusual, is not unique to the B & M system in New Hampshire. Mr. Terrill has testified that during the same period there were three incidents at Ayer, Massachusetts in a distance of less than 4 miles. At Royalston, Massachusetts, there were two (2) accidents within a distance of about four (4) miles. At Mechanicville, New York, there were seven (7) accidents which took place within 11/2 to 2 miles. In each of these three locations, the Company was able to determine with some degree of specificity the causes which contributed to the derailments.

The Commission listened with interest to the five "disciplines" explained by Mr. MacDowell and Mr. King. It appears that the depth of the investigations of the Manchester/Hooksett line may not have been adequate to reach a proper determination. In fact, it may not have been possible to explore all the various disciplines given the limited areas of expertise which have been heretofor available to us. The Commission's own area of expertise is limited, by design, to Track Safety. While Mr. King's credentials as a Track Safety Inspector are commendable, the very nature of his training may be limiting him — and thus the Commission — from exploring the other disciplines to the extent that they deserve to be explored. The Commission will review other opportunities available for expanding its capability in the areas of the other disciplines. It will explore the desirability of adding an Equipment Inspector to its Rail Safety Staff. It will also request that FRA investigators join our staff in pursuing the causes of future rail incidents on this segment of the line.

The Commission will also be guided by recommendations of its Consultant, Winslow E. Melvin who, on September 14, 1982, forwarded certain specific recommendations to the Commission. Those recommendations were made a part of the record at a continued hearing held on December 14, 1982.

Mr. Melvin testified that the Boston to Concord line was designed for passenger trains at speed limits up to 70 MPH. Although the track condition has not been maintained to provide the smooth riding track that the former Pullman and Dining cars demanded, the super-elevation for the higher speed trains remains while coal trains are limited to 25 m.p.h. This super-elevation now causes the slower moving and heavier coal trains to have a tendency to ride on the lower rail.

Rebuttal testimony was submitted by witness Terrill at the continued hearing relative to how various other railroad companies are handling the super elevation of curves. The Boston and Maine formula is based on 2/3 minus 1 of the speed and center of gravity of the loaded cars. Other railroads vary from practically no super-elevation to a base of the full center of gravity factor consistent with the operating speeds of trains.

It is acknowledged that under certain conditions of track, a rock and roll motion can be initiated which results in unusual lateral forces and in some instances lifting the wheels, thus causing a derailment.

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It is apparent that track maintenance bears a great responsibility upon the safety of heavy loads as are involved in coal trains wherein 100 cars of 100 tons each roll in rapid succession over track irregularities. It is recognized that defects in equipment can

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and do result in derailments so that any increase in speed to conform to the superelevation of curves is unwise and not consistent with public safety. The Commission is, however, of the opinion that conformity with the present FRA standards for classes of track should be exceeded in territory where unit coal trains are operated. Indeed, it is respondent's claim that they are already exceeded on this line and others of its system.

The tests made by the Sperry inspections for internal fissures and defects should be continued, cross level and alignment inspections must be a continuing follow-up and a riding check on locomotives to indicate "soft spots" along the right-of-way are very important because the checks from light vehicles will not necessarily reveal those locations.

At the continued hearing, it was brought out that the line from the Bow Plant of the Public Service Company to Hooksett was being retamped. This should result in a market improvement to the track and if it is kept in proper condition following this work, added safety will result and we believe that derailments will be curtailed.

The Commission will give specific directions to the Company with regard to its inspection program of the Manchester/Bow segment, in order that we may be assured that all reasonable steps are being taken to prelude further accidents. We will require that each of the following reporting standards shall be documented so that, at the request of the Commission or its Staff, a review can be made to assure compliance.

We will direct that the following minimum inspection schedules be established:

1) A Sperry test will be made at least annually. 2) A cross level inspection will be made to meet standards, except for superelevation, for Class IV Track at least six times per year on that section over which the coal trains are operated. 3) Patrols by Boston and Maine personnel will be made at least twice weekly, and in all cases shall precede a known coal train shipment. 4) The speed limit of 25 MPH shall be maintained for the operation of coal trains. 5) The enginemen of each coal train shall be certified annually through a refresher training course at the Billerica Training Facility. 6) All speed tapes from engines hauling coal trains shall be identified as to locomotive number, direction and date and be retained at the offices of the Boston and Maine Corporation, for not less than one year. 7) A qualified pilot shall accompany every engineman who is not qualified through training and experience to operate on the line without such assistance. 8) A standing brake test of each train shall be conducted within 100 miles of the Bow destination. 9) Special instructions shall be issued to prevent improper brake applications, except in emergencies, in the operation of coal trains.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

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Based upon the foregoing Report which is made a part hereof; it is

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ORDERED, that the following minimum inspection schedules be established for the Manchester/Bow segment of the Boston to Concord rail line:

1) A Sperry test will be made at least annually. 2) A cross level inspection will be made to meet standards, except for superelevation, for Class IV Track at least six times per year on that section over which the coal trains are operated. 3) Patrols by B & M personnel will be made at least twice weekly, and in all cases shall precede a known coal train shipment. 4) The speed limit of 25 MPH shall be maintained for the operation of coal trains. 5) The enginemen of each coal train shall be certified annually through a refresher training course at the Billerica Training Facility. 6) All speed tapes from engines hauling coal trains shall be identified as to locomotive number, direction and date and be retained at the offices of the B & M Corp. for not less than one year. 7) A qualified pilot shall accompany every engineman who is not qualified through training and experience to operate on the line without such assistance. 8) A standing brake test of each train shall be conducted within 100 miles of the Bow destination. 9) Special instructions shall be issued to prevent improper brake applications, except in emergencies, in the operation of coal trains.

By order of the Public Utilities Commission of New Hampshire this twelfth day of April, 1983.

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NH.PUC*04/15/83*[79622]*68 NH PUC 205*Somersworth Water Works

[Go to End of 79622]

Re Somersworth Water Works

DR 83-94, Supplemental Order No. 16,343

68 NH PUC 205

New Hampshire Public Utilities Commission

April 15, 1983

PROPOSAL by a water company to increase its consumption charges; approved.

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BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, Somersworth Water Works has filed certain revisions to its tariff NHPUC No.

1, seeking authority to increase the consumption charge for usage above the minimum allowance, to recover increased annual revenues of $780 from its 39 customers in Rollinsford; and

WHEREAS, the customers residing in the Town of Rollinsford are under Commission jurisdiction; and

WHEREAS, the increase sought in its rate structure will be applied equally to customers in Somersworth; and

WHEREAS, after public notice we have received no customer responses; and

WHEREAS, the increase sought represents a reasonable adjustment to reflect increased operating expenses since rate levels were set in 1981, and is thus in the public good; it is hereby

ORDERED, that Order No. 16,284 which suspended the proposed tariff revisions is hereby lifted and such revision shall be allowed to become effective for all bills rendered after the date of this Order; and it is

FURTHER ORDERED, that any future adjustment in rate schedules shall be made by equal adjustment to all schedules.

By Order of the New Hampshire Public Utilities Commission this fifteenth day of April, 1983.

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NH.PUC*04/15/83*[79623]*68 NH PUC 206*Northern Utilities, Inc.

[Go to End of 79623]

Re Northern Utilities, Inc.

DR 82-350, Supplemental Order No. 16,344

68 NH PUC 206

New Hampshire Public Utilities Commission

April 15, 1983

ORDER requiring a gas distribution company to terminate its gas roots program for propane customers.

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1. ACCOUNTING, § 49 — By gas utilities — Propane differential — Below-the-line treatment.

[N.H.] Where a gas company was providing certain customers with bottled propane but was charging them at the usual rate for a customer hooked to the distribution system, the commission ordered that the differences between the cost of propane and the average distribution system cost be booked below the line. p. 208.

2. RATES, § 373 — Gas — Bottled propane versus distribution system.

[N.H.] A gas company was ordered to terminate its gas roots program, under which the utility supplied certain customers with bottled propane while charging them at the normal system rate in contemplation of the

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customers eventually being hooked to the system, where the commission found it would never be economically feasible to hook those customers into the system. p. 209.

3. RATES, § 373 — Gas — Propane — Actual cost as basis.

[N.H.] Where it became apparent that certain bottled propane customers who were being charged at a gas company's normal system rate would not be able to be hooked into that system, the commission ordered the company to gradually increase its propane rates so as to eliminate the disparity between the rates being paid and the actual costs of propane gas. p. 209.

APPEARANCES: Eaton W. Tarbell, Jr., on behalf of Northern Utilities, Inc.; Kenneth Traum and Daniel Lanning on behalf of staff.

BY THE COMMISSION:

Hearing Examiner: Michael Holmes.

Opinion by LOVE, chairman:

I. *HISTORY*

This docket was established to investigate and resolve a group of issues arising from a specific type of gas service provided by Northern Utilities, Inc. (Northern). It's a service commonly referred to as the "gas roots" program. The central feature of the service involves supplying customers bottled propane yet billing them at the usual rate for a customer hooked to the distribution system.

The Commission Order opening this docket set forth the following concerns:

> The Commission in Report and Order No. 15,983 (67 NH PUC 773) indicated that there would be a new docket opened concerning the various issues that have arisen involving the gas roots program of the Northern Utilities, Inc. The Commission has issued orders as far back as 1976 involving these particular customers and yet the entire level of issues have not been addressed in one docket. The magnitude of these issues cannot allow for further approaches on a piecemeal basis. (Report and Order No. 16,041.)

The origin of the program is not totally clear from our records. While today the Commission is far more orderly and formal in its record keeping the beginnings of this program was in the less formal, less recorded days of yesteryear. Even the Company's presentation suffers from the inability to present witnesses associated with the beginnings of this program. In fact, without the extraordinary efforts of the Commission's financial staff members Traum and Lanning and the questioning of Hearing Examiner Holmes, the record would not contain the representations made throughout the years as to this program.

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This program began at least 15 years ago and there exists the probability that the time period was substantially longer. The program was designed to provide temporary propane service until natural gas lines could be extended into a given area. Natural gas pipeline extensions were assumed to be more numerous than ultimately occurred.

The record establishes that these "temporary" propane customers were initially served by the non-utility bottled

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gas business side of Northern Utilities/Allied.[1(7)] While this can be traced back to at least 1965, it becomes unclear when and with what authority many of these propane non-utility customers became utility customers served by propane gas in 1974.[2(8)] Sometime during that period Northern Utilities/Allied discontinued its non-utility propane business.

Clearly, if Northern/Allied had at that time discontinued service to these then non-utility customers, the problems in this docket would never have arisen. However, Northern Utilities proceeded to change these non-utility customers to utility customers. It is unclear when this occurred prior to 1974 or whether there was Commission permission. Regardless, Northern Utilities as of 1974 recognized these customers as being within then franchised utility service territory *and* the obligation to service these customers inherent with the authority given in the franchise.[3(9)]

[1] Commission involvement can be traced to 1977 in DR 76-108. In that docket questions were directed to then Company witness Todd. Mr. Todd's comments demonstrate (1) Northern's concern for these customers; (2) the existence of a subsidy to these customers; (3) the number of customers as 65; and (4) a widening differential between propane and natural gas.

The Commission did express concern over the situation in 1977. Language in the Order, as seen below, indicates a readily apparent problem area was developing while prospects were progressively deteriorating:

> In reviewing their cost of gas adjustment, this Commission has become increasingly concerned over the "Roots" program which was initiated by Northern Utilities several years ago. This program was designed to provide those customers in the immediate vicinity of the distribution pipeline temporary propane service until the distribution system was expanded to make a physical connection practical.
>
> At the time of initiation of this program, Northern Utilities was expanding their distribution system and the cost of propane was comparable to the cost of natural gas. However, in the past several years, the cost of expanding the system and the availability of natural gas has made the potential for connection to these customers minimal. With the increasing cost of propane, it is the conclusion of this Commission that no further customers shall be added onto the "Roots" program and that the program should be gradually phased out as the customers request disconnection or the distribution system is extended. Re Northern Utilities, Inc. (1977) 62 NH PUC 78, 81.

But it also may not be fair to conclude that the proportions of the problem were so vast then as today. The price differential between propane and pipeline gas may not have been as serious

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at that time. In any event, the Commission's reaction was not by any means alarmist as can be seen by perusal of the above language in the Report and Order. It is noted from that language, provision was made for a gradual, not a speedy phase out. Furthermore, the Order specified exactly how the phase out was to be accomplished;

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first by disconnecting customers at their request or second, when the distribution system was extended. No other means of terminating the program was permitted other than prohibiting "further customers".

Two issues fundamental to resolution of the issues in this proceeding are: first, did the Company comply with the original Order, and if not, what action is called for; and second, should they have, on their own, gone further than the Order and again, if so what action is called for by the Commission.

Northern Utilities did not comply with this Order in that 10 customers sold establishments and 10 new customers were added when they bought the aforementioned homes. Of these 10 customers, nine have subsequently been added to the system. The remaining customer is still being subsidized.

While the Commission will accept that there was a miscommunication within Northern Utilities, there remains the fact that the Order was and is being violated. Consequently, the Commission will require that all differences between the propane cost and the average system cost to service this customer be booked below the line. Any similar differential for any of the nine customers subsequently connected, which falls within the 1982-83 period, are also to be booked below the line.

[2] Moving on to the second major question; we ask whether or not the Company should have taken some independent initiative to phase out the gas roots program. We believe the answer is yes. Gas roots has proved to be a costly marketing experiment to firm customers and, unfortunately for those on it, will have to be terminated. This termination is required in spite of the fact the Commission, as expressed in its Report and Order No. 15,901, had hoped all the roots customers could be hooked to the distribution system, which it turns out is not going to happen. It is now known from the information provided by the Company in this docket that such a solution is not feasible without further substantial long term subsidies from firm customers in the form of interest rates and other costs to support expensive construction. Basically we find it would cost almost $1,000,000 to extend the necessary mains whereas the 37 roots customers to be phased out meet a net revenue test that would only substantiate a $47,500 capital investment by the Company. At what point the Company should have pursued a more vigorous course is not clear. The forty plus customers added to the system in 1982 should have been added earlier. These additions are found to be permanently related to Commission action.

The Commission is now faced with a problem significantly greater in proportion than the one in 1977. While we find fault with the Company as to the cause of this problem we must also recognize that their proposed corrective action with a few modifications is reasonable.

[3] The Company will be required to take the following actions:

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1. Within one year from the date of this Order undertake *and* complete an extensive marketing study to see if new customers could be added to the distribution system that would improve the economics of connecting these customers.

2. For those gas roots customers found by the aforementioned study to

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be incapable of connection, the Company is instructed to gradually increase the rates of these customers by a portion of the differential between propane and natural gas over a period of four years. Four years from May 1, 1983 those gas roots customers presently in existence who have not been connected to the system or sold their establishment are to be paying rates totally based on propane. This can be achieved either by servicing the customers through Northern Utilities or by allowing these customers to be served by a local propane business.

3. If at any time within the aforementioned four year period the cost differential between the cost of propane and the overall cost of Northern Utilities' gas is eliminated or less than 5%, those remaining gas roots customers after 45 days notice are to be disconnected and thus be serviced by local propane dealers.

4. Northern Utilities or its assigns are strictly prohibited from offering gas roots programs or the like in the future absent specific Commission approval and only after formal notice and hearing.

5. The Company, in undertaking its marketing study is to make a reasonable attempt to connect as many of these gas roots customers as possible and all close judgment calls are to be decided in favor of connection to the system.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the five measures required within the Report are adopted and hereby required of Northern Utilities, Inc.; and it is

FURTHER ORDERED, that the differential in rates disallowed in the noticed hearings are now to be collected in the next corresponding summer and winter periods with the exception that the cost differential related to the incorrectly connected ten (10) customers remains disallowed; and it is

FURTHER ORDERED, that the aforementioned disallowed costs are to be booked below the line and demonstrated as such to the finance director.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of April, 1983.

FOOTNOTES

[1]Exhibit 3.

[2]Exhibit 4.

[3]Exhibit 4.

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NH.PUC*04/15/83*[79624]*68 NH PUC 211*Gas Utilities

[Go to End of 79624]

Re Gas Utilities

Intervenors: Northern Utilities, Inc., Manchester Gas Company, and Gas Service, Inc.

DR 80-29, Third Supplemental Order No. 16,352

68 NH PUC 211

New Hampshire Public Utilities Commission

April 15, 1983

MOTION to expand the circumstances for permitting interruptible gas service; granted.

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1. RATES, § 380 — Gas — Special factors — Interruptible rates — Surplus supply.

[N.H.] Interruptible sales should be allowed not only when a pipeline company has a surplus but also when another distribution company or new supply project has a surplus, as it is not more beneficial to customers for such surplus gas to be stored for later use. p. 211.

2. RATES, § 380 — Gas — Special factors — Interruptible rates — Gross sales margin.

[N.H.] In looking at the treatment of the positive gross sales margin from interruptible sales, the commission stated that the positive gross margin would be applied to a gas adjustment only subsequent to removal in the next rate case for utilities already including it in rate base. p. 212.

APPEARANCES: Eaton W. Tarbell, Jr., for Northern Utilities, Inc.; and David Marshall on behalf of Manchester Gas Company and Gas Service, Inc.

BY THE COMMISSION:

REPORT

Subsequent to the Commission Report and Supplemental Order No. 16,010 (67 NH PUC 854) in the above captioned matter, Northern Utilities, Inc., (Northern) filed a Motion for Rehearing pursuant to RSA 541-3. In granting a hearing the Commission simultaneously established a hearing date of March 4, 1983. A hearing was duly held on that date.

Three concerns were raised in the Motion. One issue is moot: Northern's concern about meeting a deadline for filing a gas supply and demand forecast. That forecast has now been filed. As to the other two concerns: the first addresses expanding the category of "proper

circumstances", a term used in the Report in question, to allow greater leeway for interruptible sales; the second seeks clarification, or alternatively revision, as to when a positive gross margin on interruptible sales must be credited to the gas adjustment. More specifically, the second concern asks whether the credit applies immediately to the winter gas adjustment or only after the next rate case.

[1] At the rehearing, Mr. Charles T. Ellis, Vice President and Director of Northern, expressed his opinion

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that Order No. 16,010 was too restrictive regarding interruptible sales. He believes two additional situations justify interruptible sales. And it does appear upon reviewing his testimony that both situations do meet the Commission's criteria that interruptible sales not be subsidized by firm customers, and of equal importance, do benefit firm customers. Mr. Ellis' first situation envisions a surplus accruing from a source other than a pipeline company, e.g. another gas distribution company. Where this type of surplus is available the Commission believes it appropriate for management to avail itself of such an opportunity. It is implicit in our finding that it is not more beneficial to firm customers that the gas be stored for later use. The second kind of surplus mentioned could conceivably result from new gas supply projects. Mr. Ellis explains development projects may need participants to make long term commitments for specific contractual volumes for the duration of a particular project; volumes that could well exceed demand at times. Unlike the first situation, the Commission has already addressed this likelihood at page 5 of its Report where the Commission found as a " ... proper circumstance ... that ... surplus gas be created as the inevitable and innocent result of design year purchase commitments differing from actual needs ... ". (67 NH PUC at p. 857.) Development project commitments are simply another way of meeting design needs. It is, of course, always a legitimate question for any given purchase or series of purchases as to reasonableness, a question that cannot be answered until the facts of any given situation are before us. Nonetheless, it is our opinion that where a contract commitment is a reasonable approach to meet future design requirements, resulting interruptible sales are consistent with the requirements of Order No. 16,010.

[2] We next turn our attention to that part of the Motion which expresses concern over treatment of the positive gross sales margin from interruptible sales. It is Northern's contention its gross margin has already been accounted for in base rates so that to also include it in the winter period gas adjustment would result in confiscation leaving an overall return below that found appropriate by the Commission. However, Northern does not challenge the validity or preferability of using the gas adjustment as a vehicle to account for the interruptible sales margin. It is simply their recommendation that the Commission delay implementing use of the gas adjustment approach until the margin is eliminated from base rate in its next rate case. Thereafter it would be included in the gas adjustments. In support of Northern's position, Mr. Mattaini testified on behalf of Manchester Gas Co. and Gas Service, Inc. agreeing in principle that the gross margin should be applied to the gas adjustment after the next rate case but further stating it was his understanding the Commission never intended any other result. Mr. Mattaini is correct. It is intended by the Commission that the positive gross margin be applied to the gas

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adjustment only subsequent to removal in the next rate case for utilities already including it in base rates.

A final observation. Since the volume of interruptible sales included in rate base appears to be considerably

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greater than anticipated future sales, waiting until the next rate case to implement a gas adjustment treatment of the gross margin will not work a hardship on firm ratepayers. Of course, if the relative volumes change radically the situation may need to be re-examined. Since Northern has filed a general rate case, this problem should not develop in their case in any event.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Based upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that interruptible sales are appropriate and permissible, where surplus gas is available as a result of offerings by other than the pipeline company, and also where a short-term gas surplus is created by the Company entering long-term development contracts to meet expanding long-term requirements wherein annual purchases over the entire contract period are set at a reasonable level; and it is

FURTHER ORDERED, that the positive gross margin on interruptible sales shall be included in the gas adjustment forthwith unless presently included in base rates in which event it shall be included in the gas adjustment after the next rate case.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of April, 1983.

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NH.PUC*04/18/83*[79625]*68 NH PUC 213*Public Service Company of New Hampshire

[Go to End of 79625]

Re Public Service Company of New Hampshire

Intervenors: New England Power Company, Central Maine Power Company, Bangor Hydro Electric Company, Northeast Utilities, New Hampshire Electric Cooperative, Inc., Canal Electric Company, Fitchburg Gas and Electric Company, Central Vermont Public Service Corporation, Connecticut Valley Electric Company, Inc., and United Illuminating Company

DF 83-57, Third Supplemental Order No. 16,354

68 NH PUC 213

New Hampshire Public Utilities Commission

April 18, 1983

ORDER declining to direct all partners in a nuclear power project to be parties in a long-term

note issuance proceeding.

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APPEARANCES as Parties: Frederick J. Coolbroth and Pierre Cameron for Public Service Company of New Hampshire; Larry M. Smukler for staff.

Limited Appearances: Michael Flynn for New England Power Company; Dom S. D'Ambruoso for Central Maine Power Company and Bangor Hydro Electric Company; John B. Keane for Northeast Utilities; William Bargle for New Hampshire Electric Cooperative, Inc.; Franklin Hundley for Canal Electric Company; Paul F. Connolly for Fitchburg Gas and Electric Company; Joseph Kraus for Central Vermont Public Service Corporation and Connecticut Valley Electric Company, Inc.; and Mary Ellen Manthey for United Illuminating Company.

BY THE COMMISSION:

Opinion by LOVE, chairman: The Commission will proceed with hearings in this docket on April 21, 1983 at 1:00 p.m. at the offices of the Commission. Additional hearings are reserved for 9:00 a.m. on April 22, 1983 and 9:00 a.m. on April 26, 1983.

The Commission has been presented with the question of whether or not to require the other Seabrook owners to be parties to this docket. All have expressed the position that they cannot be required to be parties. Rather, all have requested limited appearance status. All that have appeared have agreed to provide answers to the Commission's questions raised in our initial Report and Order.

Upon review the Commission would note that it has actively sought to have the other owners present to express whatever concerns they have related to this financing so that we might take those concerns into account. Since the other partners either refuse to appear or appear only in a limited appearance fashion, the Commission must accept that this is how they wish, to have their views presented. Any written comments from any Seabrook partners as to their concerns or in response to the Commission questions must be submitted by April 26, 1983 at noon at the Commission. The Commission will not order any of the Seabrook partners to be parties. The Commission will hear from Public Service Company of New Hampshire's only witness Bayless on April 21, 1983 at 1:00 p.m.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that a hearing will be held at 1:00 p.m. on April 21, 1983; and it is

FURTHER ORDERED, that additional hearings are reserved for April 22, 1983 and April 26, 1983 at 9:00 a.m.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of April, 1983.

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[Go to End of 79626]

Re Public Service Company of New Hampshire

DF 83-57, Fourth Supplemental Order No. 16,355

68 NH PUC 215

New Hampshire Public Utilities Commission

April 19, 1983

ORDER marking filed agreements, contracts, and memoranda as part of the record in an electric company's docket.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, the Commission requested that all agreements, contracts and memorandums of understanding between United Engineers and Constructors, Inc. and Public Service Company of New Hampshire be filed with the Commission in this docket; and

WHEREAS, Public Service Company of New Hampshire filed said documents; it is hereby

ORDERED, that all agreements, contract arrangements and memorandums between Public Service Company of New Hampshire and United Engineers and Constructors, Inc. that were filed in this docket be marked as Exhibit 7 in this docket; and it is

FURTHER ORDERED, that those same set of documents without the key monetary terms are marked as Exhibit 8 in this docket; and it is

FURTHER ORDERED, that both sets of documents are part of the public record.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of April, 1983.

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[Go to End of 79627]

Re Lifeline Rates

Intervenors: Public Service Company of New Hampshire, Granite State Electric Company, Concord Electric Company, Exeter and Hampton Electric Company, Community Action Program, New Hampshire People's Alliance, Office of Consumer Advocate, and Volunteers Organized in Community Education

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DP 80-260, 17th Supplemental Order No. 16,356

68 NH PUC 216

New Hampshire Public Utilities Commission

April 20, 1983

INVESTIGATION into the reasonableness of electric lifeline rates and minimum essential usage levels.

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1. RATES, § 125 — Reasonableness — Ability to pay — Lifeline rates — Minimum usage level.

[N.H.] In establishing threshold levels of consumption for lifeline rates, the commission determined that 250 kilowatt-hours should be used to reflect minimum essential usage rather than the recommended 200 kilowatt-hours, finding that a cooking allowance should be included given the high saturation of electric ranges in the state. .Pg p. 221.

2. RATES, § 125 — Reasonableness — Ability to pay — Lifeline rates — Protective measures.

[N.H.] The commission refused to adopt any particular mechanism for protecting lifeline rates from increases, saying that such measures must be decided on a case-by-case basis. p. 222.

3. RATES, § 278 — Block rates — Inverted blocks — Lifeline rates — Burden on certain customers.

[N.H.] Although finding that current lifeline rates do not burden space and water heating customers, the commission felt that a two-block inverted rate structure could hurt such customers, and it therefore ordered a three-block structure that might be able to better distinguish between usage that is for heating and is essential and usage that is for power and light and is discretionary. p. 222.

APPEARANCES: Debbie-Ann Sklar for Public Service Company of New Hampshire; Michael Flynn for Granite State Electric Company; Dom S. D'Ambruoso and Michael Lenehan for Concord Electric Company, Warren Nighswander and Peter Stulgis for Exeter and Hampton Electric Company; Gerald Eaton for Community Action Program; Alan Linder for Volunteers Organized in Community Service (VOICE); F. Joseph Gentili, commission Consumer Advocate.

Limited Appearance: New Hampshire People's Alliance.

BY THE COMMISSION:

Opinion by AESCHLIMAN, commissioner:

I. *PROCEDURAL HISTORY*

Section 114 of the Public Utilities Regulatory Policy Act of 1978

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(PURPA) required that within two years after enactment of the Act, state regulatory commissions should determine, after an evidentiary hearing, whether a lower rate far essential needs of residential consumers should be implemented. This docket was opened pursuant to that mandate, and following evidentiary hearings the Commission issued Report and Order No. 14,878 on April 30, 1981.

This Report summarized the Commission's findings and set forth the legal basis for the adoption of a lifeline rate in New Hampshire. The Commission chose a non-targeted rate for all residential customers, and set the level of usage to which this rate applied at 200 KWH per month. The Order further indicated that additional hearings would be held to consider the implementation of this lifeline rate by each of the utilities.

In the Fall of 1981 the Commission Staff, the electric utilities and the consumer intervenors took part in negotiations relative to the implementation of the lifeline order on a utility-by-utility basis. Agreement was reached among all of the parties except VOICE. On November 27, 1981 VOICE filed a motion for rehearing and for further lifeline hearings.

The Commission determined that VOICE'S motion had not been filed in a timely fashion, and that the Commission's actions had met or exceeded the requirements of Section 114 of PURPA. However, the Commission determined that certain issues merited further investigation and under its authority to conduct independent investigations the Commission ordered new hearings on the following questions:

> 1. Whether the 200 KWH usage level adequately reflects minimum essential usage; 2. Whether it is feasible to provide protection against future rate increases for the lifeline block, and if so, the extent to which the Commission should provide such protection; 3. Whether the current lifeline rates burden electric space heating and water heating customers and whether there is a means to minimize any such burden; and 4. Whether the lifeline rates filed by the utilities are adequate.

At a procedural hearing the Commission clarified the fourth question for the parties. The Commission intent was that adequacy would be determined based upon Commission resolution of the first three issues.

II. *POSITION OF THE PARTIES*

A. Adequacy of the 200 KWH Usage Level

Public Service Company believes that the 200 KWH usage level adequately reflects minimum essential usage. The Company proposes the following definition of minimum essential usage.

> Minimum essential usage is that usage of electric energy for which no practical or safe alternative fuel or energy source may be used for lighting and powering of appliances where lack of such use would constitute a threat to life, health or safety.

Although PSNH did not apply the definition to end uses to determine a specific figure, the Company provides an

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analysis of the presentations by Staff and other parties which it believes confirms the adequacy of the 200 KWH lifeline block.

VOICE and CAP present testimony supporting a lifeline block of 300 KWH as a minimum. Both parties contend that the 300 KWH level is below minimum essential needs which were found to be in the 350 — 400 KWH range. VOICE cites a number of other States and jurisdictions which have set minimum essential usage above 200 KWH. In Mr. Deziel's testimony CAP presents a table listing what it believes to be minimum essential uses together with an average monthly KWH usage which totals to 381 KWH.

Both CAP and VOICE stress the importance of setting the lifeline block at a level which is achievable for a significant number of customers. They point out that a level of usage which is not attainable may be viewed negatively by consumers and may hinder the conservation goal.

VOICE stresses the importance of the level of the break-even point and believes that this should be considered in conjunction with setting the lifeline level.[1] VOICE stresses the importance of ensuring that the breakeven point is placed in the upper range of average usage bills. CAP also addresses this point. Because this is a rate design question relating to how the lifeline discount will be recovered it is discussed in further detail in regard to question (3).

Staff offers the following definition of minimum essential usage.

> Essential electric usage is the usage of electric energy, for which no alternative fuel may be used or for which an alternative fuel is not readily available or safe to use, for lighting and powering of appliances, where lack of such use consistutes a highly common element of modern life.

Mrs. Braiterman explains that this definition specifically protects the other rate making goals of economic efficiency and conservation. Based upon this definition Mrs. Braiterman first estimated monthly essential electric usage at 189 KWH (Exhibit 25, Schedule III) and adopted a final recommended range of 157-210 KWH month (Exhibit 25, Schedule VI). Concord Electric Company supported Mrs. Braiterman's analysis.

Staff testimony also provides figures showing the change in typical household usage between 1950 and 1970. Typical monthly usage was 150 KWH in 1950 and had quadrupled by 1970. Staff suggested that this may provide some indication of essential usage, even though consumers may not easily accept this definition in view of current typical usage levels.

B. Feasibility of Protecting the Lifeline Block Against Future Rate Increases

PSNH takes the position that any mechanism (whether % differential or total freeze) to protect the lifeline block will increase the revenue loss associated with lifeline rates and increase the burden on those who must make up the revenue loss. PSNH believes the result of such protection

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would be discriminatory rates, and rates for some customers so far in excess of costs that they would likely be found unreasonable.

The Staff recommended that each case and each utility be individually evaluated. Mrs.

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Braiterman concluded that special protection should not be provided and that it would discriminate among users violating the ratemaking goal of equity. (Exhibit 25, p. 17)

Concord Electric Company supported the position taken by Staff and PSNH.

VOICE supports protections against future rate increases, and cites examples of protections offered in other States. VOICE witness Sterzinger suggests such possibilities as allocating the most cost efficient generation unit to basic residential usage. (Exhibit 15, p. 17) However, he also agrees with a case by case approach because of differences among utilities. (Exhibit 15, p. 18)

CAP joined VOICE in supporting the need for protection against future rate increases. CAP witness Deziel suggested the possibility of maintaining a required percentage discount between the lifeline and other blocks.

C. Whether the Current Lifeline Rates Burden Electric Space Heating and Water Heating Customers

PSNH testified that its current lifeline rate is designed so that space and water heating customers are not burdened. PSNH believes a so-called "humped-backed" rate structure is necessary to prevent burdening large users who have made substantial investments, especially in electric heating equipment. PSNH's testimony and exhibits emphasize the larger proportionate rate increases that have been experienced by QR water heating customers and space heating customers in relation to power and light customers.

Staff concludes that insofar as lifeline rates require a shift of revenues, electric space and water heating customers are not more burdened than any other user. Mrs. Braiterman also points out that while space and water heating are essential uses, they are not essential *electric* uses, and that the Staff recommendations are designed not to bias consumer choices where cross-substitution among fuels may be undertaken. Consequently, Staff concludes from this analysis that electric space and water heating customers are no more burdened by a lifeline revenue shift than any other user. (Exhibit 25, p. 15, 16)

Concord Electric agrees with Mrs. Braiterman's analysis. However, the Company nevertheless avocated a humped-back rate structure, and has a tariff similar to PSNH's which recovers the lifeline revenues over the 200 - 500 KWH block.

VOICE states that as a general principle the lifeline reduction should be made up by an equal increase to all other residential KWHs. VOICE's prefiled testimony notes that higher use customers, including space and water heating customers, should pay as well as lower use customers. (Exhibit 14, p. 6) VOICE witness Sterzinger points out that any burdening of space and water heating customers can be lessened by special tariffs. However, VOICE does not support special rates for *new* heating customers. VOICE particularly stresses the

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point that a humped-back rate with revenue recovery limited to use between 201 to 500 KWH results in exempting all discretionary use, including high power and light use. Mr. Sterzinger points out that such a rate structure means that the reduction and increase are confined to basic usage, undermining the goal of lowering rates for basic usage and defeating the goal of

raising rates for discretionary usage.

CAP also supports recovery of the lifeline revenues over all other KWH usage levels within the residential class. Mr. Eaton concludes in his brief that the inverted rate will provide more benefits to low income customers than the humped-back rate and that customers can be more readily understand a two block rate. (p. 9) However, CAP's analysis recognizes problems with either method of recovery. With the inverted rate, Mr. Eaton recognizes that some burden may be placed on water and space heating customers, although he concludes the burden "does not have to be unreasonable." (p. 8) If the Commission should adopt a humped-back method of recovery, CAP supports increasing the middle block to 300 KWH to 700 KWH.

D. Additional Comments

Granite State Electric Company submitted testimony which indicated that the 200 KWH lifeline tariff was workable from a rate design point of view, but urged caution in increasing the level because there had been little experience with the existing lifeline tariffs. Granite State's comments relative to questions (2) and (3) were similar to Staff's.

The New Hampshire People's Allicance supported a lifeline block of 400-500 KWH and a break-even point between 700 to 900 KWH. NHPA witnesses also opposed the hump-back rate structure, and supported replacing the customer charge with a minimum monthly bill.

III. *COMMISSION ANALYSIS*

The Commission has found the resolution of the issues raised in this docket to be particularly difficult because of the different and sometimes competing ratemaking objectives which must be considered. The PURPA mandate in requiring consideration of "a lower rate for essential needs of residential electric customers" specifically established a goal of "affordability" in relation to the provision of essential electric usage.

The Commission found in Report and Order No. 14,872 issued on April 30, 1981 that "some form of lifeline rates should be adopted to reflect consideration for basic levels of service". (66 NH PUC 166, 171.) The Commission recognized that increasing electric prices were becoming a hardship for families with even what might be termed adequate income, and that without some measure increasing numbers of families will be unable to afford the basic level of electricity usage. The Commission reaffirms those basic findings.

In considering the expansion of lifeline benefits, however, the Commission must weigh the effect on the other ratemaking objectives of economic efficiency, conservation and equity. Economic efficiency requires that rates reflect

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marginal costs, inasmuch as it is possible to determine those costs, so that the proper price signals are sent to consumers. Where there exists competition in the end-use markets for energy, improper pricing interferes with competitive markets. Likewise, pricing electricity below cost where consumption is elastic results in increased consumption interfering with the goal of conservation. However, the conservation goal should not be viewed solely by focusing on one rate block but rather by considering the effect of the entire rate structure. Finally, if rates for certain customers are set substantially above costs, the rates may violate the principles of equity

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and be determined to be "unreasonable". Thus, a resolution of the lifeline issues requires a careful balancing of these objectives in a manner which does not interfere with other dockets and decisions concerning rate design. And it is from this perspective of balancing the goal of affordability with these other objectives that the Commission has reached its decision on the questions raised.

1. Whether the 200 KWH usage level adequately reflects minimum essential usage?

[1] The Commission will adopt Staff's proposed definition of minimum essential usage. However, in applying this definition, the Commission will make one change from the Staff analysis. Mrs. Braiterman has eliminated any allowance for electric cooking because alternative fuels are available. However, the Commission finds that given the high saturation of electric ranges that an allowance for cooking should be included. Under the Staff definition inclusion could be justified either on the basis that for some customers alternative fuels are not readily available or given the saturation level that is a highly common element of modern life.

On page 10 of her testimony, Mrs. Braiterman notes that the estimation of "essential electric usage" must relate to uses of energy specific to New Hampshire. The Commission notes that Schedule I of Exhibit 25 shows that electric ranges have a substantially higher saturation level in New Hampshire (66.2%) than New England (55.1%) as a whole. Given the high saturation level, the potential for cross-substitution is also lessened.

With this change the Commission finds that 250 KWH more adequately reflects minimum essential usage than the 200 KWH level initially adopted.

The Commission also agrees with VOICE, CAP and Staff that a level that is too low to be achieved by most customers may be viewed negatively. This is an additional compelling argument to include some allowance for cooking given the high saturation of electric ranges. In addition, VOICE makes a valid point in emphasizing the importance of the "break-even" point in conjunction with the level of the lifeline rate. While the lifeline level may not be achievable for many consumers, the break-even point should be set high enough so that basic usage benefits from the lifeline tariff.

The Commission finds that NHPA's proposal of a "break-even" point between 700 to 900 KWH is too high, and a break-even point of 300 to 400 KWH, as in Concord Electric's or PSNH's existing rates, is too low to achieve this goal; the Commission will, therefore, adopt a minimum break-even point of 500 KWH as part of the

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standard of adequacy for lifeline rates. The Commission further finds that providing for all of the recovery in the 201 to 500 KWH block has not been established as a proper allocation procedure. Such treatment means that discretionary power and light usage above 500 KWH per month does not contribute to lifeline.

2. Whether it is feasible to provide protection against future rate increases for the lifeline block, and if so, the extent to which the Commission should provide such protection?

[2] The Commission agrees with PSNH, Staff and Concord Electric that special protection should not be provided to the lifeline block by some mechanism adopted in this docket. In fact,

VOICE witness Sterzinger points out that appropriate protection can really only be determined on a case-by-case basis.

The Commission notes that Mr. Sterzinger suggests that there may be valid cost based reasons supporting protection of the lifeline block. The Commission does not believe that it has adequate information to adopt such conclusions in this docket. However, the Commission would not preclude a cost based demonstration for protection of the lifeline block in other rate design proceedings.

The Commission does think that CAP makes an excellent point in suggesting that where marginal cost revenues exceed the revenue requirement, the "excess" revenue might very properly be applied to the lifeline block. Since this would mean discounting the most inelastic usage, it could provide an appropriate means of promoting the goal of affordability without violating other goals.

3. Whether the current lifeline rates burden electric space heating and water heating customers and whether there is a means to minimize any such burden?

[3] The Commission believes that the present lifeline tariffs do not burden space and water heating customers. The Commission also agrees with CAP that there is no easy means of identifying which usage is power and light usage, and which is space heating. While the Commission believes that adoption of a two-block inverted rate structure could unfairly burden space heating customers[2], of the utilities currently using the "humped" recovery approach, the humped rates of PSNH and Concord have too low a recovery level. As noted earlier, this results in a low break-even point and exempts high power and light usage from carrying their fair shares.

In theory, the Commission agrees with Mrs. Braiterman that insofar as lifeline rates require a shift of revenues that electric space and water heating customers are not more burdened than any other users.[3] The practical difficulty is that entirely eliminating the humped recovery method tends to increase bills for customers with space heating by a higher percentage. The Commission has already adopted price changes bringing space and water heating customers more in line with costs which have resulted in higher relative

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prices for these users. Consequently, the Commission does not wish to substantially impact large customers even further by lifeline rate structure changes.

The Commission believes that a fair resolution to this dilemma is a three block structure with the size of the middle block increased for those utilities currently using a humped recovery, and no change beyond increasing the lifeline block for those utilities with the inverted rate form. The Commission finds that the humped rate block should extend to at least 700 KWH and to no more than 1000 KWH, a range that reflects the higher levels of discretionary power and light usage.

4. Whether the lifeline rates filed by the utilities are adequate?

The Commission has described above the general standards that define an adequate lifeline rate. Based on those standards, the Commission finds that the current lifeline tariffs are no longer adequate. In particular, the following standards of adequacy must be met:

-250 KWH initial lifeline block -500 KWH minimum break-even point -humped rate block ending between 700 and 1000 for utilities currently using a humped lifeline rate. -continued use of inverted rates for those utilities currently using an inverted lifeline rate.

The Commission will order the utilities to file new tariff pages that incorporate lifeline rates that meet these standards. The rate level of the lifeline block and the corresponding benefits to customers currently using less than 200 KWH per month will remain unchanged pending possible review in each utilities next rate proceeding.

The tariff submission will be judged against the above standards, and, if they comply, will be placed into effect without further order of this Commission.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report which is made a part hereof; it is hereby

ORDERED, that Concord Electric Co.; Exeter and Hampton Electric Co.; Public Service Company of New Hampshire; Connecticut Valley Electric Co.; and Granite State Electric Co. file revised tariff pages amending the currently effective lifeline rates for domestic service in accordance with the terms set forth in the foregoing Report; and it is

FURTHER ORDERED, that such filings shall be made on or before May 15, 1983 for effect on all bills rendered on or after June 1, 1983.

By Order of the Public Utilities Commission of New Hampshire this twentieth day of April, 1983.

MCQUADE, commissioner, dissenting: The value to the people of New Hampshire of the lifeline rates is well established and accepted. The people of our State are well known for their compassion and support of those people who are less fortunate, even though an added burden may be placed on them that they can ill afford.

The workable and acceptable lifeline

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rate of 200 KWH that reflects a further declining discount up to 400 KWH should be left in place. Expansion of the lifeline into an area that does not protect against the threat of life, health and safety is an unnecessary financial burden upon another group or class of customers.

The Public Utilities Commission has worked diligently to flatten out the electric rates so that all customers are more fairly treated. This change has been well established and accepted. To change the system by expansion of lifeline rates may create a special class of customer that defeats the goal of fixing rates to reflect the proper cost of service.

Staff study shows that essential needs continue to be about 200 KWH or under. The present lifeline rate has been accepted by all ratepayers. Expansion may create a burden to remaining customers that may be unmeasureable and unjust to those low income large families and elderly persons with high usage who have to pay to subsidize the lifeline rate.

Certainly the decision in this docket is a heavy one recognizing the desire of the people of all

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levels of income to assist all customers to acquire basic electric service. However, expansion of lifeline unreasonably could be interpreted that the Public Utilities Commission is entering the social agency field instead of being a regulatory body as defined by our legislature.

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NH.PUC*04/21/83*[79628]*68 NH PUC 224*Hudson Water Company

[Go to End of 79628]

Re Hudson Water Company

DR 82-253, Fourth Supplemental Order No. 16,362

68 NH PUC 224

New Hampshire Public Utilities Commission

April 21, 1983

ORDER authorizing increased water rates including those for fire protection.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, a primary concern in the Report and Order No. 16,299 (68 NH PUC 156) was the goal of approaching revenue requirements for general service customers of all Hudson Water Company systems that recover the cost of service on each system; and

WHEREAS, Order No. 16,334 (68 NH PUC 197) stated that the revenue requirement, of Order No. 16,299, allocated to fire protection shall remain unchanged from that derived under rate schedules in 14th Revised Page 19 and 5th Revised Page 21 of tariff NHPUC No. 7; and

WHEREAS, not applying any increase in the revenue allocation to fire protection will lead to further distortion

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in cost of service recovery in the Town of Hudson; it is

ORDERED, that Order No. 16,334 dated April 7, 1983, is hereby rescinded; and it is

FURTHER ORDERED, that all rate schedules on the Hudson system, i.e.: tariff NHPUC No. 7 — Water, General Metered Service, Municipal Fire Protection — Hudson, and Private Fire Protection shall be increased by 13.167%.

By Order of the Public Utilities Commission of New Hampshire this twenty-first day of April, 1983.

FOOTNOTES

[1]The break-even point is the point below which customers continue to save from the lifeline

discount even though their total usage exceeds the lifetime level.

[2] While some tail block increases may prove to be consistent with the marginal cost study findings, the Commission does not have information in this docket to support that conclusion.

[3] This finding specifically applies to those utilities with inverted lifeline rates and is supported specifically for Granite State in the testimony of Mr. McDade.

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NH.PUC*04/21/83*[79629]*68 NH PUC 225*Rule Making — Late Payment Charges

[Go to End of 79629]

Re Rule Making — Late Payment Charges

DRM 83-67, Order No. 16,363

68 NH PUC 225

New Hampshire Public Utilities Commission

April 21, 1983

ORDER rejecting proposed rule on late payment charges.

BY THE COMMISSION:

ORDER

WHEREAS, the Commission has reviewed the comments filed in regard to late payment charges; and

WHEREAS, the Commission has determined based upon this review that the rule as proposed does not properly address the concerns of the Commission; it is hereby

ORDERED, that the proposed rule is rejected, and this docket is closed.

By Order of the Public Utilities Commission of New Hampshire this twenty-first day of April, 1983.

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NH.PUC*04/21/83*[79630]*68 NH PUC 226*Public Service Company of New Hampshire

[Go to End of 79630]

Re Public Service Company of New Hampshire

DR 82-373, Third Supplemental Order No. 16,364

68 NH PUC 226

New Hampshire Public Utilities Commission

April 21, 1983

ORDER requiring an electric company to make reparation to its customers following a successful tax appeal.

REPARATION, § 41 — Period of reparation — Tax overcollections — Upon refund by state.

[N.H.] Where an electric company had successfully challenged a state tax on allowance for funds used during construction income and was due a refund from the state, the commission said that such amounts need not be refunded to customers until actually received from the state, but that overcollections made in case the challenge was unsuccessful should be repaid immediately since the company has had continuous use of the funds, the state never received any portion of those funds, and there would be no impediment to immediate repayment of these amounts.

BY THE COMMISSION:

Opinion by LOVE, chairman: On December 17, 1982 Public Service Company of New Hampshire (PSNH) petitioned this Commission to establish a docket which had as its primary purpose a return of money to consumers resulting from PSNH's successful appeal of the State tax on AFUDC income. This tax was declared unconstitutional by the New Hampshire Supreme Court in October of 1982.

The refund in question relates to two distinct time frames. One time frame consists of 1979 and 1980 in which PSNH made franchise payments to the State. The second time frame reflects periods in 1981 and 1982 during which customers contributed to portions of PSNH's potential franchise tax liability, but due to an agreement between the State of New Hampshire and PSNH, PSNH withheld franchise tax payments pending the outcome of the Supreme Court appeal.

A hearing was held on April 21, 1983. At that time PSNH increased the amount of refund it said was due customers from its initial filing. Deliberations with Staff led to a slightly higher number. The number $6,902,459 has been agreed upon by the Staff and PSNH as the reasonable refund in so far as principal is concerned. Upon review, the Commission finds this settlement to be reasonable. The next question is the level of interest. This level is affected by certain factors which include the date customers receive the money and the rate of interest charged. PSNH proposes an interest rate between 10.71 and 11.29% on refund of amounts not paid to the State. On refund of the amounts paid

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to the State, PSNH proposes to pass through to customers interest at the same rate to be paid by the State, i.e., 10%. For purposes of this proceeding, we find this range of interest to be reasonable.

The only remaining question is when this money should be returned to customers. PSNH proposes a refund period beginning August 1, 1983 through November 30, 1983. After listening

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to the testimony, the Commission finds this time period unacceptable. We agree with PSNH that the refund of the customer portion of the money paid by PSNH to the State should await the actual receipt of this money from the State providing that said receipt occurs some time in 1983. The customer portion of the money paid to the State, which is due to be returned PSNH customers is in the vicinity of two million dollars. However, the larger percentage of the refund, nearly six million dollars, is customer contribution toward PSNH's potential franchise tax liability that PSNH has had the use of, in some instances since 1981, in some instances since 1983, and in all instances since October of 1982. Nearly six months has passed since the Supreme Court found the law unconstitutional. Rates based on an unconstitutional law are unreasonable. The sooner this situation is corrected the more reasonable the rates charged consumers become. The nearly $6 million associated with the rate payer payments that were never forwarded to the State consists of nearly $2,300,000 in 1981 and another three million dollars in 1982.

The customers, in good faith, paid this money because, they, PSNH and the Commission all believed that said funds would be necessary for payment to the State of New Hampshire in the event PSNH's challenge to the tax did not succeed. The decision by the Supreme Court has altered that situation and it is now important that customers be returned their money as quickly as possible. The Commission will require that PSNH file tariff pages effective May 1, 1983 to return the appropriate level of refund, approximately six million dollars, to customers during the month of May. This number is to reflect the principal refund agreed to by Staff and PSNH plus the method advocated by PSNH as to interest minus the principal and interest shown on Exhibit B Attachment 3 page 2 of 3 that remains owed Public Service Company by the State. The nearly six million dollars is to be refunded on a per kilowatt hour basis as is the remaining two million dollars when it is received from the State during 1983. PSNH will be required to reconcile these two separate refund adjustments prior to sending bills for the month of January 1983.

The Commission applauds the efforts of PSNH in challenging this tax. The Commission appreciates the savings this means to PSNH's customers, both because of the refunds ordered pursuant to this docket and the minimization of future rate increases resulting from this action.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the tariff pages

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filed in this docket are hereby rejected; and it is

FURTHER ORDERED, that Public Service Company of New Hampshire file revised tariff pages for effect May 1, 1983 refunding the nearly six million dollars in overcollections on a per kilowatt hour basis; and it is

FURTHER ORDERED, that when Public Service Company of New Hampshire receives the remaining two million dollars from the State of New Hampshire it is to be returned to customers beginning the first of the month after said receipt.

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By order of the Public Utilities Commission of New Hampshire this twenty-first day of April, 1983.

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NH.PUC*04/26/83*[79631]*68 NH PUC 228*William Hall et al. v. Mountain Springs Water Company

[Go to End of 79631]

William Hall et al. v. Mountain Springs Water Company

DC 82-340, Third Supplemental Order No. 16,368

68 NH PUC 228

New Hampshire Public Utilities Commission

April 26, 1983

ORDER requiring water utility to reconnect service to customer with discussion of correct billing treatment of refunds.

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1. PAYMENT, § 45 — Denial of service — Disputed bill.

[N.H.] The letter and spirit of utility regulation was to maintain customer service while a billing dispute was pending; therefore, termination of service was improper where the customer had filed a complaint with the commission and the company did not dispute that the customer was owed money. p. 229.

2. REPARATION, § 39 — Method of payment — Generally — Setoff against bill.

[N.H.] Although a refund was owed to customers, it was unreasonable to permit customers to collect those funds simply by failing to pay a portion of their residential bill. p. 230.

APPEARANCES: Myers and Laufer by Daniel A. Laufer for Mountain Springs Water Company; William and Rosemary Hall, pro se.

BY THE COMMISSION:

REPORT

This is a customer complaint involving a water bill. William and Rosemary Hall (customers) own three lots plus a residence in the service territory of Mountain Springs Water Company (Company). Pursuant to its policy the Company billed the customers

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for a standby fee of $180 on the three lots ($60 per lot) plus regular water usage at the residence. Subsequently, the New Hampshire Public Utilities Commission (Commission)

lowered the standby fee to $10 per lot. Re Mountain Springs Water Co. (1981) 66 NH PUC 487. In addition, the New Hampshire Supreme Court, in Richter v Mountain Springs Water Co., Inc. (1982) 122 NH 850, held that the Company was not entitled to collect standby fees which exceeded certain covenants running with the land of certain lots within the Company's service territory. The Company was ordered to refund the excess. As a result of these developments, the customers deducted $150 from their residential water bill. That amount represents the difference between the $180 billed in standby fees and the amount permitted to be billed under the Company's duly filed tariffs.

The Company took the position that the deducted amount was due and owing and issued a termination notice for December 1, 1982. The customers filed a complaint with the Commission and, on December 1, 1982, the Commission issued Order No. 16,020 which set a January 12, 1983 hearing date and provided that service shall not be terminated pending the disposition of the dispute. The Company did in fact terminate service on December 1, 1982 and, thus, the Commission issued Supplemental Order No. 16,025 (December 2, 1982) which set a hearing on December 3, 1982 in order for the Company to show cause why it should not immediately reconnect service in compliance with the Commission's Order and/or be fined. That hearing was held as scheduled, resulting in Report and Second Supplemental Order No. 16,028 (December 3, 1982) which ordered *inter alia* the restoration of service to the customers pending resolution of the dispute by the Commission. The Commission was notified of the Company's intent to refuse to comply with Second Supplemental Order No. 16,028 and, accordingly referred the matter to the Attorney General for enforcement. After meeting with the Attorney General, the Company agreed to restore service pending resolution of the dispute.

This complaint presents two issues. The first is whether the Company acted properly in terminating service and refusing to promptly restore service after being notified that a complaint had been filed with the Commission. The second issue involves the merits of the dispute: whether the customers may be permitted to apply prospective standby refunds to their residential water service.

TERMINATION OF SERVICE

[1] It is clear that the letter and spirit of our regulations is to maintain customer service while a billing dispute is pending. Customers simply cannot be put in the position of having to complain at their peril; risking a period of time without necessary service while a dispute is resolved. So long as undisputed bills continue to be paid, service should continue to be provided until the Commission has had an opportunity to resolve the complaint. Thus, our regulations provide in applicable part that service may only be discontinued when: "[t]he customer has failed to pay within a reasonable time

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any proper undisputed bill or deposit request." PUC 603.08 (a)(2)a.1.i. In addition, when a complaint is brought to the Commission anytime before the third day after a conference between the customer and the utility, the utility must continue service pending the final decision of the Commission. PUC 603.08 (a)(5).

In this case, the record reflects that the customer filed a written complaint with the

Commission and that the Company had notice of the complaint (January 12, 1983 Tr. at 16). The complaint was certainly colorable in that the Company does not dispute that the disputed amount must ultimately be paid to the customer. Thus, termination was improper and any refusal to restore service pending the resolution of the complaint was also improper. Accordingly, we will prohibit collection of any service restoration charge and any interest on disputed funds that may be owed to the Company. However, since the Company did arrive at an agreement with the Attorney General which provided for a restoration of service pending Commission resolution of the dispute, we will take no further action against the Company.

APPLICATION OF STANDBY FUNDS TO RESIDENTIAL SERVICE

[2] The merits of this dispute involve the application of standby payments to the customers' residential account. The Company agrees that at some point the standby funds must be repaid to the customers, but does not agree that the customers may collect those funds simply by failing to pay a portion of their residential bill. The Company rests its position on two arguments. The first argument is that accounts must be treated separately and that New Hampshire law prohibits a customer from applying payments billed on one utility account to another account with the same utility. Komisariek v New England Teleph. & Teleg. Co. (1971) 111 NH 301, 91 PUR3d 205, 282 A2d 671. The second argument is that if these customers prevail, it will be discriminatory in that they will have received their refund prior to the time refunds are distributed to the Company's remaining customers.

The Company's arguments have merit. The instant situation is difficult because the Company does indeed owe the money to the customers, but, given the financial condition of this utility, allowing this type of recovery may be a signal to other customers to take similar action. We cannot help but be aware of the continuing disputes between this Company and its customers See e.g., Re Mountain Springs Water Co. (1981) 66 NH PUC 487, 493, 494. In this light, we find the Company's second argument persuasive. A finding for the customers in this docket would be discriminatory because it would be giving the Halls what would be, in effect, a preference over all other customers. The Halls, like those other customers, are entitled to a refund, but they must take it in the manner prescribed by the Commission.*(10) That manner of refund will be determined by the Commission in Docket No. DR 82-359; Re Mountain Springs Water Co.

Thus, we find that the disputed $150 is due and owing to the Company. However, the Company may not bill the customer for any reconnection

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charge or any interest on this disputed amount.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is incorporated herein by reference; it is hereby

ORDERED, that Mountain Springs Water Company may collect $150 from William and Rosemary Hall; and it is

FURTHER ORDERED, that Mountain Springs Water Company may not collect a reconnection charge or interest on the disputed amount; and it is

FURTHER ORDERED, that Mountain Springs Water Company notify the Commission at least 10 days prior to the time it takes any action to collect the disputed amount by any further discontinuance of service.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of April, 1983.

FOOTNOTE

*Given this finding, it is unnecessary for us to reach the Company's argument based on the *Komisarek* case.

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NH.PUC*04/27/83*[79632]*68 NH PUC 231*Claremont Gas Light Company

[Go to End of 79632]

Re Claremont Gas Light Company

DE 82-197, Sixth Supplemental Order No. 16,369

68 NH PUC 231

New Hampshire Public Utilities Commission

April 27, 1983

INVESTIGATION into gas company's violation of federal and state minimum safety standards.

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1. SERVICE, § 12 — Public utility — Price and safety standards — Compliance.

[N.H.] When a business enterprise holds itself out as being ready and willing to serve the public, the state has the right to protect the public from both unsafe and unreasonably priced service; the statutory framework of the state requires utility and consumer compliance with regulatory statutes, commission orders, commission rules and regulations, and the commission's chart of accounts. p. 242.

2. RECORDS, § 3 — Property records — Annual report — Inconsistencies.

[N.H.] The gas company's property records failed to adequately reflect either what was contained in the annual report or what was physically located on site; problems in the reconciliation of the utility's annual report, property records, and property on site were aggravated by the failure of the gas company to report annual additions, improvement, or extensions to its fixed property as required by RSA 374:5, therefore, the commission imposed a fine of $100 a day for each outstanding report missing over the past twenty years but stated that it would excuse payment provided the necessary steps to eliminate safety deficiencies are taken. p. 242.

3. INTERCORPORATE RELATIONS, § 14.2 — Affiliates — Contracts — Filing.

[N.H.] All contracts or arrangements between affiliates that exceed $500 in consideration, regardless of whether the agreement is for the furnishing of managerial, supervisory

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construction, engineering, accounting, purchasing, financial, or any other service, must be provided to the commission within ten days after the agreement is executed. p. 243.

4. INTERCORPORATE RELATIONS, § 14.2 — Affiliates — Contracts — Filing.

[N.H.] The state commission disallowed payments made pursuant to several affiliated arrangements because such agreements had not been filed with the commission according to statute; arrangements for which payments were disallowed included the following: price reductions for early payment, collecting of utility revenues by the nonutility enterprise, meter exchanges, and loans between affiliates. p. 243.

5. SECURITY ISSUES, § 38 — Debt issuance — Commission authorization.

[N.H.] No utility may enter into any form of indebtedness prior to commission approval according to RSA 369; the statute is designed to prevent both questionable financings with no set or fluctuating terms and the issuing of debt between parent and subsidiary at unresponsible rates. p. 244.

6. EVIDENCE, § 4 — Commission findings — Repeated violations of rule and regulations.

[N.H.] The commission found that the gas company violated several state statutes, commission orders, and commission rules and regulations regarding (1) commission approval of balance sheet transfers, (2) preferential treatment, (3) the nonreporting of the cost of gas adjustment, and (4) treatment of depreciation and fixed capital. p. 244.

7. PUBLIC UTILITIES, § 10 — State commission — Regulation — Safety.

[N.H.] The commission's obligation to insure the safety of the public is paramount to all other responsibilities entrusted to the commission; safety considerations and the commission's affirmative duty to enforce these considerations are specifically set forth in the utility regulatory statutory framework. p. 245.

8. GAS, § 5.1 — State safety regulations — Enforcement.

[N.H.] The legislative history of state safety standard regulations reveals a clear mandate for the commission to enforce the provisions of the Natural Gas Pipeline Safety Act; the act requires that the laws of participating states must make provision for the enforcement of the safety standards of such state agency by way of injunctive and monetary sanctions. p. 246.

9. GAS, § 5.1 — Safety deficiencies — Utility correction proposals — Review.

[N.H.] The state commission ruled on the acceptability of the gas company's affidavit which proposed solutions to specific safety deficiencies: inactive service requirement, training program, overpressure protection, corrosion control, tank relief valves, and a plant security fence. p. 247.

10. GAS, § 5.1 — Safety violations — Penalties.

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[N.H.] Attempting to achieve a minimum level of safety in a gas system the commission found that the gas company's repeated violation of federal and state safety standards and commission rules and regulations required both the imposition of fines and an order requiring corrective action. p. 249.

11. FRANCHISES, § 14 — Granting a franchise — State commission — Requirements — Public good.

[N.H.] When granting a franchise the commission must consider whether the exercise of that franchise would be for the public good. p. 250.

12. FRANCHISES, § 14 — Grant — State commission — Requirement — Public good — Definition.

[N.H.] In evaluating the public good the commission will consider: (1) whether there exists a public need for the service; and (2) whether the applicant has the capability of fulfilling that need by providing safe, adequate, and reliable service; when a franchised utility fails to meet this standard by providing service which is not safe, and the utility is unwilling or unable to bring its system into compliance with applicable safety standards, the public good requires that the franchise be suspended or revoked. p. 250.

13. FRANCHISES, § 55 — Rules and statutory violation — Penalty — Discontinuance.

[N.H.] The repeated violation of state statutes, commission orders, commission rules and requirements, and federal safety standards mandates the discontinuance of the gas company's franchise unless it continues

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with its recent activities to upgrade the safety of its system to minimum federal standard. p. 250.

APPEARANCES: Dom S. D'Ambruoso for Claremont Gas Light Company; Kenneth Traum, assistant finance director, Daniel Lanning and Michael Burke, PUC auditors, Richard Marini, gas safety engineer, and Bruce Ellsworth, chief engineer, staff.

BY THE COMMISSION:

Opinion by LOVE, chairman:

I. *Procedural History*

This docket was initiated by the Commission on its motion. The proceeding was officially opened pursuant to Commission Order No. 15,742 on July 8, 1982. However, the roots of this investigation begin with Staff inspections in early May and mid June. Those Staff visits revealed significant noncompliance with federal and state *minimum* safety standards.

As the Commission noted in Order No. 15,742 a Staff audit by our Gas Safety Engineer, Richard Marini, revealed that Claremont Gas did not have a corrosion control program as required by State and Federal regulations. A follow up audit on June 15, 1982 revealed an

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inability to respond to Commission questions concerning safety. The Commission Staff visits demonstrated serious safety violations including the absence of a regular leak survey, no formal plan concerning inactive or abandoned services, the absence of an emergency plan and generally inadequate training of personnel.

The Commission is entrusted with the responsibility to insure adequate and safe utility service by the provisions of RSA 374. To honor that public trust this docket was opened and a hearing was scheduled for August 9, 1982 in Claremont. This hearing and docket was initially set forth to resolve concerns related to gas safety.

The following five areas were noticed as matters under consideration:

1. Levy of fines for non-compliance with our rules and regulations. 2. Levy of fines for violation of state statutes. 3. Lifting of the franchise to operate within the State. 4. Transfer of Claremont Gas Company's assets to any other gas utility in the State. 5. Filing of a set procedure and timetable so as to comply with all of our rules, regulations and statutes.

As the Commission began its investigation it became apparent that there might also be violations of our chart of accounts, prior Commission Orders, Commission Rules and Regulations and State statutes as they relate to financial and accounting matters. Consequently, on July 23, 1982 the Commission issued its Supplemental Order No. 15,766 expanding the scope of these proceedings to include the aforementioned financial areas of concern.

On July 21, 1982, Counsel for the Company filed the following motions:

1. Motion to Segregate Evidentiary Portion of Hearing.

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2. Motion for Enlargement of Time to Respond. 3. Motion for Specifications. 4. Motion for Continuance.

The Commission denied the four motions by its Second Supplemental Order No. 15,767 dated July 23,1982.

On July 30, 1982, Counsel for the Company filed a Motion for Continuance due to the unavailability of the Company's financial witness. The Commission granted the Motion by its Third Supplemental Order No. 15,791 dated August 4, 1982. The Commission did provide further notice as to the Staff's financial concerns by having the Staff present their audit results in testimony at the August 9, 1982 hearing. Claremont Gas was provided additional time to research and prepare its cross-examination and response.

Hearings were held on August 9th in Claremont and September 9, 21, and October 1, 1982 in Concord. The Commission devoted the first two hearing days to the gas safety problems and the remaining two days to the questions related to financial matters. The Company, at the September 21, 1982 hearing, failed to provide the witnesses ordered by the Commission to be present. Subpoenas were issued which were ultimately successful in bringing the two witnesses before the Commission.

The Commission also granted the request to include as part of the record in this proceeding

the entire record from Claremont Gas DE 81-162. This docket demonstrates the history of the Commission's attempts to resolve the Claremont situation and the Orders issued. In fact, this history of non-compliance can be described as one of the causes of this investigation.

II. *Staff Position*

A. *Financial*

Staff Auditor Lanning testified that the audit team had significant problems in tracing costs between Claremont Gas Company, its affiliates and its parent corporation, North American Utility Construction Company of New York City. One of the affiliates, Util Gas Service, was a major source of transactions between Claremont Gas and North American. Staff requested that the books of these Companies be provided due to their inability to reconcile the entries on the Claremont Gas books. Claremont Gas refused and the Commission had to order the production of these documents. Even after receipt of these documents there remains an inability to trace all of the transactions.

Staff raised the issue that none of the transactions between Claremont Gas and its affiliates or parent corporation were filed with the Commission or approved by the Commission. These unreported, unfiled and non-tariffed expenses included management fees, bookkeeping fees, loans, propane cost adder, to name but a few. Staff cited these as violations of RSA 366, of various Commission Orders and chart of accounts.

Staff was unable to trace a number of loans to Claremont from North American or to find record of the loans in the Claremont Gas Company's annual report to the Commission. These loans were cited as direct violations of the provisions of RSA 369. Furthermore, Staff asserted that Claremont Gas had invested money in affiliates with a 0% return and without application for Commission approval. According to Staff, this occurred at the

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same time that Claremont Gas was borrowing from its parent Corporation at the prime interest rate.

At the present, Claremont Gas is in receipt of a 0% loan from an affiliate. This 0% loan was testified to as being a short term debt in the last rate proceeding but has now crystalized into a long term debt. Again the Company, according to Staff, has neither filed this change nor sought our required statutory approval.

Staff's audit led them to testify that the assets of the Company as listed in the annual report did not reflect the property on site. Nor did the annual report match the Company's property records. Staff testified that seven of the nine fixed asset accounts used by the Company in this report were not reconcilable.

Staff further testified that they attempted to physically inventory a sample of the Company's property records and found numerous discrepancies. These discrepancies included property items that were included in the Company's property records but were not physically on location. There was also property found on location that was not contained in the Company's property records.

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Staff testified that in addition to the seven questionable fixed asset accounts, previously discussed, there was erroneous reporting of transportation equipment. Staff cited as an example a vehicle that although listed in the Company's 1981 annual report was in fact sold during that year.

Staff testified as to numerous instances in which the Claremont Gas Company failed to comply with Commission rules, regulations and Orders. Included in Staff's conclusions were citations for failure to file Commission required reports. The list is lengthy but the following are a representative list:

> 1. The Company has not maintained the required property records. 2. Items that should have been deferred or capitalized according to the Commission Chart of Accounts and Commission Orders were expensed. 3. The Company charged their depreciation rates without filing application with the Commission as required by PUC Rules and Regulations 509:10. 4. The Company has not reported changes in fixed capital as required by PUC Rules and Regulations 509.09. 5. The Company was not reporting their Cost of Gas Adjustment in a deferred account, as mandated by our Orders in DR 80-171. 6. The Company did not have a formal work order system as required by the PUC Chart of Accounts.

There were numerous discrepancies between financial report calculations and responses to data requests. Staff testified to times of sheer frustration in attempting to reconcile so many conflicts.

The Cost of Gas Adjustment also drew Staff attention. A review of the cost of gas adjustment calculations revealed that in May and December, 1981, the amount charged by Claremont to its customers for fuel did not correspond to the actual fuel costs, with the end result being that Claremont should have charged its customers a higher rate than represented on their bills. Additionally, Claremont did

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not accrue interest on overcollections, as required by the Commission, in the months of October and December, 1981, and in January, February, April and June of 1982.

Staff Auditor Burke testified that a 5% collection fee was added to amounts remaining unpaid 30 days after the billing date, but that there was no approved tariff for such a charge.

Mr. Burke further testified that the Company has been expensing certain costs that should have been capitalized. For example, the Company painted three propane tank farms in 1981, according to the Commission's uniform system of accounts, those costs should have been capitalized.

Staff also questioned the method with which Claremont charges Util Gas for gas sold to that Company. Propane gas is transported to Claremont by North American. A portion of the delivery is retained by Claremont for its own regulated customers, and the remainder is sold to Util Gas for sale to its unregulated bottle gas customers. Util Gas is not billed for the propane until it is actually dispensed to the customers. Staff found that Util Gas should be billed at the time that Util Gas tankers take possession of the gas.

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The Staff found that the parent corporation was charging a penny a gallon for all propane delivered to Claremont. However, this arrangement was never approved by the Commission as required by the provisions of RSA 366. This statute allows the Commission to disallow these costs absent Commission approval. Such an order would reduce the cost of gas adjustment charged consumers over the past years.

The Commission Staff found that Claremont Gas was charging expenses related to serving to a utility customer to itself but allowing the payments or revenue from that customer to go to its affiliated non-utility entity, Util Gas. This has occurred *at least* as far back as *January, 1977*. From that point through December, 1981, Claremont Gas has chosen not to collect $169,000 revenue. Instead, they chose to allow this money to be in essence given to its non-utility affiliate.

This misapplication of utility revenue to the non-utility subsidiary resulted in Claremont Gas Company's financial position being understated. This, according to Staff, led to awards of greater than necessary rate increases.

The Finance Staff of Traum, Lanning and Burke was also concerned that Claremont Gas Company's parent, North American, was bleeding the utility operations given the aforementioned revenue misallocation and the fact that Claremont Gas had significantly underspent other gas utilities in the areas of production and distribution maintenance.

Improper allocations for unaccounted for gas, failure for pass throughs of propane audits as well as other questionable accounting practices were cited by Staff as demonstrating a total disregard for Commission related statutes, rules, regulations and Orders.

The Finance Staff also testified that twelve customers with more than one meter that cannot verify the meter readings on their monthly bills. The Company was represented as being aware of this situation but unable to correct the situation.

The Staff noted a $20,475 difference in revenue between the General Ledger and the 1981 revised annual report. Also of interest to Staff was an improper use of Account #1,789.2 as a

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recharge or wash account between Claremont and Util Gas. This account is designated as a "job works" account in the PUC Chart of Accounts. These matters were discussed by Staff in their Exhibits 9 and 10.

Staff's preliminary audit was offered as Exhibit 1.

B. *Safety*

The Commission's Chief Engineer, Bruce Ellsworth recommended that the Commission adopt the contents of a previous docket, DE 81-162, into the record of this proceeding. Ellsworth noted that the events which have led in part to this hearing were referenced in that docket. The Commission accepted the introduction of that docket into this record.

Mr. Ellsworth testified that he had first given a copy of the Federal Minimum Safety Standards to the Company at their office on April 6, 1972. Those regulations had been accepted by this Commission as its own safety regulations on December 31, 1970. They provide minimum performance standards for all regulated gas utilities in the area of design, construction,

operations, and maintenance of gas pipeline facilities. An exhibit was offered (Exhibit 3) listing 20 deficiencies discovered by the Staff's Gas Safety Engineer during the period August 13, 1980 to date, as follows:

1. LP unloading station piping station, emergency shut-off valve. 2. LP unloading station, concrete bulkheads. 3. Annual winter leak survey 4. Annual Report 5. Summer leak survey 6. Inactive Service Retirement 7. Joy Manufacturing Company service leak 8. Management failed to appear 9. Training program 10. Repair (C) leaks 11. No emergency telephone number 12. Plant system loss, required 24 hour manned service. 13. Operating and Maintenance Plan. 14. Emergency Plan 15. Over Pressure Protection 16. Monthly Reports (deleted) 17. Annual Winter Leak Survey 18. Corrosion Control Program 19. Tank Relief Valve Test 20. Plant Security Fence

Mr. Ellsworth brought specific attention to six defficiencies which remained uncorrected at the date of the hearing:

1. Inactive service retirement 2. Training program 3. Over-Pressure protection 4. Corrosion control program 5. Tank relief valve tests 6. Plant security fence

Inactive Service Retirement

Mr. Ellsworth defined an Inactive Service as one that requires inactivation and as one that has not been used for a period of 12 months. In such instances, it must be stoppered or disconnected from the gas system. Such disconnection is required both by the Commission's own rules (PUC 506.02) (h), NHPUC Order No. 15,016 (66 NH PUC 280), and by federal regulations, (DOT Section 192.727). He explained that the point at which a gas service passes through a building wall is a very critical point because the service

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is susceptible to corrosion at that point. Gas leaks are generally determined by the odorized gas escaping from a corrosion hole. Although inactive services do not carry gas, the pipe itself remains as a conduit to carry gas from any adjoining leaks in another part of the system. Physical stoppers are required to be inserted into the house side of the gas service to a point beyond the building wall to assure that any gas which passes into the inactive service will not escape into the building through undetected corrosion holes. The Company has no program to stopper such services.

Training Management

Mr. Ellsworth brought to the Commission's attention that in its Docket DE 81-162 it had sited the Company for many violations which were attributed to management practices. It had failed to file an annual report in 1980, it had failed to respond to subsequent letters and telephone calls regarding the late submission of the annual report, it had failed to represent itself adequately by qualified personnel at Commission hearings it had failed to take prompt action to eliminate a safety hazard at a leaking service line, it had failed to conduct leak surveys, it had experienced at least six plant malfunctions which had led to loss of customer service. It had failed to provide a training program to upgrade its personnel in the area of operation and maintenance. The Commission, in that docket, directed that the Company employ a consulting

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engineering firm and execute a written company improvement plan to address the following areas:

1. Continued maintenance of plant system components 2. Periodic scheduled tests of plant components including back-up system and alarm system for plant failures. 3. Training of company personnel for maintenance and operation of plant facilities during normal and emergency situations.

Mr. Ellsworth testified that the Company does not yet have an acceptable training program.

Over-Pressure Protection

Mr. Ellsworth defined Over-Pressure Protection as that protection which prevents high pressure gas, or gas that is beyond the capability of the system to withstand, from entering the gas distribution system. Gas is distributed to an underground pipeline system at a given prejudged pressure. It is "regulated" by certain pressure devices to maintain that acceptable pressure. Over-pressure protection constitutes additional pressure devices which prevent over-protection in the event of a regulator failure. Mr. Ellsworth noted that the consulting engineer report, which the Commission had directed in its previous docket, had made recommendations regarding over-pressure protection, and that Mr. Marini had also made certain recommendations. The Company has complied with neither.

Corrosion Control Program

Mr. Ellsworth described cathodic protection as a process by which an electric current is injected into the pipeline which reverses the natural electric flow between underground pipelines in the surrounding soil, and

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prevents a pipeline from corroding. Without such protections, severe corrosion may result from this natural rusting process. He specified the following violations of the Federal Safety Standards:

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

§ 192.453 No established corrosion control
          procedures
          No qualified personnel
§ 192.457 No protection of steel pipe
          No protection of steel services
§ 192.459 No record of investigation of exposed
          pipes
§ 192.465 No record of annual corrosion
          monitoring
          No record of 10% service monitoring
§ 192.467 No isolation of steel mains from
          cast iron mains
§ 192.479 No test for atmospheric corrosion
§ 192.491 No corrosion control records
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Tank Relief Valve Test

Mr. Ellsworth testified that a tank relief valve is required by NFPA Pamphlet 59-(6-2.1) NFPA Pamphlet 59 is incorporated by reference into the Federal Safety Standards. It requires that relief valves are installed on propane tanks to assure that if a tank is over-pressured, it will

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release gas to the atmosphere and not explode. The NFPA Pamphlet 59 Requires periodic testing of these valves. No testing had been made.

Plant Security Fence

Mr. Ellsworth testified that at the date on which the Exhibit was prepared (August 2, 1982) the security fence at the site of the gas plant was inadequate to provide security against vandalism. Since that date, the Company has taken steps in assembling a security fence around the propane tanks. Staff testified, however, that a visit at the date of the hearing revealed that openings still existed which would allow an adult to pass through.

Gas Safety Engineer Marini testified that he had visited the Company approximately 18 times in the last year and a half. The deficiencies outlined in Exhibit 3 resulted from his findings during these visits. His testimony concentrated on a response to data requests which had been filed by the Company and which was accepted as Exhibit 5 in this docket. He disagreed with the Company's contention that there was a program for installing insulated unions on meters as a part of a corrosion program. His inspections disclosed no such program. He also disagreed with the Company's contention that approximately 15% of the Company's large capacity meters are tested annually. Commission regulations require that each large capacity meter of over 250 cu.ft. shall be tested every four years. Of the Company's approximately 30 such meters, five have been tested in the last four years. He confirmed earlier testimony that the Company has no ongoing program to abandon inactive services.

Mr. Marini concluded his testimony by contending that the Company has not paid proper attention to safety, and to the extent that they have applied attention to safety over the last year, it is due, for the most part, to the Commission Staff's attention to the safety problems at the Company.

III. *Claremont Gas Company Position*

Claremont Gas begins its post hearing presentation acknowledging that it has not responded to all Commission directives and inquiries. However, Claremont asserts that the record demonstrates numerous instances of Company

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compliance with PUC inquiries and directives. Further, Claremont Gas contends that this compliance, together with certain voluntary actions, indicate the Company's "good faith willingness to comply with state and federal law and PUC regulations".

To support these assertions Claremont Gas refers to two instances where the Commission required twenty-four hours manned service to protect the safety of the system and the consumer served by that system. The Company reminds us that they responded to these two orders immediately. The Company also cites an internal memorandum of the Commission's Chief Engineer citing improvement in the Company's instructions to the telephone answering service to assure that all alarm calls are properly forwarded.

As to some of the problems raised in. this docket, the Company notes that two employees with a lengthy experience with the system recently left and the replacements were inexperienced. The Company, while acknowledging its responsibility for hiring inexperienced employees, offers

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that if these new employees had communicated certain information to the Company, the Company would have been more responsive. As to their manager who was inexperienced, the Company notes that it replaced him with a more qualified manager, and that the Company should not be penalized for its past judgment in the choice of its previous manager.

The Company submitted a late filed exhibit which purports to be a letter from one of the Company's owners requiring adherence to certain safety rules.

The Company goes on to cite other compliance actions undertaken by the Company, including L. P. Unloading Station Piping Emergency Shut-Off Valve, and the correction of a service leak at the Joy Manufacturing Company. The Claremont Gas represents that it has conducted an annual leak survey, repaired some "C" leaks, filed an operation and maintenance plan and its emergency plan.

The Company cites our attention to what it claims is a prompt response to the Commission concern related to "unaccounted for" gas. In fact, Claremont Gas has indicated that it believes that its level of "unaccounted for" gas is not within acceptable levels which Claremont defines as 10%. Claremont notes that its recent history is 1976 — 14%, 1977 — 13%, 1978 — 12%, 1979 — 10%, 1980 — 9% and 1981 — 12%.

Claremont Gas contends that unaccounted for gas can result from a variety of factors among them the location of the meters themselves. Claremont contends that a properly adjusted meter reading reflecting the Company's inside meters would result in Claremont being well within safety limits.

Claremont offers that in the past and in response to the "newly promulgated federal safety regulations" the Company voluntarily engaged consultants to analyze the system and to make recommendations regarding compliance with those safety regulations.

Claremont Gas notes that fourteen safety deficiencies were corrected between middle 1980 and the beginning of these proceedings. Furthermore, Claremont Gas argues that of the remaining six that existed at the beginning of these hearings, four have been corrected. Claremont Gas does not debate

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the existence of the safety deficiencies but rather argues that it has made a good faith effort to resolve the safety concerns raised by Staff.

Claremont Gas notes that all of Staff's financial concerns were either corrected or stated that they will be corrected.

Among the Staff concerns that Claremont Gas claims to have agreed to are correcting its chart of accounts, capitalizing expenses that were previously expensed, reconciling the account ledger with the annual report, taking a physical inventory to correct discrepancies in the continuing property record, setting up a method to keep track of over and under collections in the cost of gas adjustments, filing of affiliate contracts, deleting a collection fee of 5%, removing the charge to the utility for meters of Util Gas customers, filing amended annual reports to reflect revenue corrections resulting from the Flock account, complying with Order DR 80-171 regarding the computation of the 3% shrinkage, agreeing that when Util gas picks up delivery of

product at the utility plant it will be considered a sale at that point, complying with Accounting Circular #27, and altering the method for reporting unaccounted for gas.

The Claremont Gas position focuses upon the failure of the Company to earn its rate of return during all of these irregularities. Claremont Gas claims to have had a negative rate of return for the twelve months ending 1977, 1979, 1980 and 1981. The adjustment for Flock, the utility customers whose payments were given to the non-utility subsidiary is claimed to turn the 1976 loss into a small profit and improved the 1978 results. After all, contends Claremont Gas, the minor adjustments proposed by Staff still will not achieve the "fair rate of return permitted by law".

The Company concludes its arguments by stating that it has shown "a good faith willingness to comply with these *newly enforced* financial standards and submits that the Company should not be penalized in any way for these past irregularities".

This argument not to hold the Company accountable for its past irregularities, both financial and safety related, is rooted in Claremont's contention that the Commission has limited authority. Claremont finds no authority provided the Commission to lift a franchise unless there is some other entity willing to step in and serve the public, noting that none of Claremont Gas System's customers are seeking to lift the franchise nor is there any entity willing to take over the obligations of the system, Claremont Gas maintains that the Commission is without authority to lift the franchise.

Claremont Gas also argues that there is no statutory authority for the levy of fines upon Claremont Gas. The Commission's authority for disobedience of orders, rules and regulations is to place the situation before the Attorney General and not fine. The Commission's powers to enforce its regulations, rules and orders is limited and Claremont Gas warns the Commission that absent express authority the Commission will not be able to collect any fines from. Claremont Gas. Reference by Claremont Gas was made to RSA 365:40-44, RSA 374:17 and RSA 374:41-47.

In summation, the position of Claremont Gas is that there is no other action

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necessary in this docket and that there is no valid reason or authority to impose penalties upon Claremont Gas for past irregularities.

IV. *Commission Analysis*

[1] The concept of regulation is undergoing significant change. It remains abundantly clear that when a business enterprise holds itself out as being ready and willing to serve the public, a public utility and the State has the right to protect the public from both unsafe and unreasonably priced service.

This Commission, consisting of three Commissioners and dedicated Staff, have certain statutory obligations that require us to actively protect the public from inadequate or unsafe service, RSA 374:1, and unreasonable rates, RSA 378:7. These two concepts are at the pinnacle of our regulatory duties. As will be discussed infra there are other statutory mandates that we must insure compliance with as well. However, the statutory framework of this state requires

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utility and consumer compliance with regulatory statutes, Commission orders, Commission Rules and Regulations and our Chart of Accounts.

The record of this proceeding recites a lengthy history of indifference towards regulation and virtual noncompliance with any statute, order, rule, regulation or accounting method required of public utilities by the State of New Hampshire. In reviewing the history of cases brought before this Commission, no where is there demonstrated such a total contempt for the regulatory process or the citizens of this State.

Throughout its presentation Claremont Gas has attempted to portray the concerns raised by Staff as being "new" or "newly promulgated" or "recent" or some other description that suggests new standards or new rules. To the contrary the regulatory statutes, standards, rules, regulations, orders and charts of accounts that Claremont has ignored have all been in place for a considerable period of time. It is these lengthy time periods of noncompliance that separate this case from all others that have been heard before the Commission.

A. Distribution and Production Maintenance Expenses — RSA 374:1 and RSA 374-5

[2] Financial Staff Witnesses demonstrated that Claremont's record of distribution maintenance expenses is significantly below the New Hampshire industry average. In the time period of 1977 to 1980 Claremont Gas *performed 1/4 of the maintenance level* undertaken by the New Hampshire Gas Utility Industry (including Claremont Gas) Exhibit 8, which sets forth this conclusion was disputed by Claremont Gas. They contended that all of their production and distribution expenses should be viewed as maintenance.

Assuming the truth of Claremont's assertion for purposes of discussion, the Staff audit report, Exhibit 9 page 13, demonstrates that Claremont Gas still only contributed 1/2 as much to maintenance as all other New Hampshire gas utilities. However, if Claremont Gas Company's assertion is correct as to where to find their yearly maintenance expenses, it is clear that this accounting procedure is against

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the requirements of the Commission's Chart of Accounts.

This failure to adhere to industry standards of maintenance has clearly led to many of the problems being experienced by Claremont Gas. Exhibits 8 and 9 show a clearly defined patten whereby the system was allowed to reach its present unsatisfactory situation. Exhibits 8 and 9 also provide sufficient grounds for finding that the Claremont Gas Company directly violated the public trust, RSA 374:1, through failing to provide adequate and safe service during the 1977-1980 time period. Exhibit 9 demonstrates the same violation of RSA 374:1.

Staff also raised problems with the failure of the property records to adequately reflect either what was contained in the annual report or what was physically located on site. The Commission accepts Staff testimony and finds that there is property on site that has not been recorded on the books and that there is property on the books that is no longer in the possession of Claremont Gas.

Staff's problems in reconciling the annual report, the property records and the property on site were aggravated by the failure of Claremont Gas to report annual additions, improvement, or

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extensions to its fixed property as required by RSA 374:5. The last filing pursuant to RSA 374:5 was made in 1963. This statute, RSA 374:5, was promulgated in 1951. Claremont Gas has chosen to ignore this statute for twenty years.

The failure to file this report is a violation of RSA 374:17. That statute has origins going back to 1911 with a 1951 update. Pursuant to RSA 374:17 the Commission could levy a fine of $100 a day for each outstanding report missing over the past 20 years. The Commission will impose such a fine and then excuse its payment provided the necessary steps to strengthen safety, as discussed later in this opinion, are undertaken by Claremont Gas.

B. RSA 366. Affiliates of Public Utilities

[3,4] RSA 366:3 requires the filing of *all* contracts or arrangements between affiliates that exceed $500 in consideration. Regardless of whether this agreement is for the furnishing of managerial, supervisory construction, engineering, accounting, purchasing, financial or any other service, these arrangements must be provided to the Commission within ten days after the agreement is executed. RSA 366:3

Yet in its history Claremont Gas has never filed its arrangement with either North American Construction, its parent or Util Gas, its sister non-utility propane company.

Both North American and Util Gas satisfy the definition of RSA 366:1 as to "affiliate". Consequently, the Commission has the authority pursuant to RSA 366:7 to correct the violation of RSA 366:3 by disallowing any payments made pursuant to these affiliated arrangements.

The addition of a 1¢ a gallon charge for every propane gallon shipped to Claremont by North American is hereby disallowed. The arrangement whereby North American received price reductions for paying early that it refused to pass along to Claremont is found to be a violation of RSA 366:3 and RSA 378:7. The records of the Company on file with the Commission are to be redone reflecting the removal

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of the 1¢ propane gallon charge and the addition of the credits to North American never passed on to Claremont Gas.

The arrangement between Util Gas, Claremont Gas and their joint customer, Flock, was never filed with the Commission. The charging of expenses to the utility and collecting the revenues by the non-utility enterprise is per se unreasonable, unlawful and of questionable business ethics. Accordingly, the Commission will require Claremont to reflect the return of this revenue in its books as utility income in the proper years. All restatements of yearly revenue are to be made and then Claremont's annual and monthly reports for the time period of this relationship are to be filed with the Commission within 90 days.

In addition, the revenues booked by Claremont pursuant to this order are to be segregated and used to insure that the safety improvements required by the Commission are adhered to and paid for. The Commission finds that the sum owed to Claremont by Util Gas is at least $169,000.

The discovery by Staff as to meters being exchanged, loans back and forth between affiliates, sticking Claremont Gas with a higher than reasonable portion of any lost and unaccounted for

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propane were all arrangements in violation of the statutory scheme set forth and required by RSA 366. As such, all are disallowed as operating expenses or as revenue reductions and the restated records of the Claremont Gas Company are, when refiled, to reflect this Commission finding.

Again, Claremont Gas has repeatedly violated a State statute, RSA 366. Although it is encouraging that Claremont Gas, during the writing of this decision, filed an affiliate arrangement with this Commission, this recent compliance on one matter cannot excuse decades of non-compliance.

C. RSA 369.

[5] RSA 369 is the statute governing financings by any public utility. No utility is to enter into any form of indebtedness prior to Commission approval. The statute is designed to protect the public good. One of the evils it is designed to prevent is questionable financings with no set or fluctuating terms. Another is the issuing of debt between parent and subsidiary at unresponsible rates.

Financial staff's audit establishes that Claremont Gas has repeatedly violated this statute over the past ten years.

D. RSA 374:30

[6] Claremont Gas sold gas to a customer, Flock, and booked the expenses on the utility balance sheet and the revenue on an affiliated non utility balance sheet. In addition to transferring a portion of their franchise, RSA 374:30 requires Commission approval of such a transfer. This approval was never obtained. Nor would it be given since Claremont Gas Company's actions are against proper accounting practices. Again Claremont deliberately violated a state statute.

E. RSA 378:10 Preferences

RSA 378: 10 is a statutory protection designed to protect customers from a utility giving undue preference or advantage to any corporation. Claremont Gas Company's actions as documented by financial staff demonstrates that again state law was violated. The preferential

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treatment provided Util Gas, its affiliate and the booking of expenses but not revenues from the Flock account violates this statute.

F. RSA 365:40 Commission Orders

The Company has on numerous occasions violated Commission orders. An example provided by finance staff in their testimony is the failure to report the cost of gas adjustment in a deferred account as mandated by our Order No. 14,754, Re Claremont Gas Light Co. (1981) 66 NH PUC 63. The record of Claremont Gas DE 81-162 is replete with examples of violations of Commission Orders both within that docket and as cited in those Orders, previous Commission Orders.

The continuing violation by Claremont Gas of Commission Orders is again a statutory violation, RSA 365:40. Such a violation establishes penalties pursuant to RSA 365:41 and

365:42:

> RSA 365:41 Penalty, Against Party. Any public utility which shall violate any provisions of this title, or fails, omits or neglects to obey, observe or comply with any order, direction, or requirement of the commission, shall be guilty of a felony.
>
> RSA 365:42 — Against Agent. Every officer and agent of any such public utility who shall wilfully violate, or who procures, aids, or abets any violation of this title, or who wilfully fails to obey, observe, and comply with any order of the commission, or procures, aids or abets any such public utility in its failure to obey, observe, and comply with any such order or provision, shall be guilty of a misdemeanor.

We find that Claremont Gas Company violated Commission Orders. We will turn over this decision to the Attorney General's office for any action he may wish to take concerning criminal enforcement of these provisions.

The Commission also accepts staff testimony as to violation of Commission rules and regulations. We find that Claremont Gas specifically violated PUC Rules and Regulations 509.09 and 509.10. These rule violations are in extremely important areas, depreciation and fixed capital. These rules and regulations have been adopted by Order of the Commission, which again carry the appropriate penalties.

G. RSA 370.2, 374:1, RSA 374:7 Safety Standards.

[7] The Commission's obligation to insure the safety of the public is paramount to all other responsibilities entrusted to the Commission. Safety considerations and the Commission's affirmative duty to enforce these considerations are specifically set forth in the utility regulatory statutory framework.

In RSA 374:1 every public utility is required as a utility to furnish such *service* and *facilities* that are reasonably safe and adequate. Through RSA 374:3 the Commission has the general supervisory authority to insure compliance with the safety provisions of RSA 374:1 and all other provisions of RSA 374.

RSA 374:4 sets forth not only reinforcement of our authority but also our duty to insure safety. The statute is set forth below:

RSA 374:4 Duty to keep informed.

The Commission shall have the power, and it shall be its duty, to

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> keep informed as to all public utilities in the state, their capitalization, franchises and the manner in which the lines and properly controlled or operated by them are managed and operated, not only with respect to the safety, adequacy and accommodation offered by their service, but also with respect to their compliance with all provisions of law, orders of the commission and charter requirements.

In RSA 374:7 the Commission is granted the authority to investigate the quality of the supplier and the methods used in supplying gas. Furthermore, the Commission is granted the specific authority to order all reasonable and just improvements and can require changes in the

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methods employed by a utility to provide gas service.

RSA 370:2 provides the Commission with the authority to ascertain and establish standards for the measurement of quality pressure or any other condition relating to a utility's act of furnishing service.

[8] RSA 374:7-a specifically provides the Commission with the authority to levy fines for violations of provisions of RSA 370:2 or *any* standards or regulations promulgated by the Commission relative to gas pipelines. The statute reads as follows:

374:7-a Violation.

> I. Any person who violates any provision of RSA 370:2 or any standards or regulations promulgated thereunder by the public utilities commission, relative to gas pipelines, shall be subject to a civil penalty of not exceeding one thousand dollars for each violation for each day that the violation persists. However, the maximum civil penalty shall not exceed two hundred thousand dollars for any related series of violations.
>
> II. Any civil penalty assessed under the preceding paragraph may be compromised by the public utilities commission. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of a violation, shall be considered. The amount of the penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the state to the person charged or may be recovered in a civil action in the state courts.

The legislative history of this statute reveals a clear mandate to enforce the provisions of the Natural Gas Pipeline Safety Act Public Law 90-148. This Act required that the laws of participating states must make "provision for the enforcement of the safety standards of such state agency by way of *injunctive and monetary sanctions* substantially the same as are provided in Section 9 and 10."

The language of Section 9(a) of the Act is identical to the provisions of RSA 374:7-a, in that said language states that any person who violates the provisions "shall be subject to a civil penalty of not to exceed one thousand dollars for each violation for each day that such violation persists; except that the maximum civil penalty shall not

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exceed two hundred thousand dollars for any related series of violations."

The Commission has attempted to protect the public through increased efforts in gas safety inspections. The role of our gas safety engineer is to continually, rather than sporadically, inspect all systems and equipment that relate to the supply of gas to consumers. Our concern over gas safety is not a new phenomena. In 1970, the Commission adopted the "Minimum Federal Safety Standards, Parts 191 and 192, Title 49 of the Code of Federal Regulations" which for the first time established federally accepted performance standards for the installation, operation and maintenance of gas distribution and transmission companies. In 1972, the Commission increased its staff with a Gas Safety Engineer who had as one of his obligations the monitoring and

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enforcement required by the Federal Standards. During the 1972 to early 1979 time period this position was filled from time to time but due to numerous factors, the position was unoccupied a considerable period of time and remained unoccupied when I ascended to the position of Chairman.

In 1979, the position was filled by a full time experienced gas safety engineer with experience in both government gas safety and the gas utility business. Rather, than the previous allocation of time being split evenly between gas safety and all other functions, the present gas safety engineer was placed into fulltime, 100%, gas safety enforcement. Countless inspections have been made over the entire New Hampshire gas utility industry. These inspections had as a goal; public safety. Prior to any action being taken as to fines through a formal docket, this Commission has endeavored to insure the compliance with the decade old federal standards. As the record in this proceeding reveals, the Manchester Gas Company, the Gas Service Company and Northern Utilities Inc. have met the federal standards. Claremont Gas Co. has not met the standards set forth by the federal government or this Commission. This failure to honor the protection of the public leads to the imposition of fines and an order for immediate corrective action.

In regard to the safety measures identified by the Commission's Gas Safety Engineer, the Company has not denied, or reputed their validity. Staff Exhibit 3 identified twenty deficiencies. Fourteen of those were corrected voluntarily by the Company. Of the remaining six deficiencies, the Company has offered affidavits attesting to the fact that they have also addressed each of these.

The Commission accepts Staff's findings as to the nature of the specific safety violations. It accepts Staff's evaluation that the sixteen noted deficiencies have been corrected adequately to serve the public interest. The Commission will concentrate on the acceptability of the Company's affidavit proposing solutions to the remaining six deficiencies.

Inactive Service Requirement

[9] We accept the Company's plan to institute a house to house survey to check on active and inactive services. We will hold the Company to its promise to survey every building whether or not there is a record of service at that location. Each location will be barholed outside the cellar. All inactive services will be plugged in accordance with the

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Commission's rules and regulations (PUC 506.02(h)). We will not accept the Company's contention that the program is contingent upon obtaining qualified personnel. The Company is directed to obtain qualified personnel. The Inactive Service Program will be completed on or before July 1, 1983.

Training Program

We accept Mr. Lee's emergency plan to the extent that it is an improvement over the past plans. We accept his individual job training program as an improvement over the company's past efforts. We do not find the Company's training program adequate, however. First, with regard to the "instructor" portion of the program, Mr. Lee does not have expertise in all phases of the

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minimum federal safety standards, and, to the extent that he does, we are not confident that he will be able to devote the necessary time to Claremont's training program, given his continued responsibility with North American's other affiliates. Professional training is essential. Expertise is available through the gas industry and the gas industry associations. Short courses of up to two weeks duration are available throughout the country.

The Company has improved their training posture. The efforts by both Mr. Lee and the Company's consultants Smith and Norrington have added to the level of operating expertise. There remains much to be done, however.

We direct the Company to continue to improve its training program, and to file with this Commission by October 1, 1983, a new training program which will specify the utilization of additional teaching aides.

The second portion of the training equation is the "student" involvement. We are not confident that Claremont maintains an adequate work force to receive and carry out the results of the "teaching" portion of the training program. Individual employees must be identified as responsible for various operating requirements. Adequate time must be given for that operator to learn his responsibilities and adequate time must be given for him to implement those responsibilities. We remind the Company that in the area of cathodic protection, Section 192.453 requires that cathodic protection procedures "must be carried out by, or under the direction of, a person qualified by experience and training in pipe corrosion control methods." Unless the Company is prepared to retain the services of a consultant for an indefinite period, it must take action to develop its own expertise.

We direct the Company to file with this Commission, by May 15, 1983 with a list of the training programs to which employees will be sent and with a list of the personnel who will be in attendance.

Over Pressure Protection

The Company's consulting engineers have confirmed that over-pressure protection has been installed on the Company's plant facilities, and that the system was tested on Monday, September 20, 1982. We find that the Company has adequately provided over pressure protection, we will hold the Company to the consultant's recommendation that the system shall be tested once each month to verify that it operates satisfactorily.

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Corrosion Control

The Commission is in receipt of the Company's Corrosion Evaluation Survey prepared by John J. Pepper Corporation. We find that it provides an adequate plan upon which a successful corrosion control program may be implemented. We will direct staff to meet with the Company to establish a timetable for completion of the recommendations made in the survey.

Tank Relief Valves

The Company has provided an Exhibit 13 in which its consulting engineer confirms that the relief valves for all three 30,000 gallon storage tanks have been tested and recertified. We find

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that they have adequately satisfied the requirements of NFPA Pam 59 (6-2.1).

Plant Security Fence

We accept the Company's contention, and staff's confirmation, that an adequate plant security fence is now in place around the storage tanks at the gas plant.

[10] The number of days by which we could fine is in the hundreds. The staff testimony as to violations over the 1980 to 1982 time period is adopted in total. Since the Company has in many instances not taken the necessary safety measures until Commission intervention, it is our finding that these violations date even further back into time; specifically, back to the time period in which the Federal and Commission Gas Safety Rules became effective (1970). The Commission would have the right to fine up to $200,000 per series of violations. Such an imposition would bankrupt the Company and still leave the community of Claremont with a gas system that fails to meet *minimum* Federal and State safety standards. Our choice is clear: we must either disenfranchise the Company, or we must exert our regulatory authority to ensure that Claremont brings its system into compliance with minimum safety standards. Thus, the Commission will take the following action:

> 1. The Commission will impose a fine of $4,000 to be paid to the State within one week from the date of this order. 2. The Commission will set a further hearing, to be held within 20 days of this Report and Order. At that hearing, the Company will be required to show cause why it should not be fined an additional $56,000. The Commission hereby provides notice that this fine will be imposed unless Claremont undertakes to: (1) comply with all of the recommendations contained in the Pepper Report concerning corrosion control within two years; and (2) complete eight of the recommendations within one year of this order. At that show cause hearing, the Commission will expect Claremont to submit a full compliance schedule or prove to the satisfaction of the Commission that any provision of the Pepper Report with which it will not comply is inappropriate.

The Commission is attempting to achieve a minimum level of safety in Claremont. Claremont Gas Company's repeated violation of safety standards and Commission rules and regulations on safety matters requires both the imposition

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of fines and an order requiring corrective action.

H. *Discontinuance of Franchise*

[11-13] In Order No. 15,742, (July 8, 1982) we opened this docket for the purpose of determining *inter alia* whether the Commission should lift the Claremont Gas Company's franchise to operate within the state. Claremont contends that the Commission should not lift its franchise unless the Company's customers request discontinuance of service or if another gas company stands ready to provide service to Claremont's customers. While we agree that these are important factors for the Commission to consider, we do not believe that these factors are determinative when other overriding issues, such as the safe operation of the Company's system, lead to a conclusion that it is not in the public good to allow this company to continue to operate.

As acknowledged by the Company, the Commission's authority to lift a franchise comes from

RSA 374:28 which provides, *inter alia*:

> The Commission upon its own motion or upon petition of any interested party, may make an Order withdrawing from a public utility its authority to engage in business in all or any part of the territory in which it is authorized to operate, whenever it shall find after notice and public hearing that said utility has declined or unreasonably failed to render service in said territory or that its service in said territory is inadequate, no sufficient reason for such inadequacy appearing.

Claremont has contended that Commission decisions in the past have ensured that any discontinuance of operations did not take place until the Commission was satisfied that customers would have access to equivalent service. See e.g. Re Northern View Water Supply Co., Inc. (1980) 65 NH PUC 357; Re Wentworth Cove Water Co. (1980) 64 NH PUC 117; Re Williamsburg Water Co. (1978) 64 NH PUC 319; Re F&P Management Co., Inc. (1978) 63 NH PUC 284. While Claremont has not directly contended that the Commission lacks the authority to lift a franchise where no equivalent service is available, it has argued that the New Hampshire public good standard would act to restrict Commission authority in this area.

We cannot conclude that the public good standard restricts the Commission's authority to act under RSA 374:2 8 when after notice and hearing it finds on the basis of the record that continued operation presents a clear and present danger to the public and that the utility involved has refused to take steps to protect the public safety. These factors meet the two-prong test cited by the Company and articulated by the New Hampshire Supreme Court in Grafton County Electric Light & Power Co. v New Hampshire, 77 NH 539, PUR1915C 1064, 94 Atl 193, in that they render the Commission's action: (1) lawful; and (2) reasonable under all the circumstances of the case. This Commission is loathe to lift a franchise, particularly where it may cause inconvenience to a utility's customers. However, when such inconvenience is balanced against public safety, the public safety concerns must prevail.

This application of the public good standard is consistent with longstanding commission practice. See e.g., Re

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Mountainvale Industries Inc. (1976) 61 NH PUC 7 (Certificate involuntarily suspended for failure to file required evidence of insurance coverage); Re H.P. Welch Co. (1937) 22 PUR NS 449 (Suspension of certificate for failure to comply with safety related regulations related to hours of service of drivers of motor vehicles). An examination of the practice in other jurisdictions reinforces this view. For example, in Pennsylvania Pub. Utility Commission v Metropolitan Edison Co. (Pa 1980) 37 PUR4th 77, the Pennsylvania Commission issued an Order arising out of an Order to Show Cause for Revocation of MET Ed's Certificate of Public Convenience. Although that Commission ultimately determined that the threat to continued safe and adequate service was not substantial enough to warrant revocation, it stated that: "the Commission has the same power to revoke a certificate as it has to issue it." (37 PUR4th at p. 81.) "If the welfare of the public should require an immediate transfer of the right to serve the public, either temporarily or permanently, we would not hesitate to order such action." (37 PUR4th at p. 82.)

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When granting a franchise, this Commission must consider whether the exercise of that franchise would be for the public good. RSA 374:26; Re Southern New Hampshire Gas Co., Inc. (1980) 65 NH PUC 101, 105. Generally, in evaluating the public good, the Commission will consider: (1) whether there exists a public need for the service; and (2) whether the applicant has the capability of fulfilling that need by providing safe, adequate and reliable service. Cf., Re Mastropietro (1979) 64 NH PUC 89. When a franchised utility fails to meet that standard by providing service which is not safe and the utility is unwilling or unable to bring its system into compliance with applicable safety standards, the public good requires that the franchise be suspended or revoked.

The regulatory statutory framework also includes RSA 374:1 which sets forth the primary utility obligation to provide service and facilities that are reasonably safe and adequate. In addition, pursuant to RSA 374:7, the Commission has the authority to investigate and ascertain from time to time the quality of gas supplied by public utilities and the methods employed by gas utilities in supplying gas. Pursuant to this specific grant of authority the Commission has the authority to order all just and reasonable improvements, extensions in service and methods.

The Commission has the authority pursuant to RSA 374:41 set forth below, to present utility related problems to the Attorney Generals office where the Commission is of the opinion that a utility has failed or omitted to do something required of it by law or order of the Commission.

Proceedings for Failure to Perform Duties

374:41 Commission May Institute. Whenever the commission shall be of the opinion that a public utility is failing or omitting, or about to fail or omit, to do anything required of it by law, or by order of the commission, or is doing anything, or about to do anything, or permitting anything, or about to permit anything, to be done contrary to, or in violation of, law or any order of the commission, it shall have authority to lay the facts before the attorney general, and to direct him immediately

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to begin an action in the name of the state praying for appropriate relief by mandamus, injunction or otherwise.

The repeated violation of State Statutes, Commission Orders, Commission rules and Requirements, and Federal Safety Standards mandates discontinuance of the franchise unless Claremont Gas continues with its recent activities to upgrade the safety of its system to minimum federal standards.

The Commission finds that the State both through the Commission and the Attorney General's Office has the authority to lift a franchise for failure to provide adequate and safe service. We are, pursuant to RSA 365:41 placing this record before the Attorney General's Office with the specific direction to lift the franchise if the following do not occur.

1. Timely completion of the Pepper recommendations on corosion control estimated to cost $55,375. 2. Adherence to this Report and Order and to the federal standards as to gas safety. 3. Compliance with Commission rules and regulations, New Hampshire Statutes, Commission Orders and standards.

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The Commission also directs the Attorney General to establish a method whereby this Order is quickly enforceable in the Courts of this State and a procedure to ensure that this Company complies with all relevant regulatory statutes, Orders, rules, regulations and standards. We specifically direct the Attorney General under our statutory authority given in RSA 365:41.

Whether or not the criminal provisions of RSA 365:41 and 42 apply is of course left to the Attorney General.

Finally, we would be remiss if we didn't express our appreciation to Staff members Traum, Ellsworth, Marini, Burke and Lanning. Their efforts are exemplary and worthy of duplication by Commission staffs elsewhere.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that all aspects covered in the Report are to be complied with by Claremont Gas Light Company; and it is

FURTHER ORDERED, that the $4,000 fine set forth in the Report is to be made payable to the State of New Hampshire and deposited with the Commission no later than a week from the date of this Order; and it is

FURTHER ORDERED, that a show cause hearing will be scheduled within 20 days in accordance with the provisions of this Report and Order; and it is

FURTHER ORDERED, that the record in this proceeding is to be sent to the Attorney General's Office.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of April, 1983.

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NH.PUC*04/29/83*[79633]*68 NH PUC 253*Pennichuck Water Works

[Go to End of 79633]

Re Pennichuck Water Works

DF 83-105, Order No. 16,373

68 NH PUC 253

New Hampshire Public Utilities Commission

April 29, 1983

PETITION by water company for approval of corporate reorganization; granted, as modified by restrictions.

CONSOLIDATION, Merger, and Sale, § 19 — Grounds for approval — Public benefit.

[N.H.] Based on the approval of the reorganization by the stockholders and the receipt of the necessary approvals of all long-term debt holders and preferred stockholders, the state commission found that a water company's transfer of its franchise, works, and system used and useful to a newly formed holding company to be for the public good; the new company would be expected to retain the critical lands necessary for adequate watershed protection, and would be allowed to commence business as a public utility.

APPEARANCES: John Pendleton for the petitioners; Robert Lessels and Eugene Sullivan for the staff.

BY THE COMMISSION:

REPORT

Pennichuck Water Works, (the "Company") a water utility serving 61, 135 customers in the city of Nashua and a limited area in the town of Merrimack, filed a petition with this Commission on March 29, 1983 for 1) authority for Pennichuck Water Works to transfer to Pennichuck Water Company, Inc. its franchise, works, and system and to discontinue service permanently and 2) for Pennichuck Water Co. to issue all its authorized common stock to Pennichuck Water Works in exchange for the franchise, works, and system and to commence business as a public utility.

Pennichuck Water Works proposes to reorganize its corporate structure by transferring its franchise, works, and system used and useful in the public utility business to Pennichuck Water Company, Inc., a newly-formed corporation organized under the laws of the State of New Hampshire. Pennichuck Water Works would receive all of the authorized capital stock of Pennichuck Water Company, Inc., which is 300 shares of no-par common stock. At the same time Pennichuck Water Works would transfer its non-utility property to another newly-formed New Hampshire corporation, The Southwood Corporation, in exchange for all of its stock. The two new corporations would become the wholly-owned subsidiaries of Pennichuck Water Works.

Pennichuck Water Company, Inc., the newly-formed public utility would acquire all of Pennichuck Water

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Works, assets existing at the time of the transfer with the exception of the non-utility property. The non-utility property would be transferred to The Southwood Corporation. Pennichuck Water Company, Inc. would take all of Pennichuck's utility assets subject to all of the liabilities and its obligations to its preferred stockholders.

On April 29, 1983, the reorganization plan will be submitted to Pennichuck Water Works' stockholders for approval. The reorganization requires approval to amend its corporate charter to authorize the Company to acquire interests in or control of corporations engaged in various

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business activities and to conduct the business and carry on the activities of a holding Company. In its petition the Company states that the reorganization will permit it to acquire other water companies and other business corporations. This Commission has encouraged the consolidation of small water companies as a means of alleviating the financial and managerial problems which face those water companies. The Commission encourages Pennichuck to pursue that course with the anticipated gains that will be realized from the sale of its valuable land which is being transferred to the Southwood Corporation.

The Company proposes to transfer all of its assets no longer used and useful to The Southwood Corporation. These assets consist entirely of land which, because of its location in the Nashua area, has substantially appreciated in value. The original cost of land is being carried on the books at a value of $34,238. Staff takes the position that the costs of the reorganization should be borne by the holding company, as a purpose of the reorganization is to realize the market value of the land being transferred to the non-utility corporation. In its exhibits the Company proposed to transfer only the land value of $34,238. Staff pointed out that there were other costs which are applicable to the land transaction that should be retained by the Company or transferred to The Southwood Corporation. During the years 1980, 1981, 1982 the Company accumulated costs of $71,711 for a land use study and $91,466 for land appraisal. All of those costs which were deferred in Account 146 should be retained by the Company or transferred to The Southwood Corporation. During the years 1980, 1981, and 1982, $57,849 of land use study costs and $17,800 of land appraisal costs have been amortized and charged to utility operations. The amortization costs should be credited to Pennichuck Water Company, Inc. when the reorganization takes place. Any and all legal expenses and other reorganization expenses which have been charged to utility operations should be credited to Pennichuck Water Company, Inc. and charged to Pennichuck Water Works, the holding company. The Company is instructed to provide a detailed accounting of all of the aforementioned transactions.

During the hearing, Company witness Stephen E. Gorman testified that long-term lenders and stockholders were being canvassed. He indicated that the preferred stockholders had requested an increase in the dividend rate by 75 basis points (.75%) and that the dividend increase would not be borne by the ratepayers of the water utility, but by the Company. The Commission agrees that the dividend increase for preferred stock should be borne by the Company and will not include that increase in any future cost

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of capital calculation in rate case. The Commission is further concerned that the Company receive concurrence from its debt holders that the reorganization does not conflict with any restrictive clauses in its indentures. The Commission will expect the Company to receive such concurrences as are necessary, and our authorizations are conditioned upon the receipt of the same.

Land

As previously stated in this Report, the Company seeks to transfer certain plant to The Southwood Corporation, i.e. part of its land holdings that are now held as non-utility property. 1490 acres of this land was transferred out of rate base, by authority granted in DR 80-155 and

Order No. 14,409 (65 NH PUC 373).

We are now concerned that some of the 1490 acres may involve land areas that are described in a study entitled "An Evaluation of Pennichuck Water Works Land Holdings as They Relate to Water Quality and Supply" by Sasaki Associates, Inc., as "critical areas" and "Buffer Zones" which are vital to and for, the maintenance of water quality on the Pennichuck Brook water system. When Order No. 14,409 was issued the Sasaki study was not available for Commission review.

To resolve this conflict, the Company has stipulated, in this case (T. pg. 49), that the critical areas shall be retained in ownership and in the water company rate base and that such areas contain approximately 500 acres (Sasaki Table 10-1). Further, the Company has also stipulated (T. pg 49 & 50) that the buffer zones, approximately 505 acres (Sasaki Table 10-1), upon sale or transfer from the water company, would contain restrictions placed in deeds to the land consistent with Sasaki study recommendations. The buffer zone restriction shall state that this land will be preserved with its natural vegetative cover, with the exception of alterations necessary for essential road and utility crossings, limited clearing to provide views of streams and ponds, and construction of trails for passive recreational use. Further, it is our opinion that the portions of the Company's land holdings, if sold or transferred, should also be subject to certain restrictions as outlined by Sasaki.

The Commission will further stipulate that before any land is transferred to The Southwood Corporation, that a description of such land in metes and bounds with accompanying maps, shall be submitted for staff review.

Subject to the restrictions and stipulations as noted in this Report, we will grant the authority sought.

Based on the approval of the reorganization by the stockholders and the receipt of the necessary approvals of all long-term debt holders and preferred stockholders, this Commission finds that the transfer of the franchise, works and system used and useful in the public utility interest will be for the public good. The Pennichuck Water Company, Inc. will be expected to retain the critical lands necessary for adequate watershed protection as detailed earlier in this report, and will be allowed to commence business as a public utility. Pennichuck Water Works has stated that Pennichuck Water Company, Inc. will continue to operate with the same management and that all of the present directors will

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serve as directors of the newly-formed water utility, Pennichuck Water Company, Inc. will continue to serve customers in the same manner as they are presently being served. This Commission will authorize the transfer of the franchise, works and system subject to all of the necessary approvals previously mentioned.

Based on the annual report of the Company for the year ended December 31, 1982, the balance sheets of the holding company and its subsidiaries would appear as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Pennichuck Water Works
Holding Company

Assets

Investment in Pennichuck Water Company

Investment in Pennichuck

Land Company

Total

Pennichuck Water Company, Inc.
Utility

Assets

Property and Plant
Equipment
Other Assets

Total

The Southwood Corporation
Land Company

Assets

Land

Deferred Assets

Total

The above balance sheets are presented for illustrative purposes only. Actual figures will be provided at the time of the actual reorganization.

Our Order will issue accordingly

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is

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ORDERED, that Pennichuck Water Works is granted authority to transfer to Pennichuck Water Company, Inc. its franchise, works and system and to discontinue service permanently; and it is

FURTHER ORDERED, that Pennichuck Water Company, Inc., is authorized to issue all its authorized common stock to Pennichuck Water Works in exchange for the franchise, works and

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system and to commence business as a public utility; and it is

FURTHER ORDERED, that Pennichuck Water Works is authorized to reorganize its corporate structure by transferring its franchise, works and system used and useful to Pennichuck Water Company, Inc. and to transfer its non utility property to the Southwood Corporation in exchange for all of its stock, subject to the receipt of necessary approval from the stockholders, the preferred stockholders, and any required debt holders; and it is

FURTHER ORDERED, that Pennichuck Water Works will file a detailed accounting of all transactions as mentioned in the foregoing Report; and it is

FURTHER ORDERED, that Pennichuck Water Works will file copies of its annual reports with the Commission; and it is

FURTHER ORDERED, that Pennichuck Water Company, Inc. will retain the critical areas of land requisite for proper maintenance of its watershed; and it is

FURTHER ORDERED, that any sale of buffer zone lands will require restrictions placed in deeds to the land consistent with Sasaki study recommendations and this Report.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of April, 1983.

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NH.PUC*04/29/83*[79634]*68 NH PUC 257*Public Service Company of New Hampshire

[Go to End of 79634]

Re Public Service Company of New Hampshire

Intervenor: Conservation Law Foundation

DE 81-312, 16th Supplemental Order No. 16,374

68 NH PUC 257

New Hampshire Public Utilities Commission

April 29, 1983

INVESTIGATION into supply and demand of electricity for utility involved in a large nuclear plant construction project.

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1. ELECTRICITY, § 4 — Nuclear generating plant — Start-up date — Time period between fuel load and commercial operation date.

[N.H.] An estimate by an electric utility involved in the construction of a nuclear generating unit that commercial operation would begin three months after the initial fuel load date at the

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project was rejected as unsupported by the record in favor of an estimate of eight months; the commission considered actual and projected time periods for other projects around the country and found that the biggest flaw in the utility's projection was its reliance on a contention that testing is the major fact that would influence the time period. p. 262.

2. ELECTRICITY, § 4 — Nuclear generating plant — Projected completion date — Use of industry data for projection.

[N.H.] While determining a projected completion date for a nuclear generating facility the commission adopted a projection by an independent consultant that relied on industry data for part of its analysis rejecting a shorter time period projected by a contractor involved in the project whose past estimates were seriously flawed and whose current analysis was an "engineering type study" with no comparisons to other construction projects. p. 268.

3. ELECTRICITY, § 3 — Nuclear generating plant — Cost estimates — Effect of changing safety regulation.

[N.H.] The commission rejected a proposal by an electric utility involved in the construction of a nuclear generating facility that cost estimates for the facility need not make allowance for increased or changed safety regulations; the commission found that the number of years before completion of the facility required some consideration in the cost estimate for future regulatory changes beyond current escalation allowances. p. 277.

4. NUCLEAR PLANT DECOMMISSIONING, § 21 — Cost estimation inclusion in initial estimate for cost of plant.

[N.H.] Cost estimates for nuclear generating facilities should include an allowance for decommissioning. p. 278.

5. RATES, § 322 — Electricity — Demand — Price effect of large nuclear project.

[N.H.] The price effect of a large nuclear generating project was found to be the most important determinant of energy demand for an electric utility for the immediate future. p. 284.

6. CONSERVATION, § 1 — Electricity — Programs for low-income groups — Appropriateness where utility has excess capacity.

[N.H.] While investigating issues of supply and demand for electricity generated by a utility involved in a large nuclear plant construction project the commission found that even though conservation planning for the utility would depend to a large extent on the completion of the construction because completion of the entire project would result in excess capacity, making overt conservation programs inappropriate, programs targeted to low-income groups would remain an important tool available to the commission as real prices for electricity rise. p. 292.

7. COGENERATION, § 1 — Small power producers — Contribution to utility supply — Effect on long-range planning.

[N.H.] In analyzing the contribution from small power producers for electric utility long-range planning purposes the forecasting method adopted by the commission captured both the changes due to the passage of the applicable federal and state legislation and the effects of future sharp increases in prices attributable to the utility's involvement in a large nuclear project. p. 298.

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8. ELECTRICITY, § 3 — Nuclear construction project — Associated excess capacity — Sales to recover costs of project — Cancellation of plant as an alternative.

[N.H.] While examining the supply and demand of electricity for a utility involved in a large nuclear generating project the commission found that if excess capacity from the project could not be sold at a level high enough to recover the capital costs of the project the appropriate standard to determine whether that situation is acceptable should be whether completion of the project leads to lower costs for customers over canceling the unit. p. 303.

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ELECTRICITY, § 3 — Nuclear construction project — Effect on utility strategic planning — PURPA proceeding.

[N.H.] Discussion by commission in a generic order issued pursuant to the Public Utility Regulatory Policies Act concerning how a large nuclear construction project should effect the supply and demand planning undertaken by an electric utility heavily involved in the project; the commission urged the utility to employ more pessimistic assumptions in performing both sensitivity and financial analysis. p. 306.

APPEARANCES: Douglas I. Foy, Linzee Weld, and Charles R. Cary for Conservation Law Foundation; Martin L. Gross, Robert M. Larsen, Debbie-Ann Sklar, and Frederick R. Plett for Public Service Company of New Hampshire; Larry M. Smukler, Dr. Sarah P. Voll, George R. Gantz, Lisa G. Braiterman, Kenneth R. Traum, Kate Kelley, and Robert J. Camfield, commission staff.

Before Love, chairman and Aeschliman, commissioner.

BY THE COMMISSION:

REPORT

I. *PROCEDURAL HISTORY*

By Order of Notice dated October 22, 1981, the New Hampshire Public Utilities Commission opened this docket for purposes of investigating the issues relating to the supply and demand of electricity for Public Service Company of New Hampshire (PSNH). The Commission undertook this investigation for variety of reasons and based upon numerous statutory authority. We as Commissioners have a statutory duty to keep informed pursuant to RSA 374:7. The Commission has the authority to investigate the methods being employed by electric utilities to supply electricity. The Commission has the statutory authority pursuant to RSA 365:5 to investigate any act or omission by any utility and take appropriate action. Pursuant to RSA 374:1 and RSA 378:7 every utility must provide an adequate supply of their product at a reasonable price. Under the provisions of RSA 374:3 and 378:7 the Commission has the necessary authority to insure adequate supply at a reasonable price.

The Commission, pursuant to its Orders in DE 80-47 stated its intention to open docket to review the various demand and supply scenarios so as to ascertain a clearer perspective of what

New Hampshire's energy future entailed. Legislation filed before the House of Representatives requiring this type of investigation was removed pending a promise to conduct this investigation. The entire legislature specifically allocated funds for this investigation. These two factors also contributed to the Commission's decision to go forward with this docket.

There is federal authority and a federal mandate to conduct this docket. The Commission designated this docket as a "PURPA proceeding". The Public Utility Regulatory Policies Act of 1978 (PURPA) requires state Commissions to encourage (1) the conservation of energy supplied by electric utilities, (2) the optimization of the efficiency of use of facilities and resources by electric utilities; and (3) equitable rates to electric consumers (Section 101).

Section 111 establishes certain federal standards that must be examined

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by the state commissions such as this one. In considering these standards (cost of service, load management techniques, interruptible rates, time of day rates, and declining block rates) it is necessary to understand the underlying demand of the customers and the various supply options including conservation, that are available. Estimates for new plants under construction, oil prices, price elasticity, emerging technologies, growth and numerous other factors are essential if the purpose of the PURPA Act of 1978 are to be accomplished.

Furthermore, section. 210 of PURPA encourages the development of alternative energy. This emerging encouragement of development must be studied in concert with other supply options so as to adequately ensure that there is an optimization of the efficiency of use, facilities and resources by electric utilities.

The issues in this docket are all PURPA issues and furthermore, all issues are concerned with Title I, Subtitle B. The Commission affirmed the party status of PSNH, the Conservation Law Foundation (CLF) and the Staff of the Commission (Staff) on the basis of earlier participation in DE 80-47, Investigation. Into Peak Load Forecasts. Intervention was also later granted to the New Hampshire Energy Coalition and the the Union of Concerned Scientists, and both were represented jointly with and by CLF. No other parties requested intervention status.

Two procedural hearings, held on November 12, 1981 and May 25, 1982, were held. Oral arguments were heard on various matters, both at these hearings and at the later evidentiary hearings. The procedural phase of this docket was quite lengthy, and numerous procedural motions and arguments were submitted by all parties. All were resolved by Order of the Commission, although in certain instances exceptions by PSNH counsel and CLF counsel were noted and preserved.

In addition to the lengthy procedural phase, this docket has had an equally extensive evidentiary phase. Overall, the undertaking was quite ambitious and the contributions of the parties were quite lengthy detailed and complex. The record in this case is extremely detailed and offers a healthy exploration of a number of issues.

Sixteen Orders have been issued in this docket, one of which is pending before the Supreme Court.

There were thirty-six days of evidentiary hearings during which the Commission listened to

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twenty-five direct witnesses and twelve rebuttal witnesses. The Conservation Law Foundation presented five direct witnesses, the Staff presented six and PSNH presented the largest number of both direct and rebuttal witnesses. One hundred and fifty exhibits were presented.

The Commission concluded the proceedings and used its discretionary rule to request briefs. All parties simultaneously filed their briefs on April 8, 1983.

II. *SUPPLY*

A. *Overview — Seabrook*

The Seabrook project represents the construction of two 1150 MW units. Public Service Company of New Hampshire (PSNH) has a 35.6% ownership interest as well as the responsibility of lead owner. The actual construction

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of these two units began in July of 1976. (Exhibit 29)

Public Service Company undertook this project with an estimate slightly below 1 billion dollars. When this docket began PSNH's position was that the ultimate cost would be closer to $3.56 billion. The completion dates were then represented to be February 28, 1984 for Unit I and May 31, 1986 for Unit II. PSNH maintained this position for 20 months including their initial filing in this docket dated October 31, 1982. Revised estimates were released in the final weeks of 1982. These revised estimates led to an overall cost of $5.1 billion and a 10 month delay in both units to December 31, 1984 and March 31, 1987 respectively.

Subsequently, the Seabrook partners chose to delay the second unit by what PSNH represents to be by four months. The new date is now July 31, 1987 for Unit II with a total construction cost of $5.2 billion.

The importance of the Seabrook option to any planning review is abundantly clear. Seabrook is the largest project undertaken by Public Service Company of New Hampshire. The total Seabrook investment will represent, depending on the cost estimate accepted, between 80 and 90% of the total assets of this Company. According to Standard and Poors, this asset concentration in one project is the heaviest level within the electric utility industry. Exhibit 106

The other cost estimates differ from PSNH's estimate as well as from each other. When this proceeding began, Staff had estimated the cost of the entire Seabrook project as falling within a range of $4.5 to $5.3 billion dollars. Their estimated completion dates for the two units were January, 1985 for Unit I and January, 1987 for Unit II.

During the time period associated with this docket Staff revised its estimates based largely upon the receipt of new data including PSNH's revised cost estimate. Staff's present conclusions are an operational date of July 1, 1985 for Unit I and January 1, 1989 for Unit II leading to a 7 billion dollar cost estimate for the entire project.

The Conservation Law Foundation, through its two main witnesses, Dr. Rosen and Mr. Chernick, have submitted numerous scenarios as to the completion dates for both units and thereby the subsequent total cost of the project. Dr. Rosen's estimates range from a low point of $7.2 billion to a high of 8.8 billion dollars. Mr. Chernick pushed this range into the 9 to 10

billion dollar range if the later completion dates he postulated came to pass. The completion dates vary somewhat depending on the CLF scenario reviewed but in general Seabrook I is estimated to be in operation December of 1985 or later and Seabrook II July, 1988 or later. The Seabrook II range actually spills over into 1989 and 1990 in Mr. Chernick's updated forecasts.

The following table illustrates the positions of the parties on this key supply question. [See page 262]

The differences among the parties can be explained by their position on key issues arising from the record. These include the following:

1. What is the likely time period between the fuel load date and the Commercial Operation Date for each Unit? 2. How complete is each Unit?

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

SEABROOK

Party

PSNH
Staff
CLF

3. What effect is nuclear safety regulation likely to have in the future? 4. What costs if any are presently understated?

The parties also have major areas of disagreement on capacity factors, operation and maintenance expenses and the market for secondary sales. These matters will be discussed later in the opinion. We will now turn our attention to the first of the four questions.

B. *Fuel Load Date to Commercial Operation Date*

[1] The time period between the date that nuclear fuel is loaded into a reactor and the date at which commercial operation begins is extremely critical to any nuclear unit. The longer the time period the longer it takes to finally complete a project and the greater the cost. This issue ties emerged as one of the critical issues in this proceeding. CLF, Staff and PSNH significantly disagree with each other. These differences translate into the major reason why the three parties disagree on the completion dates for both units and thereby the ultimate cost of the Seabrook project.

PSNH estimates that for both Unit I and Unit II the time period between fuel load date and commercial operation will be three months. PSNH estimates that the nuclear fuel for Unit I will be loaded in place prior to September 30, 1984 to allow for commercial operation beginning December 31, 1984. The PSNH estimate for Unit II is for the nuclear fuel to be loaded before April 30, 1987 so as to achieve a Commercial operation date as of July 31, 1987.

The initial three month estimate came from. former Yankee Start-Up Manager and now Vice President of Nuclear Production, George Thomas. (Transcript 25-183 to 25-185) This three month estimate has remained unchanged since earlier estimates. (Transcript 25-119) Mr. Thomas

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was replaced as start-up manager by Mr. Dennis McLain. Both McLain and his predecessor, Mr. Thomas arrived at the conclusion that the standard start-up testing program specified by Westinghouse in the Nuclear Steam Supply System manual is the equivalent of the time period between the fuel load date and the commercial operation date. (Transcripts 25-124, 25-183 to 185, 25, 132)

Since the other parties were prone to refer to other nuclear units, Mr. McLain attempted to rebut this criticism. It is his and PSNH's position that their estimate is reasonable since it (1) includes the impact of Three Mile Island, (2) comparison to other units is inappropriate because their problems were with equipment not selected for Seabrook, and (3) Mr. McLain and Yankee believe that with more shifts and greater expertise they can do better than their brethren within the industry.

Mr. McLain relies upon his experience

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from the construction of North Anna #1 and North Anna #2 His testimony is that that experience demonstrates the likelihood of the three month estimation he sponsors. Other than this comparison with North Anna, PSNH's estimation does not rely on what has occurred in other nuclear plants nor do they rely on what is being projected at other nuclear plants.

Staff offered the testimony of George Gantz. He testified that the time period between the fuel load date and the commercial operation date will be closer to six months. (Exhibit 1) Mr. Gantz based his estimate upon an analysis of seventy-eight nuclear plants constructed to date. Based upon this analysis, Mr. Gantz found that PWR's averaged six months between fuel load date and commercial operation date. Mr. Gantz chose to exclude existing BWR's as they have had greater problems with start-up.

In Staff's opinion, PSNH is overly optimistic given the history of start-up problems for other reactors and given the increased attentions to safety subsequent to Three Mile Island.

The Conservation Law Foundation filed a significant level of testimony on this point including analyses by Dr. Rosen and Mr. Chernick. CLF focused much of their attention on comparisons between PSNH estimates and those used by other utilities for other nuclear units. CLF reviewed both units already constructed and those scheduled for completion within the next decade.

Mr. Chernick used as his time period of focus the difference between operating license issuance and commercial operation. The time frame is comparable to the difference between fuel load and commercial operation. Mr. Chernick noted on page 47 of his testimony that nuclear plants receiving their operating licenses since 1978 have experienced start-up intervals averaging 13 months. This chart did not include Diablo I which first had then lost its operating license. Nor does the list include Zimmer which has been sitting idle in the 98-99% complete category for a considerable period of time.

The nuclear units referred to by Mr. Chernick and the start-up interval are listed below:

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

                    Start-up
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Unit	*Interval* (months)
Three Mile Isand 2	10.7
Hatch 2	14.7
Arkansas 2	18.8
Sequoyah 1	16.1
North Anna 2	8.1
Salem 2	17.8
Farley 2	9.2
McGuire 1	10.3
Sequoyah 2	11.2
Average	13.0

The resolution of this issue is extremely important to the final outcome as to the Seabrook completion dates and thereby the cost estimates. A review of the evidence establishes the inappropriateness of the PSNH estimate.

PSNH's witness in essence relies upon two pieces of information to support the PSNH position of three months. The first is the fact that the Westinghouse guide book for nuclear plant start-up states that *testing* can be completed within ninety days. The Commission has no reason to doubt that with Mr. McLain's enthusiasm he will do everything in his power to complete the testing on time. Obviously, this short timetable allows for very few problems. Other plants and their experiences

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demonstrate that there are other factors that can upset a testing schedule such as what has occurred with Diablo Canyon. Exhibit 87, response to question 209 demonstrates that Mr. McLain was *unable to find any* that fit into the Westinghouse start-up program.

This start-up program guide as to time was developed in the early 1970's and has been unchanged as to time since then (Transcript 25-142, 143) PSNH has always used the three month estimate for both Units. This continues despite Mr. McLain's recognition that indeed other problems have occurred during testing at other plants. (Transcript 25-156) While Mr. McLain is aware that other operators of Westinghouse plants have exceeded the time allotted in the Westinghouse manual and that still others are estimating longer time periods, Mr. McLain has chosen not to find out from these latter operators why they are exceeding the Westinghouse estimates.

While the tests are likely to take longer than the 13 weeks allocated by Westinghouse, the greatest leap of faith made by PSNH is the management decision that no other factors other than testing are involved between fuel load date and commercial operation. The Commission finds the evidence to be totally against this position.

The testimony of Mr. Chernick reflecting actual results since 1978 reveals a 13 month average. Exhibit 87, response 200 to CLF is a list of nuclear plants receiving an NRC authorized Fuel Load Date after the incident at Three Mile Island. This chart, put together by PSNH witness McLain demonstrates that the actual time period until commercial operation has averaged 11.5 months for post Three Mile Island nuclear units.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

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FacilityFuel	Date NRC Authorized		Commercial Operating Load
Farley 2	10/23/80		07/30/81
North Anna 2	04/11/80		12/14/80
Salem 2	04/18/80		10/13/81
Sequoyah 1	02/29/80		07/01/81
Sequoyah 2	06/25/81		06/01/82
McGuire 1	06/12/81 12/01/81 5.6		
			AVERAGE

As CLF correctly notes problems such as equipment failures, regulatory constraints, personnel problems, siting problems and inadequate construction (Zimmer) all lead to extensions in time during this critical phase.

The second factor relied upon by PSNH and its witness McLain is Mr. McLain's experience with North Anna #1 and North Anna #2. Based upon this experience PSNH and McLain confidently predict three months. Yet both units demonstrate the very reason why PSNH's approach must be rejected. Although in the instance of at least one of these units the 90 days of testing was bettered, the commercial operation date was still six months after the fuel load date for North Anna #1 and in excess of eight months for North Anna #2. (Transcript 25-125) There are factors other than testing that are involved in moving from the fuel load date to the commercial operation, not the least of which is federal safety regulation.

Mr. McLain is paid to do testing. The true weakness in PSNH's case is the leap of faith required to accept that testing is all that can influence the time period. PSNH has provided no credible information to support its contention.

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The results of units that became commercially operational since 1978 is convincing evidence that PSNH's approach is incorrect. PSNH fares little better when the estimates of future plants and their estimates are brought forward for consideration.

CLF again pursued this line of inquiry with PSNH's witness McLain. McLain's response as to nuclear units coming into operation within the time period up to the date of the alleged commercial operation date for Seabrook #1 is set forth below.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Plant	Fuel Load	Commercial	Duration Operation(Months)
Waterford 3	01/83	07/83	6
Byron 1	04/83	02/29/84	11
McGuire 2	04/01/83	10/01/83	6
LaSalle 2	04/30/83	10/31/83	6
Enrico Fermi 2	06/83	11/83	5
Comanche Peak 1	06/83	03/84	9
Callaway 1	06/01/83	Early '84	6+
Midland 2	07/83	12/83	5
Watts Bar	1 08/83	06/84	10
Palo Verde 1	08/01/83	12/83	4
Washington Nuclear 2	09/83	02/84	5
Perry 1	11/83	05/84	6
Midland 1	12/83	07/84	8

Wolf Creek 1	12/16/83	05/31/84	5.5
Susquehanna 2	01/84	11/84	10
Clinton 1	01/03/84	08/31/84	8
Palo Verde 2	08/01/84	12/84	4

These units average an estimated time period of 6.8 months between fuel load date and commercial operation. These units are not all Westinghouse units. In fact, the three units reflecting the shortest time periods, Palo Verde #1, #2, and Midland #2, are not Westinghouse. The shortest time period among the group that is a Westinghouse Unit is Wolf Creek #1 at 5.5 months. (Transcript, 25-167)

In fact, if the units are restricted to only Westinghouse units the chart is as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Plant	*Fuel Load*	*Commercial Operation*	*Duration (months)*
Byron #1	4/83	2/29/83	11
McGuire #2	4/01/83	10/01/83	6
Commanche #1	6/83	03/84	9
Callaway #1	6/01/83	Early 1984	6+
Watts Bar #1	08/83	06/84	10
Wolf Creek #1	12/16/83	05/31/84	5.5
		AVERAGE	8 months

The higher average of Westinghouse units is more comparable to PSNH's situation since it is using Westinghouse testing on its Westinghouse equipment. Eight months is found to be more in line with the experience of recent units (11.5) and units scheduled for operation at or near the same time PSNH expects Seabrook

However, the eight month time

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frame must be viewed as only a part of the reasonable range. More critical analysis reveals that there is a strong likelihood that the limit of the reasonable range is higher than 8. months. While the recent average experience of 11.5 months 15 extremely important in support of this finding, there is other support in this record.

The two longest time periods shown on the chart set forth above are for Byron #1 — 11 months and Watts Bar #1 — 10 months. These are being built by Commonwealth Edison Company (Illinois) and the Tennessee Valley Authority respectively. These entities are the two leading builders of nuclear power plants in the Country. Both have built more plants than anyone else and are building more plants than anyone else. They are far more likely to have a working knowledge of the necessary time than those constructing their very first nuclear unit. The overwhelming majority of those with small time periods between fuel load date and commercial operation are building a nuclear plant for the very first time. The list of optimistic builders that are construction novices include the following:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Lead Utility	*Plant*	*Duration in Months Fuel Load to Commercial Operation*

Public Service Co. of N.H.	Seabrook #1,2	3
Arizona Public Service	Palo Verde #1,2,3	4
Washington Public Power	Whoops #2	5
Detroit Edison Co.	Enrico Fermi	5
Kansas G&E, Kansas P&L	Wolf Creek	5.5
Clevaland Electric Illuminating	Perry #1	6
Louisana Power & Light	Waterford #3	6
Union Electric	Callaway #1	6.5

The strength of the Commonwealth Edison (Byron #1) and TVA (Watts Bar # 1) estimates is underscored by the situation at LaSalle #2. LaSalle #2 is a non-Westinghouse unit that is being built by Commonwealth Edison. It is scheduled for operation within four months of Byron #1. Yet, Commonwealth Edison is using a six month duration between fuel load and commercial operation. The five month additional time period for Byron # 1, a Westinghouse versus a non-Westinghouse LaSalle #2, Unit being built by the same utility supports the inappropriateness of the PSNH estimate. The record supports the finding that Westinghouse units are not able to be brought to commercial operation either as fast as they predict or as fast as what is predicted for other units.

Westinghouse units scheduled after Seabrook I again reject the concept of a three month time period between fuel load and commercial operation.

Inquiries were made of PSNH witness McLain as to units becoming operational after Unit I. (Transcript 25-169-171) These inquiries led to the following information as to Westinghouse units.

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

Unit	*Duration in Months Fuel Load Date to Commercial Operation*
Catawba #1	8 months
Catawba #2	8 months
Harris #1	9 months
Harris #2	9 months
Braidwood #1	6 months
Braidwood #2	6 months
Millstone #3	5 months
Beaver Valley #2	5 months
Marble Hill #1	6 months
Marble Hill #2	6 months
Vogtle #1	6 months
Vogtle #2	6 months
South Texas #1	6 months
South Texas #2	6 months

The nuclear history set forth in Exhibits 12, 28, 29, 30, and 140 all demonstrate that these estimates (for less completed plants) will increase in the future. Yet, even at this stage none of these units is scheduled to achieve a time period shorter than five months. The average is slightly more than six months.

PSNH's three month time period between the fuel load date and the Commercial Operation date for Seabrook is more optimistic than every other unit being constructed in the United States. Similar Westinghouse units scheduled near the completion date for Seabrook #1 are carrying an

averaged estimated time frame of 8 months. Units scheduled after the advent of Seabrook #1 are carrying an average estimated time frame of 6 months. Recently completed units depending upon the historical period used have actual experience in the range of 11.5 to 13.2 months. The major builders of nuclear units are using time frames in excess of ten months. Based upon the evidence in this docket the Commission finds that there is a substantial probability that the time frame between the fuel load date and the commercial operation date for Seabrook #1 and #2 will be between six months and 11.5 months. For purposes of planning the Commission finds that the most likely time period within this range is eight months. This finding is the direct result of the review submitted by CLF through its witness Chernick, its cross-examination and its discovery. We find that as to this critical finding, CLF has made a significant and substantial contribution. As for our selection of the lower portion of this range, we find some validity to PSNH's witness, Dr. Hendrie's testimony that there will be some reduction in the NRC impact during this time frame. However, given outstanding issues such as evacuation plans, problems arising over the recent Supreme Court decision on the California nuclear plant prohibition statute and evolving safety standards, we still find a substantial factor of NRC regulatory impact during this time frame. We specifically reject PSNH's three month estimate as unsupported by the record

This finding of eight months between fuel load date and commercial operation date is five months more than what is reflected in the current estimates used by PSNH for Seabrook #1 and #2. A five month addition to the estimated completion date for both units yields to the following dates at this stage of the analysis.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

UNIT	*ADJUSTED COMMERCIAL OPERATION DATE*
Seabrook #1	May 31, 1985
Seabrook #2	December 31, 1987

This recognition of a more appropriate and likely schedule will when it occurs significantly increase the cost of the project.

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C. *Completion Percentage of Both Units*

[2] The procedure to determine the cost of a project is a complicated task. However, the level of completion and thereby the remainder to be accomplished are key variables in the ultimate equation. If the amount of progress is overstated then the ultimate completion date will be further out in time resulting in additional costs, both from the schedule change and the level of additional work previously not considered.

The parties in this docket have devoted considerable resources in attempting to arrive at a total cost of the project and the actual completion dates for the units.

PSNH relies upon United Engineers and Contractors for its estimate that the cost of the project is $5.24 billion and that at the time of the estimate the level of completion for Unit I was 66% and 13% for Unit II. (Exhibit 5 and Exhibit 140) The testimony of Dr. Ebuer from UEC is that this estimate is far more reliable than previous estimates and that the level of analysis was

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more sophisticated. The procedure used was an engineering type study. No comparisons were made to other construction projects.

UEC has been the source of construction cost estimates since this project began. Exhibits 112, 113, and 54 represent attempts by UEC to estimate the costs of this project. Exhibit 5 represents their most recent effort. Exhibits 83, 84, and 86 represent quarterly construction reports concerning progress at the plant site. These reports are to contain material that indicate areas of concern and areas where progress is being made.

A review of these exhibits together with the testimony of Dr. Ebuer leads to certain conclusions.

The first conclusion is that overall UEC is not a good source for predictions as to either the costs or completion dates for this project. These previous estimates have been placed in optimistic terms but always with no chance of success. Consequently, further updates were required which were outdated before they were even issued.

A few examples are illustrative of this point. In the time period of 1978-1983, UEC's estimate as to the number of workers at the project at the time of peak, the number of man-hours, the level of engineering time required, have all been dramatically incorrect. These previous estimates were so extraordinarily off that their errors should be ingrained in our memories for the next proposal before the Commission and Site Evaluation Committee.

The employees at time of construction peak is an estimate which has been continually updated, as the following table illustrates.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Date of PSNH — UEC Estimate	*Estimated Number of Workers at Construction Peak*
October, 1973 — Exhibit 112	2,500
August, 1979 — Exhibit 113	4,000
October, 1980 — Exhibit 110	4,500
April, 1981 — Exhibit 111	4,500
May, 1981 — Exhibits 83 & 54	6,050
April, 1982 — Exhibit 102	7,500
December, 1982 — Exhibit 5	7,700-8,000

UEC provides engineering services to the project. A major source of the increased costs of Seabrook has been the increasing level of engineering bills from UEC. UEC has never captured

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[Graphic Not Displayed Here]

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the art of estimating these costs. The next chart illustrates this problem. Again, this information was provided in response to a CLF data request.

UEC trumpeted its early warning system throughout 1981 and 1982 or more appropriately

since the last cost estimate revision in May of 1981. PSNH came before this Commission and echoed the strength of this early warning cost control system which was designed to prevent major cost increases from shocking the company.

What happened in the vernacular "is history". UEC's early warning system detected a 50-60 million dollar change between May of 1981 and November 1982. However, the actual change was in excess of one billion. PSNH claims to be shocked, UEC claims to be shocked but the fact of the matter is that their efforts to estimate costs and adhere to schedules is extraordinarily bad. Dr. Ebner referred to the early warning system as a disaster.

The newest estimated schedule and cost figures are set forth in Exhibit 4. We are told that there was an extensive effort put into its preparation. However, CLF correctly notes in its brief that when consideration is given to the total time spread over the number of subaccounts, it is clear that again this study is superficial.

PSNH and the other joint owners finally have taken measures to secure an independent consultant to review the schedule and thereby the cost estimate.[1(11)] The consultant hired is Management Analysis Corporation (MAC). MAC unlike UEC is not in the business of constructing nuclear plants.[2(12)]

MAC cites as its reason for the *minimum slippage of a year* the inability of UEC to accomplish the necessary pipehanging within the allotted time frame. MAC simply stated that UEC is significantly behind in pipe installation. UEC's response, Exhibit 51, was predictable in that everything would be fine if they were given more workers and more overtime. Yet, clearly the record of this case establishes that MAC is unquestionably right on the slippage and UEC is unquestionably wrong.

CLF and Staff repeatedly cited piping as the achilles heel of the PSNH estimates for Seabrook I. CLF, in Exhibit 48, again made a significant contribution by drawing attention to the fact that small bore piping is only 29% complete and large bore supports are only 45% complete. Together with large bore pipe at 55%, these other two represent a serious piping problem.

PSNH and the joint owners haven't committed themselves as to whether to accept MAC's minimum one year change in schedule or UEC's two month change. We would suggest that the record in this proceeding suggests at least a one year delay. The table on the next page is taken from Exhibit 140. On the page appear all of the units presently scheduled for commercial operation during the same year as Seabrook #1 each of which is substantially more complete by anywhere from 9 to 32%. However, the year of 1985 indicates irregularities with comparisons of schedules. While Seabrook #1 and Byron #2 are shown to be approximately the same percentage complete (66%), both are significantly

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behind Palo Verde #2 (94%), Limerick #1 (80%), Wolf Creek #1 (81%), Catawba #1 (90%). Yet these latter four units are scheduled for operation three to six months after the scheduled operation date for Seabrook 1#.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

SEABROOK I VERSUS OTHER NUCLEAR PLANTS

UNIT

ZIMMER #1
WATERFORD #3
BYRON #1
PALO VERDE #1
CALLAWAY #1
PERRY #1
MIDLAND #1
CLINTON #1
WATTS BAR #1
SUBSEQUANNA #2

SEABROOK #1

BYRON #2
PALO VERDE #2
LIMERICK #1
WOLF CREEK #1
CATAWBA #1
BRAIDWOOD #1
RIVER BEND #1
WATTS BAR #2

SOURCE: Nuclear News, Exhibit 140, February 1983.

The table then reveals two other plants, Braidwood #1 and River Bend #1 which although as complete as Seabrook #1, are scheduled for the waning days at the end of *1985*. Watts Bar #2 closes out the field at 54% and is also scheduled for the end of 1985. Yet Exhibit 140 also establishes that Harris #1 is 76% complete but scheduled for commercial operation in March of 1986.

To ascertain whether Unit I can truly be viewed as 66% complete it is important to recognize that Exhibits 5, 82 and 84 all indicate that PSNH — UEC throughout the latter part of 1982 believed that Seabrook was at or near 76% complete. Another important variable in determining the accuracy of the completion date is whether a unit allegedly 66% complete can become operational in late 1984, in late 1985 or early 1986.

To answer this question we find Exhibit 29 to be of greatest assistance. This NRC "yellow book" uses standard nuclear measurements of accomplishment. These figures are supplied by utilities and the builders of nuclear power plants. While these figures areas of a specific point in time it is reasonable to assume continuing progress at all units.

The following tables [pp. 272, 273] are drawn from Exhibit 29. They demonstrate beyond a shadow of a doubt that the estimated completion date for Seabrook I is not December 1984, is not any time in 1985, and is likely to occur in early 1986.

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

	ESTIMATED PERCENTAGE COMPLETE
NRC Yellow Book Measurement	*Watts Bar #1*
Place Structural Concrete	*97%*
Install Reactor Pressure Vessel	*100%*

Install Large Bore Process Pipe	*91%*
Install Large Bore Pipe Hangers, Restraints and Snubbers	*69%*
Install Small Bore Pipe	*93%*
Install Cable Tray	*97%*
Install Exposed Metal Conduit	*76%*
Install Power, Control Instrumentation and Security Cable	*84%*
Install Electrical Terminations	*77%*
Commercial Operation Date	*11/1984*
Overall Estimated Percentage Complete	*92%*

While the numbers in these exhibits are as of June 30, 1982, the more recent information governed by CLF in Exhibit 48 and the Exhibit 51 from MAC support the average of this information.

The first table [above] demonstrates that in the three critical piping categories the two units closest to PSNH have piping completion percentages running 69% to 100% whereas PSNH-UEC is in the range of 15% to 53%. Since the critical path for any nuclear unit is whatever is the least complete or furthest behind schedule it its clear that CLF's Staff's and MAC's highlighting of piping is the weakness in UEC's estimate.

The second table [top of p. 273] looks at units scheduled for operation in the first half of 1985. The level of piping completion of the latter four units demonstrates that Seabrook #1 and Bryon #1 are incorrectly scheduled by other lead owners. Limerick #1 is a unit that has had a significant share of controversy and delays (Exhibit 28 and 29). Yet its piping completion is between 79% and 97% for these three critical categories. The range for the four later units in this time frame all have piping percentages ranging from 51% to 97%. The Commission must again reject the first six months of 1985 as a time frame of any validity for the advent of Seabrook #1.

The third chart [bottom of p. 273] focuses on the time period of June,1985 through March of 1986. The units clustered in this group are more in line with Seabrook I as to piping than the other two groups. Still, the later in time units are further along the road to completion than are the early units in this group. Even more disturbing is that Bellefonte I is more complete troth on a total plant and on a basis of piping than any of these units and it is scheduled for operation in November of 1986. The following chart [see p. 274] details the Bellefonte #1 situation as to completion.

This evidence supports the contention that MAC has taken that Seabrook #1 is at *least one year* further out than the December 31, 1984 date used by PSNH and UEC.

The data from Watts Bar #2 and Harris #1 seem to be closest to the Seabrook data. The River Bend #1 data appears to indicate optimism

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[Graphic Not Displayed Here]

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

NRC Yellow Book Measurement	ESTIMATED PERCENTAGE COMPLETE Seabrook #1
Place Structural Concrete	90%
Install Reactor Pressure Vessel	100%
Install Large Bore Process Pipe	53%
Install Large Bore Pipe Hangers, Restraints and Snubbers	37%
Install Small Bore Pipe	15%
Install Cable Tray	65%
Install Exposed Metal Conduit	59%
Install Power, Control Instrumentation and Security Cable	32%
Install Electrical Terminations	18%
Commercial Operation Date	12/1984
Overall Estimated Percentage Complete	66%

when compared to Bellefonte #1. While there is at least a possibility that Seabrook #1 will come into operation at any point during the December 1985 to November 1986 time range, the Commission finds the comparability to Harris #1 to suggest the more likely time period as March of 1986.

The Commission finds the documentation by CLF's witness Chernick persuasive on this matter as well. His analysis of differing scenarios and then averaging them together seems to be a valid approach. The approach does not attempt to select in a set date but rather reflects the various ways one can examine a completion schedule. We believe Mr. Chernick, Dr. Rosen's and Mr. Gantz's approach concerning completion dates to be superior to that of UEC's. The reliance upon industry data for part of their analysis is a strong positive factor to be considered. UEC's absence of an industry analysis severely weakens its position and the validity of that position. We find that CLF has made a significant contribution to our findings regarding a completion date for Seabrook #1. We specifically find that March of 1986 is a more probable date than that submitted by any of the parties. We now turnout attentions to Seabrook #2.

The information contained in Exhibit 140 and set forth in the foregoing table is the result of reports submitted by nuclear plant owners from all over the country. This table demonstrates that there is no feasible way that Seabrook II will be operational in 1987 or 1988.

The average percentage of completion for units scheduled for commercial operation in 1987 excluding Seabrook II is 46%. PSNH and UEC would have this Commission accept that Seabrook II at a 13% level of completion will become operational at the same time as these units. The Commission cannot accept as reasonable planning the concept that Seabrook II will catch up to units three and half times its completion. There is no evidence in this record to support this contention. The UEC-PSNH position is further weakened by the fact that the unit that is most complete among these 1987 units, Bellefonte #2 is the unit scheduled for commercial operation latest in time.

Before turning to a further examination of the Bellefonte #2 — Seabrook

#2 situation, it is equally important to note that the units in 1988 are estimated to be further along on average than Seabrook #2 as well. Of the three units scheduled for commercial operation in 1988, the furthest along is Perry #2 at 46% complete. While Marble Hill #2 and Voglte #2 are at 26% and 14% respectively, the average for the year is 30%. Both of these later in time units are further along than Seabrook II and if Perry #2 is a good measurement it would appear that slippage in these latter two units is probable.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

SEABROOK II VERSUS OTHER NUCLEAR PLANTS

UNIT

HARRIS #1
MILLSTONE #3
NINE MILE POINT #2
BRAIDWOOD #1
BELLEFONTE #1
HOPE CREEK #1
MARBLE HILL #1
VOGTLE #1

*SEABROOK #2**

CATAWBA #2
SOUTH TEXAS #1
LIMERICK #2
BELLEFONTE #2
PERRY #2
MARBLE HILL #2
VOGTLE #2
SOUTH TEXAS #2
HARRIS #2

Seabrook II was delayed four months to 7/1987 for financial reasons.
SOURCE: Nuclear News, Exhibit 140, February 1983.

The NRC yellow book is a standard within the nuclear industry. Exhibit 29 reflects the most recent edition of this publication. There are standard forms used and standard measurements of progress employed by the NRC in compiling these documents.

A review of Exhibit 29 reveals the substantial weakness of PSNH's position as to the Seabrook II completion date. Bellefonte II is 62% complete and is scheduled for November of 1987. Seabrook II is 13% complete and is scheduled for July of 1987. The yellow book demonstrates that Seabrook II is so significantly behind Bellefonte II that there is no way that PSNH — UEC will catch up. [See page 276.]

This comparison of standard nuclear industry measurements demonstrates that no reasonable contractor would consider Bellefonte II and Seabrook II in the same year. The evidence establishes that the decision to reject 1987 as a year of completion for Seabrook II is not even a close call.

The units scheduled for commercial operation in 1988 are three in number — Perry #2, Marble HIll #2 and Vogtle #2. Like Seabrook #2,

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

NRC YELLOW BOOK MEASUREMENT	*BELLEFONTE II ESTIMATED % COMPLETE*	*SEABROOK II ESTIMATED % COMPLETE*
Place Structural Concrete:	100%	33%
Install Reactor Pressure Vessel:	100%	0%
Install Large Bore Process Pipe:	73%	0%
Install Large Bore Pipe Hangers, Restraints and Snubbers:	44%	0%
Install Small Bore Pipe:	48%	0%
Install Cable Tray:	98%	0%
Install Exposed Metal Conduit:	72%	0%
Install Power, Control, Instrumentation and Security Cable:	60%	0%
Install Electrical Terminations:	54%	0%

these units are the second of two unit projects. Yet, PSNH boldly asserts that Seabrook #II will be in commercial operation for nearly a year before the first of these 1988 units becomes operational. Yet, a review of the NRC standard measurements leads to a rejection of 1988 as a year for commercial operation of Seabrook II. Using the same standards of measurements as before, the three 1988 units and Seabrook II are compared in the table below.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

NRC Yellow Book Measurement II	*ESTIMATED % COMPLETE Perry #2*
Place structural Concrete:	89%
Install Reactor Pressure Vessel:	100%
Install Large Bore Process Pipe:	18%
Install Large Bore Pipe Hangers, Restraints and Snubbers:	14%
Install Small Bore Pipe:	0%
Install Cable Tray:	30%
Install Exposed Metal Conduit:	24%
Install Power, Control, Instrumentation and Security Cable:	0%
Install Electrical Terminations:	0%
Commercial Operation Date:	5/1988

The remaining two units, South Texas #2 and Harris #2, are scheduled for commercial operation in June of 1989 and March of 1990, respectively. Unfortunately, the nine measurement standards of completion for South Texas #2 are not available even though South Texas #2 is estimated to be 16% complete. Harris #2, while estimated to be only 4% complete, is further along as to completion than is Seabrook #2, which is claimed by UEC-PSNH to be 13%o complete. This finding is according to these nuclear industry measurements, of which the following table taken from data in Exhibit 29 is comprised [see page 277.]

There is no satisfactory explanation given why two units this similar in terms of estimated % complete can be viewed as having a three-year differential in commercial operation dates. The industry standards of measurement reveal significant similarities to find that early 1990 is a significantly more likely date for completion of Seabrook II than is any time up to that point.

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The Commission finds that the Harris

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

NRC Yellow Book Measurement	*ESTIMATED % COMPLETE* Harris #2
Place Structural Concrete:	*30%*
Install Reactor Pressure Vessel:	*0%*
Install Large Bore Process Pipe:	*10%*
Install Large Bore Pipe Hangers, Restraints and Snubbers:	*0%*
Install Small Bore Pipe:	*3%*
Install Cable Tray:	*0%*
Install Exposed Metal Conduit:	*0%*
Install Power, Control, Instrumentation and Security Cable:	*0%*
Install Electrical Terminations:	*0%*
Estimated Commercial Operation Date:	*3/1990*

3/1987 was UEC's estimate prior to 4-month delay.

project, Harris #1 and #2, is the closest to Seabrook in terms of level of completion and that the dates for the Commercial operation of the Harris Units are equally appropriate for Seabrook #I and #2.

The Commission concludes that the most likely completion date for Seabrook #1 is March of 1986 and for Seabrook #2, March of 1990.

D. *Nuclear Safety Regulation*

[3] The PSNH-UEC testimony in this docket focuses considerable attention on the position that previous cost estimates were incorrect due to the ever changing rules of NRC regulation. It is the position of PSNH-UEC that nuclear safety policy changes will be significantly reduced in the future. In fact, the cost estimate presented as Exhibit 5 does not make allowances for increased or changed safety regulations. Exhibit 48, Response 235 Rather, UEC continues to use its decade long pattern of assuming no changes.

The testimony of Dr. Hendrie, the former Chairman of the NRC, indicates that there will be fewer changes due to anticipation of fewer surprises like Three Mile Island. Surprises by their very nature are unpredictable. We believe that there may well be a reduction in the number of changes. However, testimony of Dr. Hendrie supports rather than negates the position that there will still be *some* changes. The impact of the changes will have direct relationship to the number of years the plant is under its greatest exposure; during construction.

The magnitude of schedule slip-page suggested by MAC, CLF, Staff and now found as probable by this Commission will more than offset any reduction in the number of changes. The number of years that stand between completion of both units requires some consideration in the cost estimate for future regulatory changes beyond the present escalation and allowances. UEC's cost estimate which assumes no changes is found to be incorrect.

Staff, throughout this docket, has repeatedly warned that reasonable planning requires consideration of the downside risk. Ignoring problems or estimating that they do not exist is not

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responsible planning. We acknowledge that Staff's generally conservative approach as to assuming some downside risk in areas of nuclear safety regulation to be more responsible.

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E. *Other Factors*

[4] Kenneth Traum of the Commission Staff has demonstrated the nearly total absence of information on decommissioning costs. This item of cost is as legitimate as the reactor or the generator yet the record in this proceeding leaves little upon which to base a conclusion. It is clear that this should be an area of inquiry for future Commission action and PSNH's examination. Cost estimates without an allowance for decommissioning do not tell a true story.

The CLF questions concerning labor contracts expiring in 1983 as shown in Exhibit 48 provides another area in which costs for this project are likely to increase. Fourteen unions have contracts expiring in 1983. The further the units are out in time, the more contracts that come up for renewal the higher the cost. Exhibits 28 and 29 demonstrate that units such as Diablo Canyon #1, Diable Canyon #2, Enrico Fermi #2, Nine Mile Point #2, Zimmer #1, Whoops #2 and Seabrook itself have been stopped by strikes. In fact, as we have noted in earlier decisions failure to recognize some allowance specifically for strikes is understating the total costs.

There remain other factors that are likely to impact the cost in an upward direction. Among these are late delivery of materials. Watts Bar # 1, #2, McGuire #2 and Nine Mile Point #2 and Limerick #2 are examples of units at which this had a serious impact (Exhibits 28 and 29).

Other Companies have found cost estimate revisions necessary due to load forecasts being reduced and financial considerations. A thorough analysis of Exhibits 28 and 29 reveals that one or both of these factors have affected the completion dates of nearly every nuclear unit under construction. As we have learned in DF 82-141, PSNH believes it unwise to delay any construction for these factors. This attitude explains their worsening financial picture discussed in the next section.

F. *Capacity Factors*

Capacity factors have a substantial effect on electricity costs. This statement is especially true for the nuclear industry where fixed capital costs are the largest cost factor and thereby the one in need of greatest dispersal over a large number of kilowatt-hour sales. A low capacity factor can with the magnitude of a nuclear plant result in expensive energy. In contrast, a high capacity factor can spread out the fixed costs and result in relatively less expensive energy.

CLF presented the testimony of Dr. Rosen who testified that in his opinion the capacity factors for salt water cooled reactors, such as Seabrook, will average 41% for the first seven years of operation. After this time period, Dr. Rosen predicts a significant drop from this relatively poor beginning.

It is Dr. Rosen's contention that his studies demonstrate that saltwater cooling, together with reactor size, was a more significant variable than the saltwater cooling term alone.

PSNH relies upon the testimony of Joseph Staszowski who offers the proposition that the Seabrook units will outperform other nuclear units around the country. This proposition rests on

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two lines of support: First, that the experience of Yankee Atomic Electric Corporation, together with its

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above-average success at the four Yankee units in New England, insures higher availability than the industry average; second, that PSNH has purchased the most advanced steam generator available which according to PSNH should increase the availability of Seabrook over the industry average by itself.

The result of these two factors is according to PSNH a 59% availability factor during the first year of operation rising to an average of 72% over six years.

The Commission upon review must reject these two main propositions. Dr. Rosen has failed to test his hypothesis to rule out other variables that might explain the relationship. Furthermore, there has not been suitable analysis that examines the cause of outages of salt water reactors so as to isolate whether or not they are related to saltwater factors. We find that the statistical fit and the statistical analysis are not persuasive.

Mr. Staszowski offers no support for his contention that the most advanced steam unit has been purchased, in that other units presently being constructed have lesser quality units. To be persuasive, there would need to be some comparison of new Westinghouse generators versus other generators. The four Yankee units have had a better-than-industry average in terms of capability. This record has helped New England replace oil. However, this record relates to plants of significantly smaller size than Seabrook. Yankee Atomic has not been shown to have experience with 1150 MW units nor the changing complexities of the nuclear industry. After all, it was three witnesses from Yankee Atomic that told the Commission in DF 82-63 and DF 82-141 of their 95% confidence in the May 1986 date for Seabrook II and the 90% confidence factor in a February 1984 date for Unit I.

The fact that a runner has an excellent record in the 100-yard dash does not immediately transfer into a successful run at the mile. By the same measure, successful operation of a smaller unit has not been shown to produce equally successful results with a large unit.

The Commission adopts the testimony of Staff as to capacity factors. Witness Gantz testified to 60% and we find that probable. This number is in line with industry averages. The most important observation made by Mr. Gantz is the randomness of capacity factors. Given this wide range, reasonableness dictates that the industry average be used. Staff's testimony was extremely persuasive on this issue.

G. *Operation and Maintenance Expenses*

The Commission has received evidence concerning the level of operation and maintenance expenses. Again CLF and PSNH are significantly apart on the rate of growth in these categories. The PSNH case was incomplete due to our inability to examine their data base. Consequently, PSNH's analysis is rejected.

CLF presented an analysis by Dr. Rosen and another analysis by Dr. Chernick. Both witnesses properly used data from a variety of units as opposed to that submitted by PSNH. While we generally find both witnesses' methods reasonable, we reject these portions of the

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analysis and the conclusions related to units in the Northeast and saltwater cooled reactors specifically.

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This leaves us growth level in excess of the inflation rate, but not as high as 4% above the inflation rate.

H. *Seabrook — Final Conclusion*

The Commission concludes that Seabrook I is likely to become operational around March of 1986, although we recognize anytime within 1986 as a possibility. Seabrook II is not going to be operational until at least 1990. The combined result of this schedule change results in a cost estimate of at least $8 billion for the entire project. If the first unit drifts until the latter part of 1986, the Commission cannot rule out costs in excess of $9 billion.

The carrying costs of this project, the continuous growth in labor and engineering costs, potential regulatory safety changes and the significantly behind piping program all lead to this $8 billion plus finding. We note that the Maine PUC recently made a similar finding.

In light of this greatly increased construction program, it is likely that further financing problems will arise for a utility with one of the worst set of financial ratios in the industry. The Commission believes that financing problems will necessitate future slow-downs in Unit II construction. In analyzing the factors contributing to the large cost increase between PSNH's April 1981 estimate and the November 1982 estimate, the Company attributed 30% of the increase to cash flow restrictions. (Exhibit 53) This is an additional important factor underlying the Commission's cost estimate.

The Commission notes that one of the most disturbing pieces of information that came out of this docket was the fact that pursuant to the United Engineers contract, PSNH has a contractual right to have a revised cost-estimate provided every six months. This means that during the course of this proceeding, there could have been three cost estimates that could have clearly indicated the magnitude of the increase that occurred in November of 1982. The other parties in this case and the Commission proceeded on the assumption that PSNH did not have any means to secure a revised forecast to meet the guidelines and due dates set in this docket. PSNH's failure to secure a new cost estimate in time for the filing of its direct case resulted in additional costs of discovery, testimony, witness preparation, xeroxing and hearings for CLF and Staff.

We now turn to a financial analysis of PSNH.

III. *FINANCIAL*

The question of PSNH's ability to finance a construction program of increasing magnitude has been raised in three dockets during the 1981-1982 time period. We found as early as January of 1982 that PSNH was grossly underestimating the costs of the plant and was overly optimistic about the completion dates.

We were concerned that PSNH had chartered a course that was different from that of other utilities in the industry. Events since those dockets have demonstrated the accuracy of our concern. Duff and Phelps downgraded PSNH based on its revised cost estimates and predicted

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further increases. (Exhibit 107) Standard and Poors and Moodys both downgraded PSNH after its victory at the Supreme Court and after its revised cost estimates were issued. (Exhibits 105 and 106) Both

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viewed the Commission favorably but raised significant problems that PSNH was failing to address. Standard and Poors went so far as to note that PSNH had the highest level of asset concentration in one project of the entire electric utility industry. These three downgradings to levels achieved only by the owners of Three Mile Island demonstrate a financial course that is an aberration from that undertaken in the industry.

In *PSNH Financial Integrity*, DF 82-141, the Commission asked its Staff, by formal order, to file a study comparing PSNH's financial situation versus that of other electric utilities. The Commission sought to compare PSNH's financial course and decisions with that being undertaken by others in the electric utility industry.

The study performed by Staff was submitted but objected to by PSNH. While the Commission allowed PSNH's objection on the basis that they didn't have an opportunity to check the numbers, other evidence in DF 82-141 demonstrated PSNH had chosen a financial course substantially different from those of other electric utilities.

The Commission has now received a copy of a comparison done by Dean Witter Reynolds Capital Markets entitled, "Electric Utility Industry Financial Handbook", Summer 1982 edition. This document was provided to all parties and PSNH was specifically asked to respond to the statistical analysis.[3(13)] They agreed as to its accuracy. (Exhibit 117, Tab G, page 1)

The statistics set forth in this study compare 116 electric utilities, both on the basis of their respective 1981 financial statistics and their five-year average of those same statistics. Among the 116 rankings, a low ranking such as #1 is viewed favorably while higher numbers get correspondingly less favorable until #116 is reached, which is the worst position among the surveyed electric utilities. The group of utilities includes a number of New England electric utilities, as well as utilities with the same bond rating as PSNH, such as General Public Utilities (G.P.U.), the owner of Three Mile Island. Utilities from all across the country are included in the survey, including companies larger and smaller than PSNH.

The Report concludes the following:

1. Over the past five years, 1977-1981, no electric utility measured in the study had a larger construction program vis-a-vis its net plant than did PSNH. 2. Over the past five years, 1977-1981, PSNH's construction program compared to its net plant was 147% larger than the average of the 116 electric utilities measured in the survey. 3. In 1981, PSNH's construction program as compared to its net plant was 189% larger than the average of the 116 electric utilities measured in the survey. 4. Over the past five years, 1977-1981, PSNH has the worst internal generation of cash. 5. In 1981, PSNH had the worst coverage ratios, both pre-tax and after tax excluding AFUDC of every electric utility measured except Metropolitan Edison, a subsidiary of GPU, the owners of Three Mile Island.

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6. PSNH and the subsidiaries of General Public Utilities, the owners of Three Mile Island, have the lowest bond rating of the 116 electric utilities measured. 7. In 1981, PSNH had the worst ratio of AFUDC as a % of earnings for common of all the electric utilities measured.

PSNH witness Bayless agreed "that PSNH is well down the list, if not last" on all major measurements of financial strength. (Transcript 28-148 to 152) However, it should be also noted that on earned return on equity, Exhibit 118 demonstrates that they have been in the upper half of the industry.

The Staff testimony on financial aspects is extremely persuasive. Staff demonstrates in its testimony that key factors such as CWIP to net plant and percentage of AFUDC earnings indicates a utility far beyond the financial frame of all other electric utilities. The company's construction program at $5.2 billion is far beyond its size. Its level of external financing is unsurpassed in the industry. Furthermore, even PSNH's own witnesses agree that PSNH is the riskiest electric utility in the industry.

Three downgrades in a year to the speculatory category, worsening financial ratios and an expanding construction program all place PSNH in a category by itself. PSNH's decision not to alter its construction program has been demonstrated by Exhibits 28, 29, 30, 41, 117 and 118 to be directly contrary to action taken by the other members of the electric utility industry.

We note and incorporate by reference the warnings and analyses we used in DR 81-87 (January of 1982 [67 NH PUC 25]), DF 82-63 (March of 1982 [67 NH PUC 223]) and DF 82-141 (July of 1982 [67 NH PUC 490, 47 PUR4th 167]).

IV. *DEMAND FORECASTS*

A. *PSNH 1983 Load Forecast and Other Presentations*

Public Service Company's original filing in October was based on the 1982 edition of the load forecast. This forecast contained a peak load growth rate of 3.7 percent for the first 10 years. Also incorporated in the October filing was an assumed 1.5% growth in peak load, which was established as an achievable company goal in "New Energy Horizons".4(14)

In its January filing, the Company based its analysis on the new 1983 edition of the load forecast along with the 1.5% goal set in "New Energy Horizons". PSNH emphasized improvements in methodology which were incorporated in this forecast, including: (1) use of the national economic forecast of Data Resources, Inc. (DRI) to drive the forecast; (2) econometric/end-use modeling; (3) explicit quantification of price elasticity; and (4) recognition of energy management activities.

The following are the key results indicated by PSN's 1983 load forecast: (1) energy sales will grow at an average annual rate of 2.7% for the next 10 years and by 3.2% for the 18-year period, 1982-2000; (2) energy sales for the first five years will average only 1.5% due essentially to the impact of Seabrook coming on line; (3) energy management will reduce peak load

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growth to an average rate of 2.2 percent through the year 2000. (Exhibit 46, Tab L, p. 5 and Exhibit 59, Table 4-2, 5-1.)

PSNH also presents a forecast prepared by Putnam, Hayes and Bartlett and sponsored in the rebuttal testimony of Dr. Hogan. Dr. Hogan, in estimating growth in total prime energy sales, produced a base case forecast ($5.1 billion Seabrook cost) of 2.5% for 1982-1992 and a high Seabrook forecast ($7 billion cost) of 1.8% for the same time period. (Table 4, Exh. 117, Tab N) In developing his forecast, Dr. Hogan used historical data and PSNH forecasts of manufacturing output to estimate the rate of growth of gross state product. (Exhibit 117, Tab N, p. 30, 31) His estimates of the price of electric and non-electric energy were provided by PSNH. (Exhibit 117, Tab N, p. 30, 31)

B. *CLF Demand Projections*

CLF sponsored the testimony and forecast of Dr. Taylor.[5(15)] Dr. Taylor's analysis employs the techniques of linear regression combined with judgmental changes to the historical New Hampshire economic data for the period 1960-1980 to develop equations to estimate future demand. His analysis produces load growth estimates for the next 10 years as follows: (Low Seabrook Cost, $3.6 billion) 3.5%; (Mid Range Seabrook Cost, $5.5 billion) 1.2%; and (High Seabrook Cost, $8.6 billion)-5.3%. (Exhibit 12, pp. 11, 12)

Dr. Taylor's testimony emphasizes that the PSNH commitment to Seabrook means that there will be no "business as usual" in the PSNH future. (Exhibit 12, p. 9) For this reason, he believes that analysis must concentrate on the most important determinants of the future trends under examination (in this case, price and price elasticity), and that if these critical determinants are overlooked or ignored, the results can be wildly erroneous. (Exhibit 12, p. 1 and 5) Dr. Taylor's analysis explicitly relates change in electricity demand to changes in the real price of electricity and to changes in economic activity. (Exhibit 12, p. 6) The key point of Dr. Taylor's analysis is the determination that electricity sales are significantly and quickly affected by changes in real electricity prices. (Exhibit 12, p. 9)

C. *Staff Demand Analysis*

Mr. Camfield presented a base case estimate and a low growth conservation estimate for Staff for the period 1982 to 1996. The base case estimate was for average annual growth in PSNH system sales of 2.67%; and the low growth conservation estimate was for average annual growth of .73%. (Exhibit 1, Section IV, Part A) Mr. Camfield's estimates were based upon an update of the 1981 forecast presented to the Commission in Docket DR 80-47. This forecast was derived from a model developed by Staff which integrated economic activity and electric energy use. This model employed a disaggregated methodology broken into employment categories and further broken into end-use types. The domestic sector was disaggregated by major appliance type. The model also incorporated trends in intensity of energy

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use for appliances and for energy use relative to output.[6(16)]

Mr. Camfield also presented Technical Paper J (Exhibit 1). This paper described Staff's

current modeling efforts and discussed the importance of determining the interaction of supply and demand through price and price elasticity. (Exhibit 1, Section J, p. 2) Unfortunately, Staff was not able to complete its new modeling efforts due to resource constraints.

D. *Commission Analysis of Demand Forecasts*

[5] The Commission believes, based upon an analysis of likely Seabrook costs, that the price effect of Seabrook will be the most important determinant of energy demand during the next decade. The Commission agrees with Dr. Taylor that the commitment to Seabrook means that there will be no business as usual in the PSNH future, (Exhibit 12, p. 9) and that no matter how sophisticated the demand analysis or how credentialed the analyst, failure to fully incorporate the price effects will yield erroneous results. (Exhibit 12, p. 1) Both Mr. Camfield and Dr. Hogan also recognize the importance of real price changes due to Seabrook. Consequently, the Commission rejects as very unlikely the PSNH 1983 load forecast estimate of 2.7%, the Taylor low Seabrook cost estimate of 3.5%, and the Camfield base case estimate of 2.67%. The Commission believes that all of these forecasts represent what might be termed "business as usual" forecasts, and are unrealistic because they do not incorporate price changes due to Seabrook of a magnitude which the Commission believes is realistic.

The low cost Seabrook estimate provided by Dr. Taylor was submitted prior to PSNH's new Seabrook cost estimates, which rendered this analysis irrelevant except for comparative purposes. Likewise, Mr. Camfield's base case estimate was prepared to be consistent with earlier Staff estimates and does not incorporate the updated Seabrook cost estimates. As Mr. Camfield testified, his base case estimate was a business-as-usual estimate (Transcript Volume 5, p. 48).

While the Commission compliments PSNH for substantial improvements in the methodology employed in the 1983 load forecast, the Commission finds that it does not realistically reflect the price impact of Seabrook. In discussing the electricity prices incorporated into the 1983 forecast, Mr. Brown indicated that there is no explicit assumption for the cost of Seabrook. (Transcript Volume 24, p. 38) And while Mr. Brown testified that the price scenario was consistent with the updated PSNH cost estimate to the extent that he could make it so, (Transcript Volume 24, p. 37) he indicated that the prices were not derived from a company financial scenario incorporating the new cost estimates. (Trams. 24-40) Whereas, Brown's price increase is 15.4% in 1985 when Seabrook I would be reflected, the base case increase reflected in the financial scenarios is 53%. (Transcript Volume 21, pp. 133-136) The fact that Brown's prices show the first significant jump in 1984 seems to indicate the previous PSNH schedule for completion of Unit 1. Thus, Mr Brown's prices would appear to be more consistent with the old PSNH Seabrook cost and schedule estimates

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than the new estimates. Clearly, the prices in the 1983 load forecast do not reflect the type of price impact anticipated by the Commission. Brown's prices also assume a phasing in over time. However, Mr. Bayless' testimony indicates that the financial condition of the Company may put restraints on the ability to phase in price increases. (Transcript Volume 28, pp. 55-59)

This leaves the Commission with the forecasts of Dr. Taylor and Dr. Hogan[7(17)] which both recognize much reduced demand over the next decade in light of Seabrook costs.

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Both Dr. Taylor and Dr. Hogan have impressive credentials. However, given the resources available to Dr. Hogan, he has been able to employ a more sophisticated model and a greater range of research in the field. While the Commission has found much to commend Dr. Taylor's analysis, it is difficult to evaluate the judgments incorporated in developing his equations. For these reasons, the Commission will focus on Dr. Hogan's high cost Seabrook estimate of 1.8% demand growth through 1992.

While the Commission believes that the general direction of the analysis is correct, there are several factors which lead us to believe that Dr. Hogan's estimate may be too high. These factors include the following:

1. Dr. Hogan's high cost Seabrook estimate may still be too low, and consequently may incorporate prices which are too low. 2. No downward adjustment has been made for the Co-op purchase of Seabrook. (Transcript Volume 36, p. 36) 3. Dr. Hogan accepts as reasonable an adjustment range of 11-16% per year and uses "subjective judgment" in adopting 15% as the most likely. Table 4 indicates that a 12.5% adjustment rate would yield a demand growth of 0.8%. (Exhibit 117, Tab N, p. 27, Table 4) 4. The focal point of Dr. Hogan's models is the substitution effect, i.e., "The estimation of the interaction between electric and non-electric energy and the remainder of the economy". (Exhibit 117, Tab N, p. 26) However, both Mr. Camfield and Dr. Hogan indicate that it is *relative* prices that are important, and that relative changes between electricity, oil and gas would alter this relationship. While there is considerable uncertainty over both oil and gas prices, recent dramatic oil price declines may mean that Dr. Hogan's measure of aggregate elasticity is too low. 5. Although Dr. Hogan estimates aggregate elasticity to be unity (.99), which Mr. Camfield also finds reasonable, other factors in addition to cross-price effects matte this figure appear conservative. As Mr. Camfield indicates, elasticity is higher if prices are higher and if intensity of electric use is higher (Exhibit 44) 6. True elasticity may also be higher than the substitution effect[8(18)] because this analysis ignores the output or location effect. With

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exceptionally high prices, the output or locational effect may be substantial as real output is a function of the cost of doing business and electricity is part of that cost. (Exhibit 44, pp. 14, 15, Staff Brief, p. 55) 7. Dr. Hogan's analysis incorporates PSNH's forecasts of the percent change in manufacturing values added in New Hampshire 1982-2000. (Exhibit 117, Tab N, p. 31) Since PSNH's manufacturing forecast is based on the 1972-80 historical relationship of New Hampshire to United States (Transcript Volume 21, 83-87, p. 87) and this is a period of very high New Hampshire employment growth vis-a-vis the United States, the projection of this relationship into the future is overly optimistic and overstates growth.

For all these reasons, the Commission finds that the 1.8% growth rate is likely to be high. Staff in reviewing these forecasts judgmentally suggests the Commission find 1.5% load growth for the next decade if some method of mitigating price effects is *not* adopted.

The Commission finds 1.5% load growth over the next decade to be an acceptable planning

measure with the caveat that considerable downside risk exists, unless the price effects of Seabrook can be significantly lessened.

The Commission is unable to adopt an estimate of demand growth for the period 1992 to 2000 from the information presented in this docket. CLF has not provided a forecast beyond 1992 and while Staff's original estimates went until 1996, Staff has not been able to complete its model and update this analysis. As indicated above, overly robust manufacturing forecasts result in an overstatement of demand in both PSNH's own forecast and Dr. Hogan's forecast. This is likely one reason why Dr. Hogan's estimates accelerate to roughly 7% annual growth for the period 1992 to 2000. (Exhibit 117, Tab N, Table 4)

The Commission also finds that while PSNH has substantially improved its methodology, certain problems remain. During the period following the oil price shock, PSNH substantially overestimated demand despite a significantly higher New Hampshire economic growth during this period compared with the United States as a whole. This is dramatically demonstrated in Exhibit 71, which is included on the next page. The Commission believes that the single most important weakness in earlier forecasts was the severe underestimation of the effect of real price increases upon demand. The improvement in the present methodology is illustrated by the lower demand estimated in the first five years. However, the Commission believes that PSNH continues to underestimate the effect of real price increases.

Part of the problem is the assumed prices used in the 1983 load forecast already described. The new methodology incorporates the use of econometric/end-use modeling and an effort to explicitly quantify price elasticity. The Commission applauds these efforts, but believes that the demand modeling effort still has limitations which are particularly significant in regard to measuring price impacts.

The Commission agrees with CLF and Dr. Hogan that it is difficult to determine exactly how prices affect demand in the PSNH approach because

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[Graphic Not Displayed Here]

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PSNH's elasticities are so disaggregated. (Exhibit 117, Tab N, p. 32) While PSNH does not develop an aggregate elasticity (Transcript Volume 24, p. 66), Dr. Hogan estimates the PSNH aggregate elasticity to be about .663. The Commission also finds the PSNH methodology inadequate, in that it does not recognize the location effect discussed above. Also as described above, the Commission believes that a convergence of supply side and demand side modeling is essential in capturing price effects. PSNH has not completed a convergent modeling solution. (Transcript Volume 21, pp. 57-60)

The tendency of PSNH to underestimate the price effect is particularly apparent in regard to its analysis of New Hampshire growth trends and growth trends in the national economy. The Commission first notes that by incorporating the national forecast of Data Resources, Inc., PSNH has attempted to capture the important relationship between economic activity and electricity

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usage. As the Commission has noted in the past, this type of analysis is essential and appropriate.

However, what the Commission believes PSNH misses is the likelihood that this relationship will be altered by the impact of high prices. The "natural" or "business as usual" forecasts of growth in electricity usage may be reduced because of actual curtailment and lower economic activity because of substitution through fuel switching or because of energy efficiency investments which change the energy to output ratio. PSNH seems to miss this final point. PSNH contends that a declining energy to output ratio is contrary to historic experience and that growth in output necessitates growth in electricity sales. (PSNH Brief, p. VI-11) However, the evidence indicates that the historical relationship between output and usage has already responded to the price shocks of the 1970's and even these effects have not been fully felt. Mr. Camfield's testimony includes a table which shows the trends of real energy prices from 1960 to 1980 and the ratios for energy to real GNP for the same period which clearly indicate this effect. (Exhibit 44, Technical Paper S, p. 5) And Dr. Hogan especially notes that changes are still occurring as a result of the price increases of the 1970's (Transcript Volume 36, p. 131)

PSNH also presents contradictory testimony regarding the effect of structural economic change on energy usage. Dr. Hogan indicates that "[c]learly in New Hampshire as well as the nation, energy-intensive basic industries are being replaced by high technology and service industries that consume less energy". (Exhibit 117, Tab N, p. 26) While this effect would indicate a declining ratio of electricity usage to value-added, Mr. Brown believes that greater electricity usage per unit of output will occur. (Exhibit 117, Tab L, p. 23) In fact, he asserts that "[t]he computer revolution has set the stage for widespread industrial electrification". (Id.)

For all of these reasons, the Commission believes that Mr. Brown's forecasts of energy sales are likely to be considerably overstated. And for planning purposes, it would appear to be more appropriate to use Mrs. Hadley's scenarios which use 1.5% load growth and 1.5% sales growth.

The Commission also agrees with Staff that an explicit forecast of wholesale sales is needed. Sales to wholesale

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distributing companies represent 18.6% of PSNH's total sales.[9(19)] The Commission notes that PSNH apparently assumes that its wholesale contracts are not vulnerable. Should this be an incorrect assumption, an element of considerable downside risk has not been considered.

V. *CONSERVATION AND LOAD MANAGEMENT*

A. *PSNH Approach to Conservation and Load Management*

PSNH defines conservation as "the economically-efficient level of consumption which results when end-users are faced with prices that reflect the actual marginal costs of the resources used in producing the energy". (Exhibit 117, Tab L, page 6, PSNH Brief, page VII-2) By this definition, PSNH concludes that conservation does not imply a reduction in total consumption but implies the elimination of wasteful consumption. (PSNH Brief, page VII-2) In fact, employing this definition PSNH concludes that a conservation program can increase energy consumption under certain conditions employing marginal cost pricing strategies.

At the same time, PSNH agrees with the general proposition that "aggressive conservation

programs may have the potential to sufficiently alter electric loads so as to suggest the potential for a change in electric generation requirement". (PSNH Brief, VII-1, New Energy Horizons) In fact, PSNH specifically adopts as a goal a 1.5% annual peak load growth rate to the year 2000 so as to avoid further base load capacity additions after Seabrook for as along as possible.

Utilizing these dual concepts of conservation, PSNH projects a conservation load management strategy to hold down long term peak load grow, on the one hand, while increasing or maintaining electric energy sales (especially off-peak sales) in the near term (Exhibit 177, Tab L, page 7) Mr. Brown's testimony suggests a number of energy management strategies to accomplish these goals. The major proposals include the following:

1. strategies already included in base case forecast: off-peak water heating; off-peak space heating; time-of-day programs; programs which impact peak load only (PSNH Brief, page VII-3); 2. use of marginal cost pricing to increase sales (Exhibit 117, Tab L, page 7) including consideration of (1) offering discounted electric rates in certain sections of service areas (page 8); and (2) reversing rate design trend for the tailblocks to promote usage by large customers (page 9); 3. use of special rates to increase sales, example LCS rate (page 8); 4. peak alert programs.

PSNH's view concerning the potential of overt conservation programs is that much of the potential conservation measured by others is already captured in the PSNH models; that additional overt conservation to reduce energy consumption is not appropriate for PSNH in the near term; and that investments in energy efficiency may actually increase rather than suppress electricity as a fuel source. (Exhibit 117, Tab M, page 4) Mr. Ackerman testified to the "negative curtailment"

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effect of energy efficiency. (Exhibit 117, Tab M, page 4) This concept advances the idea that by increasing energy efficiency and thereby reducing unit costs the ultimate effect of efficiency investments may be to increase rather than suppress electricity as a fuel source. (Exhibit 117, Tab M, page 4)

B. *Staff Conservation Proposals*

Staff presented three technical papers relating to conservation programs — Technical Papers E and R in Exhibit 1 and Supplemental Testimony, Exhibit 43. Staff defined conservation for the purpose of these programs as "the reduction of the total number of KWH's used regardless of the time of use". (Exhibit 1, Technical Paper E, page 1)

Staff takes the position that conservation efforts are economically justified on a cost benefit basis because they are less costly than the alternative investment in new generating facilities or the direct use of fossil fuels. (Exhibit 1, Technical Paper R, page 1) Ever, in states where capacity shortages are not immediate, Staff notes that regulatory authorities have found conservation programs to be appropriate based on social benefits and long-term reduction or deferral of additional capacity and reduction in fossil fuel consumption. (Exhibit 1, Technical Paper R, page 1)

For overt conservation to occur, Staff contends that direct market intervention is necessary to

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overcome certain fundamental hurdles which inhibit attainment of the economically efficient level of conservation. These hurdles are categorized into the three following areas: Exhibit 1, Technical Paper R, page 2 and Staff Brief, page 60)

(a) availability of funds; (b) information in regard to the benefits and costs of overt conservation; and (c) price signals which are distinct from marginal social costs.

Based upon this analysis, Staff presents two overt conservation plans — the first program is proposed for immediate implementation and the second program for long-range consideration and development. The first program includes the following four basic parts:

(1) an expanded residential audit program; (2) a residential hot water wrap program; (3) an expanded audit program in the commercial sector; (4) a wrap program in the commercial sector.

Staff's long-term plan to increase energy conservation and economic efficiency is geared to the three main sectors of electric energy demand as outlined below: (Exhibit 1, Technical Paper R and Brief, page 59)

A. Manufacturing 1. a technical assistance program; 2. building efficiency standards; 3. cogeneration pricing policy. B. Commercial 1. upgrade the building shells; 2. cost effective electric heat policy; 3. heat pump technology; 4. passive solar. C. Residential 1. passive solar; 2. electric heat policy; 3. building code upgrade.

In supplemental testimony, Staff

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presented a preliminary cost benefit analysis of seven programs to provide an indication of the order of magnitude of the costs and benefits which might result from overt policy action. (Exhibit 43, page 4)

C. *CLF Conservation Proposals*

The conservation Law Foundation presented the position that investments in conservation are more economic and less risky than building Seabrook II. Witnesses Cary, Chernick and Thompson provided evidence to show that the technologies to achieve conservation are available, inexpensive and effective. (CLF Brief, page 43)

Mr. Chernick developed an estimate of the ceiling or maximum price PSNH can pay to encourage conservation without paying more than PSNH would have spent on Seabrook II. (Exhibit 12, Chernick, p 28) Mr. Chernick then describes in considerable detail a program design to create a market for conservation through a competitive bidding system. Providers of "conservation" would bid competitively to provide reductions in energy load through the installation of energy efficiency measures. Successful bidders would be paid the difference between marginal cost and average revenue foregone.

In terms of the potential for lowering load growth, Mr. Chernick estimated that his projected program could result in a 25-50% reduction in sales. Over a twenty-year period, a 25% overall reduction is estimated to reduce the natural demand growth rate by 1.4% and a 35% savings over 10 years would result in an overall reduction of 4.4%. (Transcript Volume 11, page 46-47)

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Mr. Cary reviewed existing conservation programs which were being implemented across the country and discussed the benefits for applicability in New Hampshire. His analysis concludes that conservation programs typically cost 1 mill to 1.8 cents per KWH. The following programs were particularly recommended to the Commission: (1) hot water heater wrap; (2) appliance rebates; (3) commercial industrial audits; and (4) a ban or expansion charge on new electric space heating hook-ups.

Dr. Thompson presents a second analysis of conservation potential which describes potential savings disaggregated by consumer use. Dr. Thompson believes that the technology is available to achieve zero growth in electricity sales through the year 2000 even if industrial output expands at a rate of 3% per year. Dr. Thompson analyzes the potential savings from improving the efficiency of commercial buildings and adopting more efficient residential appliances. And he projects improvements in industrial equipment and trends in manufacturing which continue the trend towards declining consumption per unit of product. (Exhibit 12, Thompson, p. 22)

D. *Commission Analysis of Conservation and Load Management Presentations*

All of the parties agree that lower load growth defers capacity needs and is in the long term public interest. Mr. Plett indicated that this is a change in PSNH's future strategy compared with past strategy. (Transcript Volume 17, page 21) In order to defer future capacity additions for as long as possible, PSNH has adopted a specific goal of managing load growth so that it does not exceed an average annual rate of increase of 1.5% to the year 2000. (Transcript Volume 17, page 22) The

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Commission agrees with CLF that PSNH's adoption of this goal is an important development and the Commission compliments the Company for establishing this goal.

E. *Potential of Conservation*

[6] Staff witnesses, CLF witnesses and Witness Ackerman for PSNH all agree that the technological potential for conservation is very large. In fact, Mr. Ackerman points out that much conservation that is presently economic may not have been undertaken because of lack of knowledge of the true costs and benefits, or because of financing limitations. (Exhibit 117, Tab M, page 12, 13)

The Commission finds PSNH's position in regard to the potential for energy conservation to be contradictory. On the one hand, PSNH rejects energy reduction programs and assumes that such programs will be detrimental, i.e., they would reduce energy sales available to cover fixed charges. Mr. Brown also argues that much of the conservation potential is already captured in his demand forecasts which project sales growth of 2.7% for the next 10 years and an average of 3.2% to the year 2000. (Exhibit 117, Tab L, page 12) However, PSNH on the other hand adopts the peak load growth goal of 1.5%, and finds that it is "achievable" to reduce the natural load growth of 2.2% to 1.5% on average for the period 1982-2000. To accomplish this goal, PSNH hopes to develop specific energy conservation programs through a "consultative process". However, PSNH has presented no analysis of conservation programs and the 1.5% goal appears to be entirely arbitrary. Finally, PSNH has presented Mr. Ackerman, who testifies to the very

large latent conservation potential but also to the concept of negative curtailment as a result of efficiency investment. Mr. Ackerman presents no evidence to document the effect of negative curtailment other than an example of a client who explicitly stated "they were willing to operate under the same absolute utility costs after the investment as before". (Exhibit 117, Tab M, page 5) During a period of rising real costs, this might entail lower usage even after the efficiency investment. And Mr. Ackerman specifically acknowledges that the interaction among price responses — curtailment, fuel switching and efficiency investment — is not well known. (Exhibit 117, Tab M, page 5) It should be noted that Mr. Ackerman also testifies to the "ultimate form of curtailment" in response to price spikes — commercial and industrial end-users close their business or relocate. (Exhibit 117, Tab M, page 7) Taken altogether this PSNH testimony is confusing and contradictory.

The Commission agrees with Staff and CLF that if energy reduction programs are less costly than the marginal cost of generating the electricity, then the programs improve economic efficiency and benefit consumers. The Commission also believes that with higher prices they may be done by the consumer anyway. And it is for this reason that the higher price scenarios are consistent with lower demand forecasts and higher estimates of elasticity. Thus, how much of potential conservation is included in demand forecasts depends upon the magnitude of price changes projected.

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Mr. Ackerman has identified several factors resulting in the maturation of the energy efficiency industry during the last decade: (1) much greater sophistication of residential and business consumers; (2) vertical integration into fewer companies providing energy service components; and (3) development of innovative financing techniques. (Exhibit 117, Tab M, page 8, 9) The result of these changes he concludes will be to shorten the lag between price changes and efficiency investment. This testimony reinforces the Commission's earlier analysis concerning the various demand forecasts as well as for the potential of conservation.

The Commission is concerned that PSNH's definition of conservation and its near term strategy of increasing sales are not consistent with the Company's long-term goal of curtailing load growth. In the Commission's opinion, PSNH's definition of conservation is more appropriately a definition of economic efficiency. While the Commission endorses economic efficiency as an appropriate goal, the Commission must point out that PSNH's goal of 1.5% peak load growth requires a substantial *reduction* from the Company's projections of natural load growth. Thus, the adoption of the goal implies not only economic efficiency, but actual reduction in peak load usage.

While the Commission supports programs to improve load management, the Commission believes that some of the ideas advanced by Mr. Brown to increase short-term sales are inappropriate and will result in undercutting the goal of long-term growth. In particular, discounting the tailblock (Exhibit 117, Tab L, page 9) or devising other specially targeted discounts (Exhibit 117, Tab L, page 9) may increase peak as well as non-peak sales. Some of the programs Mr. Brown mentions that have been adopted by other utilities are targeted to depressed areas such as Bedford-Stuyvesant and appear to be inappropriate for New Hampshire (Transcript Volume 36, p. 218)

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The Commission also agrees with Staff and CLF that Mr. Brown misuses the concept of marginal cost pricing in an attempt to develop methods to market the excess capacity which will result from completion of both Seabrook units. The Commission believes that Staff has demonstrated that additional sales priced at marginal cost will not result in fixed charges being spread over more KWH's and consequently will not benefit ratepayers. Staff has shown that Mr. Brown is in fact recommending pricing above marginal cost which violates both his definition of conservation and principles of economic efficiency. (Transcript Volume 35, page 130-134)

Clearly, which conservation programs are appropriate and the speed with which conservation programs are adopted depend upon whether both units of Seabrook are in fact completed. If Seabrook II is completed, then PSNH will be in a situation of substantial excess capacity where the adoption of aggressive overt conservation programs may not make economic sense. However, the more appropriate course consistent with PSNH's long-term goals is to sell excess capacity to other utilities.[10(20)] And it

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is for this reason that the prospect for Seabrook sales, discussed in a later section, is such an important component of the economics of the Seabrook plants.

The Commission also notes that even if both Seabrook units are completed, certain overt conservation programs may still be appropriate. The Commission is particularly concerned with the problems facing low income families as real prices for electricity rise. Thus, from the standpoint of affordability, conservation programs targeted to low income families will be important even if PSNH has substantial excess capacity as a result of Seabrook.

However, while the Commission believes that it is very clear that (1) there is a substantial potential for conservation and that (2) price increases will stimulate conservation efforts, it is much more difficult to estimate the potential for additional demand reduction from overt conservation efforts. While the Chernick and Thompson analyses have value in demonstrating the magnitude of possible conservation contributions, the Commission does not believe that the possibility of implementation has been demonstrated to the point where these estimates can be adopted for planning purposes. Certainly, the PSNH goal of 1.5% load growth given the analysis presented appears to be an achievable and conservative goal. However, the Commission believes that much additional analysis needs to be done in estimating the potential of various conservation programs and determining which are appropriate for PSNH. The Commission agrees with Staff that long-term conservation programs of the type proposed by Staff and CLF witnesses Chernick and Cary should be pursued in a separate docket. The Commission also agrees that enough information may be available to consider some initiatives in the current PSNH rate case. The Commission is particularly interested in developing programs, which are targeted to low income families. The Commission also agrees with CLF that PSNH should immediately begin monitoring the response to its energy management audit programs for residential, commercial and industrial customers. While PSNH claims to have included this response in its demand forecasts, the Company has not monitored the results. (Transcript Volume 24, page 9, Exhibit 46, Tab L, page 7) Proper monitoring would begin to provide New Hampshire specific data and information to measure present effects as well as potential and to identify types of programs

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needed and wanted to develop this conservation potential.

Both the Staff and Mr. Ackerman indicate the need for market research to plan for appropriate future energy efficiency programs. Mr. Ackerman indicates a need to more carefully consider what PSNH's customers actually need and want in relation to energy efficiency services. (Exhibit 117, Tab M, page 17) Staff indicates a need for market surveys of building stocks in the residential and commercial sectors. (Exhibit 43, Staff Brief, page 64) The Commission believes that designing and implementing such market surveys is an appropriate area for inclusion in the docket mentioned above to consider long-term conservation programs.

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VI. *CONTRIBUTION OF SMALL POWER PRODUCTION*

A. *Staff Presentation*

Staff's analysis of the projected contribution from small power producers was presented in Technical Paper B (Exhibit 1). The projections were based on a Staff survey conducted in the spring of 1982 and on a forecast prepared for the Commission by Glidden, Hewett and High, "Forecast of Electric Generation from Renewable Energy and Co-generation Systems: 1982-1995". In compiling their forecast, the Staff used the survey results for the 1982-84 period and the model forecast for 1984-1996 with some adjustments. The adjustments included the following: the model was used for the whole period for wind and photovoltaics; the categories of coal, wood and municipal solid waste cogeneration and wood electric generation were combined to eliminate an imbalance in the model;[11(21)] and this combined category as generated by the model was delayed two years to reflect the impact of the recession. (Exhibit 1, Technical Paper B, pp. 1 and 2)

The Glidden study employed a theoretical model which incorporated economic and market penetration dynamics. The methodological approach was to estimate the cost of each technology throughout the forecast period as well as the cost of conventional electricity production. The cost of each technology was compared over time to the utility's avoided cost and to other technologies to estimate market share. This market share fraction was then multiplied against total demand for 1982 and against the estimates of future oil fired capacity and/or Canadian hydro-power purchases for subsequent years. Thus, using this methodology, an estimate of capacity additions by technology is obtained. (Exhibit 1, Technical Paper B, p. 1)

The Staff forecast predicts a total development of renewable resources of roughly 135 MW between 1982 and 1996. Of this total, hydro projects account for about 23 MW, the combined category of cogeneration and wood account for roughly 108 MW and wind accounts for about 3 MW. However, it is important to note that the Staff estimates are adjusted by the capacity factor for the relevant technologies so as to estimate the actual energy contribution or output. (Exhibit 1, Technical Paper B, p. 1) If Staff has used instead the listed or installed capacity rating, these figures would be substantially higher. PSNH has calculated these figures as follows: 58.7 MW for hydro power, 11.7 MW from wind, and 127.6 MW from cogeneration and wood. Calculated in this manner, the Staff total projected contribution from renewable resource development would be 198 MW rather than 135 MW. (PSNH Brief, IX-10)

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B. *PSNH Estimates of Contribution of Small Power Producers*

Public Service Company's principal estimates of the likely contribution of small power producers was presented by Mr. Lyons, PSNH Manager of the Supplemental Energy Sources Department. Exhibit 45, Tab G) Mr. Lyons

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employed two types of analyses to obtain his estimates of additional private hydro-power development — (1) a technical and engineering feasibility analysis; and (2) an activity summary of potential hydro sources. (*Id*., p. 3) In estimating the contribution of non-hydroelectric resource development, Mr. Lyons relied upon his Department's knowledge of current projects, planned projects, and inquiries to the Department, as well as information gained through various seminars and meetings. (*Id*., p. 7)

Mr. Lyons' forecast of private hydro development primarily derives from the technical feasibility analysis which begins with an analysis of the 535 sites identified in the New England River Basins Commission (NERBC) January 1980 study. From this analysis, he projects a potential development level of about 65 MW. From the activity summary, Mr. Lyons estimates a potential of 85 MW. Thus, he concludes that 65-85 MW is the ultimate development potential for hydro. (Exhibit 45, Table G, p. 5) However, Mr. Lyons forecasts the likely development by 1991 to be an addition of 44 MW to the present on line capability of 6.4 MW. (Exhibit 45, Table G, page 5 and Attachment 1) Mr. Lyons also projects that PSNH itself will develop 21.3 MW of new hydro capacity by 1991. (Exhibit 45, Tab G, Attachment 7)

For non-hydro development, Mr. Lyons considered wind, wood, fossil cogeneration and municipal waste facilities. (Exhibit 45, Tab G, page 7) This analysis resulted in the forecast of about 28 MW in new non-hydro capacity by 1991, composed of 2.2 MW from wind turbines; 17.3 MW from wood-electric and wood-fired cogeneration; 4.4 MW from fossil cogeneration; and 3.8 MW from municipal solid waste and other sources. (PSNH Brief, page IX-7 and Exhibit 45, Tab G, Attachments 9, 10 and 11)

PSNH also presented Mr. Perkins and Dr. Forbes of Energy Research Group, Inc. (ERG) to discuss their analyses of supplemental energy sources which appear feasible in New Hampshire. Mr. Perkins looked at 15 energy technologies and found that 4 warranted detailed analysis — wind, wood, solid wastes and hydroelectric. (Exhibit 45, Tab H, Attachment 2, Table 1, page 4) A cost analysis of the first three technologies is presented in Volume 1 of Mr. Perkins' submittal and Volume 2 is devoted exclusively to analysis of hydroelectric energy sources.

The ERG hydro analysis produced an economic ranking of several hundred sites using two data bases — PSNH and Army Corps of Engineers. Excluding unavailable sites and sites which PSNH is developing, this analysis produced a range of potential between 63.1 MW and 118.2 MW. (PSNH Brief, page IX-6) At a cost below 20¢ /KWH, ERG found a potential between 60.1 MW and 115.1 MW. Between 20¢ and 30¢ , Mr. Perkins estimates an additional 22-43 MW would be available. (Transcript Volume 22, page 18) Making the adjustments PSNH finds appropriate concerning availability and sites they intend to develop, a 20¢ /KWH cost yields a likely range for private developers of between 42.1 MW and 75.7 MW. (PSNH Brief, page IX-6)

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ERG's analysis of the non-hydro sources did not generate specific forecasts, but focused on expected development costs. Mr. Perkins presented revised cost estimates in Exhibit 46,

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Tab G. His estimates include both capital cost estimates of installed capacity and levelized bus-bar power costs. While he did not make specific forecasts, Mr. Perkins based upon his analysis of these technologies judged solid waste to be most attractive next to hydro, wind to be very high priced with current technology, and wood to be someplace between solid waste and wind. (Transcript Volume 22, page 18) ERG did not investigate wood fired cogeneration.

C. *CLF Analysis of Renewable Resource Development Potential*

CLF presents an analysis focusing on the potential for developing renewable resources using new technologies and anticipating technological change. The analysis as Dr. Thompson indicates is not intended to be a forecast of actual development. Dr. Thompson assesses the potential for hydro power development, wood fired cogeneration and wind power

Dr. Thompson's figures for potential hydro power development are drawn from the New England River Basin study also used by PSNH and Staff. While he cites a potential of .4 to .5 million MWH from existing dams and .4 million MWH from undeveloped sites, he also recognizes constraints from financing and conflicts with other river uses. (Exhibit 12, Thompson page 31)

Dr. Thompson focuses attention on the potential for wood-fired cogeneration. He cites the following reasons for finding wood cogeneration very attractive for New Hampshire development: (1) it is the most efficient method of using the State's substantial wood resources for electricity production; (2) it is an opportunity for reducing New Hampshire industries, reliance on residual fuel oil; and (3) it is ideally suited to the paper industry which uses large amounts of process heat and which accounts for one-third of all electricity used by New Hampshire manufacturers. (Exhibit 12, pages 24, 25) Dr. Thompson cites a Department of Energy estimate of cost effective generation potential of 1.7 million MWH per year by 2000. (Exhibit 12, page 27) In his testimony, Dr. Thompson also emphasizes technological improvements, especially the increased electricity output that can be gained with gas turbines. (Exhibit 12, page 25)

Dr. Thompson also finds substantial potential from wind resources. By developing 10% of the potential from areas experiencing Class 4 and 5 winds, he concludes that wind could generate 500 GWH by the year 2000. (CLF Brief, page 47) The analysis of wind potential also emphasizes emerging technology, specifically the Boeing MOD-2 turbines, which he believes will be commercial by the mid-1990's (Exhibit 12, page 29)

Dr. Thompson also sets forth a possible supply/demand scenario in the year 2000 in which he assumes the following contributions from these energy sources: 0.7 million MWH in hydroelectric supply (not including Canadian hydro power); 0.5 million MWH in wind supply, representing 10% potential from areas experiencing Class 4 and 5 winds; and 1.4 million MWH, wood fired cogeneration, representing 84% of the cost-effective industrial cogeneration potential identified by DOE. (Exhibit 12, Thompson, page 32) PSNH estimates that this would be

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equivalent to installed capacity

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of between 447 MW and 546 MW. (PSNH Brief, page IX-13)

D. *Commission Analysis*

[7] In analyzing the contribution from small power producers as presented by each of the parties, the main task for the Commission is to determine what type of methodology best captures likely future trends and events. The PSNH estimate of 93 MW employs a technical engineering analysis and survey techniques to arrive at an estimate of capacity that can be firmly counted on for planning purposes. Mr. Lyons himself characterizes his analysis as conservative. The Staff approach, which yields an estimate for comparative purposes of 198 MW, is to incorporate known survey data in the near term with an economic model designed to capture the interaction of future market forces as they impact the development of small power production. The CLF approach is to demonstrate the potential for development, in the magnitude of 500 MW, incorporating emerging technologies and assuming public policy which fosters such development.

For planning purposes to the year 2000, the Commission finds that Staff has employed the best methodology. The difficulty with the PSNH analysis is not with the expertise of Mr. Lyons, but with the basic approach. This kind of "static" analysis does not capture the dramatic changes which have occurred due to the passage of PURPA and LEEPA, nor does it attempt to capture the effects of future sharp increases in PSNH prices. The CLF analysis is useful in the Commission's view for the direction of public vis-a-vis renewable resource development, but it does not provide a sound basis for forecasting and planning.

As Mr. Camfield points out in Technical Paper J (Exhibit 1) passage of PURPA and LEEPA have introduced a whole new element of competition into the electric energy supply market. The potential significance of this change may have been masked by the recession and extremely high interest rates. However, this basic change is extremely significant for the future given the expectation of sharp price increases for PSNH. Again, Mr. Camfield has properly identified the relevant economic concepts:

> Even with the confounding interference of government policymakers and monopoly power creating artificially low and high prices with respect to costs, markets have an amazing ability to (1) seek out those suppliers of resources which have comparative advantage and (2) stimulate substitutes. If one believes that "demand creates its own supply", then *high prices must create substitutes.* Emphasis Added. (Exhibit 1, Technical Paper J, p. I)

Thus, only a methodology which captures both the nature of the changing market and the likely response to price will adequately forecast future events.

This does not mean that all of the details of the Glidden model are correct, and Staff admits that some of Dr. Forbes, criticisms may have merit. (Staff Brief, p. 65) On the other hand, CLF notes that Dr. Voll has described the Staff methodologies as "conservative", (Transcript 1, p. 136) and CLF indicates several ways in which the Glidden study may be conservative. Because

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its methodology determines renewable supply as a function of the size

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of the market (Exhibit 1, Technical Paper B, p. 1, Transcript Volume 6, p. 95) underestimation of the size of the market would underestimate supply. Since the Glidden study assumed Seabrook II is on line, the Commission agrees with CLF that this study would underestimate the market for small power producers without Seabrook II. CLF also points out that the study does not incorporate technological change which could improve the economics of one or more of these technologies. On balance, the Commission believes that the Staff analysis provides a forecast of the right order of magnitude.

The Commission notes several other factors which were brought out in cross-examination or included in the testimony that support this analysis. First, Mr. Lyons, forecast only covers the period until 1991, and in addition he assumes that all benefits from Federal tax incentives end completely in 1988. (Exhibit 45, Tab G, p. 8) These assumptions limit his forecast.[12(22)] Second, small power producers with short-term contracts or small power producers not yet on line can under LEEPA sell retail and are not committed to sell to PSNH. (Transcript Volume 23, p. 19) If retail rates should rise above the PURPA/LEEPA rates set by the Commission, these small power producers may seek retail customers. (*Id*. p. 20) Thus future development of small power producers may occur due to market forces despite the PURPA/LEEPA rate. Third, the economics of cogeneration may be especially susceptible to price change, particularly in respect to an industrial company supplying its own electrical needs rather than buying from a utility. (Transcript Volume 22, p. 96) Here again, price changes may trigger substitution regardless of the PURPA/LEEPA rate.

The whole area of cogeneration potential deserves additional attention, because it is here that the estimates of potential and forecasted development diverge most significantly. PSNH estimates only 4.4 MW from fossil cogeneration and an additional 17.6 MW from wood generation. Staff and CLF, on the other hand, find this the area of greatest potential.

Mr. Lyons admits that the non-hydro area is very difficult to estimate because there is no data base smiler to hydro, and that his analysis is more subjective. (Exhibit 45, Tab G, p. 5) He bases his estimates regarding cogeneration upon a limited survey, which he anticipated would show a relatively low interest. (Exhibit 45, Tab G, p. 6) Mr. Perkins did not include in his analysis private investor generator/cogenerators. (Transcript Volume 22, pp. 53, 58-61) PSNH cites Mr. Perkins, rough estimate of the contribution of wood as being anywhere from 7 to 25 MW by the end of the century. (PSNH Brief, Transcript Volume 22, pp. 110, 111) However, this estimate relates specifically to direct generation, and does not include wood cogeneration as the PSNH brief implies. (Transcript Volume 22, p. 111) From all of this, the Commission concludes that the PSNH analysis may have seriously underestimated the contribution from wood cogeneration.

Although the previous analysis has indicated that market forces may encourage

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renewable resource development independent of the PURPA/LEEPA rate, it is very evident that public policy will have an important affect in determining the development of small power producers. The Commission has recognized the need to update the PURPA/LEEPA rate in light of changing circumstances since the rate was set in May 1980. Docket No. DE 83-62 has been opened for this purpose, as well as to consider the questions of long-term rates and capacity credits.

VII. *IS SEABROOK II NEEDED TO MEET NEW HAMPSHIRE'S ENERGY NEEDS*?

A judgment of whether Seabrook II is needed to meet New Hampshire's energy needs depends upon a determination of (1) likely load growth; (2) availability of alternative supply options; and (3) the proper time period for evaluation. Given the time frame established in this docket, i.e., to the year 2000, and the analysis presented, the Commission can make some judgments about the likelihood of alternative generation expansion scenarios.

PSNH presents an extensive analysis of generation expansion plans under alternative assumptions in the testimony of Mr. Staszowski. (Exhibit 46, Tab F) The PSNH analysis presents five cases assuming the load growth forecasts in its 1983 edition load forecast, i.e., 2.2%. (*Id*., Attachment Staszowski 4, pp. 1 and 2) Also presented is an analysis presenting the same five cases assuming 1.5% load growth. (*Id*. Attachment Staszowski 4, pp. 3 and 4)

For the question presented, the cancel Seabrook II scenarios provide the most relevant information. In the case of load growth as forecast in the 1983 edition, PSNH shows purchases of power beginning in 1991-92, additions of capacity from Hydro-Quebec beginning in 1993-1994, and addition of a coal plant in 2000. In 1998, this scenario shows an additional 245 MW from Hydro-Quebec plus 82.4 MW of other purchases is required, or roughly 327 MW. In 2000, this scenario shows an additional 200 MW from a projected coal plant and 195.5 MW from Hydro-Quebec.

In the case of 1.5% load growth with Seabrook II cancelled, the first addition is 58.4 MW from Hydro-Quebec in 1994-1995. These purchases rise to 245 MW in 2000 when the coal plant is also shown as coming on line.

Since the PSNH share of Seabrook Unit II is 400 MW, this analysis would show, under the higher load growth assumption, that Seabrook II power would not be needed at all until 1992, and that PSNH would have excess power from Seabrook II until 2000.

Under the lower growth scenario, all of Seabrook II power would be excess until 1995 and nearly half of the Seabrook II power would appear to be excess until the end of the century.

Given the previous Commission analysis, this second scenario would appear more likely and in fact this scenario also captures the load growth goal of PSNH. Under this analysis, PSNH requires roughly 250 MW by the power year 1999-2000, which the Company projects could come from Hydro-Quebec, Phase II. From the Commission analysis concerning renewable resource development, it appears possible that an additional 100 MW by the year 2000 could be available from that source. It also seems likely in light of the conservation/load management analysis that load growth

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could be further reduced to eliminate the remaining capacity deficit of roughly 150 MW. Thus, there would appear to be viable alternatives to Seabrook II given this scenario.

PSNH contends that the time period to the year 2000 is not an adequate time frame to analyze Seabrook II. This question of the proper time horizon is discussed below in relation to an economic assessment of Seabrook II.

VIII. *IS SEABROOK II ECONOMIC*?

As several witnesses have pointed out, Seabrook II may be economic for PSNH stockholders and ratepayers even if it is not required for New Hampshire energy needs for a period of years if the excess capacity can be sold on favorable terms. Thus, the opportunity for sales of Seabrook ownership or for term sales of Seabrook power and the market for "spot" or secondary sales become key questions in the economic evaluation of Seabrook.

A great deal of time has been spent in other dockets concerning the question of sales of Seabrook ownership. Since PSNH concludes in its financial analysis that

> [t]he scenario which best appears to balance the interests of both the customer and Company is 28% ownership of Seabrook Station, completed as early as possible, with 1.5% average annual load growth, (Exhibit 46, Tab E, page 10)

and the Commission has previously determined that such an ownership reduction is desirable, this question is really not a subject of debate in this docket. It is also apparent that there is very little possibility for an ownership reduction at the present time. PSNH also indicates that short-term capacity sales from Seabrook are desirable and it will seek to make such sales. (Exhibit 46, Tab F, page 7) In fact, in his testimony Mr. Plett indicated that negotiation of contracts for energy and capacity sales for the early years of Seabrook Station operations was a key element of the Company's present supply strategy. (Transcript Volume 30, page 16) However, Mr. Staszowski also indicated that Up to this point in time PSNH has been reluctant to aggressively seek short term capacity sales because of some uncertainty about the completion of Unit II. (Transcript Volume 29, pages 25, 26) He also indicates that other New England utilities see that uncertainty as well (*Id*., page 26), and at the present time there appears to be no market for capacity sales of Seabrook power. (*Id*., page 35, 42) Consequently, it is assumed by PSNH that unit power sales contracts will not be successful during the period that PSNH has excess capacity. (Transcript Volume 29, page 45)

A. *Secondary Sales*

Therefore, for the purposes of analyzing the economics of Seabrook II, the only present viable option for sales of excess Seabrook capacity are secondary sales. Secondary sales may be achieved either through direct contracts with other companies or through NEPOOL. As Mr. Staszowski explains, the monetary benefit to PSNH and its customers varies substantially between the two types of sales. Contracts for base load energy sales with other utilities would produce significantly more revenue than would sales through NEPOOL because of the way in which savings shares are calculated and apportioned.

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(Exhibit 117, Tab K, page 4) In the case of pool sales, saving shares are split 50/50, whereas contract sales would split saving 80/20 for nuclear and 70/30 for coal. (*Id.*) It is important to point out, that in all cases secondary sales revenues are based on the differential fuel costs, and do not include capacity charges.

PSNH's analysis assumes that 75% of its excess nuclear and coal energy is sold displacing a relatively efficient oil unit, and that the savings split is 50/50. (*Id.*, Transcript Volume 32, page 59) Mr. Staszowski argues that this estimate is very conservative, and that "if PSNH assumed 100% of its excess energy was sold rather than 75%, secondary sales revenue would increase $25 million a year in the 1.5% load growth case and $15 million a year in the 83 Edition Case from 1988 on". (*Id.*) He further points out that if PSNH splits the savings 80/20 or 70/30 rather than 50/50, i.e., if such contracts can be made with other utilities, the revenue would increase to 40 to 60 percent more. (*Id.*) PSNH further contends that the Staff and CLF estimates of revenue from secondary sales is equal to or greater than PSNH's for similar assumptions, which confirms the conservative nature of PSNH's methodology. (PSNH Brief, page V-6)

In reviewing the testimony and cross-examination regarding secondary sales, the Commission finds that three issues emerge: (1) the uncertainty or variability of revenues from secondary sales; (2) the adequacy of these revenues relative to PSNH Seabrook costs; and (3) the sensitivity of Seabrook economics to revenues from secondary sales.

With regard to the first issue, the Commission believes that the main point which emerges is that the amount of PSNH's revenues from secondary sales is subject to considerable variation due to a number of uncertain factors. The uncertain factors include: oil prices; NEPOOL coal capacity; NEPOOL sales growth; on-line dates of NEPOOL nuclear units (Seabrook and Millstone); Seabrook performance; and Canadian energy. Thus, while PSNH's forecast of revenues from secondary sales may be a reasonable forecast, the risk that the forecast may be wrong due to misprediction of any or several of the above factors is very high.

Since PSNH calculates its estimated savings shares against oil units, changes in oil prices from those assumed would obviously change the revenues to PSNH. The Commission need not dwell on the difficulty in predicting oil prices. PSNH oil prices have been estimated using national economic forecasting series and the Commission finds that the level of these estimates appears reasonable. However, the Commission agrees with Staff that given the level of uncertainty regarding oil prices, a wider range or band of estimates is necessary. (Staff Brief, page 66, Transcript Volume 23, pages 118-120) Recent events in the world oil markets suggest that lower estimates should be used at least in sensitivity analysis to properly assess Seabrook economics. (Transcript Volume 32, 33-35)

Mrs. Braiterman's analysis attempts to analyze the resources which PSNH has in relation to the resources that NEPOOL has to meet its load. (Transcript Volume 5, page 135) Her analysis shows in particular that NEPOOL coal capacity is being converted faster than the NEPOOL load is growing (Transcript Volume 5, pages 136,

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137), and as a consequence PSNH may not be able to sell all its excess coal capacity to NEPOOL when Seabrook II comes on line. (Transcript Volume 5, pages 134-136, Exhibit 1,

Technical Paper O, Exhibits 7, 8)

Mrs. Braiterman's analysis shows that the NEPOOL market for base load energy is also a key factor. Exhibit 8 shows the comparison between a base case incorporating NEPOOL's 1982 load forecast and a low growth case which adjusts the pool's demand to a level corresponding to the Staff's low growth conservation case. (Transcript Volume 5, page 138) Under the low growth case, PSNH is able to sell only 61% of its excess coal capacity to the pool by 1987. (Transcript Volume 5, page 139, Exhibit 8)

Analysis in preceeding sections has clearly documented the uncertainty in regard to the Seabrook on line dates and Seabrook performance especially in the early years of operation. Testimony also indicates that PSNH has not considered the impact of purchases of Canadian hydro power. (Transcript Volume 5, pages 155-157)

Based upon this analysis and evidence, the Commission concludes that potential revenue from secondary sales is a highly variable factor. While PSNH's estimates may not be unreasonable, there is considerable downside risk as well as the possibility of greater revenues.

The second point relates to the adequacy of revenues from secondary sales to cover PSNH's costs, and whether PSNH's ratepayers will be subsidizing electricity consumption elsewhere in New England. PSNH contends that any revenues received from secondary sales are a benefit to New Hampshire ratepayers, because without these revenues New Hampshire ratepayers would have to pay the entire cost. (Transcript Volume 17, pages 66-68) Thus, even if PSNH sells power at a price considerably less than, the price charged to New Hampshire customers, this would not constitute a subsidy. (*Id.*) PSNH's analysis assumes that its ratepayers would otherwise pay for the costs of all of the excess capacity. (Transcript Volume 17, page 67) CLF and Staff, on the other hand, contend that sales to other utilities which do not recover full costs are, in fact, a subsidy. (Exhibit 1, Technical Paper O, page 9, Transcript Volume 5, pages 152-154). In this sense "full cost" is defined as capital costs plus fuel costs.

PSNH presents rebuttal testimony by Mr. Staszowski which challenges the use of the "full cost" standard as the appropriate standard for measuring whether excess energy is sold at a net loss. (Exhibit 117, Tab K, Page 5) Mr. Staszowski believes that the proper measure of cost is the "to complete" cost of Seabrook II, i.e., the avoided cost if Seabrook II is cancelled, plus fuel. (Transcript Volume 32, 60) This definition would exclude all sunk costs in Seabrook II. (*Id.*)

[8] The Commission believes from the previous analysis that it is clear that secondary sales will not recover the full capital costs of Seabrook II, that PSNH will be selling at a loss, and that other New England utilities will be purchasing Seabrook power for less than New Hampshire ratepayers will be paying. Whether this situation is acceptable depends upon whether completion of Seabrook II leads to lower costs for customers over cancelling the unit. PSNH agrees that this is the appropriate standard. (PSNH Brief, p. V-6)

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B. *Sensitivity Analyses*

Whether secondary sales along with other variable factors are critical to the economics of Seabrook II is addressed by the sensitivity analyses performed by Mr. Staszowski. This analysis

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(Exhibit 91) measures the penalty to customers if Seabrook II is cancelled under different scenarios including secondary sales. Looking at scenario 4 which most closely approximates the situation the commission envisions, the penalty for the period 1983-2015 in 1983 dollars with secondary sales is $258 million and without secondary sales is 182 million. However, this scenario is based on a Seabrook I in service date of June, 1985, a Seabrook II in service date of March, 1989, a 1.5% load growth forecast, a 60% availability factor and PSNH's low fuel forecast. In light of the previous analyses, it is clear that the Commission believes that this scenario represents more of a base case scenario and does not capture all of the downside risk that the Commission believes exists. Worse assumptions for any or all of these variables could very likely eliminate any penalty from cancellation. CLF presents an analysis which reduces the net penalty to $9 million, and concludes that by using more pessimistic assumptions for other variables extrapolating from PSNH's own models, that the advantages of cancelling Seabrook II substantially outweigh any advantage of completion. (CLF Brief, pages 31-33) The Commission believes that it is very possible that the revenue from secondary sales could be the difference in whether Seabrook II is economic or not.

C. *Analysis of Financial Scenarios*

As Staff points out all parties in this case recommend the use of discounted revenue requirements (e.g., rates) and various financial and risk measures in the comparison of alternate supply scenarios. (Exhibit 1, Section IV-A, pages 3, 4, 78; Exhibit 12 Rosen Appendix E; Exhibit 46, Plett Exhibits 2-10, Hadley Attachments 59-512) However, the parties use the measures in different ways and come to different conclusions even when the same scenario assumptions are used. One of the basic reasons for this difference is the method of discounting used and the weight these methods give to the timing of capital expenditures and rate increases.

These differences can be seen by focusing on Mrs. Hadley's High Seabrook cost ($7 billion) cases — the "High" case projecting completion of Seabrook II, and the "High C" case projecting cancellation of Seabrook II. (Exhibit 46, Tab E, Attachment S10) In this analysis, Mrs. Hadley concludes that on the basis of the three measures used — cents/KWH, external financing, and total capitalization — both ratepayers and investors are better off if Seabrook II is completed rather than cancelled. In terms of rates, the High case is lower until 1988, higher through 1994, and lower through 2001 than the High Cancellation case. The reasons for this are that — (1) in the first period the High Cancellation case includes amortization of Seabrook II costs; (2) in 1988 the rates under the High case become higher due to inclusion of Seabrook II in rate base; and (3) rates under the High C case are higher again starting in the mid-1990's due to Canadian Hydro purchases and capital expenditures for a coal plant.

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(*Id.*) The pattern of external financings and total capitalization similarly reflects the timing of capital expenditures in each case. Mrs. Hadley's analysis produces higher external financing requirements and total capitalization under the cancellation case than under the high completion case.

Focusing on the same scenarios but using different discounting methodology Staff reaches different conclusions. Staff concludes from its present value analysis that investors would clearly

prefer the cancellation case. While ratepayers would show a slight preference for the non-cancellation case, Staff believes that their result is sensitive enough to be changed by a variety of factors especially the treatment accorded abandoned plant. (Staff Brief, page 38)

The Commission also notes that Mrs. Hadley's scenarios would yield different results if the underlying assumptions were changed. All of the PSNH financial scenarios reflect BASE case fuel prices and an average 70% capacity factor for Seabrook Station. Likewise the analyses would change if the supply shortage in the 1990's was met through renewable resource development and conservation.

D. *Proper Time Frame for Analysis*

This brings us to the question of the proper time frame for analysis of the economics of Seabrook. As noted above, PSNH is now using a time frame going out to 2015. This is a change from the Company's earlier submission which used a time horizon to the year 2001. (Exhibit 45, Tab F, Attachment 2, page 1) Lengthening the time frame favors Seabrook as Mr. Staszowski indicates. (Exhibit 117, Tab K, page 6)

While the Commission agrees that a long time frame may better capture the potential life-cycle benefits from Seabrook, a long time frame also introduces greater uncertainty relative to other factors. And whereas PSNH desires to measure the benefits of Seabrook to the year 2015, the Company has not attempted to analyze other variables and supply options for the same time frame. As noted earlier, PSNH's time horizon for development of renewable resources goes only to 1991 and PSNH has not even considered other technologies which its own witness Perkins identifies may become economically viable in the 1990's.

In conclusion, the Commission believes that by projecting Seabrook to 2015 PSNH may be emphasizing relatively small future benefits (if any) against very substantial near term risks and negative economic impacts both for ratepayers and the New Hampshire economy. And while the Commission cannot say whether Seabrook II is economic or not over the period to 2015, as the previous analysis indicates, even over the 30-year time frame the benefit of Seabrook II (or penalty if it is cancelled) may disappear with cost and performance assumptions the Commission finds likely or possible.

E. *Financial Risks*

The Commission points out, as it has previously, that the financial risks of PSNH's present course are very substantial. The testimony of PSNH's witness and investment banker, Mr. Prior, indicates PSNH is a very high risk company and may be the highest risk company in the industry. (Transcript, Volume

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34, pp. 98, 99) As indicated in previous analysis, one of the most important aspects of this riskiness is the size of the Seabrook project relative to the size of PSNH. (*Id*., p. 47) This riskiness does not lessen as the project nears completion because "then you have a very much increased risk that if something goes wrong, you've got a lot more dollars invested ... ". (*Id*., p. 51)

The implications of this situation in terms of substantial delays in the completion of Unit I

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and the consequent increased financial requirements are very serious. While Mr. Bayless expresses confidence in PSNH's ability to finance (Transcript, Volume 28, pp. 41-44, 116-120), Mrs. Hadley points out that in reviewing the $7 billion cost scenario, Mr. Bayless expressed the opinion the "if I saw cash flows like that unit 2 would be mothballed". (Transcript, Volume 29, p. 66) The Commission has to be concerned with what would happen if the estimates substantially exceed $7 billion, a situation that has not been run through PSNH's financial models.

Staff has summarized the considerable risks and uncertainty that will exist even *after* Seabrook is completed as follows: (Staff Brief, p. 40)

> 1. PSNH will have the heaviest asset concentration in the industry (cf Exhibit 41, Table 1 and Exhibit 106) 2. Considerable uncertainty exists with respect to Seabrook capacity factor. (Exhibit 1 Gantz, Section III-H, Hieronymous TR 35-79-180) 3. PSNH may implement some form of smoothing or rate base trending which will worsen financial circumstances (Bayless TR 28-55 to 58) 4. Uncertainty exists with respect to nuclear O & M, eventual cost, unit lifetime, and spent fuel disposal.

It is because of these near and long-term risks associated with Seabrook that Mr. Prior, PSNH's own investment banker, concludes that cancellation of Seabrook II with a full rate of return would have a beneficial effect on PSNH and on the investment quality of all the securities of PSNH (Transcript, Volume 34, p. 44, 45)

The Commission also believes that while PSNH emphasizes the long-term benefits of Seabrook, it fails to adequately consider the long-term risks of poor Seabrook performance.

IX. *CONCLUSION*

The Commission in undertaking its analysis in this docket has been guided by the need for long range planning and findings relative to future energy supply and demand. However, the Commission is at the same time mindful of the Supreme Court's decision in Re Public Service Co. of New Hampshire (1982) 122 NH. 1062, 51 PUR4th 298, 454 A2d 435. Accordingly, the Commission does not seek to direct PSNH's course in terms of Seabrook II or to make prudency findings in this docket.

However, the Commission can and does find that PSNH needs to expand its planning analysis to capture what the Commission believes are the substantially greater downside risks of Seabrook and the greater potential of alternative supply options. The Commission believes that the models and analytical approach used by Mrs.

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Hadley and Mr. Staszowski are appropriate. However, the assumptions incorporated in the analyses do not cover all supply side options; and of greatest importance, the analyses do not asses the impacts of Seabrook cost above $7 billion. In particular, the Commission believes that PSNH needs to undertake the following analyses:

> (1) sensitivity analysis should be done in incorporating (a) higher cost assumptions for Seabrook; (b) lower demand growth; (c) greater variance in fuel prices; (d) lower performance factors for Seabrook.

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(2) the financial analysis should be performed using (a) the more pessimistic assumptions in (1) above; and (b) alternate supply scenarios incorporating more conservation and renewable resource development.

The Commission urges the Company to undertake this analysis and to reevaluate Seabrook II in light of this analysis.

The Commission finds that based on the evidence in this docket that the following areas require further investigation by the Commission:

(1) methods to reduce or spread out the impact of "rate shock" due to the inclusion of Seabrook in rate base.;

(2) long-term conservation and load management programs.

Accordingly, the Commission will open dockets to consider each of these areas. In addition, the Commission will order the consideration of conservation programs in DR 82-333.

Contribution of CLF et al

The Commission by previous Order (Order No. 15,655) has found CLF and the New Hampshire Energy Coalition to be eligible for compensation in this docket subject to a finding by the Commission of substantial contribution. The commission believes that the preceding analysis has amply demonstrated a very substantial contribution by these joint intervenors, and the Commission so finds.

SUPPLEMENTAL ORDER

Based upon the foregoing Report, which is incorporated herein, the Commission adopts the findings as set forth; and pursuant to the Report, it is

ORDERED that Docket No. DE 83-152 is opened to consider methods to reduce or spread out the impact of "rate shock" due to the inclusion of Seabrook in rate base; and it is

FURTHER ORDERED, that Docket No. DE 83-153 is opened to consider long-term conservation and load management programs; and it is

FURTHER ORDERED, that testimony be filed by the parties in DR 82-333 relative to conservation and load management programs which are appropriate for adoption at this time; and it is

FURTHER ORDERED, that Conservation Law Foundation (CLF) and New Hampshire Energy Coalition (NHEC) file appropriate documentation of expenses incurred in this docket.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of April, 1983.

FOOTNOTES

[1] We congratulate PSNH and joint owners on this step and hope that it will be continued in the future.

[2] Possibly the problem is that UEC is in the business of construction instead of completing power plants. Their recent record with Three Mile Island, Salem and Whoops #4 and #l is not

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stellar. Exhibit 27

[3] Dean Whitter Reynolds handbook is included as Exhibit 118.

[4] This goal is discussed in the following sections in relation to the potential for energy conservation and small power production.

[5] CLF also presented the testimony of Dr. Thompson, which relates to demand, but is not a forecast as such. His testimony is discussed in the sections relating to the potential contribution of conservation and alternate energy resources.

[6] Administrative notice was taken of DR 80-47.

[7] The Commission notes that unlike the PSNH load forecast, the Hogan forecast relies upon prices from the PSNH financial runs.

[8] Price changes operate through elasticity to effect changes in the ratio of energy to real output.

[9] Calculated from Exhibit 59, Table 5-1 and 11-1.

[10] The Commission notes that even given PSNH's assumptions, a unit sale for ten years yields the most favorable result.

[11]Coal co-generation dominates in the model and Staff viewed this as not appropriate for New Hampshire where the relative economic advantages of wood waste are greater. (Exhibit 1, Technical Paper B, page 2)

[12]PSNH in other respects has emphasized the need for a planning horizon (for Seabrook to 2015) of sufficient length to allow a proper consideration of supply side issues. (PSNH Brief, p. VI-1) In this regard, as well, the Commission notes that PSNH Witness Perkins identified several new technologies which may be available in the 1990's. (Exhibit 45, Tab H, Attachment 2, Table 1, p. 4)

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NH.PUC*04/29/83*[79635]*68 NH PUC 308*W.V.G. Associates

[Go to End of 79635]

Re W.V.G. Associates

DE 82-222, Second Supplemental Order No. 16,375

68 NH PUC 308

New Hampshire Public Utilities Commission

April 29, 1983

PETITION for franchise as a water public utility; granted.

FRANCHISES, § 5 — Approval by commission — Water public utility.

[N.H.] An applicant was authorized to operate as a water public utility; the commission found that possible inadequacies of expertise and financial support were unlikely given evidence that the water system was part of a larger corporate structure that had a vested interest in ascertaining that the resort and townhouses, included in the corporate structure, had an efficient operating water system and that greater assets would support the utility rather than simply those of the water system alone.

APPEARANCES: Thomas C. Platt, III, for W.V.G. Associates; Kenneth E. Traum and Robert B. Lessels for the commission staff; Michael W. Holmes, hearing examiner.

BY THE COMMISSION:

REPORT

On August 6, 1982, W.V.G. Associates filed a petition for a franchise to operate as a water public utility in a limited area in the Town of Thornton, New Hampshire.

On January 4, 1983, a hearing was held on the petition in the Commission offices at Concord, New Hampshire, the result of which was Supplemental Order No. 16,190 dated January 21, 1983 (68 NH PUC 47), which established a temporary rate of $65 per annum to be applied against each customer of W.V.G. Associates for all service rendered on or after January 1, 1983.

An additional hearing on permanent rates was postponed until April 13, 1983. A duly noticed public hearing was held on that date.

BACKGROUND

The water system operated by W.V.G. Associates serves 60 condominium style units, an indoor and an outdoor swimming pool owned by W.V.G., provides for a restaurant and bar also owned by W.V.G. and provides water to Albert S. Moulton who further distributes the water to 17 owners of lots in the Moulton Village Subdivision. The system is unmetered.

Due to the fact that the Company was not a franchised public utility, did not maintain financial records in the detail required by the PUC, that many of its records were destroyed in

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a recent fire at the Associates' property, and that the water system itself was acquired as part of a larger package at a foreclosure sale, the following costs are based on knowledgeable estimates by the Commission staff based on their years of expertise in the water regulatory field. In the future the Commission expects the Company to adhere to the prescribed accounting and engineering regulations as a public utility.

RATE BASE

This Commission recognizes that the water system was acquired as part of a package at a foreclosure sale and the prior owner of the water system had not received a franchise for such

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system. We, therefore, find ourselves at a disadvantage as to a starting figure for book cost of the system.

W.V.G. Associates has in Exhibit 6 submitted an estimate of the cost to install the system in 1970 of $113,685.62. This figure would have some credibility if W.V.G. had paid original cost net of depreciation for the system, but they did not. At the foreclosure sale their successful bid for the whole resort was approximately $450,000 of which W.V.G. estimates that 10% was allocatable to the water system. Lacking figures on which to develop any alternative allocation for the water system's value, we accept 10% of $450,000 or $45,000

W.V.G. has not provided any evidence as to additional investment in the capital assets of the water system since acquired in 1978 so $45,000 will be the starting point.

To reach a rate base figure, 5 years of accumulated depreciation since the 1978 acquisition must be subtracted from the above.

Since we assume the utility will bill customer's quarterly in advance, no working capital will be included; nor will any deduction for customer contributions or advances, deferred taxes, or material and supplies inventory.

The simplistic rate base thus calculated is: $38,250.

$45,000 - 5 ($45,000 ÷ 33.3 year depreciation life)

COST OF CAPITAL

W.V.G. Associates, being unfamiliar with the NHPUC's methodology in determining revenue requirements, neglected to ask for a return on rate base. This lack of knowledge of regulation should not and will not act as a penalty to the company in this case. The PUC Staff has, since the original filing in this docket, explained this aspect of regulation to company personnel and requested additional data on which the Commission has based its decision.

This lack of regulatory knowledge was also evident in the Company's fixed asset request which was previously reduced to conform with the Commission's policies.

The accepted cost of capital based on correspondence received after the date of the hearing, 4/17/83, from Mr. Beach works out to a weighted cost of 10.0%.

OPERATING EXPENSES

The Company on Attachment F of Exhibit 6 estimated operating expenses to be $9,184.28 to serve the resort, the 60 townhouses, and the connection to Mr. Moulton who then supplies customers.

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The $9,184.28 is made up of $ 800 (office and administrative) 2,400 (electric) 300 (maintenance) 5,684.28 (depreciation) ___ $9,184.28

The Commission accepts all of these estimates except depreciation for which we have developed a composite rate of 3% using water utility average lives applied against the equipment employed by this water system.

The other problem with the depreciation expense is the base level it is taken on, namely,

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$113,685.62. As developed in the rate base section of this report, the Commission will use $45,000 as a base figure on which to calculate depreciation. The adjusted operating expenses are thus ($800 + 2400 + 300 + 1350) or $4850

REVENUE REQUIREMENT

Putting all of the figures previously determined together yields a revenue requirement of $8,675, calculated as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

```
Operating Expenses              $4,850
Rate Base × Cost of Capital
($38,250 × 10.0%)            === 3,825.
No tax deduction due to loss
carry forward                -0-
                                 _
$8,675
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CUSTOMER BILLING — RATES

The water system at the White Mountain Resort (WVG Associates) is a seasonal unmetered system and as such it is difficult to design an equitable rate structure to fit each customers usage. It is our judgement that the following represents the most equitable unmetered billing, based on the petitioners representation that WVG Associates consumes 25% of the delivered water and that one customer, A.S. Moulton, further distributes water to 17 single family homes. The annual revenue requirement of $8675, would be distributed as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

```
Office and Administration              $ 800
Yearly Maint.                          300
Depreciation                           1,350
Return Req.                            3,825
                                       __________
                                       $6,275

WVG ($6275 × 25%)            $1569
Condo's & Moulton[1]4706  ======= $77 each
                                       ______
                                       61

PLUS:

Electric $2400

WVG (2400 × 25%)             600
Condo's & Moulton (17)       1,800 ======= $23.50 each
                             ______
                             77

Annual Charge:[1]
WVG $1569 + 600                    ======= $2,169.00
Condo's (each) $77 + $23.50 ===== 100.50
Moulton $77 + ($23.50 × 17) ===== $476.50
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[1]These annual charges result in annual revenue of:

$2169 + $6030 (60 × $100.50) + $476.50 = $ 8,675.50

THE FUTURE

Once the utility has developed actual operating experience and costs, it has the right to petition the Commission for a rate change to more properly reflect ongoing cost levels (including cost of capital, rate base, etc.).

In conjunction with that, we will expect future filings to be made in compliance with the Commission filing requirements.

FRANCHISE RIGHT

In Report and Supplemental Order No. 16,190, Chairman Love dissented in part "until there is a demonstration that WVG Associates has the proper level of expertise, financial support

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and resources to be viewed as a public utility".

During the course of the April 13, 1983 bearing, Mr. Traum of the PUC Staff developed a line of cross-examination along these lines with the WVG Associates witness, Murray Beach.

Based on that questioning, the Commission recognizes that WVG Associates has the expertise to run the water system, as they have done for a number of years

As far as financial support and resources are concerned, the water system is part of a larger corporate structure that has a vested interest in ascertaining that the resort and townhouses have an efficient operating water system and greater assets are brought into play than simply those of the water system alone.

Based on the evidence submitted, we are convinced that the petitioner has the financial resources and professional capabilities to operate a water public utility and that granting the authority will be in the public good.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report which is made a part hereof; it is hereby

ORDERED, that W.V.G. Associates be, and hereby is, authorized to operate as a water public utility in a limited area in the Town of Thornton on land owned, as of the date of this Order by WVG Associates on Upper Mad River Road; and it is

FURTHER ORDERED, that W.V.G. Associates shall file a tariff describing the terms and conditions, and rates to be charged as set forth in this Report, and bearing the effective date of this Order; and it is

FURTHER ORDERED, that Order No. 16,190 (68 NH PUC 47) is rescinded as of the date

of this Order.

By Order of the Public Utilities Commission of New Hampshire this twenty-ninth day of April, 1983.

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NH.PUC*04/29/83*[79636]*68 NH PUC 311*Manchester Gas Company

[Go to End of 79636]

Re Manchester Gas Company

Intervenor: Community Action Program

DR 83-116, Order No. 16,376

68 NH PUC 311

New Hampshire Public Utilities Commission

April 29, 1983

ORDER determining gas company's summer cost of gas adjustment.

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APPEARANCES: David W. Marshall for Manchester Gas Company; Gerald Eaton for the Community Action Program.

BY THE COMMISSION:

REPORT

Manchester Gas Company ("Manchester" or the "Company") pursuant to Commission tariff filing rules filed a proposed Cost-of-Gas Adjustment (CGA) for the Summer period, May 1, 1983 through October 31, 1983, seeking Commission approval for a proposed CGA rate of $.2139/therm.

A duly noticed public hearing was held April 19, 1983 at the office of the Commission. During the proceedings a Company witness discussed the elements found in the proposed CGA.

From testimony and cross examination of the Company witness it was revealed that methods of forecasting costs of gas were improved over those methods disclosed previously to the Commission. Impacting the Cost-of-Gas Adjustment was:

1) An estimated decrease of $.021/ therm in the commodity charge from Tennessee Gas Pipeline (TGP). This is a reflection of a proposed stipulation agreement at FERC in which Manchester (Energy North) management played an active role. This decrease would probably be retroactive to 2/01/83.

2) Partially offsetting this is an increase of $.01/therm in the commodity charge from TGP. This increase is due in August, 1983, and was filed by TGP with the FERC on 2/01/83.

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Also included is an adjustment of $151,940 which reflects a previous summer period undercollection, interest, and natural gas pipeline refunds. As a result of a Commission audit this adjustment has subsequently been reduced to $150,398. Additionally during this hearing the Finance Staff of the P.U.C. questioned the projected unaccounted for therms figure used in the filing. The Company reviewed this and subsequently reduced the figure which increased projected sales to 4,786,255 therms for the period.

With these adjustments the calculation of the cost of gas for the Summer 1983 period will be:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Total anticipated Cost-of-Gas	$3,034,329
Total Interest adjusted additions	150,398
	$3,184,727
Projected Therm Sales	4,786,255
Cost per Therm	$ .6654/th
Less Base Cost per Therm	erm
Cost-of-Gas Adjustment	.4627
	$ .2027/therm

The revised cost of gas adjustment for the period May 1, 1983 through October 31, 1983 will be .2027/therm.

Our order will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that 8th Revised Page 26 of Manchester Gas Company, Tariff, NHPUC No. 13 — Gas, providing for a Cost-of-Gas Adjustment of $0.2139/therm for the period May 1, 1983 through October 31, 1983, be, and hereby is, rejected; and it is

FURTHER ORDERED, that Manchester Gas Company file Revised

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Page 26 reflecting a summer period 1983 CGA of $.2027/therm, and it is

FURTHER ORDERED, that Revised Tariff Pages approved by this Order become effective with all billings issued on and after May 1, 1983; and it is

FURTHER ORDERED, that public notice of this Cost-of-Gas Adjustment be given by one-time publication in newspapers having general circulation in the territories served.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of April, 1983.

==========

NH.PUC*04/29/83*[79637]*68 NH PUC 313*Meriden Telephone Company

[Go to End of 79637]

Re Meriden Telephone Company

DR 82-358, Second Supplemental Order No. 16,378

68 NH PUC 313

New Hampshire Public Utilities Commission

April 29, 1983

ORDER approving telephone company's tariff revisions regarding the unbundling of customer premises equipment.

RATES, § 553 — Telephones — Customer premises equipment — Unbundling.

[N.H.] The state commission approved revised tariff provisions of the telephone company based on the unbundling of customer premises equipment.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, Meriden Telephone Company, on December 1, 1982, filed with this Commission certain revisions to its tariff NHPUC No. 5 proposing the unbundling of customer premises equipment from local exchange rates; and

WHEREAS, said filing was subsequently rejected by Supplemental Order No. 16,117 (67 NH PUC 989); and

WHEREAS, said order also directed refiling of tariff revisions to effect unbundling as specified in that order; and

WHEREAS, on April 15, 1983, Meriden Telephone Company filed such revised pages; it is

ORDERED, that those revised pages appearing on Attachment A be, and hereby are, approved for effect on January 1, 1983.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of April, 1983.

==========

NH.PUC*04/29/83*[79638]*68 NH PUC 314*Northern Utilities, Inc.

[Go to End of 79638]

Re Northern Utilities, Inc.

Intervenor: Community Action Program

DR 83-117, Order No. 16,379

68 NH PUC 314

New Hampshire Public Utilities Commission

April 29, 1983

ORDER approving utility's cost of gas adjustment.

AUTOMATIC ADJUSTMET CLAUSES, § 7 — Authorization — Energy cost clauses.

[N.H.] The commission permitted the utility's cost of gas adjustment to go into effect having found no cause through hearing or audit to dispute the projected costs or projected sales.

APPEARANCES: Eaton W. Tarbell for Northern Utilities, Inc.; Gerald Eaton for the Community Action Program.

BY THE COMMISSION:

REPORT

In compliance with Commission tariff filing rules and cost-of-gas adjustment terms outlined in the tariff of Northern Utilities, Inc. ("the Company"), proposed cost-of-gas adjustment for the summer period, May 1, 1983 through October 31, 1983, was filed for Commission consideration.

A duly noticed public hearing was held at the offices of the Commission on April 19, 1983, at which time a witness for the Company discussed the components of its cost-of-gas adjustment.

Thorough testimony and cross examination of the witness revealed improved forecasting of costs and presentation of data. Additionally the accuracy of this filing as compared to past cost-of-gas adjustments is obvious.

The witness disclosed the following impacts on the cost-of-gas adjustment:

1) decrease in commodity charge from their natural gas supplier, Granite State Transmission (GST)

2) partially neutralizing this decrease was an increase in the commodity charge due in August 1983 from GST

3) an additional $.0276/therm adjustment required to recover the balance of an under collection from the 1981 Winter period, as previously approved by this Commission

4) a significant reduction in foretasted sales caused by unfavorable market conditions, compounded by the loss of a major customer

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The Commission in the course of calculating a CGA rate for the Summer period 1983 for this Company has received a late filing by the Company relating to the Commissions Supplemental Order No. 16,344, dated April 15, 1983 (68 NH PUC 206), relating to the 'Gas Roots' Program.

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This filing revises the proposal rate to $.5700/therm which the Commission accepts.

The Commission has found no cause through hearing or audit to dispute the projected costs or projected sales, and will allow the cost-of-gas adjustment as presented to go into effect. Our order will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that 41st Revised Page 22A of Northern Utilities, Inc., Allied Gas Division, Tariff, NHPUC No. 6 Gas filed in lieu of 40th Revised Page 22A, withdrawn, providing for a Cost-of-Gas Adjustment of $0.5700/therm for the period May 1, 1983 through October 31, 1983, be, and hereby is accepted; and it is

FURTHER ORDERED, that Revised Tariff Pages approved by this Order become effective with all billings issued on and after May 1, 1983; and it is

FURTHER ORDERED, that public notice of this Cost-of-Gas Adjustment be given by one-time publication in newspapers having general circulation in the territories served.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of April, 1983.

==========

NH.PUC*04/29/83*[79639]*68 NH PUC 315*Keene Gas Corporation

[Go to End of 79639]

Re Keene Gas Corporation

Intervenor: Community Action Program

DR 83-119, Order No. 16,380

68 NH PUC 315

New Hampshire Public Utilities Commission

April 29, 1983

ORDER approving utility's cost of gas adjustment.

AUTOMATIC ADJUSTMENT CLAUSES, § 7 — Authorization — Energy cost clause.

[N.H.] A gas company's summer cost of gas adjustment was approved by the commission despite a last minute revision of the proposal initiated when the company's propane supplier informed the company that the contract price of the product was to increase.

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APPEARANCES: Kenneth W. Wood for Keene Gas Corporation; Gerald Eaton for the Community Action Program.

BY THE COMMISSION:

REPORT

Keene Gas Corporation ("Keene" or the "Company") on March 30, 1983 filed, pursuant to Commission filing rules, a proposed Cost-of-Gas Adjustment (CGA) for the summer period, May 1, 1983 through October 31, 1983, of $.3882/therm. On April 19, 1983, prior to the duly noticed public hearing held at the Commission offices, the Company revised this filing to $.442/therm.

Keene witnesses discussed the revised CGA and other components of the CGA during the hearing. According to the Witnesses, the last minute revision was initiated when the company's propane supplier (Warren Petroleum) informed them the contract price of product was to increase $.045/gallon. Keene Gas is a propane air system. An increase in propane cost such as this would have considerable impact on the company's financial position if not corrected and passed through rates as soon as possible. The Commission feels this is a proper adjustment.

Testimony and cross-examination of the Company witness further revealed an area of concern for the Commission. In response to cross-examination by Mr. Marini of the Commission Engineering Staff, it was disclosed that the current supply contract is expiring at the end of the, summer period. This contract is to be replaced with two contracts neither of which are as liberal as the expiring contract. Whereas the previous contract had a provision which allowed Keene to obtain product on a 3:1 ratio (3/4 of a contract years supply of product delivered during the winter vs. 1/3 of a contract years supply of product delivered in the summer), the new contracts have a ratio of 2:1. The Company President, Mr. Sheldon, has voiced concerns of Keene's ability to comply with these conditions due to lack of adequate storage facilities and decreased demand during the summer period. The Commission also has these worries and will be closely monitoring this situation in the upcoming winter and 1984 summer periods.

The Commission has found no cause to dispute the projected costs or projected sales, and finds the adjustments made consistent with those approved in past period CGA's. Therefore, the Cost of Gas Adjustments as proposed will be approved.

Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing Report which is made a part hereof; it is hereby

ORDERED, that 4th Revised Page 27 of Keene Gas Corporation, Tariff, NHPUC No. 1 — Gas, providing for a Cost-of-Gas Adjustment of $0.442/therm for the period May 1, 1983 through October 31, 1983 be, and hereby is approved; and it is

FURTHER ORDERED, that Revised

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Tariff Pages approved by this Order become effective with all billings issued on and after May 1, 1983; and it is

FURTHER ORDERED, that public notice of this Cost-of-Gas Adjustment be given by one-time publication in newspapers having general circulation in the territories served.

By Order of the Public Utilities Commission of New Hampshire this twenty-ninth day of April, 1983.

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NH.PUC*04/29/83*[79640]*68 NH PUC 317*Gas Service, Inc.

[Go to End of 79640]

Re Gas Service, Inc.

Intervenor: Community Action Program

DR 83-118, Order No. 16,381

68 NH PUC 317

New Hampshire Public Utilities Commission

April 29, 1983

ORDER approving gas company's summer cost of gas adjustment.

AUTOMATIC ADJUSTMENT CLAUSES, § 53 — Over- and undercollections — Reconciliation.

[N.H.] The commission found it proper for a gas company to utilize the traditional manner of reconciling previous period cost of gas adjustments by properly matching the gas costs of one season to a corresponding season, passing the costs onto the cost causer, and by eliminating the complexities of estimating over- and undercollections needed when adjusting the collections of a period when it was not completed.

APPEARANCES: David W. Marshall for Gas Service, Inc.; Gerald Eaton for the Community Action Program.

BY THE COMMISSION:

REPORT

In conformance with Commission Tariff Filing Rules and cost-of-gas adjustment terms outlined in the tariff of the named company, proposed Cost-of-Gas Adjustment tariff pages for the Summer period May 1, 1983 through October 31, 1983 were filed for Commission consideration. The company's proposed cost-of-gas adjustment is $0.1593/therm. This is a 3¢

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/therm reduction from the last summer period.

A duly noticed public hearing was held at the offices of the Commission on April 19, 1983, at which time a

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witness for the company discussed the components of the cost-of-gas adjustment.

Testimony and cross-examination of the company witness revealed that methods used in forecasting costs for this filing showed improvements from prior filings, and that the company is in the throws of further improvements. Impacting the cost-of-gas adjustment was:

1) An estimated decrease of $.021/therm in commodity charge from Tennessee Gas Pipeline (TGP). This is a reflection of a proposed stipulation agreement at FERC in which Gas Service management was actively involved. This decrease would probably be retroactive to February 1, 1983.

2) Partially offsetting this is an increase of $.01/therm in commodity charge from TGP. This increase is to become effective August, 1983, and was filed by TGP with the FERC on February 1, 1983.

Excluded from this filing is an adjustment for an over or under collection in a prior period. In filing the summer cost-of-gas adjustment this way, the company is proposing to return to the traditional manner of filing their cost-of-gas adjustment. For the three previous cost-of-gas adjustment periods, the company had been adjusting the over/under collection of a winter period in the next summer period, and the summer period over/under collection in the next winter period. With the absence of an over/under collection in this filing, the company will now carry any over/under collection of the 1982-83 winter period cost-of-gas adjustment to the 1983-84 winter period cost-of-gas adjustments.

In returning to the traditional manner of reconciling previous period cost-of-gas adjustments, the company will 1) properly match the gas costs of one season to a corresponding season, passing the costs onto the cost causer, and 2) eliminate the complexities of estimating over/under collections needed when adjusting the collections of a period when it is not completed. We therefore accept this proposal.

The Commission has found no cause to dispute the projected costs or projected sales. The Commission will allow the cost-of-gas adjustment as presented to go into effect. Our order will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that 5th Revised page 1, superseding 4th Revised Page 1 of Gas Service, Inc. tariff, NHPUC No. 6 Gas, providing for Cost-of-Gas Adjustment of $0.1593/therm for the period May 1, 1983 through October 31, 1983, be, and hereby is, approved; and it is

FURTHER ORDERED, that the revised tariff page approved by this order become effective with all billings issued on and after May 1, 1983; and it is

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FURTHER ORDERED, that public notice of this Cost-of-Gas Adjustment

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be given by one-time publication in newspapers having general circulation in the territories served.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of April, 1983.

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NH.PUC*04/29/83*[79641]*68 NH PUC 319*Concord Natural Gas Corporation

[Go to End of 79641]

Re Concord Natural Gas Corporation

Intervenor: Community Action Program

DR 83-120, Order No. 16,382

68 NH PUC 319

New Hampshire Public Utilities Commission

April 29, 1983

ORDER authorizing proposed summer cost of gas adjustment as modified.

AUTOMATIC ADJUSTMENT CLAUSES, § 57 — Billing — Overcollection — Refunds.

[N.H.] The commission held a gas company responsible for billing errors with regard to the utility's cost of gas adjustment and stated that any postponement in refunding the overcollection to customers would benefit the company and penalize the customers.

APPEARANCES: David W. Marshall for Concord Natural Gas Corporation; Gerald Eaton for the Community Action Program.

BY THE COMMISSION:

Pursuant to Commission filing rules Concord Natural Gas Corporation (herein after referred to as "Concord" or the "Company") filed a Summer period May 1, 1983 through October 31, 1983, Cost-of-Gas Adjustment (CGA) for Commission consideration. The CGA proposed is $.2776/therm.

A duly noticed public hearing was held at the Commission's office on April 19, 1983. During the proceeding a Company witness discussed the elements of the proposed CGA.

Testimony and cross examination revealed that although the forecasts of gas costs and sales

were adequate, the Company continues to be inadequate in other areas of the CGA. Specifically our concerns lie in the frequency of billing errors, some of which were spoken to in the 1982-83 Winter CGA (DR 82-278 [67 NH PUC 767]).

In the Winter CGA Commission auditors

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disclosed two large billing errors one of which decreased the Company's Winter period undercollection, the other increased the undercollection. In an effort to deter these billing errors the Commission passed the decrease in undercollection through the Winter CGA, and amortized the increase over the same number of months as the billing error had developed (67 NHPUC at p. 770).

In the present proceeding another billing error was revealed. This error created a $3,575.68 billing adjustment applicable to the Summer cost-of-gas adjustment. This adjustment was billed and collected from the customer. However, the Company proposed to reduce the CGA by this amount over the same number of months this error had been perpetuated (33 months). This proposal is a direct contradiction to our original deterrent established in DR 82-278 and will not be accepted. The Company is solely responsible for this error. Any postponement of returning to the customers the funds collected through this billing adjustment would be a boon to the Company and a penalty to the customer. Therefore, the Commission will adjust the Summer CGA downward by $2,925.56 plus interest of $117.00 and will require this Company to pass the billing adjustment applicable to the Winter period through the 1983-84 Winter CGA. The $2,925.56 is the unamortized Summer period balance of the billing adjustment.

Other issues impacting the CGA were:

1) A stipulated decrease in the cost of natural gas from Tennessee Gas Pipeline (TGP). This decrease is proposed retroactive to 2/1/83.

2) Partially offsetting this is an increase in TGP rates, to become effective 8/1/83.

Also included in this filed CGA is an overcollection of $83,173, natural gas supplier refunds of $27,991, and interest accrued on refunds and the over-collection of $12,518.

Aside from the billing error, it has been brought to the Commission's attention that the Company's forecasted LNG boil-off should be reviewed. In response to a staff hearing request the Company reviewed its inventory of LNG and has determined that the boil-off projected through the Summer period was in excess of the projected LNG inventory for the corresponding period. To correct this oversight the Commission will replace the excessive LNG boil-off (14,890 therms) with the average cost of natural gas. This will decrease the projected cost-of-gas by $4,686.

With the foregoing adjustments the Commission computes the cost-of-gas adjustment as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Anticipated Gas Costs as Filed	$ 1,452,178
Less Adjustments	- 7,729
Adjusted Gas Costs	$ 1,444 449

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Projected Therm Sales	3,139,188
Unit Cost of Gas	.4601
Less Base Unit Cost	.1850
Cost of Gas Adjustment	$ .2751

The revised CGA for the Summer period, May 1, 1983 through October 31, 1983, will be $.2751/therm.

Our order will issue accordingly.

ORDER

Upon consideration of the foregoing

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report which is made a part hereof; it is hereby

ORDERED, that 33rd Revised Page 21 of Concord Gas Corporation, tariff, NHPUC No. 13 — Gas, providing for a cost-of-gas adjustment of $.2776/therm for the period May 1, 1983 through October 31, 1983, and hereby is rejected; and it is

FURTHER ORDERED, that Concord Natural Gas Corporation file a revised page 21 reflecting a Summer Period 1983, CGA of $.2751/therm; and it is

FURTHER ORDERED, that Revised tariff pages approved by this order become effective with all billings issued on and after May 1, 1983; and it is

FURTHER ORDERED, that public notice of this Cost-of-Gas Adjustment be given by one-time publication in newspapers having general circulation in the territories served.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of April, 1983.

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NH.PUC*04/29/83*[79642]*68 NH PUC 321*Kearsarge Telephone Company

[Go to End of 79642]

Re Kearsarge Telephone Company

DR 83-146, Order No. 16,383

68 NH PUC 321

New Hampshire Public Utilities Commission

April 29, 1983

ORDER approving telephone company's tariff for touch calling service.

RATES, § 553 — Telephones — Touch calling service.

[N.H.] The commission approved the telephone company's tariff for touch calling service because: (1) the company installed peripheral equipment which would permit customers of various exchanges to elect touch calling service; (2) there was evidence of increased demand for such service; and (3) the company completed revisions of its earlier filed tariff.

BY THE COMMISSION:

ORDER

WHEREAS, Kearsarge Telephone Company has installed certain peripheral equipment to its Andover, Boscawen and Salisbury Central Offices which will permit customers of those exchanges to elect touch-calling service; and

WHEREAS, said telephone utility

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has filed a revision to its tariff No. 5 to implement such service; and

WHEREAS, the Commission finds that there is an increasing demand for touch-calling service among customers of various telephone utilities, and that availability of said service is in the public interest; it is

ORDERED, that Section 3, Original Sheet 7 1, Kearsarge Telephone Company tariff, NHPUC No. 5 — Telephone, be, and hereby is, approved for effect on May 15, 1983; and it is

FURTHER ORDERED, that customers in affected exchanges be given notice of the availability of such service.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of April, 1983.

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NH.PUC*04/29/83*[79643]*68 NH PUC 322*New England Electric Transmission Corporation

[Go to End of 79643]

Re New England Electric Transmission Corporation

DE 83-106, Order No. 16,389

68 NH PUC 322

New Hampshire Public Utilities Commission

April 29, 1983

PETITION by electric transmission corporation to construct a cable across public waters.

CERTIFICATES, § 72 — Construction of transmission cable across public waters — Affect on public rights — Grant of authority.

[N.H.] An electric transmission company was given the authority to construct and maintain a transmission cable across public waters in order to test the suitability of the area as the potential site for a ground electrode; the commission found that the granting of the license would not substantially affect the public rights in the subject land and water.

BY THE COMMISSION:

REPORT

On March 29, 1983, the Commission received a Petition from New England Electric Transmission Corporation (hereinafter "Petitioner") seeking a license to cross the Ammonoosuc River. More specifically the Petitioner requests permission to temporarily construct and maintain a cable across the river in order to conduct testing operations more fully set forth below. This type of petition is provided for in RSA 371:17 which spells out along

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with RSA 371:20 the requirements to be complied with in order to receive the desired license. Both the Commission and Petitioner were under a duty to issue due notice of the petition. Subsequent to compliance by both a hearing was duly held on April 18, 1983. Moreover, in addition to publication Petitioner also informed individual property owners on both side of the river, the Attorney General, the Towns of Lisbon and Littleton and the New Hampshire Electric Cooperative. On its part the Commission sent notice not only to some of the foregoing but to the New Hampshire Aeronautics Commission, the Department of Resources and Economic Development, and Safety Services.

No one appeared in opposition to the petition.

Petitioner's presentation was brief but inclusive. Mr. Frank S. Smith, Senior Engineer with New England Power Service Company, testified on behalf of Petitioner, supporting two exhibits. Exhibit 1 consisted of the three page petition, an Attachment 1 showing the geography of the crossing and an Attachment 2 portraying a schematic of the actual crossing. Exhibit 2 portrays the test circuit configuration.

As evidenced by the record Petitioner is a New Hampshire public utility corporation, previously granted a certificate of site and facility under RSA 162-F to build and operate the New Hampshire portion of the ¿+- 450 kv DC transmission intertie with Quebec. The converter terminal to be built near the Comerford Hydroelectric Station must be electrically grounded by a facility known as a ground electrode, which is a series of metallic rods buried in the earth. A potential site for the ground electrode has been chosen in the Town of Lisbon, New Hampshire. Testing to determine the suitability of this site requires that a cable be placed temporarily over the Ammonoosuc River. The location of the proposed crossing is shown on Attachment 1 to Exhibit 1.

New poles are not required. The single cable would be suspended on existing poles owned by the New Hampshire Electric Cooperative. These poles now carry a 7.2 kv three phasepower line and a telephone line. The temporary cable would be installed under the telephone line and have a minimum clearance to water of 25 feet. The National Electric Safety Code requires a 15 foot clearance. A profile of the proposed crossing is shown on Attachment 2. The single cable would be spacer-type (477,000 circular mills), covered with insulating material, and having an overall diameter of one inch. The cable is rated at 15 kv, and maximum voltage to be used during the tests is 1 kv. It will be on the ground in places. However, Mr. Smith also stated the line could be handled by the public with complete safety, as long as it was not cut into. All persons along the route of the cable have been informed as to its significance. During testing, patrols will guard the cable. Warning signs will also be posted. No heavy equipment will operate in the river or on its banks. No dredging or filling of the river will be done.

Petitioner plans to install the temporary cable across the river on April 25, 1983. The tests of the ground electrode site are scheduled in May and possibly June. Present plans call for two test periods, each about eight hours in duration. Actual use of the temporary cable may be limited to four days. Initial results, however, may indicate

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that further tests are needed. Peititioner will remove the temporary cable when testing is complete, returning all property to its original condition.

The New Hampshire Electric Cooperative is cooperating in the tests of ground electride. The Cooperative has agreed to the use of its poles for the temporary cable. It is also noted that the Towns of Lisbon and Littleton have granted all necessary approvals.

If the requirements set forth in RSA 371:17 and 371:30 are complied with the Commission is obligated to grant the requested license. We find those requirements met as follows and shall forthwith issue an appropriate Order. First, the cable crossing is reasonably required in the service of the public. Next, the Petitioner is a public utility entitled to petition for a license. Then, the Commission prescribes and thus finds the crossing to involve a public water. Finally, it is found that granting the requested license will not substantially affect the public rights in said land and water.

We also note the Commission faces no requirement to reach a finding on RSA 374:21 "Damages" inasmuch as contiguous landholders have not intervened. In any event it appears no conditions are involved that would give rise to any damages.

Our Order will issue accordingly.

ORDER

Based on the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that a license is granted to the New England Electric Transmission Corporation to temporarily construct and maintain a cable across the Ammonoosuc River, said installation and location as more specifically defined in Petitioner's Exhibits 1 and 2.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of

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April, 1983.

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NH.PUC*04/29/83*[79644]*68 NH PUC 324*Boston and Maine Corporation

[Go to End of 79644]

Re Boston and Maine Corporation

DX 83-150, Order No. 16,391

68 NH PUC 324

New Hampshire Public Utilities Commission

April 29, 1983

ORDER requiring that all train movements over the subject crossings be approached in a stop and protect manner.

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CROSSINGS, § 68 — Protection and safety — Flagmen, signs, and protective devices.

[N.H.] The commission ordered a city to erect and maintain a standard "exempt" sign at railroad spurs where activity was practically nonexistent and further ordered the railroad company to use stop and protect procedures.

BY THE COMMISSION:

ORDER

WHEREAS, Storrs Street in the City of Concord is intersected by two (2) railroad spurs from the Boston and Maine Railroad creating two (2) grade crossings known as Storrs Street Lower AARDOT 053271C and Storrs Street Upper AARDOT 053272J; and

WHEREAS, railroad operations on these spurs are practically nonexistent; and

WHEREAS, under present circumstances all motor vehicles that carry hazardous commodities or passengers are required to stop before proceeding over said crossing which creates an unnecessary hazard in itself; it is

ORDERED, that the City of Concord be, and hereby is, authorized to erect and maintain a standard "exempt" sign on the mast which supports the advance warning disc at each approach of Storrs Street Lower and Storrs Street Upper crossings; and it is

FURTHER ORDERED, that all train movements before passing over said crossing shall stop and a member of the crew shall protect said movements in the usual stop and protect manner.

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By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of April, 1983.

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NH.PUC*05/04/83*[79645]*68 NH PUC 325*Fuel Adjustment Clause

[Go to End of 79645]

Re Fuel Adjustment Clause

Intervenors: New Hampshire Electric Cooperative, Inc., Concord Electric Company, Exeter and Hampton Electric Company, Granite State Electric Company, Municipal Electric Department of Wolfeboro, Littleton Light Department, Woodsville Water and Light Department, and Connecticut Valley Electric Company, Inc.

DR 83-92, Order No. 16,404

68 NH PUC 325

New Hampshire Public Utilities Commission

May 4, 1983

ORDER revalidating electric companies fuel surcharges.

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AUTOMATIC ADJUSTMENT CLAUSES, § 7 — Fuel adjustment clause — Revalidation.

[N.H.] The commission revalidated the fuel surcharges of several electric companies because: (1) the commission did not automatically schedule fuel adjustment clause hearings for those utilities which filed monthly, unless requested; (2) no utility maintaining a monthly or quarterly FAC requested that a hearing be scheduled; and (3) the current month was one of the two off months for quarterly FAC utilities.

BY THE COMMISSION:

ORDER

WHEREAS, the Commission in correspondence dated March 2, 1983, sent to the New Hampshire Electric Cooperative, Inc., Granite State Electric Company, Connecticut Valley Electric Company, Inc., Exeter & Hampton Electric Company, Municipal Electric Department of Wolfeboro, Concord Electric Company, Woodsville Power and Light Department, and Littleton Water & Light Department by the Commission's Executive Director and Secretary in relation to DR 82-59, notified the utilities that the Commission will not automatically schedule FAC hearings for those utilities which file monthly unless requested or needed by one of those

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utilities; and the Commission would not automatically schedule FAC hearings in the two off months for those utilities which have a quarterly FAC rate; and

WHEREAS, no utility maintaining a monthly or quarterly FAC requested a hearing be scheduled; and

WHEREAS, this is one of the two off months for quarterly FAC utilities; it is

ORDERED, that the Commission in DR 81-340, Third Supplemental Order No. 15, 986, dated November 10, 1982 (67 NH PUC 784), of the N.H. Electric Cooperative, Inc. rolled the cost of fuel on an estimated forward looking basis into base rates, thus eliminating the lagging Fuel Adjustment Clause and resulting in more stable and comprehensible rates; and

WHEREAS, the rolled in rate will remain in effect for approximately one year, unless a hearing is requested by any party, no new rate will be stated for the New Hampshire Electric Cooperative, Inc. in this month's FAC order; and it is

FURTHER ORDERED, that 9th Revised Page 19A of Concord Electric Company tariff, NHPUC No. 8 — Electricity, providing for a fuel surcharge credit of ($0.661) per 100 KWH for the months of April, May and June, 1983, be, and hereby is, permitted to remain in effect for the month of May, 1983; and it is

FURTHER ORDERED, that 9th Revised Page 19A of Exeter and Hampton Electric Company tariff, NHPUC No. 15 — Electricity, providing for a fuel surcharge credit of ($0.884) per 100 KWH for the months of April, May end dune, 1983, be, and hereby is, permitted to remain in effect for the month of May, 1983; and it is

FURTHER ORDERED, that 4th Revised Page 57 of Granite State Electric Company tariff, NHPUC No. 10 — Electricity, providing for an oil conservation adjustment of 8.7 cents ($0.087) per 100 KWH for the months of April, May and June, 1983, be, and hereby is, permitted to remain in effect for May, 1983; and

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FURTHER ORDERED, that 5th Revised Page 30 of Granite State Electric Company tariff, NHPUC No. 10 — Electricity, providing for a fuel surcharge for the months of April, May and June, 1983, of $0.69 per 100 KWH be, and hereby is, permitted to remain in effect for May, 1983; and it is

FURTHER ORDERED, that 28th Revised Page 11B of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 6 — Electricity, providing for a fuel surcharge of $2.62 per 100 KWH for the month of May, 1983, be, and hereby is, permitted to become effective May 1, 1983; and it is

FURTHER ORDERED, that 112th Revised Page 6 of Littleton Light Department tariff, NHPUC No. 1 — Electricity, providing for a fuel surcharge of $1.97 per 100 KWH for the month of May, 1983, be, and hereby is, permitted to become effective May 1, 1983; and it is

FURTHER ORDERED, that 80th Revised Page 10-B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for a fuel surcharge of $1.09 per 100 KWH for the month of May, 1983, be, and hereby is, permitted to become effective May 1,

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1983; and it is

FURTHER ORDERED, that 77th Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for an energy surcharge of $1.73 per 100 KWH for the month of May, 1983, be, and hereby is, permitted to become effective May 1, 1983.

By order of the Public Utilities Commission of New Hampshire this fourth day of May, 1983.

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NH.PUC*05/04/83*[79646]*68 NH PUC 327*Small Energy Producers and Cogenerators

[Go to End of 79646]

Re Small Energy Producers and Cogenerators

DE 83-62, Order No. 16,410

68 NH PUC 327

New Hampshire Public Utilities Commission

May 4, 1983

ORDER requiring specified exceptions to the proposed scope of the electric rate hearings.

PROCEDURE, § 13 — Scope of the proceedings — Generally.

[N.H.] The commission staff submitted a memorandum which summarized a prehearing conference between the utility and other parties to determine the scope of the rate

Page 327

proceedings; all parties were required to file exceptions to the proposed scope of the proceedings within a certain time period.

BY THE COMMISSION:

ORDER

WHEREAS, the parties to this proceeding met in a prehearing conference on April 20, 1983; and

WHEREAS, the staff has submitted a memorandum summarizing that prehearing conference; and

WHEREAS, that memorandum states that Public Service Company agreed to submit prefiled direct testimony six weeks from the date of the Commission's Order in Docket No. 81-312; and

WHEREAS, that memorandum states that the parties agreed to take under advisement the suggested scope of the proceedings; it is hereby

ORDERED, that the due date of direct testimony of Public Service Company of New Hampshire is June 10, 1983; and it is

FURTHER ORDERED, that all parties are required to file any exceptions to the proposed scope of the proceedings contained in the staff memorandum no later than May 10, 1983. By Order of the Public Utilities Commission this 4th day of May, 1983.

State of New Hampshire

Inter-Department Communication

Date: May 2, 1983 At (Office): PUC

From: Sarah P. Voll, Economist

Subject: 83-62 Prehearing conference 4/20/83

To: Commission Robert Camfield George Gantz Larry Smukler

Staff, PSNH and the intervenors met to discuss the scope of the proceedings. Since testimony from PSNH is due first, the discussions took the form of outlining the many issues that Staff believed relevant and which Staff assumed that the Commission will wish to have PSNH address in its testimony. The issues Largely fall into three categories: short term rates, long term rates and contractual arrangements. Some other issues were raised by the intervenors.

Short Term Rates

Staff anticipates that the marginal energy cost will be drawn from the PSNH production simulation computer model (PROSIM). The output from this model computes a value for energy based on both primary and secondary sales, and thus includes "opportunity cost", i.e. the profit from sales to NEPOOL and to utilities outside NEPOOL. Staff suggested that the Company run two scenarios: the base case which is also used to calculate marginal cost pricing on the retail side of Company operations, plus a scenario based on the Commission's findings in DE 81-312.

Staff recognized that the capacity cost component of the rate is theoretically and practically enormously complex. A first issue is the basis on which a particular site will be eligible for a capacity credit. There are two aspects to the value of capacity: 1. the site-specific reliability value of an individual

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site, and 2. the more generalized benefit of system diversity. Presumably, not all facilities would be eligible for a credit based on reliability, and Staff asked the Company to provide testimony on the standards which should be established for reliability. On the other hand, all facilities would be eligible for a capacity credit which reflects the value of system diversity. The credit for diversity may continue to be included in the¢ /KWH rate, while the credit for reliability may more appropriately be paid on a $/KW- year basis.

There are a number of methodologies for computing a value for capacity. Staff assumes that PSNH will present a value based on their "system planning response method.." In addition, Staff

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will request for comparison purposes information necessary to develop the peaker methodology and information regarding system capacity sales within NEPOOL

Other components of the short-term rate include avoided fuel inventory costs and the avoided transmission and distribution energy losses as well as possible avoided transmission and distribution capacity costs.

Finally, Staff would like to have the Company's views on whether the Commission should consider time of day and seasonal rates. If so, issues of averaging and costing periods need to be considered.

Long Term Rates

In addition to the individual components of a long term rate, which would mirror those of the short term rate, the setting of long term rates raises three other issues. First, a long term rate requires a forecast of both energy costs and capacity requirements and costs. Staff asks the Company to present testimony on the construction of such a forecast. In addition, if the long term rate is to be levelized over a given period, the proper discount rate for the period needs to be calculated.

Second, the appropriate planning horizon needs to be established. The Company currently offers a long term contract of 30 years while its financial planning model has a planning horizon of 8 years and its system planning model forecasts for 20 years. The models, however, are capable of a planning horizon of 30 years, coincident with the long term contract presently offered. At issue would be the assumptions to be incorporated into the model for the forecast period.

A final issue to be addressed is whether the long term rate-setting is a process of risk assignment or one of forecast and reconciliation. The short term rate as presently set for Granite State Electric Company involves a six month forecast of fuel prices and a reconciliation with actual costs at the end of the six months. The long term rate could incorporate a similar reconciliation, although to do so raises questions of the timing of the reconciliation and the usefulness of such a rate to the small power producer when approaching his banker (a point raised by one of the intervenors.). Alternatively, the long term rate may be a process of assigning the risk between ratepayers and small power producers that the forecast will be too high or too low.

Contractual Arrangements

Public Service Company currently offers both a short term contract based on the LEEPA rate and a 30 year term

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contract. The long term contract embodies PSNH's estimate of its "incremental fuel costs". The intervenors asked for an explanation of the derivation of these numbers. Staff concurred that contract policy is a relevant issue.

Staff asked the intervenors to present testimony on the non-price aspects of the contract, in particular its length and structure and some evaluation of how particular contract terms would

discriminate among different technologies. The intervenors indicated that they did intend to testify on these points.

Other Issues

The intervenors raised several issues which they believed should be addressed. First they asked that somehow in the proceeding the cost of power as represented by the cost of electricity from Seabrook be explored. They stated that while Seabrook costs were not avoided costs, the costs of electricity from the most recently constructed facility ought not to be totally irrelevant to setting prices for small power producers.

Second, the intervenors wished to explore the issues of how incentives to small power producers are affected by the LEEPA rate. Included in this are not only the incentives to come on line, but the incentives to sell to PSNH (the generating utility), the franchise utilities or to retail customers. Staff asked the Company to consider the effect of SPP sales to franchise utilities and retail customers on PSNH's own sales and revenues. The issue becomes particularly relevant if average costs (and therefore retail and wholesale rates) move above marginal costs (on which the LEEPA rate is based).

Finally, Staff and the intervenors asked that the Company provide some explanation of the operation of their models, given the reliance that all parties will place on them. In particular, Staff and intervenors requested that the Company make clear the varying levels of difficulty that running different scenarios poses for the Company staff. Both understand that some changes of assumptions and inputs are easier to make than others.

Conclusion

The Company agreed to take the proposed scope of the proceeding under advisement and will respond by outlining the issues that the Company wishes to address in their testimony. The parties agreed that the Company testimony would be due six weeks after the decision on DE 81-312 since Staff had asked that the Company run scenarios embodying assumptions that reflect the findings in that docket. Given that the DE 81-312 decision was issued on April 29, 1983, Company testimony is due dune 10, 1983.

A proposed prehearing order noting the Staff memo and accepting the June 10th filing date is attached.

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NH.PUC*05/05/83*[79647]*68 NH PUC 331*Mount Washington Railway Company

[Go to End of 79647]

Re Mount Washington Railway Company

Intervenor: Cog Railway, Inc.

DE 83-132, Order No. 16,406

68 NH PUC 331

New Hampshire Public Utilities Commission

May 5, 1983

ORDER approving the transfer of ownership of a corporation and its railway subsidiary to a separate railway company.

CONSOLIDATION, MERGER, AND SALE, § 42 — Generally — Transfer of railway company ownership — Terms and conditions.

[N.H.] The commission approved a corporation's purchase and sale stock agreement which would effectively transfer control of the assets of said corporation and its railway subsidiary to a separate railway corporation; the commission required the filing of an audited annual report so that an assessment of the financial condition of the transferee utility and its affiliates could be made.

APPEARANCES: Jack B. Middleton for the petitioner; John Rolli and Wayne Presby for the Cog Railway, Inc.

BY THE COMMISSION:

REPORT

On April 8, 1983, the Petitioner, Mount Washington Railway Company filed with this Commission a petition for approval of a purchase and sale agreement by which the stockholders of Marshfield, Inc. proposed to sell the issued and outstanding common stock of Marshfield, Inc. and for approval of a purchase and sale agreement by which Marshfield, Inc. shall sell 500 shares of its common stock having a par value of $1.00 per share for a purchase price of $100 per share. The intent of the petition is to effectively transfer control of the assets of Marshfield, Inc. and its subsidiary the Mount Washington Railway Company to the Cog Railway, Inc.

On April 11, 1983, an Order of Notice was issued setting a hearing for April 28, 1983 at 1:30 p.m. at the Commission's Concord offices. Notices were sent to Jack B. Middleton, Esquire for publication and the Office of Attorney General. On April 26, 1983, an affidavit of publication was forwarded to the Commission certifying that notice had been made in the Union Leader on April 15 and 21, 1983.

The hearing was held as scheduled. Council for Marshfield offered a purchase and sale agreement dated April 12, 1983 by and between the Cog Railway, Inc. and Marshfield, Inc. by which Marshfield sells all its outstanding common stock plus 500 unissued

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shares of common stock to the Cog Railway, Inc.

SAFETY AND OPERATIONS

The Cog Railway will have four (4) principal owners: John Rolli, President; Wayne Presby; Loxley Ness; and Joel Bedore. Mr. Rolli will be the onsite manager of the Corporation. They

will retain the services of the former company's Chief Engineer, and have invited the retention of the Ship and Maintenance Plant Personnel. They will have a full-time General Manager to manage personnel and administrative matters.

The Company will retain its present rate schedule. It is considering other tour offers and will abide by the Commission's Rules and Regulations in their implementation.

Two members of the Teague family, Mrs. Ellen Teague and Charles Teague will be retained in an advisory capacity.

The Company agreed to provide the Commission with a list of Company personnel to be contacted in the event of an incident, and agreed to notify the Commission of any incident regarding interruption of service.

The Company will be bound by the provisions of an earlier Commission Order. On June 7, 1982, the Commission, in Docket DR 81-322, issued its Order No. 15,693 (67 NH PUC 375) which, among other things, set forth certain construction, maintenance and operational requirements for the Mount Washington Railway Company, Inc. It (67 NH PUC at pp. 378, 379):

> ORDERED, that the Cog Railway take the necessary corrective action to eliminate the rack spacing problems, to fix the tipped bents and to insure that the caps are in place prior to opening the railway for the season; and it is
>
> FURTHER ORDERED, that the skyline switch is to be completely repaired no later than June 15, 1982; and it is
>
> FURTHER ORDERED, that a maintenance schedule for replacing the bents [at Jacobs Ladder is to be filed with the Commission that will lead to all bents] being replaced over a seven year period and that the railway, pursuant to this schedule, replace at least two complete bents at Jacobs ladder during 1982; and it is
>
> FURTHER ORDERED, that the new engine and passenger car should be completed and placed in operation as soon as possible; and it is
>
> FURTHER ORDERED, that the repairs to the Marshfield siding and switch and the track between the shop and the passenger line be completed in 1982; and it is
>
> FURTHER ORDERED, that all trains that go up and down the mountain are to be equipped with portable toilets, blankets, flashlights, water with cups and signs indicating that passengers should follow the safety instructions of the engineer as of July 1, 1982.

To the extent that there remain certain of these actions scheduled to be completed in the future, and to the extent that any already scheduled actions remain uncompleted, the Cog Railway, Inc. is hereby committed to comply with that Order.

The proposed sale of all of the outstanding common stock and an additional 500 shares of Marshfield, Inc. to

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the Cog Railway, Inc., a newly formed New Hampshire Corporation, effectively transfers

control of the Mount Washington Railway Company ("Railway"). The Railway is a public utility, the operations of which are regulated by this Commission, whose common stock is wholy-owned by Marshfield, Inc. During the hearing, representatives of Cog Railway, Inc. testified that they would continue to operate the present companies within their corporate structures. It is important that the proposed capital expenditures to improve and expand the non-utility operations (Marshfield, Inc.) be appropriately allocated to the proper corporations. It is also extremely important that the financial viability of the public utility be maintained. In addition to the filing of annual reports of the Railway, the Commission will require Cog Railway, Inc. to file its audited annual report so that an assessment can be made of the financial condition of the utility and its affiliates.

At the hearing, testimony was presented that would require changes to the purchase and sales agreement that were submitted as Exhibits 2 and 3. It was stated that the clause related to Section 338 of the Internal Revenue Code of 1954, as amended, would not be part of the agreement. It was further stated that the outstanding loans by both the Railway and Marshfield, Inc. to Ellen C. Teague and Charles A. Teague would not be written-off, but would be paid by the holders upon completion of the proposed transaction. A fully executed copy of the revised purchase and sales agreement will be submitted to this Commission in addition to a copy of any mortgages.

The purchaser, Cog Railway, Inc., has also filed a petition for approval to mortgage the assets of the operating companies. As part of the planned sale and transfer, financing is proposed which will require a mortgage on the assets of Marshfield, Inc. and the Mount Washington Railway Company. Indian Head Bank North would provide two loans to the Cog Railway Inc. The first loan would be a term loan in the amount of $767,000, at First National Bank of Boston prime plus one and one-half (1-1/2) percent, with the term of the loan to be fifteen years. Indian Head Bank North would also provide a seasonal line of credit in the amount of $100,000 at the First National Bank of Boston prime plus two (2) percent. The purchasers also plan to raise $100,000 of subordinated debt from the New Hampshire Business Development Corporation to be secured by a second mortgage on the realty and assets of the Corporations. In addition to the aforementioned loans, the principals of the Cog Railway, Inc. state that they shall have raised and contributed an additional $200,000. Marshfield, Inc., Mount Washington Railway Company and the Cog Railway, Inc. are granted permission to mortgage their assets to secure both acquisition capital and capital for necessary and needed improvements of the facility. The Commission finds that it is in the public interest to raise the aforementioned loans to maintain the safety and continued existence of the railroad as an operating entity.

Cog Railway, Inc. intends to pursue a capital improvement program which will improve and enhance the facilities available to the public as well as the rolling stock. The stated priority is to upgrade existing facilities, expand or add additional facilities and to increase

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tourist flow. The Commission finds that the proposed transactions will be in the public good.

Our Order will issue accordingly.

ORDER

Based on the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the petition for the purchase and sale of the outstanding common stock of Marshfield, Inc. to the Cog Railway, Inc. is hereby approved; and it is

FURTHER ORDERED, that the petition for the sale of 500 shares of unissued Marshfield, Inc. common stock to the Cog Railway, Inc. is hereby approved; and it is

FURTHER ORDERED, that the Cog Railway, Inc. shall, to the extent necessary to comply with our previous Order No. 15,693, be bound by those provisions identified in this Report; and it is

FURTHER ORDERED, that the Cog Railway, Inc. shall, by June 1, 1983, provide this Commission with a list of personnel who shall be available to respond to complaints and inquiries of the general public and of this Commission; and it is

FURTHER ORDERED, that the Cog Railway, Inc. shall immediately report to this Commission any incidents which cause a derailment or a delay in a scheduled trip; and it is

FURTHER ORDERED, that the Cog Railway, Inc. shall file a copy of its own audited annual report in addition to the filing of its annual utility report; and it is

FURTHER ORDERED, that the Cog Railway, Inc.'s petition to mortgage the assets of the operating companies is hereby approved.

By order of the Public Utilities Commission of New Hampshire this fifth day of May, 1983.

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NH.PUC*05/05/83*[79648]*68 NH PUC 334*Concord Steam Corporation

[Go to End of 79648]

Re Concord Steam Corporation

Intervenors: Concord Hospital and New Hampshire State Hospital

DR 82-239, Order No. 16,408

68 NH PUC 334

New Hampshire Public Utilities Commission

May 5, 1983

ORDER accepting rate compromise between steam corporation and its customers.

Page 334

RATES, § 183 — Factors affecting reasonableness — Stipulations.

[N.H.] The state commission accepted an agreement negotiated by a steam corporation and its customers which determined both proper base rates and an energy cost adjustment.

APPEARANCES: Charles F. Leahy for Concord Steam Corporation; Theodore Wadleigh for Concord Hospital; Peter C. Scott for New Hampshire State Hospital; Kenneth E. Traum and Robert B. Lessels for the PUC staff.

BY THE COMMISSION:

REPORT

Concord Steam Corporation, a public utility engaged in the business of supplying steam service in the State of New Hampshire, on August 18, 1982, filed with this Commission certain revisions to its tariff, NHPUC No. 2 — Steam. The requested rates would have averaged $9.40 per M pounds of steam; versus approximately $9.40/M pounds for 1982.

Said filing was duly suspended by the Commission and the matter was initially heard at the Commission offices in Concord on March 23, 1983.

Prior to the date of said hearing numerous data requests were made of the utility by the Commission staff and responded to in a timely manner.

Beginning March 7, 1983 and continuing through April 22, 1983, individuals representing the utility, the N.H. State Hospital, the Concord Hospital, and the P.U.C. staff engaged in protracted negotiations with respect to Concord Steam Corporation's Rate Schedule and proposed Tariff changes. The two hospitals account for approximately 75% of the utility's current demand.

The result of said negotiations was signed by all parties and submitted to the Commission at another public hearing on April 28, 1983, and labelled Exhibit 3.

This Exhibit 3 reflects, among other items, a rate of $8.20 per M pounds of steam plus an Energy Cost Adjustment. The Energy Cost Adjustment will be charged or credited to the customer after recognizing that the base rates include $4.55 per M pounds for Energy costs.

This represents approximately a 13% reduction from the current rate level.

The agreement reflects the great depths the negotiations went to in arriving at an average cost of capital of 9.0%, a rate base of $4,509,765, estimated sales of 491,000,000 pounds of steam, and a total non-fuel revenue requirement of $1,794,786.

The Commission after careful scrutiny of Exhibit 3 is delighted to accept the agreement and wishes to thank all parties for taking part in the procedure and coming to such an acceptable solution.

Our order will issue accordingly.

ORDER

Based upon the foregoing Report which is made a part hereof; it is hereby

ORDERED, that for all service rendered

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on or after May l, 1983, Concord Steam Corporation shall file tariff pages to correspond to

the attached Report and Settlement Agreement.

By order of the Public Utilities Commission of New Hampshire this fifth day of May, 1983.

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NH.PUC*05/11/83*[79649]*68 NH PUC 336*Rules for Intrastate Rail Rates

[Go to End of 79649]

Re Rules for Intrastate Rail Rates

DRM 83-162, Order No. 16,413

68 NH PUC 336

New Hampshire Public Utilities Commission

May 11, 1983

ORDER adopting rules to conform to the requirements of the Interstate Commerce Commission and the Staggers Rail Act.

RAILROADS, § 9 — Rail carriers — State commission regulation — Modification.

[N.H.] The commission adopted rules to comply with a congressional determination which defined the degree to which state regulatory commissions could regulate intrastate rail carriers subject to the Interstate Commerce Commission jurisdiction in § 214 of the Staggers Rail Act.

BY THE COMMISSION:

ORDER

WHEREAS, the Congress of the United States has defined the degree to which State Regulatory Commissions may continue to regulate the Intrastate rail carriers subject to the Interstate Commerce jurisdiction in section 214 of the Staggers Rail Act; and

WHEREAS, the Staggers Rail Act requires that the State Commission submit to the Interstate Commerce Commission revised standards and procedures which must be approved by the Interstate Commerce Commission; and

WHEREAS, the Interstate Commerce Commission has recently issued standards which it will use to evaluate state submissions filed pursuant to the Staggers Rail Act; and

WHEREAS, the New Hampshire Public Utilities Commission has formulated

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the attached rules to conform to the requirements of the Interstate Commerce Commission and the Staggers Rail Act for 1980; it is hereby

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ORDERED, that the attached rules shall be, and are hereby, adopted.

By order of the Public Utilities Commission of New Hampshire this eleventh day of May, 1983.

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NH.PUC*05/11/83*[79650]*68 NH PUC 337*Merrimack County Telephone Company

[Go to End of 79650]

Re Merrimack County Telephone Company

DE 83-155, Order No. 16,416

68 NH PUC 337

New Hampshire Public Utilities Commission

May 11, 1983

ORDER complying with a Federal Communications Commission decision which required the deregulation of customer premises equipment.

BY THE COMMISSION:

ORDER

WHEREAS, Merrimack County Telephone Company filed with this Commission on April 27, 1983 certain revisions to its tariff, NHPUC No. 7 -Telephone, said revisions providing clarification of the existing tariff in relation to the Federal Communications Commission decision in its Docket 20828, Computer Inquiry II ([1980] 77 FCC2d 384, 35 PUR4th 143; [1980] 84 FCC2d 50, 39 PUR4th 319; [1981] 88 FCC2d 512); and

WHEREAS, said FCC decision mandated that all CPE introduced into inventories after January 1, 1983 would be unregulated, while that CPE procured prior to that date would continue to be regulated during its useful service life; and

WHEREAS, the Commission finds such clarification in the public interest; it is

ORDERED, that Part III, Original Preface Page 1 to Sections 1, 5, 20, 21, 22, 24, 26, 31 and 40, Merrimack County Telephone Company tariff, NHPUC No. 7 — Telephone, be, and hereby are, approved for effect May 27, 1983.

By order of the Public Utilities Commission of New Hampshire this eleventh day of May, 1983.

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NH.PUC*05/11/83*[79651]*68 NH PUC 338*New Hampshire Electric Cooperative, Inc.

[Go to End of 79651]

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Re New Hampshire Electric Cooperative, Inc.

DF 83-156, Order No. 16,417

68 NH PUC 338

New Hampshire Public Utilities Commission

May 11, 1983

PETITION by electric cooperative to revise a fixed rate loan to a variable interest rate loan; granted.

EXPENSES, § 57 — Interest accrual — Modification.

[N.H.] The electric company was permitted to revise its fixed rate loan to a variable interest loan; the commission ordered the utility to file with the commission a detailed statement, sworn by its treasurer, which would show the disposition of the proceeds of the approved note until the expenditure of the whole of the proceeds were fully accounted for.

BY THE COMMISSION:

ORDER

WHEREAS, the New Hampshire Electric Cooperative, Inc. has filed a petition to revise its current $1,617,000 loan from the National Rural Cooperative Finance Corporation from a loan at a fixed rate of 13 percent to a variable interest rate loan; and

WHEREAS, the National Rural Cooperative Finance Corporation has made the repricing option on all outstanding long-term loans available to its borrowers; and

WHEREAS, the current rate is 10.5 percent, with a premium of .75 percent, and the plan would allow the New Hampshire Electric Cooperative, Inc. to lower its interest rate below the current 13 percent rate being paid on the currently outstanding loan which was authorized by Order No. 15,422 in Docket No. DF 81-375 (67 NH PUC 21); and

WHEREAS, the New Hampshire Electric Cooperative, Inc. may convert the variable rate loan to a fixed rate loan at any time at a price to be determined by the Cooperative Finance Corporation's costs associated with new loans, which would allow a fixed rate being set at a level below the current 13 percent applicable to the loan; and

WHEREAS, interest rates have fallen dramatically since the present loan was negotiated; it is

ORDERED, that the New Hampshire Electric Cooperative, Inc. is authorized to revise its currents $1,617,000 fixed rate loan from the Cooperative Finance Corporation to a variable interest loan; and it is

FURTHER ORDERED, that on January first and July first of each year, said New Hampshire Electric Cooperative, Inc. shall file with this Commission a detailed statement duly

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sworn by its Treasurer showing the disposition of proceeds of such notes as shall be authorized by this Commission until the expenditures of the whole of said proceeds shall have been fully accounted for.

By the order of the Public Utilities Commission of New Hampshire this eleventh day of May, 1983

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NH.PUC*05/18/83*[79653]*68 NH PUC 342*Manchester Water Works

[Go to End of 79653]

Re Manchester Water Works

Intervenor: Central Hooksett Water Precinct

DE 82-329, Order No. 16,426

68 NH PUC 342

New Hampshire Public Utilities Commission

May 18, 1983

PETITION for wholesale water contract with water precinct; granted.

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RATES, § 625 — Water company — Classes of service — Wholesale.

[N.H.] The water company was permitted to charge the water precinct a rate lower than the standard rate because the precinct demonstrated that it would assume responsibilities different from the regular customers; the water precinct would: (1) impose no administrative burden upon the water company beyond the reading of a single meter, (2) handle all customer complaints, and (3) make all necessary repairs to the system through its own resources.

APPEARANCES: Alice Briggs for Manchester Water Works; John W. Hanrahan for Central Hooksett Water Precinct.

BY THE COMMISSION:

REPORT

On November 17, 1983, the Manchester Water Works filed with this Commission a contract by which it proposed to provide water service at other than standard rates to the Central Hooksett Water Precinct. In its letter of introduction, dated November 16, 1982, the Company contended

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that a rate tower than the standard rate was justified on the basis that Central Hooksett would bear certain costs normally borne by Manchester, such as the cost of distribution, meter reading and billing.

On February 23, 1983, the Commission staff advised the Company, by letter, of its position that Central Hooksett should be billed at the existing tariffed wholesale municipal water service rate schedule, and disagreed with the basic need for a special contract. The wholesale municipal water service rate is the same as the general service metered rate.

On March 24, 1983, the Company filed a letter requesting a meeting with one or more of the Commissioners, the Commission Staff and representatives from Central Hooksett and Manchester in order to discuss the ramifications of the issues.

On April 7, 1983, the Commission notified the Company that it had scheduled a hearing on April 14, 1983 at 2:00 p.m. at the Commission's Concord offices.

At the hearing, the Company contended that its abundant water supply gives them a unique opportunity to provide wholesale water sales to surrounding communities which have, or expect to have, future supply problems. The contract which is presented for Central Hooksett, if approved, will provide a standard format for other interested communities. The rates which will be set for each community would depend on the type of service Manchester would be asked to provide. In this proceeding, Central Hooksett has a pre-existing water system with its own storage and distribution system serving approximately 400 services. The thrust of the contract is to provide an excess of capacity.

The rate was determined from the existing retail rate set in proceedings before this Commission in 1982, and from which are subtracted the costs which Central Hooksett will incur by providing its own services. Manchester contends that it costs less to service Central Hooksett than it costs to service retail customers because they will provide no distribution services and no maintenance services.

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Witnesses for Central Hooksett testified that its 25 year old system includes approximately 7 miles of water mains within the confines of the Central Hooksett Water Precinct located in and around the intersection of routes 101B and Route 3 and serving approximately 600 water customers through 450 water services. It includes a mix of residential, commercial and industrial users including a state industrial park.

Central Hooksett is seeking additional water supplies. Manchester's offer is one of the possibilities explored and has been determined to be the most economic alternative so long as the company's proposed rate structure is accepted. If a higher rate is established, the precinct commissioners contend they will look elsewhere for water supplies.

The Commission staff contends that the rates set should be the same as those provided all retail customers, in the same manner as a large industrial plant or a college. In staff's opinion, the Commission is not concerned with what the customer does with water beyond the meter. Central Hooksett will be a single customer no different from any other and should be served at no rate other than the tariffed rate.

Mr. Fred Elwell, Manchester Water Works, testified that discussions with Hooksett over their need for future growth and supply solutions led them to the decision for the proposed contract. The Contract will provide that the cost of construction of the connection will be the responsibility of Central Hooksett. The amount of water that will be supplied is defined in the contract, and if additional amounts are necessary, a renegotiation of the contract will also be necessary. Mr. Elwell characterizes the connection as "of an emergency nature".

The rate of 51¢ per 100 cubic feet is less than the tariffed wholesale rate. Future increases will track those set for Manchester's customers and, in fact, the first increase is already in process based on a recent 3.4% adjustment. Mr. Elwell testified that the reduced rate to Hooksett is based on the fact that is is less expensive for Manchester to serve Hooksett than to serve retail customers of the same size. Hooksett's customers, for instance, who have complaints about water service and water pressure will have their complaints handled by Hooksett, not Manchester. In short, Manchester will be relieved of the day to day administrative requirements which will be imposed by Hooksett customers, because Hooksett has an active operation in place to manage such activities. Additionally, the water needs provided by Manchester are not intended to reflect Hooksett's basic needs because Hooksett provides its own storage capacity. Rather, Manchester's contribution will be in the form of additional storage capability to be used when Hooksett's own capacity is drawn down for emergency or other reasons. The refilling of Hooksett storage by Manchester will be done at off-peak times and will, in effect, use excess water. Manchester will retain the authority of limiting the amount of excess water which will be transferred to Hooksett, which is a policy the company would not be able to enforce should Hooksett be considered a simple retail customer.

Mr. Elwell made reference to other utilities in different states which use the wholesale contract approach in dealing with other communities. He offered examples in Providence,

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Rhode Island, Hartford, Connecticut and Bridgeport Hydraulic company as examples. In all cases, the prices for these contracts were based on the services actually provided.

Finally, Mr Elwell testifies that management's concept of future extensions is to provide a regional water system and to operate on the basis of supplying whatever community wants water under whatever conditions the community desires it, it can offer whether to develop a system where no present system exists or it can provide additional supply to those communities having a system in place.

Mr. Ralph Page testified as a Consultant, Commissioner and Superintendent of the Central Hooksett Water Precinct. He explained that the precinct has supplied water to its residents for approximately 30 years from three wells located within a 1000 ft. triangle located in the precinct. A consultant was employed to determine their adequacy and it was found that they were all served by the same aquifer. The consultants recommended that they look for additional supply and that they specifically try to connect with the City of Manchester. Manchester's lines now cross Central Hooksett's. Hooksett has been exploring new outside water sources for the last two or three years. They have explored the opportunities of drilling new wells and find that the attendant costs of installing treatment facilities on those wells make it an undesirable option.

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Hooksett's only reluctance to consider Manchester comes from its concern over rates. It considers itself different from tariffed customers in that it is restricted in the amount of water that it can use, and it will not receive the maintenance services that other customers could expect to receive. If the Commission determines that the tariffed price of 83¢ is necessary Hooksett will abandon the contract.

Mr. Bernard Lucey, Chief, Public Water Supply Program, WSPCC, testified to the problems faced by small water systems throughout the state and to the difficulty in locating watershed areas which will provide the necessary protection to assure that future quality standards are met. The purchase of adequate acreage to assure watershed protection has now become uneconomical since the water companies are competing in the marketplace for land areas which are very desirable for home development. In his opinion, unless companies such as Hooksett can connect with pre-existing systems such as Manchester's, they are going to have to select other, possibly inferior, supplies.

COMMISSION ANALYSIS

To the extent that Manchester already extends beyond its municipal boundaries, Manchester is a public utility subject to our jurisdiction. As such, our first determination should be whether or not the proposed contract will impact adversely on Manchester's existing regulated customers. The Commission is familiar with Manchester's operating characteristics and its supply opportunities by virtue of the other docketed cases that have been brought before us. We accept Mr. Elwell's position that Manchester, through its present Lake Massabecic supply, has a safe yield of 22 million gallons a day, and that at the present time, it is utilizing only about 12 million gallons a day. Accordingly, we are satisfied that the addition of Central

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Hooksett to the Manchester system will not adversely impact upon Manchester's regulated customers so long as the current provisions of the contract are followed.

The Commission's next concern is whether or not Central Hooksett is adequately prepared with a viable distribution network to accept and properly utilize the water that it will receive. The testimony in this case from both the Company's Commissioner and the Town Selectmen convince us that it does. Central Hooksett's concern for the future is demonstrated by this very docket, as a matter of fact, because if it were not so concerned, it would be exploring this alternative. We are satisfied that Hooksett will wisely and professionally distribute the excess quantities provided for in this contract.

Finally, we must approve a proper rate for this transaction. The testimony in this proceeding convinces us that a rate for Hooksett should be different from that to a normal residential or industrial customer. Hooksett clearly demonstrates different responsibilities from regular customers. They will impose no distribution construction costs upon Manchester. They will impose no administrative burden beyond the reading of a single meter. They will impose no operational burden on Manchester to the extent that they will handle all customer complaints and will make all repairs to the system, should they arise, through their own resources. We are persuaded by the terms of the contract that the supply burden can be properly controlled to avoid distribution at peaked periods. We accept the provisions of the contract setting a rate which is

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different from the tariffed rate. We will accept, and will expect in the future, that the contract rate will track Manchester's tariffed rates and that they will be adjusted accordingly.

Our Order will issue accordingly.

ORDER

Based upon the foregoing Report which is made a part hereof; it is

ORDERED that the contract by and between the Manchester Water Works and the Central Hooksett Water Precinct is hereby approved; and it is

FURTHER ORDERED, that subsequent revisions of this contract shall be submitted to the Commission for approval.

By Order of the Public Utilities Commission of New Hampshire this eighteenth day of May, 1983.

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NH.PUC*05/18/83*[79654]*68 NH PUC 347*Wilton Telephone Company

[Go to End of 79654]

Re Wilton Telephone Company

DE 83-12, Supplemental Order No. 16,427

68 NH PUC 347

New Hampshire Public Utilities Commission

May 18, 1983

ORDER approving revised pages of the telephone company's earlier filed tariff.

By the COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, Commission Order No. 16, 263 (68 NH PUC 120) directed the filing of revised tariff pages in lieu of those it has rejected; and

WHEREAS, Wilton Telephone Company has filed such pages, a review of which indicates compliance with the earlier order; it is

ORDERED, that the following revised pages of Wilton Telephone Company tariff, NHPUC No. 5 — Telephone, be, and hereby are, approved —

Index, 2nd Rev. Pg. 2 Pt. I — Gen. Regs., 2nd Rev. Pg. 9 " II — Sec. 1, 3rd Rev. Pg. 1 " III — Sec. 1, 2nd Rev. Pgs. 2 and 3 Sec. 2, 2nd Rev. Pgs. 1 and 2 Sec. 5, 2nd Rev. Pgs. 1-4 Sec. 14, 2nd Rev. Pgs. 2 and 7 Sec. 16, 2nd Rev. Pg. 1

By order of the Public Utilities Commission of New Hampshire this eighteenth day of May, 1983.

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NH.PUC*05/19/83*[79655]*68 NH PUC 347*Transportation Rules 708.03, 803.01, and 904.01

[Go to End of 79655]

Re Transportation Rules 708.03, 803.01, and 904.01

DRM 82-100, Order No. 16,429

68 NH PUC 347

New Hampshire Public Utilities Commission

May 19, 1983

ORDER adopting rules which would make applications for transportation franchises more inclusive to insure both a proper record and more expeditious decisions.

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BY THE COMMISSION:

ORDER

WHEREAS, the Commission concluded applications for transportation franchises should be more inclusive to insure a proper record and more expeditious decisions; and

WHEREAS, NHPUC Rules 708.03, 803.01, & 904.01 were revised accordingly; and

WHEREAS, RSA 541-A:3, IV(a) exempts an agency form from the usual requirements of notice and hearing; and

WHEREAS, all Legislative Service requirements to implement a new application have been complied with; it is therefore

ORDERED, that effective June 1, 1983 the above referenced Rules and related applications shall be effective; and it is

FURTHER ORDERED, that the appropriate certification be filed with Legislative Services.

By order of the Public Service Utilities Commission of New Hampshire this nineteenth day of May, 1983.

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NH.PUC*05/24/83*[79656]*68 NH PUC 348*Gas Service, Inc.

[Go to End of 79656]

Re Gas Service, Inc.

Intervenor: Community Action Program

DR 83-97, Supplemental Order No. 16,433

68 NH PUC 348

New Hampshire Public Utilities Commission

May 24, 1983

ORDER approving gas company's rate design.

RATES, § 373 — Gas company — Rate design — Generally.

[N.H.] The commission accepted the gas company's submitted rate design but noted that, because the rate design had not been litigated, the acceptance of the proposal did not set any precedent or indicate any policy regarding gas utility rate design.

APPEARANCES: Charles H. Toll for the petitioner; Gerald M. Eaton for the Community Action Program; Kenneth E. Traum for the PUC staff.

BY THE COMMISSION:

Gas Service, Inc. a franchised New Hampshire public utility engaged in the business of supplying gas, on March 10, 1983,

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filed tariff pages reflecting a $242,106 rate increase. This proposed rate increase was based upon updating the fixed capital component of its rate base to September 30, 1981. Said date corresponded with Manchester Gas Company's last rate base adjustment.

Per Order No. 16,313 dated April 1, 1983, in the instant docket, the Commission suspended said tariff pages pending investigation, and ordered the Commission Finance Department Staff to meet with the Company to determine what, if any, other items of revenue or expense should be incorporated into the proceedings.

Representatives of the Company, Staff, and C.A.P. met on April 27, 1983.

The final result of those meetings was the Settlement Agreement labelled as Exhibit 1 at the duly noticed public hearing held at the Commission's office in Concord on May 20, 1983.

This agreement as signed by Michael Mancini, Treasurer of Gas Service, Inc.; Gerald M. Eaton, Energy Advocate for C.A.P.; and Kenneth E. Traum, P.U.C. Assistant Finance Director, results in a proposed rate increase of $202,230.

The Commission after careful scrutiny of the Settlement Agreement and the inputs to it, accepts it and thanks all parties for taking part in the procedure and expeditiously arriving at a fair and justifiable result.

The one issue not settled prior to the May 20, 1983 hearing was the subject of how the rate increase should be spread through the Company's rate structure. At the hearing the Company

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submitted Exhibit 2 which left the customer charge unchanged while spreading the $202,000 increase to the 0-80 therm block for Domestic Rate Customers and correspondingly to the 0-200 therm block for General Rate Customers. Since no parties have objected to this rate design, the Commission will accept it. However, the Commission notes that this issue has not been litigated in this proceeding and therefore acceptance of this proposal does not set any precedent or indicate any policy regarding gas utility rate design. Full litigation of all rate design issues can be expected in the context of each utility's next general rate case.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Based upon the foregoing Report which is made hereof; it is hereby

ORDERED, that for all bills rendered on or after the date of this Order, Gas Service, Inc. shall file tariff pages to correspond to Exhibit 2 of the hearing.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of May, 1983.

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NH.PUC*05/24/83*[79657]*68 NH PUC 350*Manchester Gas Company

[Go to End of 79657]

Re Manchester Gas Company

DR 83-169, Order No. 16,434

68 NH PUC 350

New Hampshire Public Utilities Commission

May 24, 1983

ORDER approving gas company's proposed contract for the provision of interruptible service.

BY THE COMMISSION:

ORDER

WHEREAS, May 10, 1983, Manchester Gas Co. filed Special Contract No. 26 for Interruptible Service to Manchester Knitted Fashions, Inc; and

WHEREAS, the proposed contract is consistent with the provisions of Order No. 16,010 in Docket DR 80-29 (67 NH PUC 854) and with other Manchester Gas Special Contracts; and

WHEREAS, the Commission finds said contract to be reasonable and in the public interest; it is hereby

ORDERED, that Special Contract No. 26 of Manchester Gas Company is hereby approved.

By Order of the Public Utilities Commission of New Hampshire this twenty-fourth day of May, 1983.

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NH.PUC*05/25/83*[79658]*68 NH PUC 350*Lakes Region Water Company, Inc.

[Go to End of 79658]

Re Lakes Region Water Company, Inc.

Intervenor: Balmoral Homeowners Association

DR 81-203, Seventh Supplemental Order No. 16,436

68 NH PUC 350

New Hampshire Public Utilities Commission

May 25, 1983

ORDER denying water company's motions to rehear and review its rate determination.

RETURN, § 24 — Commission determination — Reasonableness — Generally.

[N.H.] The commission denied a complaint that it did not use fair and reasoned judgment

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in arriving at an allowed rate of return and revenue requirement; the commission stated that it treated the company fairly by not utilizing its true equity figure, by disallowing additional long-term debt, and by reducing the cost of short-term debt to reflect current interest rates. p. 351.

2. EXPENSES, § 38 — Collection fees — Authority.

[N.H.] The commission recognized that its authority to require utilities to charge all court costs, attorney's fees, and filing fees incurred in connection with any necessary collection action could be overruled by the courts; it was also noted by the commission, however, that inclusion in the utility's tariff (or contract with customers) was the company's authority to charge reasonable costs incurred in collecting delinquent accounts which would strengthen the utility's hand in receiving court approval to collect such costs. p. 352.

APPEARANCES: Dom S. D'Ambruoso for the company; Edgar D. McKean, III, for Balmoral Homeowners Association; Kenneth E. Traum and Robert B. Lessels for the PUC staff.

BY THE COMMISSION:

The Lakes Region Water Company, Inc. filed a Motion for Rehearing of Report and 5th Supplemental Order No. 16,283 (68 NH PUC 134) on April 8, 1983. Similarly, on April 11, 1983, another Motion for Rehearing was received from the Balmoral Homeowners Association.

The Company listed 5 reasons why such Motion should be granted. Based on the Commission's review and discussion of the 5 reasons, as follows, the Motion is denied.

1. The Company's Motion states that the Company will not be able to "attract the necessary capital to meet increased demands for improvement of its system. This is especially true in light of the Commission directive to make a substantial expenditure of capital to install meters before July 1, 1983." The Company neglects to note that the Commission on page 22 of the Report and 5th Supplemental Order No. 16,283 stated, with "the expense of such metering allowed in rate base at that time."

The Commission included this language as the Commission has learned through experience that this gives the utility greater ability and flexibility in acquiring financing at reasonable rates.

[1] 2. The Company states, "The Commission did not exercise fair and enlightened judgement in arriving at the allowed rate of return and revenue requirement because it failed to consider all the factors relevant to the Company's distressed financial situation including, but not limited to, the Company's untypical capital structure."

In actuality the Company was treated reasonably by the Commission by not utilizing its true equity figure nor by disallowing additional long term debt nor by reducing the cost of short term debt to reflect today's interest rates.

Beyond this the Company has not pointed out any information provided in the docket and overlooked by the Commission in its decision.

3. The purpose of a working capital

component in rate base is to recognize the investment, if any, required by stockholders, lenders, etc. to operate the utility on a day to day basis. In some cases, such as this one, the utility's rate payers are covering that cost since they are billed quarterly in advance.

As an example, on January 1, 19XX, a typical customer is billed for service to be provided between January 1, 19XX and March 31, 19XX. The typical customer will pay by January 30, 19XX, for the quarter, which means for one month of the quarter the Company's investors and lender's must support the utility's daily working capital revenue requirements, while for the other two months of the quarter, the ratepayer has reversed the situation.

To further buttress the argument against the need for a working capital increment to rate base, a utility usually has 30 days in which to pay its bills, and this is after it has received a product or service, not in advance.

4. The utility has over the years made an estimate of what its actual annual bad debt expense would be and this estimate was treated as an operating expense.

Over the years the Company has cummulatively overestimated the bad debts by $13,384. This $13,384 thus became a reserve for future bad debts.

Since the $13,384 reserve is far greater than any reasonable estimate of annual bad debts, over the next few years, especially since the Commission elimated the availability charge and

imposed late payment and bad check charges, the Commission feels its initial decision as proper.

[2] 5. The Company stated that "the Commission exceeded its authority by requiring the Company to charge all court costs, attorney's fees and filing fees incurred in connection with any necessary collection action. Such authority resides with the particular court of law before which the particular collection matter is brought."

The Commission's wording on this point was as follows: "To further strengthen the utility's ability to collect its lawfully approved rates, the Commission will require the utility to assess any delinquent customer a 1.5% per month charge on any overdue balances, as well as all court costs, attorney fees, filing fees for any necessary collection actions."

The Commission recognizes that its authority with regards to court costs, filing fees, etc. can be over ruled by the courts, but also recognizes that inclusion in the utility's tariff (or contract with customers) of wording to the point that reasonable costs incurred in collecting delinquent accounts, will strengthen the utility's hand in receiving court approval to collect such costs. This change had been added for the benefit of the utility.

With regards to the intervenor's Motion for Rehearing, they raise four points all related to the Company's debt. In all cases they did not bring out any information not already considered by the Commission.

We repeat, the utility originally requested that its capital structure and

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cost reflect $194,676 of long term debt at 9.38%.

The Commission decision incorporated the whole $194,676 in, the capital structure, but penalized the utility for not receiving Commission approval of certain borrowings by assigning a -0-% cost rate to $70,387 of the $194,676.

The $70,387 was arrived at in the following manner. Since the company had been audited on numerous occasions by the I.R.S. and had numerous disallowances made, the Commission accepted the figure reported on the 1981 tax return of loans to stockholders of $91,958.08. Since no request for any additional long term debt was requested since January 1, 1981 (the Company's last rate case test year), the balance of the $194,676 (net of debts to several non-affiliated lenders) or $70,387 was assigned -0-% rate. Further, by assigning a -0-% interest rate in the capital structure tends to penalize the utility more than excluding the $70,387 in its entirety from the capital structure.

In conclusion the Commission will deny both Motions for Rehearing in total.

Our order will issue accordingly.

SUPPLEMENTAL ORDER

Based upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the two (2) Motions for Rehearing as discussed in the attached Report are denied.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of May,

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1983.

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NH.PUC*05/26/83*[79659]*68 NH PUC 353*Concord Natural Gas Corporation

[Go to End of 79659]

Re Concord Natural Gas Corporation

DR 82-34, Fourth Supplemental Order No. 16,437

68 NH PUC 353

New Hampshire Public Utilities Commission

May 26, 1983

ORDER approving gas company's proposed refund.

REPARATION, § 15 — Grounds for allowance — Generally.

[N.H.] The gas company's proposed customer refund which corresponded to the net difference between permanent rates and temporary rates previously granted was approved by the commission.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, on May 18, 1983, Concord Natural Gas Corporation filed

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Supplement No 5 to tariff NHPUC No. 13 — Gas intended to refund $2,792.25 to its customers in July and August; and

WHEREAS, the proposed refund corresponds to the net difference between permanent rates and temporary rates granted by this Commission in Docket DR 82-34 for the periods between May 27, 1982 and October 1, 1982; and

WHEREAS, the recoupment calculation and the proposed two-month refund of $.0039 per therm appears to be just and reasonable and in full compliance with Commission Order No. 15,915 (67 NH PUC 668);

ORDERED, that Supplement No. 5 to tariff NHPUC No.13 — Gas is hereby approved for effect July 1, 1983.

By Order of the Public Utilites Commission of New Hampshire this twenty-sixth day of May, 1983.

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NH.PUC*05/27/83*[79660]*68 NH PUC 354*Continental Telephone Company of New Hampshire, Inc.

[Go to End of 79660]

Re Continental Telephone Company of New Hampshire, Inc.

DE 83-178, Order No. 16,438

68 NH PUC 354

New Hampshire Public Utilities Commission

May 27, 1983

ORDER eliminating two-party telephone service for two exchanges.

SERVICE, § 452 — Telephone — Two-party service — Elimination of service — Criteria.

[N.H.] The state commission approved the telephone company's petition to eliminate two-party service in specific exchanges because the criteria for such elimination had been achieved; two-party customers were required to connect to either one-party or four-party when two-party customers dropped to 3 percent of the total within an exchange.

BY THE COMMISSION:

ORDER

WHEREAS, the approved Tariff No. 11 of Continental Telephone Company of New Hampshire, Inc. contains the criterion which governs the continuance of two-party service within the various exchanges of said Company; and

WHEREAS, said criterion provides that should two-party customers drop to 3% or less of the total within an

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exchange, those customers would be required to convert to either one-party or four-party; and

WHEREAS, the Company now reports to this Commission that the cited percentage in Hillsboro has dropped to 2.78% and that of Antrim to 1.52%; and

WHEREAS, the Company has requested approval of the elimination of the two-party service in said exchanges; and

WHEREAS, the Commission finds such conversion consistent with its earlier approval of the percentage criterion; it is

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ORDERED, that Supplement No. 1 to Continental Telephone Company of New Hampshire, Inc. tariff; NHPUC No. 11 be, and hereby is, approved for effect on May 28, 1983.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of May, 1983.

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NH.PUC*05/31/83*[79661]*68 NH PUC 355*Concord Natural Gas Corporation

[Go to End of 79661]

Re Concord Natural Gas Corporation

DR 82-106, Third Supplemental Order No. 16,440

68 NH PUC 355

New Hampshire Public Utilities Commission

May 31, 1983

ORDER granting motion for rehearing and adjusting expenses for purchased gas.

APPEARANCES: David W. Marshall for Concord Natural Gas; and F. Joseph Gentili, Consumer Advocate.

BY THE COMMISSION:

REPORT

On May 5, 1982 the Commission issued Report and Order No. 15,615 (67 NH PUC 301) in which the Commission set forth the rate for the Summer CGA for Concord Natural Gas (here after referred to as the Company or Concord).The Company on May 20, 1982 filed a Motion for Rehearing and again on September 16, 1982 filed a Motion to Bring Forward. The Commission on December 17, 1982 by Report and 2nd Supplemental Order No. 16,069 granted the Motion for Rehearing and set February 2, 1983 at 10:00 A.M. for the rehearing.

During the course of the duly noticed public hearing, the Company addressed two issued.

1) disallowance of $8,806 relating to an over run penalty during the fall of 1980 2) disallowance of $33,265 by the Commission for gas purchased in

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October 1981 from Commonwealth Gas Company and Manchester Gas Co.

The Commission finds that no additional information has been provided since our original decision which would persuade us to change our decision.

The $8,806 is an arbitrary figure which was never paid to any vendor, and thus allowance of the amount would result in a bonus to the Company.

We will now address ourselves to the issue of the disallowance of $33,265 for the purchase of gas from Commonwealth Gas Company and Manchester Gas Company. During the hearing the Company stated that the volumes of gas purchased from Commonwealth Gas Company and Manchester Gas were released to Tennessee Gas Pipeline possibly on October 1, 1981 (TR of 2/2/83 at 25) and that all the gas was released at once, and that the Company received the pipeline gas over the course of the month (ibid). The Company then states that Manchester wanted to sell all of it's gas in October. The Company assumed therefore that they used Manchester Gas first and then Commonwealth's gas second. The Company accordingly charged the gas based on the above assumptions.

The Company's propane records for the months of May to October 1981 were submitted as Exhibit C-11. These reports show that the Company uses a weighted cost to calculate it's propane inventory. To be consistent with this procedure since the Company testified that this gas was released all at once, we will handle it in the same manner as the Company handles it's propane inventory, and will use the weighted cost of the two purchases to determine the amount to be allowed as a charge to the cost of gas. Using this method we arrive at a disallowance of $7,028.00, for the Summer period which will be allowed to be charged to the Winter period and is computed as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

	MCF Purchase	Rate	Total Cost
Manchester Gas Company	10,000 MCF	$5.63/MCF	$ 56,300
Commonwealth Gas Company	40,000	3.75	150,000
Total	50,000		$206,300

Weighted Average Cost = Total Cost ÷ MCF Purchase = $4.126

MCF used October 1982	31,308 MCF
Times Weighted Average Cost	$4.126/MCF
Allowed Cost	$129,177
Amount Charge	$136,205
Disallowance	$7,028

We will therefore require the Company to make an adjustment for the above referenced gas purchase of $7,018 plus interest rather than $33,265 as in our original report and order.

Our order will issue accordingly.

SUPPLEMENTAL ORDER

Based upon the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the Motion for Rehearing

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is granted in part and denied in part pursuant to the attached Report.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of May, 1983.

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NH.PUC*06/01/83*[79662]*68 NH PUC 357*Granite State Electric Company

[Go to End of 79662]

Re Granite State Electric Company

DR 82-327, Second Supplemental Order No. 16,441

68 NH PUC 357

New Hampshire Public Utilities Commission

June 1, 1983

ORDER accepting purchased power cost adjustment tariff pages and directing utility to file a refund plan.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, on May 19, 1983, Granite State Electric filed PPCA W-5(S) involving a reduction in the Purchased Power Cost Adjustment to reflect the partial settlement of New England Power Company's pending wholesale rate case; and

WHEREAS, this Commission in Order No's 16,194 and 16,235 approved the previous PPCA W-5(I) and PPCA W-5; and

WHEREAS, the requested reduction is found to be just and reasonable; it is hereby

ORDERED, that Granite State's PPCA W-5(S) and associated tariff pages are hereby approved for effect June 1, 1983; and it is

FURTHER ORDERED, that upon receipt of the associated refund from New England Power, Granite State shall file a plan to refund this amount to its customers.

By Order of the Public Utilities Commission of New Hampshire this first day of June, 1983.

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NH.PUC*06/01/83*[79663]*68 NH PUC 358*New England Electric Transmission Corporation

[Go to End of 79663]

Re New England Electric Transmission Corporation

DF 83-147, Order No. 16,442

68 NH PUC 358

New Hampshire Public Utilities Commission

June 1, 1983

ORDER authorizing utility to enter into credit arrangement for financing construction project.

CONSTRUCTION AND EQUIPMENT, § 8 — Cost — Financing — Prudency of the investment.

[N.H.] The commission stated that its approval of financing arrangements for utility construction should not be interpreted as advance approval of the prudency of the investment and that issues of prudency would be examined when the company requested that the cost of the completed project be passed on to the ratepayers.

APPEARANCES: Kirk L. Ramsauer for New England Electric Transmission Corporation.

BY THE COMMISSION:

REPORT

New England Electric Transmission Corporation (NEET) is a utility subject to the jurisdiction of the Commission. On April 20, 1983, NEET filed a petition requesting authorization and approval of the Commission for NEET to enter into a credit arrangement with the First National Bank of Boston (the Bank) under which NEET may obtain up to $120,000,000 for construction of the portion of an interconnection with Hydro-Quebec to be built by NEET. In addition, NEET may elect to convert up to the entire $120,000,000 of construction loans to a five-year term loan.

A public hearing was held on the petition on May 19, 1983. The Company presented its case through a single witness, Alfred Houston. The Company described the interconnection between Hydro-Quebec and the New England Power Pool (NEPOOL). The portion of the interconnection proposed to be built by NEET (The NEET Project) includes: (i) the 450 kV dc to 230 kV ac terminal facility (rated for 690 MW) with associated switchgear, transformers and other equipment at or near Comerford; and (ii) approximately 6 miles of 450 kV direct current transmission line in New Hampshire on an existing NEP right-of-way between Littleton and Comerford. The site for the terminal facility and right-of-way will be leased by NEET from its affiliate New England Power Company (NEP) pursuant to a lease agreement previously approved by the Commission on December 17, 1982. (DSF 81-349, Fourth Supplemental Order No. 16,060 [67 NH PUC 910]).

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In addition to the New Hampshire transmission line and the Comerford terminal facility, the NEET Project includes certain improvements required to be made to NEP's Comerford Station as a result of the interconnection, and reinforcement to the NEPOOL high voltage transmission system at various locations in New Hampshire and Massachusetts required to permit proper operation of the interconnected systems, and certain required communication and other facilities. NEET has entered into a contract (filed as an exhibit in this proceeding) with NEP to cover the reinforcements and improvements to NEP's system.

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Each of the NEPOOL participants has executed a support agreement (filed as an exhibit in this proceeding) with NEET providing for payments by them to NEET in support of the NEET Project. The support agreement obligates each Participant to pay to NEET each month a "Support Charge" which is equal to that Participant's share of the "total cost of service" for the facilities. These monthly payments will commence on the earlier of (a) November 1, 1987, (b) the date that the NEET Project is ready for commercial operation if on or after November 1, 1986, or (c) the commercial operation of the transmission interconnection between NEPOOL and Hydro-Quebec. In exchange the Participant receives the right to use its share of the facilities.

NEET proposes to enter into a credit agreement (Credit Agreement) with the Bank under which NEET may obtain, through either of two methods described below, up to $120,000,000 for construction of the NEET Project. In addition, the Credit Agreement will provide that NEET may elect to convert up to the entire $120,000,000 of construction loans to a five year term loan. Annual commitment amounts will be made available under the construction loan over the estimated construction period. The Bank will syndicate to other banks a portion of the construction loan.

The first facility involves issuance of commercial paper by NEET. NEET may issue commercial paper, with maturities up to 270 days, supported by a letter of credit issued by the Bank to a depository for the benefit of the commercial paper holders. The commercial paper will be sold to purchasers at prevailing market rates through a commercial paper dealer. For the letter of credit, NEET will pay to the Bank a total of 5/8% per annum on the amount of commercial paper outstanding. In addition NEET will pay the Bank $20,000 annually as an administrative fee. Additional fees will be payable by NEET to the dealer marketing the commercial paper, and to the paying agent who will also act as depository.

It will be a requirement of the Credit Agreement that commercial paper issued by NEET be assigned the highest ratings by two recognized rating agencies.

Under the second facility, NEET may borrow directly on a revolving credit basis from the Bank, acting for itself and as agent for the participating banks, on the following terms:

(a) At the Bank's Base Rate (Prime Rate) in effect from time to time; (b) At the Bank's one, two, three, or six month CD Rate plus 1/2%;

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(c) At the Bank's nine month CD Rate plus 3/4%:or (d) At the one, two, three or six month LIBOR plus 3/8%.

NEET will be free to shift from one borrowing facility to the other, subject to limitations on prepayment imposed by the maturity commercial paper and the applicable interest rate periods of CD and LIBOR borrowings, which may only be paid at the end of applicable interest rate periods.

Commitment amounts may be increased by NEET for any year up to a maximum commitment amount for that year set by the terms of the Credit Agreement on the basis of a forecast of cumulative construction costs.

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The amount of borrowings outstanding under the commercial paper facility and the revolving credit facility may not exceed the commitment amount in effect at any time. During each commitment period, a commitment fee of 1/4% per year will be payable on the unused portion of the annual commitment amount; and a fee of 1/8% per year will be payable on the difference between the commitment amount in effect for that year and the total commitment of $120,000,000. If NEET elects to increase the commitment amount, the higher commitment fee will be payable for the three months preceding the date of increase.

The construction financing under the Credit Agreement will become effective on or about June 1, 1983 and will terminate on the earlier of (a) November 1, 1987, (b) the date that the NEET project is ready for commercial operation if on or after November 1, 1986, or (c) the commercial operation of the transmission interconnection between NEPOOL and Hydro-Quebec. All construction loans will mature on such termination date.

The term loan will be for a term of 5 years, to be repaid in equal semi-annual installments in the third, fourth, and fifth years. Amounts borrowed under the term loan will bear interest at a rate equivalent to one of the following structures choses by NEET:

During years one, two and three of the Term Loan

(a) 1/4% plus the Bank's Base Rate in effect from time to time; or (b) 3/4% plus the Bank's CD Rate for the selected CD Rate interest period if such period is 30, 60, 90, or 180 days; or 1% plus the Bank's CD Rate if the selected CD Rate interest period is 270 days; or (c) 5/8% plus LIBOR for the selected LIBOR period.

During year four of the term loan

(a) 3/8% plus the Bank's Base Rate in effect from time to time; or (b) 7/8% plus the Bank's CD Rate for the selected CD Rate interest period if such period is 30, 60, 90, or 180 days; or 1 1/8% plus the CD Rate if the selected CD Rate interest period is 270 days; or (c) 3/4% plus LIBOR for the selected LIBOR period.

During year five of the Term Loan

(a) 1/2% plus the Bank's Base Rate in effect from time to time; or (b) 1% plus the Bank's CD Rate for the selected CD Rate interest period if such period is 30, 60, 90, or 180 days; or 1 1/4% plus CD Rate if the selected CD Rate interest period is 270 days; or

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(c) 7/8% plus LIBOR for the selected LIBOR period.

NEET may prepay loans at the Bank's Base Rate at any time without penalty under both the revolving credit and term loan facilities, In the event that NEET elects to prepay either CD or LIBOR loans under the revolving credit or term loan facilities, NEET will be required to indemnify the Bank and the lending banks in accordance with standard practice for LIBOR and CD lending transactions. All voluntary partial prepayments of principal must be in an amount no less than $500,000.

NEET may also effect at any time permanent reductions of at least $1,000,000 in the amount of the Credit Agreement, or may terminate the Credit Agreement, upon five days written notice

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to the Bank.

NEET proposes to grant to the Bank a perfected first priority security interest in all of NEET's right, title, and interest in and to all real and personal property forming part of the NEET Project. In addition, NEET will assign to the Bank its right to receive payment under the Phase I Terminal Facility Support Agreement.

The proceeds from the proposed financings will be used by NEET for construction of the NEET Project.

Prior to the issuance of the term loan, NEET will be required to submit the proposed interest rate to the Commission for approval. NEET shall also submit the optional interest rate calculations available at that time.

The Commission is also concerned that NEET will be expending funds for this project prior to the time that all jurisdictional authorizations have been obtained. The approval of these proceedings for the issuance of notes and loans for the project previously authorized by the certificate of site and facility is not to be construed as an advance approval for the prudency of the investment. Issues pertaining to prudency will be addressed at such time when the completed construction project is requested to be passed on to the ratepayers of the participating New Hampshire utilities.

Upon investigation and consideration of the evidence submitted, the Commission is of the opinion that the granting of the authorization and approval sought will be consistent with the public good. Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that New England Electric Transmission Corporation, be and hereby is, authorized to enter into a credit arrangement with the First National Bank of Boston under which NEET may obtain up to $120,000,000 for construction of the NEET Project through issuance of commercial paper and/or borrowings on a revolving term basis at rates and terms as specified in the foregoing report; and it is

FURTHER ORDERED, that upon termination of said construction financing, NEET be and hereby is authorized to borrow on a five year term loan basis at rates and terms as specified in the foregoing report an amount up to the amount of the outstanding construction borrowings on the termination date; and it is

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FURTHER ORDERED, that NEET be and hereby is authorized to mortgage its present and future property, tangible and intangible, including franchises, to secure the payment of its commercial paper and/or notes and any commercial paper and/or notes thereafter issued under the provisions of such mortgage; and it is

FURTHER ORDERED, that the proceeds from these borrowings be used by NEET for the construction of the NEET Project; and it is

FURTHER ORDERED, that on or before January first and July first in each year, NEET

shall file with this Commission a detailed statement, duly sworn to by its Treasurer or Assistant Treasurer showing the disposition of the proceeds of said borrowings, until the expenditures of the whole of said proceeds shall have been fully accounted for; and it is

FURTHER ORDERED, that NEET shall furnish copies of quarterly reports setting forth the progress of the project and the actual and estimated construction expenditures which report shall be submitted to all participants; and

FURTHER ORDERED, that NEET shall file quarterly reports setting forth the balance of all outstanding obligations, including commercial paper and revolving credit accounts with the applicable interest costs and fees.

By order of the Public Utilities Commission of New Hampshire this first day of June, 1983.

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NH.PUC*06/01/83*[79664]*68 NH PUC 362*Fuel Adjustment Clause

[Go to End of 79664]

Re Fuel Adjustment Clause

Intervenors: New Hampshire Electric Cooperative, Inc., Concord Electric Company, Exeter and Hampton Electric Company, Granite State Electric Company, Municipal Electric Department of Wolfeboro, Littleton Light Department, Woodsville Water and Light Department, and Connecticut Valley Electric Company, Inc.

DR 83-148, Order No. 16,443

68 NH PUC 362

New Hampshire Public Utilities Commission

June 1, 1983

ORDER approving fuel adjustment clauses.

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BY THE COMMISSION:

ORDER

WHEREAS, the Commission in correspondence dated March 2, 1982, sent to the New Hampshire Electric Cooperative, Inc., Granite State Electric Company, Connecticut Valley Electric Company, Inc. Exeter & Hampton Electric Company, Municipal Electric Department of Wolfeboro, Concord Electric Company, Woodsville Power and Light Department, and Littleton Water & Light Department by the Commission's Executive Director and Secretary in relation to DR 82-59, notified the utilities that the Commission will not automatically schedule FAC hearings for those utilities which file monthly unless requested or needed by one of those utilities; and the Commission would not automatically schedule FAC hearings in the two off

months for those utilities which have a quarterly FAC rate; and

WHEREAS, no utility maintaining a monthly or quarterly FAC requested a hearing be scheduled; and

WHEREAS, this is one of the two off months for quarterly FAC utilities; it is

ORDERED, that the Commission in DR 81-340, Third Supplemental Order No. 15,986, dated November 10, 1982 (67 NH PUC 784) of the N.H. Electric Cooperative Inc. rolled the cost of fuel on an estimated forward looking basis into base rates, thus eliminating the lagging Fuel Adjustment Clause and resulting in more stable and comprehensible rates; and

WHEREAS, the rolled in rate will remain in effect for approximately one year, unless a hearing is requested by any party, no new rate will be stated for the New Hampshire Electric Cooperative, Inc. in this month's FAC order; and at is

FURTHER ORDERED, that 9th Revised Page 19A of Concord Electric Company tariff, NHPUC No. 8 — Electricity, providing for a fuel surcharge credit of ($0.661) per 100 KWH for the months of April, May and June, 1983, be, and hereby is, permitted to remain in effect for the month of June, 1983; and it is

FURTHER ORDERED, that 9th Revised Page 19A of Exeter and Hampton Electric Company tariff, NHPUC No. 15 — Electricity, providing for a fuel surcharge credit of ($0.884) per 100 KWH for the months of April, May and June, 1983, be, and hereby is, permitted to remain in effect for the month of June, 1983; and it is

FURTHER ORDERED, that 4th Revised Page 57 of Granite State Electric Company tariff, NHPUC No. 10 — Electricity, providing for an oil conservation adjustment of 8.7 cents ($0.087) per 100 KWH for the months of April, May and June, 1983, be, and hereby is, permitted to remain in effect for June, 1983; and it is

FURTHER ORDERED, that 5th Revised Page 30 of Granite State Electric Company tariff, NHPUC No. 10 — Electricity, providing for a fuel surcharge for the months of April, May and June, 1983, of $0.69 per 100 KWH be, and hereby is, permitted to remain in effect for June, 1983; and it is

FURTHER ORDERED, that 29th Revised Page 11B of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 6 — Electricity, providing for a fuel surcharge of $2.66 per 100 KWH for the month of June, 1983, be, and hereby is, permitted to

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become effective June 1, 1983; and it is

FURTHER ORDERED, that 113th Revised Page 6 of Littleton Light Department tariff, NHPUC No. 1 — Electricity, providing for a fuel surcharge of $1.13 per 100 KWH for the month of June, 1983, be, and hereby is, permitted to become effective June 1, 1983; and it is

FURTHER ORDERED, that 81st Revised Page 10-B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for a fuel surcharge of $0.51 per 100 KWH for the month of June, 1983, be, and hereby is, permitted to become effective June 1, 1983; and it is

FURTHER ORDERED, that 78th Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for an energy surcharge of $0.82 per 100 KWH for the month of June, 1983, be, and hereby is, permitted to become effective June 1, 1983.

By order of the Public Utilities Commission of New Hampshire this first day of June, 1983.

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NH.PUC*06/01/83*[79665]*68 NH PUC 364*Francestown Village Water Company

[Go to End of 79665]

Re Francestown Village Water Company

DR 83-73, Supplemental Order No. 16,444

68 NH PUC 364

New Hampshire Public Utilities Commission

June 1, 1983

ORDER authorizing cooperative water company to discontinue operation as a public utility.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, the N. H. Attorney General's Office has ruled that a membership corporation that owns and operates a water system supplying water service only to its members has not formed a public utility; and

WHEREAS, the Francestown Village Water Company is structured as a cooperative water company with all water users being members of the company; it is hereby

ORDERED, that Francestown Village Water Company, be and hereby is authorized to discontinue operation as a public utility.

By Order of the Public Utilities Commission of New Hampshire this first day of June, 1983.

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NH.PUC*06/01/83*[79666]*68 NH PUC 365*Merrimack County Telephone Company

[Go to End of 79666]

Re Merrimack County Telephone Company

DR 83-87, Supplemental Order No. 16,445

68 NH PUC 365

New Hampshire Public Utilities Commission

June 1, 1983

ORDER approving deletion of two-party telephone service.

BY THE COMMISSION:

REPORT

On February 23, 1983, Merrimack County Telephone Company filed with this Commission certain revisions to its Tariff No. 7 proposing the deletion of two-party service, effective April 1, 1983; and to grandfather the rates of affected customers through a conversion period ending December 31, 1983.

Pending investigation and decision on this matter, the filing was suspended by Commission Order No. 16,276 on March 16, 1983. An Order of Notice was issued on April 7, 1983 setting the matter for hearing on April 28, 1983 at 10 a.m. The duly-noticed public hearing was convened at the Commission's Concord offices, with the Company's case presented by Alderic O. Violette, President and General Manager, and Paul E. Violette, Vice President of Operations and Assistant Manager. No intervenors were present.

Mr. A. O. Violette indicated that since public notices of the filing had been issued very few comments had been received from affected customers; and, of these, none had objected to the proposal which would increase monthly charges by $1.00 to $1.25 depending upon the exchange. Mr. Violette also indicated that in two recent speaking engagements he had outlined the changes and the rationale in support of the proposal.

Mr. Violette outlined some of the difficulties the Company faced with continued two-party service. He indicated that two-party customers had been decreasing steadily over the past few years, with about 600 remaining on the rolls. As these customers upgrade their services, serious problems arise with inadequate line-fill, resulting in about one-third of remaining two-party customers being alone on a line. Also causing difficulties or added costs are the requirements for premise visits to disconnect/restore service of a two-party customer. (With one-party, these functions can be done at the Central Office.) With the advent of customer-owned telephones, multi-party customers often are unaware that off-the-shelf instruments are configured for one-party service and can cause ringing and billing problems on multi-party lines. When faced with such problems, the

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customer reports to his telephone company, which expends time and effort to isolate the difficulty to the telephone instruments. The unhappy, frustrated customer more than likely has to make the choice of upgrading to one-party or returning his telephone(s) to the vendor for modification. Paul Violette testified that such modification often cannot be done, particularly with the newer electronic telephones.

Paul Violette also presented technical detail on the ringing and billing difficulties which could arise from customer-owned CPE being used on multi-party lines. He indicated his Company used a device called a Tip Party Identifier (TPI) located at the two-party customer

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premises, to ensure proper billing signals. The $10 to $12 added cost for these devices further contributes to the discrepancy between the cost to serve one-party and multiparty customers. He elaborated on the other areas which impact costs of the two-party service.

In response to staff questioning, the Company indicated that it planned to implement low-use measured service once it had completed a central office conversion to digital. With this type of service, the customer will have a cheaper alternative to unlimited one-party service. Such may be widely selected by customers in the future with rate increases that are anticipated from deregulation and/or the divestiture of AT&T. It also was revealed during cross-examination that elimination of multi-party service was a goal of the telephone industry, as well as the Rural Electrification Administration which administers loans to independent telephone utilities serving rural areas.

The Commission acknowledges the difficulties telephone utilities face in providing multi-party service to their customers, yet is concerned that as local rates increase for various reasons, customers will be faced with no alternative to high-cost, unlimited, one-party service. Low-use measured residential service has provided such an alternative in those exchanges where available. In Merrimack County's current tariff the differences between two-party and one-party rates are minimal, unlike those of some telephone utilities. It is felt that the absence of a low-use measured service at this time would not impose a hardship on Merrimack County's customers, and testimony has shown plans for measured service which can give customers an option in the future should increases and individual circumstances warrant. Accordingly, the Commission finds the Merrimack County Telephone proposal in the public interest. Our order will issue accordingly.

SUPPLEMENTAL ORDER

In consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that the following revisions to Merrimack County Telephone Company tariff, NHPUC No. 7 — Telephone, be, and hereby are, rejected:

Part II — Local, Section 1, Third Revised Page 1 Original Page 1.1 First Revised Page 3

and it is

FURTHER ORDERED, that Merrimack County Telephone Company file the following revisions in lieu of

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those rejected, said revisions to become effective on the date of this order:

Part II-Local, Section 1, Fourth Revised Page 1 First Revised Page 1.1 Second Revised Page 3

and it is

FURTHER ORDERED, that the upgrade program be initiated, with completion no later than December 31, 1983; and it is

FURTHER ORDERED, that billing of affected customers at one-party rates commence with

service rendered on and after January 1, 1984; and it is

FURTHER ORDERED, that public notice be given via one-time bill insert or letter directed to all two-party customers; and it is

FURTHER ORDERED, that Merrimack County Telephone proceed expeditiously in its programming of digital switches in its Bradford, Sutton and Warner exchanges.

By Order of the Public Utilities Commission of New Hampshire this first day of June, 1983.

AESCHLIMAN, commissioner, dissents: Upon review of the record, I believe that two-party service should not be eliminated until such time as Merrimack County Telephone Company has instituted an alternative low-cost service. Since the Company eliminated four-party service in 1979, the proposed change would leave customers with no alternative to one-party service. Although Mr. Alderic Violette indicates that low-measured service will be the alternative service (Trans. p. 16), that service will not be available until digital switching is installed.

The record indicates that some 600 customers, or roughly 15% of the Company's total number of customers (Exhibit 1), presently have two-party service. There is no indication in the record of how many of these customers are seasonal as compared to senior citizens or low-income customers. The record does indicate that the Company has attempted to encourage customers to convert to one-party service (Trans. p. 15). The fact that some 600 customers have elected to continue with two-party service would indicate a preference for a lower cost option. While the increase in cost may be only $1 per month for three exchanges and $1.25 per month for the fourth exchange, these amounts must be viewed in conjunction with prospective increases due to Federal decisions.

I believe many of the problems raised by the Company could be addressed in other ways. Seasonal customers could be charged an appropriate fee to disconnect/restore service. Party line customers could be notified that special equipment was required for party lines should they wish to purchase equipment. In the alternative, party line service could be restricted to customers leasing equipment. By pursuing such alternative options, the Company could have reduced the problems described while maintaining an option until measured service was available.

For the reasons stated above, I believe the Company has not provided adequate justification to support the proposed elimination of two-party service at this time.

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NH.PUC*06/02/83*[79667]*68 NH PUC 368*Hanover Water Works

[Go to End of 79667]

Re Hanover Water Works

DR 82-319, Third Supplemental Order No. 16,446

68 NH PUC 368

New Hampshire Public Utilities Commission

June 2, 1983

ORDER upholding revised water utility tariffs on rehearing.

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1. EXPENSES, § 144 — Water utilities — Payment for plant.

[N.H.] There is no rule, standard, or uniform practice establishing which parts of a water utility's plant are paid for by customers or by the utility. p. 368.

2. RATES, § 602 — Water utilities — Front-foot charges.

[N.H.] Water utilities allow free pipe distance to individuals, but not to developers who can recover costs through eventual sales to customers. p. 369.

BY THE COMMISSION:

REPORT

On February 17, 1983, Jack H. Nelson and Dresden Management Corporation, intervenors in this docket, filed a Motion for Rehearing with Accompanying Memorandum in Opposition. Order No. 16,277 was issued on the Commission's decision to reconsider its findings and conclusions in Report and Supplemental Order No. 16,186 (68 NH PUC 42) and to allow Hanover Water Works the opportunity to respond to the Motion and Memorandum. Hanover has now responded that it concurs with the opinion expressed in Order No. 16,186.

In its Memorandum in Opposition, the intervenor alleges that certain provisions of Hanovers tariff NHPUC No. 7, now in effect in accordance with Order No. 16,186, are unjust, unlawful, unreasonable, and discriminatory. We will address each point raised.

I. Customer payment of entire cost of service connection is unjust, unreasonable, etc.

[1] There is no rule or standard that establishes which part of a utilities plant is paid for by the customer or the utility. There is also no uniform practice in the State of New Hampshire. This State's largest water system requires customer contribution of the entire service and also the meter. Manchester Gas Co. pays for the service up to the meter inside a customers home. The extent of a utilities investment is obviously reflected in its allowed revenues. The revenues allowed in the last rate case (DR 82-33) were based on the investment made and customers on line as of the effective date. The loss, or growth, of customers would not be reflected until the next rate proceeding. If Hanover has excessive earnings, Commission action would be taken.

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II. The Main Extension Plan is unjust, unreasonable, etc.

[2] The extension plan employed by Hanover is not unlike those of all other water utilities in New Hampshire, all of which have been in use, and approved, for many years. Many New Hampshire water utilities allow no free distance to developers, yet do to individuals. The logic, which we find acceptable, is that a developer can recover any construction costs through the eventual sale to its customer. An individual has no such recourse. The free distance allowed by

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Hanover was calculated by a standard water works procedure.

Over the past many years, water company tariffs have specified the installation of mains only in the public way for some of the reasons cited in the Memorandum in Opposition. We have never found any objection to this as a general policy for orderly growth. We are now, however, urging water companies to extend mains on private property, with certain protective stipulations.

In our opinion, the tariff is explicit when it states in Section 15 f. that, " ... said water main until final acceptance which *shall* be two (2) years after completion ... ".

The tariff states that (Section 15d), "A complete plan of an extension shall be submitted ... ". We find this to be self explanatory and subject to reasonable interpretation by all parties involved as is the remainder of the extension plan.

III. Discontinuance of Service provision in Hanover's tariff are unjust, unreasonable, etc.

NHCAR PUC 603.08(a)(2) b states that service may be disconnected without notice for "unauthorized use", as in tariff Article 10a and 10b, and " ... or conditions dangerous to the ... utility service of others, ... or to the utility's ability to serve other customers.", as in tariff Article 10c. We would agree that Article 10g and 10h are not sufficient reason for disconnection without notice. Article 10e is consistent with NHCAR 603.08(a)(2) b, ii.

Tariff rules and Commission rules cannot be all inclusive such as to avoid any misinterpretation, nor can N.H. statutes. It is the Commission's duty to make reasonable interpretations in these rules whenever necessary.

IV. Tariff Article 2e, Thawing, and 2f Size of Service.

Where a buried pipe, jointly owned, becomes frozen, we know of no way that the boundaries of the ice can be determined. The language used here by Hanover is also used by most N.H. water utilities. The service application form will identify the fixtures or units that will consume water on the customers premise and will enable the company to estimate usage and thus service and meter size. Certainly, the average customer could not estimate demand and the wording in Article 2f may be ambiguous, however, we see nothing that is not subject to reasonable interpretation.

V. Rate Schedules.

The rate design employed by Hanover was the product of a cost study and Commission decision in DR 81-15 and was not changed in the subject case.

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VI. Tariff Rules.

We find that Articles 4b and 4d, which require the customer to pay the excess cost above that which is necessary to serve like or similar customers, to be good utility practice. As in other tariff articles, Commission interpretation can be sought upon question by customer or company.

Article 9e, charge for unaccepted checks, states that all such checks would be assessed a specific charge and we would so rule.

VII. Tariff Rules.

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The provision in Article 2(b) that only one customer shall be supplied through one service pipe was and is meant to apply to single family homes and it may be that there are no longer any such installations in use. In our opinion, these two paragraphs should be eliminated.

Article 4a, is misleading and should be rewritten to say "All new water services shall be metered, etc ... ."

Article 4f is proper in its present form and damage by earthquake, fire, or trespassers while in his home and under his custody would be the responsibility of the customer.

Article 16 — Winter Construction, should be rewritten to include the following first sentence:

"Main extensions and new services shall normally be installed, etc ... ".

Article 17, Amending the Rules, is unnecessary, yet in no way alters the acceptance of tariffs filed by an officer of the company. We have always accepted documents signed by officers of any utility as being the will of the utility.

In Article 1a, it is Hanover's intention that the customer must be the owner of the property served. We feel that the terms then are synonomous as are Service Application Data Form and Service Application Form.

VIII. The Commission Tariff Filing Rules CAR PUC 1601 do not require that the tariff contain a service application form.

After full consideration of the allegations in the intervenors Motion, and weighing the reasons presented, it is our opinion that the Motion should be denied and that Hanover shall file revised tariff pages to NHPUC No. 7, to comply with the conclusions reached in this Report.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Based upon the foregoing Report which is made a part hereof; it is

ORDERED, that the Motion for Rehearing filed on February 17, 1983, by Jack H. Nelson and Dresden Management Corporation, be and hereby is denied; and it is

FURTHER ORDERED, that Hanover Water Works shall file revised tariff pages to its Tariff NHPUC No. 7, to comply with this Report and her.

By Order of the Public Utilities Commission of New Hampshire this second day of June, 1983.

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NH.PUC*06/02/83*[79668]*68 NH PUC 371*Continental Telephone Company of Maine

[Go to End of 79668]

Re Continental Telephone Company of Maine

DR 83-177, Order No. 16,447

68 NH PUC 371

New Hampshire Public Utilities Commission

June 2, 1983

ORDER approving increase in telephone service connection charges.

RATES, § 155 — Reasonableness — Location and natural environment — Neighboring telephone exchanges.

[N.H.] The commission found that consistency of service connection charges between neighboring exchanges was in the public interest.

BY THE COMMISSION:

ORDER

WHEREAS, Continental Telephone Company of Maine has filed with this Commission proposed increases in two of its service connection charges; and

WHEREAS, said charges have been approved by the Maine Public Utilities Commission for that Company's Maine jurisdiction; and

WHEREAS, this Commission finds consistency in such charges among neighboring exchanges is in the public interest; it is

ORDERED, that Section 6, Sixth Revised Sheet 2 of Continental Telephone Company of Maine tariff, NHPUC No. 4 — Telephone, be, and hereby is, approved for effect May 18, 1983.

By order of the Public Utilities Commission of New Hampshire this second day of June, 1983.

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NH.PUC*06/02/83*[79669]*68 NH PUC 372*Continental Telephone Company of New Hampshire, Inc.

[Go to End of 79669]

Re Continental Telephone Company of New Hampshire, Inc.

DR 83-179, Order No. 16,451

68 NH PUC 372

New Hampshire Public Utilities Commission

June 2, 1983

ORDER modifying credit and debit procedures for return of customer premises equipment.

BY THE COMMISSION:

ORDER

WHEREAS, Continental Telephone Company of New Hampshire, Inc. has filed with this Commission certain revisions to its tariff, NHPUC No. 11 — Telephone, said revisions modifying the procedures under which credits/debits are handled in the return by a customer of Customer Premises Equipment; and

WHEREAS, since changes in these procedures appear to be management decisions versus regulatory matters, the Commission finds them for the public good; and it is

ORDERED, that Section 6, 3rd Revised Sheets 5 and 6 of Continental Telephone Company of New Hampshire, Inc. tariff NHPUC No. 11 — Telephone, be, and hereby are, approved for effect June 19, 1983; and it is

FURTHER ORDERED, that Continental Telephone Company of New Hampshire provide, for informational purposes, a report to this Commission seven months from the effective date of this revision, outlining the operation of the revised procedures during its first six months compared to a like period under the procedures being replaced.

By order of the Public Utilities Commission of New Hampshire this second day of June, 1983.

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NH.PUC*06/02/83*[79670]*68 NH PUC 373*Continental Telephone Company of Maine

[Go to End of 79670]

Re Continental Telephone Company of Maine

DR 83-180, Order No. 16,452

68 NH PUC 373

New Hampshire Public Utilities Commission

June 2, 1983

ORDER modifying credit and debit procedures for return of customer premises equipment.

BY THE COMMISSION:

ORDER

WHEREAS, Continental Telephone Company of Maine has filed with this Commission certain revisions to its Tariff No. 4, said revisions modifying the procedures under which credits/debits are handled in the return by a customer of Customer Premises Equipment; and

WHEREAS, since changes in these procedures appear to be management decisions versus regulatory matters, the Commission finds them for the public good; it is

ORDERED, that Section 5, 4th Revised Sheets 22 and 23 of Continental Telephone

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Company of Maine tariff, NHPUC No. 4 — Telephone, be, and hereby are approved for effect June 19, 1983; and it is

FURTHER ORDERED, that Continental Telephone Company of Maine provide, for informational purposes, a report to this Commission seven months from the effective date of this revision, outlining the operation of the revised procedures during its first six months compared to a like period under the procedures being replaced.

By order of the Public Utilities Commission of New Hampshire this second day of June, 1983.

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NH.PUC*06/02/83*[79671]*68 NH PUC 373*Northern Utilities Inc.

[Go to End of 79671]

Re Northern Utilities Inc.

DR 83-175, Order No. 16,453

68 NH PUC 373

New Hampshire Public Utilities Commission

June 2, 1983

ORDER approving contract for interruptible sales.

Page 373

BY THE COMMISSION:

ORDER

WHEREAS, on May 19, 1983, Northern Utilities filed copies of a Contract for Interruptible Sales to Elliott & Williams Roses of Dover, New Hampshire; and

WHEREAS, the proposed contract appears reasonable and in the public interest; it is hereby

ORDERED, that the Contract for Interruptible Sales to Elliott & Williams Roses by Northern Utilities, Inc. is hereby approved.

By Order of the Public Utilities commission of New Hampshire this second day of June, 1983.

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NH.PUC*06/02/83*[79672]*68 NH PUC 374*Northern Utilities, Inc.

[Go to End of 79672]

Re Northern Utilities, Inc.

DR 83-175, Order No. 16,454

68 NH PUC 374

New Hampshire Public Utilities Commission

June 2, 1983

ORDER approving contract for interruptible sales.

BY THE COMMISSION:

ORDER

WHEREAS, on May 13, 1983, Northern Utilities filed copies of a Contract for Interruptible Sales to Lee Greenhouses of Dover, New Hampshire; and

WHEREAS, the proposed contract appears reasonable and in the public interest, it is hereby

ORDERED, that the Contract for Interruptible Sales to Lee Greenhouses by Northern Utilities, Inc. is hereby approved.

By Order of the Public Utilities Commission of New Hampshire this second day of June, 1983.

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NH.PUC*06/02/83*[79673]*68 NH PUC 375*New England Electric Transmission Corporation

[Go to End of 79673]

Re New England Electric Transmission Corporation

DR 83-147, Supplemental Order No. 16,455

68 NH PUC 375

New Hampshire Public Utilities Commission

June 2, 1983

ORDER permitting utility to issue debt under a term loan at variable rates and instruments.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, the Commission's Report and Order No. 16,442 (68 NH PUC 358) required New England Electric Transmission Corporation (NEET) to submit the proposed interest rate prior to the issuance of the term loan; and

WHEREAS, NEET requested the option to be able to issue debt under the term loan at variable rates and instruments depending upon the most favorable option available during the

five-year term and to be able to convert from one option to another during the five-year term; it is hereby

ORDERED that our language on page 6 of the report in paragraph 4 should be amended to read as follows:

> Prior to the issuance of the term loan, NEET will be required to submit the proposed interest rate to the Commission for approval, if other than an interest rate equivalent to one of the previously outlined structures.

and it is

FURTHER ORDERED, that the second sentence of that same paragraph shall be stricken from the Report.

By Order of the Public Utilities Commission of New Hampshire this second day of June, 1983.

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NH.PUC*06/02/83*[79674]*68 NH PUC 376*Claremont Gas Light Company

[Go to End of 79674]

Re Claremont Gas Light Company

DE 82-197, Ninth Supplemental Order No. 16,456

68 NH PUC 376

New Hampshire Public Utilities Commission

June 2, 1983

ORDER imposing penalties on gas company for failure to comply with safety standards.

FINES AND PENALTIES, § 8 — Defenses and excuses — Mitigating circumstances.

[N.H.] By statute (RSA 374:7) the commission may set a fine below the maximum required by law based on the size of the company, the gravity of the violation, and the good faith of the company.

FINES AND PENALTIES, § 8 — Defenses and excuses — Mitigating circumstances.

[N.H.] Statement by the chairman of the commission, in a separate opinion, that punitive penalties against a utility are inappropriate where the utility is attempting, in good faith, to comply with safety standards. p. 385.

Before McQuade (dissenting), chairman and Aeschliman, commissioner.

APPEARANCES: Ransmeier & Spellman by Dom S. D'Ambruoso for Claremont Gas Light

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Company; Kenneth Traum, assistant finance director, Daniel Lanning and Michael Burke, PUC auditors, Richard Marini, gas safety engineer, and Bruce Ellsworth, chief engineer for staff.

BY THE COMMISSION:

REPORT

On April 27, 1983, the Commission issued its opinion and Sixth Supplemental Order No. 16,369 ("Decision") (68 NH PUC 231) in this matter. On May 17, 1983, pursuant to RSA 541:3 and 4, Claremont Gas Light Company ("Claremont" or "Company") filed a Motion for Rehearing ("Motion"). After a complete review, it has become apparent that Claremont has raised issues which should be addressed in a Supplemental Report and Order. This Report and Order will address those issues; in some instances, it will modify or clarify the Decision of April 27, 1983, in all other respects it will deny Claremont's Motion.

In its Motion Claremont contended that the Decision is unlawful or unreasonable because:

1. The Commission failed to consider the good faith of the Company when it imposed a fine (Motion, paragraphs 1 and 4); 2. The Commission's adoption of Staff recommendations was not supported by the record (Motion, paragraphs 2 and 3);

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3. Certain specified Commission findings were not supported by the record (Motion, paragraph 5); 4. The Commission lacked the authority to impose a prospective or predetermined fine (Motion, paragraph 5); 5. The Commission lacked the authority to impose a fine for failure to adhere to minimum safety standards (Motion, paragraph 7).

We shall address each of those contentions in turn.

The Company's Good Faith in Redressing its Safety Violations

Claremont, in its Motion, averred that the Commission's penalties failed to account for the Company's past and continuing safety efforts and the good faith implied thereby. That contention is not accepted. The $4000 fine was imposed by the Decision pursuant to RSA 374:7-a, (*See* 68 NH PUC at pp. 24-249). As noted in the Decision, the statute provides for a fine of $1000 per day per violation up to a maximum fine of $200,000. If the Commission adhered strictly to that formula, it would have long ago reached the $200,000 ceiling. However, RSA 374:7-a also provides that the Commission may compromise a fine based on the size of the Company, the gravity of the violation and the good faith of the Company. All of these factors were carefully balanced in arriving at the determination to impose a fine of only $4000. In evaluating Claremont's good faith, we were cognizant of the efforts of the Company to bring its system into compliance with minimum safety standards. It is certain that the Commission would have imposed significantly heavier penalties if such corrective actions had not been undertaken.

We would also be remiss if we did not recognize with approval Claremont's continuing efforts to bring its system into compliance with minimum safety standards. Claremont's Motion, at paragraph 4, contains a description of some of the work which has been accomplished since the close of the record in the areas of initial concern identified by the Commission's Gas Safety Engineer. Those efforts are certainly worthy of Commission support. However, those efforts are

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not sufficient cause to vacate the $4000 penalty imposed by the Commission's Decision. The record reflects that little, if any, efforts to identify and correct violations of minimum safety standards were undertaken by the Company until it was stimulated by Commission enforcement action. (E.G. Tr. 1-67 to 1-68). The responsibility for compliance with such safety standards rests with Company management, not with the Commission. The fine was imposed for management's failure over time to meet its safety responsibilities. The Company's current efforts to bring its system into compliance with minimum safety standards are no more and no less than must be expected under the circumstances. Those efforts will have a bearing on whether or not further fines will be imposed, but they cannot have bearing on fines for violations which have already occurred.

The Commission's Adoption of Staff Recommendations

The Company averred that the Commission's adoption of the Staff's

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recommendations was not supported by the record. In addition, the Company implied that some of those recommendations were inconsistent with certain stipulations entered into at a settlement conference between the Staff and Claremont. These portions of Claremont's Motion must also be denied.

The Staff presented its recommendations in this proceeding on the record. It supported those recommendations on the record with its observations, analysis and expertise. Claremont had a full opportunity to cross-examine the Staff on all its recommendations and on all the data and analysis which formed a foundation, on the record, for those recommendations. The record reflects that the Company did in fact cross-examine the Staff. In addition, Claremont presented its own witnesses and, taken as a whole, the evidence supplied by Claremont supports the Staff's recommendations. For example, Claremont's description of its efforts to bring its system into compliance with minimum safety standards is, in effect, an admission that its system was in violation of those standards. The Commission is not required to discount competent evidence of record merely because it comes from the Staff. If the record contains substantial evidence supporting Commission findings and conclusions, that is sufficient. On the basis of the instant record, we believe that the responsible regulatory outcome is as set forth in the Commission's Decision as modified or clarified by this Report and Order.

The Commission must turn to the record again to rule on Claremont's contention that certain findings may have been inconsistent with stipulations reached in a settlement conference. The Commission was not presented with written stipulations and, thus, was certainly not requested to adopt such stipulations. Additionally, the Commission is not aware of any settlement conference that took place between the Company and the Staff prior the issuance of the Decision. The record does reflect that the Staff had an audit exit conference with Claremont. Typically, at such a conference, the Staff will present its audit results to the Company and the Company will either explain discrepancies to the satisfaction of the staff, agree to correct discrepancies or decide that a change is not appropriate, in which case the matter will often be presented to the Commission. This cannot be likened to a settlement conference. In any event, the Commission would certainly be remiss in relying on statements made by any party at such a conference unless such

statements are presented and explored on the record. That was not the case here.

Certain Specified Commission Findings Were Not Supported by the Record

The Motion, at paragraph 5, alphabetically lists 25 findings which Claremont avers were not supported by the record. The Commission shall address those findings in the same order as set forth in the Motion.

A. The Company averred that the Commission's finding that Claremont did not perform a regular leak survey (68 NH PUC at p. 233) is unsupported and incorrect. Upon review, we believe that this is one of the areas where the Decision must be clarified. The record indicates that Claremont has performed annual leak surveys of certain of its mains. The Company is also correct

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that its Operation and Maintenance Plan does include a requirement for regular leak surveys (Exhibit 5, Appendix D at 4-5). However, the record also reflects that leak surveys were not performed in a timely manner (Exhibit 3). In addition, those which were performed were incomplete. In particular, while certain mains were surveyed on a regular basis, many active and inactive services were not so surveyed. (E.G. Tr. 1-52; Claremont does not have the information to locate certain mains or services to conduct a survey.) We also note that Claremont's Operation and Maintenance Plan, which was not filed with the Commission prior to the initiation of these proceedings, contains no requirement that active or inactive services be surveyed.

B. The Company averred that the Commission's finding that Claremont has no formal plan concerning inactive or abandoned services (68 NH PUC at p. 233) is incorrect. The record reflects that Claremont did file an affidavit on August 12, 1983 (Exhibit 6) which, in pertinent part, states:

> The Company *plans* to institute a house-to-house survey in *early September 1982* to check on active and inactive services. Every building on the Company's system (whether or not there is a record of service at that location) will be surveyed. Every location where active and inactive service is found will be subjected to a bar hole test outside of the cellar wall. All inactive services which are not plugged will be plugged. *The above program is contingent upon obtaining qualified personnel*. (Emphasis ours.)

It is important to note that there is no evidence that this plan was formulated or adopted prior to the initiation of the instant docket. No date of adoption was supplied. Rather, the only date supplied to the Commission is the August 12, 1983 execution date on the affidavit; a date three days subsequent to the first hearing day. We do, however, note with approval the representation of Claremont that the plan was completed on May 13, 1983. This will certainly have a favorable bearing on any future action which the Commission may take with respect to Claremont.

C. The Company averred that the Commission's finding that Claremont had no Emergency Plan prior to the initial Staff audit (68 NH PUC at p. 233) is incorrect. This finding also requires clarification. Pursuant to our requirement that Emergency Plans be filed with the Commission, Claremont had on file a two page letter dated February 4, 1971 which purported to be an Operation and Maintenance Plan and an Emergency Plan. The Emergency Plan was one

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paragraph in length (paragraph 3). The total inadequacy of that paragraph as an Emergency Plan is apparent when it is compared to the Company's current Emergency Plan which was filed as a part of this proceeding (Exhibit 5, Appendix D). We do not purport here to make any findings as to the adequacy of that new plan, but we do believe that it represents the first filing by this Company in this area which crosses the threshold of presenting us with that issue. We also note that the new plan is one which was not adopted prior to the initiation of the instant proceedings. The record indicates that it was not even presented to the Company manager until August 10, 1982; one day after the first hearing in this docket

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(Exhibit 6, "Training" Affidavit of August 12, 1982).

D. The Company averred that the Commission's finding that Claremont had an inadequate training program (68 NH PUC at p. 233) was incorrect. The record supports the Commission's finding in this area. We are cognizant of the Company's one page affidavit that a training program exists (Exhibit 6). However, that document does not contain sufficient detail to describe the existence of an *adequate* program as of the relevent time period for the Decision.

E. The Company averred that the Commission's finding that subpoenas were successful in bringing certain witnesses before the Commission (68 NH PUC at p. 234) was incorrect as it pertained to Witness Blumenthal. This finding does require clarification. A subpoena was issued for Mr. Blumenthal; however, Mr. Blumenthal decided to appear before the Commission prior to the time that the subpoena was served.

F. The Company averred that the Commission's finding that Staff was unable to trace all pertinent transactions (68 NH PUC at p. 234) is incorrect. The record supports the Commission's finding in this area. Claremont has not correctly defined this issue here. It is not, as Claremont has contended, whether there was an audit exit meeting between Staff and Claremont personnel at which explanations were offered. The Commission recognizes that such a meeting took place (Tr. 4-12 and 4-17). Rather, this issue is whether the explanations were *sufficient* to enable the Staff to trace all transactions. The record reflects that although some explanations by Claremont were satisfactory, certain issues continue to remain outstanding (E.g., Tr. 4-21 to 4-22, 4-30 to 4-31). Thus, the explanantions offered were not sufficient to enable the Staff to trace all transactions.

G. The Company averred that the Commission's finding that appropriate descriptions of transactions between affiliates or with Clarement's parent corporation were not filed or approved by the Commission (68 NH PUC at p. 234) is incorrect. This finding should be clarified. The record does reflect that North American Utility and Construction Corporation ("North American") is not now a parent corporation; nor has it been a parent corporation at least since 1978. It is more accurate to characterize North American as a "controlling affiliate". The contract between North American and Claremont which is now on file with the Commission provides that North American is to supply services to Claremont in *inter alia* the following areas: administration, regulatory affairs, operating expenditures, hiring of employees, employee relations, corporate secretarial, bookkeeping, accounting, taxes, financing, engineering, customer billing, purchasing and insurance. We also recognize that two affiliate contracts were filed in

April of 1983 and we commend the Company for its current efforts to comply with RSA 366. However, RSA 366 has been effective since 1933 and, given the extended period of non-compliance with that statute, we do not believe that the findings of the Decision, which at 22 acknowledged receipt of those contracts, should now be disturbed.

H. The Company averred that the Commission's findings *vis a vis* loans to Claremont from North American (68 NH PUC at p. 234) are incorrect. This

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finding should be clarified. The Commission recognizes that the loans referred to are actually accounts payable for product and services as described in Claremont's Motion. However, this transaction was structured so that after 30 days interest accrues on these accounts payable at 1 1/2% above prime. At the very least, a description of this transaction should have been filed pursuant to RSA 366. No such filing was received. In addition, the transaction appears to be a violation of RSA 369. However, a finding on RSA 369 will depend on the results of our examination of the applicable RSA 366 filings. Accordingly, we will amend the Decision at 4 so that the "loans" are referred to as "accounts payable" and the applicable statute violated is RSA 366.

With respect to the advances of $95,145.00 from Utiligas, we note Claremont's agreement to amend its 1982 Annual Report to the Commission to reflect the classification of these funds as Advances from Affiliates (Account No. 212) rather than Payables to Affiliated Companies (Account No. 223). The Company will be required to file such an amended Report no later than June 30, 1983.

I. The Company averred that the Commission's finding that fixed assets used by the Company were not reconcilable (68 NH PUC at p. 235) is incorrect. The Decision should be clarified to reflect the fact that the applicable assertions in Claremont's Motion are correct. Claremont has contacted the Commission so that its revised property records may be reviewed. Accordingly, we will modify our Decision to reflect the fact that, although property records were not in compliance with Commission standards when the Staff audit was conducted, a revised filing has since been submitted to the Commission.

J. The Company averred that the Commission's finding of erroneous reporting of transportation equipment (68 NH PUC at p. 235) is incorrect. The Decision should be clarified to reflect Claremont's agreement at the audit exit conference to make the appropriate adjustments. In view of this agreement, the Company is directed to file an E-20-A Form (Changes in Fixed Capital) no later than June 30, 1983.

K. The Company averred that the Commission's finding that items which should have been deferred or capitalized were expensed (68 NH PUC at p. 235) is incorrect. The record supports the Commission's finding in this area. *See e.g.*, Exhibit 9, items 7 and 15.

L. The Company averred that the Commission's finding that Claremont charged depreciation rates without filing application with the Commission (68 NH PUC at p. 235) is incorrect. The record supports the Commission's finding in this area. The issue here is not only the propriety of the depreciation rates charged, but whether Claremont complied with Commission regulations at PUC 509.10 which requires the filing of Form E-25 when changes in depreciation rates are

proposed. Claremont in its Motion did not contend that the appropriate form was filed. Claremont is directed to file a revised 1981 Annual report which excludes the inappropriate depreciation rates no later than June 30, 1983.

M. The Company averted that the Commission's finding that Claremont had not reported its cost of gas adjustment in a deferred account (68 NH PUC at p. 235) is incorrect. The record supports the Commission's finding in

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this area. Claremont in its Motion did not contend that it was adhering to the Commission's Orders in Docket No. DR 80-171, at least until its 1982 Annual Report was filed in April, 1983. We note that the 1982 Annual Report is currently being reviewed on this issue, among others, by the Commission.

N. The Company averred that the Commission's finding that Staff testified to times of sheer frustration in attempting to reconcile so many conflicts (68 NH PUC at p. 235) is incorrect. The record supports the Commission's finding in this area. *See e.g.*, the discussion at paragraph F *supra*.

O. The Company averted that the Commission's finding that a 5% collection fee was added to amounts remaining unpaid by customers thirty days after the billing date (68 NH PUC at p. 236) is incorrect. The Decision should be clarified. The record reflects that the Company was correct in its Motion when it stated that the 5% fee was never actually collected (Tr at 4-63). However, the record also reflects that while the fee provision appeared on customer bills, it was not included in the Company's tariffs (Tr 4-35); Exhibit 9, item 13). This is troublesome since it is the tariffs which are to be filed with and approved by the Commission, not necessarily the bill forms. Moreover, bill forms should not be dispatched if they contain terms and conditions which have not been included in the tariffs. However, the Commission does recognize the efforts of the Company to remove the 5% term from its bill forms.

P. The Company averred that the Commission's finding adopting the Staff contention that Utilgas should be billed at the time Utilgas tankers take possession of the gas (68 NH PUG at p. 236) is incorrect. The record reflects that, as contended in the Motion, Utilgas is now billed at the time Utilgas tankers take possession of the gas. However, the record also reflects that this is a change from previous procedure which was stimulated by the Staff audit (Tr. at 4-38).

Q. The Company averred that the Commission's finding that it had never approved the $.01 per gallon charge for propane imposed on Claremont by the parent corporation (68 NH PUC at p. 236) is incorrect. The record supports the Commission's finding in this area. Notwithstanding any notification in other Dockets, it remains that the legislature set forth the appropriate procedure for notifying the Commission of transactions between affiliates and for the Commission to take appropriate action to approve or disapprove of those transactions when it enacted RSA 366. The record reflects that no such RSA 366 filing was made and thus, the Commission never had the opportunity to address the issue in the appropriate context.

R. The Company averred that the Commission's finding that Claremont was charging expenses relating to serving to a utility costomer to itself but allowing the payments or revenue from that customer to go to its affiliated non-utility entity, Utilgas (68 NH PUC at p. 236) is

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incorrect. In its Motion, Claremont contends that this account adjustment is reflected in its 1981 Annual Return under "revision of operating revenues". The Commission has been unable to locate an item entitled "revision of operating revenues" in the 1981 Annual Report submitted to the Commission. The Company is directed to file, no later than June 30, 1983, a revised 1981 Annual

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Report which reflects the Flock account adjustment.

S. The Company averred that the Commission's finding that Claremont's controlling affiliate, North American, was bleeding the utility operations (68 NH PUC at p. 236) is incorrect. Claremont's Motion contends that revenues resulting from the Flock Account did not accrue to North American but to Utilgas. The record supports Claremont's contention here; however, this does not address the pertinent issue in context. The Commission's finding was directed at the fact that Claremont "has consistently underspent other gas utilities in the areas of production and distribution maintenance." (68 NH PUC at p. 236). The record supports the Commission's finding in that area.

T. The Company averred that the Commission's finding that twelve customers with more than one meter that cannot verify the meter readings on their monthly bills (68 NH PUC at p. 236) is incorrect. Claremont's Motion contends that the Commission knew and approved the situation. The record supports the Commission's finding in this area. We have examined the June 11, 1981 letter to Mr. Lieber-man and we cannot read it as being applicable to more than one customer. The Commission's findings apply to twelve customers. Even if the letter was read to apply to all twelve customers, Claremont is not complying with the specific terms contained therein. That letter required that charges be broken down by meter. The deficiency in the instant finding is that charges from more than one meter are combined so that a cutomer is unable to tell which portion of the bill may be attributed to a particular meter.

U. The Company averred that the Commission's finding that Claremont had excessive unaccounted for gas (68 NH PUC at p. 240) is incorrect. The record supports the Commission's finding in this area. The record indicates that unaccounted for gas, whatever the cause, should not exceed 10% for propane distribution systems (Tr. 1-38). The amount of unaccounted for gas specified in the Decision at 15 (68 NH PUG at 240) exceeds 10% in all years, but one, and is supported by evidence of record (Tr. 1-38 and 4-54). In fact, the figures come from Claremont's own reports to the United States Department of Transportation.

V. The Company averred that the Commission's finding that distribution maintenance expenses are significantly below the New Hampshire industry average (68 NH PUC at p. 242) is incorrect. The record supports the Commission's findings in this area. The finding was based on Exhibits 8 and 9. The Staff audit (Exhibit 9) incorporated suggestions of Claremont personnel as to appropriate bases of comparison (Tr. 2-75 to 2-80 and Tr. 2-121). The Commission's finding did not change even when the most conservative assumptions supplied by Claremont were incorporated. Finally, the Commission notes that expenses caused by highway relocation, the very factor cited by Claremont in its Motion as rendering comparisons inappropriate, renders the Commission's finding even more conservative. The record reflects that Claremont had a

significant amount of expenses which were attributable to highway relocation in 1980 and 1981 (Tr. 4-49 to 4-50). These expenses may otherwise have been attributable to distribution maintenance.

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W. The Company averred that the Commission's finding that Claremont failed to report annual additions, improvements or extensions to its fixed property (68 NH PUC at p. 243) is incorrect. The record supports the Commission's finding in this area. Notwithstanding the Company's contention that such additions, improvements or extensions have been included in the Annual Reports, it remains that the proper reporting channel is via Form E-20-A (Changes in Fixed Capital) required by Commission regulations at Puc 509.09. These forms have not been filed to date and Claremont is directed to file these forms no later than June 30, 1983.

X. The Company averred that the Commission's finding that the sum owed to Claremont by Utilgas is at least $169,000 (68 NH PUC at p. 244) is incorrect. The Company is correct and the Decision should be amended to reflect the fact that the $169,000 figure represents gross revenues. Once expenses are deleted, it appears that total Flock Account excess earnings were $24,527.00 The Company is directed to file revised reports reflecting this adjustment no later than June 30, 1983.

Y. The Company averted that the Commission's finding that the issuing of debt between parent and subsidiary was at irresponsible rates (68 NH PUC at p. 244) is incorrect. The Decision will be clarified to reflect the change of North American from parent to controlling affiliate. In addition, the indebtedness for the purchase of product was never filed with the Commission pursuant to RSA 366 and it appears also to be a violation of RSA 369. The record here supports a finding of unreasonableness when the Utility is loaning money to one affiliate (Rutland Gas) at 0% interest and borrowing money from a controlling affiliate (North American) at prime plus 1 1/2% interest (Exhibit 9, item 4).

The Commission's Authority to Impose a Prospective Fine

This contention apparently applies to the portion of the Order which issued a rule to show cause why Claremont should not be fined an additional $56,000 for failure to institute a corrosion program. The Company's analysis here is clearly erroneous because it assumes that the fine has already been imposed. The Commission does have the authority under RSA 374:7-a to impose such a fine for the violations of minimum corrosion safety regulations which already occurred. Instead it decided to provide notice that it was considering the imposition of a fine if the violations were not corrected. This notice cannot be construed as the prospective imposition of a fine. Nor does it improperly shift the burden of proof.

That burden was sustained when the existence of safety violations justifying a fine was demonstrated. Requiring the Company to come back and show that it will correct violations to escape the impostion of a fine is certainly a proper burden, if it is one at all. In any event, the statute does not prohibit Commission *notice* that it is considering the imposition of fines if certain safety measures are not taken.

The Commission's Authority to Impose a Fine for Failure to Adhere to Minimum Safety Standards

Claremont's contention here is that the Commission's safety regulations

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were not in effect at the time this proceeding took place. It appears that the Commission may have inadvertently allowed its gas safety regulations to lapse. If that is the case, the lapse began on May 4, 1982 (well after the safety violations occurred) and ended on March 18, 1983 with the adoption of Order No. 16,281 in Docket No. DRM 83-52 (prior to the time the Decision was issued) (68 NH PUG 131). The issue of the effect of the lapse, if any, was raised in a similar Motion for Rehearing filed by Concord Natural Gas Corporation in Docket No. DE 82-272. The Commission addressed that issue fully in Report and Second Supplemental Order No. 16,228 (68 NH PUG 78) in that Docket. The analysis, which is set forth in the Report (68 NH PUC at pp. 82, 83), is particularly pertinent to the instant proceeding and is incorporated into this Opinion by reference.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration fo the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the Commission's Report and Sixth Supplemental Order No. 16,369 (68 NH PUC 231) is to be clarified, modified, or amended as explicitly provided in this instant Report; and it is

FURTHER ORDERED, that the Motion for Rehearing of Claremont Gas Light Comapny is denied in all other respects.

By order of the Public Utilities Commission of New Hampshire this second day of June, 1983.

MCQUADE, chairman, dissents in part: On May 12, 1983, I issued a separate opinion in the instant matter. My views since that time have not been changed. I would have accorded more weight to Claremont's good faith efforts to bring its system into compliance with the applicable safety standards and not imposed the $4000 fine. Claremont's Motion for Rehearing demonstrated continuing good faith efforts to comply. Accordingly, I would now vacate the $4000 fine.

In view of the current show cause proceeding, it is necessary to add one further point. My distaste for fines does not mean that I will never, under any circumstances, vote for the imposition of penalties. Rather, it is my belief that if a utility is attempting in good faith to comply with safety standards, punitive penalties are inappropriate. It is much more appropriate that funds be devoted to system safety improvements than to an increase in the New Hampshire general fund. However, if good faith efforts at compliance are not demonstrated, I would not hesitate to impose the statutory penalty.

I concur in the Opinion of Commissioner Aeschliman in all other respects.

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NH.PUC*06/03/83*[79675]*68 NH PUC 386*Number of Copies and Signature

[Go to End of 79675]

Re Number of Copies and Signature

DRM 83-123, Order No. 16,457

68 NH PUC 386

New Hampshire Public Utilities Commission

June 3, 1983

ORDER changing copy and signature requirements for tariff filings.

BY THE COMMISSION:

ORDER

WHEREAS, On April 6, 1983, Staff proposed a change to the Commission Tariff Filing Rule 1601.02 (e); and

WHEREAS, the current rule requires original signatures on three (3) complete copies of every tariff filing; and

WHEREAS, staff proposes that original signatures are necessary on only a single copy of a tariff filing; and

WHEREAS, on April 8, 1983, a memorandum was forwarded to the Legislative Budget Assistant for a fiscal impact statement; and

WHEREAS, on April 19, 1983, the Office of Legislative Budget Assistant advised there would be no fiscal impact on state, county or local revenue and expenditures; and

WHEREAS, on April 20, 1983, a rulemaking notice was sent to all parties including all gas, electric, telephone and water companies; and

WHEREAS, the Commission received favorable comments from utilities and recieved no unfavorable comments from any party; and

WHEREAS, upon consideration the Commission finds that submission of three (3) originally signed copies of tariff filing serves no purpose and is unnecessarily burdensome upon utilities and that a single filing bearing an original signature of an officer of the utility will be adequate for the Commission's formal records; it is

ORDERED, that Tariff Filing Rule 1601.02 (e) be superseded as follows:

(e) Number of copies and signature. All tariff filings, including letters of transmittal, tariff pages, special contracts, tariff supplements, and any other associated material shall be filed and signed in triplicate, one of which, for commission retention, must bear an original signature. One copy will be returned to the sender bearing the commission's date-of-receipt stamp. When a complete tariff is issued, only the title page need be signed, all others bearing only the typed name of the issuer. For tariff filings only, seven additional copies of all tariff pages shall, be filed.

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By Order of the Public Utilities Commission of New Hampshire this third day of June, 1983.

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NH.PUC*06/03/83*[79676]*68 NH PUC 387*Rule Making — Gas Utilities

[Go to End of 79676]

Re Rule Making — Gas Utilities

DRM 83-93, Order No. 16,458

68 NH PUC 387

New Hampshire Public Utilities Commission

June 3, 1983

ORDER modifying rules and regulations of gas utilities to include certification procedure for gas pipelines.

BY THE COMMISSION:

ORDER

WHEREAS, on August 22, 1968, the Commission Ordered a change to its Rules and Regulations prescribing standards for gas utilities:

VI. *Equipment and Facilities*

21. *Construction and Maintenance*

j. *Certification*

Upon completion of any gas pipeline to be operated at 100 psig or more, the operating utility shall file with the Commission, a U.S. Geological Survey map of at least the scale of 1:62500 (approximately one inch to the mile) showing the pipeline superimposed upon it. Also shown shall be the size of the pipe, valve, locations, and regulator stations. When a heavy concentration of facilities in a small area limits disclosure of full information, a blow-up of the area shall be furnished. The utility shall also certify in writing that the pipeline has been constructed and tested in accordance with the "Standard Code" and submit the following information:

1) Test Pressure

2) Duration of Test

3) Test Date

4) Type of Test (hydrostatic/air)

5) Normal and maximum operating pressure to which line will be subjected.

Supplemental filings shall be made whenever any changes in location are made to the pipeline because of road relocations or other causes, or significant change is made in the

operation pressure.

And

WHEREAS, in its efforts to recodify its Rules and Regulations, the Commission omitted the inclusion of this provision; and

WHEREAS, Staff recommended that the Commission adopt this provision by proper rulemaking; and

WHEREAS, on March 24, 1983, the

Page 387

Commission requested a fiscal impact statement of the Legislative Budget Assistant; and

WHEREAS, on April 7, 1983, the Commission received a fiscal impact statement which determined that the proposed rule change will have no fiscal impact upon state, county, or local revenues and expenditures; and

WHEREAS, on April 12, 1983, a rulemaking notice of the proposal was sent to all parties and all gas companies with a deadline for requesting oral testimony set at May 13, 1983; and

WHEREAS, no such requests or comments were received; and

WHEREAS, upon consideration, the Commission finds that the proposed rule provides a comprehensive certification requirement upon its regulated gas utilities, and is in the public interest; it is hereby

ORDERED, that the following rule be adopted to the Rules and Regulations for Gas Utilities:

PUC 506.02 *Construction and Maintenance*

(j) Certification

Upon completion of any gas pipeline, to be operated at 100 psig or more, the operating utility shall file with the Commission, a U.S. Geological Survey Map of at least the scale of 1:62500 (approximately one inch to the mile) showing the pipeline superimposed upon it. Also shown shall be the size of pipe, valve, locations, and regulator stations. When a heavy concentration of facilities in a small area limits disclosure of full information, a blow-up of the area shall be furnished. The utility shall also certify in writing that the pipeline has been constructed and tested in accordance with the "Standard Code" and submit the following information:

1) Test Pressure

2) Duration of test

3) Test date

4) Type of Test (hydrostatic/air)

5) Normal and maximum operating pressure to which line will be subjected.

By order of the Public Utilities Commission of New Hampshire this third day of June, 1983.

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NH.PUC*06/03/83*[79677]*68 NH PUC 389*Exeter and Hampton Electric Company

[Go to End of 79677]

Re Exeter and Hampton Electric Company

DR 81-317, Fourth Supplemental Order No. 16,459

68 NH PUC 389

New Hampshire Public Utilities Commission

June 3, 1983

ORDER commending electric company for effective cost controls and approving waiver of second step rate increase.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, on May 31, 1983, Exeter and Hampton Electric Co. filed information indicating they would not be requesting any second step rate increase as provided for by Commission Order No. 15,609 (67 NH PUC 290); and

WHEREAS, the information filed continues to demonstrate Exeter and Hampton's commitment to good management including effective cost control and further justifies the incentive rate of return granted to the Company by Order No. 15,609; it is hereby

ORDERED, that Exeter and Hampton is commended for their continued effort to control costs as demonstrated by their waiver of a second step rate increase in this docket.

By Order of the Public Utilities Commission of New Hampshire this third day of June, 1983.

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NH.PUC*06/03/83*[79678]*68 NH PUC 389*Lifeline Rates

[Go to End of 79678]

Re Lifeline Rates

Intervenors: Public Service Company of New Hampshire, Community Action Program, and Volunteers Organized in Community Education

DP 80-260, 18th Supplemental Order No. 16,460

68 NH PUC 389

New Hampshire Public Utilities Commission

June 3, 1983

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ORDER denying motion for rehearing on lifeline rates.

Page 389

1. PROCEDURE, § 5 — Initiation of proceedings by commission.

[N.H.] The commission has authority to independently open a proceeding and is not precluded from doing so when it denies an untimely motion for rehearing requesting the same action p. 390.

2. PROCEDURE, § 23 — Hearing and notice — Sufficiency of notice — Statutory citation.

[N.H.] Where specific substantive description of the scope of proceedings is provided, notice requirements have been fulfilled, even where there is no statutory citation, so long as: (1) the commission stays within the boundaries of the scope articulated and (2) that scope is within the commission's jurisdiction. p. 391.

3. RATES, § 143 — Factors affecting reasonableness — Cost of service.

[N.H.] Cost is only one of the factors to be balanced in implementing a rate design; therefore, lifeline rates that are not strictly cost based are not unjust, unreasonable, or discriminatory. p. 392.

APPEARANCES: Catherine E. Shively and Martin Gross for Public Service Company of New Hampshire; Allen Linder for VOICE; Gerald Eaton for Community Action Program; Larry M. Smukler for the advisory staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

On April 20, 1983, the Commission issued Report and Seventeenth Supplemental Order No. 16,356 (68 NH PUC 216) in this docket (Decision). On May 10, 1983 Public Service Company of New Hampshire (PSNH) filed a Motion for Rehearing (Motion). The Motion was argued on May 19, 1983. After due consideration, we will deny PSNH's Motion.

In its Motion, PSNH raised four general issues:

> 1) Whether the denial of Voice's Motion for Rehearing precluded the Commission from reopening this Docket; 2) Whether there was sufficient notice of the issues to be addressed; 3) Whether the lifeline standards adopted by the Commission were just, reasonable and nondiscriminatory; and 4) Whether the Commission's findings, based on certain adjudicatory standards, were supported by the record.

We shall address each of these general issues in turn.

Commission Ability to Open This Proceeding

[1] PSNH has argued that the insant proceeding was in effect an untimely granting of a

Motion for Rehearing. That argument is not accepted. If the Commission has the authority independently to open a proceeding, it is not precluded from doing so merely because it denied an untimely Motion for Rehearing requesting the same action. In this instance, the Commission did act independently pursuant to *inter alia* RSA 365:5. It is clear on the record that this was a Commission action rather than an untimely granting of the VOICE request. Accordingly, PSNH's Motion is denied on this issue.

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Notice

PSNH, in essence, raised two issues here.

[2] The first issue raised by PSNH is that the enabling legislation was not fully cited by the Commission in its Order of Notice. We believe that where a specific substantive description of the scope of proceedings is provided, notice requirements have been fulfilled even when there is no statutory citation so long as: 1) the Commission stays within the boundaries of the scope articulated; and 2) that scope is within the jurisdiction of the Commission. For the purpose of notifying parties about the issues to be addressed, such articulation is clearly superior to a mere reference to a statute which may, in fact, provide for a broader scope than intended by the Commission. In this proceeding, the four issues to be addressed were explicitly and specifically articulated at the procedural hearing. Accordingly, PSNH's Motion will be denied on this issue. The second issue raised by PSNH is that, in effect, the Commission strayed outside the boundaries of its articulated scope when it directed that tariffs be filed pursuant to the standards adopted in the Decision. To the extent the PSNH's argument applies to the adoption of standards by the Commission, it must be denied. The articulation of the scope and the evidence submitted in this proceeding provided all parties with clear notice of the actions and policies contemplated by the Commission PSNH had a full opportunity to address itself to those contemplated actions and policies, and the record reflects that it took advantage of that opportunity. The facts and arguments for and against the lifeline structure adopted by the Commission were fully presented in this proceeding and in the initial lifeline proceeding. The Commission was able to give due weight on those facts and arguments in making its policy determinations. In effect, PSNH is requesting the Commission to reconsider facts or arguments which had already received the full attention of the Commission, and also, to allow PSNH the opportunity to present additional facts and arguments which were available to it at the time in the initial record was made. We are not required to grant such a request. O'Laughlin v. New Hampshire Personnel Commission (1977) 117 NH 999. To the extent that PSNH's argument pertains to implementation of standards already adopted by the Commission, rehearing is not the proper avenue. The issue of implementation is not ripe for consideration until compliance tariffs are filed. Thus, the proper avenue is a subsequent proceeding to review PSNH's compliance tariff filing[1(23)] The issue in such a subsequent proceeding would not be the propriety of the standards adopted by the Commission; rather, it would be whether particular factors applicable to PSNH justify a waiver or exemption from Commission standards. PSNH was notified of the availability of such a subsequent proceeding by the Presiding Officer at the Procedural Hearing (Tr. 1-17). Accordingly, PSNH's Motion is denied on this issue.

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Just and Reasonable Rates

[3] PSNH has argued here that since lifeline rates are not strictly cost based, they can not be construed as just, reasonable or nondiscriminatory. This argument is not accepted. A rate design which is not strictly based on cost is not *per se* unreasonable, unjust or discriminatory. Rather, cost is one of many factors which must be balanced in implementing a rate design. We believe that our decision engaged in the delicate balancing of factors necessary to arrive at just, reasonable and nondiscriminatory rate design. Accordingly, PSNH's Motion is denied on this issue.

Record Support

PSNH has argued that the Commission did not have record support for its findings and did not clearly tie record evidence to the adjudicatory standards. It is our analysis that the record-as a whole supports the Commission's action and that the adjudicatory standards are clearly articulated and tied to the record. In fact, the lifeline standards adopted were the direct result of record evidence and the evidentiary basis for each standard was articulated in the Decision.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the Motion for Rehearing of Public Service Company of New Hampshire be, and hereby is, denied.

By order of the Public Utilities Commission of New Hampshire this third day of June, 1983.

FOOTNOTE

[1]That proceeding could be one specifically requested by PSNH for the purpose of reviewing its implementation of Commission standards or the issue could be incorporated into an ongoing ratemaking proceeding such as DR 82-333.

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NH.PUC*06/03/83*[79679]*68 NH PUC 392*Lifeline Rates

[Go to End of 79679]

Re Lifeline Rates

Intervenors: Concord Electric Company, Exeter and Hampton Electric Company, Public Service Company of New Hampshire, Granite State Electric Company, Connecticut Valley Electric Company, Inc., and New Hampshire Electric Cooperative, Inc.

DP 80-260, 19th Supplemental Order No. 16,461

68 NH PUC 392

New Hampshire Public Utilities Commission

June 3, 1983

ORDER directing utilities to file lifeline rate tariffs.

Page 392

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, Seventh Supplemental Order No. 16,356 (68 NH PUC 216) in this docket instructed Concord Electric Co.; Exeter and Hampton Electric Co.; Public Service Company of New Hampshire; Connecticut Valley Electric Co.; and Granite State Electric Company to file revised lifeline tariffs by May 15, 1983 for effect June 1, 1983; and

WHEREAS, Concord Electric and Exeter and Hampton Electric filed motions requesting delays in the dates set for tariff filing; and

WHEREAS, Public Service Company, in conjunction with their Motion for Rehearing, requested a delay in the dates set for tariff filing; and

WHEREAS, the New Hampshire Electric Cooperative Inc. was inadvertently omitted from the list of utilities required to file new lifeline tariffs; and

WHEREAS, Connecticut Valley Electric did not receive a copy of Order No. 16,356 in a timely manner; and

WHEREAS, the Commission having considered all three matters has determined that a uniform delay would be in the best interest of all parties including consumers; it is hereby

ORDERED, that Concord Electric Co.; Exeter and Hampton Electric Company, Public Service Company of New Hampshire; Granite State Electric Company; Connecticut Valley Electric Company; and the New Hampshire Electric Cooperative Inc. shall file on or before July 1, 1983 revised tariff pages implementing lifeline rates in conformance with the standards set forth in Order No. 16,356, for effect August 1, 1983.

By Order of the Public Utilities Commission of New Hampshire this third day of June, 1983.

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NH.PUC*06/09/83*[79680]*68 NH PUC 394*Small Energy Producers and Cogenerators

[Go to End of 79680]

Re Small Energy Producers and Cogenerators

Intervenors: Public Service Company of New Hampshire, Granite State Hydropower Association, Claremont Hydro Associates, Newfound Hydro Electric Company, Franklin Falls Hydroelectric Corporation, Rollingsford Manufacturing Company, Concord Steam Corporation, and Chamberlain Otis and Waterloom Falls Hydro Companies

DE 83-62, Supplemental Order No. 16,463

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68 NH PUC 394

New Hampshire Public Utilities Commission

June 9, 1983

ORDER setting scope of proceedings for hearings on cogeneration and small energy producers.

APPEARANCES: Catherine E. Shively and Sulloway, Hollis & Soden by Eaton W. Tarbell, Jr., for Public Service Company of New Hampshire; Peter W. Brown and Robert A. Olson for Granite State Hydropower Association; Orr and Reno, P.A. by Howard M. Moffett for Claremont Hydro Associates *et al.*; Nathan Wechsler for Newfound Hydro Electric Company; Robert H. Rowe and Representative Eugene S. Daniell for Franklin Falls Hydro Electric Company *et al.*; Lawrence Keddy for Rollingsford Manufacturing Company; Roger Bloomfield for Concord Steam Corporation; Robert Greenwood for Chamberlain Otis and Waterloom Falls Hydro Companies; Larry M. Smukler and Dr. Sarah Voll for staff.

BY THE COMMISSION:

REPORT

This docket was opened by an Order of Notice dated February 25,1983. A procedural hearing was held on March 25, 1983 and a prehearing conference was held on April 20, 1983. That prehearing conference was summarized in a Staff Memorandum dated May 2, 1983 and, based on that document, the Commission issued Order No. 16,410 (May 4, 1983 [68 NH PUC 327]) which set a June 10, 1983 deadline for the direct testimony of Public Service Co. of New Hampshire (PSNH); a date which was six weeks from the issuance of the Commission's Report and Order in Docket No. DE 81-312.

That Order also allowed PSNH to file exceptions to the scope of proceedings described in the Staff Memorandum. On May 18, 1983, PSNH filed timely exceptions to the scope of proceedings set forth in the Staff

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Memorandum. The Staff submitted and circulated on May 25, 1983 a Memorandum responding to the PSNH exceptions and, on June 3, 1983, PSNH filed a Motion to Define Scope of Proceedings and Other Procedural Orders (Motion). This Report and Order is in response to that Motion.

When the above-referenced documents are read together, it is apparent that, at the present time, there is substantial agreement among the parties on the scope of the testimony to be submitted by PSNH in this docket. Accordingly, the starting point in this proceeding is to accept PSNH's proposal as set forth in its May 18, 1983 submission. Thus, PSNH will be required to file direct testimony which will address the following for appropriateness, methodology and calculation:

I. *Short Term Rates*

A. Avoided energy costs, B. Avoided capacity costs of generation, C. Avoided capacity

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costs of transmission. D. Avoided capacity costs of distribution, E. Avoided system losses, F. Avoided fuel inventory costs, and G. Proper application of avoided costs to specific rate forms (including time differentiation of costs and methods of assigning capacity credits as appropriate).

II. *Long Term Rates and Contracts*

The same issues as I. A. to F. The Commission notes PSNH's reservation of rights as set forth in its May 18, 1983 submission.

Our examinations of the submissions also leads us to conclude that there remain two material issues of controversy. The first issue is the timing of the submission of direct testimony by PSNH. The second issue is whether PSNH is to be required to run alternative scenarios of its models based on assumptions supplied by the Staff and Intervenors. We shall address each of these issues in turn.

Timing of PSNH Submission of Direct Testimony

PSNH in its Motion has requested an extension of the deadline for the submission of direct testimony. Initially, we must accept the statements of Staff on this issue. The June 10, 1983 deadline was established because it was six weeks from the issuance of the Commission's Decision in DE 81-312. PSNH was allowed this time so that it would have sufficient opportunity to incorporate the findings in that Decision into its submissions.[1(24)] Accordingly, PSNH should be prepared to move forward as of the June 10, 1983 date. However, it is apparent from its Motion that PSNH will not be ready to move forward as of that date. Since we are more interested in receiving a complete, thorough and well-reasoned submission than in rigidly adhering to this deadline, we will grant PSNH's request for an extension of the due date. Direct testimony addressing the scope of proceeding as set forth in this

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Report and Order must be filed no later than July 22, 1983.

Scope of PSNH Submissions

PSNH in its May 18, 1983 exceptions agreed to file testimony and exhibits based on the assumptions it deems appropriate. In its Motion, PSNH added an objection to a requirement that alternative runs be submitted as a part of its Direct Testimony. The Staff has requested that two scenarios be run: 1) a base case scenario using the assumptions PSNH would use for retail ratemaking purposes; and 2) an alternative scenario based on assumptions taken from the Commission's findings in Docket No. DE 81-312, Report and Sixteenth Supplemental Order No. 16,374 (April 29, 1983 [68 NH PUC 257]). The intervenors have not requested that any particular alternative scenarios be run on the PSNH model, but apparently they have reserved their right to request such runs at some point in the future.

The Commission recognizes PSNH's concern that alternative assumptions which it may not support should not be included in its Direct Testimony. However, the Commission is also capable of determining which assumptions are supported by which party and, accordingly, it is not automatically assumed that all data submitted by PSNH is supported by PSNH. In addition, the Commission recognizes that the models to be used and the data incorporated into those

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models are, to a large extent, in the exclusive possession of PSNH. We do not believe that we can come to any conclusion, either accepting or not accepting PSNH recommendations based on those models until we have on the record a full understanding of the assumptions used, how the models work and how the models are affected by alternative assumptions. Accordingly, we will require that PSNH file with, but not necessarily as a part of, its direct testimony a full explanation of its models, including all inputs thereto and their operation and interaction. We will also require that PSNH submit with, but not necessarily as a part of, its direct testimony: 1) a list which articulates precisely how the inputs and assumptions it deems appropriate differ from the inputs and assumptions used for retail ratemaking purposes; and 2) one or more alternative scenarios run on the Production Simulation Model using as inputs alternative operational dates and capacity factors of the Seabrook units based on downside assumptions.

Our decision in this Report and Order is not meant to foreclose additional runs if such additional runs are appropriate. However, we believe that requests for additional runs may be better focused if the Commission, Staff and Intervenors first have an opportunity to examine PSNH's initial submissions. Accordingly, we will entertain requests by the Staff and the Intervenors for additional runs based on varying assumptions during the discovery period. We do not accept PSNH's argument that additional runs of its models somehow compels PSNH to make the case for opposing parties when PSNH is the only party capable of performing such alternative runs and when PSNH has full opportunity to present its views on the appropriateness of the assumptions used in any particular run.

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Request for a Further Procedural Hearing

In its Motion, PSNH requested a formal hearing on the scope of the proceeding in this docket and a procedural schedule. In view of the above, we do not believe that it is necessary at this time to schedule a further hearing on the scope of the proceedings. However, once PSNH has filed its submission, the Commission, the Staff, the Intervenors and PSNH will be able to ascertain better the procedural schedule which will be appropriate. Accordingly, we will schedule a Procedural Hearing on July 28, 1983 for the purpose of establishing a further procedural schedule in this docket.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that the scope of the proceedings, shall be as set forth in the foregoing Report, and it is

FURTHER ORDERED, that the due date for the submission of direct testimony of PSNH shall be extended from June 10, 1983 to July 22, 1983; and it is

FURTHER ORDERED, that on that date PSNH shall file direct testimony and such other submissions as set forth in the foregoing Report; and it is

FURTHER ORDERED, that a hearing is scheduled on July 28, 1983 at 10:00 a.m. at the

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Commission offices for the purpose of establishing a further procedural schedule; and it is

FURTHER ORDERED, that in all respects not expressly addressed in this Report and Order, PSNH's Motion to Define Scope of Proceedings and for Other Procedural Orders be, and hereby is, denied.

By order of the Public Utilities Commission of New Hampshire this ninth day of June 1983.

FOOTNOTES

[1]This was not intended to foreclose PSNH from the opportunity to file exceptions. This opportunity was acknowledged by the Staff in its Memorandum and granted by the Commission in its Order.

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NH.PUC*06/09/83*[79681]*68 NH PUC 397*Millenium Power Incorporated

[Go to End of 79681]

Re Millenium Power Incorporated

Additional applicant: M.P.M., Inc.

DE 83-14, Order No. 16,464

68 NH PUC 397

New Hampshire Public Utilities Commission

June 9, 1983

ORDER permitting hydroelectric power company to lay submarine cable in public waters.

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1. WATER, § 10 State commissions — Jurisdiction and powers — Licenses.

[N.H.] When a river or stream is capable in its natural state of some useful service to the public because of its existence as such, it is "public waters" and the commission has jurisdiction, by statute, to grant licenses to cross it with cables. p. 400

2. WATER, § 10 — State commissions — Jurisdiction and powers — Licenses.

[N.H.] In granting or denying a license to cross public waters with utility cables, the statutory standard to be applied is whether the license can be exercised without substantially affecting the public rights and safety of the public from physical injury may be considered in establishing those rights. p. 401

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APPEARANCES: Mark S. Moeller on behalf of Millenium Power Incorporated and M.P.M., Inc.; Larry Smukler on behalf of the commission staff; and Richard and Laurine Berry, pro se.

BY THE COMMISSION:

REPORT

History

Due to the energy crunch of the last decade, renewed interest has been sparked in hydroelectric power, especially in New Hampshire with its abundance of fast moving streams. One of the companies involved in this renewal has been M.P.M., Inc. of Boston, Massachusetts. M.P.M. acquired rights to three dams within a couple of miles of each other on the Upper Salmon Falls River, either within or close to the Town of Milton Mills, New Hampshire. Each dam; Rowe, Waumbeck, and Mill, was thoroughly reconstructed. In addition to reconstruction, 7000 feet of submarine cable was laid connecting the three generating turbines. The cable follows the river thread and carries a combined maximum current of approximately 480 volts. Installation of the cable occurred during the second half of 1981, a period of time covering events that will be discussed later in more detail. Cable laying and reconstruction was performed during M.P.M.'s ownership tenure, and it was allegedly during this period that an inquiry of the Public Utilities Commission resulted in our declining jurisdiction. In December of 1981, after completing the reconstruction program, M.P.M. sold the project to Millenium Power, Incorporated, a New Hampshire corporation.

On August 20, 1982 the Commission received a letter from Attorney Robert P. Shea, on behalf of his client, Mr. Donald Bernard who resides on Hippe Road in Milton Mills. Mr. Bernard had sought representation by Mr. Shea due to concern over safety aspects involved in the hydro operation. The areas of concern in the letter referenced "housing" of the unit and the "power line..on the bottom of the river", which might be subject to, "the constant irritation from the flowing water and the varying seasons."

After receiving this letter from Attorney Shea and considering its premises, including the fact it was very vague and general, the Commission concluded on a preliminary basis that it had jurisdiction, whereupon an investigation was initiated. Said investigation was performed by Arthur Johnson of the Commission's Engineering

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Department. Mr. Johnson first sought greater specificity as to the nature of Mr. Bernard's concerns, learning that the "housing" problem concerned fear over the "lack of security at a nearby power house." Presumably "lack of security" implies too easy access to dangerous areas by the general public, especially children.

A description of conditions at the time of Mr. Johnson's initial visit to the facilities on September 16, 1982 are contained in both his September 23, 1982 letter to the Petitioners and a later October 4, 1982 report to the Commission. Seen below is part of the language from the September 23, 1982 letter, which helps set the stage for subsequent Commission involvement:

During my inspection on September 16th, it was observed that the submarine power

> cables which are placed in the middle of the river and run from the Rowe and Waumbeck Dams to the Mill Dam facility is quite accessible to the general public. The subject cables are not marked with warning tape, and warning signs have not been posted. The situation presents a potential safety hazard to the unknowing public. However, I understand that warning signs have now been ordered which shall be posted at the facilities and along the river bank to warn the public about the submarine power cables.

These events eventually resulted in a petition being filed with the Commission on January 13, 1983 seeking, pursuant to RSA 371 et seq, a license to cross public waters or land. It was filed by Michael Harper, P.E., Consulting Engineer to the Petitioner, Millenium Power, Incorporated, and sought a license granting:

> Authority to install and maintain submarine power cables under public waters of the Upper Salmon Falls River in the Town of Milton Mills, New Hampshire.

Notice that a hearing would be held on this matter was made to the general public by publication in Foster's Daily Democrat on February 2, 1983, a week before the February 9, 1983 deadline established by the Commission; and, though not required, a second notice was published on February 8, 1983, this time in the Rochester Courier. Additionally the Commission personally notified the Commissioner of the Department of Resources and Economic Development (DRED) and the Director of Safety Services as well as the Office of the Attorney General.

A hearing was duly held on February 23, 1983 at which time the Petitioner presented three witnesses and 13 exhibits. At that time it was agreed by the parties an Exhibit No. 14 would be filed later and would contain recommendations by the Petitioners for resolving certain safety concerns that will be discussed infra.

In addition to the letter from Mr. Bernard's Attorney, which has already been mentioned, several other written communications have been received by the Commission regarding this hydro operation, from individuals and various government agencies both state and federal. For example, Richard and Laurine Berry were in attendance at the hearing and presented a petition containing several dozen signatures from Maine and New Hampshire Residents. Although that petition was originally addressed to numerous governmental

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representatives and not this Commission, a copy was provided to the Commission.

A cover letter and attachment was received from the United States Department of Interior — Fish and Wildlife Service/Ecological Service — on February 14, 1983. The attachment was a copy of a prior letter by them to the FERC (Exhibit No. 13). The cover letter draws to our attention a specific portion of the attached letter to the FERC concerning safety of the cable. A letter from the New Hampshire Fish and Game Department states an opinion the cable is a potential hazard and that it should either be elevated or buried. We also received from Maine's Department of Environmental Protection a copy of a letter to Millenium Power expressing requirements to be fulfilled to comply with Maine's Statutes.

Exhibits are not normally discussed in a separate section, but in this case a review of the

exhibits may contribute to understanding the issues, therefore, descriptions of each exhibit are being provided in the order each has been marked:

1. The Petition, including 3 attachments which are site plans, one each for the Mill Dam, Rowe Dam, and Waumbeck Dam. 2. A letter dated December 2, 1982 from the Milton Mills Office of the Selectmen expressing concern over safety features of the operation. It should be noted that Mr. Glenn W. Stewart, Chairman, and a signator of this letter testified at the February hearing that those concerns are being adequately addressed. 3. A schematic power flow including relays and switching. 4. An approximate 2 foot length of the type cable actually used. 5. The cable manufacturers specification on the cable. 6. Mr. Johnson's September 23, 1983 letter to Petitioner describing his view of the conditions observed during his September 16 inspection. 7 & 8. Photographs of swimming area. 9, 10 & 11. Plans for each dam. 12. Photo of a potential hazard area from a section of cable. 13. Letter from U.S. Department of Interior to Federal Energy Regulatory Commission (FERC) requesting an investigation regarding water levels and safety of cable. 14. Petitioners recommendations.

Jurisdictional Issues

[1] Several jurisdictional issues need to be resolved before the Commission can proceed to the basic question of granting or denying a license to cross public water or land pursuant to RSA 371:17. The Petitioner argues the Commission has no jurisdiction over either the Petitioner or the subject matter. As a starting point in addressing the question of jurisdiction, the two statutes most on point and therefore most important to this case are set forth below:

RSA 371:17 Petition. Whenever it is necessary, in order to meet the reasonable requirements of service to the public, that any public utility should construct a pipe line, cable, or conduit, or a line of poles or towers and wires and fixtures thereon, over, under or across any of the public waters of this state, or

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over, under or across any of the land owned by this state, it shall petition the commission for a license to construct and maintain the same. For the purposes of this section, public waters are defined to be all ponds of more than ten acres, tidewater bodies, and such streams or portions thereof as the commission may prescribe. Every corporation and individual desiring to cross any public water or land for any purpose herein defined shall petition the commission for a license in the same manner prescribed for a public utility. *RSA 371:20 Hearing; Order.* The commission shall hear all parties interested, and, in case it shall find that the license petitioned for, subject to such modifications and conditions, if any, and for such period as the commission may determine, may be exercised without substantially affecting the public rights in said water or lands, it shall render judgment granting such license.

To the extent that the Petitioner claims that the "public waters" criteria of RSA 371:17 is a jurisdictional issue in this case, the Commission rejects this contention. In New Hampshire those portions of streams which are commonly used for navigation are prescribed as public waters. See Docket IE8322, Order No. 6217, 35 NH PUC 94 (1953). "Lakes, large natural ponds, and

navigable rivers are owned by the people, and held in trust by the State in its sovereign capacity for their use and benefit, such use and benefit are not limited to navigation and fishing, but include all useful and lawful purposes; ... " New Hampshire v Sunapee Dam Co. (1900) 70 NH 458, 460. When a river or stream is capable in its natural state of some useful service to the public because of its existence as such it is public. St. Regis Co. v Board (1942) 92 NH 170 RSA 271:17 et seq. requires that a license be granted to cross any public water.

[2] The next question concerns the criteria on which the Commission must make its decisions under Chapter 371. Specifically it is RSA 371:20, as set forth supra, which provides the standard the Commission must use in granting or denying a license. That standard requires that we decide whether a license can be exercised " ... without substantially affecting the public rights ... " No further insight is provided as to what may or may not substantially affect public rights. The Commission finds that the safety of the public from physical injury is a criteria to be considered when deciding what may or may not substantially affect the public right in said waters.

By use of a rather complex argument the Petitioner claims 371:17 does not apply because LEEPA exempts their operation from being considered a public utility. Avoiding a lengthy recital of arguments presented on the definition of a utility, or on FERC status as an "exempt" versus a "licensee", we find the last sentence of 371:17 makes 371 et seq. applicable to operations other than utilities, which would bring Petitioner under the Commission's jurisdiction according to the Statute in any event.

We also conclude that the term to "cross" a public water is sufficiently broad to include threading the stream beds; it is use of a public water being regulated, not the precise manner.

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RSA 371:17's scope becomes more certain when it is realized that the statute enables a Petitioner to use public lands or water in the transmission of electric power without having to resort to any other governmental body for easement or equivalent rights.

Turning our attention to the specifics of this case it is logical to start with a look at the cable itself. An actual sample of the cable installed in the river was introduced into evidence. (Exhibit 4) A description of the cable including manufacturers specifications is included in Exhibit 5. The Commission finds after review of the evidence presented, that the record is inconclusive regarding the appropriateness and safety of the cable as a permanent installation.

On the one hand, Mr. Harper testified that he had used the same type of cable in a similar situation some years ago and found it to be very serviceable. It is noted that the present installation has been on the riverbed for 1 1/2 years, and that no known problems have occurred. Submarine cable has also been used without difficulty on Lake Winnipesaukee for many years, although of a much different construction.

On the other hand, the Commission is concerned that Exhibit 5 identifies this cable as tray cable, and does not indicate that it is designed to be submerged or buried. Moreover, it is clear upon inspection of the cable that severance would cause contact to be made with the conductors before reaching the ground. Since the maximum voltage to be carried by the cable is 480 volts, only a person actually in contact with the break at the moment of the break would receive any current. A break in the cable is supposed to result in instantaneous shut down of the system.

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Given this evidence, the Commission believes that to the extent a potential hazard may exist, measures must be taken to insure public safety. Proper warning signs will provide protection against accidential harm except in the case of small children. Sufficient barriers or other measures to protect small children are thus also necessary. In addition, the Commission must consider the possibility that older children might intentionally tamper with the cable and must protect against this situation as well.

Given these concerns, the Petitioner has submitted several recommendations which are included in Exhibit 14 and are presented below in their entirety.

1. Area of the Salmon Falls River where the public has ready access to the riverbank and where the submarine cable lies in a depth of four feet of water or less under normal conditions.

A. In the vicinity of the Hopper Road Bridge (near Rowe Dam) and for a distance of approximately 300 feet downstream. B. At the confluence of the trail race from Waumbeck Powerhouse and the river, and for a distance of approximately 40 feet downstream. C. At Mill Dam Pond, approximately 100 feet above the intake of the Mill Powerhouse.

2. Recommendations:

A. In these three areas it is recommended that the submarine cable or cables be placed

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in a corrugated plastic conduit approximately 4 inches in diameter and that this conduit be covered with the natural material from the riverbed: silt, sand, stone and rocks. B. In addition, in the immediate vicinity of the Hopper Road Bridge, it is recommended that, for a distance of not more than 50 feet in either direction, machine excavation be used to maximize the depth at which the conduit cable is below the water surface. C. It is recommended that all this work be carried out in the dry season of 1983. D. It is recommended that these measures be ordered by the Commission subject to receipt of the necessary permits or licenses from other interested governmental or regulatory agencies.

3. Effects of the recommended actions:

A. *On the project*: Enclosure of the cable in a conduit which requires a mechanical saw to cut through it will further protect the already heavily insulated cable. This measure will not affect the performance of the project other than by its cost of installation. B. *On the public safety*: As has already become evident during this one year of operation of the hydroelectric project, the Salmon Falls River carries large enough quantities of silt, sand and stone to begin covering the exposed cable in various areas. The recommended conduit, with its corrugations, particularly when covered during installation, will further accelerate against accidental contact with the cable both by the conduit surrounding the cable and by the conduit itself being burried. C. *On the environment:* a.) *During installation* The placement of conduit is recommended for the dry season of 1983, when relatively little water inflow is expected in the project area. This is likely to be particularly true in 1983 if the present trend of low precipitation continues. A low inflow

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also means that during installation any disturbance of the riverbed will result in minimal siltation. b.) *After Installation* There will be no harmful affects of the environment, since the cable will be in conduit and buried, in the recommended areas, so that neither aquatic animal nor man will be disturbed by this introduction of a thin lineal element into the natural environment. In fact, a cable on the river bottom appears much less of an intrusion on the environment than a cable string overhead on poles.

Reference to the bridge addresses a concern that an automobile might accidentally

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leave the road at that spot severing the cable.

After review of the above recommendations there are two improvements the Commission believes necessary to even permit temporary operations of these facilities. First, it is unacceptable that a depth of four feet exist only under normal conditions. Therefore, the Petitioner shall take whatever means are required by burial, conduit, or otherwise to insure safety where less than a four foot depth exists between the water surface and exposed cable. Alternatively it must cease operations when the water level is below four feet. Obviously it is Petitioners duty to find the lowest point in the river and monitor it to insure compliance with our Order. Second, warning signs shall be placed within sight of each other. Language on the signs should read as follows:

DANGER SUBMERGED CABLE

Placing these signs higher than normal reach may have an ameliorating affect on vandalism and since vandalism will present a danger to effective warning we do order such placement.

Several other concerns will briefly touched upon. Regarding access to the powerhouses, adequate locks and other measures have now relieved those fears, and we order continuation of those measures. It is noted in response to one allegation that inquiry by Staff reveals the Petitioner does carry liability insurance. In fact, perusal of Petitioner's contract with Public Service Company reveals Petitioner must carry a minimum of $3,000,000 in liability insurance. Mr. Glen Stewart, Chairman of the Office of Selectment of Milton testified that subsequent to his letter the Town's fears have been alleviated.

All of the foregoing measures shall be implemented by August 15, 1983. The Commission will grant a temporary license subject to the fulfillment of these requirements. Due to the lack of a fully developed record, it will be necessary to reopen the record to receive additional evidence. For the long term another approach will have to be considered if after reopening the record for additional testimony on safety, the Commission is not convinced the interim system is as safe as conventional transmission and distribution systems.

A hearing will be scheduled on August 22, 1983 to hear additional testimony on the safety of the present system and on possible alternatives, including burying the cable in the riverbed and stringing the cable overhead. The Commission will expect the Petitioner to present more definitive information about these alternatives at the hearing.

In view of the above discussion, the Commission will issue a temporary license to the Petitioner to maintain submarine power cables under public waters of the Upper Salmon Falls

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River in the Town of Milton Mills, New Hampshire. Also, Petitioner is required commencing June 15, 1983 and every year thereafter to furnish the Commission its latest balance sheet and income statement.

Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is made a part

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hereof and upon the terms and conditions stated therein; it is hereby

ORDERED, that Petitioner, Millenium Power Incorporated, is granted a temporary license to cross the Upper Salmon Falls River in the locations set forth in Petitioners Exhibits; and it is

FURTHER ORDERED, that a hearing is set for August 22, 1983 at 10:00 a.m. for the purposes set forth in the Report.

By order of the Public Utilities Commission of New Hampshire this ninth day of June, 1983.

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NH.PUC*06/09/83*[79682]*68 NH PUC 405*Gas Service, Inc.

[Go to End of 79682]

Re Gas Service, Inc.

DR 83-194, Order No. 16,465

68 NH PUC 405

New Hampshire Public Utilities Commission

June 9, 1983

ORDER approving contract for interruptible seasonal gas sales.

BY THE COMMISSION:

ORDER

WHEREAS, On June 7, 1983, Gas Service Inc. filed Special Contract No. 31 for sales of Interruptible Seasonal Gas to Mohawk Associates of Nashua; and

WHEREAS, the price and the other contract terms are consistent with prior contracts of this type by Gas Service and appear reasonable and in the public interest; it is hereby

ORDERED, that Gas Service Inc., Special Contract No. 31 for Interruptible Seasonal Sales to Mohawk Associated is hereby approved.

By Order of the Public Utilities Commission of New Hampshire this ninth day of June, 1983.

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[Go to End of 79683]

Re Camp Se-Sa-Ma-Ca, Inc.

DX 83-193, Order No. 16,467

68 NH PUC 406

New Hampshire Public Utilities Commission

June 9, 1983

ORDER giving limited authorization for purchase of land in railroad right of way.

BY THE COMMISSION:

ORDER

WHEREAS, Camp Se-Sa-Ma-Ca, Inc. ("Camp") has petitioned for authorization for the Boston & Maine Railroad to enter into negotiations for the sale to the camp of certain railroad right-of-way property located within the Camp; and

WHEREAS, the Camp in its petition stated that it does not intend to place any structure or impediment upon the land; and

WHEREAS, in Exhibit 2 of the petition, the Boston and Maine Railroad proposed to retain an easement to allow the restoration of the right-of-way to the Boston & Maine Railroad at some time in the future if railroad operations were to commence again; and

WHEREAS, in Exhibit 2 of the petition, the Boston & Maine Railroad indicated its willingness to enter into negotiations for the sale to the Camp of the identified right-of-way; it is hereby

ORDERED, that all authorizations required from the New Hampshire Public Utilities Commission for the sale of the subject right-of-way be and hereby are granted except as otherwise limited by this Order; and it is

FURTHER ORDERED, that the right-of-way may only be sold if it is subject to an easement to allow the restoration of the right-of-way to the Boston and Maine Railroad at some time in the future if railroad operations were to commence again; and it is

FURTHER ORDERED, that the right-of-way may only be sold if such sale is conditioned on a covenant prohibiting the buyer from placing any structure or impediment upon the land; and it is

FURTHER ORDERED, that a copy of this Order be served upon the Town of Raymond, New Hampshire and the Commissioner of Public Works and Highways.

By order of the Public Utilities Commission of New Hampshire this ninth day of June, 1983.

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[Go to End of 79684]

Re Public Service Company of New Hampshire

Intervenors: Business and Industry Association of New Hampshire, Community Action Program, and Campaign for Ratepayer Rights

DR 82-333, Fourth Supplemental Order No. 16,471

68 NH PUC 407

New Hampshire Public Utilities Commission

June 10, 1983

ORDER resolving procedural matters for electric utility rate case.

APPEARANCES: Sulloway, Hollis and Soden by Martin L. Gross for Public Service Company of New Hampshire; Ransmeier and Spellman by Dom S. D'Ambruoso for the Business and Industry Association of New Hampshire; Gerald M. Eaton for Community Action Program; Lawrence S. Eckhaus, for Campaign for Ratepayer Rights; Larry M. Smukler for the staff.

By the COMMISSION:

REPORT

On December 29, 1982, Public Service Company of New Hampshire (PSNH) filed with the New Hampshire Public Utilities Commission (Commission) Tariff NHPUC No. 28 Electricity which is designed to increase nonenergy rates by approximately $33 million. By Supplemental Order No. 16,144 (January 17, 1983) that tariff schedule was suspended by the Commission. Public hearings were held throughout the State during the months of January and February, 1983. On June 1, 1983, a Procedural Hearing was held in the matter. At that Procedural Hearing, questions were raised as to intervention, PSNH's intent to update its test year, continuation of the rate design consultative process, scheduling and various procedural matters involving the man, net of participation of Staff and Intervenor counsel. We shall address each of these questions in turn.

INTERVENTION

Motions to Intervene were filed by the Business and Industry Association of New Hampshire (BIA), Community Action Program (CAP), and Campaign for Ratepayer Rights (CRR). PSNH objected to the intervention of CRR for the reasons stated on the record during the June 1, 1983 Procedural Hearing. The Commission granted CRR's Motion to Intervene and PSNH noted its exception. The Motions to Intervene

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of the BIA and CAP are also granted.

UPDATED TEST YEAR

PSNH noted its intention to update its test year to the year ending March 30, 1983. PSNH proposed to file data on this updated test year on June 30, 1983. We will allow PSNH to file whatever additional data it deems appropriate. However, our decision to allow the additional filing cannot be construed as approval of the request of PSNH that it be permitted to update its test year or of the particular data filed in support of such an updated test year. Nor can our decision be construed as a determination of the effect of this filing on the statutory time periods for the suspension of tariff schedules established by RSA 378:6 or other statutory provisions including *inter alia* RSA 378:27-30. That determination may be made only after we have had an opportunity to examine PSNH's additional filing and consider any objections or arguments which the parties may raise.

RATE DESIGN CONSULTATIVE PROCESS

The parties raised the issue of whether the existing rate design consultative process should be continued as a part of this proceeding. We believe that the consultative process has been a constructive approach to the complex issues arising in the course of moving toward a marginal cost rate structure. Thus, in Report and Third Supplemental Order No. 16,227 (February 24, 1983 [68 NH PUC 76]), we authorized the parties to continue in that process as they deemed appropriate. That Order is incorporated herein by reference. In addition we will now direct the parties to continue to engage in that process in the context of this proceeding. Specifically, the parties are directed to meet at least once prior to the time that the direct testimony on rate structure must be filed by PSNH. The Commission anticipates that through this process the parties will attempt to identify and define those rate structure issues on which they agree and those rate structure issues on which they disagree. The Commission also directs the parties to file, at the same time PSNH's direct testimony on rate structure is filed, a memorandum listing the issues on which agreement was reached and the issues on which agreement was not reached. The Commission also hereby notifies the parties that it is most interested in testimony and exhibits which address issues on which agreement was not reached. After all testimony has been tiled and the discovery period is concluded, but prior to scheduled hearings, the Commission will direct the parties to meet informally once again to attempt to resolve those issues on which agreement had not previously been reached.

SCHEDULE

PSNH proposed a bifurcated schedule with one part of the schedule (Part A) directed to the issue of revenue requirements and the other part of the schedule (Part B) directed to the issues of rate structure. The rate structure issues include conservation and load managment. The parties were in substantial agreement with the bifurcated schedules proposed by PSNH and, accordingly, the Commission will establish

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the following schedule for this docket:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

PART A

June 30, 1983

July 22, 1983

August 15, 1983

September 1, 1983

September 15, 1983

September 30, 1983

October 6, 1983

Week of
October 17, 1983

Week of
October 24, 1983

PART B

June 13, 1983 to
July 24, 1983
August 1, 1983

August 15, 1983

August 30, 1983

September 15, 1983

September 23, 1983

September 30, 1983

October 7, 1983

Week of
October 31, 1983

PART A AND PART B

Week of
November 7, 1983
December 15, 1983

PARTICIPATION OF COUNSEL

PSNH proposed that the Intervenors participate in this proceeding under a lead counsel concept as appropriate. The Commission encourages the Intervenors to engage in lead counsel participation, but we will not at this time require the Intervenors to adopt lead counsel participation.

PSNH proposed that an order of cross-examination be fixed. The Commission encourages the parties to agree on an order of cross-examination at the conferences to narrow issues. At this time, we shall not require the parties to adopt or adhere to a particular order of

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cross-examination.

PSNH proposed that Staff be required to participate in this proceeding through counsel. As always, we anticipate that Staff will coordinate their participation and counsel is the appropriate Staff member to perform this coordinating function. However, we do not believe that it is necessary or appropriate at this time to direct the precise manner of the staff participation on the record in these proceedings.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report which is made a part hereof; it is hereby

ORDERED, that all procedural matters are resolved as set forth in the Report.

By order of the Public Utilities Commission of New Hampshire this tenth day of June, 1983.

AESCHLIMAN, commissioner, separate

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opinion: For the reasons that I articulated during the June 1, 1983 Procedural Hearing, I would not move forward with this docket pending resolution of the uncertainties of the Consumer Advocate position.

I concur with the Commission's Report and Order in all other respects.

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NH.PUC*06/13/83*[79685]*68 NH PUC 410*New England Telephone and Telegraph Company

[Go to End of 79685]

Re New England Telephone and Telegraph Company

DR 83-191, Order No. 16,474

68 NH PUC 410

New Hampshire Public Utilities Commission

June 13, 1983

ORDER approving telephone company tariffs that modify its Centrex term payment plan.

By the COMMISSION:

ORDER

WHEREAS, New England Telephone and Telegraph Company filed with this Commission certain revisions of its Tariff No. 75 by which it proposes modification of its Centrex Term Payment Plan (CTPP); and

WHEREAS, said modification is modeled after a plan filed in compliance with this

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Commission's Order No. 15,752 in Docket DR82-70 (67 NH PUC 469); and

WHEREAS, the Commission finds that conditions today are as compelling as those prompting the earlier order; and

WHEREAS, the Commission finds further that the offering of such services benefits not only the affected customers but also the general rate-payer; it is

ORDERED, Pt. A, Sec. 7, 1st Revised Pages 68 and 69, New England Telephone and Telegraph Co. tariff, NHPUC No. 75, be, and hereby are, approved for effect July 1, 1983.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of June, 1983.

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NH.PUC*06/20/83*[79686]*68 NH PUC 411*Winter Termination Rules

[Go to End of 79686]

Re Winter Termination Rules

DRM 83-31, Order No. 16,476

68 NH PUC 411

New Hampshire Public Utilities Commission

June 20, 1983

ORDER soliciting comments on the identification of heating customers with regard to winter termination of service policies.

By the COMMISSION:

ORDER

WHEREAS, Order No. 16,164 in DRM 82-304 (68 NH PUC 22) adopted amendments to the winter termination rules; and

WHEREAS, DRM 83-31 was opened to address specific issues regarding appropriate arrearage levels and the identification of heating customers as they relate to winter termination policies; and

WHEREAS, data from the 1982-1983 winter period is now available and these issues should be addressed prior to the next winter; it is hereby

ORDERED, that all interested parties file comments by July 22, 1983 regarding the following five issues:

(1) Is it appropriate to establish specific protection to non-heating gas customers and if so, what is a reasonable arrearage level? (2) What is an appropriate arrearage level for non-hearing electric customers? (3) Should the Commission use a percentage of the bill rather than standard arrearage levels? (4) What usage should be established to identify

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gas and electric heating customers? (5) Are there other appropriate means to identify heating customers?

By order of the Public Utilities Commission of New Hampshire this twentieth day of June, 1983.

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NH.PUC*06/21/83*[79687]*68 NH PUC 412*Public Service Company of New Hampshire

[Go to End of 79687]

Re Public Service Company of New Hampshire

DF 83-172, Order No. 16,477

68 NH PUC 412

New Hampshire Public Utilities Commission

June 21, 1983

ORDER authorizing electric utility to issue and sell common stock.

SECURITY ISSUES, § 132 — Scope of proceedings — Prudency of construction.

[N.H.] Approval by the commission of the issuance of common stock is not to be construed as approval for the prudency of the investment, which will be addressed when the utility requests that the cost of construction be passed on to the rate-payers.

APPEARANCES: Frederick J. Coolbroth for the petitioner.

By the COMMISSION:

REPORT

By this unopposed petition filed May 19, 1983, Public Service Company of New Hampshire (the "Company"), a corporation duly organized and existing under the laws of the State of New Hampshire, and operating therein as an electric public utility under the jurisdiction of this Commission, seeks authority pursuant to the provisions of RSA 369 to issue and sell for cash not exceeding five million (5,000,000) shares of Common Stock, five dollars ($5) par value. A duly noticed hearing was held in Concord on June 9, 1983, at which the Company submitted the testimony of John J. Lampron, Assistant Vice President.

Mr. Lampron stated that the proceeds of the sale of the Common Stock will be used (a) to pay off any short-term notes of the Company outstanding at the time of sale, the proceeds of which will have been principally expended in the purchase and construction of property reasonably requisite for present and future use in the conduct of the Company's business; (b) to finance the purchase and construction of additional such property; and (c) for other proper

corporate purposes. All expenses incurred in accomplishing the financing will be paid from the general funds of the Company.

The Common Stock will be sold through a negotiated public offering. Mr. Lampron described the expected terms of sale and explained why the Company proposed a negotiated rather than a competitive sale.

The Company submitted a balance sheet as at April 30, 1983, actual and proformed to reflect a proposed $50,000,000 nuclear fuel financing,

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the proposed extension of the maturity of $25,000,000 of term notes and the proposed sale of the Common Stock. Exhibits were also submitted showing: disposition of proceeds; estimated expenses of the issue; and capital structure as at April 30, 1983, actual and proformed to reflect a proposed $50,000,000 nuclear fuel financing and the proposed sale of the Common Stock. A certified copy of authorizing votes of the Company's Board of Directors was put in evidence.

Based upon all the evidence, the Commission finds that the proceeds from the sale of the Common Stock will be expended (1) to pay off any short-term notes of the Company outstanding at the time of sale; and (2) for other proper corporate purposes.

The approval of these proceedings for the issuance of common stock is not to be construed as an advance approval for the prudency of the investment. Issues pertaining to prudency will be addressed at such time as a construction project is requested to be passed on to the ratepayers.

Upon investigation and consideration of the evidence submitted, the Commission is of the opinion that the granting of the authorization and approval sought will be consistent with the public good.

Our Order will issue accordingly.

ORDER

Based upon consideration of the foregoing report, which is made a part hereof; it is

ORDERED, that Public Service Company of New Hampshire be, and hereby is, authorized to issue and sell not exceeding five million (5,000,000) shares of Common Stock, five dollars ($5) par value, for cash in accordance with the foregoing report and as set forth in its petition; and it is

FURTHER ORDERED, that Public Service Company of New Hampshire shall submit to this Commission the number of shares of said Common Stock to be sold, and the purchase price thereof, after which a Supplemental Order will issue approving the number of shares of the Common Stock to be sold and the purchase price thereof; and it is

FURTHER ORDERED, that the proceeds from the sale of said Common Stock shall be used for the purpose of discharging and repaying any outstanding short-term notes of said company and for the other purposes stated in the report; and it is

FURTHER ORDERED, that on January first and July first in each year, Public Service Company of New Hampshire shall file with this Commission a detailed statement, duly sworn to

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by its Treasurer or Assistant Treasurer, showing the disposition of the proceeds of said securities being authorized until the expenditure of the whole of said proceeds shall have been fully accounted for.

By Order of the Public Utilities Commission of New Hampshire this twenty-first day of June, 1983.

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NH.PUC*06/21/83*[79688]*68 NH PUC 414*Public Service Company of New Hampshire

[Go to End of 79688]

Re Public Service Company of New Hampshire

DF 83-167, Order No. 16,478

68 NH PUC 414

New Hampshire Public Utilities Commission

June 21, 1983

ORDER authorizing utility to extend the maturity date of term notes.

APPEARANCES: Frederick J. Coolbroth for the petitioner.

By the COMMISSION: By this unopposed petition filed May 12, 1983, Public Service Company of New Hampshire (the "Company"), a corporation duly organized and existing under the laws of the State of New Hampshire, and operating therein as an electric public utility under the jurisdiction of this Commission, seeks authority pursuant to the provisions of RSA 369 to further extend the maturity of term notes aggregating $25,000,000 (the "Term Notes"). The Commission in its Order No. 16, 140 in Docket No. 82-331 (68 N H PUC 5) had authorized the extension of the maturity of the Term Notes to January 13, 1984; however, the Company was unable to arrange with the lending banks for such an extension. The maturity of the Term Notes has been extended since January 11, 1983, on a short-term basis, and the Term Notes currently mature on June 30, 1983.

A duly noticed hearing was held in Concord on June 9, 1983, at which the Company submitted the testimony of John J. Lampron, Assistant Vice President.

The seven lending banks and the amount which each has lent the Company are as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Citibank, N.A.	$5,000,000
The First National Bank of Boston	5,000,000
Manufacturers Hanover Trust Company	5,000,000
Morgan Guaranty Trust Company of New York	5,000,000
Bank of America National Trust and Savings Association	2,000,000
Continental Illinois National Bank and Trust Company of Chicago	2,000,000
Shawmut Bank of Boston, N.A.	1,000,000

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Mr. Lampron stated that the Company and the banks have agreed to extend the maturity of each Term Note to a date which is one year and one day from the second business day following the issuance of an Order by this Commission authorizing such an extension. The proposed extension will be on the existing terms, which provide for interest to be paid quarterly at fluctuating interest rates per annum equal to the sum of 116% of the base commercial lending rate charged from time to time by The First National Bank of Boston, plus 1/4%, and that the principal or any portion in integral multiples of $1,000,000 may be repaid at any time upon three days notice.

Mr. Lampron stated that the Company

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believes that it is preferable to extend the maturity of the Term Notes rather than repaying them at maturity so that other permanent financing can be utilized to meet the Company's heavy 1983 construction financing requirements and to maintain as low as possible the Company's short-term debt in order to enhance the Company's financial flexibility.

The Company submitted a balance sheet as at April 30, 1983, actual and pro formed to reflect the proposed extension of the maturity of the Term Notes.

Upon investigation and consideration, the Commission is satisfied and finds that extension of the maturity of the Term Notes will be consistent with the public good.

Our order will issue authorizing the extension of the maturity, on the terms presented, of the Company's outstanding Term Notes in the amount of $25,000,000 payable to said group of commercial banks.

ORDER

Based upon consideration of the foregoing report, which is made a part hereof; it is

ORDERED, that Public Service Company of New Hampshire be, and hereby is, authorized to extend to a date which is one year and one day from the second business day following the date of this Order the maturity of its Term Notes in the aggregate amount of $25,000,000 presently payable on June 30, 1983, to the following banks:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Citibank, N.A.	$5,000,000
The First National Bank of Boston	5,000,000
Manufacturers Hanover Trust Company	5,000,000
Morgan Guaranty Trust Company of New York	5,000,000
Bank of America National Trust and Savings Association	2,000,000
Continental Illinois National Bank and Trust Company of Chicago	2,000,000
Shawmut Bank of Boston, N.A.	1,000,000

and bearing interest at fluctuating rates per annum equal at all times to the sum of 116% of the base commercial lending rate charged from time to time by The First National Bank of Boston, plus 1/4%.

By Order of the Public Utilities Commission of New Hampshire this twenty-first day of June, 1983.

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NH.PUC*06/21/83*[79689]*68 NH PUC 416*Public Service Company of New Hampshire

[Go to End of 79689]

Re Public Service Company of New Hampshire

DF 83-168, Order No. 16,479

68 NH PUC 416

New Hampshire Public Utilities Commission

June 21, 1983

ORDER authorizing electric utility to enter into nuclear fuel financing.

SECURITY ISSUES, § 132 — Scope of proceedings — Prudency of investment.

[N.H.] Proceedings approving an arrangement for nuclear fuel financing, whereby a utility would grant a security interest in nuclear material acquired for a generating plant, is not to be construed as approval for the prudency of the investment, which will be addressed at the time the utility requests that costs be passed on to the rate-payers.

APPEARANCES; Frederick J. Coolbroth for the petitioner.

By the COMMISSION:

REPORT

By this unopposed petition filed May 19, 1983, Public Service Company of New Hampshire (the "Company"), a corporation duly organized and existing under the laws of the State of New Hampshire, and operating therein as an electric public utility under the jurisdiction of this Commission seeks certain authority from this Commission in connection with a $50,000,000 nuclear fuel financing. A duly noticed hearing was held in Concord on June 9, 1983, at which the Company submitted the testimony of Shelton B. Wicker, Jr., the Company's Manager of Special Financial Projects.

Mr. Wicker stated that the Company proposes to enter into a Nuclear Material Lease and Security Agreement with PruLease, Inc., a wholly-owned indirect subsidiary of The Prudential Insurance Company of America (the "Agreement"), providing for the issuance by the Company from time to time of evidences of indebtedness in an aggregate principal amount not exceeding $50,000,000 outstanding at any one time. The amounts outstanding will be secured by the Company's ownership interest in nuclear fuel and certain property and rights acquired for

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Seabrook Station as defined in the Agreement as "Nuclear Material".

Under the Agreement, the Company will from time to time convey title to the Nuclear Material to PruLease for the purpose of establishing a security interest in such Nuclear Material. PruLease will reimburse the Company for the acquisition costs of the Company theretofore incurred with respect

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to the Nuclear Material being financed and will either reimburse the Company for costs thereafter incurred or make payments on behalf of the Company to suppliers, subject to the $50,000,000 limitation of this financing. The Company will pay rent relating to the Nuclear Material financed in this manner, which rental payments function as the payment of interest and, once burn-up of the Nuclear Material commences, repayment of the principal amount financed on a schedule which corresponds to the burn-up. Any costs relating to the Nuclear Material which are not paid by PruLease will remain the responsibility of the Company. The principal amounts financed will remain oustanding until repaid in accordance with the burn-up schedule for the Nuclear Material or upon termination of the Agreement as to part or all of the Nuclear Material. The Agreement may be terminated (a) as to the entire principal amount, by either party upon two years written notice or (b) as to part or all of the principal amount, at the expiration of shorter notice periods upon the occurrence of certain contingencies. PruLease may in its sole discretion decline to advance new funds under the Agreement at any time and, accordingly, there are no charges similar to commitment fees associated with this proposed financing.

The proposed rates of interest payable monthly in advance in the form of rent on amounts outstanding are (a) at the Company's option for not more than $15,000,000 in principal amount (such option to be exercised at the time of the execution of the Agreement) and (b) as to the remaining principal amount, the yield adjusted commercial paper rate for Prudential Funding Corporation, an affiliate of PruLease, adjusted monthly, plus 2.50%. Subject to the $50,000,000 limitation of this financing and with the mutual agreement of PruLease and the Company, rental payments may be capitalized and added to the principal amount outstanding rather than being paid currently.

Mr. Wicker stated that the proceeds from this proposed financing will be used (a) to pay off a portion of the short-term notes outstanding at the time of sale, the proceeds of which will have been expended in the purchase and construction of property reasonably requisite for present and future use in the conduct of the Company's business; (b) to finance the purchase and construction of additional such property; and (c) for other proper corporate purposes.

The Company also submitted the latest draft of the Agreement and exhibits showing: disposition of proceeds, estimated expenses of the financing; and the balance sheet and capital structure of the Company as at April 30, 1983, actual and proformed to reflect a proposed extension of maturity of Term Notes and the proposed $50,000,000 Nuclear Fuel Financing. A certified copy of authorizing votes of the Company's Board of Directors was put in evidence.

At the hearing the Company stated that it would report to the Commission on the results of its negotiations with PruLease, Inc. regarding the rate of interest payable on amounts elected by the Company to be financed on a fixed-rate basis. PruLease, Inc. has advised the Company that it

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is not in a position to alter the fixed rate without a substantial delay in the completion of this financing. The Company has notified

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PruLease that it will not exercise the option to finance any of the principal amount on a fixed-rate basis.

Due to the fact that a substantial re-write of the Nuclear Material Lease and Security Agreement would be required to actually remove the language covering the fixed-rate option, the Company does not propose to remove the language related to the fixed-rate option. The Company has stipulated that it will not exercise the option to finance any of the principal amount at the fixed rate. The Commission will expect the Company to adhere to that stipulation.

Based on all the evidence, the Commission finds that the entering into of the proposed nuclear fuel financing, including the granting by the Company to PruLease of a security interest in the Company's ownership interest in certain Nuclear Material acquired or to be acquired for Seabrook Station and the conveyance of title to such Nuclear Material to PruLease for the purpose of evidencing such security interest upon the terms to be proposed will be consistent with the public good.

The approval of these proceedings for nuclear fuel financing is not to be construed as an advance approval for the prudency of the investment. Issues pertaining to prudency will be addressed at such time that the costs are requested to be passed onto the rate-payer.

Our Order will issue accordingly.

ORDER

Based upon consideration of the foregoing report, which is made a part hereof; it is

ORDERED, that Public Service Company of New Hampshire be, and hereby is, authorized to enter into the nuclear fuel financing described in the foregoing Report and in connection therewith to issue and reissue from time to time its secured evidences of indebtedness in an aggregate principal amount not exceeding $50,000,000 outstanding at any one time; and it is

FURTHER ORDERED, that this Commission hereby approves the granting by said Company to PruLease, Inc., of a security interest in said Company's ownership interest in nuclear fuel and related property acquired or to be acquired for Seabrook Station, including the assignment of certain contract rights, as described in the foregoing report; and it is

FURTHER ORDERED, that this Commission hereby assents to the conveyance by said Company to PruLease, Inc., of title to such nuclear fuel and related property for the purpose of establishing such security interest in PruLease, Inc.; and it is

FURTHER ORDERED, that the terms of the foregoing transactions shall not be substantially at variance with those contained in the latest draft documents filed in this proceeding without prior written approval of this Commission; and it is

FURTHER ORDERED, that the proceeds from this financing shall be used for the purpose of discharging or repaying a portion of the outstanding short-term notes of said Company and for the other purposes stated in the report; and it is

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FURTHER ORDERED, that on January first and July first in each year, Public Service Company of New Hampshire shall file with this Commission

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a detailed statement, duly sworn to by its Treasurer or Assistant Treasurer, showing the disposition of the proceeds of the proposed financing until the expenditure of the whole of said proceeds shall have been fully accounted for.

By Order of the Public Utilities Commission of New Hampshire this twenty-first day of June, 1983.

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NH.PUC*06/21/83*[79690]*68 NH PUC 419*Northern Utilities, Inc.

[Go to End of 79690]

Re Northern Utilities, Inc.

Intervenor: Community Action Program

DR 83-90, Supplemental Order No. 16,481

68 NH PUC 419

New Hampshire Public Utilities Commission

June 21, 1983

ORDER approving temporary rates.

APPEARANCES: Paul K. Connolly, Eli Farrah, and Margaret H. Nelson for Northern Utilities, Inc.; Gerald Eaton for Community Action Program (CAP); Kenneth E. Traum and George Gantz for the PUC Staff.

By the COMMISSION: On April 21, 1981, Northern Utilities, Inc. (hereafter the Company), a public utility, providing gas service to customers in a portion of the State, filed revised tariff pages to N.H.P.U.C. #6 providing for increased revenues in the amount of approximately $1,500,000.00 effective May 21, 1083. On the same day, the Company filed a Petition for Temporary Rates pursuant to RSA 378:27 requesting temporary rates in the amount of $897,890.00 to be fixed and determined for the duration of this proceeding, approximately a 6.5% revenue increase over the 1982 total utility revenue.

The Commission directed that the request for permanent rates be published by public notice. An all affidavit of publication was filed with the Commission setting forth that publication was made in the Portsmouth Herald on May 6, 1983 and May 13, 1983.

On April 29, 1983, the Commission issued Order No. 16,384 suspending the revised tariff pages to tariff N.H.P.U.C. 6 issued an Order of Notice setting a public hearing on June 20, 1983 at Concord, for the purpose of investigating the Company's petition for temporary rates. Said

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Order of Notice was published in the Portsmouth Herald on June 4, 1983. The Company presented three witnesses at the hearing on .June 20, 1983; Thomas

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Sherman, Vice President, Treasurer and Director, David A. Deans, Assistant Vice President for Financial Services and James D. Simpson, Rate Manager. The previous testimony of these witnesses, which had been pre-filed as part of the permanent rate proceeding, was admitted as Exhibits A, C, and H., respectively.

Mr. Sherman testified generally as to the Company's need for temporary rate relief, pointing to the poor earnings record of the Company, known and already experienced increases in expenses and the need to improve the Company's earnings and cash flow.

Mr. Deans testified as to the calculation of the temporary rate request as detailed in Exhibit A to the Petition for Temporary Rates. During Mr. Deans' testimony, some questions were raised regarding the impact of HB 500, the "gross receipts franchise tax" bill currently before the New Hampshire General Court. Mr. Deans testified that the Company was not currently requesting any adjustment in its temporary rate request as a consequence of this proposed legislation, but the Company did request the opportunity to subsequently request such an adjustment if the bill became law.

Said request will be granted for the Company, as well as for all other parties.

Mr. Simpson testified as to the Company's proposal for implementing temporary rates. Mr. Simpson requested that the temporary rates be effective for bills rendered on or after June 20, 1983. Mr. Simpson proposed to collect the temporary rate increase by increasing the revenues from each rate class by an equal percentage and by collecting an equal per-therm surcharge within each rate class. He proposed that the Company be permitted to roll an additional 35.01¢ of gas costs into base rates, bringing the total to 52.11¢. Mr. Simpson acknowledged that the Staff had suggested in a settlement conference that only an additional 30¢ of gas costs, bringing the total to approximately 47¢, be rolled in at this time. Mr. Simpson testified that while the Company did not object to the Staff's suggestions, the Company's proposal to roll in an additional 35.01¢ would facilitate explanations to customers concerning their gas bills. Mr. Simpson noted that the Company would flow through to firm customers all interruptible profits received after the effective date of the temporary rates.

Having heard the evidence and taking into account the fact that the parties met on several occasions prior to the June 20, 1983 hearing, and agreed in general with the presentation made by the utility of June 20, 1983, the Commission finds that it is in the public interest to permit as temporary rates for the duration of these proceedings, an increase in the sum of $897,890.00 for all bills rendered on or after June 20, 1983, and to accept the Company's proposal for implementing same. Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof, it is hereby

ORDERED, that the Company be permitted to increase its rates by the

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sum of $897,890.00 in temporary rates effective for bills rendered on or after June 20, 1983; and it is

FURTHER ORDERED, that the said temporary rates be implemented in accordance with the Company's proposal; and it is

FURTHER ORDERED, that an adjustment in said temporary rates will be made if HB 500, the "gross receipts franchise tax" becomes law; and it is

FURTHER ORDERED, that effective with the date of this Order, all profits[1(25)] on Interruptible Sales will be credited against next winter's cost of gas adjustment.

By Order of the Public Utilities Commission of New Hampshire this twenty-first day of June, 1983.

FOOTNOTE

[1]Profits defined as gross revenues less the cost of gas.

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NH.PUC*06/22/83*[79691]*68 NH PUC 421*New Hampshire Department of Public Works and Highways

[Go to End of 79691]

Re New Hampshire Department of Public Works and Highways

Intervenor: Boston and Maine Corporation

DX 83-20, Order No. 16,482

68 NH PUC 421

New Hampshire Public Utilities Commission

June 22, 1983

ORDER denying reconsideration of authorization to construct a public crossing.

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APPEARANCES: Peter C. Scott for the Department of Public World Highways; John Adams for the Boston and Maine Corporation.

BY THE COMMISSION:

REPORT

On May 2, 1983 the Boston & Maine Corporation (Company) filed with the Commission a letter Motion for Rehearing on the finding contained in Order No. 16,312 (68 NH PUC 171) wherein the Department of Public Works & Highways was authorized to lay out and construct a

public crossing at grade in the Town of Jefferson which crossing is to be, protected by installation of automatic flashing lights the cost of construction & installation to be borne by the Department of Public Works & Highways.

The Company requests that the Commission schedule a rehearing for the following reasons:

1) The Commission did not give adequate consideration to the elimination of the proposed crossing or elimination of related vicinity crossings. 2) The Commission did not give adequate consideration to the significant hazardous material loads designated by the line. 3) Grade separation costs were not adequately proven.

Prior to the parties stating their position on the Motion for Rehearing, Counsel for the Department of Public Works & Highways challenged the motion as being untimely. The order issued April 1, 1983 and the Company's letter motion was received on May 2, 1983. RSA 541:3 requires a Motion for Rehearing to be filed within twenty days after any order or decision has been made.

The Company did not present any arguement in support of the first reason or ground for rehearing. A review of the Commission's report shows that the Commission did consider elimination of grade crossing. See discussion on pages 2 and 5 of the aforementioned report.

The counsel for the Department of Public Works & Highways states that it is questionable as to whether the Commission has jurisdiction to consider eliminating the proposed crossing. As to the elimination of a related vicinity crossing the Department insists the railroad would have to comply with the requirement of RSA 373:22 et seq.

As to the second reason set forth by the Company it is argued that a traffic count taken on May 24th shows a significantly different figure than that presented at the February 22, 1983 hearing. The Company also argues that it has determined that 56 1/2% of the cars on inbound trains to James River Paper Co. carry cargo which the F.R.A. recognizes as hazardous materials. They admit that the Company at the original hearing had given that figure to be 25%.

Counsel for the Department of Public Works & Highways maintains that there was testimony at the original hearing on the number of cars carrying hazardous material and a reading of the Commission's report will so indicate. He further argued that the railroad at the original hearing or indeed at the hearing on this motion has not proved that the trains differ substantially from the average train.

As to the third ground that grade

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separation costs were not adequately proven, the Company maintains that the department did not adequately look into or explore realistically the avenue of grade separation but merely concluded that it was uneconomical.

They state that the department has in excess of 12,000,000 in unobligated funds for bridge maintenance project.

Counsel for the department argued that there was testimony regarding costs both as to economics and social costs. In addition costs relating to the location of a possible bridge and the

problems associated there with due to the proximity of another highway and a river.

The Commission report addresses that issue on page 3.

Discussion

As to the first issue there is no new material supplied to the Commission. The Commission did consider the elimination of the proposed crossing when it considered the various alternatives available. The Commission can not address the elimination of a related vicinity crossing without complying with RSA 373:22 et seq. Sufficient reasons to disturb the statutory procedures to lay out highway has not been demonstrated therefore the Commission will not interfere with that procedure.

Having considered the arguments of the parties the Commission rejects the Company's first reason for reconsideration.

As to the second reason a review of the report indicates that the cargo of the trains passing through the crossings was considered and based on the material submitted at the original hearing the Commission's conclusion is proper. However whatever the cargo is, it is the same as what is presently passing through and the Commission finds that there is no additional hazard created by the proposed crossing. Therefore, the Commission rejects the second reason for reconsideration.

The third reason suggests that the Commission did not adequately look into or explore the economics of the grade separations. We disagree, a review of the record clearly demonstrates that subject was considered. The third reason is rejected.

The three reasons submitted in the Motion for Rehearing having been rejected, the Motion to Reconsider is denied.

Our order will issue accordingly.

ORDER

Based on the foregoing report, which is made a part hereof, it is

ORDERED, that the Motion of the Boston and Maine Corporation to Reconsider the Report issued April 1, 1983 and Order No. 16,312 is denied.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of June, 1983.

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NH.PUC*06/22/83*[79692]*68 NH PUC 424*Littleton Water and Light Department

[Go to End of 79692]

Re Littleton Water and Light Department

DR 83-199, Order No. 16,483

68 NH PUC 424

New Hampshire Public Utilities Commission

June 22, 1983

ORDER authorizing tariff for one-month lagging fuel adjustment charge.

BY THE COMMISSION:

ORDER

WHEREAS, On June 13, 1983, Littleton Water and Light Department filed a letter and tarriff pages requesting a change from a two month lagging monthly fuel adjustment charge to a one-month lagging monthly fuel adjustment charge, accomplished by charging April and May wholesale fuel charges in June; and

WHEREAS Littleton has already implemented the change for its inside customers and requests approval from this Commission to implement the change for its 45 outside customers; and

WHEREAS, the June fuel charge would be $1.55 per 100 KWH ($1.13 plus $.42), which is actually lower than the May fuel charge of $1.97 per 100 KWH due to New England Powers extensive use of hydro resources in the April-May time period; and

WHEREAS, the Commission finds this request to be just and reasonable; it is hereby

ORDERED, that Littleton Water and Light Department is hereby authorized to charge a $1.55 per 100 KWH fuel charge to its 45 outside customers in the month of June and to alter its fuel charge in the manner requested; and it is

FURTHER ORDERED, that Littleton shall file 115th Revised Page 6 superseding 114th Revised Page 6 to its tariff implementing a $1.55 per 100 KWH fuel charge for the month of June

By Order of the Public Utilities Commission of New Hampshire this twenty-second day of June, 1983.

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NH.PUC*06/22/83*[79693]*68 NH PUC 425*City of Manchester

[Go to End of 79693]

Re City of Manchester

Intervenors: New Hampshire Department of Public Works and Highways, Boston and Maine Corporation, and Manchester Gas Company

DX 83-128, Order No. 16,486

68 NH PUC 425

New Hampshire Public Utilities Commission

June 22, 1983

ORDER authorizing removal of grade crossing.

APPEARANCES: Frank Thomas, city engineer and Martin R. Lomasney, vice president of consulting firm of Costello, Lomasney & de Napoli, Inc., For the City of Manchester; Roderick Cyr for the New Hampshire Department of Public Works and Highways; John Adams for the Boston and Maine Corporation; Albert Hanlon for the Manchester Gas Company.

BY THE COMMISSION:

REPORT

By petition, filed April 1, 1983, the City of Manchester seeks authority to remove the grade-crossing on the Turner Street Spur Track at Granite Street, an additional 110 feet of nearby track, also the removal of the bridge across the Merrimack River which carries the Goffstown Branch of the Boston and Maine Corporation. Hearing thereon was held at Concord on May 12, 1983.

For the past several years a study has been underway as authorized by the City of Manchester for the construction of an interchange between the F. E. Everett Turnpike and Granite Street. A new hotel complex is under construction in the Granite Street area with the understanding that the interchange will be provided. The Hotel Structure will open in December of this year and the off ramp from the Northbound Lane of the Turnpike, now under construction, is scheduled for completion in November or December.

The Turnpike parallels the Merrimack River a short distance west of its west bank. The initial proposal was to begin the construction of the off-ramp at Station 846 which is approximately 600 feet south of its intersection with Granite Street.

The Turner Street spur track leads from the Goffstown Branch west of the Turnpike running in a northerly direction to privately owned spur tracks. It crosses Granite Street at grade immediately adjacent to and west of the Turnpike overhead bridge structure.

Early negotiations between the City of Manchester and the Boston and

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Maine Corporation's representatives planned to eliminate this track to permit the lowering of the grade of Granite Street and provide public delivery tracks on the east-side of the river on land near existing railroad tracks.

During the planning stages of the project authority to abandon the entire Goffstown Branch was granted by a decision of the United States District Court for the District of Massachusetts issued July 14, 1981 in No. 70 250-M Order No. 580. This abandonment includes the Turner Street Spur and that portion of the branch from its connection with other tracks of the Boston and Maine on the east side of the river. Thus the river bridge is also included in the abandoned portion of the line.

With this development it is desired to extend the off-ramp in a southerly direction for a distance of approximately 350 feet to provide a longer weave area between the intersection of the northerly end of the Queen City northbound on-ramp and the beginning of the new off-ramp. To do this requires the elimination of the pier at the west-end of the Merrimack River Bridge

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which also supports the east-end of the girder bridge which carries the Goffstown Branch over the Turnpike.

When the Turnpike was constructed in 1954, the Manchester Gas Company arranged with the Railroad to run an 8-inch high pressure line across the Merrimack River Railroad Bridge and along the railroad's right-of-way to supply gas service to the West-side of the City. It is the desire of the City to have the bridge removed, but to have the piers for the eventual construction of a pedestrian bridge to provide-access between public areas on the East and West banks of the river.

There are four possible alternatives open to the Gas Company: (1) to construct a crossing under the river and turnpike near the location of the location of the existing bridge at an estimated cost of $100,000; (2) to construct a span crossing utilizing the existing piers at an estimated cost of $150,000; (3) to install a main on the Queen City Bridge at an estimated cost of approximately $170,000; or (4) purchase the existing bridge and make such alterations as may be required.

There are two bills before the Legislature requesting funds for this, and the southerly on-ramp project. Senate Bill No. 84 would provide $350,000 to remove the Merrimack River Bridge to permit the construction of the proposed off-ramp and the widening of I-293. Senate Bill No. 85 requests $3,300,000 to build an on-ramp for southbound traffic from Granite Street to the Turnpike. Our immediate concern is in connection with Senate Bill No. 84. If this bill is enacted into law the pier at the west bank of the river will be removed along with the bridge and the lengthened off-ramp will be constructed. If funds are not authorized the shorter off-ramp will be built and the bridge will not be affected. Senate Bill No. 85 will, if passed, provide funds for the construction of the south-bound on-ramp which will cross the Turner Street spur adjacent to its intersection with the Turnpike, thus, if this track is removed the on-ramp for south-bound vehicles can be constructed without making provisions for an overhead bridge across the track.

For the purposes of this report this petition can be divided into two projects. The first deals with the removal of the grade-crossing at Granite

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Street and 110 feet of track immediately north of the crossing. The second deals with the removal of the bridge and the extension of the offramp to Granite Street. Unless the General Court enacts into law the provisions of Senate Bill No. 84, the bridge will remain and there will be no immediate need to alter the high-pressure gas line serving Manchester's West Side.

Since the Goffstown Branch has been authorized to be abandoned there is no reason to require the continuation of a grade-crossing at Granite Street. This crossing is relatively new and the Department of Public Works requests that it be retained for use at another location. Since the crossing was improved with the assistance of State or Federal Funds we feel that this is a reasonable request.

The Turner Street track served patrons as a public delivery facility. Before the abandonment was allowed the City was interested in arranging with the Railroad to provide acceptable alternate facilities on the East-side of the River. We believe that such facilities should be made available for those patrons on Manchester's West Side, and the Goffstown area who desire to

receive or forward freight shipments by rail.

Upon consideration of all the facts, the Commission is of the opinion that the City of Manchester should be permitted to remove the grade-crossing and the additional 110 feet of track on the Turner Street spur provided that adequate facilities for public delivery are made available in or near the railroad yards east of the Merrimack River. Our Order will issue accordingly.

No decision is reached at this time with respect to the removal of tracks and the Merrimack River Bridge. As this involves the 8-inch high-pressure gas line serving West Manchester, and the action of the Legislature in its consideration of Senate Bill No. 84 the disposition of this portion of the petition will be decided after further details are made available to interested parties and to the Commission

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that the City of Manchester and the Boston and Maine Corporation, be, and hereby is, authorized to remove the grade crossing at the intersection of Granite Street and the Turner Street Spur Track and retain the said crossing for use in improving or replacing another grade crossing in the City of Manchester; and it is

FURTHER ORDERED, that the said City of Manchester and Boston and Maine Corporation be, and hereby is, authorized to tear up 110 feet additional of said Turner Street Spur Track in accordance with the plan submitted in the instant case, identified as Docket No. DX 83-128; and it is

FURTHER ORDERED, that the City of Manchester and the Boston and Maine Corporation shall provide adequate public delivery tracks near the railroad yards on the East Side of the Merrimack River to accommodate the shippers and receivers of freight formerly served by facilities connecting with the Goffstown Branch; and it is

FURTHER ORDERED, that the decision

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of the Commission with respect to the removal of the Bridge over the Merrimack River and the Turnpike which carries the tracks of the Boston and Maine Corporation, Goffstown Branch, will be dealt with in a subsequent report.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of June, 1983.

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NH.PUC*06/22/83*[79694]*68 NH PUC 428*Public Service Company of New Hampshire

[Go to End of 79694]

Re Public Service Company of New Hampshire

DF 83-172, Supplemental Order No. 16,488

68 NH PUC 428

New Hampshire Public Utilities Commission

June 22, 1983

ORDER granting electric company authority to issue and sell common stock.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, our Order No. 16,477 dated June 21, 1983 (68 NH PUC 412), issued in the above-entitled proceeding, authorized Public Service Company of New Hampshire to issue and sell not exceeding five million (5,000,000) shares of Common Stock, $5 par value; and

WHEREAS, following negotiations with underwriters, the Company has submitted to this Commission the details concerning the sale of said Common Stock, which contemplate the issue and sale of Five Million (5,000,000) shares of said Common Stock by the Company to underwriters who will make a public offering thereof, as set forth in the Underwriting Agreement between the Company and the underwriters, a copy of which is to be filed with the Commission, said Common Stock to be sold at a price to the Company of $17.215 per share; and

WHEREAS, after due consideration, it appears that the issue and sale of said Common Stock upon the terms, including the price, hereinabove set forth or referred to, is consistent with the public good; it is

ORDERED, that Public Service Company of New Hampshire be, and hereby is, authorized to issue and sell at a price of $17.215 per share in cash

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five million (5,000,000) shares of its Common Stock, $5 par value, said stock to be sold at said price of $17.215 per share to underwriters who will make a public offering thereof, as set forth in the Underwriting Agreement between the Company and the underwriters; and it is

FURTHER ORDERED, that all other provisions of Report and Order No. 16,477 of this Commission are incorporated herein by reference.

By Order of the Public Utilities Commission of New Hampshire this twenty-second day of June, 1983.

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NH.PUC*06/23/83*[79695]*68 NH PUC 429*Public Service Company of New Hampshire

[Go to End of 79695]

Re Public Service Company of New Hampshire

DE 81-312, 17th Supplemental Order No. 16,489

68 NH PUC 429

New Hampshire Public Utilities Commission

June 23, 1983

ORDER clarifying and modifying previous report.

APPEAL AND REVIEW, § 68 — Action by appellate court — Final determination — Revision or modification.

[N.H.] Where the New Hampshire supreme court did not state an intention to vacate or set aside certain findings of the commission in review of a commission decision, the commission held that its previous findings had continuing validity and could be incorporated by reference into a subsequent decision.

APPEARANCES: As previously noted.

BY THE COMMISSION:

Opinion by AESCHLIMAN, commissioner: On May 19, 1983, Public Service Company of New Hampshire ("PSNH" of "Company") filed a Motion for Rehearing ("Motion") of this Commission's April 29, 1983 decision, Sixteenth Supplemental Order No. 16,374 ("Decision") (68 NH PUC 257). A response to the Motion was filed by Staff on May 26, 1983 and a response by the Conservation Law Foundation was filed on June 3, 1983.

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After a complete review of the Motion and the responses, the Commission has determined that PSNH has raised certain procedural concerns which should be addressed. This Report and Order will address those issues; in all other respects it will deny PSNH's Motion.

In its Motion, PSNH contended that the Decision was unlawful or unreasonable for a number of procedural reasons listed by items A-H. The subject matter raised under A, B, F, G, and H has already been extensively argued and briefed by all parties and resolved by the Commission in orders prior to the final Report and Order No. 16,374 issued on April 29, 1983, which is the subject of the instant Motion. The three additional procedural questions which were raised in the Motion contend that the Decision is unlawful or unreasonable because:

1. The Decision makes a finding regarding PSNH's enforcement of its contract with United Engineers and Constructors, Inc. which is beyond the announced scope of this docket and was made without affording PSNH notice or an opportunity to be heard with respect to the issue. (Motion, I. Procedural Matters, paragraph C.) 2. The Decision improperly incorporates by reference the Commission's Decision in the so-called "Financial Integrity" Docket, DF 82-141, which Decision was vacated by Order of the

New Hampshire Supreme Court in Re Public Service Co. of New Hampshire (1982) 122 NH 1062, 51 PUR 4th 298, 454 A2d 435. (Motion, I. Procedural Matters, paragraph D.)

3. The Decision refers to a purported finding of the Maine Public Utilities Commission, which finding is not identified in relation to any docket number, nor was it marked in evidence, nor did the Commission notify PSNH that it intended to take judicial notice of the purported finding. (Motion, I. Procedural Matters, paragraph E.)

We shall address each of these contentions in turn.

Public Service Company contends that it was not given fair notice that its administration and enforcement of the contract with United Engineers and Constructors was to be an issue in, this proceeding. The Commission points out that the "issue" which was being addressed in this portion of the Decision (68 NH PUC at p. 280) was Public Service Company's ability to secure a new cost estimate in a timely fashion for the filing of its direct case in this proceeding. PSNH's motion to withdraw its direct case filed on October 27, 1982 and to refile its case was discussed in great detail. And at that time, PSNH contended that it was unable to submit a direct case in accordance with the Commission's required scheduling that included an updated cost and completion estimate. (Trans. Vol. 4, p. 8, p. 22-23) It was also clearly pointed out that PSNH's resubmittal of its case imposed burdens on the other parties. (Trans. Vol. 2, pp. 68, 69, 76, 77 and 84; Trans. Vol. 4, pp. 11-18)

In subsequent testimony in this case, it became clear that PSNH had the opportunity under its contract to secure cost estimates every six months, (Trans. Vol. 28, pp. 77, 78) and that PSNH was the one who determined

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the timing of new cost estimates. (Trans. Vol. 31, pp. 119, 120) Thus, the record clearly supports the findings of the Commission.

However, the Commission believes that the language of the Decision should be clarified to more accurately reflect the Commission's finding. Accordingly, we will amend the Decision at II-40 by deleting the sentence,

> The estimates of the contractual right proves that we were wrong and that CLF and Staff incurred additional expenses due to the failure of PSNH to enforce its contract with UEC thereby necessitating additional costs of discovery, testimony, witness preparation, xeroxing and hearing costs.

and by substituting in its place the following sentence:

> PSNH's failure to secure a new cost estimate in time for the filing of its direct case resulted in additional costs of discovery, testimony, witness preparation, xeroxing and hearings for CLF and Staff.

The point is that PSNH could have achieved a new cost estimate considerably earlier than it did to the detriment of the other parties. The Commission is not required to give PSNH notice of each and every factual finding supported by record evidence in the case, which the Commission makes following the conclusion of the proceedings. The finding is well within the scope of the proceedings as set forth in the order of notice.

The next point relates to the Commission's incorporation by reference of its decision in DF 82-141. The Commission believes that the Supreme Court ruling in Re Public Service Co. of New Hampshire (1982) 122 NH 1062, 51 PUR4th 298, 454 A2d 435, contained two holdings: 1) That the Commission could not under the authority of RSA 369:1 impose conditions on PSNH financings prohibiting the use of proceeds for Seabrook Unit II construction; and 2) that certain findings of management imprudence must be expunged from the decision. However, there is nothing to indicate that the Court intended to vacate or set aside other findings of the Commission. In fact, the holding requiring that *certain findings* be expunged would tend to indicate just the contrary. Consequently, the Commission believes that the findings in DF 82-141, which pertain to PSNH's financial integrity and which were not directly addressed by the Court, continued as "living" regulatory findings. The Commission also believes that the record in DE 81-312 independently demonstrates the continued vitality of those findings, and that it was proper for the Commission to incorporate those findings into its decision in the instant docket.

The third procedural question relates to the Decision's reference to a finding of the Main Public Utilities Commission. PSNH's objection to notice, lack of docket number, etc. is somewhat surprising since the Main case was specifically discussed in these proceedings, particularly in reference to PSNH's own witness' testimony in that case. (Trans. Vol. 35, pp. 86, 87, 118-122) In fact, the Commission notes that the record includes specific reference to the docket numbers of that case — Docket No. 81-114 and Docket No. 82-5. (Trans. Vol. 35, p. 120) Even had this not been the case, the Commission believes that it is certainly proper to cite reported judicial

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and regulatory decisions even if those decisions have not been previously noticed. Furthermore, it is clear from the detailed discussion in the Commission Decision that the Commission relied on the evidence in this docket to reach its Decision, and that the reference to the Maine decision is only included to indicate that another Commission came to a similar conclusion.

PSNH's Motion also includes many pages of arguments relating to the substantive findings in the Decision relative to supply and demand. The Commission has carefully reviewed these arguments and finds for the most part that PSNH is simply restating positions already argued at great length through 36 days of hearings. The Commission has also reviewed its decision and believes the findings are clearly supported by testimony and exhibits in the record. To the extent that PSNH argues that it should have an opportunity to submit additional evidence, the Commission finds that the Company fails to state any compelling ground for reopening the record. Furthermore, additional evidence the Company proposes to introduce was available at the time of the proceedings and could have been introduced by the Company previously. The Commission does not believe the Company has presented sufficient reason for a rehearing on the substantive issues.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the Commission's Report and Sixteenth Supplemental Order No. 16,374 (April 29, 1983) is to be clarified and modified as explicitly provided in this instant Report; and it is

FURTHER ORDERED, that the Motion for Rehearing of Public Service Company of New Hampshire is denied in all other respects.

By Order of the Public Utilities Commission of New Hampshire this twenty-third day of June, 1983.

==========

NH.PUC*06/23/83*[79696]*68 NH PUC 432*Northern Utilities, Inc.

[Go to End of 79696]

Re Northern Utilities, Inc.

DR 83-201, Order No. 16,490

68 NH PUC 432

New Hampshire Public Utilities Commission

June 23, 1983

ORDER approving interruptible sales contract.

Page 432

BY THE COMMISSION:

ORDER

WHEREAS, On May 31, 1983, Northern Utilities filed Special Contract No. 51 for Interruptible Sales to Foss Manufacturing Company in Hampton, New Hampshire; and

WHEREAS, the contract is similar to contracts previously approved by this Commission and appears to be just and reasonable and in the public interest; it is hereby

ORDERED, that Northern Utilities Special Contract No. 51 is hereby approved.

By Order of the Public Utilities Commission of New Hampshire this twenty-third day of June, 1983.

==========

NH.PUC*06/23/83*[79697]*68 NH PUC 433*Northern Utilities, Inc.

[Go to End of 79697]

Re Northern Utilities, Inc.

DR 83-202, Order No. 16,491

68 NH PUC 433

New Hampshire Public Utilities Commission

June 23, 1983

ORDER approving interruptible sales contract.

BY THE COMMISSION:

ORDER

WHEREAS on May 31, 1983, Northern Utilities filed Special Contract No. 52 for Interruptible Sales to Kane Gonic Brick Company located in Gonic, New Hampshire; and

WHEREAS, the contract is similar to contracts previously approved by this Commission and appears to be just and reasonable and in the public interest; it is hereby

ORDERED, that Northern Utilities Special Contract No. 52 is hereby approved.

By Order of the Public Utilities Commission of New Hampshire this twenty-third day of June, 1983.

==========

NH.PUC*06/23/83*[79698]*68 NH PUC 434*Northern Utilities, Inc.

[Go to End of 79698]

Re Northern Utilities, Inc.

DR 83-203, Order No. 16,492

68 NH PUC 434

New Hampshire Public Utilities Commission

June 23, 1983

ORDER approving interruptible sales contract.

BY THE COMMISSION:

ORDER

WHEREAS, on June 15, 1983, Northern Utilities filed Special Contract No. 53 for Interruptible Sales to Phillips Exeter Academy located in Exeter, New Hampshire; and

WHEREAS, the contract is similar to contracts previously approved by this Commission and appears to be just and reasonable and in the public interest; it is hereby

ORDERED, that Northern Utilities Special Contract No. 53 is hereby approved.

By Order of the Public Utilities Commission of New Hampshire this twenty-third day of

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June, 1983.

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[Go to End of 79699]

Re Pittsfield Aqueduct Company, Inc.

DR 80-125, Order No. 16,493

68 NH PUC 434

New Hampshire Public Utilities Commission

June 23, 1983

ORDER approving step increase based on actual costs.

BY THE COMMISSION

ORDER

WHEREAS, the Commission in 9th Supplemental Report & Order No. 15,556, stated on page 2 of the Report (67 NH PUC 250, 251), "At the completion of the installation of the 50 meters, we will accept a filing by Pittsfield for the purpose of making a step increase based on actual costs."; and

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WHEREAS, the Pittsfield Aqueduct Company by correspondence dated May 31, 1983, signed by its Treasurer, requested "the Commission grant a step increase to Pittsfield Aqueduct Company based on our capital cost of $6,220.53 for the installation of 50 new meters in 1982"; and

WHEREAS, the Commission on pages 13 and 14 of the previously noted Report approved a cost of capital of 11.9% on rate base, which when applied to the $6,220.53 and tax effected, results in a step increase of approximtely $1,000; it is

ORDERED that Pittsfield Aqueduct Company may increase its rates effective with its July 1, 1983 billings by $1,000 on an annual basis; and it is

FURTHER ORDERED, that the Company shall file the appropriate tariff pages to reflect said increase, and shall structure said tariff to comply with the Company's previously approved rate structure.

By Order of the Public Utilities Commission of New Hampshire this twenty-third day of June, 1983.

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[Go to End of 79700]

Re Littleton Light Department

DR 83-148, Supplemental Order No. 16,494

68 NH PUC 435

New Hampshire Public Utilities Commission

June 23, 1983

ORDER approving revision of fuel adjustment charges.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, the Littleton Water & Light Department of the Town of Littleton, a utility operating under the jurisdiction of this Commission, for those 36 customers residing in the Town of Bethlehem and 1 in Lisbon, has filed a proposed revision to the rates now charged for its June, 1983, fuel adjustment charge; and

WHEREAS, this revision is meant to reduce the 2 month fuel charge billing lag to one month, with the charges for April and May of 1983, to be billed in June, 1983; and

WHEREAS, the timing of this request is meant to minimize an increase in customer bills; and

WHEREAS, the revised proposed June, 1983 fuel adjustment rate of $1.55/100 KWH will be billed to In-Town customers as well as Out-of-Town Jurisdictional customers; and

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WHEREAS, this Commission, after investigation and consideration, is satisfied that the proposed changes are just and reasonable; it is

ORDERED, that the fuel adjustment charge for June, 1983, shall be $1.55/100 KWH.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of June, 1983.

==========

NH.PUC*06/23/83*[79701]*68 NH PUC 436*Wilton Telephone Company

[Go to End of 79701]

Re Wilton Telephone Company

DR 83-8, Supplemental Order No. 16,495

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68 NH PUC 436

New Hampshire Public Utilities Commission

June 23, 1983

ORDER rejecting proposed changes in depreciation rates.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, on December 30, 1982, Wilton Telephone Company filed with this Commission a Form E-25 seeking revision of its depreciation rate for Account 231; and

WHEREAS, Commission Order No. 16,128 was issued on January 10, 1983 suspending such change pending investigation; and

WHEREAS, on February 28, 1983, Commission staff issued a request for supporting data in this matter to assist it in its review; and

WHEREAS, as of the date of this order, Wilton Telephone Company has failed to respond to said data request; and

WHEREAS, absence of such data precludes approval of the request for depreciation rate change; it is

ORDERED, that Wilton Telephone Company's Report of Proposed Changes in Depreciation Rates (Form E-25) dated December 1982 be, and hereby is, rejected.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of June, 1983.

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NH.PUC*06/29/83*[79702]*68 NH PUC 437*Public Service Company of New Hampshire

[Go to End of 79702]

Re Public Service Company of New Hampshire

Intervenor: Community Action Program

DR 83-164, Order No. 16,499

68 NH PUC 437

New Hampshire Public Utilities Commission

June 29, 1983

ORDER setting energy cost recovery mechanism rates.

APPEARANCES: Eaton W. Tarbell for Public Service Company of New Hampshire; Gerald M. Eaton for Community Action Program; and Kenneth E. Traum, George Gantz and Daniel D.

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Lanning for the New Hampshire Public Utilities Commission

BY THE COMMISSION:

REPORT

The Commission in DR 82-146, Sixth Supplemental Order No. 16,029, dated December 6, 1982 (67 NH PUC 875), ordered the following, "The parties are placed on notice that a more narrow trigger mechanism is to be developed for the next six-month period in light of PSNH's financial situation".

In light of that order the above noted parties met and developed a document entitled, "Recommendations of the Parties Regarding Trigger Mechanism". Said document was marked as Exhibit 21 in this proceeding.

The purpose of the trigger mechanism is to balance the competing objectives of rate continuity, revenue recovery, and minimization of regulatory burden. The Commission feels that this proposal through its provisions for providing information to the parties, the right to petition for a hearing tied to a ¿+- $4,000,000 estimated ending balance on the Deferred Fuel Cost account, and automatic changes to the ECRM component based principally on a ¿+- $10,000,000 month end balance in the Deferred Fuel Cost account, is reasonable.

After consideration and review of this proposal, the Commission thanks all parties for their inputs and accepts the recommendations.

Our order will issue accordingly.

The second, and by far more time consuming aspect of the June 16 and 20, 1983 duly noticed Commission hearings on ECRM, dealt with the rate to be billed for the second half of 1983.

The filings in the docket were originally made on May 20, 1983, and requested an average ECRM rate for the second half of 1983, of $3.515/100 KWH, as compared to a rate of $3.426/100 KWH in effect for the first half of 1983.

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On June 14, 1983, the Company updated and revised its filing by requesting a bifurcated rate of $3.426/100 KWH for July, 1983, and $3.540/100) KWH for the months of August through December, 1983.

As a result of an audit by the NHPUC Finance Department and its cross examination during the course of the June 16, 1983 hearing, on June 20, 1983, PSNH submitted exhibits 1B and 2B which reduced their request to $3.426/1 00 KWH for July, 1983, and to $3.523/100 KWH for August through December, 1983. This adjustment is due to the planned burn of low priced oil currently in storage at Merrimack Station.

In all the Company submitted 23 exhibits and revisions through 7 witnesses.

The reasons for the requested increases in the second half of 1983, over the first half relate mainly to an increase in the cost of oil and an estimated under recovery as of June 30, 1983, which would be recouped in the second half of 1983.

The Commission accepts the fuel price estimates of PSNH as reasonable, but has a number of

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other problems with the filing.

(1) Since the rate for the second half of 1983, is effected by the estimated undercollection as of June 30, 1983, that figure must be analyzed. The estimate was $1,447,274 (undercollection), but it fails to take into account several items; such as the June, 1983 net savings due to short term sales and purchases estimated by a PSNH witness at $400,000; the Commission feels that the NEPOOL savings shares for the month were probably underestimated; and the shift of the Schiller planned outage delay was not fully reflected and results in an overestimate with regards to the $1,447.274. (2) During the course of the NHPUC Finance Department audit of PSNH's ECRM component it was discovered, to PSNH's surprise as well as the Commission's, that from January, 1982 the monthly billings from Maine Yankee Atomic Power Company which included property taxes, investment tax credits, etc. were flowed through ECRM. The explanation was that PSNH originally believed these costs to be related to FERC Account 518 and thus ECRM costs.

As a result of the audit it was learned that in January, 1982 the practice by Maine Yankee of passing these costs through Account 518 was discontinued by a FERC order. This change had apparently not been conveyed to PSNH thus the practice continued of including non-518 costs in ECRM, which is in violation of the Settlement Agreement establishing ECRM and clearly incorrect accounting.

Through the end of June, 1983 this amount is approximately $178,000 which must be disallowed. For purposes of the Company's current rate case, these types of nonfuel costs should be included in base rates. (3) PSNH in Exhibit 1B adjusted for 18,132 of the 20,205 barrels of oil at the Merrimack Station. The remaining 2,073 barrels are

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to be burned at the Manchester Steam facility for heating, and thus will not be recognized in ECRM, but in the permanent rate case. (4) The interest calculation as revised in Exhibit 12B naturally doesn't take into account the previously noted adjustments and several others; i.e., the effect of a bifurcated rate (5) The Company through oral direct testimony outlined the provisions of its newly negotiated coal contract. The parties had numerous questions about several of those provisions and very limited time for discovery, so all issues relating to the new contract revisions will be deferred to the next ECRM hearing. (6) Also deferred until the next ECRM hearing was an explanation of the 1981 Mass. Yankee outages and any connection with the non-recurring FERC ordered outage in 1980. The result of this explanation may or may not be a change to the target for Mass. Yankee.

Based on all of the above noted known changes and potential cost reductions to ECRM, the Commission will approve a bifurcated rate of $3.426/100 KWH for July, 1983, and $3.490/100 KWH for August-December, 1983.

This will result in a 32¢ per month increase in rates for August-December, 1983, for a typical 500 KWH customer, or $1.60 over the 6 month period, as opposed to an increase of $2.67 as originally proposed by PSNH.

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Our order will issue accordingly.

ORDER

Upon consideration of the foregoing report, which is made a part hereof; it is hereby

ORDERED, that PSNH's request to set its ECRM rate for the second half of 1983 at a bifurcated rate of $3.426 and $3.523/100 KWH is rejected; and it is

FURTHER ORDERED, that PSNH shall file revised tariff pages setting a bifurcated ECRM rate of $3.426/100 KWH for July, 1983, and $3.490/100 KWH for August through December, 1983.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of June, 1983.

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NH.PUC*06/29/83*[79703]*68 NH PUC 440*Sunapee Hills Water Company

[Go to End of 79703]

Re Sunapee Hills Water Company

DE 82-268, Third Supplemental Order No. 16,500

68 NH PUC 440

New Hampshire Public Utilities Commission

June 29, 1983

ORDER regarding continuing operations and billing for a water company.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, this docket was opened by the Commission to address various customer complaints of inadequate water service being furnished by Sunapee Hills Water Co. Inc; and

WHEREAS, hearings were held to address these complaints and related matters such as the inability of the water company owner to proceed with the operation and maintenance of the system because of poor health; and

WHEREAS, as an interim measure this Commission allowed, with the agreement of all parties, the Association of Sunapee Hills, Inc. to collect customer billing revenues for the last three quarters for the operation and maintenance of the water system while negotiations were proceeding for the sale/and or transfer of the system; and

WHEREAS, there has been no agreement reached as to the sale price to be paid for this water system; it is

ORDERED, that Donald Seymour shall continue the operation and billing for Sunapee Hills

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Water Co. Inc. as authorized in Docket DE 81-165 and Order No. 15,039 (66 NH PUC 288).

By Order of the Public Utilities Commission of New Hampshire this twenty-ninth day of June, 1983.

==========

NH.PUC*06/29/83*[79704]*68 NH PUC 440*New England Telephone and Telegraph Company

[Go to End of 79704]

Re New England Telephone and Telegraph Company

DR 83-186, Order No. 16,504

68 NH PUC 440

New Hampshire Public Utilities Commission

June 29, 1983

ORDER implementing tariffs for local measured telephone service.

Page 440

BY THE COMMISSION:

ORDER

WHEREAS, Commission Order No. 15,752 in Docket DR82-70 (67 NH PUC 469) directed company-wide implementation of low-use measured residential service; and

WHEREAS, New England Telephone has established schedules for implementing two types of measured residential service and has proposed revisions to its Tariff No. 75 to document the planned implementation of same; and

WHEREAS, the Commission finds acceptable the terms providing for Low-Use Measured Residential Service in the Franklin, Greenville, and Groveton exchanges, but has concern regarding the structure of the Measured Service-4E; it is

ORDERED, that the following revision to Tariff No. 70 be, and hereby is, approved for effect June 30, 1983 —

Part A, Section 5, 1st Revised Page 21; and it is

FURTHER ORDERED, that the following revisions to said tariff be, and hereby are, suspended pending further investigation and decision thereon —

Part A, Section 5, Table of Contents, 1st Revised Pages 1 and 2 Original Pages 8.1, 29.1, 29.2, and 29.3 1st Revised Pages 8, 9, 19, and 20; and it is

FURTHER ORDERED, that customers of each of the affected exchanges for which LMRS is approved herein be given one-time notice of the availability of such service.

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By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of June, 1983.

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NH.PUC*06/30/83*[79705]*68 NH PUC 441*Gas Service, Inc.

[Go to End of 79705]

Re Gas Service, Inc.

DR 83-211, Order No. 16,505

68 NH PUC 441

New Hampshire Public Utilities Commission

June 30, 1983

ORDER approving contract for interruptible sales.

Page 441

BY THE COMMISSION:

ORDER

WHEREAS, on June 27, 1983, Gas Service Inc. filed Special Contract No. 32 for Interruptible/Seasonal Sales to Lakes Region Linen Service; and

WHEREAS, the contract is similar to contracts previously approved by this Commission and appears to be just and reasonable and in the public interest; it is hereby

ORDERED, that Gas Service Inc. Special Contract No. 32 is hereby approved.

By Order of the Public Utilities Commission of New Hampshire this thirtieth day of June, 1983.

==========

NH.PUC*06/30/83*[79706]*68 NH PUC 442*Gas Service, Inc.

[Go to End of 79706]

Re Gas Service, Inc.

DR 83-212, Order No. 16,506

68 NH PUC 442

New Hampshire Public Utilities Commission

June 30, 1983

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ORDER approving contract for interruptible sales.

BY THE COMMISSION:

ORDER

WHEREAS, on June 27, 1983, Gas Service Inc. filed Special Contract No. 33 for Interruptible/Seasonal Sales to Lakes Regional General Hospital; and

WHEREAS, the contract is similar to contracts previously approved by this Commission and appears to be just and reasonable and in the public interest; it is hereby

ORDERED, that Gas Service Inc. Special Contract No. 33 is hereby approved.

By Order of the Public Utilities Commission of New Hampshire this thirtieth day of June, 1983.

==========

NH.PUC*06/30/83*[79707]*68 NH PUC 443*Gas Service, Inc.

[Go to End of 79707]

Re Gas Service, Inc.

DR 83-213, Order No. 16,507

68 NH PUC 443

New Hampshire Public Utilities Commission

June 30, 1983

ORDER approving contract for interruptible sales.

BY THE COMMISSION:

ORDER

WHEREAS, on June 27, 1983, Gas Service Inc. filed Special Contract No. 34 for Interruptible/Seasonal Sales to Oak Laminates of West Franklin, New Hampshire; and

WHEREAS, the contract is similar to contracts previously approved by this Commission and appears to be just and reasonable and in the public interest; it is hereby

ORDERED, that Gas Service Inc. Special Contract No. 34, is hereby approved.

By Order of the Public Utilities Commission of New Hampshire this thirtieth day of June, 1983.

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NH.PUC*06/30/83*[79708]*68 NH PUC 443*Northern Utilities, Inc.

[Go to End of 79708]

Re Northern Utilities, Inc.

DR 83-214, Order No. 16,508

68 NH PUC 443

New Hampshire Public Utilities Commission

June 30, 1983

ORDER approving contract for interruptible sales.

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BY THE COMMISSION:

ORDER

WHEREAS, On June 22, 1983, Northern Utilities filed Special Contract No. 54 for Interruptible Sales to Exeter Hospital in Exeter, New Hampshire; and

WHEREAS, the contract is similar to contracts previously approved by this Commission and appears to be just and reasonable and in the public interest; it is hereby

ORDERED that Northern Utilities Special Contract No. 54 is hereby approved.

By Order of the Public Utilities Commission of New Hampshire this thirtieth day of June, 1983.

==========

NH.PUC*07/01/83*[79709]*68 NH PUC 444*Northern Utilities, Inc.

[Go to End of 79709]

Re Northern Utilities, Inc.

DF 83-220, Order No. 16,511

68 NH PUC 444

New Hampshire Public Utilities Commission

July 1, 1983

ORDER authorizing utility to issue and sell notes.

BY THE COMMISSION:

ORDER

WHEREAS, Northern Utilities, Inc., a New Hampshire Corporation having its principal place of business in Portsmouth, New Hampshire, and operating as a gas utility under the

jurisdiction of this Commission, on June 28, 1983, filed with this Commission a petition changing its short-term borrowing limitation from $8,000,000 as ordered in Order No. 16,136 issued January 5, 1983 (68 NH PUC 1), to $7,000,000; and

WHEREAS, expiration of Order No. 16,136 on June 30, 1983 places the Company under Supplemental Order No. 7446, which authorizes the Company to issue and have outstanding aggregate short-term indebtedness in amount not to exceed 10% of its net fixed capital account rounded to the highest $10,000; and

WHEREAS, the net fixed capital of the Company as of March 31, 1983 was $23,376,441 against which the Company would be entitled to have outstanding $2,340,000 of short-term notes; and

WHEREAS, the net fixed capital of Company had outstanding total short-term notes payable of $6,700,000 and was not able to solicit long-term financing during 1982 under the indenture

Page 444

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which bonds New Hampshire property due to the lack of interest coverage required by this indenture; and

WHEREAS, the Company expended $2,354,833 during the twelve months ended December 31, 1982 for additions, extensions and improvements and estimates capital expenditures for 1983 in the amount of $2,206,400; and

WHEREAS, the Company filed a request for a permanent increase on April 21, 1983, a portion of which was granted as temporary rates in the amount of $897,890 by Order No. 16,841 dated June 21, 1983; and

WHEREAS, the Company requests that the short-term debt limit be set at $7,000,000 for the period from July 1, 1983 to December 31, 1983; and

WHEREAS, this Commission required the Company to submit its plans for future financing in its Order No. 16,136 dated January 5, 1983 and to redefine the level of short-term debt based on its experience with the Fuel Inventory Financing; it is

ORDERED, that Northern Utilities, Inc. be, and hereby is, authorized to issue and sell, and from time to time to review for cash its notes or notes payable less than twelve months after the date thereof in an aggregate principal amount not exceeding, $7,000,000; and it is

FURTHER ORDERED, that authority to renew its notes up to an aggregate amount of $7,000,000 shall expire as of December 31, 1983, and the Company will be required to submit its plans for future financing and to redefine the level of short-term debt by November 30, 1983, or thirty days prior to the expiration of this authorization; and it is

FURTHER ORDERED, that on or before January 1 and July 1 of each year, the Company will file with this Commission a detailed statement, duly sworn by its Treasurer, showing the disposition of the proceeds of the notes herein authorized until the expenditures of the whole of said proceeds shall be fully accounted for.

By Order of the Public Utilities Commission of New Hampshire this first day of July, 1983.

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[Go to End of 79710]

Re New England Power Company

DF 83-149, Order No. 16,512

68 NH PUC 445

New Hampshire Public Utilities Commission

July 1, 1983

ORDER authorizing utility to issue and sell securities.

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APPEARANCES: Robert King Wulff and Lawrence J. Reilly for New England Power Company.

BY THE COMMISSION:

REPORT

New England Power Company (the Company), is a utility subject to our jurisdiction. On April 26, 1983, the Company filed a petition requesting authorization and approval of the Commission for the issue and sale of one or more additional issues of its preferred stock with an aggregate par value not exceeding $75,000,000 (the New Preferred Stock), for the issue and sale of one or more additional issues, in aggregate principal amount not exceeding $120,000,000, of its General and Refunding Mortgage Bonds (the New G&R Bonds), and for the issue and pledge of several additional issues of its First Mortgage Bonds in aggregate principal amount not exceeding $235,000,000, (the New Pledged Bonds). The Company, in its petition, also requests authorization and approval of the Commission for the execution of one or more loan agreements or supplemental loan agreements between the Company and public agencies empowered to issue pollution control revenue bonds on behalf of enterprises such as the Company. The Company will apply the proceeds from the issue and sale of the securities which are the subject of this proceeding to the payment of short-term borrowings incurred for, or to the cost of, or to the reimbursement of the treasury of the Company for, uncapitalized additions and improvements to the plant and property and any other uncapitalized expenditures.

A public hearing was held on the application on May 26, 1983.

Votes taken by the Directors of the Company relating to the New Preferred Stock, the New G&R Bonds, the New Pledged Bonds, the proposed loan agreements, and the filing of the necessary petitions and applications, were introduced at the hearing as exhibits.

The Company's financial statements, presented as exhibits, were the basis of testimony relating to the Company's capitalization. They show that on the date of the statements, December

31, 1982, common stock totaled $128,997,920 represented by 6,449,896 shares outstanding having a par value of $20 per share. Premiums on capital stock amounted to $87,177,300. Other paid-in capital was $238,000,000. Retained earnings were $27,499,117 and unappropriated undistributed subsidiary earnings were $8,162,482. The 1,937,080 shares of preferred stock outstanding were composed of three classes: 6% Cumulative Preferred Stock having a par value of $100, of which one series is outstanding; Dividend Series Preferred Stock also having a par value of $100, of which eight series are outstanding with dividend rates ranging from 4.56% to 13.48%; and Preferred Stock — Cumulative having a par value of $25, of which one series with a dividend rate of 11.04% is outstanding. The combined aggregate par value of the Company's preferred stock, after deducting $525,290 for shares held in Treasury, was $131,752,710. Long-term debt outstanding, net of unamortized premium or discount, amounted to $634,400,566, consisting of 15 issues of First Mortgage Bonds and 5 issues of General and Refunding

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Mortgage Bonds with interest rates ranging from 3-1/4% to 16-5/8% and with maturity dates from 1983 to 2012. Not shown in the capitalization is $150,000,000 of pledged First Mortgage Bonds held by the Trustee for the General and Refunding Mortgage Bonds. Short-term borrowing on the date of the financial statements was reported at $36,140,000.

The Company reported that, as of December 31,1982, its utility plant was $1,176,056,588. Construction work in progress was shown to be $498,812,683. The accumulated depreciation reserve against such property amounted to $362,337,331. The Company's net utility plant was $1,348,531,940. Other property and investments, of which a major part of the amount was authorized investments in securities of nuclear generating companies, was shown as $48,580,931.

The Company has requested authorization and approval to issue the securities which are the subject of this proceeding as part of its 18 month financing plan. The financing plan has been designed to meet the Company's anticipated need for long-term financing through 1984. The Company wishes to remain flexible in the timing of the issue of the various securities which comprise the financing plan so as to be capable of responding to rapidly changing conditions. The several issues of New Preferred Stock and New G&R Bonds are separate transactions and not contingent one upon the other.

The proposed New Preferred Stock will be Cumulative Preferred Stock and may be composed of either Dividend Series Preferred or Preferred Stock — Cumulative or both. Except for the difference in par value, the corresponding difference in voting rights, and such variables as the dividend rate, redemption prices, limitations on redemptions, and any sinking fund, the terms and preferences of each series of the two classes of Cumulative Preferred Stock are the same.

It is currently anticipated that the New Preferred Stock will carry either fixed or adjustable dividend rates and will be sold at competitive bidding after a public invitation for bids. The New Preferred Stock will be sold at a price not less than 98% of par nor more than 102.75% of par. The dividend rate, or dividend rate ceiling in the case of New Preferred with an adjustable

dividend rate, is not to exceed 14% per annum unless a higher rate or ceiling is subsequently approved by the Commission. The maximum dividend rate of 14%, as requested by the Company, appears reasonable in view of current conditions in capital markets. The New Preferred Stock will not be redeemable for a period of five years, if such redemption is for the purpose of or in anticipation of refunding the New Preferred Stock through the direct or indirect use of funds obtained by the issuance of debt securities at an effective interest cost of the Company or by the issuance of other preferred stock with an effective dividend cost of less than the dividend cost to the Company of the New Preferred. The New Preferred Stock need not but may have a sinking fund requirement of up to 20% per year beginning in the sixth year after issuance. The New Preferred Stock will be sold to the bidder or bidding group which submits a price and interest rate resulting in the lowest cost of money to the Company. If market conditions make competitive

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bidding impracticable or undesirable, the Company would seek a supplemental order from the Commission authorizing either private placements with institutional investors or negotiations with underwriters.

Massachusetts statutes currently limit the ability of the Company to sell to underwriters at less than par. Therefore, the terms and conditions for bids — or the agreement of sale if the New Preferred Stock is sold by negotiation — may provide for compensation to be paid to underwriters.

The proposed New G&R Bonds, in aggregate principal amount not exceeding $120,000,000, will be issued under and pursuant to the terms of the Company's General and Refunding Mortgage Indenture and Deed of Trust dated as of January 1, 1977, as amended and supplemented, securing its presently outstanding Series A, B, D, E, and F G&R Bonds (the G&R Indenture). The New G&R Bonds will have a lien subordinate to the Company's First Mortgage Bonds. Each series of New G&R Bonds will mature in not more than 30 years. The exact maturity date will be fixed prior to the sale of each series. Only fully registered bonds will be issued. Approximately $45,000,000 aggregate principal amount of the New G&R Bonds may be issued in connection with the issue of pollution control revenue bonds.

New G&R Bonds not issued to support pollution control revenue bonds will bear interest from the date of authentication, and will be redeemable, at the option of the Company, in whole or in part, at any time prior to maturity upon thirty days notice at general redemption prices; however, no such redemption from a refunding issue at a lesser effective interest cost will be allowed during the first five years. Additionally, these bonds will also be redeemable for sinking fund and other specific purposes at special redemption prices.

New C&R Bonds issued to support pollution control revenue bonds may bear interest from a date prior to their authentication. In addition, these bonds may contain sinking fund, mandatory redemption, and optional redemption provisions that differ from typical G&R Bonds.

The Company is currently contemplating use of pollution control revenue bonds as a means to finance approximately $45,000,000 of expenditures related to pollution control equipment. Approximately $20,000,000 of these expenditures are associated with the conversion of the

Company's Brayton Point Station generating units 1, 2, and 3 from oil to coal firing. The remaining approximately $25,000,000 of pollution control equipment related expenditures the Company currently contemplates will be financed with pollution control revenue bonds are associated with the Company's participation as a joint owner of Seabrook Units I and II. Any pollution control revenue bonds issued on the Company's behalf would be issued through a public agency specifically empowered to issue and sell such bonds to the public (the Agency). The pollution control revenue bonds would be sold to the public pursuant to negotiated underwriting agreements between the Agency and one or more underwriters. While the Company would not be a party to any underwriting agreement, any such agreement shall provide that its terms will be satisfactory to the Company. Additionally, the Company may provide certain

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written assurances to the underwriter or underwriters. Pursuant to a loan agreement or supplemental loan agreement between the Company and the Agency, the Agency would lend the proceeds from the sale of the pollution control revenue bonds to the Company in exchange for the Company's promise to pay the interest on, and principal of, the pollution control revenue bonds sold to the public. To secure its obligation, the Company would issue an equal principal amount of G&R Bonds to the Agency bearing the same date, maturity and interest rate as the pollution control revenue bonds. Because the interest paid to holders of the pollution control revenue bonds will be tax-exempt under the Internal Revenue Code, purchasers of these bonds will be willing to accept a lower interest rate, resulting in substantial savings to the Company. Proceeds from the sale of pollution control revenue bonds may be held in trust pending their use by the Company for qualifying expenditures. The interest rate of New G&R Bonds issued to support pollution control revenue bonds is not to exceed 12-1/2% per annum unless a higher rate is subsequently approved by the Commission. The maximum interest rate of 12-1/2%, as requested by the Company, appears reasonable in view of current conditions in capital markets.

It is currently anticipated that the New G&R Bonds not issued to support pollution control revenue bonds will be sold at competitive bidding after a public invitation for bids. The terms and conditions for the bids will provide, in part, that the New G&R Bonds will be sold at a price not less than 98% nor more than 101.75% of their principal amount. The interest rate is not to exceed 15% per annum unless a higher rate is subsequently approved by the Commission. The New G&R Bonds sold competitively will be sold to the bidder or bidding group which submits a price and an interest rate resulting in the lowest cost of money to the Company. The maximum interest rate of 15%, as requested by the Company, appears reasonable in view of current conditions in capital markets. If the Company elects to issue new G&R Bonds to support the issue of Eurobonds, or if market conditions — because of the size of any series or other circumstances — make competitive bidding impracticable or undesirable, the Company would seek a supplemental order from the Commission authorizing either private placements with institutional investors or negotiations with underwriters.

The New Pledged Bonds will be issued and pledged, from time to time, to the Trustee for the G&R Bonds as additional security, representing a First Mortgage claim for the holders of all G&R Bonds. Currently, the shortfall between already outstanding issues of G&R Bonds and

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Pledged Bonds amounts to $115,000,000. The New Pledged Bonds will be issued either with respect to new issues of G&R bonds or to eliminate, in whole or in part, any shortfall between already outstanding issues of G&R Bonds and the related Pledged Bonds. The New Pledged Bonds will bear the same interest rate and have the same maturity date as the series of G&R Bonds with respect to which they are issued. The New Pledged Bonds will not pay interest as long as interest payments are made on the G&R Bonds. The Company will receive no proceeds from the issue

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and pledge of the New Pledged Bonds.

It is currently anticipated that, in addition to the issuance of securities, the Company will receive one or more capital contributions, not exceeding $100,000,000 in aggregate amount, from New England Electric System, its parent, during the period of the financing plan.

After the completion of all the transactions proposed in the 18 month financing plan, the Company's total capitalization will be composed of 38% common equity, 13% preferred stock, and 49% bonds.

The last issue of securities by the Company was $90,000,000 of G&R Bonds, Series D, which were issued as the second phase of a two phase financing authorized by the Commission by Order Nos. 14,020 (65 NH PUC 57), 14,128 (65 NH PUC 125), 15,898 (67 NH PUC 644), and 15,966 (67 NH PUC 767) dated January 29, 1980, March 13, 1980, September 24, 1982, and November 5, 1982, respectively. These bonds were issued March 8, 1983, and bear interest at the rate of 9-7/8% per annum and rate of 9-7/8% per annum and mature in 2013. The Series D G&R Bonds were issued to the Massachusetts Industrial Finance Agency to support the issuance of pollution control revenue bonds. In connection with the issuance of the Series D G&R Bonds, $40,000,000 of First Mortgage Bonds were issued and pledged.

Upon investigation and consideration of the evidence submitted, the Commission is of the opinion that granting the authorization and approval sought for the financing proposed in the Company's 18 month financing plan will be consistent with the public good. Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that New England Power Company be, and hereby is, authorized to issue and sell one or more additional series of Preferred Stock with an aggregate par value not exceeding $75,000,000, consisting of either Dividend Series Preferred (par value $100), Preferred Stock — Cumulative (par value $25), or both, at a fixed dividend rate not in excess of 14% or with an adjustable dividend rate with a potential maximum rate not in excess of 14% (unless a higher rate or maximum rate is subsequently approved by the Commission), and the Commission consents to the issue, disposition, and sale of said additional Preferred Stock of the Company at competitive bidding; and it is

FURTHER ORDERED, that New England Power Company be, and hereby is, authorized to issue and sell one or more series, aggregating not exceeding $120,000,000 principal amount, of

General and Refunding Mortgage Bonds, to mature in not more than 30 years from the first day of the month as of which the bonds are issued; and it is

FURTHER ORDERED, that the General and Refunding Mortgage Bonds authorized and approved by the Commission herein which are not issued and sold to support pollution control revenue bonds shall bear interest at a rate not in excess of 15% per annum (unless a subsequent order of

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the Commission approves a higher rate) and are to be sold at not less than 98% of the principal amount thereof nor more than 101-3/4% of the principal amount thereof as shall be determined by the directors of the Company in accordance with the terms of the accepted bid therefor, following publication of an invitation for bids for such issue of bonds; and it is

FURTHER ORDERED, that the General and Refunding Mortgage Bonds authorized and approved by the Department herein which are issued and sold to support pollution control revenue bonds shall bear interest at a rate not in excess of 12-1/2% per annum (unless a subsequent order of the Commission approves a higher rate) and are to be sold with such interest rate and at such price as to conform with the interest rate and price of pollution control revenue bonds to be issues simultaneously therewith by an agency of the State of New Hampshire or The Commonwealth of Massachusetts; and it is

FURTHER ORDERED, that New England Power Company be, and hereby is, authorized to execute and deliver one or more loan agreements or supplemental loan agreements between New England Power Company and public agencies empowered to issue pollution control revenue bonds under which loan agreement or supplemental loan agreements New England Power Company will issue General and Refunding Mortgage Bonds to such agency at such times and of such tenor as will correspond to the payments for principal, premium if any, and interest on pollution control revenue bonds issued on the Company's behalf; and it is

FURTHER ORDERED, that New England Power Company be, and hereby is, authorized to issue and pledge several additional series of First Mortgage Bonds, in aggregate not exceeding $235,000,000 principal amount, to bear the same interest rate and to have the same maturity as the series of General and Refunding Mortgage Bonds with respect to which they are issued; and it is

FURTHER ORDERED, that New England Power Company be, and hereby is, authorized to mortgage its present and future property, tangible and intangible, including franchises in New Hampshire, and to confirm the mortgage thereof, as security for the outstanding Series A, B, D, E, and F General and Refunding Mortgage Bonds, the proposed New General and Refunding Mortgage Bonds, the outstanding Series F. through W, Y, Z, and AA First Mortgage Bonds, the proposed New First Mortgage Bonds, and bonds thereafter issued under the provisions of the Company's General and Refunding Mortgage and First Mortgage Indentures; and it is

FURTHER ORDERED, that the proceeds from the issue and sale of the General and Refunding Mortgage Bonds and the Preferred Stock, authorized herein, will be applied to the payment of short-term borrowings incurred for, or to the cost of, or to the reimbursement of the treasury of the Company for, uncapitalized additions and improvements to the plant and property

of the Company and any other uncapitalized expenditures of the Company; and it is

FURTHER ORDERED, that this authorization to issue securities contained herein, except with regard to First Mortgage Bonds, shall be exercised on or before December 31, 1984,

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and not thereafter, unless such period is extended by order of this Commission; and it is

FURTHER ORDERED, that the authorization to issue and pledge First Mortgage Bonds contained herein shall expire at such time as there are no longer any publicly held First Mortgage Bonds outstanding; and it is

FURTHER ORDERED, that on or about January first and July first in each year, said New England Power Company shall file with this Commission a detailed statement, duly sworn by its Treasurer or Assistant Treasurer, showing the disposition of the proceeds of said securities, until the expenditure of the whole of said proceeds shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this first day of July, 1983.

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NH.PUC*07/05/83*[79711]*68 NH PUC 452*Mount Washington Railway Company

[Go to End of 79711]

Re Mount Washington Railway Company

DE 83-132, Supplemental Order No. 16,514

68 NH PUC 452

New Hampshire Public Utilities Commission

July 5, 1983

ORDER directing new railway owner to comply with certain switch inspection and incident reporting procedures.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, the Mount Washington Railway Company, operator of the Mount Washington Cog Railway was issued Order No. 13,745 on July 24, 1979 and Supplemental Order No. 14,241 on May 19, 1980 set forth in IT 14,859 (66 NH PUC 158); and

WHEREAS, said Orders did set forth certain switch inspection, to be supervised by Charles A. Teague, and incident reporting procedures for the Railway; and

WHEREAS, the Mount Washington Cog Railway has a new owner and, therefore, Charles A. Teague is not a party of the new operation; it is hereby

ORDERED, that the switch inspection procedure set forth in Order No. 13,745 be reaffirmed

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and shall be performed by a person designated in writing to this Commission by the Railway setting forth his qualifications to perform said duties; and it is

FURTHER ORDERED, that all irregularities,

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accidents or other incidents regarding the operation of said railway shall be reported to this Commission immediately; in the event that the Commission office is closed, one of the persons on a list supplied by this Commission shall be notified.

By order of the Public Utilities Commission of New Hampshire this fifth day of July, 1983.

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NH.PUC*07/05/83*[79712]*68 NH PUC 453*Cost of Gas Adjustment

[Go to End of 79712]

Re Cost of Gas Adjustment

Intervenors: Northern Utilities, Inc., Concord Natural Gas Corporation, Manchester Gas Company, and Gas Service, Inc.

DR 83-196, Order No. 16,517

68 NH PUC 453

New Hampshire Public Utilities Commission

July 5, 1983

ORDER stating that no cost of gas adjustments will be made for relatively minor price reductions.

APPEARANCES: Tony W. Tarbell for Northern Utilities, Inc,; David W. Marshall for Concord Natural Gas Corporation, Manchester Gas Company, and Gas Service, Inc.; and Kenneth Traum, George Gantz, and Richard Marini for the PUC staff.

BY THE COMMISSION:

REPORT

On June 13, 1983, this Commission, upon its own initiation, issued an Order of Notice opening this docket for the purposes of examining the recent reduction in Tennessee Gas Pipeline Company's Purchase Gas Adjustment and its effect upon Concord Natural Gas Corporation, Manchester Gas

Company, Gas Service, Inc. and Northern Utilities, Inc. and setting a hearing date of June 28, 1983 at 1:00 p.m. on this matter.

At that hearing, the parties appeared and submitted information regarding possible changes in the Summer Costs of Gas attributable to Tennessee Gas Pipeline Company (TGP) Purchased

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Gas Adjustment (PGA), the progress of TGP's rate case before the FERC, and other factors. While the Commission is cognizant that many factors may change the costs of gas intended to be reflected in the Cost of Gas Adjustment (CGA), we must note that the Order of Notice specified that the proceeding would examine "the recent reduction in Tennessee Gas Pipeline Company's Purchase Gas Adjustment and its effect ... ". As such, we

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believe the pertinent issue is the price the New Hampshire gas distribution utilities are paying and will pay TGP for gas deliveries as reflected in TGP's Purchased Gas Adjustment, plus any mitigating factors that influence the effect of the decreases in the PGA. For this reason, we will consider the offsetting impact of increases in the forecast of TGP base rates which mitigate the effect of the PGA decreases, but we will exclude from consideration the issues of changes in sales estimates or recoupment surcharge under-recoveries which Gas Service Inc. sought to introduce. For this reason, we reject Exhibits 6, 7a, 7b, and 8 as being beyond the scope and will not further address the subject issues in this proceeding.

According to witnesses Simpson, Bisson and Stagney, the following facts have influenced the estimates of the Summer Costs of Gas:

1) TGP instituted a unilateral revision to its purchase contracts that reduced its purchased gas costs and which was reflected in a FERC approved reduction of $.4084/MMBTU in the PGA as of May 1. This reduction was not reflected by any Company in their Summer CGA filings.

2) TGP has further applied to FERC for a PGA decrease of $.0911/ MMBTU as of July 1. This decrease was also not reflected by any Company within Summer CGA filings.

3) The TGP rate case settlement entailing a rate reduction, and a refund retroactive to February 1, 1983, now appears to be opposed by FERC staff on the grounds that the rate design provides insufficient incentive for TGP to procure the least cost supplies of gas. Thus, TGP's base rates have not been reduced as had been forecast by all companies in their Summer CGA filings, and there is great uncertainty as to when and under what terms, a FERC decision will be reached on TGP's rates.

4) TGP has also applied for a rate increase to be effective in August, 1983, and the increase is still likely and will also be subject to refund. This increase was properly estimated in the Summer CGA filings.

The net impact of these factors has been caluclated by the four companies and they calculate that if fully incorporated, the Summer CGA rates would be reduced by the following amounts.

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

Northern Utilities  $.0026 per therm
Concord Natural Gas $.0095 per therm
Manchester Gas      $.0007 per therm
Gas Service         $.0031 per therm

 Calculated for the entire May-October period.
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On the grounds that these changes are minor, and that rates should not be changed more frequently then necessary, Northern Utilities, Concord Natural Gas and Manchester Gas

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requested that the currently effective CGA rates not be changed. Gas Service agreed that the net effects of the TGP changes were minor, but requested an upward revision to the CGA rate for other reasons, which we have found to be beyond the scope of this proceeding.

We concur with the assessment that the changes to the CGA rates would be relatively minor and, therefore, find that no change in the Summer CGA rates need be made. However, we note that substantial refunds from TGP resulting from the final disposition of the pending rate case are likely at some point in the future. It is ironic that the FERC staff is opposing the rate case on the grounds that TGP has no incentive

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to procure low cost gas supplies at the same time that TGP has unilaterally cut its purchased gas costs. It is also unfortunate that the New Hampshire distribution utilities are, in effect, prevented from passing on the TGP PGA cuts as rate reductions, even though those cuts are intended to improve the marketability of natural gas relative to its substitutes. It is clear the New Hampshire distribution utilities are facing marketing problems and that rate reductions would be welcomed.

We can only hope that the matter is resolved expeditiously before the FERC.

Our Order will issue accordingly.

ORDER

Based upon the foregoing Report which is made a part hereof; it is hereby

ORDERED, that this docket is closed and that no changes in the Summer CCA rates for Northern Utilities, Concord Natural Gas, Manchester Gas or Gas Service will be made at this time.

By Order of the Public Utilities Commission of New Hampshire this fifth day of July, 1983.

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NH.PUC*07/05/83*[79713]*68 NH PUC 455*Boston and Maine Corporation

[Go to End of 79713]

Re Boston and Maine Corporation

DX 82-236, Third Supplemental Order No. 16,519

68 NH PUC 455

New Hampshire Public Utilities Commission

July 5, 1983

ORDER finding that railroad track inspection requirements are not preempted by federal regulation

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RAILROADS, § 15 — Jurisdiction and powers — State commission — Nuisances.

[N.H.] The commission concluded that railroad track inspection requirements were not preempted by federal law where they would not force the company into noncompliance with any federal requirements, they would not impose an undue burden on interstate commerce, and the Federal Railroad Safety Act of 1970 did not preempt state regulation relating to railroad safety where necessary to eliminate or reduce an essentially local safety hazard.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, the Commission opened an investigation on August 18,

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1982 to *inter alia* investigate the cause of the high frequency of derailments on a particular 6 1/2 mile section of track between Manchester, New Hampshire and Hooksett, New Hampshire; and

WHEREAS, the Commission issued Report and Second Supplemental Order No. 16,341 on April 12, 1983 ("Decision") (68 NH PUC 199); and

WHEREAS, the Commission in its decision found that the frequency of derailments of unknown cause in the above referenced section of track is significantly higher than the frequency of derailments on other sections of track; and

WHEREAS, the Decision imposed 9 inspection requirements for rail traffic travelling between Manchester, New Hampshire and Bow, New Hampshire in order to eliminate or reduce an essentially local safety hazard; and

WHEREAS, Robert W. Meserve and Benjamin H. Lacy, Trustees of the Boston and Maine Corporation, Debtor ("Company") filed a timely Motion for Rehearing ("Motion"); and

WHEREAS, the Motion's sole contention is that the Commission's authority to issue its Decision is pre-empted by the Federal Railroad Safety Act of 1970, 45 U.S.C.A § 434 ("Act"); and

WHEREAS, the 9 inspection requirements in the Decision were imposed to eliminate or reduce an essentially local safety hazard between Man-chester, New Hampshire and Hooksett, New Hampshire; and

WHEREAS, all 9 inspection requirements are not incompatible with any federal law, rule, regulation, order or standard in that federal requirements do not cover the subject matter of Decision Requirements No. 5, 6, 7 and 9 and in that compliance with Decision Requirements No. 1, 2, 3, 4 & 8 will not force the Company into noncompliance with any federal requirements; and

WHEREAS, the record supports the finding that compliance with the 9 inspection requirements will not impose an undue burden on interstate commerce in that, *inter alia*, the incremental cost of compliance is far outweighed by the benefit of avoiding the type of

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derailment costs of the past ($1,068,381) plus reducing the probability that even more serious costs will result due to future derailments; and

WHEREAS, the Act does not preempt state regulation relating to railroad safety when necessary to eliminate or reduce an essentially local safety hazard; when not incompatible with any federal law, rule, regulation, order, or standard; and when not creating an undue burden on interstate commerce; it is hereby

ORDERED, that the Company's Motion be, and hereby is, denied.

By order of the Public Utilities Commission of New Hampshire this fifth day of July, 1983.

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NH.PUC*07/06/83*[79714]*68 NH PUC 457*Bedford Water Corporation

[Go to End of 79714]

Re Bedford Water Corporation

DR 83-133, Order No. 16,520

68 NH PUC 457

New Hampshire Public Utilities Commission

July 6, 1983

PETITION by water company for an increase in rates; granted, as modified.

APPEARANCES: Dom S. D'Ambruoso for the petitioner; Kenneth E. Traum and George Gantz for the PUC staff.

BY THE COMMISSION:

REPORT

Bedford Water Corporation, a franchised N.H. public water utility, with its principal place of operation in Bedford, N.H., filed on April 1, 1983, for an increase in rates on a temporary and permanent basis of 86.9%.

Said filing was duly suspended by the Commission and set for hearing at 10:00 a.m. on June 29, 1983 at the Commission's Concord offices.

The duly noticed public hearing was held as scheduled on June 29 and per the request of the Company and with no objections, the Company and Commission Staff, as represented by Mr. Traum and Mr. Gantz, entered into settlement discussions.

The result of those discussions was a proposed increase in rates of $5,262 versus $7,795 as originally requested.

The settlement adjustments can be most readily explained by reference to the utility's 1982 actual results.

(1) Operation and Maintenance expense, reported at $5,796, was reduced by $1,137 to reflect

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the cost of a pump motor which should have been capitalized. This amount was then increased by a $5,245 proforma to reflect additional costs of superintendence, meter reading, billing, breakdowns, transportation, etc. The adjusted O & M was thus adjusted to $9,904 from the originally requested $12,596

(2) Depreciation, originally booked at $1,010, was increased to $1,124 to reflect depreciation on the pump motor which should have been capitalized in 1982.

(3) Taxes were $1,753 in the test year, proformed to $1,786, and were accepted for settlement purposes.

(4) The utility's average 1982 rate base was originally calculated to be $19,620, but due to correction of a calculation error and capitalization of the pump motor, resulted in a proformed rate base for settlement purposes of $20,268.

(5) The rate of return requested and accepted for settlement purposes was 7.0%.

Thus, the revenue requirement as arrived at for settlement purposes was $14,233 calculated as follows:

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

O & M   $ 9,904
Deprec. 1,124
Taxes   1,786
Return  1,419 ($20,268 x 7.0%)
        ______________________
        $14,233
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In addition to a revenue requirement, the settlement addressed several other items:

(6) On rate structure, the declining block rates will be changed to an increasing block rate to encourage conservation and the current tailblock will be dropped for simplicity.

(7) The Company will provide the Commission a breakdown of legal and accounting expenses related to the rate case, all reasonable amounts of which will be recouped from customers over 2 years through a temporary surcharge.

(8) The rate increase will be effective with all service rendered on or after May 1, 1983, which is after the date customers learned of the Company's filing. The Company's July billing will, therefore, have to be prorated.

(9) A step increase will be filed by the Company after its proposed new source of supply is in service. This step increase will recognize the larger rate base, revised capital structure, and increased depreciation entailed by the capital investment.

After analysis and investigation the Commission will accept the settlement proposal, and thank all parties involved for their efforts.

Our Order will issue accordingly.

ORDER

Based upon the foregoing Report which is made a part hereof, it is hereby

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ORDERED, that Bedford Water Corporation may increase its rates by $5,262 on an annual basis; and it is

FURTHER ORDERED, that the increase will be effective with all service rendered on or after May 1, 1983; and it is

FURTHER ORDERED, that the Company is entitled to a 2 year temporary surcharge to recoup reasonable rate case expenses; and it is

FURTHER ORDERED, that the Company shall file the appropriate tariff pages reflecting compliance with this Order as soon as is practicable.

By Order of the Public Utilities Commission of New Hampshire this sixth day of July, 1983.

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NH.PUC*07/07/83*[79715]*68 NH PUC 459*Citizens of Farmington v New England Telephone and Telegraph Company

[Go to End of 79715]

Citizens of Farmington v New England Telephone and Telegraph Company

DC 83-198, Order No. 16,522

68 NH PUC 459

New Hampshire Public Utilities Commission

July 7, 1983

ORDER directing telephone company to inform customers, through advertising and billing inserts, of the terms of municipal calling service.

APPEARANCES: Jeanne S. Conroy for New England Telephone and Telegraph Company; Emmanuel Krasner pro se; D. Christopher Kenyon pro se.

BY THE COMMISSION:

REPORT

On June 3, 1983, a petition was filed with this Commission by Emmanuel Krasner indicating that the terms of the Municipal Calling Service Tariff of New England Telephone had been violated for some customers residing within the town of Farmington, New Hampshire. These had service in the 332 and 755 exchanges and were making calls to other residents of said town, but within the 859 exchange. (Subsequent information indicates that the 335 exchange customers involved were in the former, and 776 was involved with the latter.) The petitioner sought relief in the form of notification to all Farmington residents of the terms of Municipal Calling Service and adjustments made for any previous errors in billing.

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By letter of June 15, 1983, the Commission advised the petitioner and New England Telephone that the matter had been set for public hearing on July 6, 1983 at 10:00 a.m. in the Commission's Concord offices.

Attorney Krasner and D. Christopher Kenyon in opening remarks outlined the difficulties encountered personally and their fears of other unknowing New England Telephone customers in Farmington having similar difficulties. It was suggested by the petitioner that all Company records of Farmington customers be screened to determine any inaccuracies in the municipal billing since the service was initiated and adjustments as necessary be made.

Attorney Conroy presented Robert Rohnstock, Residential Service Manager for the N.H. Seacoast area. His testimony revealed the program to institute the Municipal Calling Service was an extensive and time-consuming project; and to recheck all records of Farmington customers also a lengthy and expensive project. He further indicated that such discrepancies, at

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least in the Seacoast area, had been isolated cases.

From the evidence presented, the Commission agrees that further customer awareness is necessary; but costs preclude manual review of individual accounts as a means of determining affected customers. As an alternative, the Commission feels a broad advertising campaign to ensure common knowledge of Municipal Calling Service in Farmington would be far less costly with lesser burden on the general ratepayer.

Our Order will issue accordingly.

ORDER

Based upon the foregoing Report which is made a part hereof; it is

ORDERED, that New England Telephone place an advertisement in the *Rochester Courier* for two successive editions, said advertisement to clearly state terms of the Farmington Municipal Calling Service and to advise all customers with discrepancies to contact the Company; and it is

FURTHER ORDERED, that bill inserts bearing similar information be distributed among Farmington customers of the 332, 335, and 755 exchanges; and it is

FURTHER ORDERED, that radio announcements of a similar nature be issued for broadcast on WASR in Wolfeboro and WWNH in Rochester, the frequency of which to be determined by New England Telephone; and it is

FURTHER ORDERED, should discrepancies be found as a result of this Order, New England Telephone Company will make appropriate adjustments to affected customers accounts based upon accurate review of currently available records and a pro-rata adjustment for prior periods to the later of the customer's date of service or the initiation of Municipal Calling Service in Farmington.

By Order of the Public Utilities Commission of New Hampshire this seventh day of July, 1983.

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NH.PUC*07/08/83*[79716]*68 NH PUC 461*Franchise Tax — Electric and Gas Utilities

[Go to End of 79716]

Re Franchise Tax — Electric and Gas Utilities

Intervenors: Petrolane-Southern New Hampshire Gas Company, Claremont Gas Light Company, Public Service Company of New Hampshire, Northern Utilities, Inc., Concord Electric Company, Exeter and Hampton Electric Company, Concord Natural Gas Company, Gas Service, Inc., Manchester Gas Company, New Hampshire Electric Cooperative, Inc., Granite State Electric Company, Community Action Program, and Association of New Hampshire Utilities

DR 83-205, Order No. 16,524

68 NH PUC 461

New Hampshire Public Utilities Commission

July 8, 1983

ORDER approving tariffs to recover franchise tax.

APPEARANCES: Ransmeier and Spellman by Dom S. D'Ambruoso for the Association of New Hampshire Utilities, Petrolane-Southern New Hampshire Gas Company, and Claremont Gas Light Company; Sulloway, Hollis and Soden by Martin Gross and Warren, Nighswander for Public Service Company of New Hampshire, Northern Utilities, Inc., Concord Electric Company, and Exeter and Hampton Electric Company; Orr and Reno by Charles Toll for Concord Natural Gas Company, Gas Service, Inc., and Manchester Gas Company; Jeffrey Zellers for the New Hampshire Electric Cooperative, Inc; Michael Flynn for Granite State Electric Company; Gerald Eaton for Community Action Program; Larry M. Smukler for the staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

On June 17, 1983, the Association of New Hampshire Utilities filed a Petition for a proceeding to establish methods for recovering expense of proposed franchise tax on gross receipts of electric and gas utilities. The Commission issued an Order of Notice opening this docket on June 24, 1983 which was duly published in accordance with its terms. A hearing was held on July 5, 1983 and appearances were entered as set forth above. Various filings, petitions, and motions were received from and on behalf of the various utilities in this case; for the purposes of this request, these will be treated as a group and not addressed individually.

This proceeding arose as a result of

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a provision in the 1984-1985 State Operating Budget which *inter alia* repealed the electric and gas utility franchise tax law at RSA 83-B and replaced it with a new franchise tax law at RSA 83-C.[1(26)] In essence, the former tax of 9% of net income derived from the exercise of franchise has been replaced by a tax of 1% of gross receipts from the sale of gas or electricity pursuant to franchises granted by this state. The new tax, which was effective July 1, 1983, changes the state tax liability of New Hampshire electric and gas utilities; an item which is an allowable expense in the cost of service to be recovered from the ratepayers. Accordingly, the utilities in this proceeding are seeking authorization from the Public Utilities Commission of New Hampshire (Commission) to recover their estimated increased franchise tax expense from ratepayers.

An objection to the Association's petition was filed on July 1, 1983 by Community Action Program (CAP) averring *inter alia* that the new tax should only be applied to service rendered after the effective date of the legislation, rather than to all bills rendered after that date; that the new tax should be treated as any other expense which may vary throughout a rate year, rather than receiving a special adjustment; and that the new tax should not be applied to certain rates and charges which may not be associated with the sale of electricity or gas. Oral argument on the objection was heard at the July 5, 1983 hearing.

There are two questions which will be addressed by the Commission in this proceeding. The first question is whether to allow a rate adjustment for electric and gas utilities in this docket to reflect the new franchise tax. If we do allow a rate adjustment, the second question is what type of rate adjustment should be allowed. We shall address each question in turn.

RATE ADJUSTMENT

The initial question is whether to allow a rate adjustment at all. The utilities stated that the tax represents a known increase in an allowable expense which could not have been anticipated during a historic test year. CAP argued that the increased tax liability is no different than any other expense that varies over a rate year and, thus, no recovery should be allowed until test year data is compiled. After due consideration, we have concluded that it is reasonable under the circumstances to allow a rate adjustment for the purpose of recovering the increased tax liability. It would be unfair in this instance to deny utilities a means of recovering a legitimate expense because of undue formality. This conclusion should not be interpreted as a change in the Commission's longstanding policy of establishing rates based only on historic data adjusted for known and measurable changes.[2(27)] The circumstances here are limited (new legislation which imposes immediate liabilities on all intra state electric and gas utilities) and applicable to gas and electric utilities as a class, rather than as individual entities.

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Those circumstances are not likely to reoccur with any regularity.

TYPE OF RATE ADJUSTMENT

Since we have concluded that we will allow a rate adjustment, it is appropriate to address the type of adjustment which will be permitted. We will initially examine the general issues presented by such a rate adjustment and then address the issues which may be applicable to

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particular utilities.

General Issues

While it is appropriate to ensure that utilities will be able to recover sufficient revenues to fulfill state tax obligations, it is impossible on the basis of the current record to estimate what those state tax obligations will be. The ink on RSA 83-C is hardly dry. The Department of Revenue Administration (DRA) has not yet had an opportunity to rule formally on which revenue accounts are to be included within the definition of "gross receipts" set forth at RSA 83-C:1 IV. The record raises many questions, but supplies few definitive answers. For example, the parties questioned whether revenues from the following items fall within the definition of RSA 83-C:1 IV: sales of gas or electricity to other regulated intrastate utilities which are for purposes other than direct resale, customer costs, interest on past due bills, service connection charges, accounts established for the payment of state franchise taxes (the so called "tax on the tax") and service rendered prior to July 1, 1983 which is billed after that date. Additional questions pertinent to the effect of franchise tax accounting on working capital and other rate components must also be addressed.

In the face of this uncertainty the Commission will not speculate on the precise level of gross receipts which will be subject to the tax payable on March 15, 1984 and thereafter. The Commission will allow an adjustment designed to ensure the availability of funds for payment of the tax while, at the same time, it retains the flexibility to reconcile the adjustment with actual tax liability as properly determined by DRA. Accordingly, electric and gas utilities will be permitted to adjust rates by multiplying revenues in Federal Energy Regulatory Commission account nos. 440, 441, 442, 443, 444, 445,446, and 448 (electricity) or in the uniform classification of accounts for gas utilities account nos. 1600, 1601, 1604, 1607, and 1608 (gas) by 1.010101 or, in the alternative, by dividing the revenues in the above accounts by .99. This adjustment will only be allowed after the utility has decreased its rates to reflect the repeal of the tax at RSA 83-B. Since this is an interim adjustment subject to later reconciliation, we will require utilities to keep a separate account of the revenues raised by the adjustment so that they may later be reconciled with the actual liability. The change will be allowed to take effect for all bills rendered on or after July 1. The Commission makes no judgement here as to whether the tax applies to receipts for service rendered prior to July 1, but does find that the Commission has the discretion in this case to order a rate change for effect on bills rendered on or after July 1. The Commission will hold further hearings to determine how the adjustment is to be reconciled and ultimately integrated into base rates after the appropriate agencies have had an opportunity to carefully

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consider the questions raised in the implementation of the legislation. We anticipate that such hearings may be scheduled for mid-September.

Specific Issues

During the hearing, the electric and gas utilities subject to the tax classified themselves into three groups.[3(28)] Group A[4(29)] filed tariffs simply adding 1% to rates to reflect the tax. Group B[5(30)] decreased rates to reflect the repeal of RSA 83-B and then adjusted rates to reflect the

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new gross receipts franchise tax by dividing certain revenues by .99. Group C consisted of Public Service Company of New Hampshire (PSNH) which is in a unique situation due to its pending rate case and its pending recovery of franchise tax revenues (See, Re Public Service Co. of New Hampshire [1982] 122 NH 919, 451 A2d 1321; Re Public Service Co. of New Hampshire, [1983] 68 NH PUC 226.)

The Group B utilities have filed tariffs which are in compliance with the provisions of this Report and Order. Accordingly, the Commission will approve them as of the date of this Order. The Group A utilities have filed sample tariffs which are deficient in that they fail to account for the decreased tax liability due to the repeal of RSA 83-B. Those tariffs are rejected. However, the group A utilities have leave to file amended tariffs which are in compliance with this Order. Subject to Commission review and suspension for further noncompliance, those amended tariffs may be effective as of the filing date. PSNH did not propose a rate adjustment for the month of July, 1983. Instead, it proposed to offset any increased tax expense with the second component of the AFUDC tax refund due under the terms of Order No. 16,364, *supra*. In addition, PSNH proposed to account for any tax liability subsequent to August 1, 1983 through pro-forma adjustments in its pending rate filing at DR 82-333. PSNH also filed a tariff supplement for the purpose of describing the franchise tax adjustments to rates with respect to the non-energy component of cost, the energy component of cost and secondary sales. PSNH's proposal and tariff supplement are accepted as methods of ensuring that it will be able to recover for its franchise tax liability. However, PSNH is directed to account for the tax separately in accordance with the terms of this Order so that a reconciliation may be effected when the implementation questions are resolved.

Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the following filed tariff pages are approved:

Granite State Electric Tariff NHPUC NO. 10 Original Page 60 PPCA Cover Sheets

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Exeter and Hampton Electric Tariff NHPUC No. 15 1st revised page 1 11th revised page 19A Original Page 19B 1st revised page 20, 22, 24, 25, 26, 30, 34 Concord Electric Company Tariff NHPUC No. 8 1st revised page 1 11th revised page 19A Original Page 19B 3rd revised pages 20, 23, 25, 26, 30 2nd revised page 32

and it is

FURTHER ORDERED, that Northern Utilities Inc. and New Hampshire Electric Cooperative Inc. shall file Tariff Supplements implementing the respective increases requested; and it is

FURTHER ORDERED, that compliance tariff pages removing the RSA 83-B franchise tax liability from rates in instituting the increase for the RSA 83-C franchise tax liability through a tariff supplement may be filed for effect on bills rendered on or after July 1, 1983 by Petrolane

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— Southern New Hampshire Gas Company, Claremont Gas Light Company, Concord Natural Gas Corporation, Gas Service, Manchester Gas, and Keene Gas; and it is

FURTHER ORDERED, that Public Service Company of New Hampshire's Motion for Order Specifying Procedures to be Followed by PSNH is hereby granted subject to the terms of this Order; and it is

FURTHER ORDERED, that all rate adjustments approved for the purpose of recovering franchise tax revenues be booked to separate sub-accounts under other operating revenues for electric companies and miscellaneous gas revenues for gas companies until such time as the Commission directs otherwise; and it is

FURTHER ORDERED, that further hearings will be scheduled at the call of the Commission for the purpose of reconciling the revenues booked to the separate interim account with actual franchise tax liability and for the purpose of determining the method of incorporating the tax liability permanently into each company's rates.

By order of the Public Utilities Commission of New Hampshire this eighth day of July, 1983.

FOOTNOTES

[1]The proposed new franchise tax was reviewed by the New Hampshire Supreme Court for constitutionality. The Court held that if certain amendments were incorporated, the proposal, would be constitutional. Re Opinion of the Justices (1983) 123 NH — , 461 A2d 132. The amendments identified by the Court were incorporated into the final legislation.

[2]The franchise tax expense is known, but, as discussed *infra*, the uncertainty of precisely which gross receipts are taxable renders the expense unmeasurable at the current time.

[3]Connecticut Valley Electric Company and Keene Gas Company were the only utilities subject to the tax which did not participate. Keene will he permitted to make an appropriate filing adjusting rates in accordance with this Order. Connecticut Valley has indicated its intent to address the franchise tax issue in its upcoming rate case.

[4]Group A utilities were Concord Natural Gas Company, Manchester Gas Company, Gas Service, Inc., Claremont Gas Light Company and Petrolane — Southern New Hampshire Gas Company.

[5]Group B utilities were Northern utilities, Inc., Exeter and Hampton Electric Company Concord Electric Company, New Hampshire Electric Cooperative, Inc., and Granite State Electric Company

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NH.PUC*07/08/83*[79717]*68 NH PUC 466*New England Telephone and Telegraph Company

[Go to End of 79717]

Re New England Telephone and Telegraph Company

Additional petitioner: New Hampshire Electric Cooperative, Inc.

Intervenor: Department of Resources and Economic Development

DE 83-188, Order No. 16,526

68 NH PUC 466

New Hampshire Public Utilities Commission

July 8, 1983

ORDER authorizing telephone company to place and maintain an aerial wire over a river.

APPEARANCES: Wayne Snow, engineering manager, New England Telephone Company, Earl Hansen, plant manager, New Hampshire Electric Cooperative, Inc., for the petitioners; Clayton Heath, Department of Resources and Economic Development.

BY THE COMMISSION:

REPORT

On May 27, 1983, the New England Telephone Company filed with this Commission, a petition seeking authority to place and maintain telephone aerial plant over the Baker River in Rumney, New Hampshire to service a single customer, Andrew Sutherland. On June 2, 1983, the Commission issued an Order of Notice directing all interested parties to appear at a public hearing at 10:00 a.m. On July 6, 1983 at the Concord offices of the Commission. The petitioner was directed to publish a public notice in a newspaper having general circulation in the area served. In addition to the publication of said notice, copies of the hearing notice were directed to: John R. Sweeney, Director, Aeronautics Commission; George Gilman, Commissioner, DRED; John Bridges, Director of Safety Services; and the Office of the Attorney General. An affidavit of publication indicating that publication was made in the Union Leader on June 9, 1983, was received in the Commission's offices at Concord New Hampshire on the date of the hearing.

On June 27, 1983, the New England Telephone Company filed an amended petition for the license, indicating that it has been corrected to include the name of the New Hampshire Electric Cooperative Inc. as a co-petitioner.

Wayne Snow, Engineering Manager, explained that the petition results from a customer request for initial telephone service at his Summer residence. The Company proposes to

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install a single "C" rural telephone wire from Telephone Pole 119/212-2 (NHEC Pole 7103.2/2) off Quincy Road on private property of Richard and Anna Moses to Telephone Pole 119/212-3 (NHEC Pole 7103.2/3) on private property of Andrew Sutherland. Crossing will extend approximately 240 ft. across the Baker River and will, as a minimum, be 17ft. above the river level. The installation will comply with the requirements of the National Electric Safety Code.

Mr. Earl Hansen testified that the Sutherland property has been served by electric service since May, 1972; however, a review of the records indicates that no license was obtained for the crossing.

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Mr. Clayton Heath testified that it is the policy of DRED to generally oppose any crossings which will have an adverse impact on the aesthetics of the area. He noted that the overhead crossing is viewed by those individuals who fish or canoe in the area.

Two alternative means of crossings were evaluated. The first would provide an underground crossing at the specified location. That alternative was not selected because of the nature of the rough terrain and steep embankment. The environmental impact of the excavation was considered more damaging then the aesthetic inconvenience of the overhead crossing.

A second alternative to utilize adjacent crossings and run overhead lines along the river bank was also discounted on the basis that the nearest bridge crossing is approximately 1 mile from the Sutherland property, and would require approximately 2 miles of telephone plant installation parallel to the bank to reach the Sutherland property. The aesthetic impact of 2 miles of overhead line would be more severe than the petitioned crossing.

The Commission finds that the petition was properly publicized and proper notification was given to the public as to the proposed installation. It finds that this petition for license to place and maintain aerial utility plant across the Baker River to service the property of Mr. Andrew Sutherland, Rumney, New Hampshire, to be in the public interest.

Our Order will issue accordingly.

ORDER

Based upon the foregoing Report which is made a part hereof; it is

ORDERED, that authority be granted to the New England Telephone and Telegraph Company, and to the New Hampshire Electric Cooperative Inc., to place and maintain aerial plant over the Baker River in Rumney, New Hampshire from Telephone Pole No. 119/212-2 (NHEC Pole 7103.2/2) off Quincy Road to Telephone Pole No. 119/212-3 (NHEC Pole 7103.2/3) on private property of Andrew Sutherland in Rumney, New Hampshire as defined in the petitioner's exhibits.

By Order of the Public Utilities Commission of New Hampshire this eighth day of July, 1983.

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NH.PUC*07/08/83*[79718]*68 NH PUC 468*New Hampshire Electric Cooperative, Inc.

[Go to End of 79718]

Re New Hampshire Electric Cooperative, Inc.

Intervenor: Community Action Program

DR 83-143, Order No. 16,527

68 NH PUC 468

New Hampshire Public Utilities Commission

July 8, 1983

PETITION for an increase in electric rates; granted.

APPEARANCES: Mayland H. Morse for the New Hampshire Electric Cooperative, Inc.; Gerald Eaton for Community Action Program; Larry M. Smukler for the staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

On June 10, 1983, the New Hampshire Electric Cooperative, Inc. filed a petition for rate relief to increase annual revenues by $617,966. An Order of Notice was issued on June 13, 1983 setting a hearing on June 30, 1983 for consideration of the rate relief requested.

At the hearing the Company witness, Maurice Muzzey, testified that the amount of the adjustment, $617,966, would result in an increase in base rates of approximately $.00 178 per kilowatt hour. He further testified that the request would result in no change in overall rates being charged to customers because the Company would accomplish level rates by reducing the fuel charge by $.00178, or from $.03 to $.02822 per kilowatt hour. The Company's present rates have had $.03 per kilowatt hour of fuel charges folded-in to rates since November 15, 1982. The fuel charge has been averaging less than $.03, and the Company has proposed to reduce the fuel charge to offset the increased rates. For the year ended December 31, 1982 the average fuel cost per kilowatt hour was $.0283 and $.0282 for the twelve months ended March 31, 1983.

The Company further testified that the Rural Electrification Administration (REA) and the Cooperative Finance Corporation (CFC), both of whom are providing loans, are concerned about their ability to meet the mortgage requirement of a 1.5 times interest earned ratio. Mr. Muzzey testified that both organizations have questioned further loans unless the Company's earnings improved. The Cooperative has recently filed a loan application for a two year construction loan of $11,499.000; 90 percent from REA at 5% interest and the balance from CFC at 11%. The loan applications

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are needed for member extensions and improvements to the distribution and transmission facilities of the Cooperative.

The increases on base rates are needed to cover known and measureable changes in expenses which have occurred since the Company's last rate case. The increased expenses are as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Increased	$158,954
Payroll Taxes and Insurances	47,344
Health Insurance	37,697
Property Taxes	47,901
Increased Interest Costs	461,882
Removal of Franchise Tax	(135,812)
TOTAL	$617,966

The Commission Staff has audited the proposed expenses and has found them to be accurate.

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After pro forming the above changes the Company's interest earned ratio would be 1.51, or just above the REA requirements. After allowing the Company to adjust its base rates and the fuel charges the interest coverage ratio would be improved to a position closer to that allowed in the last rate case. The Commission therefore will allow the proposed changes as requested by the Company.

Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the New Hampshire Electric Cooperative, Inc. request for an increase in base rates of $617,966 is hereby approved; and it is

FURTHER ORDERED, that the Cooperative's request for an equal offsetting reduction in the fuel charge being billed under tariff NHPUC No. 11 is also approved; and it is

FURTHER ORDERED, that these charges shall be effective as of July 1, 1983 and entail no changes to tariff NHPUC No. 11.

By order of the Public Utilities Commission of New Hampshire this eighth day of July, 1983.

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NH.PUC*07/11/83*[79719]*68 NH PUC 469*Fuel Adjustment Clause

[Go to End of 79719]

Re Fuel Adjustment Clause

Intervenor: Littleton Water and Light Department

DR 83-166, Supplemental Order No. 16,528

68 NH PUC 469

New Hampshire Public Utilities Commission

July 11, 1983

ORDER permitting fuel surcharge to become effective.

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BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, the Commission in correspondence dated March 2, 1982, sent to the New Hampshire Electric Cooperative, Inc., Granite State Electric Company, Connecticut Valley Electric Company, Inc., Exeter & Hampton Electric Company, Municipal Electric Department of Wolfeboro, Concord Electric Company, Woodsville Power and Light Department, and Littleton Water & Light Department by the Commission's Executive Director and Secretary in relation to

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DR 82-59, notified the utilities that the Commission will not automatically schedule FAC hearings for those utilities which file monthly unless requested or needed by one of those utilities; and the Commission would not automatically schedule FAC hearings in the two off months for those utilities which have a quarterly FAC rate; and

WHEREAS, no utility maintaining a monthly or quarterly FAC requested a hearing be scheduled; and

WHEREAS, this is one of the two off months for quarterly FAC utilities; it is

ORDERED, that 116th Revised Page 6 of the Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for a fuel surcharge of $0.84 per 100 KWH for the month of July, 1983, be, and hereby is, permitted to become effective July 1, 1983.

By order of the Public Utilities Commission of New Hampshire this eleventh day of July, 1983.

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NH.PUC*07/12/83*[79720]*68 NH PUC 470*Bedford Water Corporation

[Go to End of 79720]

Re Bedford Water Corporation

DR 83-133, Supplemental Order No. 16,529

68 NH PUC 470

New Hampshire Public Utilities Commission

July 12, 1983

ORDER expanding the time period in which a water company may collect a sizable recoupment amount from customers.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, the Commission in Report and Order No. 16,520, dated July 6, 1983, stated (68 NH PUC 457, 458): The Company will provide the Commission a breakdown of legal and accounting expenses related to the rate case, all reasonable amounts of which will be recouped from customers over 2 years through a temporary surcharge;

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and

WHEREAS, the Company by letter dated June 30, 1983, stated that the total amount of rate case expense was $3,403.70, comprised of $2,716.20 for legal services and $687.50 for accounting services; and

WHEREAS, the Commission is quite concerned that in a rate case that was handled expeditiously through the settlement process, the requested recoupment is equal to $56.73 per customer; and since this amount is extraordinarily high, even taking into account recent ownership changes and supply problems; the Commission will

ORDER, that the Company may recoup the $3,403.70 over a period of 3 years, instead of the two previously noted, at a rate of $4.73 per quarter per customer; and it is

FURTHER ORDERED, that at the same time as the Commission is reviewing ways to further reduce rate case expenses for small water utilities, the Company in the future shall endeavor to minimize its Commission related expenses by dealing directly with our staff as much as possible; and

WHEREAS, this Commission, in its concern that the Bedford Water System did not have adequate sources of supply to insure constant satisfactory service to its customers, opened Docket DE 81-333 to investigate and provide assurances that the necessary action would be taken. This docket concluded and ordered that Bedford take immediate steps to develop new sources, but was unable to obtain the necessary financing. The final Order in Docket DE 81-333, i.e., No. 16,207 (68 NH PUC 58), ordered that Bedford take certain steps, which included the petition in the instant case DR 83-133 for increased revenues; and

WHEREAS, in consideration of the past and recent proceedings with the Bedford Water Corporation; it is

FURTHER ORDERED, that with the allowance of increased revenues now granted, that Bedford report to this Commission by September 1, 1983, with its progress made with financial institutions and subsequent plans for a 1983 development of an additional source of supply.

By order of the Public Utilities Commission of New Hampshire this twelfth day of July, 1983.

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NH.PUC*07/12/83*[79721]*68 NH PUC 471*New England Telephone and Telegraph Company

[Go to End of 79721]

Re New England Telephone and Telegraph Company

DE 83-232, Order No. 16,536

68 NH PUC 471

New Hampshire Public Utilities Commission

July 12, 1983

ORDER establishing new regulations for outgoing emergency telephone calls.

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SERVICE, § 449 — Telephone — Special service — Emergency calls — Treatment.

[N.H.] The commission, in the interest of public safety, held that it was reasonable to alter a telephone company's tariff so that a recorder tone would not emit signals every fifteen seconds during emergency calls or outgoing calls made in immediate response.

BY THE COMMISSION:

REPORT

On October 12, 1982 the Commission received a letter petition from Colonel Paul F. O'Leary, Director of the State Police, requesting that certain New England Telephone and Telegraph Company (NET) tariff provisions be waived. Specifically, Colonel O'Leary requested a waiver of Tariff Provision No. 4.5.2; Recording, Reproducing and Automatic Answering and Recording Equipment.

Tariff Provision No. 4.5.2 requires the use of a recorder tone (beeper) at approximate fifteen second intervals whenever a telephone conversation is being recorded. Part 4.5.2.A.1.a.(5) provides that such a beeper is not required:

> ... when used on central office lines used by municipal fire departments, police departments, or other emergency answering centers of a local government or governments and assigned exclusively for the receipt of emergency calls.

In his letter petition, Colonel O'Leary emphasized that the above tariff provision only applies to telephone lines devoted entirely to the receipt of emergency calls. He pointed out that it is often necessary to make outgoing emergency calls on certain discreet telephones. The use of a beeper on such calls may obscure the clarity of voice and word in emergency situations where a reconstruction of a conversation may be critical.

Our review of Colonel O'Leary's request leads us to conclude that it is reasonable to grant the request. It appears that such Commission action will have a beneficial effect on the public health and safety in that it will allow for better police responses to emergency situations. As we have stated on many occasions, within the scope of our jurisdiction, the obligation to protect the safety of the public is paramount to all other responsibilities entrusted to the Commission. See e.g., Re Concord Nat. Gas Corp. (1982) 67 NH PUC 960, 968. We also note that the Federal Communications Commission (FCC) recently granted an exception to its requirement for a beeper tone on recorded interstate calls for incoming calls made to telephone numbers publicized for emergencies and outgoing calls made in immediate response. See, Re Use of Recording Devices in Connection with Telephone Service, FCC Docket No. 20840, May 7, 1981 and released May 18, 1981 at p. 9. Accordingly we will direct NET to amend its Tariff Requirement No. 4.5.2.A.1.a.(5) so that a recorder tone will not be required:

> when used on central office lines used by municipal fire departments, police departments, or other emergency answering centers of a local government or governments and assigned exclusively for the receipt of

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emergency calls *and outgoing calls made in immediate response*.[1(31)]

Although it is our conclusion that the above tariff amendment is reasonable, we are reluctant to order such an amendment without providing an opportunity for NET or other interested persons to provide input. Accordingly, we will issue this Report and Order as an Order *Nisi*. It will not become effective until 60 days from the date of adoption. NET and other interested persons may file comments, exceptions and/or requests for a hearing within 30 days. All requests for a hearing must be accompanied by an offer of proof. If we receive information sufficient to cause us to reconsider this Order *Nisi*, we will issue a further Order suspending the effective date pending such a reconsideration.

Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, *NISI*, that New England Telephone and Telegraph Company (NET) file an amendment to Tariff NHPUC No. 75, Part A — Section 4.5.2.A.1.a(5) as provided in the foregoing Report; and it is

FURTHER ORDERED, that the foregoing Order *NISI* shall be effective in 60 days; and it is

FURTHER ORDERED, that NET and all interested persons may file comments, exceptions and/or requests for a hearing within 30 days of this Order; and it is

FURTHER ORDERED, that requests for a hearing must be accompanied by an offer of proof; and it is

FURTHER ORDERED, that NET publish this Report and Order in two newspapers of general circulation; and it is

FURTHER ORDERED, that a copy of this Report and Order be served on the Public Defender Program, the Appellate Defender Program, the Community Action Program and New Hampshire Legal Assistance.

By order of the Public Utilities Commission of New Hampshire this twelfth day of July, 1983.

FOOTNOTE

[1]It should be emphasized that this tariff amendment is ordered for the purpose of protecting the public health and safety. We make no findings as to whether the recording of telephone conversations is otherwise proper under RSA Chapter 570-A or whether such recorded conversations may be admissible as evidence in judicial proceedings. Those determinations are more properly left to the courts.

==========

NH.PUC*07/13/83*[79722]*68 NH PUC 474*Manchester Water Works

[Go to End of 79722]

Re Manchester Water Works

DE 83-207, Order No. 16,537

68 NH PUC 474

New Hampshire Public Utilities Commission

July 13, 1983

ORDER approving special contract for water service.

RATES, § 597 — Water — In general — Special factors.

[N.H.] Statement, in dissenting opinion, that commission has a duty to ensure that customers in different towns served by the same company are treated equally and fairly, and differences in rates should be cost justified; therefore, the special water contract should be disapproved. p. 475.

Before Aeschliman (dissenting), commissioner.

BY THE COMMISSION:

ORDER

WHEREAS, Manchester Water Works, a utility selling water under the jurisdiction of this Commission in certain areas outside the City of Manchester, has filed a copy of its Special Contract with the Town of Derry, providing for the purchase of certain volumes of water; and

WHEREAS, upon investigation and consideration, this Commission is of the opinion that special circumstances exist relative thereto, which render the terms and conditions thereof just and consistent with the public interest; it is hereby

ORDERED, that said contract may become effective as of the effective date of this order.

By Order of the Public Utilities Commission of New Hampshire this thirteenth day of July, 1983.

AESCHLIMAN, commissioner, dissenting: The contract proposed by Manchester Water Works with the Town of Derry would supply all of Derry's current water needs and provide for growth. The lower than tariff unit cost provided for in the contract results in a preferential rate of Derry in comparison with the Commission set tariff rate for the other towns in Manchester's franchise area.

Two arguments are made to justify a lower than tariff rate. Upon careful consideration, I find neither of the arguments to be persuasive. First, Manchester contends that a lower cost is justified because the Manchester Water Works would have individual customer responsibility — customer complaints, customer concerns, metering and billing. However, in accordance with the

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American Water Works Association cost allocation method which is utilized by Manchester Water Works in its cost of service study, the minimum charge is designed to cover all of these customer expenses. Thus, any adjustment to the tariff rate beyond deletion of the

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minimum charge would not be justified on a cost basis.

Second, it is contended that the Derry contract is of an interruptible nature, i.e., service is not guaranteed in the event of water shortage as it is in the franchised towns. While Section 204.2 Impairment of Supply of the Derry contract does specify that existing customers of Manchester Water Works have first right to any water supplied, the significance of this section is diminished because of the over capacity situation of the system. In fact, the franchised towns are charged a 4% extra capacity factor to compensate Manchester Water Works for building capacity to accommodate future growth. This charge is not included in the Derry rates.

The discriminatory nature of the Derry rate is clear when it is compared with Londonderry. Londonderry's customers are charged Manchester Water Work's tariff rates. Since the feed to Derry is through Londonderry, Derry customers will benefit from the Londonderry mains and storage tanks paid for by Londonderry. Yet Derry residents will pay a lower rate.

While I favor consolidation of water service because of the economies of scale and improved reliability of service that can be achieved, I believe the Commission has a duty to ensure that customers in different towns served by the same company are treated equally and fairly. Differences in rates should be cost justified. Because I do not believe the Derry contract satisfies that criteria I would not approve it. In general, I believe expansion of the franchise territory is the best long term approach to insure fairness and reliability of service.

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NH.PUC*07/13/83*[79723]*68 NH PUC 475*Claremont Gas Light Company

[Go to End of 79723]

Re Claremont Gas Light Company

DE 82-197, Tenth Supplemental Order No. 16,541

68 NH PUC 475

New Hampshire Public Utilities Commission

July 13, 1983

ORDER requiring gas company to file a complete and detailed response to data requested regarding plans for meeting minimum safety standards.

GAS, § 5.1 — Minimum safety standards — Compliance — Commission review.

[N.H.] The commission was unable to determine with specificity what a gas company would

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do to bring priority areas into compliance with minimum corrosion safety standards and therefore ordered the gas

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company to submit further information in the form of complete and detailed responses to data requests; information regarding alternative plans for bringing the utility within safety standards would enable the commission to determine the adequacy of the plan and to monitor compliance with the plan.

APPEARANCES: Ransmeier and Spellman by Dom S. D'Ambruoso for Claremont Gas Light Company; Larry M. Smukler, Richard Marini, and Bruce Ellsworth for staff.

BY THE COMMISSION:

REPORT

On April 27, 1983, the Public Utilities Commission of New Hampshire ("Commission") issued its opinion and Sixth Supplemental Order No. 16,369 ("Decision") (68 NH PUC 231) in this matter. That Decision *inter alia* made certain findings relating to violations of minimum safety standards and certain financial practices of Claremont Gas Light Company ("Claremont" or "Company").[1(32)] As a result, the Decision provided *inter alia* (68 NH PUC at p. 249):

> The Commission will set a further hearing to be held within 20 days of this Report and Order. At that hearing, the Company will be required to show cause why it should not be fined an additional $56,000. The Commission hereby provides notice that this fine will be imposed unless Claremont undertakes to: (1) comply with all of the recommendations contained in the Pepper Report concerning corrosion control within two years; and (2) complete eight of the recommendations within one year of this order. At the show cause hearing, the Commission will expect Claremont to submit a *full compliance schedule* or prove to the satisfaction of the Commission that any provision of the Pepper Report with which it will not comply is inappropriate. (Emphasis supplied).[2(33)]

As a result of the foregoing provision, a show cause hearing was held on May 18, 1983. At that hearing, it became apparent that Claremont was not prepared to submit a plan to bring its system into compliance with corrosion standards in the 17 priority areas identified in the Pepper Report. Rather, Claremont proposed to abandon the distribution facilities in 10 out of 17 priority areas. Such abandonment would involve the conversion of approximately 180 customers to bottled gas. Claremont also represented that the remaining priority areas would be brought into compliance with minimum corrosion standards within the two year time established by the Commission.

Claremont's plan to abandon apparently arose out of a belief that the cost of bringing the system into compliance with corrosion standards in those areas

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would exceed the benefits. This belief did not have factual support because the Company did not know the condition of its system in the 10 abandonment areas and, accordingly, could not know the cost of bringing those areas into compliance. Mr. Pepper, the corrosion control expert who did examine the system estimated that the cost of bringing all 17 areas into compliance would be $56,000; a figure which is significantly less than the $200,000 estimated by the Company. In view of the uncertainty about the condition of the system, the Company and the Staff, with the approval of the Commission, entered into an agreement to develop further data while the proceeding was continued. That agreement provided *inter alia*:

> 1. In accordance with the Pepper Report, page 2, paragraph 1(a), the Company will insulate all services at the meter in the following priority areas: Areas number 4, 9, 13, 14, 15 and 16 (as shown on pages 10 and 11 of the Pepper Report). The Company will commence this work on Monday, May 23, 1983 and will conclude it on or before Wednesday, June 28, 1983.
>
> 2. After all services are insulated in a designated area, the Company will authorize a corrosion control survey by John J. Pepper to determine needs for main insulators, test wires, anodes, etc. (See Pepper Report, page 2, paragraph 1(b)), such survey to be conducted on or before June 28, 1983. The completion of this survey is dependent upon the ability of John J. Pepper to schedule the necessary time to conduct the survey on or before June 28, 1983.
>
> 3. On or before June 28, 1983 the Company will determine the present status of its piping in ten (10) priority areas (Areas #1, 2, 3, 5, 6, 7, 8, 10, 12, 17 as shown on pages 10 and 11 of the Pepper Report) either by excavations or any other method as determined by John J. Pepper or any other National Association of Corrosion Engineers approved expert. The Company will make timely application for local permits necessary to conduct these excavations.
>
> 4. On or before June 28, 1983, the Company will submit a full compliance schedule regarding a corrosion control program to bring its system into compliance with minimum safety standards. The plan will propose the cutting off of certain areas of the Company's system and the conversion of customers and will propose an alternative to this plan in the event the Commission does not permit the cutting off and conversion. The timetable for completion of the entire approved plan will be within the period established by the Commission in its decision (Report dated April 27, 1983, p. 3).
>
> 5. The Company will appear at a continuation of the show cause hearing to be held on Thursday, July 7, 1983, at 10:30 a.m. for the purpose of presenting the foregoing plan to the Commission for approval.

In accordance with the foregoing agreement, a hearing was held on July

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7, 1983. At that hearing, it became apparent that, while the company had performed a substantial amount of work, it had not fully adhered to the terms of the above agreement. Specifically, the record indicates that the Company fully complied with the substantive provision

of paragraphs 1, 2, 3 and 5; although it failed to meet the June 28, 1983 deadline.[3(34)] Mr. Pepper testified that he had examined the system in all priority areas to his satisfaction. As a result, he was able to recommend that area 1 and a portion of area 7 be abandoned because corrosion control measures would not be sufficient to prevent undue leakage. Mr. Pepper stated that corrosion control measures are technically and economically feasible for all remaining areas except areas 11 and 13.[4(35)] Mr. Pepper also recommended that the remainder of area 7 and area 12 be moved up the priority list because of the relatively poor condition of the facilities. All recommended measures could be accomplished within the time frame established by the Commission. Mr. Pepper also stated that he saw no reason to change his $56,000 estimate of the cost of implementing his recommendations.

The remaining area of the agreement, paragraph 4, was addressed by the Company's Vice President, Mr. Herbert Lieberman. Paragraph 4, in essence, required the Company to prepare and submit one compliance plan which addressed all priority areas identified by Mr. Pepper and one alternative compliance plan encompassing the abandonments and customer conversions proposed by the Company. The record reflects that the Company did not fully comply with the provisions of this paragraph. Mr. Lieberman testified that the Company proposed to go forward with Mr. Pepper's recommendations as they pertained to areas no. 4, 9, 14, 15 and 16 within the next 8 to 12 weeks. He also testified that the Company continues to propose abandonment of the remaining areas; but, if the Commission does not formally approve such abandonments, the Company will bring those areas into compliance with minimum corrosion safety standards within the two year time frame established by the Commission. However, Mr. Lieberman declined to provide detail about how the remaining areas will be brought into compliance should the abandonment option be rejected. Moreover, Mr. Lieberman declined to provide a specific timetable for compliance.

Our review of the record leads us to conclude that a further submission must be required. The record as it exists is not sufficient to allow the Commission to determine with specificity what the Company will do and when the work will be accomplished. We recognize that Claremont has been working on its system and plans to put in further work over the summer. These

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efforts are commendable. However, without an additional submission we will be unable to ascertain whether or not those efforts are sufficient. Since this matter involves safety, it is critical that the Commission have sufficient information to assure itself that a plan is adequate and to monitor compliance with that plan. Accordingly, the Company is directed to submit further information to Commission in the form of complete and detailed responses to the data request attached as Appendix A to this Order. Those responses must be filed with the Commission no later than 20 days from the date of this Order.

The data request is designed to put before the Commission a plan which will allow us to evaluate the Company's proposal and to monitor compliance after approval. Much of the information requested is available in another form complying with the data request should not be burdensome. If the Company is unsure about how to respond, it is encouraged to consult with the Commission Staff. On the basis of the current record, Claremont is directed to respond to the

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data request by providing two alternative plans;

Plan A: Bring all priority areas (except areas 11 and 13) into compliance with minimum safety standards; and

Plan B: Abandonment and conversion of customers to bottled gas in priority area #1 and a portion of priority area #7; bring the remainder of the areas (with the exception of areas 11 and 13) into compliance with minimum safety standards; assign priority to the remainder of area #7 and area #12.

The Commission recognizes that Claremont intends to propose the abandonment and conversion of customers to bottled gas in additional priority areas. The Commission will entertain a petition filed by the Company pursuant to *inter alia* RSA 374:28 seeking approval of the Company's proposal to abandon. The Commission hereby provides notice that should the Company decide to file such a petition, the Commission will expect the Company to provide: 1) cost data comparing the costs of the Company's proposal with Plan B as those costs apply to both the Company and the affected customer; and 2) an additional response to the Commission's data request which provides the information applicable to the Company's proposal. The Company is also notified that in the absence of explicit Commission approval, it must adhere to the plan approved by the Commission in accordance with the provisions of Order No. 16,369 (68 NH PUC 231). For this reason, we will not set a deadline for the submission of the Company's proposed alternative. The Company is always free to submit such a petition so long as it is otherwise in compliance with a Commission approved plan. We do advise, however, that if the Company wishes to have its proposal considered in conjunction with the other plans, it would be best to submit all data and petitions at the same time.

Finally, the Commission must emphasize that it views this matter very seriously. The Commission shall continue to take under advisement the imposition

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of the fine of $56,000, or any portion thereof, imposed by Order No. 16,369 until the provisions of this Order are met. The Commission expects the Company to submit a complete and detailed response to its data request and it expects that the submission will be made prior to the expiration of the deadline established in this Order.[5(36)]

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that Claremont Gas Light Company file a complete and detailed response to the data request attached hereto as Appendix A no later than 20 days from the date of this Order.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of July, 1983.

APPENDIX A

DATA REQUESTS

Several alternative plans have been identified: Plan A: Bring all priority areas (except areas 11 and 13) into compliance with minimum safety standards; Plan B: Abandonment and conversion of customers to bottled gas in priority areas #1 and a portion of priority area #7, bringing the remainder of the area (with the exception of areas #11 & 13) into compliance with minimum safety standards, assigning priority to the remainder of area #7 and area #12; and Plan C: Abandonment and conversion of customers to bottled gas in certain of the priority areas as proposed by the Company. Please fill in the following schedule for Plan A, Plan B and, if appropriate, Plan C.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Schedule for Plan ___

Priority Area
By Number

FOOTNOTES

[1]Several of the findings in the Decision were clarified or modified in Report and Ninth Supplemental Order No. 16,456 (June 2, 1983 [68 NH PUC 376]). Those clarifications or modifications do not pertain to the subject of this Order.

[2]The referenced Pepper Report of November 15, 1932 was submitted to the Commission as a part of the record in this docket. That report identified 17 geographical areas where Claremont's system did not meet minimum safety standards applicable to corrosion control. Each area was fabled as a priority area and recommendations were made to bring the priority areas into compliance with minimum corrosion safety standards. The Pepper Report estimated the cost of a compliance program to be approximately $56,000.

[3]The agreement allowed Claremont to extend the June 28, 1983 deadline if Mr. Pepper was unavailable to perform his portion of the work in a timely fashion. Mr. Pepper was on site on June 22, 1983 and July 6, 1983. The record does not support a finding of unavailability. Rather, it appears that Mr. Pepper was not shown the agreement until June 22, 1983; more than one month after the agreement date and six days before the deadline. The Company declined to respond to a Staff inquiry for a specification of the dates prior to June 28, 1983 when Mr. Pepper's presence was requested and he could not be on site. Instead, the Company rested its justification of unavailability on Mr. Pepper's unwillingness to perform work until the Company paid him on a bill rendered in December, 1982 for work performed in the Fall of 1982. Since the cause of Mr. Pepper's unavailability was entirely within the control of the Company, it cannot serve as a justification for failure to adhere to the deadline.

[4]Area 11 has already been abandoned. Area 13 consists entirely of cast iron pipe and, accordingly, corrosion control measures are not required at this time.

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[5]The Commission recognizes that Claremont must engage in a multitude of activities to recover from its years of financial and engineering neglect. These activities do not, however, excuse the Company from its obligation to comply with reasonable Commission deadlines. While an occasional lapse is understandable, we cannot tolerate such behavior when it becomes consistent. *See e.g.*, failure to comply with time requirements established in Staff-Company agreement (*supra*, footnote 3); request to delay payment of penalty imposed by Order No. 16,369; request to extend deadline for filing financial forms required by Order No. 16,456 (68 NH PUC 376).

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NH.PUC*07/13/83*[79724]*68 NH PUC 481*Wilton Telephone Company

[Go to End of 79724]

Re Wilton Telephone Company

DR 83-135, Order No. 16,542

68 NH PUC 481

New Hampshire Public Utilities Commission

July 13, 1983

ORDER requiring telephone company to discontinue pole charges and to enable certain classes of customers to negotiate with the utility for payment of joint ownership extensions.

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1. CONSTRUCTION AND EQUIPMENT, § 5 — Telephone company — Highway construction — Standards.

[N.H.] Insufficient evidence was produced by the telephone company in an attempt to modify construction standards established by the independent New Hampshire telephone companies which stated that highway construction beyond a base rate area but within the exchange was provided at no cost for 0.3 mile, with the customer assuming the cost of any excess at the rate of $250 per 0.1 mile or fraction thereof; the proposal to double the customer fee was rejected for insufficient justification. p. 481.

2. EXPENSES, § 141 — Telephone — Pole line maintenance — Responsibility.

[N.H.] If the telephone company or other utility provides the pole line, the ownership is with the utility and all associated maintenance is provided at no cost to the customer; customer charges for pole line maintenance in these circumstances will be disallowed. p. 483.

3. EXPENSES, § 141 — Telephone — Joint ownership of extensions — Maintenance responsibility.

[N.H.] Current and former tariffs provide for the customer to pay attachment costs for private property extensions beyond the free allowance, but once joint ownership is established, all

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attachment charges cease and the utility has the jointly owned line in its rate base earning a return; at that time it is appropriate for the customer to negotiate with the telephone company, in formal proceedings, joint ownership costs taking into consideration customer payments made to date in attachment or pole charges. p. 483.

APPEARANCES: Richard A. Samuels for Wilton Telephone Company.

BY THE COMMISSION:

REPORT

Background

[1] In 1975, new construction standards were established by the independent telephone companies of New Hampshire. At that time, highway construction beyond a base-rate area but within the exchange was provided at no cost for 0.3 mile, with the customer assuming the cost of any excess at the rate of $250.00 per 0.1 mile or fraction thereof. For Wilton Telephone Company this was established by Order No. 11,888 in Docket DR 75-65. One notes that the Report of that Order indicated the $250.00 contribution comprised half the cost, with the Company absorbing the remainder.

In its filing under DR 81-243, Wilton included provisions for raising

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this unit cost to $500.00. The increase did not appear on the Company's "Report of Proposed Rate Changes" which accompanied the tariff filing, nor was it mentioned in other supporting data; consequently, the increase was overlooked by all until after completion of the case and a related consumer complaint surfaced.

A new provision had also been added to Wilton's tariff, requiring a $3.00 per pole monthly charge to customers who were provided poles by the Company where those customers were " ... responsible for construction and maintenance ... ". This change in rate also failed to appear on the Company's "Report of Proposed Rate Changes", and similarly was overlooked.

In August 1982, a customer subjected to that pole charge under the new tariff complained by letter to the Commission. His pole line had been in place approximately thirty years and the Company failed to provide a satisfactory explanation for the charge. Investigation of this complaint resulted in considerable inaction by the Company until the Commission finally was forced to call Wilton Telephone to the Commission Concord offices for hearing to explain its construction practices.

Commission Order No. 16,346 was issued on April 15, 1983, calling the Company to hearing on May 11, 1983 at 1 p.m. to "fully justify the increase of highway construction charges" and the $3.00 per pole per month charge for private property construction".

The noticed public hearing was convened at the designated time, with Attorney Richard A. Samuels representing the Company. Mr. Samuels presented three witnesses.

Highway Construction.

Robert Pollock, a long-time Company employee, presented testimony to justify the increase in highway construction charges from $250 to $500. He presented three exhibits, each outlining a specific construction job and the associated costs, breaking those costs down to a unit cost per tenth-mile. Those costs comprised joint ownership costs of poles and anchors, shared trimming costs, plus the telephone company's labor and materials for the circuit construction. Exhibit 1 showed construction of 1,050' extension, and presented unit costs of $777.74 per tenth-mile. Exhibit 2 was an 1,837' extension, with unit costs of $1,305.74. The third example was a 3,922' line, costing $778.80 per tenth-mile.

It was revealed that all the projects presented were completed in 1980, none of any size having been required since. Mr. Pollock testified that costs of joint ownership had increased since that 1980 construction, but only estimates were mentioned.

Both Commissioners and Staff questioned the validity of the exhibits — whether they were representative of current costs, and whether they were highway or private property construction. Mr. Draper subsequently testified that Exhibit 2 was actually private property construction; so that exhibit will be disregarded.

One notes in these exhibits that the Company includes not only the cost of the pole line, but also the telephone company labor and materials for circuit construction. Here lies an inconsistency. For highway construction beyond the free allowance, the customer apparently is responsible for costs of

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the pole line *and* circuit construction; but, for private property construction, the tariff reads " ... Telephone Company at its expense will furnish, own and maintain the associated circuit construction." It is inconceivable that such construction is free when it benefits one customer yet bears a cost when many customers could be served. For standardization in this discussion, the cost of circuit construction will be disregarded.

If that is done, the costs presented on the exhibits are reduced. Should the standard established in DR 75-65 be maintained (Company absorbing half the costs), both Exhibits 1 and 3 show a customer charge of $500.00 per 0.1 mile excessive. While the earlier $250.00 per 0.1 mile may be inadequate coverage of this share of the costs, there is insufficient justification for doubling the fee so it is rejected.

In the interest of standardization, any changes in these construction charges should affect all companies as it did in the 1975 generic proceeding. The Commission suggests all telephone utilities work through their Association to develop revised construction practices, if required, for subsequent presentation to the Commission for its consideration.

Private Construction.

[2, 3] Testimony indicated the $3.00 monthly pole charge for private property construction was considered by Wilton as a return on its approximate $300.00 investment in that pole. (T-29, T-32). Jointly-owned poles are part of the Company's rate base and are earning a return. Any revenue accrued from the $3.00 charge would be excess and improper. (It should be noted that in DR81-243, Wilton's revised tariff provisions included the $3.00 charge, yet failed to proform

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revenues from same. The decision in that case allowed for any deficiencies in revenue; so, absent a proforma adjustment, the Company was improperly collecting excesses.)

Testimony also revealed that the $3.00 charge for a pole was assessed where the customer " ... is responsible for pole construction and maintenance ... ". (T-29). Neither Tariff No. 5 nor its predecessor provides for customer maintenance of a pole line *except* in the case where the *customer builds the line* to telephone company specifications. In such case, the customer retains ownership including maintenance and replacement responsibilities. If the telephone company or other utility provides the pole line, the ownership is with the utility and all associated maintenance is provided at no cost to the customer. Consequently, there can be no relationship between the $3.00 charge and pole line maintenance. The wording of Wilton's tariff in Pt. VI, Sec.4, Original Pg.3, Par. III A 5 is confusing.

As indicated in testimony, current and former tariffs provide for the customer to pay for either the cost of joint ownership or attachment costs for private property extensions beyond the free allowance. In Wilton's case some joint ownership was effected after many years of paying attachment charges. The Commission finds that such a change impacts the manner in which the customer is to be charged. Once joint ownership is established, all attachment charges cease and the Company has the jointly-owned line in its rate base earning a return. The cost of the purchase rightfully lies with the

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customer no matter if it were at the outset or some time later. (Of course, in the latter case, he would be subject to less cost since a partly depreciated line would be purchased.) At that time it is appropriate for the telephone company to renegotiate with the customer. Either the customer pays the cost the of joint ownership up front, or is allowed terms that are formally documented.

Under Wilton's $3.00 pole charge, the customer has an indefinite commitment and could pay for the pole line many times over, despite the fact that the line is earning a return and accruing depreciation. The Commission finds this unsatisfactory, and directs Wilton to establish procedures for formal negotiations with customers for payment of joint ownership costs. If other than one payment, the agreement for terms should be formally documented as a Special Contract, and filed with the Commission under PUC 1601.

Accordingly, the Commission directs Wilton Telephone to discontinue billing the so-called pole charge immediately for all customers. Records of all customers cited in Exhibit 4 of this docket will be screened thoroughly, and, under guidance from Commission auditors, the cost of private construction to these customers determined. Special Contracts will be negotiated with each for payment of the cost of joint ownership, with any payments to date (including those $3.00 charges since June 1982) to be credited against such debit.

It is obvious from testimony and Company actions that Wilton Telephone's practices are not always aligned with tariff provisions. Mr. Draper indicated at T-33 that " ... if we have two people on the same line, a private property line, we will furnish two poles, one for each customer, and the remaining poles are divided between the two ... ". Tariff No. 5, Pt. IV, Sec. 4, Par. III clearly indicates that "Construction on private property for more than one customer is furnished under the regulations applicable to Highway Construction". From earlier discussion

this has been shown to be 0.3 mile each, not one pole.

The tariff also reads that excess highway construction beyond the allowed distance is to be priced at a fee per 0.1 mile; *and*, should attachment charges be incurred in lieu of joint ownership, the customer is *still responsible for costs as if the Company had acquired joint ownership*. From testimony in this docket and the related docket, DR83-134, it appears that Wilton has assessed its customers the attachment charges regardless of the highway or private status when such was allowed only for the latter.

In Exhibit 2, shown during testimony to be private property construction, labor and materials for circuit construction is shown as $2; 132~ which included a 25-pair cable to serve a single customer. It was shown that the customer had paid all costs. Since the tariff provides private property circuit construction at no cost, it appears that the customer was only liable for the costs of excess plant over what normally would have been required to provide him service, so was subjected to an overcharge.

These samples of discrepancies between operating procedures of Wilton Telephone and its tariff causes Commission concern whether all customers are being properly protected by the tariff. Consequently, Wilton Telephone

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is directed to initiate immediately a thorough familiarization program to ensure that all personnel involved in customer service and billing are knowledgeable of approved tariff provisions.

Our order will issue accordingly.

ORDER

In consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that Wilton Telephone Company discontinue all assessment of the so-called "pole charge", effective with the date of this order; and it is

FURTHER ORDERED, that said Company determine the depreciated cost of poles for those customers listed in Exhibit 4 of this docket, and negotiate terms for payment of the joint ownership therefore, crediting each customer for any payments made to date via attachment or pole charges; and it is

FURTHER ORDERED, that Wilton Telephone Company file 1st Revised Pages 1 and 3 to Part VI, Section 4 of its Tariff No. 5, said revisions to reflect the highway construction charge of $250.00 per 0.1 mile as indicated in the attached Report, and the elimination of the monthly $3.00 pole charge; and it is

FURTHER ORDERED, that Wilton Telephone Company immediately begin an intensive program to enlighten its personnel in approved tariff provisions to ensure future compliance with same; and it is

FURTHER ORDERED, that Wilton Telephone Company advise the Commission in writing, no later than September 30, 1983, of the steps it has taken to ensure that its operations are in full compliance with the approved Tariff No. 5.

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By order of the Public Utilities Commission of New Hampshire this thirteenth day of July, 1983.

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NH.PUC*07/15/83*[79725]*68 NH PUC 485*Wilton Telephone Company

[Go to End of 79725]

Re Wilton Telephone Company

DE 83-134, Order No. 16,540

68 NH PUC 485

New Hampshire Public Utilities Commission

July 15, 1983

ORDER establishing correct charges for telephone poles located on ratepayer's property.

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RATES, § 553 — Telephone — Facilities — Telephone pole charges.

[N.H.] Where a telephone company changes its tariff provisions for pole charges due to joint ownership agreements, yet fails to provide a pro forma adjustment for associated revenues, it is improperly collecting additional revenues and must refund all moneys collected wrongfully.

APPEARANCES: Richard A. Samuels for Wilton Telephone Company; William C. Maiers pro se.

BY THE COMMISSION:

REPORT

BACKGROUND

On August 3, 1982, this Commission received a letter from William C. Maiers of South Lyndeboro in which he complained of being subjected to a $24 monthly pole charge by Wilton Telephone Company. Apparently, Company personnel had failed to provide him a satisfactory explanation of these charges, so Mr. Maiers was seeking advice of the Commission.

A letter was sent to Stuart S. Draper, President of Wilton Telephone Company on August 10, 1982 seeking an explanation of these charges and the names of all others being so assessed. A deadline of August 25, 1982 was specified for the reply. With no reply received by September 13, 1982, a tracer letter was dispatched to Mr. Draper. Subsequent telephone conversations with Wilton personnel assured a timely response, but none was received until November 17, 1982. In

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that correspondence, Mr. Draper answered the original request, indicating thirteen poles served Mr. Maiers, nine of which were on private property. He indicated that, until the recent decision, Mr. Maiers had been paying 17¢ for each of the thirteen poles. No information was given on others paying the pole charge.

When this information was found incomplete, Mr. Draper was contacted by telephone. He assured Staff that materials would be forwarded by November 24, 1982. No added information was provided until called to hearing on May 11, 1983.

HEARING

By its Order No. 16,345, issued on April 15, 1983, the Commission directed Wilton Telephone to appear at public hearing on May 11, 1983 at 10 a.m. to " ... fully explain the complaint of Mr. Maiers ... " and to " ... show cause ... why it should not be penalized ... for non-responsiveness ... ".

The duly-noticed public hearing was convened at the Commission's Concord offices at the prescribed time. Mr. Maiers was present and made a statement indicating the pole line in question had been erected by Public Service Company of New Hampshire some thirty years ago. About ten years later, telephone service was provided by Wilton Telephone, using the same poles. He indicated his telephone bill had increased $24 per month since June 1982.

Mr. Draper stated the $3.00 pole charge had been instituted in its Tariff No. 5 effective June 1, 1982. He further indicated that current and earlier tariffs provided for the customer to assume attachment charges of another

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utility should Wilton lease space rather than jointly own the pole. It was indicated that such leasing arrangements had been 171/2¢ per pole per month prior to the June 1, 1982 increase. Both Mr. Draper and his counsel alleged that such charge was less than the fair return on the pole investment.

In regard to Commission claims of non-responsiveness, Mr. Draper testified that he had been incapacitated much of the Summer and Fall, having undergone surgery on three occasions. He further indicated that any mail sent to the Company's address bearing his name was considered "Personal". All such mail received during Mr. Draper's illness was placed in a box pending his return to work. (It should be noted that the Commission mail in question was addressed to Mr. Draper as President of Wilton Telephone Company and bore no indication of "personal" contents.)

DISCUSSION

Records of this Commission show that when Mt. Maiers obtained service, a customer was given one-half mile of free highway construction. If poles were placed 200' distant, this figures to greater than thirteen free poles. At 250-foot separation, at least ten poles would be provided free. Mr. Draper, in his letter dated November 16, 1982, stated the Maiers extension had only four poles on Route 31, well below the limit, so *no* highway construction costs could be involved.

Mr. Draper revealed in that same letter than there also were five poles through a swamp, three along Old Gulf Road, then finally one pole in Mr. Maiers' yard. Assuming Old Gulf Road a private road at the time, that meant nine poles on private property. Tariff provisions then allowed a customer two free poles in such cases. It also specified that the customer was responsible for paying either the costs of assuming joint ownership of any excess poles, or payment of the attachment charges thereon. Since Wilton did not have joint ownership at that time, Mr. Maiers' obligation was the rental fee for seven poles. Commission records show the rental initially was $1.50 per pole per year, increasing to $1.90 on January 1, 1966, then to $2.10 on January 1, 1969.

Testimony revealed that Mr. Maiers had been paying for *all thirteen poles* at 17.5¢ each per month. With the free pole allowance, Mr. Maiers should have been billed for only *seven* poles. After the June 1, 1982 increase, Mr. Maiers apparently was billed for eight poles at the new $3.00 rate. Errors are obvious in both cases.

Mr. Draper testified that the Company had changed its relationship with Public Service Company of New Hampshire and bought joint ownership in those poles. Once an ownership position was obtained, that investment was added to rate base and the Wilton Telephone Company allowed a return on its investment. The transcript for a related case DR 83-135 (68 NH PUC 481), shows both Counselor Samuels and Mr. Draper justifying the $3.00 pole charge as a return on an investment. (Both used an example of a $300 pole cost but at different rates of return.) Since the Company was already earning a return on this investment, this justification was improper.

It should be noted further that in its recent rate case (DR 81-243 [67 NH PUC 371]), Wilton Telephone Company changed its tariff provisions

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for the pole charge yet failed to provide a pro forma adjustment for associated revenues. Any deficiencies in revenue were provided for in the decision, so, absent the pro forma, the Company was improperly collecting additional revenues from its other customers.

Review of the Commission's files of Agreements for Joint Ownership and Space Rental of Poles, and other records, reveals that Wilton assumed ownership of these poles during 1971 at a cost of $20.50 each — a total of $143.50. Assuming the transaction took place on June 1 of that year, Mr. Maiers was billed attachment charges for eleven years when there were no such charges paid by Wilton Telephone to Public Service Company of New Hampshire. For seven poles and eleven years at the monthly rate of 17.5¢ each, this amounts to $161.70. It is appropriate to repeat here that testimony and exhibits revealed that Mr. Maiers had been paying attachment charges for *thirteen poles* since 1964, so his actual payment since 1971 was far greater than that $143.50 cost.

As indicated earlier, the tariff provided for two means of customer payment — assumption of cost of joint ownership, or assumption of attachment charges. Once the Company changed from one method to the other, it seems appropriate that the payment method of the customer should also change. If that were the case, Mr. Maiers would have assumed the responsibility for the $143.50 in 1971; however, Wilton elected unilaterally to continue month payments at 17.5¢ ,

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increasing them to $3.00 on June 1, 1982.

The Commission finds that the purchase of joint ownership by Wilton Telephone altered the terms for customer billing. The customer became responsible for the joint ownership costs in lieu of the attachment charges he had been paying. The Company properly should have approached the customer for these costs at the time of purchase. Any terms of payment of these costs should have been formally negotiated with the customer and documented by Special Contract filed with the Commission under PUC 1601.

With the plant more than paid for by June 1, 1982, and with the plant in rate base earning a return and accruing depreciation, the Commission finds no further liability on Mr. Maiers' part for construction charges.

The Commission will direct its Finance Department to review Mr. Maiers' payment of pole attachment charges to ensure he was billed properly for only seven poles. Finance will also verify the amounts paid by Mr. Maiers since the date of joint ownership to determine the refund due from excess payment over the joint-ownership cost of those seven poles.

Wilton Telephone Company will discontinue pole charges to Mr. Maiers as of July 1, 1983, and will refund all moneys calculated as above through that date, adding interest at prime.

Our Order will issue accordingly.

ORDER

In consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that effective July 1, 1983, Wilton Telephone Company will cease billing pole charges to William C. Maiers of South Lyndeboro; and it is

FURTHER ORDERED, that overpayments

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by Mr. Maiers through June 30, 1983, as determined by this Commission's Finance Staff, be refunded; with interest calculated at the prime rate which the Company paid during the period covered by the refund; and it is

FURTHER ORDERED, that this Commission will not tolerate Wilton Telephone's failure to respond to Commission correspondence; and it is

FURTHER ORDERED, that untimely responses to future correspondence cited above will result in appropriate penalties as authorized statute.

By Order of the Public Utilities Commission of New Hampshire this fifteenth day of July, 1983.

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NH.PUC*07/15/83*[79726]*68 NH PUC 489*Public Service Company of New Hampshire

[Go to End of 79726]

Re Public Service Company of New Hampshire

Intervenors: Business and Industry Association of New Hampshire, Community Action Program, and Campaign for Ratepayer Rights

DR 82-333, Fifth Supplemental Order No. 16,543

68 NH PUC 489

New Hampshire Public Utilities Commission

July 15, 1983

REQUEST by electric company to include implementation of lifeline rates as an issue in the subject docket; granted as modified.

RATES, § 647 — Rate design hearing — Motion to include issue.

[N.H.] The state commission granted the utility company's request to include the issue of the implementation of lifeline rates in the subject docket concerning rate design; however, the commission rejected an implicit request that the effective data of an earlier compliance tariff filing be delayed pending the outcome of the rate design order in this docket.

APPEARANCES: Sulloway, Hollis and Soden by Martin L. Gross for Public Service Company of New Hampshire; Ransmier and Spellman by Dom S D'Ambrouso for the Business and Industry Association of New Hampshire; Gerald M. Eaton for Community Action Program; Lawrence S. Eckhaus for Campaign for Ratepayer Rights; Larry M. Smukler for the staff.

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BY THE COMMISSION:

REPORT

On July 1, 1983 Public Service Company of New Hampshire (PSNH) filed with the Public Utilities Commission of New Hampshire (Commission) a Motion to Include Implementation of Lifeline Rates as an Issue in Part B of this Docket (Motion). The Motion accompanied a filing under protest of compliance Tariff NHPUC 28 in Docket No. DP 80-260.

In its Report and Eighteenth Supplemental Order No. 16,460 (June 3, 1983 [68 NH PUC 389]) issued in Docket No. DP 80-260, the Commission *inter alia* distinguished two issues: 1) lifeline policy issues which the Commission had a full opportunity to address in the docket; and 2) issues particularly applicable to PSNH which may justify a waiver from the standards established by the Commission. That Order went on to deny PSNH's Motion for Rehearing in that docket as it applied to the policy issues and, in addition, gave PSNH leave to make additional proper filings addressing itself to the issues which may justify a waiver. PSNH's Motion in the instant docket is apparently a response to Order No. 16,460.

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Our review of PSNH's Motion leads us to conclude that it does not provide support for its assertion that the relief requested is "due to special circumstances affecting the Company and its customers." (Motion at paragraph 4). Rather, the circumstances averred all appear to be pertinent to the policy considerations already addressed by the Commission in its deliberations in Docket No. DP 80-260. For this reason we do not believe that PSNH has presented us with sufficient justification to delay the August 1, 1983 effective date of its revised Tariff NHPUC No. 28, which tariff implements the lifeline rate standards adopted by the Commission in Report and Seventeenth Supplemental Order No.16,356 (April 20, 1983 [68 NH PUC 216]).

However, we also believe that it would be unfair to deny PSNH the opportunity to present additional evidence on the basis of lack of support in a pleading. It is appropriate to allow PSNH the opportunity to present all relevant and competent evidence on the issue of rate design in the instant docket. Additionally, our Report and Order No.16,460 explicitly recognized that PSNH may wish to address lifeline issues arising out of its particular circumstances in this docket.

Accordingly, the Commission will grant PSNH's Motion to the extent that it requests that "implementation of lifeline rates be included as an issue in Part B. of this (DR 82-333) docket and that PSNH be permitted to include materials addressing that issue as a part of its submission in Part B". (Motion at 3). However, PSNH's Motion is denied to the extent that it implicitly requests that the effective date of its DP 80-260 compliance tariff filing be delayed pending our rate design order in this docket.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the PSNH Motion to Include Implementation of Lifeline Rates as an Issue in Part B of this Docket is granted in part and denied in

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part as provided in the foregoing Report; and it is

FURTHER ORDERED, that a copy of this Order be served on all parties to Docket No. DP 80-260.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of July, 1983.

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NH.PUC*07/15/83*[79727]*68 NH PUC 491*Northern Utilities, Inc.

[Go to End of 79727]

Re Northern Utilities, Inc.

DR 83-233, Order No. 16,546

68 NH PUC 491

New Hampshire Public Utilities Commission

July 15, 1983

ORDER approving gas company's contract for interruptible sales of gas.

RATES, § 384 — Gas service — Interruptible service — Approval.

[N.H.] The state commission approved the utility's contract for the interruptible sale of gas to another utility finding that the contract was reasonable and in the public interest due to the benefits provided to customers of both utilities.

BY THE COMMISSION:

ORDER

WHEREAS, on July 8, 1983, Northern Utilities filed Special Contract No. 55 for Interruptible Sales of gas to Public Service Company of New Hampshire for use at the Schiller Station; and

WHEREAS, the Commission has reviewed the contract and finds it to be reasonable and in the public interest due to the benefits that may be provided to customers of both PSNH and Northern Utilities, it is hereby

ORDERED, that Northern Utilities Special Contract No. 55 is hereby approved.

By Order of the Public Utilities Commission of New Hampshire this fifteenth day of July, 1983.

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NH.PUC*07/20/83*[79728]*68 NH PUC 492*Continental Telephone Company of New Hampshire, Inc.

[Go to End of 79728]

Re Continental Telephone Company of New Hampshire, Inc.

DE 83-238, Order No. 16,551

68 NH PUC 492

New Hampshire Public Utilities Commission

July 20, 1983

ORDER approving the addition of a city to telephone company's selective calling service.

RATES, § 581 — Exchange service expansion.

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[N.H.] The commission approved the telephone company's proposal to add a city to an exchange's selective calling service because the city meets the 22-air-mile criterion.

BY THE COMMISSION:

ORDER

WHEREAS, Continental-New Hampshire has filed with this Commission certain tariff revisions proposing the addition of Moultonboro to the Toll Band 2 of Melvin Village Exchange's Selective Calling Service; and

WHEREAS, the Commission finds that Moultonboro meets the 22-air-mile criterion; it is

ORDERED, that Section 14, 1st Revised Sheet 5 of Continental Telephone Company of New Hampshire, Inc. tariff, NHPUC No. 11, be, and hereby is, approved for effect on August 11, 1983.

By order of the Public Utilities Commission of New Hampshire this twentieth day of July, 1983.

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NH.PUC*07/23/83*[79729]*68 NH PUC 493*South Hampton Selectmen

[Go to End of 79729]

Re South Hampton Selectmen

Intervenors: Public Service Company of New Hampshire and Town of South Hampton

DSF 83-131, Order No. 16,480

68 NH PUC 493

New Hampshire Public Utilities Commission

July 23, 1983

ORDER dismissing petition to suspend certificate of site and facility for nuclear plant.

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1. CERTIFICATES, § 150 — Revocation — Fraud or improper acts.

[N.H.] To justify revocation or suspension of a certificate of site and facility, a petitioner must allege grounds that are in the nature of conduct that would shock an ordinary reasonable person. p. 495.

2. CERTIFICATES, § 150 — Revocation — Fraud or improper acts.

[N.H.] Where a petitioner for revocation or suspension of a certificate of site and facility alleges that the certificate was issued on the basis of false statements made by witnesses, it must be demonstrated that: (1) the statements were known to be false when made; and (2) the witness

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intended the agency to rely on the statement in mailing its decision. p. 495.

(AESCHLIMAN, commissioner, concurs, p. 497.)

APPEARANCES: Sulloway, Hollis & Soden of Concord (Martin L. Gross) for PSNH: Ann Verge, Peter Bryant, selectmen and Frederick H. Anderson, Jr., for the town of South Hampton.

BY THE COMMISSION:

On February 28, 1983, the Commission received a letter petition filed by the Office of Selectmen of South Hampton requesting suspension of that portion of the Certificate of Site and Facility granted to Public Service Company of New Hampshire (PSNH) on January 24, 1974 and amended on December 13, 1979.

On April 11, 1983, a copy of the aforementioned letter petition was forwarded to PSNH and the parties were notified that a docket would be opened and a notice for a hearing would be issued in the future.

On May 3, 1983 an Order of Notice was issued to have a hearing on June 9, 1983 at Concord.

On May 12, 1983 PSNH filed a Motion to Dismiss the petition with a supporting memorandum.

On May 18, 1983 the Commission scheduled a hearing for the purpose of receiving oral arguments in support or denial of the motion. Said hearing was held on June 2, 1983 in Concord.

The issues in this proceeding are:

(a) Whether RSA 162-F:12 permits the Commission to suspend or revoke a Certificate of Site and Facility;

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(b) Is judicial review the only remedy available to petitioner; (c) Is the petition timely and or subject to the procedure set forth in RSA 541 A.

PSNH submits that the Commission nor the Site Evaluation Committee has any general authority to entertain a challenge to the Seabrook Certificate or any portion thereof. It is argued that once issued a certificate is final subject only to judicial review RSA 162-F:8 IV and that there was in fact judicial review by the Supreme Court in Society for the Protection of New Hampshire Forests v Site Evaluation Committee (1975) 1115 NH 163; Public Service Co. of New Hampshire v Town of Hampton (1980) 120 NH 68; Society for the Protection of the Environment of Southeastern New Hampshire v Town of South Hampton (1982) 122 NH 703, 449 A2d 1205 and Re Public Service Co. of New Hampshire (1982) 122 NH 1062, 51 PUR4th 298, 454 A2d 435.

The petition was filed pursuant to RSA 162:F-12 which provides that any certificate granted hereunder may be revoked or suspended.

I. For any material false statement in the application or in supplemental or additional

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statements of facts or studies required of the applicant. II. For failure to comply with the terms or conditions of the certificate. III. For violation of the provisions of this Chapter, regulations issued thereunder, or Order of the Commission.

PSNH argues that the material false statements alleged to occur during the course of the original SEC proceedings in 1972 are not supported by the record. That on the contrary, the transcript established that the remarks of PSNH's Counsel were merely introductory and not part of the evidence. That said remarks were followed by testimony and fully explained in Exhibit 53A of that proceeding. They contend that the witnesses were sworn and cross examined by the parties. They rely on Sanders v B. M. (1914) 77 NH 381, 383; New Hampshire v Lajoie (1929) 84 NH 147, 149, to support their contention that an attorneys statements are not evidence in a proceeding and therefore cannot be the basis for ground I of the Statute.

PSNH further contends that there were no rule changes as contemplated by section II of that Statute and that the Transcript reference is erroneous in that it should actually read "route change" instead of "rule change". They further contend that the assertion of an "improper rule change" is not a ground for suspension or revocation authorized by RSA 162-F:12.

PSNH also contends that the creation of historic districts after certificate has become final does not justify suspension of a certificate as authorized by RSA 162-F:12.

The Company, in the alternative, argues that, if the three grounds for suspension of a Certificate of Site and Facility are available to the petitioner, the petitioner has not alledged conduct which constitutes the necessary grounds.

The Town supported its letter petition with attachments A, B, C, D, and E which consist of maps and a portion

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of a transcript of an SEC hearing held on November 21, 1972.

The Town responded to PSNH's Motion to Dismiss the Petition by stating through Mr. Anderson that through lack of information and series of material false statements by PSNH, the SEC was led to believe that South Hampton had recommended the route changes through its Town and that this route would have little negative impact on "esthetics, historic sites, air and water quality, public health and safety.

Also through a series of "rule changes", the Town was kept in the dark concerning major route changes which it was supposed to have suggested.

It is their contention that the Certificate of Site and Facility granted to PSNH on January 24, 1974 and amended on December 13, 1979, covering construction of the Southerly 345 KV power line associated with Seabrook Station should be suspended on a number of grounds as set forth in their petition.

Specifically, a suspension is sought for that portion of the Southerly line which does not parallel the Westerly line already under construction. It is the opinion of the Town of South Hampton that several material false statements made by the applicant through its attorneys and witnesses, further prevented the SEC from considering the damage PSNH's new routes would

have on the Town.

In addition, PSNH was permitted to make major changes in its proposal without amending its application and notifying interested parties, a violation of 162-F:12 III.

DISCUSSION

The petition sought to be dismissed concerns a request by the Town of South Hampton to suspend a Certificate of Site and Facility which was issued by the PUC based on findings of fact made by the SEC pursuant to RSA 162-F:8 II. The certificate when issued is final subject only to judicial review RSA 162-F:8 IV the Supreme Court has reviewed this certificate on various occasions including appeals by the Town of South Hampton.

Contrary to RSA 162-F:8 IV the Statute further provides for suspension or revocation of a certificate once issued for three grounds set forth in RSA 162-F:12 (supra). However, the Statute does not clearly set forth who has the authority to suspend or revoke. It is reasonable to conclude that this authority lies with the Supreme Court since a certificate issued is based on findings from two distinct agencies ie PUC and the SEC.

Another concern raised is that if the Supreme Court is not the reviewing forum, would the provisions of RSA 541 A become applicable. If that is so then clearly the petition is untimely.

For reasons hereinafter stated we will not address the aforementioned concerns at this time.

In an appropriate case where a finding of the Commission can be adequately and timely demonstrated to have been based on a material false statement or exhibit the Commission will on its own motion correct its error. It is noted, however, that this kind of action by the Commission must be exercised with the greatest caution. There must be some finality to proceedings.

[1,2] To justify a revocation or suspension

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the alledged ground must be clear and convincing and should be in the nature of conduct that would shock a reasonable man. If based on material false statements it must be demonstrated that the statements were known to be false when made. It should be demonstrated that the person who uttered the statement not only knew the statement was false but meant to have the agency rely on the statement in making its decision. To demand any lesser standard would be grossly and cause unreasonable damage to the holder of a certificate wherein substantial investments have been made.

The Commission has carefully reviewed and examined the letter petition with the attachments thereto; the Motion to Dismiss the Petition with the supporting memorandum; the arguments of the parties and the written statements for Mr. Anderson.

Based upon the aforementioned review the Commission finds the statements alledged to be material false statements are in fact not material false statements of the nature that would be grounds to suspend or revoke the Certificate of Site and Facility. We do not believe that those statements in and of themselves would support a certificate being issued and therefore were not relied by the SEC. A certificate can only be issued on sworn testimony and evidence accepted by

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the agencies. We will not disturb that decision 11 years later on the type of allegation set forth in this proceeding.

The Commission finds that the grounds for suspension or revocation alledged by the petitioner are not adequate. Therefore, the proper review available to the petitioner is judicial review. See Re Town of South Hampton et al. *FINDINGS OF FACT*

1. The Town of South Hampton is a duly organized municipal corporation of New Hampshire. 2. A Certificate of Site and Facility was issued to PSNH in January 1974 for its Seabrook Station and the location of its electric transmission lines running from the station through South Hampton. 3. The SEC is composed of various agencies and department heads and technicians whose duties include reviewing applications, holding public hearings, and making findings of fact for and submissions to the PUC. 4. The SEC findings of facts are binding on the PUC. 5. The certificate when issued was final and subject only to judicial review. 6. The record does not support or demonstrate that the alledged statements made by Mr. Hollis, Mr. Ellis, or Mr. Haywood were known to be false when made or made with the knowledge that the agencies would rely on false statements to make their decision. 7. The alledged changes were not "rule changes" as contemplated by the Statute or constitute a ground for suspension or revocation of a certificate. 8. The third ground pertaining to historical districts has been withdrawn by the petitioner. 9. All proposed findings and conclusions submitted by the parties have been considered, as have their contentions. To the extent

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such findings and contentions are consistent with our findings, they are accepted.

CONCLUSION

The petition fails to demonstrate or adequately set forth facts sufficient to warrant suspension or revocation of the Certificate of Site and Facility as required by RSA 162-F:12. The Motion to Dismiss the Petition is granted.

Our order will issue accordingly.

ORDER

Based on the foregoing report, which is made a part hereof, it is

ORDERED, that the Motion to Dismiss of Public Service Company of New Hampshire, filed on May 12, 1983 is granted.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of July, 1983.

AESCHLIMAN, commissioner, concurs: I believe the South Hampton petition raises two procedural issues which are determinative in the disposition of the motion in question. The first issue relates to the proper procedure for bringing a petition for revocation or suspension under RSA 162F:12, and the second issue concerns the timeliness of the petition.

PSNH argues that pursuant to RSA 162F:8, IV, once issued the Certificate is final subject only to judicial review. However, the provision by the Legislature of a separate section of the

statute RSA 162F:12 providing far revocation or suspension under certain conditions, would indicate that the Legislature intended that there be an avenue of appeal from the finality of the Certificate should any of the three conditions as set forth in the statute be met.

Although RSA 162F:12 does not indicate the specific procedure for bringing a petition under this section, a logical and orderly reading of the statute would indicate that the body empowered to make the initial findings would be the appropriate body to review and dispose of such a petition subject to appeal of its decision to the Supreme Court. The issue is complicated by the fact that the statute provides that certain findings be made by the Site Evaluation Committee and that certain findings be made by the Public Utilities Commission. The Commission is the body empowered to issue the Certificate, but is bound by the findings of the Site Evaluation Committee in the areas specified. The findings in question in the instant petition relate to findings by the Site Evaluation Committee. Since the Public Utilities Commission is the issuer of the Certificate, a petition to the PUC in the first instance under RSA 162F:12 would appear to be appropriate procedurally. However, when the subject matter relates to findings by the Site Evaluation Committee, not the Commission, it would appear appropriate for the PUC to refer the question to the Site Evaluation Committee for disposition.

Although I believe petition to the Commission under this section of the statute is procedurally correct, referral of the petition to the Site Evaluation Committee in the instant case would appear to serve no purpose since the issue has already been brought to the Site Evaluation Committee directly in

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an earlier proceeding. The Site Evaluation Committee denied the motion of the Town of South Hampton on June 22, 1981, and this ruling was subsequently upheld by the Supreme Court, Society for the Protection of the Environment of Southeastern New Hampshire v Town of South Hampton (1982) 122 NH 703, 449 A2d 1205.

The Public Utilities Commission also correctly grants the Motion to Dismiss on the grounds of timeliness. The Town of South Hampton could have appealed the final decision directly to the Supreme Court under RSA 162F:8, IV or could have brought a petition under RSA 162F:12 in a timely manner.

The grounds alleged in the instant petition related to the record in the original proceeding and to rule changes in the original proceeding, which occurred some eleven years ago. The Supreme Court has clearly indicated, (1) that a fair reading of RSA 162F reveals a legislative intent to resolve all issues in an integrated fashion (Public Service Co. of New Hampshire v Town of Hampton [1980] 120 NH 71, 411 A2d 164); (2) that it was reasonable for the Site Evaluation Committee to refuse to reopen the issue in 1981; and that it regards this portion of the Certificate to be final. (Society for the Protection of the Environment of Southeastern New Hampshire v Town of South Hampton [1982] 122 NH 707, 449 A2d 1205.)

For the reasons stated, I concur in the granting of the Company's Motion to Dismiss.

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NH.PUC*07/27/83*[79730]*68 NH PUC 498*Hudson Water Company

[Go to End of 79730]

Re Hudson Water Company

DE 83-245, Order No. 16,553

68 NH PUC 498

New Hampshire Public Utilities Commission

July 27, 1983

ORDER approving a water company's request to change its name.

PUBLIC UTILITIES, § 1 — Change of name — Public interest.

[N.H.] The state commission approved water company's request to change its name for reasons that the name change appeared to be in the public interest and that the company would remain operating with the same personnel and management.

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BY THE COMMISSION:

ORDER

WHEREAS, Hudson Water Company has requested that its name be changed to Southern New Hampshire Water Company, Inc.; and

WHEREAS, in all other respects the Company will remain operating with the same personnel and management; and

WHEREAS, such name change appears to be in the public's interest; it is hereby

ORDERED, that the Hudson Water Company shall be substituted by the name "Southern New Hampshire Water Company, Inc.", and the Commission's records will so reflect.

By Order of the Public Utilities Commission of New Hampshire this twenty-seventh day of July, 1983.

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NH.PUC*08/02/83*[79731]*68 NH PUC 499*Public Service Company of New Hampshire

[Go to End of 79731]

Re Public Service Company of New Hampshire

DR 83-164, Supplemental Order No. 16,567

68 NH PUC 499

New Hampshire Public Utilities Commission

August 2, 1983

ORDER rejecting electric company's motion for rehearing regarding the company's energy cost recovery mechanism.

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1. AUTOMATIC ADJUSTMENT CLAUSES, § 6 — Cost recovery clauses — Purpose — Dollar-for-dollar recovery.

[N.H.] The energy cost recovery mechanism is a mechanism established by the commission to enable the utility to recover all property accounted for by ECRM costs on a dollar-for-dollar basis; there is no restriction on retroactive adjustments so long as those adjustments are pertinent to the dollar amounts to be included in the account as distinguished from a retroactive change in the definition of what types of expenses may be included in the account. p. 500.

2. RATES, § 120.1 — Nonenergy cost recovery mechanism tariff — Limitations on recovery — Test year.

[N.H.] Nonenergy cost recovery mechanism tariff rates are developed on a pro forma test year, which may or may not reflect actual events, therefore there is no dollar-for-dollar recovery or guarantee that the utility will earn its approved rate of return. p. 500.

3. AUTOMATIC ADJUSTMENT CLAUSES, § 6 — Cost recovery clauses — Purpose — Dollar-for-dollar recovery — Effect on expenses.

[N.H.] It is proper to view the energy cost recovery mechanism account historically to

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ensure that carefully defined expenses are recovered on a dollar-for-dollar basis, therefore it is also proper to disallow historic expenses when those expenses have been improperly included in the account. p. 500.

APPEARANCES: as previously noted.

BY THE COMMISSION:

REPORT

On June 29, 1983 the Public Utilities Commission of New Hampshire (Commission) issued Report and Order No. 16,499 (68 NH PUC 437) in the instant docket rejecting the Energy Cost Recovery Mechanism (ECRM) proposal of Public Service Company of New Hampshire (PSNH) and requiring the filing of revised tariff pages which were conformed to the Commission's Report. On July 19, 1983, PSNH filed a Motion for Rehearing (Motion). For the reasons set forth

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below, the Commission will deny PSNH's Motion.

The Motion states that Report and Order No. 16,499 is unlawful, unjust and unreasonable on *inter alia* two grounds: 1) that it retroactively disallowed indirect fuel costs of Maine Yankee Atomic Power Company; and 2) even if the Maine Yankee direct fuel costs were properly disallowed, the Commission had no evidence to support its finding that those costs amounted to $178,000. We shall address each of those grounds in turn.

[1,2] With respect to the question of whether the historic Maine Yankee indirect fuel costs could be disallowed it must be stated that ECRM and non-ECRM costs and rates are determined through different ratemaking principles. ECRM is a recovery mechanism established by the Commission to enable the Company to recover *all* properly accounted for ECRM costs on a dollar for dollar basis. Due to the unique application of a periodic reconciliation, there is no restriction on retroactive adjustments so long as those adjustments are pertinent to the dollar amounts to be included in the account as distinguished from a retroactive change in the definition of what types of expenses may be included in the account. By contrast, the non-ECRM tariff rates are developed through more traditional rate making approaches in that rates were established on a proforma test year, which may or may not turn out to reflect actual happenings. Thus, there is no dollar for dollar recovery or guarantee that the Company will earn its approved rate of return.

[3] Since it is proper to view the ECRM account historically to ensure that carefully defined expenses are recovered on a dollar for dollar basis, it is accordingly proper to disallow historic expenses when those expenses have been improperly included in the account.

With respect to the contention that the record does not support the finding that the improper expenses booked to ECRM amounted to $178,000, the Commission notes that the figure was an approximation. It may differ from the actual amount, once known. However, any difference will be subject to reconciliation for that portion relating to PSNH's retail jurisdiction. Moreover, the approximation

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is based on the evidence obtained during the June 16, 1983 hearing. Although that evidence did not explicitly contain the $178,000 figure, it did contain sufficient information to derive the amount to be disallowed.*(37) Thus, the figure of $178,000 used in Report and Order No. 16,499 is proper.

Our Order is issued accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that PSNH's Motion for Rehearing be, and hereby is, denied.

By order of the Public Utilities Commission of New Hampshire this second day of August, 1983.

FOOTNOTES

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*"Q. Do you have a dollar figure to what that is through the end of June 1983?

"A. Subject to check the number as of March 30th, 1983 is ill the order of $142,000. Maybe also just to give you an idea, the dollars we are talking about here are the indirect fuel costs that previously were flowed through account 518 by Maine Yankee participants. And as of the date Mr. Traum mentioned they were no longer, these indirect fuel costs were no longer included in account 518. They amount, that increment amounts to about $12,000 a month." (Tr. of 6/16/83 at 50.)

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NH.PUC*08/02/83*[79732]*68 NH PUC 501*Fuel Adjustment Clause

[Go to End of 79732]

Re Fuel Adjustment Clause

Intervenors: New Hampshire Electric Cooperative, Inc., Concord Electric Company, Exeter and Hampton Electric Company, Granite State Electric Company, Municipal Electric Department of Wolfeboro, Littleton Light Department, Woodsville Water and Light Department, and Connecticut Valley Electric Company, Inc.

DR 83-222, Order No. 16,568

68 NH PUC 501

New Hampshire Public Utilities Commission

August 2, 1983

ORDER permitting various electric fuel surcharges and energy conservation rates to remain in effect.

BY THE COMMISSION:

ORDER

WHEREAS, the Commission in correspondence dated March 2, 1983, sent to the New Hampshire Electric Cooperative, Inc., Granite State Electric Company, Connecticut Valley Electric Company, Inc., Exeter & Hampton Electric Company, Municipal

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Electric Department of Wolfeboro, Concord Electric Company, Woodsville Power and Light Department, and Littleton Water & Light Department by the Commission's Executive Director and Secretary in relation to DR 82-59, notified the utilities that the Commission will not automatically schedule FAC hearings for those utilities which file monthly unless requested or needed by one of those utilities; and the Commission would not automatically schedule FAC hearings in the two off months for those utilities which have a quarterly FAC rate; and

WHEREAS, no utility maintaining a monthly or quarterly FAC requested a hearing by

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scheduled; and

WHEREAS, this is one of the two off months for quarterly FAC utilities; it is

ORDERED, that the Commission in DR 81-340, Third Supplemental Order No. 15,986, dated November 10, 1982 (67 NH PUC 784), of the N.H. Electric Cooperative, Inc. rolled the cost of fuel on an estimated forward looking basis into base rates, thus eliminating the lagging Fuel Adjustment Clause and resulting in more stable and comprehensible rates; and

WHEREAS, the revised rolled in rate will remain in effect for the balance of the year, unless a hearing is requested by any party, no new rate will be stated for the New Hampshire Electric Cooperative, Inc. in this month's FAC order; and it is

FURTHER ORDERED, that 11th Revised Page l9A of Concord Electric Company tariff, NHPUC No. 8 — Electricity, providing for a fuel surcharge of $0.037 per 100 KWH for the months of July, August and September, 1983, be, and hereby is, permitted to remain in effect for the month of August, 1983; and it is

FURTHER ORDERED, that 11th Revised Page 19A of Exeter and Hampton Electric Company tariff, NHPUC No. 15 — Electricity, providing for a fuel surcharge of $0.241 per 100 KWH for the months of July, August and September, 1983, be, and hereby is, permitted to remain in effect for the month of August, 1983; and it is

FURTHER ORDERED, that 5th Revised Page 57 of Granite State Electric Company tariff, NHPUC No. 10 — Electricity, providing for an oil conservation adjustment of 14.2 cents $0.142 per 100 KWH for the months of July, August and September, 1983, be, and hereby is, permitted to remain in effect for August, 1983; and it is

FURTHER ORDERED, that 6th Revised Page 30 of Granite State Electric Company tariff, NHPUC No. 10 — Electricity, providing for a fuel surcharge for the months of July, August and September, 1983, of $0.80 per 100 KWH be, and hereby is, permitted to remain in effect for August, 1983; and it is

FURTHER ORDERED, that 31st Revised Page 11B of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 6 — Electricity, providing for a fuel surcharge of $3.05 per 100 KWH for the month of August, 1983, be, and hereby is, permitted to become effective August 1, 1983; and it is

FURTHER ORDERED, that 83rd Revised Page 10-B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for a fuel surcharge of $0.66 per 100 KWH for the month of August, 1983, be, and hereby is, permitted to

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become effective August 1, 1983; and it is

FURTHER ORDERED, that 80th Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for an energy surcharge of $0.99 per 100 KWH for the month of August, 1983, be, and hereby is, permitted to become effective August 1, 1983.

The above noted rates may be adjusted by a factor of approximately 1% depending upon the

utility's classification in the Franchise Tax docket DR 83-205, Order No. 16,524 (68 NH PUC 461).

By order of the Public Utilities Commission of New Hampshire this second day of August, 1983.

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NH.PUC*08/08/83*[79733]*68 NH PUC 503*New England Telephone and Telegraph Company

[Go to End of 79733]

Re New England Telephone and Telegraph Company

Intervenor: Community Action Program

DE 83-112, Order No. 16,576

68 NH PUC 503

New Hampshire Public Utilities Commission

August 8, 1983

ORDER adopting settlement agreement establishing a rate of return on common equity.

RETURN, § 26.4 — Common equity — Settlement agreement — Adoption.

[N.H.] The commission adopted a proposed settlement agreement which set forth a range of 15 to 16.5 per cent as the telephone company's cost of common equity and recommended that the company be granted a rate of return on common equity of 15.75 per cent.

RETURN, § 26.4 — Common equity — Settlement agreement — Dissent.

[N.H.] Dissenting commissioner disagreed with the proposed settlement agreement and stated that the downward change in the proposed range for cost of equity does not adequately reflect the dramatic reduction in capital market cost rates; the proposed range of the cost of equity, the commission held, does not adequately balance the interest of the consumers with that of the telephone company. p. 505.

(AESCHLIMAN, commissioner, dissents, p. 505.)

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APPEARANCES: Peter Guenther for New England Telephone and Telegraph Company; Gerald Eaton for Community Action Program; and Larry M. Smukler for the Staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

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REPORT

On April 4, 1983 by Order No. 16,315 the Commission opened Docket DE 83-112 to conduct an investigation to determine if there was a measurable reduction in capital market cost rates and to further determine the proper cost of equity.

The aforementioned Order also consolidated DR 82-70 and DE 83-45 to the extent necessary to resolve the issues in this proceeding.

On April 15, 1983 the Commission issued an Order of Notice for a procedural hearing to be held on May 10, 1983 at 10:00 a.m. at the Commission's offices in Concord.

On May 10, 1982 a procedural hearing was held. During that hearing considerable discussion developed over the scope of the proceeding and the proposed schedule to be adopted. The hearing concluded without a schedule being adopted; however, the Staff and the parties agreed to engage in a conference for the purpose of determining if it was possible to agree to the scope of the proceeding and to a settlement of the entire proceeding.

The Staff has reported to the Commission that all of the parties in the proceeding have met and have entered into a proposed settlement agreement submitted to the Commission on June 14, 1983.

The proposed agreement sets forth a range of 15.0% to 16.5% as the Company's cost of equity and recommends the Company be granted a rate of return on equity of 15.75%. Calculations using the above allowed range of returns result in an overall rate of return range of 10.84% to 11.57%. The parties recommend that an overall rate of return be fixed at 11.21%. The effective date of the agreed rate of return is July 1, 1983.

The proposed settlement, before the Commission, recognizes that there has been a measurable reduction in capital market cost rates. It presents a reasonable range of rates of return and the parties recommendation to approve a rate of 15.75%.

It is sufficient to note, that the proposed agreement is conditioned upon the acceptance and approval of the terms of the agreement by the Commission. The consequence of a disapproval of the proposed agreement would be to allow the Company to continue to receive a higher rate of return on common equity than should be just and reasonable. It would also necessitate additional evidentiary hearings and delay. The Commission should avoid regulatory delay and should attempt to make prompt decisions so that any changes would impact on customers of record during the period in question.

The Commission Staff and the parties engaged in the exchange of various information. An analysis of that information has produced a stipulation that a proper range for an allowed rate of return is 15% to 16.5%. All parties recommend the Commission adopting the mid-point of the range, *i.e.*, 15.75% as a proper allowed rate of return for common equity. The Commission

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will accept the rate of 15.75% as the allowed rate of return on common equity effective as of July 1, 1983 and the Company is directed to file the appropriate tariff pages to conform to this Report. The Company is also directed to make the appropriate adjustment to customer bills.

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In any future docket for rate increases by the Company a full and complete investigation into the cost of equity will be conducted.

Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the settlement agreement submitted to the Commission on June 14, 1983 is approved; and it is

FURTHER ORDERED, that the Company is granted an allowed rate of return on equity of 15.75%; and it is

FURTHER ORDERED, that the reduction in rates be allocated to residential and business basic exchange rates; and it is

FURTHER ORDERED, that the Company file the appropriate tariff pages to conform with this Report.

By order of the Public Utilities Commission of New Hampshire this eighth day of August, 1983.

Before Aeschliman (dissenting), commissioner

Procedural History

This proceeding arises from a provision adopted by the Commission in the New England Telephone & Telegraph Company ("NET" or "the Company") rate proceeding DR 82-70. The history of DR 82-70 is set forth briefly as follows.

On April 20, 1982 NET filed with this Commission a request for an increase in its permanent rates effective on May 12, 1982 to yield an increase of $13,669,000 in annual revenues. The Commission in Order No. 15,613 suspended the effectiveness of the proposed rates pending investigation and set a procedural hearing for May 7, 1982.

Following the procedural hearing the Commission held extensive public hearings around the State and set a schedule for data requests by the parties, responses to data requests and deadline for filing testimony. The parties to the proceeding — NET, the Commission Staff, the Consumer Advocate, the Community Action Program and the Federal Agencies — subsequently met in settlement conferences and submitted a stipulated settlement agreement to the Commission dated June 18, 1982. In its Report and Order No. 15,752 (67 NH PUC 469), dated July 9, 1982, the Commission accepted the settlement agreement.

A key provision in the Agreement and the Commission Order was the condition that any party to the agreement could petition the Commission to initiate an investigation of the Company's cost of equity should a measurable reduction in capital market rates occur within a one-year period following the approval by the Commission of this agreement. Specific conditions "triggering" this provision were provided in the agreement and adopted in the Commission Report and Order.

The Commission in its July 9, 1982 decision also reserved the question of an investigation into the appropriate (optimum) capital structure of NET,

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requiring the Company to petition the Commission in this regard within 6 months of the date of the Order. On January 7, 1983, NET filed a petition requesting postponement of an investigation of its appropriate capital structure due to uncertainties occasioned by the AT & T divestiture and decisions of the Federal Communications Commission.

On January 31, 1983 Community Action Program ("CAP") filed a Petition pursuant to the agreement requesting that the Commission open an investigation into the optimum capital structure of NET and that the Commission provide immediate notice and conduct a hearing on or about February 20, 1983 to investigate the allowed rate of return pursuant to the provisions of the Order in DR 82-70. The Commission opened docket DR 83-45 to consider CAP's Petition.

In Third Supplemental Order No. 16,192 the Commission granted NET's petition to postpone consideration of the Company's capital structure until after July 1, 1983. CAP filed a Motion for Rehearing, Reconsideration or Modification on February 4, 1983 urging the Commission not to open a new docket but to confine its investigation to the cost of equity issue arising out of the agreement. On April 4, 1983 the Commission issued Order No. 16,315 creating the instant docket for the single purpose of considering the cost of equity issue and noticed a hearing for May 10, 1983.

At the May 10 hearing the parties agreed that a measurable reduction in capital market cost rates as defined in the Stipulation Agreement had occurred. There were, however, significant differences in the parties interpretation of what action was appropriate and contemplated in the agreement. Subsequently, representatives of the Staff, CAP and the Company met in settlement conferences to discuss stipulating to a revised cost of equity. An agreement was entered into by the Parties on June 14, 1983. A hearing on the settlement was held by the Commission on August 2, 1983.

Provisions of the Settlement Agreement

The Settlement Agreement presented to the Commission stipulates to an appropriate range for the Company's cost of equity of 15.0% to 16.5%. The parties to the agreement recommend that the Company be granted an allowed rate of return on equity of 15.75%, the mid-point of the aforementioned cost of equity range. The parties further agreed that they will be bound by the Commission's determination of a different return on equity so long as that return is within the agreed range. The parties further agreed that the effective date of the stipulated reduction in the Company's cost of equity is July 1, 1983.

Discussion

The range proposed in the settlement is a reduction from the previous range of 15.25%-17.0%. Two things are apparent in evaluating the proposed range. First, the range is narrower than the previous range, with the upper limit having been reduced more than the lower limit. In questioning Mr. Cogswell on this point, it appears that this may be due to the fact that Mr. Gentilli, the Consumer Advocate, participated in the first settlement proceeding and insisted on the lower limit, whereas no Consumer Advocate

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participated in the instant settlement proceedings. (Trans. p. 23)

Second, the change in the proposed range does not adequately reflect the dramatic downward adjustment in the market from June 1982 to June 1983. During this time the prime rate fell from 16.5% to 10.5% (Trans. p. 19) While changes in long term rates are more appropriate in evaluating the cost of equity, the adjustment from 15.25%-17% to 15%-16.5% does not reasonably reflect the market change. In particular, reduction in the lower end by only mid-point of the range, reducing the lower limit would reduce the mid-point as well.

In evaluating the reasonableness of the settlement the Commission may look to recent decisions by other State Commissions in Bell Telephone rate cases. The record contains sixteen decisions since January 1, 1983 and the rate of return on equity allowed in each case.*(38) Of these 16, only three allowed a rate of return on. equity in excess of 15%, the highest being 15.33%. (Trans. p. 6) In this light, the recommended 15.75% is very high.

In cross-examining Mr. Cogswell it was brought out that the weighted average allowed rate of return by State Commissions is 15.3%. This, of course, includes awards made prior to January 1, 1983 when interest rates were much higher. By accepting 15.75%, Mr. Cogswell agreed that the Commission would be allowing an average weighted return of 16.25% for the period July 1982-December 1983. This is virtually 1 full percentage point above the national weighted average allowed by the State Commissions, and will make New Hampshire very near the highest if not the highest in the Country. The record provides no evidence to indicate that NET should have a higher rate of return than other Bell companies. In fact, Mr. Cogswell agrees that the new holding company of which NET will be a part (NYNEX) is in the middle of the designated Bell Operating Companies in terms of financial ratings. (Trans. p. 31)

While I believe in awarding a fair rate of return, I can not agree that 15.75% represents a reasonable balance of the utility and consumer interests. In the interest of resolving this case in an expeditious fashion, and of providing timely rate relief, I would have agreed to accept the low point on the range of 15%. On a weighted basis this would have allowed the Company a 16% return on equity over the period July 1982-December 1983, which is still on the high side by national standards. Viewed in relation to recent determinations by other Commissions (Trans. p. 7), 15% its clearly more appropriate than 15.75%.

My concern with a 15.75% allowed rate of return is enhanced by the fact that the effective date is July 1. As the record indicates, there is no particular rationale for this date. The condition of a six month decline in rates established in the Commission's earlier Order came into effect February 20th. Why the effective date is not closer to this time is difficult to understand and simply appears to reflect the stronger bargaining position of NET.

Even though I have reservations about the July 1st date, I would have been willing to accept the settlement with the 15% rate of return on equity in order to afford customers timely

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rate relief and to avoid the expense of litigating this issue before another rate case. The difference to customers between accepting the settlement at 15.75% and accepting it at 15% is

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significant, amounting to more than $1 million over a six month period. Staff calculates the reduction at 15.75% to amount to $1,059,367 for six months and at 15.0% to amount to $2,178,107 for six months. The difference would be equivalent to more than 40¢ on the monthly charge of residential and business customers. In my opinion this difference is significant and acceptance of the agreement at a 15.75% allowed rate of return does not adequately balance the interests of consumers with that of NET.

For the reasons stated I dissent from the opinion of the other Commissioners.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

ATTACHMENT A
Bell Company Rate Decisions Since January 1, 1983

1. January 7, 1983
2. January 11, 1983
3. February 10, 1983
4. February 11, 1983
5. February 14, 1983
6. February 18, 1983

7. March 4, 1983
8. March 8, 1983
9. March 30, 1983

10. April 12, 1983
11. April 15, 1983

12. April 20, 1983
13. April 26, 1983
14. April 29, 1983

15. May 11, 1983
16. July, 1983

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*Equivalent rate when double leveraged capital structure taken into account.

FOOTNOTES

*See Attachment A.

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NH.PUC*08/08/83*[79734]*68 NH PUC 509*City of Manchester

[Go to End of 79734]

Re City of Manchester

DX 83-128, Supplemental Order No. 16,577

68 NH PUC 509

New Hampshire Public Utilities Commission

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August 8, 1983

PETITION seeking authority to remove certain portions of abandoned railroad track; granted.

CROSSINGS, § 61 — Reconstruction — Gas main structure.

[N.H.] A city and a corporation were given the authority to remove certain portions of railroad track of an abandoned branch on a bridge which crossed over the traffic lanes of the turnpike; the city was further authorized to construct a suitable structure across the turnpike to support the gas company's gas main serving the customers on the other side of the bridge.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, upon petition of the City of Manchester seeking authority to remove certain portions of track on the abandoned Goffstown Branch, the Turner Street Spur and the Merrimack River Bridge, a hearing was held at the office of the Commission on May 12, 1983; and

WHEREAS, that Commission only partially addressed this matter in Report and Order No. 16,486 (68 NH PUC 425), in that the Order did not authorize the removal of track from the River Bridge or that portion of the bridge over the traffic lanes of said Turnpike; and

WHEREAS, all matters have now been resolved whereby the City of Manchester will purchase the bridge over the river, a new pier will be constructed near the west end of the River Bridge, the structure over the Turnpike will be removed and the City of Manchester will build a structure to carry a gas main across the Turnpike; now therefore, it is

ORDERED, that the City of Manchester and the Boston and Maine Corporation be, and hereby are, authorized to remove the rails and ties on the Merrimack River Bridge which carries the abandoned Goffstown Branch, also the bridge spanning the F. E. Everett Turnpike plus or minus 40 feet of existing truss, and that portion of the track between the bridge and the Granite Street Crossing on the Turner Spur track; and it is

FURTHER ORDERED, that the City of Manchester be, and hereby is, authorized to construct a suitable structure across the turnpike to support the Manchester Gas Company gas main serving the customers on the west side of the Merrimack River; and it is

FURTHER ORDERED, that the authority herein contained shall be performed in accordance with an agreement

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filed at the office of this Commission on August 3, 1983, marked DX 83-128.

By Order of the Public Utilities Commission of New Hampshire this eighth day of August, 1983.

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NH.PUC*08/09/83*[79735]*68 NH PUC 510*Gas Service, Inc.

[Go to End of 79735]

Re Gas Service, Inc.

DR 83-252, Order No. 16,584

68 NH PUC 510

New Hampshire Public Utilities Commission

August 9, 1983

ORDER approving contract terms and seasonal gas prices for gas company.

BY THE COMMISSION:

ORDER

WHEREAS on July 25, 1983, Gas Service Inc. filed Special Contract No. 36 for sales of seasonal gas to the Tilton School, Tilton, New Hampshire; and

WHEREAS, the contract terms and the price for seasonal gas are similar with previous special contracts by Gas Service and appear to be consistent with the public good, it is hereby

ORDERED, that Gas Service Inc., Special Contract No. 36 for seasonal gas sales to the Tilton School is hereby approved.

By Order of the Public Utilities Commission of New Hampshire this ninth day of August, 1983.

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NH.PUC*08/09/83*[79736]*68 NH PUC 510*Kearsarge Telephone Company

[Go to End of 79736]

Re Kearsarge Telephone Company

DR 83-239, Order No. 16,585

68 NH PUC 510

New Hampshire Public Utilities Commission

August 9, 1983

ORDER approving new telephone rates for touch calling and custom calling services.

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BY THE COMMISSION:

ORDER

WHEREAS, Kearsarge Telephone Company filed with this Commission certain pages of its tariff No. 5, said pages authorizing the addition of Touch Calling and Custom Calling Services to the New London exchange; and

WHEREAS, this Commission suspended those tariffs by Order No. 16,552 pending an investigation of the rates proposed; and

WHEREAS, the staff has investigated those rates and finds them to be lower than similar rates charged by other telephone companies in New Hampshire; and

WHEREAS the newly installed digital central office in the New London exchange will allow customers to take advantage of the new services provided by that equipment; it is

ORDERED, that the filed pages of tariff No. 5 will be allowed to become effective with the date of this order.

By order of the Public Utilities Commission of New Hampshire this ninth day of August, 1983.

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NH.PUC*08/12/83*[79737]*68 NH PUC 511*New England Telephone and Telegraph Company

[Go to End of 79737]

Re New England Telephone and Telegraph Company

DE 83-210, Order No. 16,588

68 NH PUC 511

New Hampshire Public Utilities Commission

August 12, 1983

ORDER granting authority to a telephone company to place and maintain a conduit under and across certain lands owned by the state of New Hampshire.

APPEARANCES: Joseph Duschka for petitioner; John W. Clement, commissioner of public works and highways, on behalf of the state.

BY THE COMMISSION:

REPORT

On June 16, 1983, New England Telephone & Telegraph Company (New England) filed a petition seeking a license from the State to place and maintain conduit under a state railroad right-of-way in Tilton, New Hampshire. New England's petition represented the following:

1. That the proposed plant consisting of 12-4" 'B' plastic conduit (concrete encased) is

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described and shown on NHR 83-1. 2. That the proposed plant crossing

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the state railroad right-of-way is designed to meet the requirements for telephone service in this portion of the New England Company's Tilton Exchange. 3. That said crossing will be maintained with due regard for established minimum safety standards. 4. That the granting of such license is in the public interest.

Upon proof of proper notice a hearing was duly held on July 13, 1983.

The Petitioner's witness, Joseph Duschka testified the license was necessary to provide the public efficient telephone service and Exhibits 1 through 3 were entered in evidence showing the exact location of the crossing. Although no objection was made to issuing a license it was requested by the Commissioner of Public Works and Highways, Mr. John Clements, that the Petitioner execute an agreement with his Department. By letter dated July 19, 1983 the Petitioner indicated it found nothing objectionable to Mr. Clement's request.

Based on the foregoing we find the request to be in the best interest of the public and not an unreasonable infringement on the public's rights.

Our Order will issue accordingly.

ORDER

Based on the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that authority be granted to Petitioner to place and maintain a conduit under and across lands owned by the State of New Hampshire, said installation to be in Tilton, New Hampshire as more specifically defined in Petitioner's Exhibits.

By order of the Public Utilities Commission of New Hampshire this twelfth day of August, 1983.

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NH.PUC*08/12/83*[79738]*68 NH PUC 512*Bretton Woods Telephone Company

[Go to End of 79738]

Re Bretton Woods Telephone Company

DR 81-356, Second Supplemental Order No. 16,591

68 NH PUC 512

New Hampshire Public Utilities Commission

August 12, 1983

ORDER approving increase in rates for telephone company.

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BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, Commission Order No. 15,989 (67 NH PUC 800) authorized Bretton Woods Telephone Company to increase its rates to recover added revenues of $22,177; and

WHEREAS, said order also directed filing of revised tariff pages to reflect rates which gleaned such revenues; and

WHEREAS, Bretton Woods now has filed necessary revised tariff pages and appropriate supporting data to comply with Order No. 15,989; it is

ORDERED, that Bretton Woods Telephone Company Tariff No. 2 as amended by 1st Revised Page 27, said revision issued on April 14, 1983, be, and hereby is, allowed effective with bills rendered on and after August 5, 1983.

By order of the Public Utilities Commission of New Hampshire this twelfth day of August, 1983.

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NH.PUC*08/17/83*[79739]*68 NH PUC 513*Concord Steam Corporation

[Go to End of 79739]

Re Concord Steam Corporation

Intervenor: New Hampshire Hospital

DF 83-189, Order No. 16,594

68 NH PUC 513

New Hampshire Public Utilities Commission

August 17, 1983

PETITION for approval of interest on debt and the conversion of preferred stock to common stock; granted as modified.

SECURITY ISSUES, § 80 — Conversion — Authorization.

[N.H.] The commission authorized an electric company to exchange all of its shares of preferred stock for common stock based upon the adjusted book value of said common stock, rounded to the nearest full share; the electric company was ordered to submit to the commission both a copy of its authorization for the stock exchange from its board of directors and share holders and a detailed statement of' the calculation of the number of common shares issued for the preferred stock.

APPEARANCES: David Marshall for Concord Steam Corporation; Peter Scott from the attorney general's office for the New Hampshire Hospital; Eugene Sullivan for the staff.

BY THE COMMISSION:

REPORT

On May 26, 1983, Concord Steam Corporation ("the Company") filed a

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petition requesting approval of loans from Roger Bloomfield to the Company having a present net balance of $160,000 and to exchange the Company's outstanding non-cumulative preferred stock for common stock. A duly noticed hearing was held in Concord on duly 14, 1983, at which time all of the parties requested a recess to enter into settlement negotiations. On August 11, 1983, the parties presented a settlement agreement dated July 22, 1983.

The settlement agreement contains resolutions of the issue in this case which are summarized as follows:

> 1. Approval of payment of interest on short-term notes issued by the Company to Roger Bloomfield, having a principal balance outstanding at present and since December, 1981 in the amount of $160,000. The notes shall bear interest for the period from July 1, 1982 to June 30, 1983 at an annual rate of 12 percent. Commencing July 1, 1983, and continuing until the loans have been repaid by the Company in full, the outstanding principal loan balance will be entitled to interest at a varying rate equal to the prime rate of interest charged from time to time by the Company's principal commercial lender. 2. Upon approval by its directors and shareholders, Concord Steam Corporation shall be entitled to retire all of its 1,250 shares of preferred stock having a par value of $100 per share in exchange for newly issued shares of common stock having a par value of $100 per share and an aggregate book value of $125,000. The Company will decrease its preferred stock account by $125,000 and shall increase its common stock accounts by increasing common stock and paid-in-surplus by the appropriate amounts based upon the book value of the common stock at the time of the transfer, rounded for the sake of convenience to the nearest full share value.

The parties further agreed that the Company would not be entitled to reopen the meter rate, in accordance with paragraph 3.d of the agreement of April 28, 1983 in Docket No. DR 82-239 by reason of either the payment of interest on the loans or conversion of preferred stock to common stock and the resulting increase in common equity.

At the hearing, the Finance Director of the Commission pointed out that the Company's common stock surplus account contained an amount which was improperly credited to that account. In accordance with the practice of this Commission, the amounts applicable to investment tax credits should be credited to a deferred investment tax credit account and flowed back to the ratepayers ratably over the life of the applicable property. Rates have been set based upon federal income taxes which the Company did not have to pay. In accordance with IRS regulations, the Company will remain eligible for investment tax credits as long as they are

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flowed back to ratepayers ratably over the life of the property. The Commission will expect the Company's accountant to correct the investment tax credit prior to the calculation of the appropriate amount of

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common shares to be issued for the preferred stock.

The Commission accepts the agreement submitted by the parties with the exception that the aforementioned adjustment to earned surplus be made for the investment tax credits. The Commission further cautions the Company that all financing, except for a certain level of short-term debt, requires the prior approval of the Commission.

Our Order will issue accordingly.

ORDER

Based upon consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that Concord Steam Corporation be, and hereby is, authorized to pay interest on short-term notes issued to Roger Bloomfield, having a principal balance outstanding at the present time and since December 1981 in the amount of $160,000 at an annual rate of 12 percent from July 1, 1982 to June 30, 1983 and at the prime rate of its principal commercial lender thereafter, until repaid in full; and it is FURTHER ORDERED, that Concord Steam Corporation be, and hereby is, authorized to exchange all of its shares of preferred stock for common stock based upon the adjusted book value of said common stock, rounded to the nearest full share; and it is

FURTHER ORDERED, that Concord Steam Corporation will submit a copy of its authorization for the stock exchange from its board of directors and shareholders; and it is

FURTHER ORDERED, that a detailed statement of the calculation of number of common shares issued for the preferred stock, along with the appropriate accounting entries be submitted to this Commission.

By Order of the Public Utilities Commission of New Hampshire this seventeenth day of August, 1983.

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NH.PUC*08/18/83*[79740]*68 NH PUC 515*Public Service Company of New Hampshire

[Go to End of 79740]

Re Public Service Company of New Hampshire

DR 82-333, Sixth Supplemental Order No. 16,602

68 NH PUC 515

New Hampshire Public Utilities Commission

August 18, 1983

MOTION for leave to intervene in an electric rate case; granted in part and denied in part.

PARTIES, § 18 — Intervenors — Applicable issues.

[N.H.] An organization's motion to intervene in a rate hearing was granted to the extent that it requested intervenor status to address the issue of the implementation of lifeline rates; a request that the organization be granted intervenor status as to additional issues was rejected because the motions were not timely filed.

APPEARANCES: as noted previously.

BY THE COMMISSION:

REPORT

On July 21, 1983, VOICE filed a Motion for Leave to Intervene; a Request for a Finding of Eligibility for Compensation; and a Motion for Leave to File Out of Time "Request of VOICE for Finding of Eligibility for Compensation." On July 28, 1983, Public Service Company of New Hampshire (PSNH) filed an objection to the VOICE Motions and Request. The Commission will recognize the objections of PSNH and, accordingly, will grant the VOICE Motions only to the extent that they pertain to the matter of implementation of lifeline rates and, more specifically, whether specific factors applicable to PSNH justify a waiver or exemption from the Commission's standard lifeline rate form.

The VOICE Motion to intervene arises out of Commission determinations in a related docket: DP 80-260, Re Lifeline Rates. In that Docket, VOICE was a full party intervenor and the Commission found that it was eligible for intervenor compensation. *See, e.g.*, Report and Eleventh Supplemental Order No. 15,642 (May 11, 1982 [67 NH PUC 318]); Report and Fourteenth Supplemental Order No. 15,857 (August 21, 1982 [67 NH PUC 610]). A final Order was issued in that docket on April 20, 1983 (Report and Seventeenth Supplemental Order No. 16,356 [68 NH PUC 216]) and PSNH filed a timely Motion for Rehearing. VOICE participated in the oral argument which was heard on the Motion for Rehearing. The Motion was denied by the Commission in Report and Eighteenth Supplemental Order No. 16,460 (June 3, 1983 [68 NH PUC, 389]); however, that Order also provided that PSNH may seek a waiver from the Commission's lifeline standards in an appropriate context. As a result, on July 1, 1983, PSNH filed a Motion to Include Implementation of Lifeline Rates as an Issue in Part B of this Docket [DR 82-333]. In Report and Fifth Supplemental Order No. 16,543 (July 15, 1983 [68 NH PUC 489]), the Commission *inter alia* granted PSNH's request that implementation of the Commission's lifeline standards be incorporated in Part B of the instant docket. VOICE's Motion to Intervene followed on duly 21, 1983.

As the foregoing history demonstrates, VOICE had justification for a late filed Motion to Intervene in the instant docket. It had been a full participant in Docket No. DP 80-260 and

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reacted in a timely manner when those issues were incorporated in the instant docket. Thus, VOICE's Motion to Intervene is granted to the extent that it requests intervenor status to address the issue of implementation of lifeline rates. However, VOICE's Motion also requested that VOICE be granted intervenor status to address additional issues. The instant docket is not new.

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Public Hearings and a Procedural Hearing have already taken place and the Commission has already addressed all Motions to Intervene which were timely filed. *See*, Report and Fourth Supplemental Order No. 16,471 (June 10, 1983 [68 NH PUC 407]). VOICE did not take advantage of its opportunity to intervene at that time and it has not presented us with sufficient reason to allow a filing of such a request out of time. Accordingly, VOICE's Motion will be denied to the extent that it re-quests leave to address any issues not directly related to the implementation of lifeline rates.

The above distinction applies to VOICE's request for a finding of eligibility for compensation pursuant to Rule No. Puc 205.03. Since VOICE's intervention will be limited to the issue of implementation of lifeline rates, its request for a finding of eligibility for compensation must be considered in this context. As noted above, the Commission has previously found that VOICE is eligible for compensation on the lifeline issue (DP 80-260; Report and Eleventh Supplemental Order No. 15,642, May 11, 1982 [67 NH PUC 318]). The parties and the issues are substantially identical to those in DP 80-260. PSNH has not objected to a finding of eligibility so long as such a finding is limited to the lifeline issue. Accordingly, the previous findings of eligibility for compensation contained in Report and Eleventh Supplemental Order No. 15,642 (May 11, 1982) will be incorporated herein by reference.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the Motion of VOICE for Leave to Intervene is granted in part and denied in part as provided in the foregoing Report; and it is

FURTHER ORDERED, that the Request of VOICE for Finding of Eligibility for Compensation is granted in part and denied in part as provided in the foregoing Report; and it is

FURTHER ORDERED, that the Motion of VOICE for Leave to File Out of Time, "Request of VOICE for Finding of Eligibility for Compensation" is granted in part and denied in part as provided in the foregoing Report.

By Order of the Public Utilities Commission of New Hampshire this eighteenth day of August, 1983.

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NH.PUC*08/18/83*[79741]*68 NH PUC 517*Wilton Telephone Company

[Go to End of 79741]

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Re Wilton Telephone Company

DE 83-134, Supplemental Order No. 16,603

68 NH PUC 517

New Hampshire Public Utilities Commission

August 18, 1983

ORDER modifying earlier commission order concerning pole attachment charges; motion for rehearing by telephone company denied.

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APPORTIONMENT, § 9 — Pole attachment charges — Refunds.

[N.H.] The commission found that the telephone company, according to original tariff provisions, was obligated to furnish two poles on private property without charge; the refund due the customer was adjusted to the extent that attachment charges for poles situated on such property prior to the effective date of the tariff were not reflected in the commission's original order.

APPEARANCES: Richard A. Samuels for Wilton Telephone Company; William C. Maiers, pro se.

BY THE COMMISSION:

REPORT

On July 15, 1983, the Commission issued Report and Order No. 16,540 ("Decision") (68 NH PUC 485) in this docket. On August 2, 1983, pursuant to RSA 541:3 and 4, Wilton Telephone Company ("Company" or "Wilton") filed a Motion for Rehearing ("Motion"). After a complete review, we have decided to grant in part Wilton's Motion as provided below. In all other respects, it is denied.

After a hearing on May 11, 1983, at which the Company and Mr. Maiers both provided testimony, the Commission issued a Report and Order in which it found that Mr. Maiers had been overcharged by the Company for certain pole charges going back several years.

Specifically, the Commission found that under tariff provisions in effect at the time Mr. Maiers began to receive telephone service from the Company, a customer was responsible for paying either: 1) the costs of assuming joint ownership of any poles in excess of those provided without charge (the poles in this case were owned by Public Service Company of New Hampshire); or 2) the payment of attachment charges. In addition, the provisions also specified that the customer was allowed two poles on private property without charge.

With respect to Mr. Maiers, the Commission found that of the thirteen poles servicing him,

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there were nine poles on private property. Because Wilton did not have joins ownership at the time telephone service was commenced, Mr. Maiers under the above-cited tariff provisions, was responsible for the rental fee on seven poles. The Commission found in reviewing its records that the rental initially was $1.50 per pole per year, increasing to $1.90 on January 1, 1966, then to $2.10 on January 1, 1969.

Testimony at the hearing indicated and the Commission so found that from the beginning Mr. Maiers was billed for and paid rental on all thirteen poles. In addition, as of June 1, 1982 Mr. Maiers was billed for eight poles at a new $3.00 rate per pole per month. The Commission concluded that the Company's billing was improper in both cases.

The Commission also found that Wilton assumed joins ownership of the poles in 1971, and at that time, the Company under the above-stated tariff provisions, should have altered the terms for customer billing. Mr. Maiers should have assumed the costs of joint ownership (seven poles at $20.50 each for a total of $143.50) in lieu of the attachment charges he had been paying.

The Commission, therefore, concluded:

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(1) that from 1964 to 1971 Mr. Maiers had been improperly billed attachment charges for thirteen poles instead of seven; (2) that from 1971 to 1982 Mr. Maiers should not have been billed for any attachment charges whatsoever because there were no such charges paid by Wilton to Public Service Company of New Hampshire; and (3) that the $3.00 monthly fee per pole billed to Mr. Maiers for eight poles was improper. (*See* original Report for a discussion of this charge.) The Commission directed its Finance Department to review Mr. Maiers' payment of the pole attachment charges to ensure he was billed for only seven poles and to determine the refund due from his excess payment to Wilton less the joint-ownership cost of the seven poles. The Commission ordered Wilton to discontinue pole charges to Mr. Maiers as of July 1, 1983 and to refund the excess amount paid by Mr. Maiers as determined by the Commission adding interest at prime.

Wilton's Motion does not object to the essence of the Commission's Decision. It does not contest the basic findings that Mr. Maiers was improperly billed for thirteen poles; that as of 1971, Mr. Maiers should have assumed the obligation of joint ownership of the poles; and that the billing for attachment charges since 1971 was in error. Rather, Wilton contends in its Motion that the Commission erroneously found that Wilton's tariff provisions allowed a customer two poles on private property without charge. The Company argues that the terms and conditions of its tariffs NHPUC No. 5 (Part VI, Section 4, Original Page 2) and NHPUC No.4 (Section 4, III, Private Property Construction) allow only one pole without charge on private property. Thus, the Company alleges that the Commission's Order is based on a misreading of the Company's tariffs and results in an excessive refund amount.

We have reviewed the Commission records to determine what tariff provisions were in effect at the time service was commenced to Mr. Maiers. NHPUC No. 3, Wilton-Telephone Company, contained no provision allowing any number of poles without charge on private property. The allowance of two poles on private property began in the Company's Tariff No. 4 which became effective May 21, 1966. On Original Page 7, Section 4, it states as follows:

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If a pole line suitable either for telephone occupancy or joint occupancy with another wire using Company is built by the Telephone Company, the Telephone Company will furnish without charge, *the first two poles*, and the customer shall assume the cost of any additional poles and guys. (Emphasis supplied)

Certain sections of Tariff No. 4 were later amended, including Original Page 7. Order No. 11,888 (53 NH PUC 434). The approved changes altered the tariff to provide for one pole instead of two on private property without charge. *See*, Docket No. DR 75-65, Report and Order No. 11,888 (June 20, 1975).

Given the above, the Commission's Decision was correct. It is clear from Original Page 7, Section 4 in Tariff No. 4 that from May 21, 1966 until July 1, 1975, the Company was obligated to furnish two poles on private property without charge. From 1975 on, one pole was allowed without charge. Wilton's Motion discusses only the

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amended Tariff No. 4 and makes no reference to the original provision which controls the facts of this case. Thus, from 1966 until the time the Company assumed joint ownership in 1971, Mr. Maiers was entitled to two poles without charge.

One minor clarification needs to be made. As noted above, Wilton's Tariff' No. 4, which for the first time provided the two pole allowance, became effective on May 21, 1966. Thus, from the time service to Mr. Maiers commenced in 1964 until May 21, 1966, no poles were provided on private property without charge. During that time period, therefore, Mr. Maiers was responsible for the attachment charges for all nine poles which were situated on private property. To the extent that our original Report and Order does not reflect this distinction, it is hereby amended. The Commission will direct its Finance Department to consider this clarification in its computation of the refund due Mr. Maiers as ordered in the decision.

Therefore, the Motion is granted and our original Decision hereby amended with respect to the allowance for poles without charge for the time period between the commencement of service in 1964 and May. 21, 1966 as stated above. In all other respects the Motion is denied, and the original Decision stands.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the Commission's Report and Order No. 16,540 (July 15, 1983 [68 NH PUC 485]) is to be clarified, modified, as amended as explicitly provided in this instant Report; and it is

FURTHER ORDERED, that the Motion for Rehearing of Wilton Telephone Company is denied in all other respects.

By Order of the Public Utilities Commission of New Hampshire this eighteenth day of August, 1983.

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[Go to End of 79742]

Re Department of Resources and Economic Development

DX 81-122, Second Supplemental Order No. 16,604

68 NH PUC 520

New Hampshire Public Utilities Commission

August 22, 1983

ORDER declaring a private crossing to be a public crossing for the use of snowmobiles.

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CROSSINGS, § 75 — Private or limited use — Change to public crossing.

[N.H.] The commission extended a previous order and declared a presently existing private crossing to be a public crossing for the period from December 1, 1983, to April 1, 1984, for the use of snowmobiles; the approval of this crossing, the commission held, was to be contingent upon the continued placement and maintenance of standard stop signs, advanced warning disks, and standard crossing whistle posts by the state Department of Resources and Economic Development, bureau of off highway vehicles, and of the town in which the crossing lay.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, on December 30,1982, this Commission, in Order No. 16,105 (67 NH PUC 979) authorized that the private crossing presently existing across the Berlin Branch of the Boston and Main Corporation at its Engineering Station 599 + 06 in the Town of Jefferson, be, and hereby is, declared a public crossing during the period from December 1, 1982 to April 1, 1983 for the use of snowmobiles; and

WHEREAS, on August 12, 1983, the Department of Resources and Economic Development, Bureau of Off Highway Vehicles, requested an extension of that Order; and

WHEREAS, upon investigation, the Commission finds that all required safety crossing provisions which are mandated by its Order No. 15,051 have, in fact, been met; and

WHEREAS, the Commission upon further investigation finds that no incidents were reported at the Jefferson Crossing during the period in which the previous Order was in affect; it is

ORDERED, that the private crossing presently existing across the Berlin Branch of the Boston and Maine Corporation at its Engineering Station 599 + 06 in the Town of Jefferson, be, and hereby is declared a public crossing during the period from December 1, 1983 to April 1,

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1984 for the use of snowmobiles; and it is

FURTHER ORDERED, that approval of this crossing shall be contingent upon the continued placement and maintenance of standard stop signs, advance warning disks, and standard crossing whistle posts by the New Hampshire Department of Resources and Economic Development, Bureau of Off Highway Vehicles, and of the Town of Jefferson, all as provided in our Order No. 16,105; and it is

FURTHER ORDERED, that failure to comply with the provisions of this Order will result in the closing of this crossing to snowmobile use.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of August, 1983.

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NH.PUC*08/22/83*[79743]*68 NH PUC 522*Granite State Electric Company

[Go to End of 79743]

Re Granite State Electric Company

DR 82-327, Third Supplemental Order No. 16,606

68 NH PUC 522

New Hampshire Public Utilities Commission

August 22, 1983

ORDER approving electric company's refund plan with regard to its purchased power cost adjustment.

AUTOMATIC ADJUSTMENT CLAUSES, § 57 — Billing adjustment — Refunds.

[N.H.] A plan to provide refunds to customers as a result of the electric company's purchased power cost adjustment was accepted by the commission; the commission held that the company shall provide an appropriate public notice indicating the availability of refunds to persons or firms who were customers of the company during the appropriate period.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, on June 1, 1983, this Commission per 2nd Supplemental Order No. 16,441 (68 NH PUC 357), approved Granite State's PPCA W-5(S) and associated tariff pages; and

WHEREAS, Granite State was ordered upon receipt of the associated refund from New England Power, to file a plan to refund this amount to its customers; and

WHEREAS, on August 2, 1983, Granite State filed said plan which would refund $96,337 to its customers through the September 1983 billing cycle at the rate of $0.298/100 KWH; and

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WHEREAS, said refund also includes interest and balances due on prior refunds including W-3; and

WHEREAS, said plan further offers to provide individual settlements to any person or firm who was a customer during the appropriate time period but is no longer; it is hereby

ORDERED, that said plan is accepted by the Commission and it is

FURTHER ORDERED, that the Company shall provide an appropriate Public Notice indicating the availability of refunds to persons or firms who were customers of the Company during the appropriate period.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of August, 1983.

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NH.PUC*08/22/83*[79744]*68 NH PUC 523*Fuel Adjustment Clause

[Go to End of 79744]

Re Fuel Adjustment Clause

Intervenor: Littleton Water and Light Department

DR 83-222, Supplemental Order No. 16,607

68 NH PUC 523

New Hampshire Public Utilities Commission

August 22, 1983

ORDER approving electric company's fuel surcharge.

AUTOMATIC ADJUSTMENT CLAUSES, § 6 — Fuel cost adjustment clause — Tariff approval.

[N.H.] The commission permitted an electric company's tariff providing for a fuel surcharge to become effective.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, the Commission in correspondence dated March 2, 1982, sent to the New Hampshire Electric Cooperative, Inc., Granite State Electric Company, Connecticut Valley Electric Company, Inc., Exeter & Hampton Electric Company, Municipal Electric Department of Wolfeboro, Concord Electric Company, Woodsville Power and Light Department, and Littleton Water & Light Department by the Commission's Executive Director and Secretary in relation to

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DR 82-59, notified the utilities that the Commission will not automatically schedule FAC hearings for those utilities which file monthly unless requested or needed by one of those utilities; and the Commission would not automatically schedule FAC hearings in the two off months for those utilities which have a quarterly FAC rate; and

WHEREAS, no utility maintaining a monthly or quarterly FAC requested a hearing be scheduled; and

WHEREAS, this is one of the two off months for quarterly FAC utilities; it is

ORDERED, that 116th Revised Page 6 of the Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for a fuel surcharge of $1.69 per 100 KWH for the month of August, 1983, be, and hereby is, permitted to become effective August 1, 1983.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of August, 1983.

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NH.PUC*08/22/83*[79745]*68 NH PUC 524*Continental Telephone Company of Maine

[Go to End of 79745]

Re Continental Telephone Company of Maine

DF 83-268, Order No. 16,608

68 NH PUC 524

New Hampshire Public Utilities Commission

August 22, 1983

PETITION by telephone company for authority to issue securities; granted with instructions.

SECURITY ISSUES, § 21 — Commission jurisdiction — Purposes and subjects of capitalization.

[N.H.] A telephone company was authorized to issue and sell mortgage notes after the commission found that the proceeds would be applied to construction, extension or improvement of the company's facilities, and for other lawful purposes.

BY THE COMMISSION:

ORDER

WHEREAS, Continental Telephone Company of Maine, a telephone utility serving principally in Maine with a small number of customers in New Hampshire (East Conway and Chatham) seeks authority, pursuant to RSA 369:1, 2 and 4 to issue and sell its promissory note in the principal amount of $5,000,000 (the "11.5% Mortgage Note") to the Rural Telephone Bank

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for a period of 35 years at an interest rate of 11.5% per annum; and

WHEREAS, the proceeds will be applied to construction, extension or improvement of the applicant's facilities and for other lawful purposes; and

WHEREAS, the loan amount includes $240,000 for investment in Rural Telephone Bank Class B stock; and

WHEREAS, said filing has now been duly heard, considered and investigated by the Maine Public Utilities Commission, under whose jurisdiction the majority of the Company's customers reside; and

WHEREAS, this Commission is satisfied that in the deliberations of the Maine Public Utilities Commission, the interests of New Hampshire customers were given the same consideration as those of Maine customers; and

WHEREAS, in preceding cases involving Continental Telephone Company of Maine, this Commission has relied on and accepted the decision of the Maine Public Utilities Commission in matters regarding the customers served in New Hampshire; it is

ORDERED, that Continental Telephone Company of Maine be, and hereby is, authorized to issue and sell Mortgage Notes in the aggregate of $5,040,000 to the Rural Telephone Bank for a period of 35 years at an interest rate of 11.5% per annum; and it is

FURTHER ORDERED, that on or before January first and July first in each year, Continental Telephone

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Company of Maine shall file with this Commission a detailed statement, duly sworn to by its Treasurer, showing the disposition of the proceeds of the notes herein authorized until the expenditures of the whole of said proceeds shall have been fully accounted for.

By Order of the Public Utilities Commission of New Hampshire this twenty-second day of August, 1983.

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NH.PUC*08/29/83*[79746]*68 NH PUC 525*Eastman Community Association

[Go to End of 79746]

Re Eastman Community Association

DE 83-273, Order No. 16,612

68 NH PUC 525

New Hampshire Public Utilities Commission

August 29, 1983

PETITION by community association for exemption from utility status and regulation in providing water service; granted.

PUBLIC UTILITIES, § 6 — Water service — Exemption from public utility status.

[N.H.] The commission exempted a community association from public utility status and regulation pursuant to statute in providing water service without charge to landowners whose wells had become contaminated.

BY THE COMMISSION:

ORDER

WHEREAS, the Eastman Community Association (ECA), which is comprised of owners of property within the Village District of Eastman, proposes to provide water service to not more than nine adjacent landowners whose wells have become contaminated, possibly because of leakage from a gasoline storage tank owned by ECA; and

WHEREAS, ECA has petitioned this Commission for exemption from utility statutes in providing this service while it attempts to restore the contaminated wells and further that such service would be without charge; and

WHEREAS, we believe that the furnishing of water to these landowners is in the public good; it is

ORDERED, that the furnishing of water service to those land owners by the Eastman Community Association shall be exempt from utility regulation as provided by RSA 362:4.

By Order of the Public Utilities Commission of New Hampshire this twenty-ninth day of August, 1983.

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NH.PUC*08/29/83*[79747]*68 NH PUC 526*Kearsarge Telephone Company

[Go to End of 79747]

Re Kearsarge Telephone Company

DR 83-239, Second Supplemental Order No. 16,613

68 NH PUC 526

New Hampshire Public Utilities Commission

August 29, 1983

ORDER amending effective date of previous commission order regarding touch calling and custom calling services.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

So much of Order No. 16,585 (68 N H PUC 51 0) that reads " ... effective with the date of this order." is amended to read " ... effective on the proposed date of August 16, 1983."

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of August, 1983.

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NH.PUC*08/31/83*[79748]*68 NH PUC 526*Southern New Hampshire Water Company

[Go to End of 79748]

Re Southern New Hampshire Water Company

Intervenors: Londonderry Water and Sewer Commission and Town of Derry

DE 83-221, Order No. 16,616

68 NH PUC 526

New Hampshire Public Utilities Commission

August 31, 1983

PETITION for authority for a water service franchise in a limited area; granted.

FRANCHISES, § 5 — Approval by commission — Water public utility.

[N.H.] A water company was authorized to operate as a public utility in a limited area; the commission ordered that prior to the furnishing of water by pipeline to the franchise area granted, the water company must furnish the commission with all requested information necessary to determine the proper charges for the service.

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APPEARANCES: Edmund J. Boutin for Southern New Hampshire Water Company; Jack Webster for the Water and Sewer Commission, Londonderry; Rodney Bartlett for the town of Derry.

BY THE COMMISSION:

REPORT

By a petition filed June 28, 1983, Southern New Hampshire Water Co. (Southern) seeks authority to operate as a public water utility in a limited area in the Town of Londonderry. Part of said area has been temporarily franchised to the Derry Water Department, whose franchise will expire on September 2, 1983. The Town of Derry objected to Southern's petition (T. 26) but

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indicated that it would retract its objection if Southern agreed to purchase bulk water from the Town of Derry.

In our opinion, Southern's franchise should not be conditioned on a contractual arrangement with Derry. Nonetheless, Southern asserts, and we concur, that Southern's most economical supply option, at least for the short term, would appear to be bulk purchases from Derry. Of course, any related contracts which may be entered into between the parties would be subject to the approval of this Commission.

Under the present franchise granted to the Derry Water Department in DE 82-283 and Order No. 16,239 (68 NH PUC 102), the Londonderry Green Apartment complex receives its water by tank truck from the Derry Water Department. Southern has stated that it will continue this service at a rate to be established by a supplemental order.

There are unanswered questions in this matter pertaining to immediate and final supply sources and the charges to be allowed. However, we believe that Southern has demonstrated, many times over, its ability to supply good water service, meet customer demands and cooperate with regulatory authority as a public utility in southern New Hampshire.

We will grant the authority sought in this petition to be effective as of September 2, 1983, however, excluding that area in the northwesterly portion of the area sought now being served by Policy Water Systems, Inc. as granted in Docket DE 82-324 and Order No. 16,096 (67 NH PUC 978) and designated Londonderry — R & B. This order also excludes that area in Londonderry, east of Route 93, granted to the Derry Water Department in Docket DE 82-283 and Order No. 16,239.

The matter of rates to be charge in this area will be a matter of further investigation by the Staff of this Commission and further hearings if deemed necessary.

Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing Report which is made a part hereof; it is hereby

ORDERED, that Southern New Hampshire Water Company be, and hereby is authorized to operate as a public utility in a limited area in the Town of Londonderry, bounded and described as follows:

> Beginning at the northeast corner of the Franchise area shown on the Plan and at a point approximately

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> 1,000 feet northerly of Ash Street on the Derry-Londonderry Town Line; thence generally southerly by the Derry Town Line to its intersection with the Windham-Londonderry Town Line[1]; thence westerly and southerly by the Windham-Londonderry Town Line to the intersection of the Windham-Hudson-Londonderry Town Line to the intersection of the Hudson-Londonderry-Litchfield Town Lines; thence northerly along the Litchfield-Londonderry Town Line to a point approximately 1,000 feet northerly of

Wiley Hill Road as it intersects such Town Line[2]; thence easterly along a line running approximately 1,000 feet northerly of Wiley Hill Road, High Range Road and Pillsbury Road in Londonderry and roughly parallel thereto to a point approximately 1,000 feet westerly of the intersection of said Pillsbury Road and the Mammoth Road; thence northerly by a line running parallel to said Mammoth Road and approximately 1,000 feet westerly thereof to a point 200 feet northerly of Rockyfella Road; thence easterly along a line parallel to and approximately 200 feet northerly of Rockyfella Road to a point approximately 200 feet easterly and northerly of the intersection of Rockyfella Road and Nelson Road; thence southerly along a line running approximately 200 feet easterly of and parallel to Nelson Road to a point approximately 1,000 feet northerly of Pillsbury Road; thence easterly along a line running approximately 1,000 feet northerly of Pillsbury Road and Ash Street to the intersection of said line and to Derry Town Line, also the point of beginning; and it is

FURTHER ORDERED, that Southern New Hampshire Water Company shall furnish this Commission with cost data relating to the temporary water supply it will furnish to the Londonderry Green Apartment complex, prior to charging for such service; and it is

FURTHER ORDERED, that prior to the furnishing of water by pipeline to the franchise area here granted, Southern New Hampshire Water Company will furnish this Commission with all requested information necessary to determine the proper charges for this service and the need for further hearings.

By Order of the Public Utilities Commission of New Hampshire this thirty-first day of August, 1983.

[1] Excluding that area served by the Derry Water Department easterly of Route 93 (DE 82-283/16,239). [2] Excluding that area served by Policy Water Systems Inc. (DE 82-324/16,096).

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NH.PUC*09/01/83*[79749]*68 NH PUC 529*Fuel Adjustment Clause

[Go to End of 79749]

Re Fuel Adjustment Clause

Intervenors: New Hampshire Electric Cooperative, Inc., Concord Electric Company, Exeter and Hampton Electric Company, Granite State Electric Company, Municipal Electric Department of Wolfeboro, Woodsville Water and Light Department, and Connecticut Valley Electric Company, Inc.

DR 83-241, Order No. 16,609

68 NH PUC 529

New Hampshire Public Utilities Commission

September 1, 1983

ORDER maintaining electric cooperatives previous fuel surcharges and oil conservation

adjustments.

AUTOMATIC ADJUSTMENT CLAUSES, § 49 — Rate adjustment — Necessity.

[N.H.] The commission stated that no new rates would be stated for the electric cooperative in the month's fuel adjustment clause order because: (1) the commission would not automatically schedule fuel adjustment clause hearings unless requested by utilities maintaining a monthly or quarterly FAC, (2) no utility maintaining a monthly or quarterly FAC requested a hearing, (3) this was one of the two off months for quarterly FAC utilities, and (4) the commission previously rolled the cost of fuel on an estimated forward looking basis into base rates to eliminate the lagging FAC and held that such rolled-in rates would remain in effect.

BY THE COMMISSION:

ORDER

WHEREAS, the Commission, on March 2, 1983 in relation to Docket No. DR 82-59 notified the New Hampshire Electric Cooperative, Inc., Granite State Electric Company, Connecticut Valley Electric Company, Inc., Exeter & Hampton Electric Company, Municipal Electric Department of Wolfeboro, Concord Electric Company, Woodsville Power and Light Department, and Littleton Water & Light Department that the Commission will not automatically schedule fuel adjustment clause (FAC) hearings for those utilities which file monthly unless requested by one of those utilities and the Commission will not automatically schedule FAC hearings in the two off months for those utilities which have a quarterly FAC rate; and

WHEREAS, no utility maintaining a monthly or quarterly FAC requested a hearing; and

WHEREAS, this is one of the two off months for quarterly FAC utilities; and

WHEREAS, the Commission in Re New Hampshire Electric Co-op., Inc. (1982) 67 NH PUC 784, rolled the cost of fuel on an estimated forward looking basis into base rates, thus eliminating the lagging Fuel Adjustment

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Clause and resulting in more stable and comprehensible rates; and

WHEREAS, the Commission provided that the revised rolled-in rate will remain in effect for the balance of the year, as revised in DR 83-143, Order No. 16,527 (68 NH PUC 428), unless a hearing is requested by any party; it is

ORDERED, that no new rate will be stated for the New Hampshire Electric Cooperative, Inc. in this month's FAC order; and it is

FURTHER ORDERED, that 11th Revised Page 19A of Concord Electric Company tariff, NHPUC No. 8 — Electricity, providing for a fuel surcharge of $0.037 per 100 KWH, or $0.038 KWH including the Franchise Tax, for the months of July, August and September, 1983, be, and

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hereby is, permitted to remain in effect for the month of September, 1983; and it is

FURTHER ORDERED, that 11th Revised Page 19A of Exeter and Hampton Electric Company tariff, NHPUC No. 15 — Electricity, providing for a fuel surcharge of $0.241 per 100 KWH, or $0.244 including the Franchise Tax, for the months of July, August and September, 1983, be, and hereby is, permitted to remain in effect for the month of September, 1983; and it is

FURTHER ORDERED, that 5th Revised Page 57 of Granite State Electric Company tariff, NHPUC No. 10 — Electricity, providing for an oil conservation adjustment of 14.2 cents $0.142 per 100 KWH for the months of July, August and September, 1983, be, and hereby is, permitted to remain in effect for September, 1983; and it is

FURTHER ORDERED, that 6th Revised Page 30 of Granite State Electric Company tariff, NHPUC No. 10 — Electricity, providing for a fuel surcharge for the months of July, August and September, 1983, of $0.80 per 100 KWH be, and hereby is, permitted to remain in effect for September, 1983; and it is

FURTHER ORDERED, that 32nd Revised Page 11B of the Municipal Electrical Department of Wolfeboro tariff, NHPUC No. 6 — Electricity, providing for a fuel surcharge of $3.19 per 100 KWH for the month of September, 1983, be, and hereby is, permitted to become effective September 1, 1983; and it is

FURTHER ORDERED, that 84th Revised Page 10-B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for a fuel surcharge credit of ($1.04) per 100 KWH for the month of September, 1933, be, and hereby is, permitted to become effective September 1, 1983; and it is

FURTHER ORDERED, that 81st Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for an energy surcharge credit of ($0.64) per 100 KWH for the month of September, 1983, be, and hereby is, permitted to become effective September 1, 1983; and it is

FURTHER ORDERED, that the above noted rates may be adjusted by a factor of approximately 1% depending upon the utility's classification in the Franchise Tax docket, DR 83-205, Order No. 16,524 (68 NH PUC 461).

By order of the Public Utilities Commission of New Hampshire this first day of September, 1983.

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NH.PUC*09/02/83*[79750]*68 NH PUC 531*Small Energy Producers and Cogenerators

[Go to End of 79750]

Re Small Energy Producers and Cogenerators

Intervenors: Public Service Company of New Hampshire, Granite State Hydroelectric Association, Pequod Associates, Inc., Claremont Hydro Associates, Newfound Hydro Electric Company, Franklin Falls Hydroelectric Corporation, Rollingsford Manufacturing Company, Concord Steam Corporation, Chamberlain Otis and Waterloom Falls Hydro Companies,

Conservation Law Foundation, New England Alternative Fuels, Inc., Office of Consumer Advocate, and Delta Power Engineering et al.

DE 83-62, Fourth Supplemental Order No. 16,619

68 NH PUC 531

New Hampshire Public Utilities Commission

September 2, 1983

ORDER establishing interim long-term rate for small power producers and cogenerators; and terms for the use of the long-term rate.

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1. COMMISSIONS, § 11 — Powers — Establishment of rates — Long term — Interim.

[N.H.] The state commission has authority to establish long-term rates under federal and state statutes and, by implication, this includes the lesser authority to set an interim rate. p. 535.

2. CONSTITUTIONAL LAW, § 20 — Rate setting — Due process — Notice and hearing.

[N.H.] The decision-making process of the commission was not structured so as to deny the tariff filing utility due process of law; rates were based for the most part on data and recommendations submitted by the utility, such data and recommendations were prepared over a 12-week period and any nonutility analysis was accepted by the commission only after the utility had notice of the alternative analysis and had a full opportunity to address itself to that analysis on the record. p. 535.

3. COGENERATION, § 10 — Operating practices — Purchase obligation.

[N.H.] The revised Limited Electrical Energy Producers Act was not intended to limit the application of the purchase obligation of electric utilities to only those facilities which fall within the definition of a limited electrical energy producer as stated in RSA 362-A:1-a, III; an electric utility must purchase the entire output of a qualifying facility, the definition of which includes facilities with a capacity greater than five megawatts. p. 537.

4. COGENERATION, § 20 — Operating practices — Levelization of price.

[N.H.] The state commission concluded that the levelized long-term rate established in the subject order was consistent with the definition of avoided costs. p. 538.

5. COGENERATION, § 5 — Qualifying status — Generally — Small power producer or cogenerator.

[N.H.] If a small power producer or cogenerator clearly falls within the statutory definition set out by RSA 362-A:1-a, construed so as to be consistent with the Public Utility Regulatory Policies Act, then rule making is not necessary for the provisions of the Limited Electrical Energy Producers Act to apply; if a party believes that a particular person does not fall within the definition,

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the matter can be adjudicated on a case-by-case basis either before the commission under LEEPA or before the Federal Energy Regulatory Commission under PURPA. p. 538.

6. RATES, § 162 — Factors affecting reasonableness — Public interest — Definition.

[N.H.] The definition of the public interest was established in part by the legislature in State Statutes which require just and reasonable rates and prohibit rate discrimination; if the commission can fulfill the requirements of just and reasonable rates without creating a risk of great harm to the prohibition of rate discrimination it must do so. p. 539.

7. COGENERATION, § 19 — Long-term contracts — Conservative approach.

[N.H.] The conservative approach to setting a long-term rate does not mean selecting a rate that is artificially low; a conservative rate is one which promises not to be too far above or too far below true avoided costs. p. 540.

8. COGENERATION, § 25 — Purchase rate — Excess of avoided cost — Risk to ratepayer — Mitigating factors.

[N.H.] Any purchase rate in excess of avoided cost in any year entails a risk to the rate-payers due to the possibility that a producer may not generate power long enough to repay the excess; the commission held that such a risk can be addressed in a number of ways: (1) require producer who accepts the utility's long-term rate to deliver its output over the entire term of the rate in a reasonable, reliable manner; (2) limit the amount of front-end loading; (3) require the producer to repay the utility the excess of payments over costs in the event of the termination of service for any reason; and (4) deny access to the long-term rate to producers if the technology involved or the producer's financial capability appears reasonably likely to fail. p. 543.

APPEARANCES: Catherine E. Shively and Sulloway, Hollis & Soden by Eaton W. Tarbell, Jr., and Margaret Nelson for Public Service Company of New Hampshire; Peter W. Brown and Robert A. Olson for Granite State Hydroelectric Association and Pequod Associates, Inc.; Orr and Reno by Howard M. Moffett for Claremont Hydro Associates *et al*; Nathen Wechsler for Newfound Hydro Electric Company; Robert H. Rowe and Representative Eugene S. Daniell for Franklin Falls Hydroelectric Corporation *et al*; Lawrence Keddy for Rollingsford Manufacturing Company; Roger Bloomfield for Concord Steam Corporation; Robert Greenwood for Chamberlain Otis and Waterloom Falls Hydro Companies; Douglas Foy and J. Cleve Livingston for Conservation Law Foundation; Louis G. Audette for New England Alternative Fuels, Inc.; Michael Holmes for the Consumer Advocate; John Sims for Delta Power Engineering; Larry M. Smukler, Sarah Voll, Ph. D., and George Gantz for the commission staff.

BY THE COMMISSION:

REPORT

I. *Procedural History*

By Order of Notice dated February 25, 1983 the Public Utilities Commission opened this docket for the purpose of *inter alia* updating and establishing the short term and long term rates

to be paid by Public Service Company of New Hampshire (PSNH) to small power producers and cogenerators and the methodologies to be employed in deriving such rates. A procedural hearing was held on March 25, 1983 and a prehearing conference was held on April 20, 1983. Based in part

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on PSNH's representation at that conference that it would require six weeks to prepare testimony based on the alternative assumptions inherent in the findings of the Commission in Docket No. DE 81-312, the Commission issued Order No. 16,410 (May 4, 1983 [68 NH PUC 327]) which established a deadline of June 10, 1983 for the sub-mission of PSNH. prepared testimony a date which was six weeks from the issuance of the Commission's Report and Sixteenth Supplemental Order No. 16,374 (April 20, 1983 [68 N H PUC 257]) in Docket No. DE 81-312. Subsequent to Order No. 16,410, PSNH filed exceptions on May 18, 1983 and a Motion to Define Scope of Proceedings and Other Procedural Matters on May 23, 1983. The latter Motion included a request that the deadline for the submission of direct testimony be extended. The Commission ruled on the matters raised by PSNH in Report and Supplemental Order No. 16,463 (June 9, 1983 [68 NH PUC 394]). That Order articulated the scope of the proceeding (Report, 68 NH PUC at p. 395) and, after noting that PSNH should have been prepared to move forward on the original deadline, granted an extension based on PSNH's representations of necessity (Report, 68 NH PUC at p. 395). The deadline for the submission of PSNH direct testimony was accordingly extended an additional six weeks to July 22, 1983 and a Procedural Hearing was scheduled for July 28, 1983. PSNH duly filed its direct submission on July 22, 1983.

Subsequent to the issuance of Order No. 16,463, a new set of issues was presented to the Commission. Motions to Intervene were filed by the Conservation Law Foundation (CLF), the Community Action Program (CAP), the Consumer Advocate, Pequod Associates, Inc. (Pequod), New England Alternative Fuels, Inc. (NEAF) and Delta Power Engineering. In addition, Pequod and NEAF, citing what has become known as the "Forster Precedent", See, Re Small Energy Producers and Cogenerators (1980) 65 NH PUC 130, requested that a long term rate be established prior to the conclusion of the proceedings so that they could proceed with the development of their projects. PSN H objected to the CLF Motion to Intervene and the Pequod and NEAF requests for an immediate long term rate. The Commission duly granted all of the above Motions to Intervene in Second Supplemental Order No. 16,566 (August 2, 1983)[1(39)] with the exception of that of CLF, which was subsequently granted in Third Supplemental Order No. 16,593 (August 16, 1983) and the Consumer Advocate and Delta Power Engineering which were granted at the hearing of August 10, 1983 (Tr. at 4-3, 20-3). In addition, after hearing argument during the July 28, 1983 Procedural Hearing, the Commission decided to consider the issue of whether an interim long term rate could be established and, if so, what that long term rate should be. Hearings were scheduled, due dates for testimony were established and exceptions were acknowledged in Second Supplemental Order No. 16,566 (August 2, 1983).

The testimony and exhibits were duly filed in accordance with the schedule and hearings were held on August 10, 1983 and August 12, 1983. At those hearings, testimony was taken

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from Paul C. Porter for Pequod, Louis Gerard Audette and Linda Costello for NEAF, John Sims for Delta Power Engineering, and Richard Valentine Perron and Wyatt W. Brown for PSNH. In addition, at the August 10, 1983 hearing, PSNH filed Public Service Company of New Hampshire's Trial Memorandum on Interim Rates for Small Power Producers (PSNH's Memorandum) and Pequod filed Memorandum of Pequod Associates, Inc. in Support of the Commission Authority to Conduct Long Term Rate Setting for Small Power Producers and Cogenerators (Pequod's Memorandum). The Commission established August 22, 1983 as the due date for replies to the above memoranda and deferred ruling on a request by PSNH that it be allowed to orally argue its Memorandum. On August 22, 1983, PSNH filed Public Service Company of New Hampshire's Reply Memorandum on Interim Rates for Small Power Producers (PSN H's Reply Memorandum).

II. *Preliminary Issues*

A. *Request for Oral Argument*

PSNH requested that it be given the opportunity to orally argue its Memorandum (TR. at 8-3 to 18-3). The Commission allowed all parties to make additional written submissions on the issues raised in PSNH's Memorandum and Pequod's Memorandum and deferred ruling on the request for oral argument. PSNH took advantage of the opportunity to put additional written argument before the Commission when it filed its Reply Memorandum.

The Commission has reviewed the written submissions and it would like to commend both PSNH and Pequod for their ability to present clear and understandable written legal argument. The Commission has before it well written and concise statements of the legal issues which it must resolve. In this context, we do not believe that oral argument will add significantly to the debate. Accordingly, the request for oral argument will be denied.

B. *Commission Authority to Establish an Interim Long Term Rate*

PSNH, in its Memorandum, argued that the Commission does not have the legal authority to establish an interim long term rate. In support of this position, PSNH has presented the following arguments:

> 1) Neither statutory authority or legal precedent permit the PUC to set an interim long term rate (PSNH Memorandum at 2); 2) The scheduling of the interim proceeding has denied PSNH due process and may substantially prejudice its rights (PSNH Memorandum at 6); 3) The testimony submitted by the other parties does not demonstrate the need for interim relief (PSNH Memorandum at 9); 4) If interim relief is to be established, PSNH's approach is the only approach which may be adopted by the Commission (PSNH Memorandum at 11); 5) The Commission lacks the authority to order PSNH to purchase the entire output of a small power producer or cogenerator with a capacity of 20 MW or less (PSN H Reply Memorandum at 2); and 6) The Commission must engage in a rulemaking to establish the criteria

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> to be applied in determining whether a small power producer or cogenerator "qualifies"

for the benefits provided in RSA 362-A (PSNH Reply Memorandum at 7).

We shall address each of the above arguments in turn.

1. *Statutory and Judicial Authority*

[1] PSNH has not contended here that the Commission lacks the authority to set long term rates; rather, its argument is directed at the issue of whether the Commission may set an interim long term rate. The Commission concludes that it has the authority to establish a long term rate (*See, e.g.*, RSA 362-A:4, Public Utility Regulatory Policies Act of 1978 (PURPA) § 210) and, by implication, this must include the lesser authority to set an interim rate.[2(40)] . However, PSNH's arguments, while directed at the scope of the Commission's jurisdiction, can more properly be viewed as an articulation of PSNH's legitimate concerns about the shape or parameters of the interim rate.[3(41)] As discussed in more detail *infra*, the Commission has given due weight to those concerns by providing *inter alia* that the rate set in this order, if selected by a qualifying facility (QF) may not either go up or down. Rather, if the Commission sets a different rate in subsequent proceedings, the QF will be able to "buy out" of the rate set herein by making payments designed to ensure that PSNH's rate-payers have been made whole. In addition, the rate set is conservative (as defined *infra*), based on PSNH data[4(42)] and, subject to the "buy out" provisions described *infra*, may be modified in any of its terms by this Commission or future Commissions on the basis of a contemporaneous record. Cf., Re Granite State Electric Co. (1981) 121 NH 787, 435 A2d 119 (Commission lacked the authority to establish a short term rate which could not be modified). *See*, RSA 541-A: 13 VIII. The Commission finds that these steps adequately address the concerns about an "interim" rate raised by PSNH.

2. *Scheduling*

[2] PSNH contended that the schedule set forth in Second Supplemental Order No. 16,566 (August 2, 1983) was truncated to a point which denied it (the) due process of law. PSNH's concern is proper in that if new issues or data were to be introduced during the interim proceedings, PSNH must be afforded adequate notice and an opportunity to be heard. E.g., Union Fidelity Life Insurance Co. v Whaland (1974) 114 NH 832. However, we do not believe that in this instance the decision making process was structured so as to deny PSNH its entitled due process of law. As set forth *infra*, the interim rates established herein are based on the same principles as would be applied to non-interim rates. In addition, those rates are based for the most part, on data and recommendations submitted by PSNH; data and recommendations which were prepared by PSNH over a twelve week time period. To the extent that we accepted

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any non-PSNH analysis, we did so only after assuring ourselves that PSNH had notice of the alternative analysis and had a full opportunity to address itself to that analysis on the record.[5(43)] Indeed, if the Commission has any procedural concerns, it must be directed to the rights of the intervenors who did not have twelve weeks to prepare testimony and exhibits, did not have an opportunity for discovery on the PSNH submissions, did not have a week to prepare what was, in essence, rebuttal testimony, only had one half of one day to prepare for hearing after receiving the PSNH submittal of August 9, 1983, and did not have notice of PSNH's intent to file a jurisdictional memorandum and seek oral argument (at the same time) (on) the first day of an

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evidentiary hearing. We have not articulated these concerns to imply that there was any unfairness toward any party; rather, the Commission believes that its schedule fairly balanced the interests of all parties given the need of the intervenors for a rate and the existence of prefiled PSNH data. Accordingly, the Commission finds that its decision making process has been and is consistent with the requirements of due process.

3. *Need for Relief*

PSNH contended that Pequod's and NEAF's testimony do not demonstrate the need for interim relief. We believe this is a factual determination to be made on the basis of the record before us. The record leads us to conclude that witnesses Porter and Audette both made a compelling presentation of the difficulties they have faced in trying to secure a power marketing arrangement and the effect of alternative Commission actions upon the development of their projects. This is discussed in more detail at III.A. *infra*. The Commission finds that there is a need to immediately establish a long term rate.

4. *PSNH's Approach*

PSNH contended that we must as a matter of law base our findings solely on PSNH's submissions. This is a curious argument, particularly since it was submitted prior to the start of evidentiary hearings and the making of the record. It is also an argument that runs counter to well established principles of law; principles which have been embodied in the recently enacted RSA 541-A:13 VIII.

As a matter of discretion, the Commission has relied heavily on PSNH data and assumptions in setting a long term rate. However, this was based on the weight of the evidence in the factual record;[6(44)] evidence which PSNH could not have predicted with certainty when its Memorandum was filed. Accordingly, the Commission rejects PSNH's contention in this area.

5. *Authority to Order PSNH to Purchase*

PSNH has submitted two arguments here. The first is whether the Commission can order PSNH to purchase the entire output of a QF if it does not fall

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within the definition of a limited electrical energy producer as defined in RSA 361-A:1-a, III. *See also*, RSA 361-A:3. The second is whether the Commission has the authority to set a levelized rate; an authority we have exercised in this order. We shall address each argument in turn.

A. *Purchase of Entire QF Output*

[3] PSNH's argument is based on the language of the revised Limited Electrical Energy Producers ACT (LEEPA) RSA 362-A. PSNH contends that RSA 362-A:3, which requires electric utilities to purchase the output of certain facilities only applies to Limited Electrical Energy Producers (LEEPs). LEEPs are defined in RSA 362-A:1-a, III. as a QF with a capacity of 5 MW or less. By implication, the exclusion of facilities of over 5 MW from the definition carries over into the benefits provided for LEEPs at RSA 362-A:3. Pequod's Memorandum also goes into the issue of the statutory construction of LEEPA at length.

As argued in the two memoranda, the language of LEEPA may be ambiguous on this issue. However, even if the language of LEEPA merits close scrutiny, we believe that it must be construed in light of both state and federal legislative policies to encourage the development of certain types of alternative, more efficient energy resources. We must presume that the legislature, in enacting the amendments to LEEPA, did not intend to make those amendments inconsistent with federal law; law which would pre-empt such inconsistent state legislation. Federal Energy Regulatory Commission v Mississippi (1982) 456 US 742, 47 PUR4th 1, 72 L Ed 2d 532, 102 S Ct 2126. The federal law is clear on this issue. The regulations of the Federal Energy Regulatory Commission (FERC) promulgated pursuant to PURPA § 210 provide in pertinent part:

> Each electric utility shall purchase ... any energy and capacity which is made available from a qualifying facility ... 18 CFR § 292.303(a). *See also*, PSNH Prefiled Testimony, Exh. 3, Attachment 2 at 12235.

Accordingly it is clear that an electric utility must purchase the entire output of a qualifying facility. The question of the definition of qualifying facility is resolved at PURPA § 201 and 18 CFR §§ 292.201 *et seq.* Those definitions include those facilities which fall within the LEEPA definition of small power producers and cogenerators RSA 362-A:1-a; a definition which includes facilities with a capacity greater than 5 MW.

Since the above federal law can operate to pre-empt inconsistent state law, Federal Energy Regulatory Commission v Mississippi, *supra*, we must, where offered a choice, construe state law as being consistent with federal law. Accordingly, we conclude the RSA 362-A:3 in combination with RSA 362-A:1-a does not and was not in-tended to limit the application of the purchase obligation of electric utilities to only those facilities which fall within the definition of a LEEP. Notwithstanding PSNH's argument to the contrary, we believe that this conclusion is reinforced by the language of RS 362-A:4 which establishes purchase rate standards applicable to qualifying small power producers and qualifying cogenerators.

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B. *Levelized Rates*

[4] As noted in other portions of this order the Commission is allowing a QF the option of choosing a levelized long term rate. PSNH's argument here must be addressed under the assumption that the Commission has sufficient record support to set such a levelized rate; record support which we believe exists and which will be discussed in more detail *infra*. PSNH, however, is contending that even if we do have adequate record support, we do not have the legal authority to set a levelized long term rate. We do not find PSNH's argument persuasive.

PSNH rests its argument on the assumption that a levelized rate is inconsistent with the definition of "avoided cost".[7(45)] As noted, *infra* the factual record reflects that a levelized present value calculation is not inconsistent with PSNH's avoided cost over the term of the obligation (*E.g.*, Tr. at 4-48 to 4-49). The applicable law in this area also leads us to include that a levelized rate is consistent with avoided cost. In construing the term avoided cost, we must turn to the language of the State statutes and federal regulations pertaining to long term rates. We

note that the long term rate language of LEEPA at RSA 362-A:4 is, in pertinent part, nearly identical to the language of the previously promulgated FERC regulation on the subject at 18 CFR § 292.304 (d). This supplies an additional reason to construe the LEEPA language so that it is consistent with the federal regulations. In discussing the meaning of the language at 18 CFR § 292.304(d) the FERC said:

> A facility which enters into a long term contract to provide energy or capacity to a utility may wish to receive a greater percentage of the total purchase price during the beginning of the obligation. For example, a level payment schedule from the utility to the qualifying facility may be used to match more closely the schedule of debt service of the facility. So long as the total payment over the duration of the contract term does not exceed the estimated avoided costs, nothing in these rules would prohibit a State regulatory authority ... from approving such an arrangement. 45 *Federal Register* 12224 (February 25, 1980); reproduced at PSNH Direct Testimony of July 22, 1983, Exh. 3, Attachment 2.[8(46)]

We conclude that the levelized long term rate established in this order is consistent with the definition of "avoided cost".

6. *Need for Rulemaking*

[5] PSNH contended that the Commission must engage in a rulemaking to determine the qualifying criteria for small power producers and cogenerators. We believe that a rulemaking may be appropriate at some time to refine and apply statutory definitions. However, the statutory definitions are sufficient absent a rulemaking to go forward with this proceeding. We find

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that the definitions at RSA 362-A:1-a must be construed so as to be consistent with those set forth at PURPA § 201 and 18 CFR §§ 292.201 et seq Federal Energy Regulatory Commission v Mississippi, *supra*. If a small power producer or cogenerator clearly falls within that definition, a rulemaking is not necessary for the provisions of LEEPA to apply. If a party believes that a particular person does not fall within the definition, the matter can be adjudicated on a case-by-case basis either before the Commission under LEEPA or before the FERC under PURPA. Accordingly, we conclude that a rulemaking is not a prerequisite to the provisions of this Order.

III. *Interim Long Term Rate*

A. *Need*

The Commission indicated by Order No. 16,566 establishing the separate consideration of an interim long term rate that it would address the question of whether such a rate were needed. On this point, the Commission finds the testimony of Mr. Porter for Pequod and Ms. Costello for NEAF to be very persuasive. Both parties have attempted negotiations in good faith with PSNH, and both have reached critical points in their developments beyond which they cannot proceed without a firm long term rate. Delay in setting an interim long term rate would continue to create uncertainty for developers seeking long term arrangements and would delay these projects by at least one construction season, if not scuttle them permanently. Establishing a long term rate now will provide an appropriate avoided cost basis for evaluating the economies of the projects; if

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they are economic they can then proceed without delay.

B. *Sufficiency of Evidence*

[6] PSNH raises the concern that the issues involved in setting a long term rate are so complex that the evidence so far received is an insufficient base for the Commission to establish a long term rate. However, the Commission notes that three parties were able to respond on short notice with testimony on the issue and with recommendations as to what the rate should be. Further, the Commission notes that the rate and rate form established here will only apply until a final order is issued in this docket. For this reason, we started with and adopted PSNH data and analysis unless the record clearly persuaded us that an alternative was justified. This "bias" is appropriate because it was Pequod and NEAF which took on the burden of proof by requesting an interim rate and because it ensures that ratepayers will be adequately protected. However, the Commission has also been mindful of the intent of the legislature in RSA 362-A to promote small power producers and cogenerators when it weighed the thoroughness and exactitude of the evidence.

The definition of the public interest was established in part by the legislature in RSA 362-A as well as in RSA 378:7 and RSA 378:10 which require just and reasonable rates and prohibit rate discrimination. If this Commission can fulfill the requirements of the former without creating a risk of great harm to the latter, it must do so. Given this context, the Commission finds the evidence in the record of DE 83-62 to

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be sufficient at this point to enable the Commission to act under RSA 362-A by setting a long term rate.

C. *Definition of "Conservative"*

[7] As indicated in RSA 362-A and the language of PURPA, the appropriate basis for setting rates for purchases from small power producers and cogenerators is the utility's avoided cost. See also, American Paper Institute, Inc. v American Electric Power Service Corp. (1983) 461 US 402, 103 S Ct 1921; Re Small Energy Producers and Cogenerators (1980) 65 NH PUC 291, 292, 293. All three witnesses accepted this premise and attempted to establish what the appropriate avoided costs are for PSNH. Witnesses Porter and Audette both appear to recommend a rate at full avoided cost, whereas PSNH, in both their long term contract policy and their proposed "Conservative" long term rate, recommend a rate below full avoided cost. For several reasons set forth below, the Commission rejects a long term rate set below avoided cost and specifically finds that a "conservative" approach to setting a long term rate does not mean selecting a rate that is artificially low.

It is clear that a purchase rate set at avoided cost will entail no change in PSNH's cost of providing service. Thus, customers are unaffected by the change in source of supply, and alternate sources of supply will compete on an equal footing with the sources of supply planned by PSNH. However, if a purchase rate is set below avoided cost, alternate sources of supply will be at a disadvantage compared to the conventional sources planned by PSNH. In this sense, a rate below avoided cost provides a subsidy for conventional sources of supply and discriminates

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against the alternatives. If a purchase rate is set above avoided cost, the advantage goes to the alternative source of supply and the result is that the company's costs, and hence rates, are increased. Ideally, then, the rate should be at avoided cost. In addition, a conservative rate is a rate which promises to be close to true avoided cost and which avoids creating large errors one way or the other. If a rate errs by being too high, costs will rise; if a rate errs by being too low, alternate sources will be unfairly discouraged and conventional sources, for example foreign oil, will be subsidized.

On the basis of the above, the Commission adopts as a definition of a conservative rate, one which promises not to be too far above or too far below true avoided costs. However, erring on the high side, as it would have a more direct effect on ratepayers, is a more serious concern, and the Commission will weigh the evidence accordingly.[9(47)] .

D. *Avoided Costs*

Of the three witnesses testifying on avoided costs, Mr. Porter and Mr. Brown were able to support their recommendations through independent analysis. Mr. Audette used Exhibit 7 as a basis for his recommendation, but was unable to support the numbers contained therein. The Commission will, therefore, focus on the testimony of Mr. Porter and Mr. Brown and will

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use the same approach in building up an avoided cost estimate.

The estimate of avoided costs begins with the estimate of marginal energy costs. Both Mr. Porter and Mr. Brown used figures produced by the computer model PROSIM as a base. However, in this record we have three sets of numbers for the period 1983 to 2002. These are PSNH's marginal cost numbers Exhibit 3 Page III-8 Column 2; PSNH's Rigorous Method Numbers, Exhibit 3 Page III-8 Column 3; and Commission requested scenario numbers, Exhibit 4 Column 3. Mr. Brown uses the marginal cost numbers and Mr. Porter uses the Commission scenario numbers, adjusted for the rigorous method, but supplies an independent estimate for 1986. The effect of the above selection is that Mr. Porter used what appears to be the highest numbers over the 20 years and Mr. Brown used the lowest. Mr. Porter's independent analysis for 1986 yielded the interesting result of a lower number than the adjusted Commission scenario numbers (*See*, TR. 116-3), thus providing an independent indication of PROSIM reliability. Accordingly, the Commission agrees with Mr. Brown that PROSIM appears to be quite reliable and is the best basis for estimating avoided energy costs for the purposes of an interim long term rate.

However, Mr. Brown's argument in support of the marginal cost numbers as opposed to the rigorous method numbers is unconvincing. Mr. Brown himself admitted that the rigorous method includes additional avoided costs that are ignored in the marginal cost method (Tr. 4-88). The marginal cost numbers are lower than the rigorous numbers because certain costs are ignored. Therefore, the most conservative approach is to use the rigorous method.

As to the Commission requested scenario, Witness Brown testifies that the differences from PSNH's marginal cost numbers depends on the year and, on average, are not very large. In addition, the Commission notes that the Commission requested scenario was not given using the

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rigorous method and we therefore do not know what the compound effect would be. Further, at this time in the proceeding, the Commission does not believe it appropriate to address the complex issue of what assumptions regarding growth and/or Seabrook are most appropriate for calculating avoided costs. For these reasons, PSNH's Rigorous Method numbers are accepted as the basis for estimating avoided costs for the purpose of setting an interim long term rate.

Both parties have used the 8.8 percent energy loss factor and the Commission will accept this figure for the purpose of setting an interim long term rate.

Mr. Porter next raises the issues of Working Capital and Inventory Expense and recommends that an adjustment to the avoided energy costs be made to reflect savings in working capital and inventory carrying costs resulting from reduced fuel consumption. Mr. Brown disputes Mr. Porter's calculations (Tr. 4-99 to 4-101). After re-viewing the testimony, the Commission finds Mr. Porter's arguments to be more persuasive at this time. In particular, the Commission agrees that adjusting inventories for declining oil consumption would reflect good business practice (Tr. 72-3; See also, Re Granite State Electric Co. [1982] 67 NH PUC 819, Report and Sixth Supplemental Order No. 16,240 [68 NH

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PUC 88]; Re Small Energy Producers and Cogenerators [1980] 65 NH PUC 291, 295) and finds that purchases from small power producers will reduce the normal lag in customer receipts over expenses, thereby reducing working capital needs (Tr. 168-3). The Commission notes that working capital is generally calculated in rate cases by use of a standard formula applied to expense items such as fuel less purchased power.

As there is no dispute regarding the specific numbers put forth by Mr. Porter, the Commission will use 45 days for working capital, 60 days for inventory, and cost of capital as indicated in Exhibit 3 Attachment 10 of 15.1% through 1987 and 12.15% thereafter. The inventory adder is, therefore, 2.5 and 2.0 percent in those periods, respectively, and working capital is 1.9 and 1.5 percent.

The remaining avoided cost items are reflective of the capacity value of small power producers. In this area, the Commission finds analytical flaws in the testimony of both witnesses. The basis for most of the argument here appears to be Exhibit 3 Attachment 10 which purports to show the Marginal Costs of Generating Capacity. Mr. Porter used the first three years, adjusted somehow for a change in Seabrook assumptions, and other data shown in Attachments 11 and 13, to derive a .62 cents per KWH factor for capacity. Mr. Brown used the 20 years of data in Attachment 10, adjusted in various ways along with the data in Attachments 11 and 13, to derive a .25 cents per KWH factor for capacity in 1983, escalating at 6.7% per year thereafter. However, Mr. Brown was unsure about the basis of his own analysis in several instances and his adjustments are apparently incorrect in several others (Tr. 4-111 to 4-1 20). In all instances, Mr. Brown has apparently erred on the side of lowered capacity values (Tr. 4-115, Tr. 4-116).

On the basis of the above, the Commission rejects both witnesses numbers and will use .5 cents per KWH, the existing capacity value assigned to small power production by this Commission in Re Small Energy Producers and Cogenerators, 65 NH PUC 291, 297, 298 as the 1983 base capacity value. As indicated above, no party met its burden of justifying a deviation

from the existing rate; a rate that falls in between the high and low figures offered by the parties. As Exhibit 3 Attachments 10 and 13 show, the capacity value over 20 years can be expected to grow, particularly after Sea-brook capacity is fully absorbed into the system. This capacity value will, therefore, be escalated at 6.7 percent per year as per the Company's method in Attachment 13.

These additions, adjustments and corrections yield the following estimated avoided costs for the period 1983-2002; and are accepted by this Commission for the purpose of setting interim long term rates:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

YEAR ¢ /KWH
1983
1984
1985
1986
1987
1988
1989
1990
1991
1992
1993
1994
1995
1996
1997
1998

1999
2000
2001
2002

E. *Contract Forms*

Through the testimony of Mr. Perron, it is clear that PSNH accepts, in principle, a net present value analysis (Tr. 4-39 to 4-40) to determine if the company's avoided costs are greater than or equal to the payments made to small power producers under long term contracts. Mr. Porter similarly adopts such a method (Tr. 122-3 to 123 -3), as does Mr. Brown in the calculation of marginal capacity costs (Exhibit 3 Attachments 10 and 11). The Commission understands this method to imply that over a specific time frame, the Company and its customers will be neutral between two options with equal net present value, *e.g.*, if the payments to a producer are the same as the avoided costs in net present value. This approach is important as it provides a method of fairly evaluating different time frames and different payment streams while adhering to the same avoided costs. The Commission adopts the net present value comparison for the purpose of setting an interim long term rate, and notes that it provides the simplicity and flexibility required in this case.

[8] However, the Commission is sensitive to the concerns of the Company that any purchase rate in excess of avoided cost in any year entails a risk to the ratepayers (*cf*, Exhibit 3 Page III-17) due to the possibility that a producer may not generate long enough to "repay" the excess. The Commission believes this risk can be addressed in a number of ways. First, a producer who accepts a PSNH long term rate is obliged to deliver his output to PSNH over the entire term of

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the rate in a reasonably reliable manner. Second, a limit on the amount of "front-end loading" is appropriate to limit the risk exposure of ratepayers. The Commission notes that the risk we are referring to here is small in dollar terms compared with, for example, the risk of a major generator outage. Third, the Commission can and will require a producer to repay to PSNH the excess of payments over costs in the event of the termination of service for any reason. Finally, access to the long term rate can be denied to producers if the technology involved or the producer's financial capability appears reasonably likely to fail. The Commission notes that in most cases, judgment as to the likelihood of failure can be deferred to a project's debt and equity investors; credible investors are not likely to invest in a project with a high probability of failure. For the time being, the Commission will embody the first and the third items in the terms applicable to the long term rates. in addition, the Commission will set a maximum first year price of 9¢ per KWH, equal to PSNH's new contract offering, to limit ratepayer exposure and will provide an opportunity for PSNH to challenge any long term rate applicant on feasibility grounds.

For the purpose of calculating net present value, the small power producer's output is assumed equal in all years and the purchase rates and avoided costs are compared by calculating cumulative net present value using the PSNH discount rates of 15.1% through 1987 and 12.15% thereafter. If the producer's start-up date is after July 1, the first year of the contract for

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purpose of these calculations will be the calendar year following.

F. *Terms of a Long Term Rate*

One of the issues that has not received great attention as yet in these proceedings is the nature of a long term rate with respect to the obligations of all parties. This Commission wishes to indicate that this issue will be addressed more fully as this docket proceeds. However, certain ground rules must be established prior to the final formulation of a long term rate.

First, the Commission will continue to apply its prior rulings regarding *inter alia* interconnections, metering and capacity audits, See e.g., Re Small Power Producers and Cogenerators (1981) 66 NH PUC 83.

Second, the Commission believes that a long term rate under PURPA and RSA 362-A is in the nature of a legally enforceable obligation. In essence, it is similar to the agreement between the utility and its retail customers embodied in the filed tariffs of the utility with this Commission. However, a long term rate applies to a considerably longer term than tariffed rates and the Commission must, therefore, establish a procedure that makes clear the precise relationship of the parties. For the time being, the Commission will require the following:

Any small power producer wishing to invoke the long term rate established by this Order must file with this Commission and the Company, a certificate signed by the duly authorized agent of the entity, attesting to the following:

1. that, unless the producer elects the termination option set forth at paragraph 5 below, the producer will sell its entire output to PSNH at the specified rates over the entire applicable time period;

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2. that the producer will abide by all applicable rules, regulations and orders of this Commission and will obey the Commission's directives in the case of any disputes with PSNH;

3. that the producer will make all reasonable efforts to provide reliable service to PSNH over the life of the obligation;

4. that, in the event that the producer opts for a rate above avoided costs in any year, the producer agrees to pay PSNH the net of excess payments over avoided costs, in net present value, actually experienced, in the event of a service termination prior to the end of the obligation period;[10(48)]

5. that service may be terminated on 60 day's notice at the option of the producer;

6. that the producer agrees to appear before this Commission with such documents as may be requested upon reasonable notice, to the extent required by this Commission to fulfill its statutory obligations; and

7. that in all respect not otherwise provided herein or in Commission orders, the producer will adhere to the non-pricing terms in the PSNH standard long term contract referred to at Tr. 4-14.

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G. *Applicable Rates*

Given the foregoing, the precise specification of an interim long term rate is achieved by identifying the appropriate time period and the cumulative net present value of avoided costs. All values below are expressed in mid-year 1983 dollars, and all avoided cost values are assumed to be mid-year nominal dollars. In order to specify 20 year contract values beginning after 1983, the avoided cost values were escalated beyond 2002 at the average annual growth rate for the 20 year period. Any stream of contract payments over the specified years that starts below 9¢/KWH and that is less than or equal to the following values in cumulative net present value is an acceptable long term rate.

11(49)

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Initial Contract Year	*20-Year Contract Rate*	*15-Year Contract Rate*	*10-Year Contract Rate*
1983	70.221	56.206	40.423
1984	67.155	53.547	37.892
1985	63.460	50.272	34.716
1986	61.003	48.121	33.121

A ten year rate appears to be the shortest period any developer would reasonably need to cover debt service. A 20 year rate appears to be the longest period any developer would require, and also is the longest period for which data exists.

Commission analysis of these rates indicates that neither NEAF's nor Pequod's proposals, as is, satisfy these requirements. However, the Commission believes they are reasonably close enough to those proposals to allow NEAF and Pequod to go forward and make a final feasibility determination.

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For a given producer obligated under a specific period and rate, the actual avoided cost and contract payments will be reported as part of PS-NH's ECRM proceeding, and a present worth of excess payments over avoided costs (as determined in accordance with the Commission's final order in this proceeding) will be calculated and tracked.

E. *Miscellaneous*

The Commission does not, by its decision here, preclude any developer and PSNH from voluntarily negotiating a contract which contains terms inconsistent with this Order. All terms in this Order, including but not limited to the pricing and "buy out" provisions will be subordinate to the terms of a voluntarily negotiated power marketing contract. The Commission further notes that the interim long term rate, as established, is not subject to change. However, should circumstances later change, a small power producer may

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"buy out" his contract on 60 day's notice by paying PSNH the net present value of the excess of contract payments over avoided costs, in which case the ratepayer is fully compensated. Again, the risk of default or overestimation of avoided cost is a risk entirely borne by ratepayers; no risk accrues to PSNH's investors. The risk of underestimation of avoided cost is the risk to society that small power production will be unnecessarily discouraged.

VI. *Further Proceedings*

As noted above, the rate set herein is an interim rate which may be revised in any manner on the basis of the record as it develops. It is our intention to continue with this proceeding and to set a schedule that will allow the full development of a record. The parties have thus far been unable to agree on a procedural schedule. In the absence of agreement, the Commission will establish the following schedule for the continuation of proceedings in this docket:

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

September 20, 1983: Conference of Parties on
                    PROSIM computer
                    model.
September 30, 1983: Staff and Intervenor ini-
                    tial data requests due.
October 30, 1983:   PSNH responses due.
November 30, 1983:  Staff and intervenor fol-
                    low up data requests, in-
                    cluding requests for
                    PROSIM runs due.
January 16, 1984:   PSNH responses due.
February 6, 1984:   Staff and Intervenor direct testimony and ex-
                    hibits due. PSNH sup-
                    plementary testimony
                    due.
February 20, 1984:  Data requests due from
                    all parties.
March 12, 1984:     Responses due.
March 27, 28 and    Hearings
29, 1984:
One week after      Prefiled rebuttal testi-
hearings:           mony due from all par-
                    ties.
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Additional proceedings will be scheduled at the call of the Commission. We note our

willingness to vary from the above schedule so long as all parties and the Staff agree to an alternative schedule.

V. *Conclusion*

In issuing this interim Order we are mindful of both state and federal policy which supports the development of efficient and alternative energy resources to the extent that they can economically compete with conventional sources. LEEPA; PURPA; American Paper Institute, Inc. v American Electric Power Service Corp., *supra*; Federal Energy Regulatory Commission v Mississippi, *supra*. We are also mindful of our obligation to protect ratepayers from the effect of a nonconservative rate as defined herein. RSA 363:17-a. We believe that this Order represents a careful balancing of all interests on the basis of the record before us. We shall be monitoring the effects of this Order as the proceeding progresses. We will also need and welcome the input of all parties.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that an interim long term rate is established as provided in the foregoing Report; and it is

FURTHER ORDERED, that all limited electrical energy producers, small power producers or cogenerators who

Page 546

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wish to receive the aforementioned interim long term rate must adhere to the terms provided in the foregoing Report; and it is

FURTHER ORDERED, that the procedural schedule for the remainder of the proceedings in this docket shall be set forth in the foregoing Report.

By order of the Public Utilities Commission of New Hampshire this second day of September, 1983.

FOOTNOTES

[1]CAP subsequently filed a letter seeking to withdraw as an intervenor. This request was granted at the hearing of August 10, 1983 (] (Tr. at 5-3).

[2]We recognize PSNH's distinction between our substantive legal authority to set the interim rate and the procedural requirements that apply to all Commission actions. Here, we are discussing the parameters of our substantive authority to set a rate. PSNH's procedural objections are addressed at 11.B.2. infra.

[3]E.g., will the rate be able to go up or down as a result of future proceedings?

[4]For this reason, the rate does not give special consideration to the needs of any party other than PSNH.

[5]For example, as indicated infra, we (have) accepted an adjustment for working capital. However, PSNH had full notice that the adjustment was proposed and a full opportunity to cross-examine and present direct testimony on the issue. The record indicates that PSNH took advantage of that opportunity. See e.g., Exh. 10 at 4; Tr. at 60-3 to 603; Tr. at 4-91 to 4-100.

[6]We certainly cannot predict whether or not the weight of the evidence will favor PSNH data and assumptions in subsequent phases of this proceeding. That determination must be made on the basis of the contemporary record.

[7]Avoided cost has been defined by all parties as being the cost incurred by an electric utility of electric energy or capacity or both which, but for the purchase from the QF, such utility would generate itself or purchase from another source. See also, 18 CFR § 2925.101

[8]The FERC language sanctions a levelized long term rate if the rate equals estimated avoided costs over the term of the obligation. As discussed in more detail infra, the levelized rate in this order will be tied, for some purposes, to actually experienced avoided costs. We believe that this affords additional protection to PSNH's ratepayers.

[9]The Commission must note that as payments to small power producers are flowed through PSNH's ECRM rate component on a dollar for dollar basis, PSNH faces absolutely no risk to its investors from errors in estimating avoided costs. The Company's concerns for its ratepayers is laudable, but in this case the interests of ratepayers are protected by this Commission in accordance with RSA 363:17-a.

[10]The Commission notes that the net present value payment will be based upon the PSNH discount rate of 15.1% through 1987 and 12.15% thereafter which was put on the record in this proceeding. The Commission recognizes that in its proposed revision to its long term contract policy, PSNH is proposing that 8% interest be accrued for some purposes in a "payback pool" (Tr. 4-16). We will not comment on the applicability of an 8% rate for the purpose of a voluntarily negotiated contract. However, for the purpose of a Commission established rate, we believe that the 8% rate is not sufficient to protect the PSNH ratepayers. PSNH's cost of capital as reflected in its discount rate is the appropriate figure because it will ensure that PSNH's ratepayers are left "whole" in the event of a "buy out".

[11]The values are expressed in cents per KWH and equal the sum of the 1983 present worth avoided costs in each year for the appropriate period. E.g. the 20 year rate which commences in 1983 may be represented as:

20

=70.221¢ /KWH. To continue the example any n = 1 20 year 1983 rate may be selected by a QF so long as it falls within the guidelines set forth in this Order and its present value sum does not exceed 70.221¢ /KWH.

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NH.PUC*09/02/83*[79751]*68 NH PUC 547*Lifeline Rates

[Go to End of 79751]

Re Lifeline Rates

DP 80-260, 21st Supplemental Order No. 16,620

68 NH PUC 547

New Hampshire Public Utilities Commission

September 2, 1983

ORDER affirming commission policy on compensation for attorney's fees.

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1. COSTS — Attorney's fees — For intervenors — Compensation.

[N.H.] The commission affirmed its position that intervenors may be compensated only for those attorney's fees related to the actual preparation and advocacy of a rate case and not for those attorney's fees related to efforts to recover such compensation. p. 548.

2. COSTS — Attorney's fees — Calculations — In-house counsel rate.

[N.H.] When awarding attorneys' fees, the going rate for in-house counsel with similar experience should be used as a guideline rather than the prevailing market rate for private attorneys. p. 549.

3. COSTS — Attorney's fees — Allocation — Methodology.

[N.H.] The commission said it would continue to allocate the responsibility for an award of attorney's fees by dividing it among the utilities involved in a case on the basis of their respective gross revenues. p. 549.

APPEARANCES: as previously noted.

BY THE COMMISSION:

REPORT

In Report and Eleventh Supplemental Order No. 15,642 (May 11, 1982 [67 NH PUC 318]), the Commission found VOICE eligible for compensation in this docket. In Report and Fourteenth Supplemental Order No. 15,857 (August 21, 1982 [67 NH PUC 610]) VOICE was awarded compensation for "Phase I" of the proceedings in the instant docket. "Phase I" of the docket ended with the issuance of Order No. 14,872 (April 30, 1983 [66 NH PUC 166]). Subsequent to that date the Commission instituted "Phase 2" of the docket which ended with Nineteenth

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Supplemental Order No. 16,461 (June 3, 1983 [68 NH PUC 392]) (Clarification of Final Order and Disposition of Requests for Delay) and Report and Eighteenth Supplemental Order No. 16,460 (June 3, 1983 [68 NH PUC 389]) denying Public Service Company of New Hampshire's (PSNH) Motion for Rehearing. Subsequently, on July 21, 1983, VOICE filed a

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Request for Compensation pursuant to Rule No. Puc 205.07.

FINDINGS

1. Time spent on compensation is not subject to an award for compensation. Only time spent on the preparation and presentation of a position defined in the Public Utility Regulatory Policies Act of 1978 (PURPA) is an eligible expense for intervenor compensation.

2. Prevailing salaries paid to in-house counsel of similar experience and training serve as a reasonable standard for compensation in this case. In this case, we will continue with the range found in "Phase I" of the proceedings of $10 — 25 per hour.

3. Pursuant to Rule No. Puc 205.02, the Commission will determine PSNH's liability by proportioning the amount of the award in relation to all of the utilities involved.

4. The appropriate assessment for PSNH will be determined in the same manner that the Utilities Assessment Tax is calculated, according to gross revenues.

5. Expert witness fees related to the presentation of a PURPA position where substantial contribution has been found are eligible expenses for compensation.

6. Photocopying and travel expenses related to the preparation of a PURPA position where substantial contribution has been found are eligible expenses for compensation.

7. VOICE substantially contributed to this proceeding by supplying information which formed the basis for the Commission, on its own Motion, to open "Phase 2".

8. VOICE substantially contributed to the Commission decision in Report and Seventeenth Supplemental Order No. 16,356 (April 20, 1983) which Order established the lifeline standards to be applied by the Commission.

9. VOICE substantially contributed to the Commission's consideration of the merits of PSNH's Motion for Rehearing which resulted in Report and Eighteenth Supplemental Order No. 16,460 (June 3, 1983).

DISCUSSION

[1] VOICE in this phase of the docket has requested compensation for 40 hours of attorney's time in efforts devoted to the recovery of compensation. VOICE has not presented sufficient reason to reverse our past rulings which excluded such expenses from the compensation recovery. As we stated in those decisions:

> Compensation can only be awarded for expenses incurred in the preparation and advocacy of a PURPA position as set forth in Rule 205.01 (c), (d) and (e). Time spent on the recovery of compensation is not subject to an award. Report and Fourteenth Supplemental Order No. 15,857 (67 NH PUC at p. 611); *See also*, Report and Third Supplemental Order No. 15,626 (67 NH

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> PUC 338); Docket No. DE 80-174, Report and Fourth Supplemental Order No. 15,846 (67 NH PUC 604).

[2] VOICE has also contended, as it has in the past, that appropriate attorney's fees should be

awarded at the prevailing market rate for private attorneys of comparable training and experience who offer similar services. In the alternative, VOICE argues that, if in-house counsel costs are to be employed, the Commission should recognize New Hampshire Legal Assistance's (NHLA) overhead expenses and adjust the rate accordingly. Both arguments were rejected in Report and Fourteenth Supplemental Order No. 15,857 67 NH PUC at p. 611. As we stated in that Order, prevailing salaries paid to *in-house* counsel with similar experience and training provides a reasonable guideline. In addition, we recognized that NHLA does receive government funding for its overhead expenses. While VOICE did assert that government funding of NHLA has been reduced, it has presented no direct evidence showing a connection between such a reduction in government funding and government support of NHLA's overhead expenses *vis a vis* PURPA participation. Such a showing would be necessary to justify a reversal of our past findings and conclusions in this area.

[3] Finally, VOICE asserted that any award should be paid in full by PSNH. This argument has also been raised by VOICE and rejected by the Commission in the past. *See e.g.*, Report and Fourteenth Supplemental Order No. 15,857 67 NH PUC at pp. 611, 612. VOICE has presented no argument in the instant request that was not fully considered by the Commission in its past rulings. The Commission declines to amend those rulings on this basis. Accordingly, the Commission will continue to allocate the award by dividing it among participating utilities on the basis of gross revenues.[1(50)]

Based on the foregoing discussion, the Commission calculates the allowable compensation in this case as follows:[2(51)]

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Attorneys' Fees	*Hours*	*Rate*	*Total*
Linder	203.00	$25	$ 5,075.00
Hotham	34.75	15	521.25
Henry	71.00	15	1,065.00
			$ 6,661.25
Expert Witness Fee			3,200.00
Expenses			
Photocopying			252.03
Mailing			84.00
Travel			32.31
Miscellaneous			123.24
	Total		$ 10,352.83
PSNH Allocation (79.5%)			

2(52) ===== $ 8,230.50
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2(53)*See*, Attachment A.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that VOICE is awarded $8,230.50 for consumer intervention in "Phase 2" of this docket; and it is

FURTHER ORDERED, that Public Service Company of New Hampshire will render to VOICE $8,230.50; and it is

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FURTHER ORDERED, that this award will be an allowable expense for ratemaking purposes to be charged to regulatory expense.

By order of the Public Utilities Commission of New Hampshire this second day of September, 1983.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

ATTACHMENT A

Company

Public Service Company
Concord Electric Company
Exeter & Hampton Electric
Granite State Electric
N.H. Electric Cooperative, Inc.

FOOTNOTES

[1]Since PSNH is the only utility of sufficient size to be subject to the PURPA requirements relating to compensation, it is the only utility to which this award order is directed.

[2]*See*, Attachment A.

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NH.PUC*09/05/83*[79752]*68 NH PUC 550*Gas Service, Inc.

[Go to End of 79752]

Re Gas Service, Inc.

DF 83-281, Order No. 16,672

68 NH PUC 550

New Hampshire Public Utilities Commission

September 5, 1983

PETITION by a gas company for authority to increase its short-term debt in order to finance its capital improvement program; granted.

BY THE COMMISSION:

ORDER

WHEREAS, in our Order No. 15,988 in DR 82-254 (67 NH PUC 795), this Commission approved a short term debt maximum of $4,000,000 for Gas Service, Inc.; and

WHEREAS, the level of debt approved to our Order was warranted by the Company's need to fund expanding customer base and capital expansion and improvement program; and

WHEREAS, the Company now petitions this Commission for authority to increase their short term debt maximum to $5,00,000; and

WHEREAS, the additional borrowing needs are directly related to the aforementioned capital expansion and improvement program; and

WHEREAS, Gas Service, Inc. will seek permanent financing through its parent company, Energy North, Inc., during 1984 to refinance the short term debt; and

WHEREAS, upon investigation this Commission finds that the proposed financing is in the public interest; it is

ORDERED, that Gas Service, Inc. be, and hereby is, authorized from the date of this to obtain up to, but not exceeding, $5,000,000 until permanent financing can be arranged; and it is

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FURTHER ORDERED, that upon approval of said permanent financing the short term debt maximum approved by this Order will be reviewed for its appropriateness; and it is

FURTHER ORDERED, that on or before January 1, Gas Service shall file with this Commission a detailed statement, duly sworn by its treasurer, showing the disposition of the proceeds of the issuances herein authorized.

By order of the Public Utilities Commission of New Hampshire this fifth day of September, 1983.

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NH.PUC*09/07/83*[79753]*68 NH PUC 551*New England Telephone and Telegraph Company

[Go to End of 79753]

Re New England Telephone and Telegraph Company

Intervenor: Community Action Program

DE 83-112, Supplemental Order No. 16,622

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68 NH PUC 551

New Hampshire Public Utilities Commission

September 7, 1983

MOTION for rehearing on the allocation of a telephone rate reduction; denied.

RATES, § 538 — Basic exchange rates — Rate reductions — Allocation.

[N.H.] Taking into consideration existing telephone rate structures as well as the effects of the upcoming divestiture, the commission affirmed a previous decision that had ordered a rate reduction be incorporated in a decrease in basic exchange rates, finding that such an allocation would best maintain rate stability and buffer current economic trends.

APPEARANCES: Peter Guenther for New England Telephone and Telegraph Company; Gerald Eaton for Community Action Program; Larry M. Smukler for the staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

This docket was opened on April 4, 1983 by Order No. 16,315 for the purpose of *inter alia* conducting an investigation to determine if there was a measurable reduction in capital market cost rates and to further determine the proper cost of equity of the New England Telephone and Telegraph Company (Company). Subsequently,

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the parties met and entered into a stipulation agreement setting forth a new range in the cost of equity of 15.0% to 16.5% with a recommendation that the Commission set the cost of equity at the 15.75% midpoint of the range. A hearing on the settlement agreement was held on August 2, 1983. In Report and Order No. 16,576 (August 8, 1983 [68 NH PUC 503]) the Commission accepted the recommendations in the settlement agreement. The Company was ordered to reduce its rates to reflect Commission findings and to allocate that rate reduction to residential and business basic exchange rates.

On August 23, 1983 the Company filed a Motion for Rehearing (Motion). The Motion was not directed at the Commission's Order to reduce rates; rather the Company requested that the Commission reconsider how the reduction is to be allocated.

The Commission recognizes that the settlement agreement did not expressly address the issue of allocation of the rate reduction. The Commission was thus left with a range of choices as to how to implement the agreement once it was accepted. The Commission also recognizes that there will be many occasions where it will have a more complete record upon which to base a decision. During the hearing of August 2, 1983, the Commission expressed some concern about

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the settlement process in that it raised questions about the sufficiency of the data to support any Commission finding. This concern was also expressed in Report and Order No. 16,576 (68 NH PUC at pp. 504, 505) when we stated:

> The Commission Staff and the parties engaged in the exchange of various information. An analysis of that information has produced a stipulation ... In any future docket for rate increases by the Company a full and complete investigation into the cost of equity will be conducted.

The Commission thus had to select among the range of choices on the basis of limited record information and, also, on the basis of an understanding of the existing rate structure of the Company, the effect of the upcoming divestiture on that rate structure and information exchanged with the Staff in the settlement process. (*See e.g.*, letter of February 24, 1983 from Linda A. Richelson, Company Manager of Regulatory Affairs to Dr. Sarah Voll, Staff Economist on Interstate and New Hampshire Intrastate MTS revenues by business and residence category.) On the basis of this information, it was the Commission's conclusion that it is in the public interest to use the rate reduction to buffer current trends in order to maintain rate stability, to the extent possible, as we move toward the new industry structure. Nothing contained in the Company's Motion has convinced us that our judgment was erroneous.

We will therefore deny the Company's Motion. We shall also direct that the revenue to be returned to ratepayers for the period starting July 1, 1983 and ending with the date of this Order be incorporated in the reduction of basic exchange rates between the date of this Order and December 31, 1983. After December 31, 1983, that amount should have been fully returned and the basic exchange rates may be readjusted to reflect the

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15.75% return on common equity found in our previous order.

Our order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that New England Telephone and Telegraph Company's Motion for Rehearing is denied; and it is

FURTHER ORDERED, that the amount of the rates which should be returned to ratepayers for the period July 1, 1983 to date is to be returned in equal monthly credits to the residential and business basic exchange rates between the date of this Order and December 31, 1983.

By order of the Public Utilities Commission of New Hampshire this seventh day of September, 1983.

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NH.PUC*09/15/83*[79754]*68 NH PUC 553*Laconia Water Works

[Go to End of 79754]

Re Laconia Water Works

DE 83-229, Supplemental Order No. 16,632

68 NH PUC 553

New Hampshire Public Utilities Commission

September 15, 1983

ORDER revoking a previous order that had suspended filed water tariffs.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, Order No. 16,539 suspended 1st Revised Page la and Original Page 15 of tariff NHPUC No. 3 — Water, Laconia Water Works; and

WHEREAS, Laconia Water Works has made certain revisions to its filing and it now appears that approval would be in the public good; it is

ORDERED, that Order No. 16,539 is revoked and that 1st Revised Page 1a and Original Page 15 of tariff NHPUC No. 3 — Water, Laconia Water Works shall become effective and bear the effective date of this order.

By Order of the Public Utilities Commission of New Hampshire this fifteenth day of September, 1983.

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NH.PUC*09/16/83*[79755]*68 NH PUC 554*New England Telephone and Telegraph Company

[Go to End of 79755]

Re New England Telephone and Telegraph Company

DE 83-232, Supplemental Order No. 16,636

68 NH PUC 554

New Hampshire Public Utilities Commission

September 16, 1983

ORDER adopting a tariff to allow state police to record telephone conversations without notice in emergencies.

CONSTITUTIONAL LAW, § 30 — Free speech — Recorded telephone conversations — Emergency situations.

[N.H.] The commission found that its order allowing the state police to monitor record telephone conversations without notice in response to emergency calls did not violate laws

against illegal wire interceptions.

BY THE COMMISSION:

REPORT

On July 12, 1983 the Commission issued Order No. 16,536 (68 NH PUC 471) which required, *inter alia*, New England Telephone and Telegraph Company (NET) to file certain amendments to Tariff NHPUC No. 75, Part A — Section 4.5.A.1.a(5). That Order also provided, *inter alia*, that interested persons may file comments, exceptions and/or requests for a hearing within 30 days. On July 19, 1983 the New Hampshire Appellate Defender Program filed a comment opposing implementation of the Order. NET filed the required tariff revision on August 19, 1983 with an effective date of September 10, 1983. NET also requested that the Commission's tariff filing requirements at Puc Chapter 1603 be waived. For the reasons set forth below, we reject the comments of the New Hampshire Appellate Defender Program. We will also waive the Puc Chapter 1603 tariff filing requirements and allow the amendment to be effective as of September 10, 1983.

The tariff amendment would allow the New Hampshire State Police to record telephone conversations with-out the necessity of using a beeper tone when such conversations are made in the course of an outgoing telephone call made in immediate response to an emergency call which comes in on lines assigned exclusively for the receipt of such emergency calls. The New Hampshire Public Defender Program did not object to the purpose of the amendment; rather it stated that the Commission could not allow such an amendment because it would authorize the commission of a class B felony. The New Hampshire Public Defender Program bases its comment on its reading of RSA 570-A:2 which makes it a class B felony for a person to intercept a wire or oral communication without the consent

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of all parties to the communication.

The Commission agrees that it cannot authorize the commission of a crime. However, in this case, it is apparent that the statute does not make it a crime to record such telephone conversations without beeper tones in all instances.[1(54)] Thus, it does not automatically follow that one commits a crime if one takes advantage of the amended tariff provision and accordingly, the Commission's approval of the tariff provision cannot be construed as authorizing criminal activity.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the request of New England Telephone and Telegraph Company's request for a waiver of the Tariff Filing Rules at Chapter Puc 1603 is granted; and it is

FURTHER ORDERED, that Tariff NHPUC No.75, Part 1, Section 4, Page 24, First Revision

is approved for effect as of September 10, 1983.

By order of the Public Utilities Commission of New Hampshire this sixteenth day of September, 1983.

FOOTNOTE

[1]For example, no crime is committed if the conversation is recorded with the consent of all parties to the conversation. The issue of consent in a criminal context is more properly resolved by the courts. *See also*, RSA 570-A:1 IV. (a) which *inter alia* excludes certain telephone instruments from the definition of "electronic, mechanical or other device" if the telephone is used in accordance with Company tariffs as approved by the Commission.

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NH.PUC*09/23/83*[79756]*68 NH PUC 555*Connecticut Valley Electric Company, Inc.

[Go to End of 79756]

Re Connecticut Valley Electric Company, Inc.

DR 82-67, Ninth Supplemental Order No. 16,645

68 NH PUC 555

New Hampshire Public Utilities Commission

September 23, 1983

ORDER correcting a number in an electric company's filed tariff sheets.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, Connecticut Valley Electric Company, Inc. filed revised tariff page 15, on September 15, 1983, pursuant to Commission Order No. 16,185 (68 NH PUC 40) authorizing revenue recoupment for the period April 1, 1982 to February 1, 1983; and

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WHEREAS, the filing appears to comply with the instructions and intent of Order No. 16,185, but contains an incorrect number on the third line of the tariff page, the correct number being $556,676; and

WHEREAS, the filing is otherwise just and reasonable; it is hereby

ORDERED, that Connecticut Valley Electric 5th Revised Page 15 of tariff NHPUC No. 4 is hereby rejected; and it is

FURTHER ORDERED, that Connecticut Valley file 6th Revised Page 15 in compliance with this Order.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of

September, 1983.

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NH.PUC*09/23/83*[79757]*68 NH PUC 556*Connecticut Valley Electric Company, Inc.

[Go to End of 79757]

Re Connecticut Valley Electric Company, Inc.

Intervenors: Campaign for Ratepayers Rights, Sinclair Machine Products, Inc., and Office of Consumer Advocate et al.

DR 83-200, Supplemental Order No. 16,646

68 NH PUC 556

New Hampshire Public Utilities Commission

September 23, 1983

PETITION by an electric company for approval of temporary rates; granted.

RATES, § 630 — Temporary rates — Reasonableness — Deletion of controversial items.

[N.H.] The commission found an electric company's proposed temporary rates to be reasonable where cost of service items that were likely to be controversial in a permanent case were deleted from calculations on the temporary rate.

APPEARANCES: Donald Rushford for Connecticut Valley Electric Company, Inc.; Michael Holmes for the Consumer Advocate; Larry S. Eckhaus for Campaign for Ratepayers Rights; Myers and Laufer by David William Jordan for Sinclair Machine Products, Inc. et al.; Larry M. Smukler for the commission staff.

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BY THE COMMISSION:

REPORT

On July 21, 1983, Connecticut Valley Electric Company ("Company"), a public utility engaged in the business of supplying electrical service in limited areas of this State, filed a request for permanent rate relief in the amount of $991,147 to be effective August 21, 1983. On July 21, 1983, the Company also filed a Petition for the Establishment of Temporary Rates in the amount of its revenue deficiency or at such other level as the Commission determines is fair and reasonable.

The Commission suspended the effective date of the new tariff for permanent rates by its Order No. 16,582 dated August 9, 1983. An Order of Notice was issued on July 29, 1983 setting

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a hearing for September 15, 1983 at 10:00 a.m. for the purpose of determining temporary rates and to discuss the procedural aspects of the permanent rate increase. Motions to Intervene were filed by the Consumer Advocate, the Campaign for Ratepayers Rights and Sinclair Machine Products, Inc. *et al*. The Commission was also advised that the Conservation Law Foundation (CLF) wishes to intervene.

At the hearing, all Motions for Intervention were granted with the exception of that of CLF. We are aware of CLF's interest and we will reserve judgment on its motion to Intervene until such time as it is filed and the other parties have had an opportunity to respond.

On the issue of temporary rates, the Company presented the testimony of Theodore W. Millspaugh, the Treasurer of Connecticut Valley Electric Company and Gerald R. Cook, Director of Rate Administration for Central Vermont Public Service Company, the parent of Connecticut Valley Electric Company.

Mr. Millspaugh testified in favor of a temporary rate level of $569,000; a figure which was calculated in consultation with the other parties. Mr. Millspaugh also testified as to the general financial condition of the Company and to its need for rate relief. The record reflects that the $569,000 level of rate relief is just and reasonable and is supported by a sound rationale of deleting items from the Company's cost of service for temporary rate purposes which will be areas of controversy in the permanent case. All parties agreed that either the inclusion or exclusion of cost of service items in the temporary rates would be without prejudice to a regulatory determination of all issues in the permanent case.

Mr. Cook testified as to the structure of the temporary rates. Mr. Cook proposed to allocate the temporary rates on a proportional basis to the allocations contained in the document entitled "Connecticut Valley Electric Company, Inc., Report of Proposed Rate Changes, 12 Months Ending December 31, 1982" which is contained in Exhibit 1. Mr. Cook also proposed to implement the new tariff schedules contained in Exhibit 1 on a proportional basis with two exceptions. The first exception is that the existing schedule for Rate G will be retained*(55) in order to avoid potential rate continuity problems. The rationale for this exception is that Rate G is the only tariff schedule which has been substantially

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restructured in the instant case. The second exception applies to those tariff schedules in which decreased cost components are proposed. Those cost components will only be decreased to the figure proposed and not further as a result of the proportionate change resulting from the temporary rates. All parties agreed that the Company's proposed rate structure is reasonable for the purpose of temporary rates.

The Commission finds that the Company's proposal is just and reasonable. Accordingly, we will adopt the Company's proposal for temporary rate purposes without prejudice to any issue that may be raised in the permanent rate ease.

The parties also submitted a proposed schedule for conducting the remainder of the proceedings. The schedule will be adopted as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Date of this Order:	Effective Date of Temporary Rates.
September 29, 1983:	Meeting of Parties and Staff Discovery.
October 6, 1983:	Due Date for Staff and Intervenor Data Requests.
October 27, 1983:	Due Date for Company Responses to Data Requests.
November 14 & 15, 1983:	Meeting of Parties and Staff to Narrow Issues.
December 5, 1983:	Due Date for Staff and Intervenor Testimony.
December 19, 1983:	Due Date for Data Requests.
January 9, 1984:	Due Date for Responses to Data Requests.
January 16 & 17, 1984:	Hearings.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that Connecticut Valley Electric Company, Inc. shall file a tariff supplement effective as of the date of this Order to recover additional annual revenues of $569,000 in temporary rates in accordance with the provisions of the foregoing Report; and it is

FURTHER ORDERED, that the Motions to Intervene of the Consumer Advocate, the Campaign for Ratepayers Rights and Sinclair Machine Products, Inc. *et al*. be, and hereby are, granted; and it is

FURTHER ORDERED, that the procedural schedule set forth in the foregoing Report is adopted.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of September, 1983.

FOOTNOTES

*This provision applies only to the manner in which Rate G is structured. It does not apply to the allocation of the temporary rates which will be applied to this rate class on the proportional basis described above.

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NH.PUC*09/23/83*[79758]*68 NH PUC 559*Fuel Adjustment Clause

[Go to End of 79758]

Re Fuel Adjustment Clause

Intervenor: Littleton Water and Light Department

DR 83-241, Supplemental Order No. 16,647

68 NH PUC 559

New Hampshire Public Utilities Commission

September 23, 1983

ORDER permitting a revised fuel surcharge to take effect without a fuel adjustment clause hearing.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, the Commission in correspondence dated March 2, 1982, sent to the New Hampshire Electric Cooperative, Inc., Granite State Electric Company, Connecticut Valley Electric Company, Inc., Exeter & Hampton Electric Company, Municipal Electric Department of Wolfeboro, Concord Electric Company, Woodsville Power and Light Department, and Littleton Water & Light Department by the Commission's Executive Director and Secretary in relation to DR 82-59, notified the utilities that the Commission will not automatically schedule FAC hearings for those utilities which file monthly unless requested or needed by one of those utilities; and the Commission would not automatically schedule FAC hearings in the two off months for those utilities which have a quarterly FAC rate; and

WHEREAS, no utility maintaining a monthly or quarterly FAC requested a hearing be scheduled; and

WHEREAS, this is one of the two off months for the quarterly FAC utilities; it is

ORDERED, that 117th Revised Page 6 of the Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for a fuel surcharge of $2.02 per 100 KWH for the month of September, 1983, be, and hereby is, permitted to become effective September 1, 1983.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of September, 1983.

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NH.PUC*09/23/83*[79759]*68 NH PUC 560*Mount Washington Railway Company

[Go to End of 79759]

Re Mount Washington Railway Company

DE 83-298, Order No. 16,648

68 NH PUC 560

New Hampshire Public Utilities Commission

September 23, 1983

APPLICATION by a railroad to improve a trestle by chemical treatment rather than by structural replacement; rejected.

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RAILROADS, § 31 — Construction and equipment — Track and roadbed — Chemical treatment versus replacement.

[N.H.] A railroad's proposal to chemically treat its trestle structure rather than replace the structure was rejected where the commission found the chemical treatment would merely maintain the trestle's present condition and prevent further deterioration whereas replacement would directly contribute to the trestle's entire structural integrity.

BY THE COMMISSION:

REPORT

On August 31, 1983, John M. A. Rolli, President, Mount Washington Railway Company (the "Company" or "petitioner") petitioned this Commission to amend Commission Order No. 15,693, dated June 7, 1982 (67 NH PUC 375), in Docket DR 81-322, which required the complete replacement of the Jacob's Ladder structure on the Cog Railway within a seven (7) year period. Instead, he proposes to chemically treat the structure with what he refers to as the Osmose process. He further petitions that no general replacement of the trestle structure known as "Jacob's Ladder" or the "Long Trestle" shall be required until such time as internal inspection of the individual timber elements indicates a structural necessity of replacement. The Company appends its petition with (1) letters from representatives from the Osmose Railroad Division, (2) preliminary inspection reports of that division, and (3) an agreement stipulating that repairs to the named trestles would be performed at a price of $23,330. The Company also provides published articles from two railroading periodicals attesting to the success of the Osmose process in various applications throughout the Country.

The Petitioner requests prompt consideration in order to treat the trestles during the latter part of September, 1983.

The petition is denied for three reasons. First, the process offered by the petitioner does not contribute to the structural integrity of the system as would be the case with a total replacement of the structure. Second, since the proposed contract would fail to treat at least portions of 11 of the 25 bents in Jacob's Ladder, approval of the petition would directly violate the Commission's intent to improve that structure. Finally, adequate consideration of the issue by this Commission is

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impossible in the time-frame requested.

A review of the literature accompanying the petition reveals the following:

(1) Treatment of wooden members will, at best, only maintain, its present condition and will add no strength to the member. (2) Treatment may result in extending the life of existing members by only an additional 10 or more years. (3) Sufficient decay which will

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assure voids in a member is necessary for the treatment to be effective. (4) The treatment is utilized in members having up to 15 to 18 percent of decayed material.

The Commission finds that the proposed process is not a satisfactory substitute for the replacement program directed by our previous order. In that earlier order, the Commission found that substantial deterioration had occurred to certain structural members of Jacob's Ladder to the extent that nothing short of its scheduled total replacement over a period of seven years would ensure its long term integrity. That decision was reached after the review of the inspections made by the Commission's Rail Safety Inspector in conjunction with those of the Company's own technical personnel. The Company has complied with our Order and has implemented the first year's portion of that replacement program. We have every reason to expect that the replaced members will have a service life in excess of 30 years.

The process offered by the petitioner does not contribute to the structural integrity of the system. It only contributes to maintaining the present condition of the treated members, and since the treatment is expected to extend the life of existing members by only an additional 10 or more years, it does not address the Commission's expectation of a long term solution to the system's structural integrity.

We have no doubt that the process proposed by the Company may have some positive applications within the Cog Railway System. We note that the preliminary inspection reports filed by the petitioner are not limited to Jacob's Ladder, and we encourage the Company to take whatever steps are necessary to preserve the members of the remaining system.

The Company has seven years in which to make a total replacement of the trestle. We have no objection to the Company utilizing the Osmose process on sections of Jacob's Ladder pending scheduled replacement. Should the Company elect to do so, and should the Company find after a period of years that certain treated sections of the trestle do not, as a result of the process, require replacement, we will accept a petition by the Company to reconsider our Order. It is premature to do so at this time, however.

Our Order will issue accordingly.

ORDER

Based upon the foregoing Report which is made a part hereof; it is hereby

ORDERED, that the Petition of the Mount Washington Railway Company to amend a previous Commission Order No. 15,693 dated dune 7, 1982, in Docket DR 81-322 and relieve it from

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the responsibility of a general replacement of the trestle structure known as Jacob's Ladder, is hereby denied.

By Order of the Public Utilities Commission of New Hampshire this twenty-third day of September, 1983.

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NH.PUC*09/23/83*[79760]*68 NH PUC 562*Connecticut Valley Electric Company, Inc.

[Go to End of 79760]

Re Connecticut Valley Electric Company, Inc.

DF 83-242, Order No. 16,649

68 NH PUC 562

New Hampshire Public Utilities Commission

September 23, 1983

PETITION by an electric company for authority to issue an additional note; granted.

SECURITY ISSUES, 98 — Notes — Purposes — Premature retirement of other debts.

[N.H.] Although authorizing an electric company to issue a note to be used in paying off other debt, the commission expressed reservations about issuing a note with an excellent interest rate but tied to the premature retirement of lower cost money.

APPEARANCES: Donald Rushford for the petitioner; Michael W. Holmes for the Consumer Advocate; Larry Smukler, Kenneth E. Traum, and Sarah P. Voll for the New Hampshire Public Utilities Commission staff.

BY THE COMMISSION:

REPORT

On July 18, 1983, Connecticut Valley Electric Company (CVEC), a utility subject to the jurisdiction of this Commission, filed a petition requesting authorization and approval of the Commission for the issuance and sale of a twenty (20) year, 9.5% note in the principal amount of $2,500,000.

On August 11, 1983, an Order of Notice was issued setting the request for hearing on September 15, 1983 at 10 a.m. at the Commission's Office.

The duly noticed public hearing was held accordingly.

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The Company through its treasurer, Theodore W. Millspaugh submitted six (6) exhibits reflecting the Company's actual and proformed balance sheet, income statement, capital structure, form of proposed note, certification of the Board of Directors, and direct testimony of Mr. Millspaugh.

Through these exhibits and cross examination, the record reveals that one purpose of this issue is to revise CVEC's capital structure to a more traditional one, while recognizing that CVEC is 100% owned by Central Vermont Public Service Corporation who will supply the

$2,500,000 at 9.5% as well as being the source of proprietory capital.

The $2,500,000 will serve several purposes:

(1) To prematurely retire $250,000 of 5.5% debt due in 1984 to Central Vermont Public Service Corporation. (2) To pay off approximately $1,700,000 of Notes Payable and Accounts Payable to Associated Companies. (3) To pay a cash dividend to Central Vermont Public Service Corporation of approximately $550,000.

As illustrated partially by staff introduced Exhibit 7, the effective cost to Connecticut Valley Electric Co. is greater than 9.5% due to the premature retirement of the 5.5% money and the payment of the cash dividend. These facts are partially offset by tax effects, but the Commission still feels uncomfortable with a "package" which offers an excellent interest rate but ties it to the premature retirement of lower cost money and cash dividends. However, the Commission's concern on the payment of cash dividends is not a sufficient reason to deny the petition. RSA 374:12 allows the company to pay "dividends in any year out of any undistributed balance of such net corporate income previously accumulated." Per Exhibit 1, Connecticut Valley Electric Co. had on its balance sheet as of April 30, 1983, Retained Earnings of $2,607,128.

This leaves the issue of the premature debt retirement, which represents an additional cost to Connecticut Valley Electric Co. after taxes of approximately $5,000 based on the 400 basis points differential. The Commission does not believe that amount warrants denial of this petition; however, the approval of the instant petition should not be construed as foreclosing full consideration of the issue in the upcoming rate case (DR 83-200) Cf, Re Public Service Co. of New Hampshire (1982) 122 NH 1062, 1076, 51 PURUTH 298, 454 A2d 435.

Based on the record in this docket, the Commission finds the issuance to be in the public good and will approve it, but will take this opportunity to notify all parties in DR 83-200 that we recognize Central Vermont Public Service Corporation to be the source of funds for Connecticut Valley Electric Co. and will apply Central Vermont Public Service Corporation's cost rates to Connecticut Valley Electric Co. in such a manner as to recognize such for proprietory capital purposes.

Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing report, which is made a part hereof; it is

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ORDERED, that Connecticut Valley Electric Company be, and hereby is, authorized to issue and sell to Central Vermont Public Service Company, $2,500,000 of 9.5% notes due in twenty (20) years; and it is

FURTHERED ORDERED, that on or before January first and July first in each year, said Connecticut Valley Electric Company shall file with this Commission a detailed statement, duly sworn to by its treasurer showing the disposition of the proceeds of said issuance until the expenditure of the whole of said proceeds shall have been fully accounted for.

By Order of the Public Utilities Commission of New Hampshire this twenty-third day of

September, 1983.

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NH.PUC*09/26/83*[79761]*68 NH PUC 564*Continental Telephone Company of New Hampshire, Inc.

[Go to End of 79761]

Re Continental Telephone Company of New Hampshire, Inc.

DR 83-292, Order No. 16,653

68 NH PUC 564

New Hampshire Public Utilities Commission

September 26, 1983

ORDER allowing a telephone company to extend its optional custom calling services.

BY THE COMMISSION:

ORDER

WHEREAS, on September 9, 1983 Continental Telephone Company of New Hampshire, Inc. (the Company) petitioned this Commission to revise its tariff to extend its offering of Custom Calling Services to the Melvin Village Exchange; and

WHEREAS, the expansion would make said services available throughout the Company's New Hampshire franchise area; and

WHEREAS, the availability to customers of these varied options is considered to be in the public interest; it is

ORDERED, that Section 6, Fifth Revised Sheet 8, Continental Telephone Company of New Hampshire, Inc. tariff, NHPUC No. 11, be, and hereby is, approved for effect on October 9, 1983.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of September, 1983.

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NH.PUC*09/26/83*[79762]*68 NH PUC 565*Southern New Hampshire Water Company

[Go to End of 79762]

Re Southern New Hampshire Water Company

DE 83-244, Order No. 16,655

68 NH PUC 565

New Hampshire Public Utilities Commission

September 26, 1983

PETITION for authority to operate as a public water utility in a limited area of a town; granted.

APPEARANCES: Arthur O. Gormley, Jr., for Southern New Hampshire Water Company.

BY THE COMMISSION:

REPORT

By a petition filed Jury 21, 1983, Southern New Hampshire Water Co. (Southern) seeks authority to operate as a public water utility in a limited area in the Town of Amherst.

Southern proposes that the initial phase of its water system will be to supply an industrial park in southern Amherst with general service, municipal fire protection, and private fire protection services. Subsequently the availability of a central water system may lead to further expansion of the system into other areas of the requested franchise area.

The rates to be charged in Amherst were not set at this hearing since the physical plant has yet to be installed. We shall address this matter upon receipt of actual cost data and further definition of estimated operation and maintenance expenses, investigation by staff and future hearings.

At this time, we find that the authority sought is in the public good and we shall grant such authority including the right of Southern N.H. Water Company to construct its plant in the Town Amherst.

Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing Report which is made a part hereof; it is hereby

ORDERED, that Southern New Hampshire Water Company be, and hereby is authorized to operate as a public utility in a limited area in the Town of Amherst, bounded and described as follows:

> Beginning at the south westerly corner of the Town of Amherst at the intersection of the Amherst/Milford/Hollis town lines and proceeding easterly along the Amherst/Hollis town line then turning northerly along the Amherst/Merrimack town line to its intersection with Spring Road, then proceeding westerly along Spring Road to Upham Road, then proceeding south westerly along Upham Road
>
> **Page** 565
>
> to County Road, then southerly to Cricket Corner Road, then south westerly to Corduroy Road, then proceeding south easterly to its intersection with the Souhegan River, then proceeding westerly along the Souhegan River to its intersection with the Amherst/Milford town line, then southerly along the town line to the point of beginning;

and it is

FURTHER ORDERED, that prior to the furnishing of water to the franchise area here

granted, Southern New Hampshire Water Company will furnish this Commission with all requested information necessary to determine the proper charges for this service and the need for further hearings.

By Order of the Public Utilities Commission of New Hampshire this twenty-sixth day of September, 1983.

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NH.PUC*09/27/83*[79763]*68 NH PUC 566*Winter Termination Rules

[Go to End of 79763]

Re Winter Termination Rules

DRM 83-31, Supplemental Order No. 16,656

68 NH PUC 566

New Hampshire Public Utilities Commission

September 27, 1983

ORDER continuing the commission's investigation into the possible modification or amendment of its winter termination rules.

BY THE COMMISSION:

REPORT

This docket was opened by Report and Order No. 16,164 (January 25, 1983 [68 NH PUC 22]) in Docket No. DRM 82-304 for the purpose *inter alia* of evaluating certain aspects of the Commission's winter termination rules pending the long term review also initiated in. DRM 82-304. In accordance with that purpose, the Commission issued Order No. 16,476 (June 20, 1983 [68 NH PUC 411]) which solicited comments on five issues:

> 1) Is it appropriate to provide specific protection to non-heating gas customers and, if so, what is a reasonable level; 2) What arrearage level should be set for non-heating electric customers; 3) Should the Commission use some percentage of bill standard rather than establishing arrearage levels; 4) What usage should be established to identify gas and electric heating customers; and 5) Are there other appropriate means of identifying heating customers.

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Comments were submitted by the New Hampshire Division of Human Resources, Manchester Gas Company, Northern Utilities, Inc., Concord Natural Gas Corporation, Concord Electric Company, Public Service Company of New Hampshire, Granite State Electric Company, Exeter and Hampton Electric Company, Connecticut Valley Electric Company, VOICE, Community Action Program and the Family and Housing Law Clinic of the Franklin Pierce Law Center.

All comments have been carefully considered and we appreciate the willingness of the commenters to provide input. However, after due consideration, we have decided that we have not been presented with sufficient reason to amend the rules before the upcoming winter. While we acknowledge that our rules can be improved, we are also convinced that it is important to evaluate the strengths and weaknesses of the rules over a period of time. Continual amendments would undermine our ability to collect data and monitor the operation of the rules. Accordingly, we will not amend the rules at this time.

The comments filed in this docket in addition to evidence received in previous proceedings affirmed the belief that some long run changes in the rules may be justified. However, the state of the record thus far is insufficient to allow us to propose amendments with any degree of confidence.[1(56)] Thus, we will continue this docket for the purpose of exploring long term proposals for workable winter termination rules. To that end, we will direct the Staff to reconvene the Winter Termination Rules Committee to continue its efforts to aid us in our evaluation of the existing policies. The next meeting of the Committee will be at 2:00 p.m., October 4, 1983 at the Commission's offices.

As noted above, the purpose of the Committee is to aid us in our evaluation of the existing rules and in preparing proposals for specific amendments. We expect that any such evaluation will have a significant empirical component and, thus, we expect the Committee to define the data that can feasibly be obtained and to implement measures to compile and analyze that data. After the Committee has had an opportunity to evaluate the empirical analysis of our existing rules, it can properly identify areas which warrant amendment and supply specific proposals, supported by appropriate data, to rectify problem areas.

The Commission wishes to note that the Committee need not be the only source of long term examination of winter termination policies. While we have decided not to change our existing regulations at this time, we are interested in considering requests for waivers when those waivers include serious alternative programs.[2(57)] Such pilot programs can provide additional data and ideas so that we may confidently determine what

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regulatory approach is most consistent with the public interest in the long term.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report which is made a part hereof; it is

ORDERED, that the Winter Termination Rules Committee be reconvened to continue to aid the Commission in its evaluation of winter termination policies and, in particular, to:

1) evaluate the Commission's existing winter termination policies; 2) identify the appropriate data necessary to accomplish the above evaluation; 3) implement measures to collect such data starting with the winter of 1983-1984; 4) develop alternative long term proposals for improving the Commission's winter termination policies; and 5) develop methods of evaluating the above alternative long term proposals; and it is

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FURTHER ORDERED, that the next meeting of the Winter Termination Rules Committee shall be at 2:00 p.m. on October 4, 1983 at the Commission's Offices, 8 Old Suncook Road, Concord, New Hampshire.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of September, 1983.

FOOTNOTES

[1]For example, many commenters pointed to recent increases in uncollectible accounts under the existing rules. While we must be concerned about increased uncollectibles, we cannot conclude that they were caused by our termination rules. The recession and increases in utility rates are other possible explanations for increased uncollectibles.

[2]*E.g.*, Exeter and Hampton Electric Company has recently filed a Petition for Temporary Exemption from PUC, 303.08(k) (2), (3) and (6). While we cannot at this time comment on the merits of Exeter & Hampton's Petition, we can state that we welcome proposals which offer constructive alternatives and an opportunity empirically to contrast those alternatives with our existing rules.

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NH.PUC*09/27/83*[79764]*68 NH PUC 568*Lakes Region Water Company

[Go to End of 79764]

Re Lakes Region Water Company

DE 83-261, Order No. 16,657

68 NH PUC 568

New Hampshire Public Utilities Commission

September 27, 1983

ORDER declining to impose a fine on a water company for a late-filed annual report.

APPEARANCES: Ransmeier and Spellman by Dom S. D'Ambruoso for Lakes Region Water Company.

BY THE COMMISSION:

REPORT

By Order of Notice dated August 10, 1983, the Commission opened this docket for the purpose *inter alia* of determining whether Lakes Region Water Company (Company) should be fined in an amount not to exceed $100 per day for failure to file an annual report required by the Commission. On September 9, 1983, the Company filed the required annual Report with an accompanying letter which offered

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an explanation for why the report was filed late.

The Commission has reviewed the filing and the explanation. While the explanation does not offer a reason which excuses the late filing it does demonstrate the Company's good faith and it indicates that the Company has taken concrete steps to ensure that future filings are timely.

For this reason, the Commission finds that the imposition of a fine would not be justified in this instance. We will therefore close this docket.

Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that Docket No. DE 83-261 is closed; and it is

FURTHER ORDERED, that all hearings and outstanding procedural matters associated with this docket are cancelled.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of September, 1983.

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NH.PUC*09/27/83*[79765]*68 NH PUC 569*Wentworth Cove Water Company

[Go to End of 79765]

Re Wentworth Cove Water Company

DE 83-262, Order No. 16,658

68 NH PUC 569

New Hampshire Public Utilities Commission

September 27, 1983

ORDER declining to impose a fine on a water company for a late-filed annual report.

APPEARANCES: Ransmeier and Spellman by Dom S. D'Ambruoso, Esquire for Wentworth Cove Water Company.

BY THE COMMISSION:

REPORT

By Order of Notice dated August 10, 1983, the Commission opened this docket for the purpose *inter alia* of determining whether Wentworth Cove Water Company (Company) should be fined in an amount not to exceed $100 per day for failure to file an annual report required by the Commission. On September 9, 1983, the Company filed the required annual Report with an

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accompanying letter which offered an explanation for why the report was filed late.

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The Commission has reviewed the filing and the explanation. While the explanation does not offer a reason which excuses the late filing it does demonstrate the Company's good faith and it indicates that the Company has taken concrete steps to ensure that future filings are timely.

For this reason, the Commission finds that the imposition of a fine would not be justified in this instance. We will therefore close this docket.

Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that Docket No. DE 83-262 is closed; and it is

FURTHER ORDERED, that all hearings and outstanding procedural matters associated with this docket are cancelled.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of September, 1983.

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NH.PUC*09/27/83*[79766]*68 NH PUC 570*New England Telephone and Telegraph Company

[Go to End of 79766]

Re New England Telephone and Telegraph Company

DE 83-112, Second Supplemental Order No. 16,659

68 NH PUC 570

New Hampshire Public Utilities Commission

September 27, 1983

ORDER replacing a telephone company's commission-ordered customer refund with a one-time credit.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, on September 7, 1983, the Commission in its Supplemental Order No. 16,622 (68 NH PUC 551) directed the Company to make refunds which should be returned to ratepayers in equal monthly credits between the date of the Order and December 31, 1983; and

WHEREAS, upon further consideration the Commission finds that it is in the customer's interest to receive a onetime credit in an amount proportionate to the overall revenue reduction;

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it is

ORDERED, that the Company shall

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include in all customer bills during the month of October 1983, a one-time credit reflecting an over-collection during the period July 1, 1983 to date; and it is

FURTHER ORDERED, that the credit be equally divided among the Company's customers.

By Order of the Public Utilities Commission of New Hampshire this twenty-seventh day of September, 1983.

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NH.PUC*10/03/83*[79767]*68 NH PUC 571*Fuel Adjustment Clause

[Go to End of 79767]

Re Fuel Adjustment Clause

Intervenors: Concord Electric Company, Exeter and Hampton Electric Company, Granite State Electric Company, Office of Consumer Advocate, New Hampshire Electric Cooperative, Inc., Municipal Electric Department of Wolfeboro, Woodsville Water and Light Department, and Connecticut Valley Electric Company, Inc.

DR 83-270, Order No. 16,663

68 NH PUC 571

New Hampshire Public Utilities Commission

October 3, 1983

REVIEW and reconciliation of fuel adjustment clauses.

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1. AUTOMATIC ADJUSTMENT CLAUSES, § 9 — Cost elements — Fuel costs — Indirect costs.

[N.H.] Taking into account increased supplier rates, state franchise taxes, and undercollections in a prior quarter, the commission accepted increased fuel clause filings by two electric companies hut revised them to reflect estimates of lost and unaccounted for electricity. p. 572.

2. AUTOMATIC ADJUSTMENT CLAUSES, § 13 — Purchased power — Replacement power costs — Cause as a factor.

[N.H.] Where an electric company proposed to dramatically increase its fuel clause rates due to an extensive outage of its supplier and ensuing replacement power costs, the commission found that it could approve the increase only provisionally pending an investigation into the

outage, and that should the supplier's negligence or error be found to be the cause of the outage, the increased fuel charges already collected would have to be refunded. p. 572.

APPEARANCES: Margaret Nelson for Concord Electric Company and Exeter and Hampton Electric Company; Janice Callison and Philip Cahill for Granite State Electric Company; Kenneth E.

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Traum, and Edgar Stubbs for the PUC staff; Michael Holmes for the Consumer Advocate.

BY THE COMMISSION:

REPORT

The Public Utilities Commission held a duly noticed public hearing on the fuel adjustment clause filings of Concord Electric Company, Exeter & Hampton Electric Company, and Granite State Electric Company, for the fourth quarter of 1983 at its office in Concord on September 21, 1983.

Concord Electric Company and Exeter & Hampton Electric Company were represented by one Witness, William H. Steff. Concord had a FAC rate of ($0.037)/100 KWH aproved for the third quarter of 1983, while Exeter & Hampton Electric Company had a rate of ($0.241)/100 KWH.

[1] In developing the fourth quarter of 1983 estimates, the most significant inputs were based on estimates provided by the companies' sole electricity supplier, PSNH, of $0.03948005/KWH for October, 1983, $0.03796383/KWH for November, 1983, and $0.03843343/KWH for December, 1983.

Based on this and taking the amount of fuel expense rolled into base rates and the effect of the State Franchise Tax into account, Concord's proposed rate for the fourth quarter 1983 was $1.221/100 KWH while Exeter & Hampton's was $1.335/KWH. These are increases in both cases.

The increases are attributable to undercollections in the third quarter of 1983, which by the mechanism of the Fuel Adjustment Clause, are built into the cost estimates for the 4th quarter of 1983. In addition, the utilities' sole supplier of electricity, Public Service Company of New Hampshire, is estimating an increase in fuel costs for the 4th quarter of 1983 over the 3rd quarter on a per KWH basis.

During the course of the 9/21/83 hearing, the Commission Finance Staff brought up the subject of the Company's estimates of lost and unaccounted for electricity, timeliness of Public Service Co. Of N.H. estimates, and the reconciliation for the 3rd quarter of 1983. Based on these lines of cross and other concerns, the Company's filed revised tariff pages as exhibit 2 which reduced the requested rates by approximately $3¢ /100 KWH to $1.186/ 100 KWH for Concord Electric Co. and $1.30/100 KWH for Exeter and Hampton Electric Co.. The Commission believes the rates as revised for both companies are in the public good and our Order will issue

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accordingly.

[2] Granite State Electric Company (GSEC) made its filing for a Fuel Adjustment Clause Rate (FAC) and Oil Conservation Adjustment Rate (OCA) on September 13, 1983 for the fourth quarter of 1983.

The rates requested originally were $2.001/100 KWH for the FAC, and $0.214/1 00 KWH for the OCA. For comparative purposes the respective rates for the third quarter were $0.80/100 KWH and $0.142/100 KWH (OCA).

During the course of the duly noticed hearing on September 21, 1983, among the sixteen exhibits submitted by the Company was GS-12 which reduced the FAC request to $1.863/100 KWH.

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First, addressing the FAC request, the Commission is greatly concerned with the magnitude of the increase and the reasons for such.

By way of background GSEC is a part of the New England Electric System (NEES) and accordingly purchases 100% of its electric requirements from NEES's generating arm, the New England Power Company (NEPCo.)

The fuel rate NEPCo. charges GSEC is set according to a formula established by the Federal Energy Regulatory Commission (FERC). This rate is set monthly on a historic or known basis, while GSEC's FAC rate is set by the NHPUC is an estimated forward-looking rate which is reconciled in the next quarter.

The NEPCo. rate to GSEC has increased dramatically due to an extremely costly outage which occurred on August 26, 1983. NEPCo.'s largest and most efficient generating unit, Brayton Point III, suffered a fire, explosion and very extensive damage. Even with all the measures the company is taking to expedite repairs, the unit is estimated to be down for six to nine months.

The cause is under investigation by the company, Westinghouse representatives, insurers, etc., but until the unit returns to service, NEPCo. is forced to buy or generate replacement power from other more expensive sources. As was testified to, NEPCo. is trying to minimize these additional costs through such actions as entering directly into short-term purchases from other utilities, thus avoiding New England Power Exchange (NEPEX) costs; maximizing its hydro electric generation; requesting revised maintenance schedules for other NEPCo. units from the New England Power Pool (NEPOOL); requested a scheduled outage rate from NEPOOL; etc.

The NHPUC applauds these actions by NEPCo. which will reduce replacement power costs, but feels unable to automatically approve inclusion of the replacement power costs in GSEC's New Hampshire FAC rate prior to completion of the investigations of the accident and reports. If an act of negligence or company error is found to have been the cause of the outage, the company can be rightfully held accountable.

With that understanding the Commission will approve the increased replacement power costs due to the Brayton Point III outage, subject to refund if negligence or company error is found to

have caused the damage.

Other reasons for the proposed increase, while relatively minor bay comparison, include an under-collection of costs for the third quarter of 1983, higher fuel costs, and application of the state's revised franchise tax.

With the aforementioned caveat, the Commission will accept GSEC's proposed fourth quarter FAC rate of $1.863/100 KWH.

Our Order will issue accordingly.

GSEC's OCA rate as porposed reflects an increase over the third quarters rate due to the greater coal generation at the OCA covered units, Salem Harbor and Mt. Tom, the increased price differential between oil and coal, and application of the state's revised Franchise Tax.

Based on the record, the N.H. PUC will accept GSEC's proposal fourth quarter OCA rate of $0.214/100 KWH.

Our Order will issue acordingly.

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ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the Commission in correspondence dated March 2, 1982, sent to the New Hampshire Electric Cooperative, Inc., Granite State Electric Company, Connecticut Valley Electric Company Inc., Exeter and Hampton Electric Company, Municipal Electric Department of Wolfeboro, Concord Electric Company, Woodsville Power and Light Department, and Littleton Water & Light Department by the Commission's Executive Director and Secretary in relation to DR 82-59, notified the utilities that the Commission will not automatically schedule FAC hearings for those utilities which file monthly unless requested or needed by one of those utilities; and the Commission would not automatically schedule FAC rate;

WHEREAS, no utility maintaining a monthly FAC requested a hearing scheduled; and

WHEREAS, this is not one of the two off months for quarterly FAC utilities, hearings were held for Concord Electric Company, Exeter & Hampton Electric Company, and Granite State Electric Company; it is

ORDERED, that the Commission in DR 81-340, Third Supplemental Order No. 15,986, dated November 10, 1982 (67 NH PUC 784), of the N.H. Electric Cooperative, Inc. rolled the cost of fuel on an estimated forward looking basis into base rates thus eliminating the lagging Fuel Adjustment Clause and resulting in more stable and comprehensible rates; and

WHEREAS, the rolled in rate will remain in effect for approximately one year, as revised in DR 83-143, Order No. 16,527 (68 NH PUC 468), unless a hearing is requested by any party, no new rate will be stated for the New Hampshire Electric Cooperative, Inc. in this month's FAC order; and it is

FURTHER ORDERED, that 12th Revised Page 19A of Concord Electric Co. tariff, N.H. PUC No. 8 — Electricity is hereby denied; and it is

FURTHER ORDERED, that 13th Revised page 19A of Concord Electric Co. tariff N.H. PUC No. 8 — Electricity, providing for a fuel surcharge of $1.186/100 KWH for the months of October, November, and December, 1983, be, and hereby is, permitted to go into effect for the month of October, 1983; and it is

FURTHER ORDERED, that 12th Revised page 19A of Exeter & Hampton Electric Co. tariff, N.H. PUC No. 15 — Electricity, is hereby denied; and it is

FURTHER ORDERED, that 13th Revised page 19A of Exeter & Hampton Electric Co. tariff, N.H. PUC No. 15 — Electricity, providing for a fuel surcharge of $1.30 per 100 KWH for the months of October, November, December, 1983, be, and hereby is, permitted to go into effect for the month of October, 1983; and it is

FURTHER ORDERED, that 7th Revised Page 57 of Granite State Electric Co. tariff, N.H. PUC No. 10 — Electricity, providing for an oil conservation adjustment of 21.4 cents ($0.214) per 100 KWH for the months of October, November, and December, 1983, be, and hereby is, permitted to go into effect for October 1983; and it is

FURTHER ORDERED, that 8th Revised Page 30 of Granite State Electric Co. tariff, N.H. PUC No. 10 —

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Electricity is hereby denied; and it is

FURTHER ORDERED, that 9th Revised page 30 of Granite State Electric Co. tariff, N. H. PUC No. 10 — Electricity, providing for a fuel surcharge for the months of October, November, and December, 1983, of $1.863/100 KWH be, and hereby is, permitted to go into effect for October, 1983; and it is

FURTHER ORDERED, that 33rd Revised page 11B of the Municipal Electric Department of Wolfeboro tariff, N.H. PUC No. 6 — Electricity, providing for a fuel surcharge of $3.48 per 100 KWH for the month of October 1983, be, and hereby is, permitted to become effective October 1, 1983; and it is

FURTHER ORDERED, that 85th Revised page 10B of Woodsville Water and Light Department tariff, N.H. PUC No. 3 — Electricity, providing for a fuel surcharge credit of ($0.85) per 100 KWH for the month of October, 1983, be, and hereby is, permitted to become effective October, 1983; and it is

FURTHER ORDERED, that 82nd Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, N.H. PUC No. 4 — Electricity, providing for an energy surcharge credit of ($0.51) per 100 KWH for the month of October, 1983, be, and hereby is, permitted to become effective October 1, 1983.

The above noted rates may be adjusted by a factor of approximately 1% depending upon the utility's classification in the Franchise Tax docket DR 83-205, Order No. 16,524 (68 NH PUC 461).

By Order of the Public Utilities Commission of New Hampshire this third day of October, 1983.

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NH.PUC*10/04/83*[79768]*68 NH PUC 575*Small Power Producers and Cogenerators

[Go to End of 79768]

Re Small Power Producers and Cogenerators

DE 83-62, Fifth Supplemental Order No. 16,664

68 NH PUC 575

New Hampshire Public Utilities Commission

October 4, 1983

MOTION for rehearing to clarify an interim order on cogeneration; granted.

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1. COGENERATION, § 27 — Rates — Capacity purchases — Buy-out provision.

[N.H.] The commission found a "buy-out" provision in a capacity purchase agreement, whereby a qualifying facility could buy out of the arrangement prior to its expiration through the payment of a carrying charge and a charge representing the difference

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between QF capacity and energy costs and subsequent replacement capacity and energy costs, to be reasonable because the inclusion of the long-term capacity payback was sufficient to make ratepayers whole. p. 577.

2. COGENERATION, § 17 — Operating practices — Contracts — Voluntariness as a factor.

[N.H.] In order to protect ratepayers, the commission directed qualifying facilities to enter into written interconnection agreements with a public utility, finding that although it cannot force a QF to voluntarily enter a contract, a regulatory requirement of some type of writing can serve as a proxy for a contract where the element of voluntariness is missing. p. 578.

3. ORDERS, § 10 — Modification — Of interim order — Transactions under interim order.

[N.H.] The commission stated that a final order may modify any term or provision of an interim order, but any parties who elected to transact business under the interim order prior to the time a superseding order is issued will continue to be governed by the terms of the interim order. p. 579.

4. RATES, § 321 — Electric — Kilowatt-hour rates — Ceiling.

[N.H.] he commission ruled that a kilowatt-hour rate ceiling issued in an interim order was not an absolute ceiling forever but could be allowed to escalate by a certain percentage per year. p. 580.

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APPEARANCES: as previously noted.

BY THE COMMISSION:

REPORT

On September 2, 1983, the Commission issued Report and Fourth Supplemental Order No. 16,619 (68 NH PUC 531) (Interim Order) which *inter alia* established interim long-term rates for the purchase of capacity and energy by Public Service Company of New Hampshire (PSNH) from Qualifying Facilities (QFs). On September 15, 1983, PSNH filed a Motion to Clarify the Interim Order. On September 22, 1983, PSNH filed a Motion for Rehearing pursuant to RSA 541:3. After due consideration, we have decided to address certain aspects of PSNH's Motion for Rehearing and Motion for Clarification.[1(58)] To the extent that we do not expressly address any aspect of either Motion, those Motions will be denied.

MOTION FOR REHEARING

In its Motion for Rehearing, PSNH averred that the Interim Order is unlawful, unjust or unreasonable in ten areas. Many of the areas raised by PSNH were previously raised in PSNH's Trial Memorandum on Interim Rates for Small Power Producers, PSNH's Reply Memorandum on Interim Rates for Small Power Producers and in PSNH Objections and Exceptions during the course of the proceedings. We believe that all of PSNH's previously raised concerns have been carefully considered and fully addressed in the Interim Order. The analysis contained in the Interim Order is complete and need not be supplemented in this Order. Accordingly, PSNH's Motion, to the extent that it reiterates previously raised objections and arguments, is denied.

PSNH's Motion for Rehearing raises several additional concerns which had not been previously presented to the Commission. Those concerns pertain

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to the "buy out" methodology and the issue of written interconnection agreements between QFs and PSNH. We shall address each of those concerns.

"Buy Out" Methodology

[1] PSNH has raised several new concerns regarding the "buy out" methodology. Those concerns are both procedural and substantive. The procedural issue is whether there was adequate notice to allow adoption of a 60 day "buy out" provision in our Interim Order. The substantive issue is whether the "buy out" formula leaves the ratepayers "whole" in that it does not allow for PSNH recovery of certain capacity expenditures. We shall initially address PSNH's substantive objection.

PSNH has argued, in effect, that ratepayers are not left "whole" by the "buy out" methodology because there is no provision for recovery of the capacity component of the "front end" loaded cost. In essence, PSNH is stating that, by virtue of a QF long-term commitment, it is able to avoid certain long-term capacity costs. To the extent that a QF buys out of the arrangement prior to its expiration, PSNH suffers some loss of capacity value because it could not rely on QF power for the remainder of the period.

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The Commission recognizes that PSNH should be concerned about recovery of all "front end" loaded costs when a QF seeks to buy out of an arrangement. However, the "buy out" methodology adopted by the Commission in its Interim Order already includes a payment for capacity. That methodology calculates the buy out rate as the difference between the capacity and energy payments received by the QF and PSNH's actual short-term capacity and energy costs as determined by the Commission plus a "carrying charge" for that amount which equals PSNH's rate of return.

2(59) Since the long-term capacity value of the QF's commitment should be represented by the difference between the long-term and short-term capacity rates, the buy out formula keeps PSNH's ratepayers "whole" by including a long-term capacity pay-back.[3(60)] Accordingly, we will deny PSNH's Motion for Rehearing on this issue.[4(61)]

After addressing PSNH's only substantive objection, we will now turn to the procedural issue. PSNH's procedural objection was directed at the issue of whether the commission provided adequate notice of the buy out methodology. The buy out methodology was an attempt by the Commission to be responsive to PSNH's concerns about the meaning of an interim order while also addressing the need to set immediately a conservative long-term rate which would be workable for QFs. E.g., Interim Order (68 NH PUC at p. 535). It was also an attempt to address PSNH's concerns regarding its risk exposure

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on a front end loaded rate. E.g., Interim Order (68 NH PUC at p. 543). By definition, the buy out methodology leaves PSNH's ratepayers whole; in fact, the Commission went further than PSNH itself in an analogous circumstance for the sole purpose of ensuring that the methodology would be fair to ratepayers. E.g., Interim Order (68 NH PUC at p. 544, footnote 10). Since there exists adequate record support for the methodology, since it was implemented to address concerns raised by PSNH in the course of the proceeding and because of the reasons already articulated in this and the Interim Order, we will deny PSNH's Motion for Rehearing on this ground.

Written Interconnection Agreements

[2] PSNH claimed that the procedures adopted in the Interim Order for the purpose of safeguarding PSNH and its ratepayers are inadequate. In particular, the Company requested that the Commission require QFs to enter into a written interconnection agreement with PSNH. (Motion for Rehearing at paragraph 7.) We believe that the purposes to be served by a written interconnection agreement are reasonable. While we are uncertain about whether we can require any party to voluntarily enter into a contract, we believe that regulatory requirements can serve as a proxy for contract where the element of "voluntariness" is missing. *Cf.*, Federal Energy Regulatory Commission commentary on PURPA § 210 regulations, 45 Federal Register 12224 (February 25, 1980) reproduced at PSNH Direct Testimony of July 22, 1983, Exh. 3, Attachment 2 ("Use of the term 'legally enforceable obligation' is intended to prevent a utility from circumventing the requirement that provides capacity credit for an eligible qualifying facility merely by refusing to enter into a contract with the qualifying facility."). Thus the Commission

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will require execution of a written interconnection agreement as a requirement of its Interim Order. Such a written interconnection agreement should specify the rights and obligations of PSNH and the QF and should require that PSNH be provided with sufficient technical information so that it can assess the impact of the interconnection on its system.

Accordingly, we shall direct PSNH to file a form for a written interconnection agreement within 30 days of this Order. That form will be reviewed to determine whether it is consistent with this Order, the Interim Order and the interconnection guidelines specified at Re Small Power Producers and Cogenerators (1981) 66 NH PUC 83. Upon approval of the form, QFs will be required to file with the Commission an executed agreement consistent with that form as a part of its filing under the Interim Order.

MOTION FOR CLARIFICATION

We have considered the questions raised in PSNH's Motion for Clarification and, in the interest of smooth implementation of the Interim Order, we have decided to address certain of those issues.5 Our decision to address those issues should not be construed as our acceptance of the assumption that

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any of the provisions of the Interim Order are unclear.

In its Motion, PSNH sought clarification of ten issues. Many of its questions approached the same issue from different directions. Accordingly, we shall consolidate our responses to address the inquiries on an issue-by-issue basis.

Interim Nature Of Order (Motion For Clarification, Paragraphs 1, 2, 3, 4, 5)

[3] PSNH has requested clarification of whether the Interim Order is modifiable in all respects by the Final Order in this docket. It is the Commission's intent not to foreclose the parties from addressing any relevant issue in the remaining proceedings in this docket. Thus, all of the provisions of the Interim Order may be modified. However, it is important to distinguish between the *terms* of the Interim Order, which are fully modifiable, and the *applicability* of the Interim Order, which will continue to govern the relationship of PSNH and any QF who has elected to be subject to its terms.

When the above distinction is recognized, many of PSNH's questions are resolved. The Final Order may modify any provision of the Interim Order based on the record before us. However, those QFs who have elected to sell power to PSNH under the Interim Order prior to the time a superseding Order is issued will continue to be governed by the terms of the Interim Order. Those terms include, *inter alia,* the rates and the "buy out" provision. Thus, a QF selling under the Interim Order will not be able to take advantage of the rates established by the Final Order unless that QF takes steps to terminate the applicability of the Interim Order pursuant to its terms. Those steps include 60 days notice and making applicable payments to PSNH under the "buy out" provision to ensure that PSNH's ratepayers are left whole.6 When the Interim Order is no longer applicable, the QF is free to take advantage of any then effective Commission Orders.

Filing Requirements (Motion For Clarification, Paragraphs 6 and 7)

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PSNH requested the Commission to specify what has to be filed and what standards of review will be applied. The Commission believes that the terms of its Interim Order are sufficiently clear as they pertain to the pricing provisions of the arrangement and that this Report and Order is clear as to the technical requirements. See also, Re Small Power Producers and Cogenerators (1981) 66 NH PUC 83. In addition, after specifying the standards to be applied, the Commission is reluctant to write what will, in effect, be used as a contract between the QF and PSNH. Accordingly, we have directed the parties to file with the Commission the terms they believe must be applicable to the long term power market in transaction. To the extent that the parties agree, such agreement would supercede any inconsistent Commission terms. To the extent that the parties do not agree, the QF and PSNH may each file their preferred language and the Commission will make a determination as to which alternative is more consistent with applicable

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Commission standards and guidelines.

PSNH Obligation To Challenge Feasibility (Motion For Clarification, Paragraph 8)

PSNH requested clarification as to whether it is obligated to challenge the financial and economic feasibility of any long term applicant. PSNH also requested clarification of the mechanism, if any, by which it may obtain information to determine whether such a challenge is warranted.

The Commission in its Interim Order noted that the judgment of the project's financiers will be deemed, in effect, *prima facie* evidence of feasibility. If PSNH wishes to challenge this evidence, it may do so. The Commission has assumed that PSNH will have adequate access to information about the QF to make a decision as to whether a challenge is warranted through its preliminary contractual discussions with the QF or through other sources of information.7 In addition, PSNH will have access to information through the written interconnection agreement required by this Order. If further information is necessary, the Commission will consider directing a QF to respond to reasonable specific PSNH inquiries submitted in the form of data requests.

Applicability of 9¢ /Kwh Ceiling

[4] PSNH requested clarification of whether the 9¢ /Kwh ceiling is applicable to the entire term of the obligation or only to the first year. The Commission recognizes that its Order may require clarification in this area. The Commission imposed the ceiling for the purpose of limiting the risk exposure of PSNH's ratepayers. That risk exposure does not change significantly if the ceiling is allowed to escalate at the PSNH escalation factor of 6.7%. It would, however, gradually change and disappear in real terms if the Commission's Order were construed to maintain the ceiling at 9¢ /Kwh in nominal terms. Accordingly, for the purpose of the Interim Order, the 9¢ /Kwh ceiling will be allowed to escalate at 6.7% per year.

ADDITIONAL CLARIFICATION

Several additional issues which may require clarification have been brought to the attention of the Commission. In the interest of facilitating a smooth implementation of the Interim Order,

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we will address those issues here. Those issues are the commencement date for the interim long term rate and several minor errors in the calculation of the long term rates established in the Interim Order at 20.

Commencement Date

Several QFs have raised the question of what happens to a QF which begins operation on a date other than January 1. The Interim Order indicates that for purposes of calculating the rate, any QF which begins operation prior to June 30 is to be considered as operating for the full year and any QF which begins operating after July 1 is not considered to be in operation until the next year. Although that procedure provides for

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the appropriate calculation of a rate, it does not reflect what will occur in reality. Accordingly, for the purpose of interim rates, the Commission will provide that QFs may take the appropriately calculated long term rate immediately, with specified annual price changes occurring on the facilities' anniversary dates. Although this method has the disadvantage of adversely affecting QFs which commence operation between July 1 and December 31,8 it should not involve large amounts of dollars and it does have the advantage of simplicity.

Calculation Of Long Term Rates

Attached to this Order as Appendix A is a Long Term Rate Worksheet which will enable PSNH and QFs to calculate an acceptable tong term arrangement under the Interim Order. Several of the avoided cost figures contained in Appendix A vary from those set forth in the Interim Order (68 NH PUC at p. 542). The figures have been amended to correct for a transposition error in year 1984, three rounding errors in years 1989, 1991 and 1999, and a summation error for the 1983 ten year arrangement.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report and Appendix A thereto, which is made a part hereof; it is

ORDERED, that Public Service Company of New Hampshire's motion for Rehearing is granted as it pertains to written interconnection agreements as provided in the foregoing Report; and it is

FURTHER ORDERED, that Public Service Company of New Hampshire shall file a form written interconnection agreement within 30 days as provided in the foregoing Report; and it is

FURTHER ORDERED, that Public Service Company of New Hampshire's Motion for Rehearing is denied in all other respects; and it is

FURTHER ORDERED, that Public Service Company of New Hampshire's Motion for Clarification is granted in part and denied in part as provided in the foregoing Report; and it is

FURTHER ORDERED, that Fourth Supplemental Order No. 16,619 (68 NH PUC 531) is further clarified as provided in the foregoing Report and Appendix A.

By Order of the Public Utilities Commission of New Hampshire this fourth day of October, 1983.

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[Graphic Not Displayed Here]

FOOTNOTES

[1] The Commission is concerned about whether it should address a Motion for Rehearing from what is, in effect, an interlocutory Order. However, since the Order will govern the relationship between PSNH and those QFs who elect to be subject to its terms, we believe that it is reasonable to rule on the Motion.

[2] The "buy out" methodology may be represented as:

Pmt = (1 + r) [(Ep + Cp) — (Ea + Ca)]

Pmt = Buy out payment.

r = PSNH's overall rate of return.

Ep = Total amount paid by PSNH to QF for energy.

Cp = Total amount paid by PSNH to QF for capacity.

Ea = Actual Commission established short-term energy rate multiplied by the number of Kwh purchased by PSNH.

Ca = Actual Commission established short-term capacity rate multiplied by the number of Kwh purchased by PSNH

[3] We note that the Commission has already adopted a short-term capacity rate of .5¢ /Kwh. Re Small Energy Producers and Cogenerators (1980) 65 NH PUC 291, 299, 300. To the extent that the long-term rate established in the Interim Order does not exceed that short-term rate, it demonstrates a PSNH "bias" in that it does not compensate a QF for the long-term value of capacity. This issue will be examined further in the remaining part of this docket.

[4] To the extent that we have here set forth the "buy out" formula, we have also addressed PSNH's request that the Commission specify how the buy out rate is to be calculated. PSNH Motion for Clarification at Paragraph 10.

[5] This portion of the Report also addresses PSNH's contention in its Motion for Rehearing at paragraph 8 that our Interim Order was nuclear.

[6] The Commission's concern with the termination procedure is that the ratepayers be left whole from any frontloading which may have occurred. Thus, so long as the QF makes the applicable "buy out" payments and provides notice, it may terminate the terms of the Interim Order for any reason whatsoever.

[7] *See e.g.*, Tr. 4-66 to 67 (Proposed wind tunnel project). The Commission expects that PSNH would direct its challenges to projects that are similar to the one described therein.

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8 Those disadvantaged QFs always have the option of selling at the short term rate until a specified date and then moving to the long term arrangement.

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NH.PUC*10/05/83*[79769]*68 NH PUC 583*Manchester Water Works

[Go to End of 79769]

Re Manchester Water Works

Intervenors: Four-Town Water Study Committee and Town of Goffstown

DR 81-388, Fourth Supplemental Order No. 16,674

68 NH PUC 583

New Hampshire Public Utilities Commission

October 5, 1983

COMPLAINT by municipalities as to a water company's semiannual billings; authority to bill semiannually rescinded.

RATES, § 619 — Water — Fire protection — Annual versus semiannual basis.

[N.H.] Because there appeared to be some confusion as to whether a water company's new semiannual fire protection billings were computed "in arrears" or "in advance," the commission rescinded its authorization for semiannual billing and ordered the company to bill its customers on a prospective, annual basis.

APPEARANCES: Alice Briggs for the petitioner; Armand Dugas for the Four-Town Water Study Committee; Robert Wheeler, selectman, for the Town of Goffstown.

Before Iacopino, commissioner, dissenting.

BY THE COMMISSION:

REPORT

This Commission, in DR 81-388, allowed Manchester Water Works (Manchester) to change its billing cycle for municipal fire protection from an annual to a semi-annual charge and in addition, ordered that the increase allowed in fire protection revenues be applied only to the hydrant charge.

In January, 1983, Manchester issued its bills for this service to the surrounding franchised towns with the explanation that this was for service rendered during 1982 in "arrears" and that beginning in July of 1983, semiannual billing would begin for service rendered from January 1, 1984 to June 30, 1983, and continue similarly thereafter.

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The issue was then raised by the Town of Goffstown that since 1975, Manchester has been billing in January of each year for service to be rendered during the coming year, or billing in "advance". The "Four Town Water Study Committee", and the Town of Auburn have also joined in this opinion. A review of the bills submitted from 1975 through 1982 seem to indicate that the bills were submitted for the current year or in advance.

Manchester has now examined its records back to the date when municipal fire protection was first provided and submits that these records show that the service was provided

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and payment received after the fact or billing in arrears, from the beginning.

We will accept Manchester's position that billing for this service is and has been in arrears. However, the confusion generated by this issue leads us to conclude that Manchester should continue with annual billing for municipal fire protection with any desired change to more frequent billing to be a subject of discussion at future rate proceedings.

Any approval or authority for semiannual billing derived from Docket DR 8 1-388 and Order Nos. 15,702 (67 NH PUC 387) and 15,994 (67 NH I PUC 807), is hereby rescinded.

Our Order will issue accordingly.

IACOPINO, commissioner, dissenting: I respectfully dissent from that portion of the Report that rescinds semi-annual billing for the reason that a review of the record and transcript clearly demonstrates that the issue was heard and resolved in favor of the petition. The proper remedy for the Towns affected is to request relief from payments due pursuant to the Order, and to have the Commsision approved payments over a one or two year period: that would get the municipalities through their current budget year thereby providing an opportunity to address the matter at an appropriate town meeting.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that Manchester Water Works shall file a new tariff Page 25 specifying that bills for municipal fire protection shall be rendered annually; and it is

FURTHER ORDERED, that the semi-annual bills issued on July 6, 1983 to the Towns of Goffstown and Bedford are hereby suspended and the bills issued on January 24, 1983 are due and payable in full.

By order of the Public Utilities Commission of New Hampshire this fifth day of October, 1983.

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NH.PUC*10/05/83*[79770]*68 NH PUC 585*Telephone Utilities

[Go to End of 79770]

Re Telephone Utilities

Intervenors: New England Telephone and Telegraph Company, Granite State Telephone Company, Union Telephone Company, Kearsarge Telephone Company, Meriden Telephone Company, and Dunbarton Telephone Company

DR 83-237, Order No. 16,677

68 NH PUC 585

New Hampshire Public Utilities Commission

October 5, 1983

INVESTIGATION into the sale of customer premises equipment to multiparty subscribers.

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1. SERVICE, § 440 — Telephone — Customer premises equipment — Multiparty lines.

[N.H.] Because of the potential for incompatibilities arising from the attachment of subscriber-owned customer premises equipment by party-line customers, such as billing problems, ringing discrepancies, and one party or answering machines tying up the lines, the commission chose not to encourage the purchase of customer premises equipment in the marketplace by multiparty subscribers, but it said that each telephone company could arrange such sales on a case-by-case basis after providing guidance to the prospective purchaser. p. 587.

2. SERVICE, § 440 — Telephone — Customer premises equipment — Multiparty lines.

[N.H.] The commission found it would be in the public interest to allow telephone companies to sell in-place customer premises equipment to multiparty customers since such sales would not create any technical incompatibilities. p. 587.

APPEARANCES: Jeanne S. Conroy for New England Telephone and Telegraph Company; William R. Stafford for Granite State Telephone Company; Wallase J. Flaherty for Union Telephone Company; Richard N. Brady for Kearsarge Telephone Company and Meriden Telephone Company; Peter Montgomery for Dunbarton Telephone Company.

BY THE COMMISSION:

REPORT

On August 9, 1983, this Commission issued its Order No. 16,579 establishing Docket DR 83-237 for the purpose of investigating the following:

> 1. Allowing multi-party customers to purchase and attach CPE to the network; 2. Require a serving telephone utility to provide a service of making such modifications as are necessary to assure compatibility of multi-party CPE with the network; and 3. Require telephone utilities to sell in-place sets to customers.

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A hearing was set for 10 a.m., August 30, 1983, at the Commission's Concord offices. Public notice of this hearing appeared in THE UNION LEADER as prescribed by said order.

Attorney Conroy of New England Telephone presented as the Company's witness Walter J. Haug, Division Manager in the Pricing and Costing Division. Mr. Haug summarized his prefiled testimony, indicating that New England Telephone's concerns included fear of technical incompatibility and lack of customer understanding of the multi-party system. To remedy these, he added that study was underway by the Company such that a plan would be devised in the third quarter so that necessary tariff filings could be processed for effect on January 1, 1984. He suggested the Company work closely with the Commission to assure that technical specifications be compatible with the network and the customer adequately made aware of the post-divestiture environment. (Note that in a subsequent memorandum filed by Attorney Conroy on September 14, 1983, New England Telephone indicated a willingness to expedite its plan for filing on September 30, 1983, such plan to incorporate details for sale of in-place, multi-party equipment.

William R. Stafford, Granite State Telephone's witness, indicated 96% of his company's customers had modular wiring, and sales of deregulated CPE had been made to 81 customers. He noted that these had been one-party customers, but that there had been several requests for purchase by the company's multi-party customers. He indicated each of these had been upgraded to one-party service, and indicated the small numbers of such customers desiring to purchase equipment would be a minimal problem to the company and could be handled individually to ensure technical compatibility. He indicated his company agreed with the sale of in-place equipment and suggested a reasonable warranty accompany such sales. Requirements for the telephone company to modify customer-owned equipment should be flexible, with the company determining which equipment it should modify.

Wallase J. Flaherty of Union Telephone revealed that multi-party customers comprise 29% of Union's total. Other companies had indicated their percentage of multi-party customers reached about seven to fifteen percent. Even with this high percentage, which he attributed to the seasonal nature of Union's territory, Mr. Flaherty testified his company had been allowing customer purchase of equipment for multi-party lines, making modifications for a tariffed "maintenance of service" charge. He indicated that this fee had been charged 28 times during the past twelve months. Union is concerned with the non-standard items, such as cordless telephones and answering devices; and urged the Commission to make modification service discretionary, subject to companies' ability to make modifications and customers' willingness to pay for them.

Union indicated it was selling in-place telephones upon request of the customer. Mr. Flaherty stated his Company had sold 206 such telephones since June 1, 1983 — about 4.5% of its total. He urged continuing these sales at competitive prices, with net book value as the bottom line.

Speaking for Kearsarge and Meriden Telephone Companies, Richard

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N. Brady indicated those companies had small numbers of multi-party customers and expected no problems with the sale of in-place equipment. He was concerned with technical problems arising from customer-provided CPE being used on multi-party lines, and being required to modify that equipment. Both companies were concerned with development of

technical standards for multi-party equipment, and the education of customers on equipment limitations.

COMMISSION ANALYSIS

1) *"Allowing multi-party customers to purchase and attach CPE to the network".*

[1] All witnesses expressed concern regarding the technical incompatibilities which could arise from widespread attachment of CPE by party-line customers. Of significance were the billing and ringing discrepancies. Possibilities also exist for one party seizing the line with his equipment and depriving other parties of their telephone service. Invasion of privacy through answering machines which could not distinguish the called party also presents a serious problem. Consequently, each witness urged caution be exercised in allowing equipment connection, and recommended the companies work closely with this Commission to develop technical standards for multiparty CPE. The Commission finds the arguments of technical incompatibilities preclude encouragement of purchases from the marketplace for multiparty lines. It recognizes, however, the need to offer party-line customers the same opportunities as one-party customers in installing compatible equipment. Accordingly, each telephone utility is directed to work with those multi-party customers desiring to purchase equipment on a case-by-case basis, providing guidance on such purchases.

2) *"Require a sending telephone utility to provide a service of making such modifications as are necessary to assure compatibility of multi-party CPE with the network".*

Each witness expressed fear that his company would be required to modify any and all CPE which is available on the marketplace. Much of this equipment available today cannot be modified; that which could be modified might require the companies to maintain exhaustive stocks of parts. With CPE handled on a deregulated basis, the Commission finds the objections to required modification justified. Should circumstances warrant such below-the-line service be provided, the extent of same must be determined by the telephone company involved.

3) *"Require telephone utilities to sell in-place sets to customers".*

[2] Initially, New England Telephone objected to the sale of in-place, multi-party CPE to its customers. While acknowledging that technical incompatibilities were eliminated with such sales, the Company appeared overly concerned with the possibility of the buyer relocating and finding his instrument inoperative at his new location. (As noted earlier in this report, a memorandum from New England Telephone to all parties subsequent to the hearing revealed that the Company planned to file with the Commission by September 30, 1983 a plan for such

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in-place sales.) Granite State, Kearsarge, Meriden, and Union Telephone Companies expressed no problems with in-place sales. Based upon these facts, the Commission finds it in the public interest to offer technically compatible equipment for sale to multiparty customers. While a possibility exists that some or all of these potential buyers may relocate at some time in the future, each selling utility should provide some guidance to them on the possibilities of incompatibility at the new location. With knowledge of the possibility of an inoperative instrument at a new location, the customer should be capable of deciding if the purchase is

correct.

Our order will issue accordingly.

ORDER

In consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that, should any multiparty customer of New Hampshire's telephone utilities desire purchase of CPE from the marketplace, each of these utilities will provide guidance to said customer on compatibility of his purchase with the network; and it is

FURTHER ORDERED, that, should any New Hampshire telephone utility undertake to modify customer-provided CPE, such effort will be on a deregulated basis, the scope of which to be determined by the utility involved; and it is

FURTHER ORDERED, that, effective on the date of this Order, each New Hampshire telephone utility make available for sale to its multiparty customers the CPE currently in use, said CPE to be sold at a competitive price, but not below net book value; and carry a 30-day guarantee; and it is

FURTHER ORDERED, that utilities advise each potential buyer of inplace multi-party CPE of problems with said equipment that the buyer may face upon relocation to new premises.

By order of the Public Utilities Commission of New Hampshire this fifth day of October, 1983.

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NH.PUC*10/06/83*[79771]*68 NH PUC 588*Merrimack County Telephone Company

[Go to End of 79771]

Re Merrimack County Telephone Company

DR 83-82, Order No. 16,679

68 NH PUC 588

New Hampshire Public Utilities Commission

October 6, 1983

PETITION by a telephone company to increase its service connection charges; granted.

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APPEARANCES: Alderic O. Violette, president and general manager and Owen French, accounting supervisor, for Merrimack County Telephone Company.

BY THE COMMISSION:

REPORT

On February 18, 1983, Merrimack County Telephone Company filed with this Commission certain revisions to its Tariff No. 7 proposing the increase of various service connection charges, alleging that said increases would more closely match costs for such services. The proposal was to become effective on March 21, 1983; but, to allow adequate review of the filing, and investigation of the costs and proposed charges, the filing was suspended by Commission Order No. 16,279, issued on March 18, 1983.

That investigation, including an audit by Finance Department personnel, was completed and an Order of Notice issued on July 11, 1983 setting the matter for hearing at the Commission's Concord offices on September 8, 1983 — subsequently continued to September 9, 1983 at 10 a.m. because of Commission conflicts.

The duly-noticed hearing was convened at the appointed time and place with no intervenors present.

In his statement filed as Exhibit No. 1, Alderic O. Violette, President and General Manager of Merrimack County Telephone Company, indicated that this was the Company's second request to increase its service connection charges since January 1978. He indicated that the Company had held the line on these charges despite the fact that costs for such services had increased. Returns in toll settlements had increased through the Company's conversion to a cost settlement basis, so it had not felt the need to increase these connection charges. Realizing that its charges were far behind those of similar telephone companies, a revision was filed with the Commission, and granted on August 1, 1982. Subsequent study of its 1982 service orders prompted the instant filing.

While the charges being filed are not based entirely on formal time studies, the Company alleges that its study of service orders and the associated work in 1982 had given it an average cost for each element. The letter of transmittal for the filing, with its attachments explaining this averaging, was entered as Exhibit No.3. Cross-examination on this exhibit did reveal that certain costs for outside wiring had been capitalized, so the overall cost was reduced. This in turn reduced the average cost per service order from the stated $70.28 to approximately $59.00 — still above the $55.50 proposed.

After reviewing the record, the Commission finds that the increase of connection charges to more closely track costs is in the public interest, and will direct that the suspension be lifted and the filing allowed.

Our order will issue accordingly.

ORDER

In consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that the suspension imposed by this Commission's Order No. 16,279, dated March 18, 1983, be, and hereby is, removed; and it is

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FURTHER ORDERED, that the -following revisions to Merrimack County Telephone Company tariff, NHPUC No. 7 — Telephone, be, and hereby are. rejected:

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Contents — 3rd Rev. Pg. 3 Index — 1st " "5 2nd " "3 4th " "2 Pt. III, Sec. 5, 1st Rev. Pgs. 4 and 5 " 25, 2nd " " 4 " 5 " 30, 1st " Pg. 5 Prt VI, Sec. 1, 2nd Rev. Pg. 4 " 2, " " " 1 " 5, Orig. Pgs. 1-3, and " 6, " Pg. 1;

and it is

FURTHER ORDERED, that the following pages be filed in lieu of those rejected, said pages to bear an effective date coincident with the date of this Order and to also bear the notation "Authorized by NHPUC Order No. S in case DR 83-82, dated

Contents — 4th Rev. Pg. 3 Index — 2nd " " 5 3rd " " 3 5th " " 2 Pt. III, Sec. 5, 2nd Rev. Pgs. 4 and 5 " 25, 3rd " " 4 " 5 " 30, 2nd " Pg. 5 Pt. VI, Sec. 1, 3rd Rev. Pg. 4 " 2, 3rd " " 1 " 5, 1st " Pgs. 1-3, and " 6, " " Pg. 1.

By order of the Public Utilities Commission of New Hampshire this sixth day of October, 1983.

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NH.PUC*10/06/83*[79772]*68 NH PUC 590*Continental Telephone Company of New Hampshire, Inc.

[Go to End of 79772]

Re Continental Telephone Company of New Hampshire, Inc.

DR 83-98, Supplemental Order No. 16,681

68 NH PUC 590

New Hampshire Public Utilities Commission

October 6, 1983

PETITION by a telephone company to increase its service connection charges; rejected.

RATES, § 309 — Installation and connection charges — Telephone — Basis for increase.

[N.H.] The commission rejected a telephone company's proposed increase in service connection charges, finding that the company had been earning a reasonable rate of return, that no additional revenues were warranted, and that it would be unfair to allow a substantial increase in one tariff charge without a corresponding reduction in other charges.

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APPEARANCES: Orr and Reno by Thomas C. Platt, III for Continental Telephone Company of New Hampshire, Inc.; Eugene Sullivan, Sarah Voll, and Edgar Stubbs for the staff of the New Hampshire Public Utilities Commission.

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BY THE COMMISSION:

REPORT

On March 8, 1983, Continental Telephone Company of New Hampshire, Inc. ("Continental" or "Company") filed a tariff revision proposing increases to its service connection charges. By Order No. 16,289 (March 22, 1983) the Commission suspended the proposed tariff pending investigation and decision thereon. An Order of Notice was issued on July 11, 1983 setting a hearing for September 8, 1983. At the hearing, Continental presented two witnesses and Exhibits No. 1, 2, 4 and 5. Exhibit No. 3 was reserved for late filed material which was duly submitted on September 21, 1983.

The company is proposing an increase to its service connection charges of 165.2% which would have the effect of increasing revenues by an estimated $75,527. Continental is not planning to offset this $75,527 increase by corresponding decreases in other elements of its rate structure. (Tr. at 14). The Company's witness stated that the increase is justified on the basis of the cost of service connections.

After due consideration, the Commission has decided to reject the proposed service connection charge revisions. While we have concerns about whether the proposed charges are an accurate reflection of cost, we have not based our decision on that issue. Rather, we do not believe that the record is sufficient to justify what is, in effect, a $75,527 rate increase.

The Commission last addressed the issue of an appropriate level of revenues for Continental in 1976. See. Re Continental Teleph. Co. of New Hampshire, Inc. (1976) 61 NH PUC 118. There, we allowed a rate of return on equity of 13.5% and an attrition allowance of two tenths of one percent. (61 NH PUC at p. 119.) While we applaud a management which has minimized the need to seek rate increases, we also note that the Company is earning a reasonable rate of return (Tr. at 51) which could be as high as 16.6% (Tr. at 11, 49). We are not implying by this analysis that we have a record basis to conclude that the Company's earnings are excessive; rather, the analysis indicates that additional revenues of $75,527 are not warranted.

The instant filing is particularly questionable in view of the fact that the proposed service connection charges would be the highest in the State (Exh.5). While such a charge may in theory be justified on the basis of cost, we cannot examine this tariff item in a vacuum. To allow one tariff item to become cost based without a corresponding reduction in other charges would allow rates to be artifically high in that they would not reflect the elimination of a subsidy. Here, we must be particularly sensitive to the retention of a subsidy which may no longer be appropriate because of the Company's stated intention to remove service connection charges as a regulated service.

In view of the above considerations, we cannot conclude on the basis of the

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instant record that the proposed revenue increase is just and reasonable.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

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Upon consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that Section 12, Fifth Revised Sheet 2, Continental Telephone Company of New Hampshire, Inc. tariff NHPUC No. 11, be, and hereby is, rejected.

By order of the Public Utilities Commission of New Hampshire this sixth day of October, 1983.

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NH.PUC*10/06/83*[79773]*68 NH PUC 592*Continental Telephone Company of New Hampshire, Inc.

[Go to End of 79773]

Re Continental Telephone Company of New Hampshire, Inc.

DR 83-99, Supplemental Order No. 16,682

68 NH PUC 592

New Hampshire Public Utilities Commission

October 6, 1983

ORDER lifting the suspension of a telephone company's sale of customer premises equipment.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, on March 8, 1983, Continental Telephone Company of New Hampshire, Inc. proposed certain revisions to its tariff, NHPUC No. 11 for effect April 7, 1983, said revisions proposing terms under which the Company would sell in-place terminal equipment (customer premises equipment); and

WHEREAS, said filing was suspended by Order No. 16,290 pending investigation and decision thereon; and

WHEREAS, investigation has now shown that said filing is in the public interest; it is

ORDERED, that the suspension imposed by Order No. 16,290 be, and hereby is, lifted, and that Section 1, Third Revised Sheet 9; and Section 2, First Revised Sheets 1 and 15, Continental Telephone Company of New Hampshire, Inc. tariff, NHPUC No. 11, be, and hereby are, effective on the date of this order.

By order of the Public Utilities Commission of New Hampshire this sixth day of October, 1983.

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NH.PUC*10/06/83*[79774]*68 NH PUC 593*Continental Telephone Company of Maine

[Go to End of 79774]

Re Continental Telephone Company of Maine

DR 83-181, Supplemental Order No. 16,683

68 NH PUC 593

New Hampshire Public Utilities Commission

October 6, 1983

ORDER lifting the suspension of a telephone company's sale of customer premises equipment.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, on May 18, 1983, Continental Telephone Company of Maine proposed certain revisions to its tariff, NHPUC No. 4 for effect June 19, 1983, said revisions proposing terms under which the Company would sell in-place terminal equipment (customer premises equipment); and

WHEREAS, said filing was suspended by Order No. 16,439 pending investigation and decision thereon; and

WHEREAS, investigation has now shown that said filing is in the public interest; it is

ORDERED, that the suspension imposed by Order No. 16,439 be, and hereby is, lifted, and that Section 2, 3rd Revised Sheet 1 and 5th Revised Sheet 16; and Section 3, 1st Revised Sheet 10, Continental Telephone Company of Maine tariff, NHPUC No. 4, be, and hereby are, effective on the date of this order.

By order of the Public Utilities Commission of New Hampshire this sixth day of October, 1983.

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NH.PUC*10/07/83*[79775]*68 NH PUC 593*Granite State Telephone Company

[Go to End of 79775]

Re Granite State Telephone Company

DR 83-284, Order No. 16,684

68 NH PUC 593

New Hampshire Public Utilities Commission

October 7, 1983

ORDER approving the tariff relocation of key telephone service and equipment.

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BY THE COMMISSION:

ORDER

WHEREAS, Granite State Telephone filed with this Commission certain proposed revisions to its tariff, NHPUC No. 6 — Telephone, for effect October 1, 1983; and

WHEREAS, said revisions effect the transfer of Key Telephone Service and Equipment from said tariffs current section to one of superseded services; and

WHEREAS, said transfer results from decisions by the Federal Communications Commission under the Computer Inquiry II docket which detariffed such equipment procured by a telephone utility after December 31, 1982; and

WHEREAS, Granite State Telephone's inventory of said equipment as of December 31, 1982 could not support needs of a new customer on a tariffed basis; and

WHEREAS, the Commission finds tariff relocation of key telephone service and equipment consistent with the FCC ruling, and for the public good; it is

ORDERED, that the following pages of the Granite State Telephone tariff, NHPUC No. 6 — Telephone, be, and hereby are, approved for effect October 1, 1983:

Index — 1st Revised Sheet 3 4th " Sheets 1 and 2 Sec. 3 — 1st Revised Sheets 10, 11, 12A through 12E 2nd " Sheets 9B and 12 Sec. 8 — Original Preface Sheet 1 " Sheets 1-15

By order of the Public Utilities Commission of New Hampshire this seventh day of October, 1983.

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NH.PUC*10/07/83*[79776]*68 NH PUC 594*City of Concord Water Department

[Go to End of 79776]

Re City of Concord Water Department

Intervenor: New Hampshire Department of Public Works and Highways

DE 83-278, Order No. 16,685

68 NH PUC 594

New Hampshire Public Utilities Commission

October 7, 1983

PETITION by a municipal water company for authority to construct a water main crossing state-owned land; granted.

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APPEARANCES: John Forrestall, director, for the petitioner; John A. Clements for Department of Public Works and Highways.

BY THE COMMISSION:

REPORT

On August 9, 1983, the City of Concord New Hampshire Water Department (Concord) requested a license to cross state-owned land of the New Hampshire Transportation Authority in order to construct a twelve inch water main in the vicinity of Locke Road in East Concord, New Hampshire.

The Commission issued an Order of Notice on September 2, 1983 directing all interested parties to appear at public hearings at 10:00 a.m. on September 29, 1983 at the Commission's Concord offices. Notices were sent to John Forrestall, Superintendent, City of Concord Water Department, for publication; John Adams, Esquire (B & M); V. R. Terrill, (B & M); John E. O'Keefe, Esquire (B & M); William J. Rennicke, Vice President (B & M); John A. Clements, Commissioner, Department of Public Works and Highways; Thomas A. Power, Director, Division of Motor Vehicles; Concord City Clerk's Office; Timothy Drew, Principal Planner, Office of State Planning and the Office of the Attorney General. An affidavit of publication certifying that notice was published in the Concord Monitor on September 9, 1983 was received in the Commission's offices on September 19, 1983.

Superintendent Forrestall testified that the construction of the twelve inch water main from an existing twelve inch main at Locke Road and crossing land of the New Hampshire Transportation Authority to join an existing main under Interstate 93 is necessary to supplement water service to an Industrial Park located in the vicinity. The Interstate 93 segment is in place. Adequate water supply is available from the City's Penacook Lake facility.

A thirty inch sleeve will be jacked under the state-owned land and a twelve inch ductile iron water main will be installed at a depth of five to six feet to connect the two existing water mains.

Mr. Clements testified that his Department had no objections to the construction, and offered as Exhibit 3, a signed License for Water Main Crossing.

Construction will begin and be completed during the Fall of 1983.

To date there have been no objections to Concord's petition. In fact, no intervenors or interested parties appeared at the hearing.

The Commission finds that approval of a license to place and maintain this twelve inch water main across the public lands of the New Hampshire Transportation Authority in the City of Concord, New Hampshire as described herein to be in the public interest.

Our Order will issue accordingly.

ORDER

Based upon the foregoing Report which is made a part hereof; it is hereby

ORDERED, that authority be granted to the City of Concord Water Department to construct and maintain

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a 12" water main under and across the public lands of the New Hampshire Transportation Authority in the City of Concord, New Hampshire in the vicinity of Locke Road, said installation to be as defined in Petitioner's Exhibit, 1.

By Order of the Public Utilities Commission of New Hampshire this seventh day of October, 1983.

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NH.PUC*10/11/83*[79777]*68 NH PUC 596*Public Service Company of New Hampshire

[Go to End of 79777]

Re Public Service Company of New Hampshire

DF 83-286, Order No. 16,686

68 NH PUC 596

New Hampshire Public Utilities Commission

October 11, 1983

ORDER authorizing the issuance of a note to help finance pollution control facilities.

SECURITY ISSUES, — § 98 — Notes — Purposes — Pollution control financing.

[N.H.] The commission approved an electric company's issuance of a promissory note where the proceeds from the financing would be used to support a pollution control project and its financing.

Before Aeschliman (concurring), commissioner.

APPEARANCES: Frederick J. Coolbroth for the petitioner; Larry M. Smukler for staff.

BY THE COMMISSION:

REPORT

By this unopposed petition filed September 2, 1983, Public Service Company of New Hampshire (the "Company"), a corporation duly organized and existing under the laws of the State of New Hampshire, and operating therein as an electric public utility under the jurisdiction of this Commission, seeks authority pursuant to the provisions of RSA 369 to issue its unsecured promissory note in a principal amount not exceeding $72,500,000 in connection with a pollution control revenue bond financing. A duly noticed hearing was held in Concord on September 27, 1983, at which the Company submitted the testimony of Shelton B. Wicker, Jr., its Manager of Financial Projects.

Mr. Wicker stated that the Company proposes to enter into a pollution control revenue bond financing under which the New Hampshire Industrial Development Authority ("IDA") will

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issue and sell to the public through a negotiated offering not more than $72,500,000 in aggregate principal amount of Pollution Control Revenue Bonds (Public Service Company of New Hampshire Project), 1983 Series A, (the "Bonds") to finance certain costs associated with the Company's ownership share of the storm drainage system, the plant floor drainage oil/water separation system, the sanitary waste treatment system and the circulating water system at the Seabrook plant (the Company's ownership share in such systems being hereinafter referred to as the "Project"). The Bonds are proposed to be issued under an Indenture to State Street Bank & Trust Company, Trustee. All payments of principal of and premium and interest on the Bonds will be limited obligations of the IDA and, except to the extent payable from Bond proceeds and income from the temporary investment thereof, will be payable solely from monies received from the Company under the Loan Agreement hereinafter described. The Bonds will not be general obligations of the State of New Hampshire, and neither the general credit nor the taxing power of the State or any subdivision thereof, including the IDA, will be pledged to secure the payment of any obligation under the Bonds. Interest on the Bonds will he exempt from the current Federal income and New Hampshire interest and dividends taxes.

Under a proposed Loan Agreement with the IDA, the IDA will make loans to the Company from the proceeds of the issuance of the Bonds, and the Company will issue its unsecured promissory note (the "Note") providing for the payment of principal of and premium and interest on the Note in a manner to provide at all times sufficient funds for the payment when due of the obligations under the Bonds. The IDA's rights under the Loan Agreement and the Note will be assigned to the Trustee.

The issuance of the Bonds by the IDA requires the approval of the Governor and Executive Council of the State of New Hampshire.

Mr. Wicker stated that financing through the issuance of pollution control revenue bonds and the loaning of the proceeds to the Company, as proposed, would benefit the Company and its customers because the interest rate on the Bonds would be lower than the interest rate which the Company would have to pay on a conventional debt issue, due to the exemption from Federal income taxes of the interest received on the Bonds by the bondholders. According to Mr. Wicker, the proposed pollution control revenue bond financing would also provide the Company with access to a new capital market, the market for tax-exempt bonds.

Mr. Wicker testified that the proceeds received by the Company from the issuance of the Note will be used (a) to reimburse the Company for expenditures previously made for the Project; (b) to provide funds for future expenditures for the Project; (c) to defray certain costs associated with this financing; and (d) for other proper corporate purposes to the extent consistent with maintaining the tax-exempt status of the Bonds.

The Company submitted exhibits showing the estimated expenses of this financing and the balance sheet and capital structure of the Company at July 31, 1983, actual and proformed to reflect the proposed sale of not more

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than 2,400,000 shares of Preferred Stock, $25 par value, and the proposed $72,500,000 pollution control revenue bond financing. A certified copy of authorizing votes of the Company's Board of Director and drafts of the proposed trust indenture and loan agreement were also admitted in evidence.

The Commission will, as is our customary practice in public securities offerings, reserve jurisdiction to approve the final terms of the Note reflecting the principal amount, term, purchase price and rate of interest of the Bonds.

Based upon all of the evidence, the Commission finds that the proceeds from the proposed financing will be expended (a) to reimburse the Company for expenditures previously made for the Project; (b) to provide funds for future expenditures for the Project; (c) to defray certain costs associated with this financing; and (d) for other proper corporate purposes to the extent consistent with maintaining the tax-exempt status of the Bonds, and further finds that the issuance by the Company of its promissory note in a principal amount not exceeding $72,500,000 for the purposes described and upon the terms presented will be consistent with the public good. Our Order will issue accordingly.

Aeschliman, commissioner, concurs: I concur with the opinion of the other Commissioners with the understanding that our findings apply only to those areas which properly fall within the limits of our jurisdiction. Here that jurisdiction, as defined by RSA 369, is focused on the proposed financing from the point of view of the borrower/utility. Our findings cannot be construed as being applicable to the separate factors which must be reviewed from other perspectives, including that of the State of New Hampshire. Those factors are more appropriately considered by *inter alia* the Governor, the Executive Council of the State of New Hampshire and the Industrial Development Authority.

ORDER

Based upon consideration of the foregoing report, which is made a part hereof; it is

ORDERED, that Public Service Company of New Hampshire be, and hereby is, authorized to issue its unsecured promissory note in accordance with the foregoing report and as set forth in its petition; an it is

FURTHER ORDERED, that Public Service Company of New Hampshire shall submit to this Commission the final terms of said promissory note reflecting the principal amount, term, purchase price and rate of interest of the pollution control revenue bonds to be issued by the New Hampshire Industrial Development Authority, following which a Supplemental Order will issue approving such final terms; and it is

FURTHER ORDERED, that the proceeds from this financing shall be used for the purposes stated in the foregoing Report; and it is

FURTHER ORDERED, that on January first and July first in each year, Public Service Company of New Hampshire shall file with this Commission a detailed statement, duly sworn to by its Treasurer or Assistant Treasurer, showing the disposition of the proceeds of the financing

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being authorized

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until the expenditure of the whole of said proceeds shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this eleventh day of October, 1983.

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NH.PUC*10/13/83*[79778]*68 NH PUC 599*Boston and Maine Corporation

[Go to End of 79778]

Re Boston and Maine Corporation

DX 83-227, Order No. 16,678

68 NH PUC 599

New Hampshire Public Utilities Commission

October 13, 1983

ORDER reconsidering railroad inspection requirements pending appeal.

APPEAL AND REVIEW, § 72 — Proceedings pending appeal — Review — Fulfillment of commission orders.

[N.H.] Commission orders must be complied with even while such orders are pending appeal or modification, and the commission staff has no power to grant a utility an informal waiver from any portion of such an order

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APPEARANCES: Larry S. Smukler for the staff; Christopher Gallagher for the Boston and Maine Corporation.

BY THE COMMISSION:

REPORT

On July 5, 1983, the Commission, on its own motion, opened a docket to investigate whether certain inspection requirements placed upon the Boston and Maine Corporation. should be amended.

On July 5, 1983, an Order of Notice was issued setting a hearing for September 1, 1983 at 10:00 together with publication.

Notices were sent to Sidney Weinberg, Esq., Boston & Maine Corp. for publication; Thomas A. Power, Director, Division of Motor Vehicles; John A. Clements, Commissioner, Department

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of Public Works and Highways; John J. Knee, B & M Corp.; William J. Renickee, Vice President, B & W Corp.; J. John E. O'Keefe, Esquire, for B & M Corp.; V. R. Terrill, B & M Corp.; John Adams, Esq. B & M Corp.; Timothy Drew; Selectmen's Office, Town of Hooksett; and Ronald F. Rodgers Esq. Office of the Attorney General.

Commission Staff Chief Engineer, Bruce B. Ellsworth testified that in a previous Commission Order No. 16,341, issued on April 12, 1983 in

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Docket DX 82-236 (68 NH PUC 199), the Commission set forth nine (9) technical inspection requirements upon the Boston and Maine Corporation which were to be carried out on that portion of the company's main line between Manchester and Bow; New Hampshire. In that previous docket, the Commission investigated the cause of the high frequency of derailments on a 6 1/2 mile section of track between Manchester and Hooksett and found that the nine (9) inspection requirements were necessary to prevent further derailments.

The nine inspection requirements are as follows:

> (1) A Sperry test will be made at least annually. (2) A cross level inspection will be made to meet standards, except for superelevation, for Class IV Track at least six times per year on that section over which the coal trains are operated. (3) Patrols by Boston and Maine personnel will be made at least twice weekly, and in all cases shall precede a known coal train shipment. (4) The speed limit of 25 MPH shall be maintained for the operation of coal trains. (5) The enginemen of each coal train shall be certified annually through a refresher training course at the Billerica Training Facility. (6) All speed tapes from engines hauling coal trains shall be identified as to locomotive number, direction and date and be retained at the offices of the Boston and Maine Corporation for not less than one year. (7) A qualified pilot shall accompany every engineman who is not qualified through training and experience to operate on the line without such assistance. (8) A standing brake test of each train shall be conducted within 100 miles of the Bow destination. (9) Special instructions shall be issued to prevent improper brake applications, except in emergencies, in the operation of coal trains.

The hearing on the reconsideration of requirements 2 and 8 contained in Order No. 16,341 issued on April 12, 1983 has raised two types of concerns. The first concern relates to the very basic process of regulation — the compliance with Commission Orders, the proper role of Staff and the importance of formal proceedings. The second concern relates to the specific merits in the instant case of revising requirements 2 and 8 as proposed by Staff.

During the testimony of Mr. Mudholkar, Chief Engineer of the Boston and Maine Railroad, the question arose as to whether the B & M was complying with the 9 requirements listed in Order No. 16,341 pending appeal and Commission review of requirements 2 and 8. Mr. Mudholkar's testimony seemed to indicate that the Company was continuing normal maintenance and inspection schedules as required by the Federal Rail Administration (FRA), but had not implemented the stricter measures required by the Commission. (Tr. pp. 25-30)

During the testimony of Mr. Terrill, Mr. Gallagher reviewed with Mr. Terrill what actions the Company had

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taken in response to the Order. While it appeared at the time that the Company was responding to each of the nine items in the Order, a careful review of the record reveals that requirements 2 and 8 were skipped over as being the subject of the instant docket. (Transcript, p. 43, 44) Although it is not perfectly clear from the record whether the B & M had implemented requirements 2 and 8 pending the outcome of the appeal or the Commission consideration in this docket, the evidence strongly tends to indicate that the Company has done nothing to implement these requirements. (Tr. p. 15-21)

It appears that based upon an understanding with Staff, the Company and Staff determined that these requirements need not be implemented pending review. This assessment is reinforced by Mr. Gallagher's statements concerning the "method of dealing with Staff" (Tr. p. 69) and the "new method of dealing with situations". (Tr. p. 71)

While the Commission fully supports cooperative discussions between Staff and B & M personnel in an effort to resolve problems, this does not give Staff the authority to grant the Company a waiver from portions of a Commission Order. Mr. Gallagher's position also appears to be that there is no need for formal proceedings and henceforth all problems can be dealt with informally with Staff. While it is hoped that many problems may be addressed fruitfully in this manner, there are occasions, as in the Hooksett case, where a formal proceeding is appropriate and necessary. Furthermore, the integrity of regulation requires that orders of this Commission be complied with pending appeal or modification by the Commission. (RSA 365:26)

A regulatory Commission must constantly balance the use of informal procedures and the use of adversarial proceedings. While an unnecessarily adversarial posture is not desirable, neither is an over-reliance on informal negotiations and settlements. Too much informality may in fact erode the necessary arms length posture between the Commission and the regulated utilities, which must be maintained in order for the Commission to properly carry out its regulatory function. While the Commission does not think that additional action by the Commission directed at these past events would be productive at this time, the Company should take notice that the Commission fully intends to ensure that this and any future orders of the Commission are fully honored.

As to the merits of the changes proposed in requirements 2 and 8, we note that the B & M had already been fulfilling all of the requirements imposed by the FRA during the period in which the accidents took place. By accepting the changes proposed, the Commission would essentially remove the stricter standards imposed by the previous order.

The Commission found in DX 82-236 that the uniqueness of the frequency of derailments in the Hooksett-Manchester area dictated a need to establish more stringent requirements. In reviewing the present record, the Commission finds no need to change that basic finding. The record clearly indicates that the B & M has still not identified a general cause for the derailments. (Tr. p. 23, 25, 26, 50) The record also indicates that where a specific cause is not identified, there may

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be a mixed cause or "harmonics" taking place. (Tr. p. 50) In this sense, harmonics refers to some type of track train dynamics which seems to occur at a particular location, most always on a curve. (Tr. p. 50)

The Company has also testified that in its surveys and geometry tests it determined that one curve had spread. (Tr. p. 46) The Company subsequently realigned the curve, identified as Mitchell's curve. (Tr. p. 66) In addition, the B & M found that where there were vertical curves involved in some cases there was rail movement. (Tr. p. 46) To correct this situation the Company added anchors to keep the rails from moving horizontally (Tr. p. 46) and tamped, surfaced and lined the trackage. (Tr. p. 54) Further testimony indicated that these actions reduced the possibility of harmonics. (Tr. p. 55) This is precisely the reason for ensuring good track maintenance, and the greater the variation in cross section the more chance that all other factors (harmonics) will cause a derailment.

Although these improvements have not raised the track to Class IV standards (Tr. p. 54), they have exceeded the FRA standards for Class II. Given the fact that there have been no derailments since these improvements, the B & M should be required, at a minimum, to maintain the track at the standards obtained as a result of the improvements. Since no factual evidence was presented to support the adequacy of twice yearly cross level inspections as opposed to six times a year (Tr. p. 10), the Commission rejects that change. Accordingly, the Commission amends requirement 2 to read as follows:

> (2) A cross level inspection will be made to maintain the present track standards,[*(62)] except for superelevation, at least six times per year on that section over which the coal trains are operated.

Should future experience indicate that the number of inspections is excessive, the Commission can modify the requirement accordingly.

As to requirement 8, the record indicates some confusion as to the actual type of brake test performed in Mechanicsville, N. Y. when the B & M crew joins the train. It appears from the record that a "standing brake test" is only performed when additions and deletions to the make-up of the train occur. A standing brake test in that case assures that the compressed air system which operates the train's braking system operates properly and has no leaks. Since the train remains as a single unit in Mechanicsville, this test is not performed.

However, the new B & M crew which takes over the train in Mechanicsville is required to inspect the train, including the brakes on all of the cars. As the train leaves Mechanicsville, it is also the duty of the new crew to make certain that the brakes on all cars are released. While this may not be a "standing brake test", it may be termed an operational brake test.

Since a review of the record indicates that track conditions appear to be of more importance than additional brake tests, the Commission will modify requirement 8. An operational brake test at Mechanicsville, together with the running repair inspection at

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Mechanicsville will be sufficient unless cars are deleted or added to the train. In this case, a standing brake test should he performed. Requirement 8 would be amended as follows:

(8) An operational brake test and brake repair inspection of each train shall be conducted in Mechanicsville, N. Y. unless the make-up of the train is altered at this stop, in which case a standing brake test shall be required.

Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that Standard No. 2 imposed by Order No. 16,341 (April 12, 1983 [68 NH PUC 199]) be, and hereby is, amended to read:

(2) A cross level inspection will be made to maintain the present track standards, except for superelevation, at least six times per year on that section over which the coal trains are operated;

and it is

FURTHER ORDERED, that Standard No. 8 imposed by Order No. 16,341 (April 12, 1983) be, and hereby is, amended to read:

(8) An operational brake test and brake repair inspection of each train shall be conducted in Mechanicsville, N.Y. unless the make-up of the train is altered at this stop, in which case a standing brake test shall be required.

By Order of the Public Utilities Commission of New Hampshire this thirteenth day of October, 1983.

FOOTNOTE

*For the purposes of this standard, the Commission assumes that the track has continued to be maintained at the level attained after the last improvements.

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NH.PUC*10/13/83*[79779]*68 NH PUC 603*Northern Utilities, Inc.

[Go to End of 79779]

Re Northern Utilities, Inc.

Intervenors: Community Action Program and Office of Consumer Advocate

DR 83-90, Second Supplemental Order No. 16,693

68 NH PUC 603

New Hampshire Public Utilities Commission

October 13, 1983

APPROVAL of a settlement agreement on a gas company's proposed base rate increase.

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APPEARANCES: Sulloway, Hollis & Soden by Margaret H. Nelson and Martin L. Gross and LeBoeuf, Lamb, Leiby & MacRae by Paul Connelly and Elias G. Farrah for Northern Utilities, Inc.; Michael W. Holmes for the Consumer Advocate; Gerald M. Eaton for Community Action Program; Larry M. Smukler for the staff of the Public Utilities Commission of New Hampshire

BY THE COMMISSION:

REPORT

On April 21, 1983, Northern Utilities, Inc. ("Northern" or "Company") filed revised tariff pages to be effective May 21, 1983 which would generate additional revenues of $1,500,000. This represented a 10.96% increase. On the same day, the Company filed a Petition for Temporary Rates pursuant to RSA 378:27 requesting temporary rates in the amount of $897,890. By Order No. 16,384 (April 29, 1983), the Commission suspended Northern's revised tariff filing pending investigation. After due notice, a hearing was held on the Petition for Temporary Rates on June 20, 1983. By Supplemental Order No. 16,481 (June 21, 1983 [68 NH PUC 419]), the Commission *inter alia* granted Northern's Petition for Temporary Rates. A public hearing on the request for art increase in permanent revenues was held in Portsmouth on September 28, 1983. On October 3, 1983, a further hearing was held for the purpose of investigating an Offer of Settlement filed by the parties.

At the October 3, 1983 hearing, the Company presented the Offer of Settlement (Exhibit 2). The Offer of Settlement would allow the Company to increase annual operating base revenues by $1,175,000 beginning no later than November 1, 1984. The Offer also reserves the issue of permanent rate structure for further proceedings and, thus, the increased revenues will be allowed to be effective as temporary rates pending resolution of the permanent rate structure issues, at which time the Company will be permitted to recover the $ 1,175,000 increase as permanent rates. In the interim, the parties have agreed on a temporary rate structure which is substantially similar to the structure approved in Order No. 16,481.

The Company presented the testimony of three witnesses in support of the Offer of Settlement: David A. Deans, Assistant Vice President for Financial Services; Thomas Sherman, Vice President, Treasurer and Director; and James D. Simpson, Rate Manager. Mr. Deans presented testimony and exhibits which supported the need for a $1,175,000 annual increase in base operating revenues. He stated that the level of increase set forth in the Offer of Settlement, including the step adjustments described therein, would be sufficient to meet the operating costs of the Company. Mr. Sherman provided testimony which supported the rate of return sought by the Company and agreed to by the parties in the Offer of Settlement. He stated that the capital structure and return on common equity of 15.25% set forth in the attachment to Exhibit 2 (Exhibit 2, Schedule 15, Revised, Appendix A, Page 12 of 12) is just and reasonable and sufficient to allow the Company to recover its cost of capital. Mr. Simpson presented testimony which supported the temporary rate structure proposed

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in the Offer of Settlement. In particular, Mr. Simpson clarified the proposed interclass allocation for temporary rate purposes and the experimental nature of the proposed R-65 rate.

After due consideration, the Commission is of the opinion that the record supports the terms of the Offer of Settlement and that those terms will produce a level of revenues which is just and reasonable. We will therefore approve the Offer of Settlement and adopt its terms as the findings of the Commission.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that Northern Utilities, Inc. shall file a tariff supplement to recover additional annual base revenues of $277, 110 for a total of $1,175,000 (net of revenues attributable to the New Hampshire Franchise Tax) in temporary rates effective for bills rendered on or after November 1, 1983; and it is

FURTHER ORDERED, that said temporary rates be implemented in accordance with the terms of the Offer of Settlement; and it is

FURTHER ORDERED, that hearings on the remaining issues in the permanent rate case be scheduled for 10:00 a.m. on November 16 and 17 at the Commission's offices, 8 Old Suncook Road, Concord, New Hampshire.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of October, 1983.

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NH.PUC*10/13/83*[79780]*68 NH PUC 605*Solar Village

[Go to End of 79780]

Re Solar Village

DR 83-269, Order No. 16,694

68 NH PUC 605

New Hampshire Public Utilities Commission

October 13, 1983

PETITION by a water association for a ruling on its status as a public utility; found not to be a public utility.

PUBLIC UTILITIES, § 51 — Tests of public utility character — Associations — Profit — Membership.

[N.H.] The commission found a development's water association was not a public utility

under the commission's jurisdiction because the association was nonprofit and was private in that it provided service only to its member-owners.

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APPEARANCES: Thomas D. Welch, Jr., for Solar Village; Rober B. Lessels, water engineer, and Kenneth E. Traum, assistant finance diretor, for the New Hampshire Public Utilities Commission staff.

BY THE COMMISSION:

REPORT

By petition filed with this Commission on August 2, 1983, Solar Village in Belmont, New Hampshire requested a ruling from this Commission on the regulatory status of the Ladd's Hill Road Water and Sewer Association. Since we have no authority over sewers, this report and Order addresses only the regulatory status of the water association.

On August 24, 1983 the Commission issued an Order of Notice setting the matter for hearing on October 5, 1983 at 10:00 a.m. at the Commission's office in Concord. The duly noticed public hearing was so held.

During the course of the hearing, Solar Village submitted four Exhibits: A — Survey of the Land, B — Proposed Articles of Association, C — Proposed By-Laws of Association, and D — Proposed Declaration of Easements, Restrictions and Protective Covenants.

In addition, although Exhibits B, C, and D are only proposed, Attorney Welch stated that the corresponding documents in effect and filed with the New Hampshire Attorney General's Office comply with the exhibits, with regard to the water association.

The exhibits and testimony indicate that the water system will be transferred by the developer to the association at no cost, and that the association will be non-profit. In addition, the association will be a membership corporation with a democratic corporate structure. All lot owners will be members of the association with equal rates per number of lots owned. There will be no service provided to non-members and the association will be controlled in all ways, including rate setting, by the members.

A water association is a public utility if it owns, operates or manages any plant or equipment for the conveyance of water *for the public*. RSA 362:2. In the case at bar, the conveyance of water is for the private use of the association's members who, in this case, are to own and control the water system. Since the conveyance of water is not "for the public" the association is not a public utility and is therefore not subject to the jurisdiction of the Commission.

The Commission understands that any expansion of the system will be made in compliance with these original provisions. The association and developers should recognize, however, that sale of water to non-members would transform the association into a public utility.

With the understanding that the association is non-profit, and provides water only to its member-owners, the Commission finds that the Ladd's Hill Road Water and Sewer Association

is not a public utility.

In accordance with the public good, our Order will issue accordingly.

ORDER

Based on the attached Report, it is hereby

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ORDERED, that based on the current and proposed Corporate structure of the petitioner, the petitioner is exempt from public utility status.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of October, 1983.

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NH.PUC*10/13/83*[79781]*68 NH PUC 607*New England Telephone and Telegraph Company

[Go to End of 79781]

Re New England Telephone and Telegraph Company

DE 83-218, Order No. 16,695

68 NH PUC 607

New Hampshire Public Utilities Commission

October 13, 1983

ORDER revising telephone company exchange boundaries.

BY THE COMMISSION:

REPORT

On June 27, 1983, the New England Telephone Company filed with this Commission, a petition to change the boundary of its Rochester exchange to include a portion of the Barnstead exchange of the Union Telephone Company.

On June 29, 1983, the Union Telephone filed a petition to change the boundary of its New Durham exchange to include a portion of the Farmington exchange of the New England Telephone Company. The parties stipulated to each other's petitions and, accordingly, the two actions were consolidated into this single docket.

On July 6, 1983, an Order of Notice was issued scheduling a hearing for September 1, 1983 at 2:00 p.m. at the Commission's Concord Offices. Notices were sent to Frank Amadon, New England Telephone Company, for publication; Richard Thayer, President, Union Telephone Company; and the Office of the Attorney General.

Appropriate affidavits of publication were filed by the New England Telephone Company certifying that a notice was published in the Union Leader and in Foster's Daily Democrat on

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August 10, 1983.

On August 19, 1983, at the request of the parties, the Commission rescheduled the matter to October 4, 1983 at 10:00 a.m.

The hearing was held as scheduled. New England Telephone was represented

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by Jeanne S. Conroy, Esquire. Union Telephone was represented by Dennis Connelly, Esquire. Alfred Sawicki appeared pro se.

Mr. Charles P. Paone, Jr., NET Manager — Rates and Tariffs testified that for some time New England Telephone has provided service from its Rochester exchange to nine customers who are physically located within Union's Barnstead exchange. The instant filing is the result of negotiations between the two Companies which allows New England Telephone to continue its service to their nine customers presently within the Union exchange in consideration of a transfer to Union of a portion of New England's Farmington exchange. Three customers in the Farmington area will be transferred to Union's New Durham exchange. All affected customers were notified by letter of the transfer intent (Exhibits 6 and 7) and were advised of the public hearing.

No affected customers attended the public hearing or notified the Commission either in support or opposition to the filing.

The Commission will authorize the proposed boundary changes, which are more fully identified in Exhibits 4 and 5. None-the-less, we are disappointed that a situation which was discovered at least as early as 1976 required seven years to resolve. While we commend the Company for finally identifying transferrable areas which will have the least adverse impact on affected customers, we cannot believe. that the Companies committed themselves from the onset of the problem to reaching a timely resolution in the matter.

We trust that New England Telephone will improve its operating procedures to prevent further trespass and we expect that both Companies will be more expeditious in resolving problems in the future.

Our Order will issue accordingly.

ORDER

Based upon the foregoing Report which is made a part hereof; it is hereby

ORDERED, that the Petition of New England Telephone and Telegraph Company to serve an additional area of Strafford, New Hampshire from the Rochester exchange as identified in Petitioner's Exhibit 5 be and hereby is approved; and it is

FURTHER ORDERED, that the Petition of the Union Telephone Company to serve an additional area in Farmington, New Hampshire as identified in Petitioner's Exhibit 4 be and hereby is approved, and it is

FURTHER ORDERED, that tariff franchised maps be filed with this Commission annotating the revised franchise boundaries.

By Order of the Public Utilities Commission of New Hampshire this thirteenth day of October, 1983.

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NH.PUC*10/14/83*[79782]*68 NH PUC 609*Granite State Electric Company

[Go to End of 79782]

Re Granite State Electric Company

DR 81-86, Order No. 16,699

68 NH PUC 609

New Hampshire Public Utilities Commission

October 14, 1983

ORDER terminating temporary surcharge.

BY THE COMMISSION:

ORDER

WHEREAS, Order No. 15,452 in DR 81-86 (67 NH PUC 117) authorized a temporary surcharge to recover differences between temporary and permanent rates; and

WHEREAS, said order was implemented via issue of Original Page 58 of Granite State Electric Company's tariff No. 10; and

WHEREAS, the Company now reports that recovery is completed and has issued First Revised Page 58 as documentation; it is

ORDERED, that First Revised Page 58, Granite State Electric Company tariff, NHPUC No. 10, be, and hereby is, effective on September 1, 1983.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of October, 1983.

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NH.PUC*10/14/83*[79783]*68 NH PUC 609*Public Service Company of New Hampshire

[Go to End of 79783]

Re Public Service Company of New Hampshire

DF 83-234, Order No. 16,701

68 NH PUC 609

New Hampshire Public Utilities Commission

October 14, 1983

ORDER authorizing electric company to increase its capital stock.

Page 609

APPEARANCES: Frederick J. Coolbroth for the petitioner; Larry M. Smukler for staff.

BY THE COMMISSION:

By this petition, filed July 12, 1983, Public Service Company of New Hampshire (the "Company"), a corporation duly organized and existing under the laws of the State of New Hampshire, and operating therein as an electric public utility under the jurisdiction of this Commission, seeks authority pursuant to RSA 369:14 to increase its capital stock beyond the amount fixed and limited by its Articles of Agreement by increasing its authorized Common Stock, $5 par value, from 40,000,000 shares to 60,000,000 shares, and its authorized Preferred Stock, $25 par value, from 8,000,000 shares to 14,000,000 shares.

At the duly noticed hearing on the petition, held in Concord on September 27, 1983, the Company submitted that at the Annual Meeting of Stockholders held on May 12, 1983, and an adjourned session of said Meeting held on June 16, 1983, the stockholders voted to amend the Articles of Agreement of the Company to increase its authorized Preferred Stock, $25 par value, and Common Stock, $5 par value, to the higher amounts set forth in, the Company's petition and a certified copy of the authorizing votes was submitted.

Company witness Lampron testified that the increases in the authorized capital stock were necessary for proper corporate purposes, including the financing of the Company's construction program over the next several years.

Based upon all the evidence, the Commission finds that the increase in the Company's capital stock in the amounts requested in the petition for proper corporate purposes, including the financing of the Company's construction program, should be approved and authorized. Our order will issue accordingly.

ORDER

Upon consideration of the foregoing report, which is made a part hereof, it is

ORDERED, that Public Service Company of New Hampshire be, and hereby is, authorized to increase its authorized capital stock as follows: Preferred Stock, $25 par value, from 8,000,000 shares to 14,000,000 shares; Common Stock, $5 par value, from 40,000,000 shares to 60,000,000 shares.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of October, 1983.

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NH.PUC*10/14/83*[79784]*68 NH PUC 611*Public Service Company of New Hampshire

[Go to End of 79784]

Re Public Service Company of New Hampshire

DF 83-285, Order No. 16,702

68 NH PUC 611

New Hampshire Public Utilities Commission

October 14, 1983

ORDER authorizing electric company to issue and sell preferred stock.

SECURITY ISSUES, — 132 — Scope of proceedings — Prudency of construction.

[N.H.] The commission stated, in approving the issuance of common stock, that its approval was not to be construed as a finding on the prudency of the company's investment, which would be addressed at the time the company requested that costs be passed on to the ratepayers.

APPEARANCES: Frederick J. Coolbroth for the petitioner; Larry M. Smukler for staff.

BY THE COMMISSION

REPORT

By this unopposed petition filed September 2, 1983, Public Service Company of New Hampshire (the "Company"), a corporation duly organized and existing under the laws of the State of New Hampshire, and operating therein as an electric public utility under the jurisdiction of this Commission, seeks authority pursuant to the provisions of RSA 369 to issue and sell for cash not exceeding two million four hundred thousand (2,400,000) shares of Preferred Stock, twenty-five dollars ($25) par value. A hearing was held in Concord on September 27, 1983, at which the Company submitted the testimony of its Assistant Vice President John J. Lampron.

Mr. Lampron stated that the proceeds of the sale of the Preferred Stock will be used (a) to pay off any short-term notes outstanding at the time of sale (estimated to be $50,000,000 on October 25, 1983), the proceeds of which will have been principally expended in the purchase and construction of property reasonably requisite for present and future use in the conduct of the Company's business; (b) to finance the purchase and construction of additional such property; and (c) for other proper corporate purposes.

All expenses incurred in accomplishing the financing will be paid from the general funds of the Company.

The Preferred Stock will be sold through a negotiated public offering. Mr. Lampron described and expected terms of sale and explained why the

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Company proposed a negotiated rather than a competitive sale.

The Company submitted a balance sheet as at July 31, 1983, actual and proformed to reflect the proposed sale of the Preferred Stock. Exhibits were also submitted showing: disposition of proceeds; estimated expenses of the issue; and capital structure as at July 31, 1983, actual and proformed to reflect the proposed sale of the Preferred Stock. Projected financing requirements and estimated construction expenditures were outlined in testimony. A certified copy of authorizing votes of the Company's Board of Directors was put in evidence.

The Commission will, as is our customary practice, reserve jurisdiction to approve the number of shares to be sold and the price thereof.

Based upon all the evidence, the Commission finds that the proceeds from the sale of the Common Stock will be expended (1) to pay off any short-term notes of the Company outstanding at the time of sale; and (2) for other proper corporate purposes.

The approval of these proceeds for the issuance of common stock is not to be construed as an advance approval for the prudency of the investment. Issues pertaining to prudency will be addressed at such time as a construction project is requested to be passed on to the ratepayers.

Upon investigation and consideration of the evidence submitted, the Commission is of the opinion that the granting of the authorization and approval sought will be consistent with the public good.

Our Order will issue accordingly.

ORDER

Based upon consideration of the foregoing report, which is made a part hereof; it is

ORDERED, that Public Service Company of New Hampshire be, and hereby is, authorized to issue and sell not exceeding two million four hundred thousand (2,400,000) shares of Preferred Stock, twenty-five dollars ($25) par value, for cash in accordance with the foregoing report and as set forth in its petition; and it is

FURTHER ORDERED, that Public Service Company of New Hampshire shall submit to this Commission the number of shares of said Preferred Stock to be sold, the purchase price thereof and dividend rate thereon, after which a Supplemental Order will issue approving the number of shares of the Preferred Stock to be sold and the purchase price and dividend rate thereof; and it is

FURTHER ORDERED, that the proceeds from the sale of said Preferred Stock shall be used for the purpose of discharging and repaying any outstanding short-term notes of said company and for the other purposes stated in the report; and it is

FURTHER ORDERED, that on January first and July first in each year, Public Service Company of New Hampshire shall file with this Commission a detailed statement, duly sworn to by its Treasurer or Assistant Treasurer, showing the disposition of the proceeds of the financing being authorized until the expenditure of the whole of said proceeds shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of October, 1983.

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[Go to End of 79785]

Re Concord Natural Gas Corporation

Intervenors: Penacook Fibre Company, Community Action Program, and Office of Consumer Advocate et al.

DR 83-206, Supplemental Order No. 16,704

68 NH PUC 613

New Hampshire Public Utilities Commission

October 14, 1983

ORDER approving temporary rates for a gas company.

RATES, § 630 — Effective date of temporary rates.

[N.H.] The commission determined that the effective date of temporary rates should be the date of the order implementing those rates because: (1) the rates could not be changed until they had been reviewed and approved by the commission; (2) customers could not make knowledgeable decisions about gas usage before the date of the order; and, (3) the company had failed to present sufficient evidence of financial hardship override the rationale for the commission's long-standing policy of making rates effective as of the order date.

APPEARANCES: Orr and Reno by David W. Marshall for Concord Natural Gas Corporation; Ransmeier and Spellman by Dom S. D'Ambruoso for Penacook Fibre Company *et al.*; Gerald Eaton for Community Action Program; Michael Holmes for the Consumer Advocate; Larry Smukler for the staff.

BY THE COMMISSION

REPORT

On July 25, 1983, Concord Natural Gas Corporation ("Company"), a public utility providing gas service in a portion of this State, filed revised tariff pages to Tariff NHPUC No. 13 providing for increased revenues in the amount of approximately $503,012 or 6% (net of the franchise tax) effective August 25, 1983. By Order No. 16,583 (August 9, 1983), the Commission suspended the revised tariff pages pending investigation. On August 12, 1983, the Company filed a Petition for Temporary Rates pursuant to RSA 378:27 requesting temporary rates in the amount of $224,903. After due notice, hearings were held on September 28, 1983 and October 4, 1983.

Motions to intervene were filed by the Community Action Program (CAP), the Consumer Advocate and Penacook Fibre Company *et al*. The Commission will grant all of the Motions to

Intervene.

At the hearings, the Company presented

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the testimony of Mr. Ronald P. Bisson, the company's Assistant Treasurer and Office Manager. Mr. Bisson presented evidence which supported temporary rates in the amount of $212,000 (net of the New Hampshire franchise tax). Mr. Bisson stated that the figure was based on an updated rate base, on updated capital structure and the 14% rate of return on equity allowed in the Company's last rate proceeding. The difference between the $224,903 originally proposed and the $212,000 proposed at the hearing is based on a revision in the Company's property tax estimates. Mr. Bisson also stated that, for temporary rate purposes, the Company proposed to allocate the temporary rates on a flat basis between all customer classes and to retain its current flat rate structure with one exception. The exception is that commercial and industrial customers in the GIHW class would be subject to the stepped rate structure set forth in Exhibit 1. The same stepped structure was applicable to the GIHW class before the adoption of the current flat structure.

All parties agreed with the Company's proposal as submitted during the hearing and all parties further agreed that acceptance of any rate item for temporary rate purposes would be without prejudice to a regulatory determination of all issues in the permanent case.

The Commission finds that the Company's proposal as amended is just and reasonable. Accordingly, we will adopt that proposal for temporary rate purposes without prejudice to any issue that may be raised in the permanent rate case.

The parties also submitted a proposed schedule for conducting the remainder of the proceedings. The schedule will be adopted as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Revenue Deficiency Issues

October 14, 1983:

November 1, 1983:

Week of
November 22, 1983:

December 6, 1983:

December 19, 1983:

January 9, 1984:

January 24, 25
and 26, 1984:

Rate Structure Issues

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November 7, 1983:

November 21, 1983:

December 9, 1983:

December 22, 1983:

January 9, 1984:

January 23, 1984:

February 14, 1984:

February 28
and 29, 1984
March 1, 1984:

The remaining issue is the effective date of the temporary rates. The parties were not able to agree on this issue.

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The Company proposed an effective date of August 25, 1983 based on its initiative of providing notice to its customers of the proposed effective date and based on its representations of its need for rate relief. Penacook Fibre Company *et al*. argued for an effective date which is not earlier than the temporary rate order based on the Commission's longstanding policy and practice. CAP proposed an effective date of November 1, 1983, the effective date of the Company's winter cost of gas adjustment. The Consumer Advocate proposed an effective date which is no earlier than the date of the October 4, 1983 hearing based on the issue of notice to the Company's customers.

After due consideration, we have decided to set the effective date of the temporary rates as the same date as this Order. The Commission recognizes that the Company's customers have had notice that a temporary rate increase was *proposed* to be effective at an earlier date. However, since the temporary rates cannot be charged until they have been reviewed and approved by the Commission, the Company's customers could not make knowledgeable decisions about gas usage before the date of this Order. This is the basis of the Commission's longstanding policy. The Company has not presented sufficient evidence of financial hardship to override the rationale for adhering to this longstanding policy.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that Concord Natural Gas Corporation shall file a tariff supplement effective as of the date of this Order to recover additional annual revenues of $212,000 in temporary rates in accordance with the provisions of the foregoing Report; and it is

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FURTHER ORDERED, that the Motions to Intervene of Penacook Fibre Company *et al*., Community Action Program and the Consumer Advocate be, and hereby are, granted; and it is

FURTHER ORDERED, that the procedural schedule shall be as set forth in the foregoing Report.

By Order of the Public Utilities Commission of New Hampshire this fourteenth day of October, 1983.

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NH.PUC*10/17/83*[79786]*68 NH PUC 616*Public Service Company of New Hampshire

[Go to End of 79786]

Re Public Service Company of New Hampshire

DF 83-285, Supplemental Order No. 16,720

68 NH PUC 616

New Hampshire Public Utilities Commission

October 17, 1983

ORDER authorizing the terms under which an electric company would issue and sell stock.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, our Order No. 16,702 dated October 14, 1983 (68 NH PUC 611) issued in the above-entitled proceeding, authorized Public Service Company of New Hampshire to issue and sell not exceeding two million four hundred thousand (2,400,000) shares of Preferred Stock, $25 par value; and

WHEREAS, in compliance with said Order No. 16,702, following negotiations with underwriters, the Company has submitted to this Commission the details concerning the number of shares of Preferred Stock to be sold, and the price, dividend rate and other terms thereof, which contemplate the issue and sale of two million four hundred thousand (2,400,000) shares of a new series of its Preferred Stock, $25 par value, designated "Sinking Fund Preferred Stock 13,80% Dividend Series, $25 par value", by the Company to underwriters who will make a public offering thereof, said Preferred Stock to be sold bearing a dividend rate of thirteen and eight tenths percent (13.80%) per year at a price to the Company of twenty-five dollars ($25.00) per share, and to provide for a mandatory sinking fund under which one hundred twenty thousand (120,000) shares will be redeemed annually beginning November 15, 1989, and for optional redemption of an additional one hundred eighty thousand (180,000) shares on each mandatory sinking fund redemption date, with compensation to the underwriters in the aggregate amount of two million two hundred eighty thousand dollars ($2,280,000), all as set forth in the Underwriting Agreement between the Company and the underwriters, a copy of which is to be filed with the Commission; and

WHEREAS, after due consideration, it appears that the issue and sale of said Preferred Stock upon the terms, conditions and price, hereinabove set forth or referred to, is consistent with the public good; it is

ORDERED, that Public Service Company of New Hampshire be, and hereby is, authorized to issue and sell at a price of twenty five dollars ($25.00) per share in cash two million four hundred thousand (2,400,000) shares of its Sinking Fund Preferred Stock 13.80% Dividend Series, $25 par

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value, as hereinabove set forth, with compensation to underwriters in the aggregate amount of two million two hundred eighty thousand dollars ($2,280,000), said Stock to be sold at said price of twenty-five dollars ($25.00) per share to underwriters who will make a public offering thereof, all as set forth in the Underwriting Agreement between the Company and the underwriters; and it is

FURTHER ORDERED, that all other provisions of said Order No. 16,702 (68 NH PUC 611) of this Commission are incorporated herein by reference.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of October, 1983.

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NH.PUC*10/18/83*[79787]*68 NH PUC 617*New Hampshire Department of Public Works and Highways

[Go to End of 79787]

Re New Hampshire Department of Public Works and Highways

Intervenor: Boston and Maine Corporation

DX 83-195, Order No. 16,722

68 NH PUC 617

New Hampshire Public Utilities Commission

October 18, 1983

PETITION to replace a public at-grade crossing; approved.

APPEARANCES: Roderick Cyr for the New Hampshire Department of Public Works and Highways; John Adams for the Boston and Maine Corporation.

BY THE COMMISSION:

REPORT

By petition filed June 3, 1983, the New Hampshire Department of Public Works and Highways seeks authority to construct a public at grade crossing in the Town of Northumberland

in conjunction with the construction of a new bridge over the Connecticut River between Northumberland, New Hampshire and Guildhall, Vermont. Hearing thereon was held at Concord on July 21, 1983.

Plans for a Federal Aid Bridge Replacement Off-System Project No. BRZ-3471(1) N.H. Project No. S-3448 have been developed which provides

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for a new bridge to be constructed across the Connecticut River to replace a structure which has deteriorated to the point where it is presently limited to private cars and pick-up trucks. For the purposes of this report the highway and the bridge known as Guildhall Road will be considered as running east and west, while Old Route 3, New Route 3 and the railroad track will be referred to as running north and south, although these are not actual compass directions.

The new bridge is to be located approximately fifty (50) feet south of the present structure. Its easterly end is approximately 140 feet west of old Highway Route 3 which is now a Town Road. From this route the proposed highway curves slightly to the south for a distance of approximately 260 ft. where it would intersect with present Route U.S. 3 at an angle of 90 degrees. The single track line of railroad is approximately 75 feet west of the center line of U.S. Highway No. 3. This highway would be reconstructed to consist of two twelve foot lanes, and 10 foot turning and accelerating lanes north and south of the intersection respectively, west of the highway, and a 10 foot passing lane east of the highway. Guildhall Road at the crossing would be 40 feet wide consisting of 16 foot paved highway lanes in each direction and 4 foot shoulders.

There are two storage buildings, one north and one south of proposed Guildhall Road, both of which are west of the railroad tracks. The northerly building is about 31 feet from the edge of the highway pavement and 28 feet from the nearest rail of track. The southerly building is approximately 40 feet from the same road and 14 feet west of the nearest rail. The grades of Guildhall Road do not present a problem. From the center of the proposed bridge the grade would descend at the rate of 2.90 per cent to a point about 20 feet east of its intersection with Old Route 3. From this point it ascends at the rate of 3.4 per cent to a point 44 feet west of the pavement of present Route 3 where it flattens to almost level.

A public hearing was held on June 22, 1983, by a Highway Layout Commission which approved the proposal. Construction is expected to commence in the Spring of 1984. The overall length of the project is approximately 1100 feet and the total cost is estimated at $1,200,000. The design speed of Guildhall Road is 30 miles per hour. Stop signs would be installed on old Route 3 north and south of Guildhall Road and at Guildhall Road at its intersection with present U.S. Route 3. Present traffic counts introduced by the petitioner estimates 650 cars per day with projected number at 1,000 by 1999.

The new bridge structure will be designed for loads of 77,000 lbs. gross weight accommodating 3 axle trucks. The State of Vermont is expected to contribute about 15% of the cost of the structure. The design of this project would permit traffic to and from Guildhall and other points in Vermont to leave or enter present U.S. Route 3 by a direct route to the bridge. Without this direct route traffic would be required to use Old Route 3 crossing the railroad via existing grade crossings, one of which is approximately 400 feet south to the one proposed in

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this petition and the other approximately 1/2 mile to the north.

It is proposed to tear up the southerly crossing if the instant petition is

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granted. Petitioners indicate that the new crossing will be adequately protected by the installation of cross-buck signs, but does not object to automatic crossing lights if the Commission feels that such protection is necessary. It is claimed that adequate views are obtainable for the relative speeds of both highway and rail traffic.

The construction of the new crossing is strenuously opposed by representatives of the Boston and Maine Corporation. Rail traffic consists of one train in each direction 5 or 6 days per week with, present operating speeds at a maximum of 10 miles per hour. Testimony was introduced to indicate that the traffic count presented by the petitioner is much less than will be the case when the new bridge is available. At present, trucks that would use the new bridge must cross the river at Lancaster on U.S. Route 2 approximately six miles to the south or at North Stratford seventeen miles to the north.

A witness for the railroad testified as to traffic counts made personally during a four hour period on June 27, and a ten hour period on June 28, 1983. The June 27 count, taken at the rotary in Lancaster, revealed 51 tractor-trailer trucks carrying chipped pulp and other products all of which came from Vermont and proceeded north towards the paper mill in Groveton. There were also 14 such vehicles carrying gravel from the gravel pit located in Guildhall, Vermont.

The count presented for June 28, was taken at the proposed new crossing location from 6:00 a.m. to 4:00 p.m. There were 192 automobiles and pick-up trucks passing over the present bridge from Guildhall to Northumberland during that period. There were also 189 trailer-trucks passing south on Route 3, many of which were bearing Vermont registrations. Some of these were reportedly seen the previous day in Lancaster. It is estimated that 80% of these would use the new Northumberland Bridge making the total at 144.

The purpose of these counts is to indicate that heavy vehicles which are not using the present bridge at Northumberland would use the new bridge when it becomes available. The railroad's witness accordingly suggested that the traffic count presented by the petitioner be increased by adding to it, between 65 and 144 heavy trailer trucks.

Railroad representatives also pointed out that a stop sign erected at the proposed intersection of Guildhall Road with new Route 3 will of necessity be only 45 feet from the nearest rail, thus trailer trucks, many of which exceed 60 feet in length, will block the railroad track while stopped at said stop sign. Also, the two storage buildings north and south of the proposed highway seriously interfere with the ability of drivers approaching from the bridge to see approaching trains. This is particularly significant in that, although track conditions presently limit trains to a maximum speed of 10 mph, train speeds may increase as deferred maintenance is updated.

Upon approaching the crossing from the west at a point 100 feet therefrom, a view to the north is available for approximately 100 feet. When at a point on the same approach 40 feet from the crossing it increases to approximately 195 feet.

A view to the south along the railroad tracks from 100 feet on the highway is approximately

90 feet. At a

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point 40 feet from the crossing an approaching train can be seen for almost 200 feet. The views can be made much greater on the east side of the track because there are no nearby buildings and the railroad right-of-way is immediately adjacent to that of the highway. Trees and brush are the only interference and can be cut or trimmed as necessary.

It is apparent from the testimony in this proceeding that an attempt is being made by the petitioner to improve a highway route to Route 3 in connection with the construction of the new Connecticut River Bridge. It would be a direct access to the main highway from the bridge which now requires a southerly or a northerly movement over old Route 3, a very short distance from the easterly end of the bridge.

We are concerned, however, with the fact that some vehicles will not be able to approach and obey the stop sign at new Route 3 without some portion thereof remaining in the proposed crossing. Adequate controls must be maintained to assure that any vehicle occupying the crossing will have adequate time to maneuver into new Route 3 upon the arrival of a scheduled train. Our concerns do not cause us to deny the petition, but they convince us of the need to specify these controls.

The Boston and Maine has testified that the current speed limit is 10 mph through the crossing area and that they have plans to increase that speed limit upon completion of certain construction improvements. While we encourage the improvements, we will require that they retain a posted 10 mph speed limit within 500 ft of each side of the new crossing. We are satisfied that this safeguard will preclude the need for either crossing stop signs or for a stop and flag action by the railroad.

We will allow the closing of the southern old Route 3 crossing.

The petition before us did not request a closing of the northern old Route 3 crossing. Testimony was provided on that issue, however, and the Highway Department recommends that no action be taken to close that crossing due to seasonal flooding which would isolate certain residents if the crossing were closed.

We agree that the Northern old Route 3 crossing should remain open. Not only should the residents be assured of year-round access and egress, but certain traffic flow, particularly involving trailer truck traffic, may continue to find the old Route 3 access into new Route 3 more desirable in the near future than using the newly constructed approach. We will require the Boston and Maine to maintain the old northerly approach for a period of 12 months after which, should we be shown that it is no longer useful, we will allow it to be closed.

Our Order will issue accordingly.

ORDER

Based upon the foregoing Report which is made a part hereof; it is hereby

ORDERED, that the petition to replace a public at-grade crossing of the Boston and Maine Corporation's Groveton Branch line in the Town of Northumberland be and hereby is approved;

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and it is

FURTHER ORDERED, that the southerly at-grade crossing at the intersection of Old Route 3 and New Route 3 may, upon completion of the new construction, be closed; and it is

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FURTHER ORDERED, that the northerly at-grade crossing at the intersection of Old Route 3 be retained and maintained for a period of 12 months, after which, subject to the recommendations of the Boston and Maine Corporation the New Hampshire Department of Public Works and Highways, and the Town of Northumberland, it may be closed.

By Order of the Public Utilities Commission of New Hampshire this eighteenth day of October, 1983.

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NH.PUC*10/18/83*[79788]*68 NH PUC 621*John F. Chick & Sons, Inc.

[Go to End of 79788]

Re John F. Chick & Sons, Inc.

Intervenors: Town of Madison et al.

DE 83-265, Order No. 16,723

68 NH PUC 621

New Hampshire Public Utilities Commission

October 18, 1983

PETITION by water company for authority to discontinue service and for exemption from regulation; denied.

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1. WATER, § 7 — Jurisdiction and powers — State commissions — Exemption from regulation.

[N.H.] Although RSA 362:4 permits the commission to exempt from regulation water systems with less than ten customers, the commission found that an exemption for a particular water company was inconsistent with the public good where customers had relied on the water system in purchasing their homes, the system had been in existence for almost 100 years, and the evidence showed a lack of alternative water sources. p. 624.

2. SERVICE, § 277 — Discontinuance of service — Water utilities.

[N.H.] A petition by a water company to discontinue service was denied by the commission where evidence of the inconvenience and hardship suffered by customers whose service had been interrupted, and the lack of an adequate alternative supply clearly established the necessity of continuing operations until alternative water sources could be developed or the water system could be transferred. p. 625.

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APPEARANCES: Richard F. Cooper on behalf of John F. Chick and Son, Inc.; Randall Cooper on behalf of the Town of Madison; Mrs. Frank Perreault pro se; John A. Zemla pro se; James Nicholson on behalf of the commission staff.

BY THE COMMISSION:

REPORT

On August 5, 1983, John F. Chick & Son, Inc. (Chick) of Silver Lake Village,

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Madison, New Hampshire filed a petition for authority to discontinue water service in the village of Silver lake, Madison, New Hampshire. An Order of Notice was issued on August 17, 1983 setting a hearing for October 4, 1983 and ordering Chick to notify each affected customer of the petition. Thereafter, on October 3, 1983, one day prior to the scheduled hearing, Chick filed a petition for exemption under RSA 362:4 seeking a Commission determination that it be exempt from the provisions of Title XXXIV of the N.H. Revised Statutes Annotated.

At the hearing on October 4, 1983, three parties appeared in opposition to the petitions: the Town of Madison (Madison), Mrs. Frank Perreault and Mr. John A. Zemla. All of the protestants, including the Town of Madison, are customers of Chick's water system. Mr. James Nicholson, PUC Examiner, appeared on behalf of the Commission staff.

Prior to receiving the testimony, a question arose as to the scope of the proceedings. Counsel for Madison objected to the Commission considering the petition for an exemption because of Chick's failure to comply with the Commission's notice requirements. Due to the similarity of issues involved in both petitions, and given that all customers of the Chick water system were notified of the hearing by certified mail, the Examiner overruled the objection, waived the Commission rules regarding notice by publication and proceeded with the hearing.

Testimony and exhibits on behalf of Chick's two petitions were presented by W. Richard Kitchen, Jr., Chairman of the Board and Treasurer of Chick. Mr. Kitchen, the company's sole witness, testified that Chick was established in the Village of Silver Lake, Madison, New Hampshire, over 100 years ago as a building materials company. After Mr. Kitchen and two other individuals purchased the stock of the company from the Chick family in 1971, Chick's business expanded to include the manufacturing of pallets, industrial scything and packaging.

Mr. Kitchen further testified that in addition to its manufacturing concerns, Chick has owned and operated a water system in Silver Lake since 1890. This system has in recent years provided water for 8 customers including Chick, the Town of Madison town hall in Silver Lake Village, and six residential customers, the majority of whom are year round residences (Exhibit 1). According to Mr. Kitchen, both Chick and one residential customer, Mr. George Chick, prior owner of the company, have recently ceased using the system, thereby bringing the total number of customer to six (6).

The system itself is located on Chick's property on Route 113 in Silver Lake and consists of a

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spring well from which water is fed by a pump a distance of 500 feet to a granite 15' by 15' reservoir on the top of a hill. The reservoir is 175 feet above street level. Water is gravity fed through 2" plastic pipe located 6 feet underground for a distance of 2,000 feet from the reservoir down the hill and along Route 113 where the tap-offs for the individual customers are located.

Mr. Kitchen stated that when he purchased the business in 1971 with two other individuals, one of whom had been employed by Chick for 11 years, he was a so-called "silent partner", not involved in the everyday affairs of the company, and was therefore unaware that Chick operated this

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water system. No separate financial records were kept and the income received from the water system was included in the Chick financial statements as "other income." He did not question the source of this income at the time of purchase. Mr. Kitchen testified that he began working at Chick full time in 1974 or 1975 and only became aware of the existence of the water system 4 or 5 years ago when a new pump had to be installed.

According to Mr. Kitchen, Chick seeks to discontinue water services because it is losing money from the operation. He testified that expenses total $1,200-1,300 a year including electricity at $240.00 a year, an annual reservoir cleaning at $1,000 a year and depreciation of a new pump at $120.00 a year and that these cannot be met on annual revenues of what had been $420.00. Seven customers, excluding Chick, have been paying $5.00 a month ($60.00 a year). With the loss of Mr. George Chick, annual revenues will now be $360.00. Expenses therefore exceed revenue by nearly $1,000 a year.

In addition, Mr. Kitchen testified that a recent blockage somewhere along the 2,000 feet of pipe has discontinued water service to some of the system's customers including the Madison town hall and the residences of Mr. and Mrs. Frank Perreault and Mr. & Mrs. John Zemla. These customers have been without water for over two months.

Mr. Kitchen testified that Chick has performed one test on the system since the interruption in service. Fifty-sixty pounds of air pressure was applied to the pipeline at the George Chick residence, the last tap-off on the system. No leaks were discernable. According to Mr. Kitchen, there is no noticeable water emerging from anywhere along the system and Chick has thus far been unable to determine the cause of the interruption in service. He stated that Chick had employed the service of a general contractor who would begin the next day (October 5, 1983) to dig up an area near a manhole recently damaged by a truck in order to determine if that incident had any effect on the buried plastic pipe in that area. Similar air pressure testing was to be conducted at this site.

Mr. Kitchen introduced as Exhibit 3 an estimate prepared by a general contractor, Alvin Coleman and Son, which projected a cost of $26,000 to replace the pipeline system. Thus, because of the demonstrated losses being incurred annually by the company, the current additional cost of repairing the system and the expected future cost of replacing the plastic pipeline, Mr. Kitchen testified that Chick seeks to discontinue operations. In short, it is Chick's contention that the financial burden is too much for it to bear.

When questioned on cross-examination, Mr. Kitchen acknowledged he was aware that he

could file for a rate increase with this Commission, but stated that instead his company would rather get rid of the system and have either the town, the customers or a combination thereof take it over. He stated Chick's willingness to sell the system for a nominal amount.

Mr. John Sherwood, a selectman in the Town of Madison, testified on behalf of the town in opposition to the petitions. He explained that after the town and the other users of the system were notified by Chick of its intentions to discontinue service by a letter dated January 3, 1983, the town began to

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seek and study other water sources. Three thousand dollars was appropriated at the 1983 town meeting for this purpose.

According to Mr. Sherwood, the town has been investigating a number of alternatives to receiving water from Chick especially in light of the recent interruption in service. One option considered was having the town dig a well on the land on which the town hall is located. However, due to the extremely small size of the lot, it was determined that this was not a reasonable option.

Until lately the most attractive alternative had been to purchase rights to a 38 foot well recently dug by the abutting landowners, Mr. and Mrs. Perreault. However, while the supply is more than adequate for both parties, the water, according to a N.H. Water Supply and Pollution Control Commission study, is unsuitable for drinking purposes (Intervenors Exhibit 1). In addition, Mr. Sherwood testified that tests conducted at a well recently dug at the nearby residence of Mr. & Mrs. Zemla revealed the same results.

Mr. Sherwood further testified that given the results of those tests, the town must now begin to consider other options such as acquiring land and drilling an artesian well or the acquisition of the Chick system. However, to date there have been no discussions between Chick and representatives of the town. Mr. Sherwood stated that if the present system was improved he would support the town acquiring it from Chick because the extensive depth to ledge in that area would make an artesian well cost prohibitive.

In addition, Mr. Sherwood testified that the town hall is available for use to the public and is employed by numerous groups in the town for meetings, suppers, etc. The disruption in service has greatly inconvenienced these groups in that water for both drinking and plumbing purposes has to be carried by hand. Mr. Sherwood concluded by stating that in his opinion, allowing Chick to discontinue service at this time would not be in the public interest. A similar opinion was expressed by another Madison selectman, Mr. Henry Hubbell.

Finally, Mr. John Zemla and Mrs. Frank Perreault offered testimony concerning the hardships they have been forced to endure due to the interruption in service. The water from the well points each dug on their premises was found to be unsuitable for drinking due to a high concentration of iron. They have thus obtained their drinking water from other sources. According to both witnesses, the water from these recently drilled wells has ruined both parties' sinks, tubs and tile, causing them to turn brown. In addition, Mr. Zemla testified that he cannot afford to drill an artesian well. Both Mr. Zemla and Mrs. Perreault testified that in their opinion, it was not in the public interest to allow Chick to discontinue services.

[1] N.H. RSA 362:4 confers upon this Commission the power to exempt certain water companies from Public Utilities Commission jurisdiction. It states as follows:

> 362:4 Water Companies, When Public Utilities. Every such corporation, company, association, joint stock association, partnership or person shall be deemed to be a public utility by reason of the ownership or operation of any water system or part thereof. *If the whole of such water*
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> **Page** 624
>
> system shall supply a less number of consumers than ten, each family, tenement, store or other establishment being considered a single consumer, the commission may exempt any such water company from any and all provisions of this title, whenever the commission may find such exemption consistent with the public good. A municipal corporation furnishing water outside its municipal boundaries shall not be considered a public utility under this title for the purpose of accounting, reporting or auditing functions with respect to said service. (Emphasis added.)

Therefore, because Chick's total number of customers is less than 10, we *may* exempt it from our jurisdiction providing we find such exemption is "consistent with the public good."

The facts in this case however preclude us from making such a finding. The Chick water system has provided water to customers along the route for nearly a hundred years. These customers, many of whom are year-round residents of Silver Lake Village, purchased their homes in reliance upon the Chick system and over the years have continued to depend on Chick for their water needs. This century-long reliance upon Chick's operation of a water system, along with the lack of adequate alternative water sources evidenced by the above-stated testimony, leads us to conclude that exempting Chick from our jurisdiction is not consistent with the public good. Chick's petition for exemption is therefore denied. With Chick's status as a public utility thus established, we next consider its petition to discontinue operations.

[2] Under RSA 374:28, the Commission may authorize a public utility to discontinue service "whenever it shall appear that the public good does not require the further continuance of such service."

It is clear from the undisputed facts of this case that the public good does in fact require the continuance of the Chick system at this time. The inconvenience and hardship suffered by the customers as a result of the current discontinuance in service, along with the present lack of an adequate alternative water supply, clearly establish the absolute necessity of continued operations by Chick until alternative water sources can be developed or a takeover of the system by the town or the customers is arranged.

We therefore will require Chick to continue operations for a period of one year from the date of this report and order, or until the system is turned over to the town or the customers, whatever is sooner. This will allow an adequate time for the parties to work out an agreement for the purchasing of the system by either the town or the customers.

The Commission is of the opinion that a takeover of the system is the most feasible alternative available to the parties, given Chick's stated willingness to sell for a "token" amount

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and the undesirability and great expense of drilling artesian wells at this location. We therefore encourage the parties to immediately commence negotiations and hereby order that a letter be sent to the Commission by Chick six months from the date of this report and order advising us of the status of the negotiations. Our authorization to discontinue operations is contingent upon Chick's good-faith effort in these negotiations.

Two additional items need to be

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mentioned. With regard to Chick's apparent revenue deficiency, it should be pointed out that Chick may file for a rate increase with this Commission if it is of the opinion that its revenues are insufficient.

More importantly, regarding the present discontinuance in service, we hereby order Chick to repair the distribution system and to restore water service to the affected customers within ten days following the date of this order. We further order that Mr. W. Richard Kitchen, Jr., Chairman of the Board of Chick, notify this Commission as soon as water services are restored.

Our Order will issue accordingly.

ORDER

WHEREAS, under RSA 362:4, this Commission may exempt certain water companies from consideration as a public utility upon finding that such exemption is consistent with the public good; and

WHEREAS, the Commission, for the reasons stated in the foregoing Report which is hereby made a part hereof, concludes that exempting John F. Chick & Son Inc. from consideration as a public utility is not consistent with the public good; and

WHEREAS, under RSA 374:28, the Commission may authorize a public utility to discontinue service if the public good does not require further continuance of that service; and

WHEREAS, the Commission concludes that the public good requires the continuance of services by John F. Chick & Son, Inc.; it is hereby

ORDERED, that John F. Chick & Son, Inc.'s petition for exemption and petition to discontinue water services are hereby denied; and it is

FURTHER ORDERED, that John F. Chick & Son, Inc. is required to continue operations for a period of one year from the date of this report and order; and it is

FURTHER ORDERED, that John F. Chick and Son., Inc. may discontinue operations one year from the date of this order, when its water system is turned over to the town or the customers, whichever is sooner, provided it has made a good-faith effort to engage in negotiations with these parties concerning such a takeover; and it is

FURTHER ORDERED, that John F. Chick and Son, Inc. commence immediate efforts to engage both the town and its customers in discussions concerning proposed takeover of the company; and it is

FURTHER ORDERED, that John F. Chick and Son, Inc. notify this Commission of the

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status of these negotiations six (6) months from the date of this order; and it is

FURTHER ORDERED, that John F. Chick & Son, Inc. repair the water distribution system and restore water service to the affected customers within ten days following the date of this order and to immediately notify this Commission when said service has been restored.

By Order of the Public Utilities Commission of New Hampshire this eighteenth day of October, 1983.

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NH.PUC*10/18/83*[79789]*68 NH PUC 627*Fuel Adjustment Clause

[Go to End of 79789]

Re Fuel Adjustment Clause

Intervenor: Littleton Water and Light Department

DR 83-270, Supplemental Order No. 16,724

68 NH PUC 627

New Hampshire Public Utilities Commission

October 18, 1983

ORDER permitting fuel surcharge to become effective.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, the Commission in correspondence dated March 2, 1982, sent to the New Hampshire Electric Cooperative, Inc., Exeter & Hampton Electric Company, Connecticut Valley Electric Company, Inc., Granite State Electric Company, Municipal Electric Department, and Littleton Water & Light Department by the Commission's Executive Director and Secretary in relation to DR 82-59, notified the utilities that the Commission will not automatically schedule FAC hearings for those utilities which file monthly unless requested or needed by one of those utilities; and the Commission would not automatically schedule FAC hearings in the two off months for those utilities which have a quarterly FAC rate; and

WHEREAS, no utility maintaining a monthly FAC requested a hearing be scheduled; it is

ORDERED, that 117th Revised Page 6 of the Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for a fuel surcharge of $2.16 Per 100 KWH for the month of October, 1983, be, and hereby is, permitted to become effective October 1, 1983.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of October, 1983.

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NH.PUC*10/20/83*[79790]*68 NH PUC 628*New Hampshire Electric Cooperative, Inc.

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[Go to End of 79790]

Re New Hampshire Electric Cooperative, Inc.

Intervenors: New England Telephone and Telegraph Company and Department of Resources and Economic Development

DE 83-188, Second Supplemental Order No. 16,726

68 NH PUC 628

New Hampshire Public Utilities Commission

October 20, 1983

ORDER affirming earlier order allowing telephone company to place and maintain an aerial wire over public waters.

APPEARANCES: Douglas Patch for the Department of Resources and Economic Development; Jeffrey Zellers for New Hampshire Electric Cooperative, Inc.; Jeanne S. Conroy for New England Telephone and Telegraph Company.

BY THE COMMISSION:

REPORT

On May 27, 1983, the New England Telephone and Telegraph Company petitioned this Commission for a license to place and maintain aerial plant over state-owned public waters, the Baker River, in Rumney, New Hampshire to service a single customer, Andrew Sutherland.

The Commission issued an Order of Notice on June 2, 1983, directing all interested parties to appear at a public hearing at 10:00 on July 6, 1983 at the Commission's Concord offices. All Parties to the proceeding were notified.

The New Hampshire Electric Cooperative Inc. joined the Petitioner, and an amended joint petition was filed on June 27, 1983.

The Department of Resources and Economic Development opposed the proposed crossing by memorandum filed with this Commission on dune 15, 1983.

Testimony was taken at the July 6, 1983 hearing from all parties. The Commission's review of the evidence resulted in publication of its Order No. 16,526, dated July 8, 1983 (68 NH PUC 466), granting both Petitioners the authority to place and maintain aerial plant over the Baker River.

The Commission explained its rationale in its Report accompanying that Order.

On July 26, 1983, the Department of Resources and Economic Development requested a rehearing on the petition. That rehearing was held on August 25, 1983, at the Commission's offices, and was represented by Wayne Snow, Engineering Manager, New England Telephone Company and Clayton Heath, Division of Forests and Lands, Department of Resources and Economic Development. After hearing

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testimony, the Commission postponed the matter pending further detailed study of the alternatives available to reach the property of the customer to be served by the Petition. The Commission directed Staff to arrange for a meeting with all parties, and advised that the hearing would be rescheduled. It directed DRED to request assistance of the Attorney General's office in preparing its position in the matter.

Staff's Chief Engineer met with representatives of the New Hampshire Electric Coop and New England Telephone Company at the Rumney site on August 29, 1983.

A hearing was held at the Commission's offices on September 20, 1983. The Department of Resources and Economic Development was represented by Douglas Patch, Esquire, Attorney General's Office. New England Telephone was represented by Jeanne S. Conroy, Esquire. The New Hampshire Electric Coop was represented by Jeffrey Zellers, Esquire.

Testifying for DRED, Mr. Heath objected to the overhead crossing to the Sutherland property on the basis that it " ... represents another infringement on the aesthetic value of the River. The continued crossing of lines of rivers of this type leads to a bit by bit chipping away of these qualities until they are materially reduced." (T-2-17, 18; Sept. 20, 1983). He offered three alternatives which the Department found preferable to the existing overhead crossing. One alternative extends from Old Route 125 easterly of the Russell School approximately 1575 ft. to the property of the customer, Mr. Andrew Sutherland. The above line would extend beyond the school playground through open fields and flat ground through small patches of wooded area.

A second alternative would extend from Stinson Lake Road, easterly along the south side of the Baker River, a total distance of about 1800 ft. to the building. It would be placed on private property of two parties, primarily through wooded area to the Sutherland property.

The third alternative is an underground crossing at the existing location of the overhead facility.

Mr. Heath offered photographs of the three alternatives. He noted that the river is a very scenic stream with clear water and is environmentally unspoiled. The river from bank to bank is about 100 ft., and is canoeable at certain times of the year. It is listed in the Canoes Guide, put out by the Applachian Mountain Club and is listed as a "recreational" river in a report entitled "Wild, Scenic and Recreational Rivers for New Hampshire" (Exhibit G), published by the New Hampshire Office of State Planning. It is stocked for fishing with Atlantic Salmon and, according to a letter from the New Hampshire Fish and Game Department (Exhibit F) it is moderately fished through the summer months.

Mr. Earl Hanson, Plant Manager of the New Hampshire Electric Cooperative Inc., testified that as a result of Staff instructions, his Company had determined there were four alternatives to the overhead crossing. One was the possibility of burying the capable underneath the River. A second was a line extended from the Russell School. A third was an extension from the Public Service transmission line which crosses between the Russell School and the Sutherland property. The fourth was an extension from Stinson Lake

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Road. A fifth alternative was also considered extending around the Kuchinsky property directly easterly of the Russell School and joining the second alternative.

Mr. Hanson testified that electric service already extends to the Sutherland property across the Baker River from a point on Quincy Road. The line was installed in 1972 with an estimated cost of $2500 for the 100 ft. crossing. The Company has no certificate for the crossing and it is for that reason that the Company joined in the instant petition.

The Cooperative objects to an underwater crossing. Mr. Hanson has observed extreme changes in the river's flow. During the Summer, the river is too low to allow navigation without picking up canoes or inner-tubes to cross over sand bars. In the Spring it is flood prone and frequently floods over the banks. Property owners have trouble maintaining their unstable banks. In order for the Cooperative to install a secure, safe line, it would be necessary to install approximately 300 ft. of submarine cable in concrete conduits buried in the river. He indicted that the N.H. Wetlands Board is reluctant to approve such a crossing in such an unstable location. The estimated cost of $25,000 for that installation is based on an estimate of a similar crossing on the Pemigewasset River near Loon Mountain. If the underwater crossing is required, the Company would move its existing poles back from the river's edge to prevent against the more severe erosion that the Company expects from the construction excavation work itself.

Mr. Hanson's second alternative extends from the Russell School at School Street along the west side of the school. He indicated that the Rumney School Board would not permit or deny their going over the property without a formal presentation, but he indicated that the District Superintendent had advised of the need to use underground lines along the school property. The same was true if the line were extended from the Kuchinsky property across the rear of the school grounds. It would be necessary to extend the line underground under the Public Service Company transmission line, a distance of approximately 900 ft. in order to eliminate the need for the Public Service Company to increase the pole height of their own facility. The Cooperative estimates that the 1850 ft. project would cost between $9,000 and $10,500 depending upon whether the Kutchinsky option were followed. Additionally, costs of approximately $500 to remove the existing line which now crosses from Quincy Road would be incurred.

A third alternative to make a connection from the Public Service Company line was discarded because the PSNH transmission line could not be tapped from the location behind the Russell School. The nearest point at which that line could be tapped was 6700 ft. down stream, exclusively on private property. The first two property owners who were approached refused to sign easements, so no further consideration was given to that alternative.

Alternative No. 4. extended easterly from Stinson Lake Road parallel to the River approximately 1970 ft. at a cost of approximately $8400. The private property of two landowners was crossed, and one, when contacted, refused an easement. The second could not be reached for comment. Mr. Hanson

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noted that the line would run along side the river for its entirety, and that the aesthetics of such an extension would be far worse than the individual crossing at its present location.

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Wayne Snow, Engineering Manager, New England Telephone Company, testified on behalf of the same alternatives and explained that the present overhead crossing had been installed on the authority of the Commission's previous order at a cost of $473. An under water crossing at the existing location would cost approximately $5000 if the Company did not share the costs with the Cooperative. If trenching costs were shared, the costs would be approximately $2600. The Russell School approach would cost approximately $2600 and would incur annual pole rental fees of $42.60 per year. The Stinson Lake approach would cost approximately $900 and would incur annual pole rental charges of $63.40. The PSNH line was not considered since there were no telephone lines in the area.

Mr. Snow expects that if either the School Street or Stinson Lake Road options are followed, that the annual pole costs will not be required of Mr. Sutherland, as would normally be the case, since this alternative plan was due to no fault of the customer. The New England Telephone Company would absorb the costs and pay the rental charges to the Cooperative.

Commission Analysis

The Commission looks first to its statutory obligation to consider service to this property:

371:17 *Petition*.

> Whenever it is necessary, in order to meet the reasonable requirements of service to the public, that any public utility should construct a ... cable, or conduit, or line of poles ... over, under or across any of the public waters of this State ... it shall petition the Commission for a license to construct and maintain the same. For the purposes of this section, public waters are defined to be ... such streams or portions thereof as the Commission may prescribe.

371:20 *Hearing; Order*.

> The Commission shall hear all parties interested, and, in case it shall find that the license petitioned for, subject to such modifications and conditions, if any, and for such period as the Commission may determine, may be exercised without substantially affecting the public rights in said waters or lands, it shall render judgment granting such license. Provided, however, that such license may be granted without hearing when all interested parties are in agreement.

First, as to the necessity, the Commission finds that the customer in question, Andrew Sutherland, is entitled to electric and telephone service.

Second, the Commission finds that the Baker River qualifies as such stream as should be considered under its statutory obligation.

Having satisfied itself that the Commission has a responsibility to establish a location for these utility lines, it now turns to RSA 371:20 for guidance as to how the selection of the best line should be made. Its strongest guidance

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is in the terms " ... that the license ... may be exercised without substantially affecting the public rights in said waters and lands ... ". Keeping that statutory mandate in mind, its review of

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the alternative presented herein directs it first to the so-called Stinson Lake Road alternative in which approximately 2000 ft. of river bank will be traversed in order to reach the Sutherland home. We find that the environmental impact of a project of this magnitude far exceeds the environmental impact of the existing crossing. and we will exclude this alternative from further consideration on the basis that it would more substantially affect the public rights than would the instant crossing.

We will use the same test in considering the PSNH line which, by a review of Exhibit H, would traverse 6700 ft. over 6 parcels of private property to reach the Sutherland property. The environmental impact of that project, coupled with the construction costs of that project, which would ultimately have to be borne by all ratepayers, causes us to exclude that alternative from further consideration.

We are left with the underground crossing as the only remaining alternative. We are persuaded on the one hand by DRED that the underground installation will have less visual impact upon any passing viewers, and we are persuaded by the utilities that not only will a significant amount of any perceived visual impact remain, because the poles will remain in place regardless of the type of crossing, but also that the future damage to the river bed will be more excessive as a result of construction and will increase the vulnerability of the fragile river bank.

We find the latter to be the stronger argument. The fact that the poles will remain in place regardless of the type of construction leads us to recognize that the aesthetic improvement from the underground system would result only in the elimination of the few wires which pass between the poles. We respect DRED's position to protect the aesthetic environment, but we also recognize that the elimination of the wires will not in and of itself restore the immediate area to the pristine beauty that it once enjoyed. The fact is that the Sutherland home sits right at the edge of the river bank surounded by a lawn and other improvements, and it will retain its impact on the aesthetics of the area regardless of the action taken by this Commission. We are also persuaded by the concept of the potential damage that can be done to the river banks as a result of underground construction. While there is no direct testimony attesting to its likelihood and although the reference to disapproval by the Wetlands Board is unconfirmed, if we err, we will err on the side of the environmental stability and we will not subject this portion of the river to even greater environmental damage than already exists.

Finally, we must consider the financial impact of the remaining alternatives. The existing electric crossing of $2,500 must be weighed against their projected underwater installation cost of $25,000. On a smaller scale, New England Telephone's existing installation of $473 must be weighed against the projected installation cost of $2,600 assuming that a common trench would be shared.

We do not find adequate aesthetic benefits from the removal of the overhead crossing to justify the environmental risks and expenses of any of the

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other identified alternatives. However, it should be noted that the Commission is very concerned that the environmental impact from utility service on the natural resources of New Hampshire, *i.e.*, rivers, lakes and mountaintops has not been adequately addressed in the past.

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The Commission wishes to put all utilities and concerned agencies on notice that future proceedings involving licenses, permits or authority to cross State waters or lands shall address the issue in detail and concerned persons should be guided accordingly. We affirm our decision in Order No. 16,526 (68 NH PUC 466).

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Based upon the foregoing Report which is made a part hereof; it is hereby

ORDERED, that the authority granted in the Commission's previous Order No. 16,526 in the instant docket is upheld.

By Order of the Public Utilities Commission of New Hampshire this twentieth day of October, 1983.

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NH.PUC*10/20/83*[79791]*68 NH PUC 633*Northern Utilities, Inc.

[Go to End of 79791]

Re Northern Utilities, Inc.

DR 83-322, Order No. 16,729

68 NH PUC 633

New Hampshire Public Utilities Commission

October 20, 1983

ORDER approving special contract for gas service.

BY THE COMMISSION:

ORDER

WHEREAS, Northern Utilities, Inc., a utility selling gas under the jurisdiction of this Commission, has filed with this Commission a copy of its Special Contract No. 56 with New Hampshire Provisions, effective on approval by Commission order, for gas service at rates other than those fixed by its schedule of general application; and

WHEREAS, upon investigation and consideration, this Commission is of the opinion that special circumstances exist relative thereto, which render the terms and conditions thereof just and consistent with the public interest; it is

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ORDERED, that said contract may become effective as of the date of this order.

By order of the Public Utilities Commission of New Hampshire this twentieth day of October, 1983.

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NH.PUC*10/20/83*[79792]*68 NH PUC 634*Kearsarge Telephone Company

[Go to End of 79792]

Re Kearsarge Telephone Company

DF 83-287, Order No. 16,730

68 NH PUC 634

New Hampshire Public Utilities Commission

October 20, 1983

ORDER authorizing telephone company to borrow from the Rural Telephone Bank.

APPEARANCES: Robert Upton for the petitioner; Kenneth E. Traum, assistant finance director, Edgar D. Stubbs, Jr., assistant chief engineer, for the New Hampshire Public Utilities Commission staff.

BY THE COMMISSION:

REPORT

On September 7, 1983, the Company filed a petition requesting authority to borrow $3,780,000 from the Rural Telephone Bank (RTB) at 11.5% interest and secured by mortgage.

On September 9, 1983, this petition was noticed for public hearing at the Commission's office in Concord on October 12, 1983.

The duly noted pubic hearing was accordingly held.

During the course of the hearing and prior to it, the Company submitted fifteen exhibits and four attachments, which were explained by witness Collins.

The exhibits explain the proposed borrowing, its costs, uses, and effect on the utility. The promissory note or notes will be for a total sum of not more than $3,780,000, bearing interest at a rate of 11.5% per annum and providing the payment of the principal thereof within thirty-five years, to be issued to the R.T.B., a corporation created by Act of Congress and affiliated with the Rural Electrification Administration. Said note or notes will be secured by a mortgage of all the property, including the franchises, of the petitioner.

The proceeds of said proposed mortgage loan will be used to refinance the $500,000 short term note and to finance necessary improvements

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and extension of services of the petitioner, extension and upgrading of the service to eventual total one-party, construction of a new garage and warehouse facility, new toll facilities and other system improvements, as well as the requisite purchase of $180,000 of R.T.B. Class B Stock.

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The Commission feels the proposed note or notes are in the public good and our Order will issue accordingly, but at this time the Commission will state that approval of this issue should not be interpreted by any party as giving the utility approval to eliminate all but one-party service in the future. In addition, due to the changing environment in this industry, before the remaining three central offices are converted to a new switching mechanism, the Company will keep the Commission and its staff advised of its plans and options.

ORDER

Based upon consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that Kearsarge Telephone Company be, and hereby is, authorized to borrow up to $3,780,000 of long term notes, in accordance with the foregoing Report; and it is

FURTHER ORDERED, that on July 1st and January 1st in each year, the utility shall file with this Commission a detailed statement duly sworn to by its Treasurer or Assistant Treasurer, showing the disposition of the proceeds of said notes being authorized until the expenditure of the whole of said proceeds shall have been fully accounted for.

By Order of the Public Utilities Commission of New Hampshire this twentieth day of October, 1983.

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NH.PUC*10/24/83*[79793]*68 NH PUC 635*New England Telephone and Telegraph Company

[Go to End of 79793]

Re New England Telephone and Telegraph Company

DR 83-237, Second Supplemental Order No. 16,731

68 NH PUC 635

New Hampshire Public Utilities Commission

October 24, 1983

ORDER revising telephone tariffs to make customer premises equipment in use on multiparty lines available for sale.

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BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, Commission Order No. 16,677 (68 NH PUC 585) issued under this docket specified that telephone utilities would make available for sale the CPE currently in use on multi-party lines; and

WHEREAS, said Order also specified certain criteria under which customer assistance was

provided in the purchase of said CPE or other available instrumentation, plus any criteria necessary for modification of same for net-work compatibility; and

WHEREAS, New England Telephone has filed revisions to its tariff No. 75 documenting the directed procedures; and

WHEREAS, the Commission finds this filing in the public interest it is

ORDERED, that the following pages of said tariff be, and hereby are, rejected:

Pt. A — Sec. 3, Table of Contents, 1st Rev. Pg.2 Original Pgs. 16, 17 and 18 1st Rev. Pg. 15 " 4, 2nd Rev. Pg. 5 Pt. C — Sec. 2, Rev. Pg. 1 " 4, Table of Contents, 3rd Rev. Pg. 2 1st Rev. Pg. 2 2nd Rev. pgs. 21, 22 and 23 3rd Rev. Pg. 1;

and it is

FURTHER ORDERED, that the following pages of said Tariff No. 75 be, and hereby are, approved for effect on October 5, 1983:

Pt. A — Sec. 3, Table of Contents, 2nd Rev. Pg. 2 1st Rev. Pgs. 16, l7 and 18 2nd Rev. Pg. 15 " 4, 3rd Rev. Pg. 5 Pt. C — Sec. 2, 4th Rev. Pg. 1 " 4, Table of Contents, 4th Rev. Pg. 2 2nd Rev. Pg. 2 3rd Rev. Pgs. 21, 22 and 23 4th Rev. Pg. 1;

and it is

FURTHER ORDERED, that New England Telephone give public notice of this Order by issue of bill inserts, or other release at the Company's option, summarizing the provisions of this Order.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of October, 1983.

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NH.PUC*10/26/83*[79794]*68 NH PUC 636*Town of Swanzey

[Go to End of 79794]

Re Town of Swanzey

DX 83-333, Order No. 16,733

68 NH PUC 636

New Hampshire Public Utilities Commission

October 26, 1983

ORDER rescinding previous order to install and maintain streetlights.

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BY THE COMMISSION:

ORDER

WHEREAS, the Town of Swanzey was required to make certain improvements at four railroad-highways crossings at grade in Order No. 14,875 set forth in Docket DT 81-36; and

WHEREAS, one of the improvements was illumination of the crossings; and

WHEREAS, the Boston and Maine Railroad has ceased operation over the Ashuelot branch which passes through Swanzey and included it in the three year abandonment plan relieving the necessity of illumination of the crossings; it is hereby

ORDERED, that the part of Order No. 14,875 as set forth in DT 81-36 requiring the installation and maintenance of street lights at those crossings be recinded; and it is

FURTHER ORDERED, that the Boston and Maine Railroad must obtain prior approval from the Commission in the event that any operation over the Ashuelot Branch is resumed.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of October, 1983.

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NH.PUC*10/26/83*[79795]*68 NH PUC 637*Public Service Company of New Hampshire

[Go to End of 79795]

Re Public Service Company of New Hampshire

DE 83-299, Order No. 16,734

68 NH PUC 637

New Hampshire Public Utilities Commission

October 26, 1983

PETITION for license to construct and maintain electric transmission lines to establish interconnection; approved.

APPEARANCES: Pierre O. Caron for the petitioner.

BY THE COMMISSION:

REPORT

On September 20, 1983, the Public Service Company of New Hampshire filed with this Commission a petition for authority to construct and maintain electric transmission lines under and across land of the State of New Hampshire, Department of Public Works and Highways, Transportation Division in the Town of Beecher Falls, Vermont, to establish an interconnection with Citizens Utilities Company.

The Commission issued an Order of Notice on September 21, 1983 directing all interested parties to appear at public hearings at 10:00 a.m. on October 19, 1983 at the Commission's

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Concord offices. Notices were sent to Pierre O. Caron, Esq., Public Service Company of New Hampshire, for publication; The Transportation Division, Department of Public Works and Highways; John A Clements, Commissioner, Department of Public Works and Highways; John R. Sweeney, Director, Aeronautics Commission; John Bridges, Director, Safety Services; George Gilman; Commissioner, DRED; and the Office of the Attorney General.

An affidavit of publication indicating that publication was made in the Union Leader on September 29, 1983 was received in the Commission's office on October 12, 1983. The Company advised that on April 15, 1983, the Vermont Public Service Board approved the sale of PSNH's retail electric service facilities in the State of Vermont to Citizens Utilities Company. Approval of this petition will allow PSNH to construct a 34.5 KV tie line to connect the two systems in the Town of Beecher Falls, Vermont. The tie line will be approximately 1500 ft. in length and will be constructed and maintained to meet all codes and regulations applicable to horizontal and vertical clearances and distances from railroad facilities. The Company contends that completion of the tie-line is essential to completion of the agreement between PSNH and Citizens Utilities Company. Citizens Utilities Company will pay all construction costs.

An exhibit was offered (Exhibit 1) specifiying the precise location of the transmission line.

A letter from John W. Clement, Assistant Railroad Administrator, NHDPWH, was admitted (Exhibit 2) indicating that they did not object to the Company's proposal, and attaching a copy of a license signed by their office and PSNH which will be executed upon approval by this Commission of the petition.

No objections were filed or expressed either prior to or at the at the public hearing. In fact, no intervenors or interested parties were in attendance.

The petition was properly publicized, and proper notification was given to the public as to the proposed installation.

The Commission finds that this petition for a license to construct and maintain electric transmission lines under and across land of the State of New Hampshire, Department of Public Works and Highways, Transportation Division in the Town of Beecher Falls, Vermont in order to establish an interconnection with Citizens Utilities Company, to be in the public interest.

Our Order will issue acordingly.

ORDER

Based upon the foregoing Report which is made a part hereof it is hereby

ORDERED, that the petition for a license to construct and maintain electric transmission lines under and across land of the State of New Hampshire, Department of Public Works and Highways, Transportation Division in the Town of Beecher Falls Vermont in order establish interconnection with Citizens Utilities Company is approved.

By Order of the Public Utilities Commission of New Hampshire this twenty-sixth day of October, 1983.

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[Go to End of 79796]

Re Claremont Gas Light Company

DE 82-197, 12th Supplemental Order No. 16,735

68 NH PUC 639

New Hampshire Public Utilities Commission

October 26, 1983

ORDER adopting terms of settlement agreement and closing docket.

APPEARANCES: as noted previously.

BY THE COMMISSION:

REPORT

This phase of the instant docket was initiated by the Commission's Sixth Supplemental Order No.16,369 (April 27, 1983 [68 NH PUC 231, 250]) which provided *inter alia*:

> The Commission will set a further hearing, to be held within 20 days of this Report and Order. At that hearing, the Company will be required to show cause why it should not be fined an additional $56,000. The Commission hereby provides notice that this fine will be imposed unless Claremont undertakes to: (1) comply with all of the recommendations in the Pepper Report concerning corrosion control within two years; and (2) complete eight of the recommendations within one year of this order. At that show cause hearing, the Commission will expect Claremont to submit a full compliance schedule or prove to the satisfaction of the Commission that any provision of the Pepper Report with which it will not comply is inappropriate.

At subsequent proceedings, the Company submitted evidence regarding its past efforts to comply with corrosion control regulations and its plans to bring the remainder of its system into compliance with corrosion control regulations. As a part of its efforts, the Company, through its corrosion control consultant, conducted a leak survey, soil tests and a visual inspection of certain facilities. As a result of that work, the Company, on July 29, 1983, filed a Petition to Discontinue Service in Certain Portions of its Franchise Territory. A procedural schedule was adopted on the Petition and an evidentiary hearing was scheduled. Prior to the evidentiary hearing, the Company met with the Commission Staff and arrived at an agreement which disposes of all outstanding issues in this docket.

The agreement *inter alia* requires Claremont to bring its system into full compliance with corrosion control regulations and to maintain its system in compliance. In addition, the agreement allows Claremont to discontinue service in three areas which, upon inspection,

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were found to be in poor condition.[1(63)] Those areas are:[2(64)]

1) Section 1, including Green Street, and 19 Bond Street; 2) Section 7, including Bible Hill Road, Ridge Road, Charles, Mulberry, Wolcott and Pleasant Streets; and 3) Section 12, including Hanover, Shannon and Garden Streets.

For those customers located in the areas to be discontinued, the Company will: 1) directly notify the affected customers; 2) inform those customers of the procedure to be followed in the conversion process; 3) inform affected customers that conversion to bottled gas will be acomplished at no cost if the customer agrees to be served by Utilgas, Inc.; and 4) ascertain proper placement of bottled or bulk facilities and a convenient date for conversion.

After complete review, the Commission finds that the terms of the settlement agreement are just and reasonable and are in accordance with the Commission's gas safety regulations. Accordingly, we will incorporate the complete agreement by reference and adopt its terms as a part of this Report and Order.

The Commission notes that there is one matter of concern which is not addressed in the agreement. That matter is the question of whether customers who wish to purchase bottled or bulk gas from a company other than Claremont's affiliate, Utilgas, Inc., will also be entitled to a no-cost conversion. Since we are satisfied with the agreement, we will not attempt here to add additional terms. However, we will provide notice that the Commission believes that all customers within the discontinued areas should be entitled to a no-cost conversion to bottled or bulk gas regardless of which supplier is selected. Thus, the Commission will entertain and adjudicate any customer complaints on this matter if the Company refuses to provide a no-cost conversion.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that the terms of the Settlement Agreement of October 12, 1983 be, and hereby are, adopted; and it is

FURTHER ORDERED, that this docket is closed.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of October, 1983.

FOOTNOTES

[1]The agreement also contemplated discontinuance of service in one area located on Washington Street which may, at some point in the future, be relocated.

[2]The list refers to the section numbers set forth in the Pepper Report.

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NH.PUC*10/27/83*[79797]*68 NH PUC 641*Walnut Ridge Water Company, Inc. v Lorraine M. Parhiala

[Go to End of 79797]

Walnut Ridge Water Company, Inc. v Lorraine M. Parhiala

Additional petitioner: Indian Head National Bank and Trust Company

DE 83-85, Order No. 16,736

68 NH PUC 641

New Hampshire Public Utilities Commission

October 27, 1983

ORDER denying motion to award attorney fees and expenses.

BY THE COMMISSION:

ORDER

WHEREAS, this Commission has no equitable, statutory or regulatory authority to award costs, attorney fees and expenses other than pursuant to Puc 205, which is not applicable to the case at bar, the subject motion is denied.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of October, 1983.

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NH.PUC*10/28/83*[79798]*68 NH PUC 641*Milford Water Works

[Go to End of 79798]

Re Milford Water Works

Intervenors: Town of Milford Water Department, U.S.U.R.P., and Town of Amherst

DE 83-257, Order No. 16,737

68 NH PUC 641

New Hampshire Public Utilities Commission

October 28, 1983

ORDER exempting water company construction from town zoning ordinances.

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WATER, § 12 — Water utilities — Construction and equipment — Exemption from zoning ordinances.

[N.H.] The commission found that a water company's construction and drilling projects were necessary for the convenience and welfare of the public and should therefore be exempt from town zoning ordinances pursuant to RSA 31:62.

APPEARANCES: Patrick J. Enright for the town of Milford Water Department; Linda Dahlmann spokesperson for the U.S.U.R.P.; William R. Drescher for the Town of Amherst; Wynn Arnold, executive director and secretary and Robert Lessels, water engineer, for the public utilities commission staff.

BY THE COMMISSION:

REPORT

On August 4, 1983, the Town of Milford, New Hampshire, on behalf of the Milford Water Works (Milford), filed a petition for a finding that the construction of certain structures, including pipelines, wells, well houses and pumping equipment over an expanse of approximately 400 feet within the confines of the Town of Amherst (Amherst) is reasonably necessary for the convenience and welfare of the public. Such a finding, pursuant to RSA 31:62, would exempt the above described structure from the zoning ordinances of the Town of Amherst.

On September 6, 1983, a hearing was held in each of the two affected towns. The hearings, which were well attended by the public, were both evidentiary and informational. Both Amherst and Milford presented expert testimony, the witnesses were questioned at length and the public voiced their concerns.

This petition is unusual in that Milford is seeking exemption after having commenced construction of the project. In fact, the pipeline is now complete and one of the two proposed wells is now in operation. The Commission is concerned that Milford did not seek prior authorization for the project and that the parties did not first attempt to negotiate a mutually acceptable arrangment. Nonetheless, exigent circumstances require prompt consideration by the Commission as to whether *ex post facto* authorization should be granted.

The Milford Water Works has been owned and operated by the Town of Milford since 1890. It did not become a public utility until September 14, 1960 when it was authorized by this Commission pursuant to, RSA 38:12 and 374:22 to extend its lines and service into a limited area of the Town of Amherst. At present, Milford supplies water to approximately 8,000 persons, including 30 in the Town of Amherst.

Until February, 1983, Milford drew its water from three gravel packed wells, all located in the Town of Milford, with a total pumping capacity of 1,100 gallons per minute (Tr. 13). In anticipation of increasing demand over the next few years, Milford planned to construct a fourth well which was projected to supply an additional 500 gallons per minute (Tr. 28).

In February, 1983, the New Hampshire Water Supply and Pollution Control Commission (WSPCC) discovered through routine sampling that one of

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Milford's three wells, the Savage Well, had, unsafe concentrations of volatile organic chemicals and ordered the well closed. The WSPCC further ordered that Milford abandon its plan to construct its fourth well since it may be fed from the contaminated Savage aquifer. This caused Milford to abruptly lose 500 gallons per minute (Tr. 13) or between 40 and 45 percent of its current water supply in addition to losing the projected 500 gallons per minute from the second Savage Well. The WSPCC representative testified that other Milford wells could also become contaminated in the future (Tr. 66). Milford implemented emergency water rationing and began an immediate search for an additional water supply.

Studies conducted by the WSPCC and by a consulting firm hired by Milford indicated that there were no potential well sites within the confines of the Town of Milford that would be likely to be free of pollutants. Both the WSPCC and Milford's consultants advised Milford that the only adequate and safe (Tr. 70) site for a new well would be on land in Amherst, owned by the Town of Milford, which is known as the Curtis Farm.

The Curtis Farm fronts on the Souhegan River, which at that point forms the boundary between Milford and Amherst. Tests indicated that the projected well field could support two gravel packed wells that would pump 1,100 gallons a minute (Tr. 12). This quantity would compensate for the loss of the condemned Savage. Well (500 gallons a minute) and the projected Savage Well (500 gallons a minute) would also partially allow for the possible loss of an additional well in the future due of contamination (Tr. 66).

Milford obtained the necessary permits from the WSPCC and the State Wetlands Board and expeditiously commenced work on the Curtis Wells, the first of which came on-line on July 16, 1983. The second well was under construction at the time of the hearing. The pipeline extends from the wells approximately 400 feet to the Souhegan River and then another 100 feet, more or less, across the river to a pumping station on the Milford side.

The Commissioners viewed the well sites. The only visable evidence of the functional well is a 4-5 foot mound of dirt. There will be a similar mound over the second well when it is completed. There was no perceivable noise emanating from the functional well and the pipelines appeared to be appropriately buried both over land and under the Souhegan River. The wells were situated in an open field with no visible residences on the Amherst. side.

The nearest residence on the Amherst side is approximately 1,500 feet from the wells (Tr. 22-23). However, because of widespread reliance on private wells in Amherst, many Amherst residents expressed concern over whether the Curtis Wells could adversely affect their private water supplies.

Milford dug seven test wells (Tr. 19) and have agreed with Amherst to dig an additional two test wells (Tr. 19) in order to monitor draw-down on the aquifer caused by pumping from the Curtis Wells. Expert testimony offered by both Amherst and Milford indicates that the draw-down on domestic wells in the area of the Curtis Well field is projected to be less than one foot (Tr. 211, 109, Ex. 13 and 17), with minimal affects on private wells (Tr. 80, 95),

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when the Curtis Wells pump at the projected maximum rate of 1,100 gallons per minute.

Nonetheless, numerous Amherst residents are concerned that they could lose their private water supplies because of pumping from the Curtis Wells. They live within a 2,500 foot radius of the well field, in the area of Holt Road, Nichols Road, Merrimack and Souhegan Road (Tr. 264). Testimony by or on behalf of these residents indicated a possible causal relationship between pumping from the Curtis Well field and substantial drops in water level in their wells, ponds and streams (Tr. 266-269, 279-289, Ex. 18, Ex. 19). Some of these reported drops were in excess of two feet (Tr. 268). One potentially affected person is Norman Van Ord at Nichols Road, a cattle farmer who depends on a stream flowing through his land to provide water to his cattle. The cattle consume approximately 1,700 gallons a day (Ex. 18 at p. 5, Tr. 268-269). This impact on private water supplies could be exacerbated when the second Curtis Well is put into service thereby increasing the well field's output from 400 gallons a minute to 1,100 gallons a minute.

Monitoring test wells could help determine whether depletion of private wells is causally connected to pumping from the Curtis Wells. It could also provide advance notice of impending drawdowns. The testimony of Amherst's expert, George Cook, indicated that for such monitoring to be effective, two additional test wells are recommended (Tr. 212-213) at locations specified on a map offered by Mr. Cook and entered as Exhibit 15. The proposed locations are labelled as #14 and #15 on said map. The land is owned by Mary E. Waterman who, according to Amherst's counsel, has agreed to allow the construction of the two monitoring wells on her land. Counsel for Milford indicated at the hearing that he had no objection to this proposal. Accordingly we will order that the two additional test wells be constructed and monitored at least twice a week by Milford.

Monitoring wells are frequently useful in ascertaining the effect that pumping from one well has on neighboring wells, but they do not always produce definitive results. It should not be the private well owner's burden to prove causation. It would appear more practical, just and reasonable to place this burden on Milford. Accordingly, unless Milford can demonstrate to the Commission's satisfaction that the failure of a private water supply within a 2,500 foot radius of the Curtis wells including Mr. Van Ord's stream, was caused by some factor other than pumping from the Curtis Well field, then Milford must connect the affected property to its water system, free of service connection and pipeline construction charges. Milford should further be required to establish a temporary water supply to affected private well owners within twenty-four hours pending construction of a permanent service connection or until this Commission determines that Milford has no further obligation to the private well owner in question. We will so order.

For the reasons cited above, the Commission finds that the construction of the two Curtis Wells with appurtenances by the Milford Water Works, its reasonably necessary for the convenience and welfare of the public, and should be exempt from the zoning ordinances of Amherst. This finding is

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subject to the conditions discussed above as specified in the accompanying Order.

ORDER

For reasons cited in the foregoing Report, which is incorporated herein by reference; it is hereby

ORDERED, that the construction, maintenance and operation by Milford Water Works (Milford) of the two Curtis Wells with appurtenances described in the foregoing Report is exempt from the zoning ordinances and regulations of the Town of Amherst pursuant to RSA 31:62; and it is

FURTHER ORDERED, that Milford construct and maintain two additional test wells at locations specified in the foregoing Report; and it is

FURTHER ORDERED, that Milford monitor all nine test wells associated with the Curtis wellfield at least twice a week, providing on request results of said monitoring to the Selectmen of the Town of Amherst; and it is

FURTHER ORDERED, that unless Milford can demonstrate to the Commission's satisfaction that the failure of a private water supply within a 2,500 foot radius of the Curtis Wells, including Mr. Van Ord's stream, was caused by some factor other than pumping from the Curtis Well field, Milford must connect the affected property to its water system, free of service connection and pipeline construction charges; and it is

FURTHER ORDERED, that Milford establish an emergency water supply to affected persons within twenty-four hours pending construction of a permanent service connection, or until this Commission determines that Milford has no further obligation to the persons in question.

By Order of the Public Utilities Commission of New Hampshire this twenty-eighth day of October, 1983.

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NH.PUC*10/31/83*[79799]*68 NH PUC 645*Public Service Company of New Hampshire

[Go to End of 79799]

Re Public Service Company of New Hampshire

Intervenor: Community Action Program

DR 83-320, Order No. 16,738

68 NH PUC 645

New Hampshire Public Utilities Commission

October 31, 1983

ORDER directing electric company to file revised tariff pages modifying the energy cost recovery mechanism rate.

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APPEARANCES: Eaton W. Tarbell, Jr., for the company; Gerald Eaton for the Community Action Program; Larry Smukler and Kenneth E. Traum, assistant finance director, for the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

By petition filed on October 13, 1983, Public Service Company of New Hampshire (PSNH) a public utility providing electricity in the State of New Hampshire, requested a change in the Energy Cost Recovery Mechanism (ECRM) rate for November and December, 1983.

The rate originally approved by the Commission in DR 83-164, Report and Order No. 16,499 (68 NH PUC 437) was $3.490/100 KWH for the months of August through December, 1983. The Order provided for a trigger mechanism so that the parties could request further adjustments if the estimated under-recovery for the period exceeds or is less than 4 million dollars. In its current petition the Company asked for a rate of $4.095/100 KWH for November and December, 1983. This request was increased at the hearing to $4.115/100 KWH due to additional data being available. PSNH petitioned for this increase because it estimates that unrecovered balance of ECRM costs through December 31, 1983, without a rate change would be $6,487,949. Since this exceeds the 4 million dollar trigger amount, a duly noticed public hearing was held on October 25, 1983.

The purpose of the hearing was the same as the purpose behind the trigger. mechanism, which is:

> ... to balance the competing objectives of rate continuity, revenue recovery, and minimization of regulatory burden.

PSNH was represented by two witnesses at the hearing and submitted eight exhibits with attachments.

PSNH testified that the reasons for the actual and estimated under-collection are:

> 1) A larger than originally estimated under-recovery as of June 30, 1983. 2) The cost of oil turned out to be higher than estimated in June, 1983 for the period July-December, 1983. 3) Low priced coal generation has seen lower generation than originally estimated. 4) Low priced hydro-electric generation saw lower generation than estimated for July and August, 1983. 5) Actual sales for July, August, and September, 1983 were significantly higher than estimated, with the higher sales volume met with high priced generation.

These reasons are reasonable on the surface, but it is not in the nature of this hearing to rule on the propriety of the Company's actions as much as it is to balance the competing objectives of rate continuity, revenue recovery, and minimization of regulatory burden.

With these objectives in mind, the parties presented three proposals to the Commission, all of which would include PSNH's proposal to net against the under-collection, the balance of the New Hampshire State Franchise Tax

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related to the AFUDC refund of $1,690,547 (subject to Commission audit). The proposals are: (1) The PSNH request to raise rates to approximately $4.11/100 KWH for November and December, 1983 and thus bring the Company to a $0 over/under recovery status as of December 31, 1983.

With this approach, customer's bills would reflect an ECRM rate of $3.49/100 KWH in October, 1983, $4.11/100 KWH in November and December, 1983, and $3.715/100 KWH roughly estimated for January through June, 1983; with an additional base rate change occurring in early 1984.

This certainly does not meet the objective of rate continuity, it does provide the Company with very rapid revenue recovery, and requires another Commission hearing in late December, 1983 for ECRM.

(2) The second option is Community Action Program's request to raise the rate to approximately $3.68/100 KWH for November and December, 1983 and spreading the estimated under recovery over eight months of ECRM sales. A rough estimate of the ECRM rate for the following six month period would thus be in the range of $3.85/100 KWH.

This approach better meets the Commission's objective of rate continuity, while spreading out the utility's revenue recovery over eight months instead of two, and would require another Commission hearing in late December, 1983.

(3) The third approach was suggested by the NHPUC Staff and relates to the Company's second data response. It would estimate an ECRM rate for an eight month period thus maintaining as much rate continuity as possible, while improving PSNH's revenue recovery over option two (2) in that the rate for the period would be $3.81/100 KWH or 13¢ /100 KWH higher than Community Action Program's for November and December, 1983, and in addition PSNH is entitled to 8% interest on undercollections.

This approach would not eliminate the under-recovery, as now estimated, by December 31, 1983, but would reduce it to a level substantially below the $4,000,000 trigger. In addition, it would eliminate the need for a December 1983 ECRM hearing, yet all parties would be provided protection through the trigger mechanism, and inclusion in the June, 1984 ECRM hearing of all issues relating to reconciliations and the propriety of PSNH actions as well as the over-collection status of PSNH in DR 82-333.

Consideration of all three options leads the Commission to the conclusion that a rate of $3.81/100 KWH for the months of November, 1983 through June, 1984, best meets the concerns of rate continuity, revenue recovery, and minimization of regulatory burden.

This rate incorporates approval of the Company's request with relation to the New Hampshire Franchise Tax refund, does not reach any conclusions with regards to Company actions, and eliminates the need for a regularly scheduled ECRM hearing in late December, 1983 while keeping the trigger mechanism in effect.

Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

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ORDERED, that PSNH's request to set its ECRM rate for November and December, 1983 at a rate of $4.115/100 KWH is rejected; and it is

FURTHER ORDERED, that PSNH shall file revised tariff pages setting an ECRM rate of $3.81/100 KWH for November, 1983 through June, 1984.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of October, 1983.

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NH.PUC*10/31/83*[79800]*68 NH PUC 648*Fuel Adjustment Clause

[Go to End of 79800]

Re Fuel Adjustment Clause

Intervenors: New Hampshire Electric Cooperative, Inc., Concord Electric Company, Exeter and Hampton Electric Company, Granite State Electric Company, Municipal Electric Department of Wolfeboro, Woodsville Water and Light Department, and Connecticut Valley Electric Company, Inc.

DR 83-324, Order No. 16,739

68 NH PUC 648

New Hampshire Public Utilities Commission

October 31, 1983

ORDER effectuating fuel adjustment clause tariffs.

BY THE COMMISSION:

ORDER

WHEREAS, the Commission in correspondence dated March 2, 1982, sent to the New Hampshire Electric Cooperative, Inc., Granite State Electric Company, Connecticut Valley Electric Company, Inc., Exeter & Hampton Electric Company, Municipal Electric Department of Wolfeboro, Concord Electric Company, Woodsville Power and Light Department, and Littleton Water & Light Department by the Commission's Executive Director and Secretary in relation to DR 82-59, notified the utilities that the Commission will not automatically schedule FAC hearings for those utilities which file monthly unless requested or needed by one of those utilities; and the Commission would not automatically schedule FAC hearing in the two off months for those utilities which have a quarterly FAC rate; and

WHEREAS, no utility maintaining a monthly or quarterly FAC requested a hearing be scheduled; and

WHEREAS, this is one of the two off months for quarterly FAC utilities; it is

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ORDERED, that the Commission in DR 81,340, Third Supplemental Order No. 15,986 dated November 10, 1982 (67 NH PUC 784), of the N.H. Electric Cooperative, Inc rolled the cost of fuel on an estimated forward

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looking basis into base rates, thus eliminating the lagging Fuel Adjustment Clause and resulting in more stable and comprehensible rates; and

WHEREAS, the rolled in rate will remain in effect for approximately one year as revised in DR 83-143, Order No. 16,527 (68 NH PUC 468), unless a hearing is requested by any party, no new rate will be stated for the N.H. Electric Cooperative, Inc. in this month's FAC order; and it is

FURTHER ORDERED, that 13th Revised Page 19A of Concord Electric Company tariff, NHPUC No. 8 — Electricity, providing for a fuel surcharge of $ $1.186 per 100 KWH for the months of October, November and December, 1983, be, and hereby is, permitted to remain in effect for the month of November, 1983; and it is

FURTHER ORDERED, that 13th Revised Page 19A of Exeter and Hampton Electric Company tariff, NHPUC No. 15 — Electricity, providing for a fuel surcharge of ($1.30) per 100 KWH for the months of October, November and December, 1983, be, and hereby is, permitted to remain in effect for the month of November, 1983; and it is

FURTHER ORDERED, that 7th Revised Page 57 of Granite State Electric Company tariff, NHPUC No. 10 — Electricity, providing for an oil conservation adjustment of 21.4 cents ($0.214) per 100 KWH for the months of October, November and December, 1983, be, and hereby is, permitted to remain in effect for November, 1983; and it is

FURTHER ORDERED, that 9th Revised Page 30 of Granite State Electric Company tariff, NHPUC No. 10 — Electricity, providing for a fuel surcharge for the months of October, November and December, 1983, of $1.863 per 100 KWH be, and hereby is, permitted to remain in effect for November, 1983; and it is

FURTHER ORDERED, that 34th Revised Page 11B of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 6 — Electricity, providing for a fuel surcharge of $2.97 per 100 KWH for the month of November, 1983, be, and hereby is, permitted to become effective November 1, 1983; and it is

FURTHER ORDERED, that 86th Revised Page 10-B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for a fuel surcharge credit of ($1.20) per 100 KWH for the month of November, 1983, be, and hereby is, permitted to become effective November 1, 1983; and it is

FURTHER ORDERED, that 83rd Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for an energy surcharge credit of ($0.87) per 100 KWH for the month of November, 1983, be, and hereby is, permitted to become effective November 1, 1983.

The above noted rates may be adjusted by a factor of approximately 1% depending upon the utility's classification in the Franchise Tas docket, DR 83-205, Order No. 16,524 (68 NH PUC

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461).

By order of the Public Utilities Commission of New Hampshire this thirty-first day of October, 1983.

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NH.PUC*10/31/83*[79801]*68 NH PUC 650*Northern Utilities, Inc.

[Go to End of 79801]

Re Northern Utilities, Inc.

Intervenor: Community Action Program

DR 83-308, Order No. 16,740

68 NH PUC 650

New Hampshire Public Utilities Commission

October 31, 1983

ORDER implementing price reduction through cost of gas adjustment.

APPEARANCES: Eli Farrah and Margaret Nelson for the company; Gerald Eaton for the Community Action Program; Kenneth E. Traum for the New Hampshire Public Utilities Commission staff.

BY THE COMMISSION:

REPORT

On October 7, 1983, Northern Utilities, Inc., a public utility engaged in the business of supplying gas service in the State of New Hampshire, filed with this Commission certain revisions to its tariff providing for a 1983-1984 Winter Cost of Gas Adjustment of $0.0295/therm for effect November 1, 1983.

An Order of Notice was issued on October 5, 1983, setting the date for hearing as October 21, 1983 at 11 a.m. at the Commission's office in Concord. The duly noticed public hearing held was extended through October 24, 1983, and held accordingly.

The utility originally estimated a base unit cost of gas for the 1983-1984 Winter CGA period to be $0.5506. Of the $0.5506 total, $0.5211 is rolled into base rates, thus yielding the net CGA request of $0.0295/therm.

The filed CGA rate is a decrease of 17.82¢ /therm from the summer, 1983 total approved cost of gas, and a corresponding 5.36¢ /therm decrease from the winter of 1982-1983.

Several reasons for the decrease relate to lower costs of product, refunds from suppliers, the Commission ordering of interruptible sales margins to be used as a credit to the CGA, and less need for supplemental gas due to the loss of many dual fuel users and gas roots customers among others.

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Beyond these explanations, the company witnesses provided the derivation of their fuel price estimates, sales estimates, supplier refunds, reconciliation of prior periods, fuel situation, etc., this explanation satisfied most, but not all of the Commission's concerns. Several others are:

(1) The Commission finance staff conducted an audit of the prior period reconciliation and was satisfied with all but $6,290 of the company's costs. As the utility has not contested this finding, the CGA must be reduced by $6,290 plus interest.

(2) A second area of concern relates to supplier refunds. After a request by

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the PUC Staff for additional information, the company, after a review of its records, provided information on a recently received refund which will also be used to reduce this request by $6,123 plus interest.

(3) As can be gleened from the cross-examination by the Commission and its staff, a third Commission concern is with the lack of consensus among the five gas utilities which have a semi-annual Cost of Gas Adjustment in terms of the amount of gas included or rolled into base rates. This lack of consistency occurs between companies and even between the summer and winter periods. To alleviate this problem for the future, the Commission requests that the five utilities get together to look at the problem and prepare a recommendation in time for the summer 1984 Cost of Gas Adjustment hearings on the subject.

One suggestion the Commission feels worthy of analysis is a uniform year round roll-in for all companies at a level to minimize the average Cost of Gas Adjustment.

(4) For the future the Company brought up the concept of shifting inclusion of all of the monthly underground storage fees and a portion of the pipeline summer demand charges from the summer CGA period to the winter CGA period. With the recognition that this proposal does not effect this instant proceeding, it is the Commission's desire that the Company meet with the Commission staff, Community Action Program, and any other interested parties, to discuss this point and if possible reach a concensus recommendation to offer to the Commission, before the next regularly scheduled CGA hearing.

(5) Over the last few years the Commission and its staff have held the understanding that Pease Airforce Base located primarily in Newington, NH, was a customer of Granite State Gas Transmission Co. and fell under the jurisdiction of the Federal Energy Regulatory Commission (FERC), not the jurisdiction of the New Hampshire Public Utilities Commission.

This understanding was not shared by the company personnel in attendance at the hearing, which concerned the Commission. Accordingly, within two weeks of the date of this Order, the Commission expects a definitive response as to the Company's understanding on the jurisdictional and regulatory status of Pease Airforce Base.

After giving due recognition to the five concerns previously noted, the Commission will deny the original request of the company for a CGA rate of $0.0295/therm. Instead, the request cost of gas rate will be reduced from $0.0295/therm to $0.0286/therm to specifically recognize concerns #1, and #2.

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Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that 45th Revised Page No. 22A of Allied Gas Division, Northern Utilities, Inc. Tariff, NHPUC No. 6 — Gas, is rejected; and it is

FURTHER ORDERED, that 46th Revised page No. 22A of Allied Gas Division, Northern Utilities, Inc. tariff, NHPUC No. 6 — Gas, providing for a Cost of Gas Adjustment of $0.0286/

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therm for the period November 1, 1983 through April 30, 1984, be, and hereby is, accepted; and it is

FURTHER ORDERED, that the Tariff Pages approved by this Order become effective with all billings issued on and after November 1, 1983, and it is

FURTHER ORDERED, that public notice of this Cost of Gas Adjustment be given by one-time publication in newspapers having general circulation in the territories served.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of October, 1983.

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NH.PUC*10/31/83*[79802]*68 NH PUC 652*Manchester Gas Company

[Go to End of 79802]

Re Manchester Gas Company

Intervenor: Community Action Program

DR 83-309, Order No. 16,741

68 NH PUC 652

New Hampshire Public Utilities Commission

October 31, 1983

ORDER approving increase in cost of gas adjustment.

APPEARANCES: Charles H. Toll for Manchester Gas Company; Gerald Eaton for the Community Action Program; Kenneth E. Traum for the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

Manchester Gas Company ("Manchester" or the "Company") pursuant to Commission tariff

filing rules filed a proposed Cost-of-Gas Adjustment (CGA) for the winter period, November 1, 1983 through April 30, 1984, seeking Commission approval for a proposed CGA rate of $0.0665/therm.

A duly noticed public hearing was held October 21, 1983 at the office of the Commission. During the proceedings a Company witness discussed the elements found in the proposed CGA.

The filed CGA rate is a decrease of 16.82¢ /therm for the summer period. However, it is also an increase of 1.82¢ /therm from the preceding winter period. The primary reason for this is the increase in prior period under-collection over what was reported in the 1982-1983 CGA.

In testimony and through cross-examination a number of issues were presented. One of these issues was the proper cost of gas cost rolled into basic rates.

As can be gleened from the cross-examination

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by the Commission and its staff, the Commission concern is with the lack of concensus amoung the five gas utilities which have a semi-annual Cost of Gas Adjustment in terms of the amount of gas included or rolled into base rates. This lack of consistency occurs between companies and even between the summer and winter period. To alleviate this problem for the future, the Commission requests that the five utilities get together to look at the problem and prepare a recommendation in time for summer 1984 Cost of Gas Adjustment hearings on the subject.

One suggestion the Commission feels worthy of analysis is a uniform year round roll-in for all companies at a level to minimize the average Cost of Gas Adjustment.

Another minor issue involves the refund of LNG costs not reflected in the CGA. This refund comes from Bay State Gas Company as a retroactive reduction in their rates. Although the amount ($1,620.) is not large enough to influence the instant filing it is to be recorded as a refund and returned to the customer in a manner consistent to which it was charged. The result will decrease any future undercollection or increase any future overcollection.

The Commission has found no cause to dispute the projected costs or projected sales and finds the adjustments made to be consistent with those approved in past period CGA's. Therefore, the Cost of Gas Adjustment as proposed will be approved.

Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that 11th Revised Page 26 of Manchester Gas Company, Tariff, NHPUC No. 13 — Gas, providing for a Cost-of-Gas Adjustment of $0.0665/therm for the period November 1, 1983 through April 30, 1984, be, and hereby is, accepted; and it is

FURTHER ORDERED, that the Tariff Pages approved by this Order become effective with all billings issued on and after November 1, 1983; and it is

FURTHER ORDERED, that public notice of this Cost-of-Gas Adjustment be given by

one-time publication in newspapers having general circulation in the territories served.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of October, 1983.

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NH.PUC*10/31/83*[79803]*68 NH PUC 654*Keene Gas Corporation

[Go to End of 79803]

Re Keene Gas Corporation

Intervenor: Community Action Program

DR 83-310, Order No. 16,742

68 NH PUC 654

New Hampshire Public Utilities Commission

October 31, 1983

ORDER approving proposed cost of gas adjustment.

APPEARANCES: Kenneth W. Wood, vice president operations, Keene Gas Corporation; Gerald Eaton for Community Action Program; Kenneth E. Traum, assistant finance director, for public utilities commission staff.

BY THE COMMISSION:

REPORT

On October 3, 1983, Keene Gas Corporation filed its winter period 1983-1984 Cost of Gas Adjustment for effect November 1, 1983. The request was for a rate of $0.4036/therm, including the State Franchise Tax, which is an increase from the rate of $0.2156 for the 1982-1983 winter period. In addition to this amount, $0.4214 is included in Base Rates for the cost of gas.

A duly noticed public hearing was held at the Commission's office in Concord, New Hampshire on October 21, 1983.

Through testimony and cross-examination of Mr. Kenneth Wood, Company witness, it was established the utility estimates sales to remain steady for the winter 1983-1984; use of a 10% factor for lost, unaccounted for and company use; and $0.68525/therm for propane delivered to Keene by truck from its supplier, Pargas of Houston, Inc.

The Commission accepts the 0% growth factor from recent audit explanation, although there has been a minute customer growth, conservation by consumers tends to even out the volume of sales.

The use of a firm 10.0% lost, unaccounted and/or company use is well above the weighted average of the five (5) gas utilities in New Hampshire having a six (6) months Cost of Gas Adjustment; however, the Commission believes further reduction can be made through continued diligence and use of a calarimeter, phase out of non temperature compensated meters,

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improvement in leak surveying, etc. We will continue to accept the 10.0% factor with the understanding the company continues to exercise maximum effort to reduce this factor.

Testimony and cross-examination of the Company witness revealed a change of supplier was made as of July 1, 1983. The contract is for a period of

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one (1) year and thereafter from year to year subject to the right of change for either party under mutual agreement. Whereas the previous supplier indicated winter/summer product would be supplied in a ratio of 2:1, the new supplier has allowed Keene to obtain product at a 3:1 ratio; up to three times the average monthly summer volume will be delivered during the winter months. It was pointed out a ratio of 2:1 would create hardship during summer months because of limited storage facilities. Testimony also brought out there is no provision in the new contract to prevent Keene from going to the spot market if product can be obtained at a more favorable price.

As can be gleened from the cross-examination by the Commission and its staff, one Commission concern is with the lack of concensus amoung the five gas utilities which have a semi-annual Cost of Gas Adjustment in terms of the amount of gas included or rolled into base rates. This lack of consistency occurs between companies and even between the summer and winter period. To alleviate this problem for the future, the Commission requests that the five utilities get together to look at the problem and prepare a recommendation in time for the summer 1984 Cost of Gas Adjustment hearings on the subject.

One suggestion the Commission feels worthy of analysis is a uniform year round roll-in for all companies at a level to minimize the average Cost of Gas Adjustment.

The Commission has found no cause to dispute the projected costs or projected sales and finds the adjustments made to be consistent with those approved in past period CGA's. Therefore, the Cost of Gas Adjustment as proposed will be approved.

Our Order will be issued accordingly.

ORDER

Upon consideration of the foregoing Report which is made a part hereof; it is hereby

ORDERED, that 5th Revised Page 26 of Keene Gas Corporation, Tariff, NH PUC No. 1 — Gas, providing for a Cost-of-Gas Adjustment of $0.4036/therm for the period November 1, 1983 through April 30, 1984 be and hereby is approved; and it is

FURTHER ORDERED, the Revised Tariff Pages approved by this Order become effective with all billings issued on or after November 1, 1983; and it is

FURTHER ORDERED, that public notice of this Cost-of-Gas Adjustment be given by one-time publication in newspapers having general circulation in the territories served.

By Order of the Public Utilities Commission of New Hampshire this thirty-first day of October, 1983.

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[Go to End of 79804]

Re Gas Service, Inc.

Intervenor: Community Action Program

DR 83-311, Order No. 16,743

68 NH PUC 656

New Hampshire Public Utilities Commission

October 31, 1983

ORDER approving cost of gas adjustment and recoupment surcharge.

APPEARANCES: Charles Toll for Gas Service, Inc.; Gerald Eaton for the Community Action Program; Kenneth E. Traum, assistant finance director, for the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

In conformance with Commission Tariff Filing Rules and Cost-of-gas adjustment terms outlined in the tariff of the named company, proposed Cost-of-Gas Adjustment tariff pages for the Winter period November 1, 1983 through April 30, 1984 were filed for Commission consideration. The company's proposed cost-of-gas adjustment is $0.0408/therm. This is a 15.3¢ /therm reduction from the 1983 summer period, and a 3.6¢ /therm reduction from the last winter period.

A duly noticed public hearing was held at the offices of the Commission on October 21, 1983, at which time a witness for the company discussed the components of the cost-of-gas adjustment.

Through this testimony and cross-examination of the company witness the following issues were presented:

a) As a result of a Commission finance staff audit, the company witness testified to a "few hundred dollar" adjustment to the cost of gas. Although the adjustment bears no direct impact on this filing the amount is to be adjusted on the company's books.

b) With an administrative notice in this filing the company proposes to include a temporary recoupment surcharge as part of this cost-of-gas adjustment filing. The purpose of this surcharge is to recover the short-fall in revenue approved by this Commission in DR 80-179 Report and Order Nos. 15,582 (67 NH PUC 280) & 16,214 (68 NH PUC 113).

Although the Cost-of-Gas Adjustment usually is not considered the proper vehicle to collect this sort of surcharge, the Commission feels that as opposed to postponing this recoupment any further, and because the dollar amount has been audited by staff, the $71,597 can be accepted

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through this filing. We will not, however, allow this amount to be included in any future under collection of the Cost-of-Gas

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Adjustment (1984-84 Winter period) which would accrue interest at 8%. Put another way the $71,597 is the final amount ratepayers will be liable for, no interest on future uncollectable amounts will be allowed through ratification of this order.

c) As can be gleened from the cross-examination by the Commission and its staff, one Commission concern is with the lack of concensus amoung the five gas utilities which have a semi-annual Cost of Gas Adjustment in terms of the amount of gas included or rolled into base rates. This lack of consistency occurs between companies and even between the summer and winter periods. To alleviate this problem for the future, the Commission requests that the live utilities get together to look at the problem and prepare a recommendation in time for the summer 1984 Cost of Gas Adjustment hearings on the subject.

One suggestion the Commission feels worthy of analysis is a uniform year round roll-in for all companies at a level to minimize the average Cost of Gas Adjustment.

d) In compliance with Commission Report and Order in DR 80-179, the company decreased their Cost-of-Gas Adjustment by $311,774. This amount is applicable to the profit from sales to interruptible seasonal customers, known and projected for 1983. We will accept this figure as filed.

e) The bidding process for purchase of supplemental fuels is an area of concern. Questions as to the proper balance between best price and dependable service have been discussed in this and preceding cost-of-gas adjustment hearings. For subsequent Cost-of-Gas adjustment hearings and in DL 83-5 the Commission directs staff to continue to investigate this matter closely.

The Commission has found no cause to dispute the projected costs or projected sales and finds the adjustments made to be consistent with those approved in past period CGA's. Therefore, the Cost of Gas Adjustment rate as proposed will be approved.

Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that 7th Revised Page 1, superseding 6th Revised Page 1 of Gas Service, Inc. tariff, NHPUC No. 6 — Gas, providing for Cost-of-Gas Adjustment of $0.0408/therm for the period November 1, 1983 through April 30, 1984, be, and hereby is, approved; and it is

FURTHER ORDERED, that the revised tariff page approved by this order become effective with all billings issued on and after November 1, 1983; and it is

FURTHER ORDERED, that public notice of this Cost-of-Gas Adjustment be given by one-time publication in newspapers having general circulation in the territories served.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of October, 1983.

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[Go to End of 79805]

Re Concord Natural Gas Corporation

Intervenor: Community Action Program

DR 83-312, Order No. 16,744

68 NH PUC 658

New Hampshire Public Utilities Commission

October 31, 1983

ORDER approving cost of gas adjustment.

APPEARANCES: David Marshall for the company; Gerald Eaton for the Community Action Program, Kenneth E. Traum and Richard G. Marini for the New Hampshire Public Utilities Commission staff.

BY THE COMMISSION:

On September 30, 1983, Concord Natural Gas Corporation, a public utility engaged in the business of supplying gas service in the State of New Hampshire, filed with this Commission certain revisions to its tariff providing for a 1983-1984 Winter Cost of Gas Adjustment for effect November 1, 1983.

An Order of Notice was issued on October 5, 1983, setting the date for hearing as October 21,1983, at 11 a.m. at the Commission's office in Concord. The duly noticed public hearing was held accordingly.

The utility originally estimated a base unit cost of gas for the 1983-1984 winter period to be $0.528/therm, which due to the fact that $0.1969/therm of gas costs are included in the utility's basic rates, and the action of the State Franchise Tax, resulted in a net request for a CGA rate of $0.3344/therm.

As a result of a recent refund from a supplemental gas supplier, the Company's witness, Mr. Bisson, submitted a revised filing reducing the requested CGA rate to $0.3338/therm. This figure represents a reduction of 6.69¢ /therm from the CGA rate approved for the 1982-1983 winter CGA rate.

Mr. Bisson explained the filing and through cross-examination explained the Company's methods of estimating sales, lost and unaccounted for and company use, estimated prices to purchase gas, supplier refunds, and the prior period reconciliation. This reconciliation was audited by the NHPUC Finance Department, and found to generally comply with Commission rules and regulations.

The Commission has only two concerns with regards to the Company's case, the first relates

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to the utility's use of LNG facilities.

The Company explained that it currently does not have a working LNG pump, but expects delivery of one by November 1, 1983, and in case delivery is delayed a loaner pump is available from Essex Gas Company. Since this pump is crucial, especially in the winter period, the Commission

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will expect a weekly status report on the pump situation, until it is finalized.

Beyond this, with reference to the amount of LNG maintained in the utility's storage tank, it is the Commission's understanding that the Company allows its supply of LNG to drop to nothing for a portion of the warmer months of the year. This policy differs from that of other New Hampshire gas utilities, who maintain LNG in their tanks year round to provide back-up product and pressure if needed, to extend the life of the tank and minimize cost to ratepayers.

Based on this different policy, the Commission will expect a response from the Company, when it next files to amend its CGA rate, explaining its policy regarding product stored in the LNG tank and why that policy is in the best interests of its customers and stockholders.

The second area of concern to the Commission with regard to this utility and the other four New Hampshire gas utilities maintaining a six month CGA, relates to the cost of gas rolled into base rates. The specific Commission concern is the lack of concensus among the five gas utilities on this roll-in. This inconsistency occurs between companies and between the summer and winter periods in most companies. To alleviate this problem, the Commission requests that the five utilities meet to analyze the problem and to prepare a recommendation to present to the Commission at the summer of 1984 Cost of Gas Adjustment hearings. The Commission suggests that the analysis address, among other things, a uniform year-round roll-in for all companies at a level to minimize the average cost of gas adjustment.

In conclusion, the Commission finds no cause to dispute the projected costs or projected sales and finds the proposed adjustments to be consistent with those approved in past CGA's. Therefore, the cost of gas adjustment rate of $0.3338/therm will be approved. Future CGA petitions however, will address our two concerns cited above.

Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that 36th Revised Page No. 21 of Concord Natural Gas Corporation Tariff, NHPUC No. 13 — Gas, is rejected; and it is

FURTHER ORDERED, that 37th Revised Page No. 21 of Concord Natural Gas Corporation Tariff, NHPUC No. 13 — Gas, providing for a Cost of Gas Adjustment of $0.3338/therm for the period November 1, 1983 through April 30, 1984, be, and hereby is, accepted; and it is

FURTHER ORDERED, that the Tariff Pages approved by this Order become effective with all billings issued on and after November 1, 1983; and it is

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FURTHER ORDERED, that public notice of this Cost of Gas Adjustment be given by one-time publication in newspapers having general circulation in the territories served.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of October, 1983.

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NH.PUC*11/02/83*[79806]*68 NH PUC 660*Exeter and Hampton Electric Company

[Go to End of 79806]

Re Exeter and Hampton Electric Company

Intervenor: Community Action Program

DE 83-297, Order No. 16,751

68 NH PUC 660

New Hampshire Public Utilities Commission

November 2, 1983

ORDER waiving commission rules on winter termination of service to allow implementation of alternative program.

APPEARANCES: Sulloway, Hollis & Soden by Warren C. Nighswander for Exeter and Hampton Electric Company; Gerald M. Eaton for Community Action Program; Larry M. Smukler with John Cutting, Dean Mattice, and Edward Stubbs for the staff of the New Hampshire Public Utilities Commission.

BY THE COMMISSION:

REPORT

On September 16, 1983, Exeter and Hampton Electric Company ("Company") filed a Petition for Temporary Exemption from Puc 303.08 (k) (2), (3) and (6). Those regulations provide, *inter alia*:

> (2) For the duration of the winter period, an accumulated arrearage of $175 or less, for non heating customers, or $300 or less for heating customers all of which first appears as an arrearage on bills rendered during the winter period shall not subject a residential customer to termination of service in his/her primary residence.
>
> (3) Any payment schedules entered into prior to the winter period are not subject to the winter period rules; however, a residential customer shall not be deemed to have failed to abide by the terms of a payment agreement if he/she fails to pay a current bill during the winter period and does not become subject to termination except in accordance with the winter period rules.
>
> (6) All residential customers who qualify for, and comply with, the provisions of the winter period rules shall be advised as to his/her opportunities to make payment of the

arrearage in a maximum of six equal monthly installments, the last of which shall be due on or before September 30, and which shall be due in addition to the normal payment of current bills.

A duly noticed hearing on the petition was held on October 12, 1983. A Motion to Intervene was filed by the Community Action Program (CAP) and the Commission granted the Motion.

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At the hearing, the Company offered the testimony of Richard F. Gilmore, the Company's Assistant Vice President and Controller. Mr. Gilmore described a program, referred to as "Electric Service Protection" ("ESP"), which the Company proposed to implement as a protection to residential ratepayers in lieu of the above regulations.

As described by Mr. Gilmore, ESP is an experimental program, open to all residential customers, which allows those customers to elect to pay less than the full balance of winter bills in the month that they are due. Under the program, the customer, upon application, may elect to pay as little as 20% of the current bills due during the months of December, January, February and March. The accumulated arrearage is to be recovered from the customer in equal payments over the months of April, May, June and July. In addition to the payments on the arrearage, the customer will be responsible for current bills during the April-July period. Mr. Gilmore also stated that the Company would not terminate service to any customer during the winter period, regardless of ESP participation, without first obtaining Commission approval. In addition, all Commission requirements pertaining to special protection for the elderly would continue to be applicable.

Mr. Gilmore also presented a description of the Company's efforts to publicize the program.

At the hearing, the Commission also heard from John Cloutier of the New Hampshire People's Alliance who opposed the program and from CAP, which also expressed reservations about the ESP program. CAP also claimed that the Commission is required to undertake a rulemaking pursuant to RSA chapter 541 in order to adopt the program.

After due consideration, we have determined that it is not necessary for us to undertake a rulemaking pursuant to RSA chapter 541 in order to grant the Company's Petition. RSA 541-A:12 III. provides:

> No agency shall grant routine waivers of or variances from any provisions of its rules without either amending the rules, or providing by rule for a waiver or variance procedure. The duration of the waiver or variance may be temporary if the rule so provides.

Since our regulations, at Puc 201.05 and Puc 301.01 (b) provides for waivers or variances, we find that CAP's argument about the need for a rule-making procedure is without merit.

We now turn to the issue of whether a waiver is justified in this case.

After a review of the program, the Commission finds that the Company's efforts in developing the program are constructive and should be encouraged. As we recently stated in Docket No. DRM 83-31, Report and Supplemental Order No. 16,656 (September 27, 1983 [68

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NH PUC 566, 567, 568]):

> While we have decided not to change our existing [winter termination] regulations at this time, we are interested in considering requests for waivers when those waivers include serious alternative programs. Such pilot programs can provide additional data and ideas so that we may confidently determine what regulatory approach is most consistent with the public interest in the long term. (Footnote omitted).

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While the particular ESP program proposed by the Company generally offers the type of innovative approach which is attractive, we have some concerns which will cause us to condition a waiver of the regulations upon certain modifications to the program. Those concerns pertain to program evaluation, notification of customers about the waiver of the Commission's rules, the need to be flexible with customers who may not be familiar with the program and the need to personally contact some of the Company's customers. We shall address each of these concerns and set forth the corresponding program modifications in turn.

Evaluation

As noted above, one of the advantages of an experimental program such as ESP is that it can yield data which may be useful to evaluate ESP, the Commission's regulations and, perhaps, other alternative programs. Thus, the evaluation of the program is a critical part of the process. The Company stated that it is currently developing a form which will be used for evaluation purposes. While a standard form for those customers who participate in ESP and interviews with company personnel are steps in the right direction, they are far from sufficient. We believe that further data is necessary and that the Commission Staff and CAP should be involved in the evaluation process. Accordingly, we will direct the Company to work with the Staff and CAP in order to develop an evaluation process that examines the impact of the program on customers who participate, customers who do not participate and those customers who seek Commission intervention. In addition, any evaluation must consider the input of company employees who administer the program, social service agencies and Commission consumer service personnel. Finally, the Commission is also interested in an evaluation of the revenue impact of the ESP program. The Staff and the parties are directed to submit a detailed description of the evaluation process no later than January 6, 1984.

Notification

The Commission's concern here is that Company customers may decide not to participate in the ESP program based on an erroneous assumption that they will be protected by Commission regulations. Thus, we will require the Company to provide notice to customers that, upon Company request, the regulations at Puc 303.08 (k) (2), (3) and (6) have been waived. Such notice should fully inform each customer about the meaning of the waiver.

Flexibility

Since the ESP program is new, we believe there exists a potential for misunderstandings during the implementation process. The Company has expressed its willingness to be flexible with its customers and we expect such flexibility. We shall direct the Commission's consumer

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service personnel to monitor Company flexibility and, if appropriate, submit a report to the Commission.

Personal Contact

One of the features of the ESP program which we find attractive is that it is designed to open avenues of communication

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between the Company and its customers. We believe that such communication is ultimately the best way to minimize misunderstandings and disputes. Our concern here is that the Company may not be going far enough to provide notice about the ESP program to customers with bill paying problems. Accordingly, we will direct that, when the Company has reason to know that a customer has or will have a bill paying problem which has a substantial likelihood of resulting in termination of service, it will provide notice of the ESP program by personal contact. Personal contact means contact by telephone or personal visit.

Waiver

If the above modifications are implemented, the Commission will be satisfied that the ESP program will be an acceptable substitute for the subject Commission regulations. Thus, we will waive those regulations on the condition that the Company implement the ESP program as modified. The waiver period will be for the coming winter season only. We shall consider an extension of the waiver after completion of the evaluation process. The Company deserves to be commended for its efforts.

Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that Commission regulations at Puc 303.08 (k) (2), (3) and (6) be, and hereby are, waived as they apply to Exeter and Hampton Electric Company until December 1, 1984; and it is

FURTHER ORDERED, that the waiver of Commission regulations at Puc 303.08 (k) (2), (3) and (6) is conditioned on Exeter and Hampton Electric Company's implementation of Electric Service Protection program as modified by the foregoing Report.

By order of the Public Utilities Commission of New Hampshire this second day of November, 1983.

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NH.PUC*11/02/83*[79807]*68 NH PUC 663*Northern Utilities, Inc.

[Go to End of 79807]

Re Northern Utilities, Inc.

DR 83-90, Third Supplemental Order No. 16,752

68 NH PUC 663

New Hampshire Public Utilities Commission

November 2, 1983

ORDER approving settlement agreement including revenue increase and recoupment authorization.

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BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, Order No. 16,693, issued by this Commission on October 13, 1983 (68 NH PUC 603), accepted an Offer of Settlement to which all parties had agreed; and

WHEREAS, said Settlement included a revenue increase of $1,175,000 to become effective November 1, 1983; and

WHEREAS, said Settlement also included a recoupment authorization for those revenues lost during the period in which temporary rates were effective; and

WHEREAS, on October 27, 1983, Northern Utilities, Inc. filed with this Commission proposed tariff revisions purporting to glean the allowed revenues and recoupment; and

WHEREAS, corrected filings were added on October 31, 1983; and

WHEREAS, the Commission finds this filing, as corrected, in compliance with its earlier order; it is

ORDERED, that the following revised pages of Northern Utilities, Inc. tariff No. 6 be, and hereby are, rejected:

21st Rev. Pg. 23 20th " " 25 15th " " 30 2nd " " 33;

and it is

FURTHER ORDERED, that the following pages of said tariff be, and hereby are, approved for effect November 1, 1983:

22nd Rev. Pg. 23 21st " " 25 19th " " 27 16th " " 30 17th " " 32 3rd " " 33;

and it is

FURTHER ORDERED, that Northern Utilities, Inc. provide public notice of this order by including a summary of its results as a one-time customer bill insert; and one-time publication of such summary in a widely circulated newspaper in the area served.

By order of the Public Utilities Commission of New Hampshire this second day of November, 1983.

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NH.PUC*11/03/83*[79808]*68 NH PUC 664*Walnut Ridge Water Company, Inc.

[Go to End of 79808]

Re Walnut Ridge Water Company, Inc.

DE 83-85, Supplemental Order No. 16,747

68 NH PUC 664

New Hampshire Public Utilities Commission

November 3, 1983

ORDER denying motion to award attorney fees and expenses.

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BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, this Commission has no equitable, statutory, or regulatory authority to award costs, attorney fees and expenses other than pursuant to Puc 205, which is not applicable to the case at bar, the subject motion is denied.

By Order of the Public Utilities Commission of New Hampshire this third day of November, 1983.

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NH.PUC*11/03/83*[79809]*68 NH PUC 665*New England Telephone and Telegraph Company

[Go to End of 79809]

Re New England Telephone and Telegraph Company

DE 83-300, Order No. 16,754

68 NH PUC 665

New Hampshire Public Utilities Commission

November 3, 1983

ORDER granting license to install submarine telephone cable.

APPEARANCES: Wayne E. Snow, engineering manager, for New England Telephone and Telegraph Company.

BY THE COMMISSION:

REPORT

On September 22, 1983, New England Telephone and Telegraph Company filed a petition with this Commission seeking a license to conduct and maintain a submarine crossing of Lake Pemigewasset in Meredith, New Hampshire, pursuant to RSA 371:17. Accompanying the petition were maps and sketches of the crossing, as well as letters and permits for said crossing from both the Wetlands Board and the Water Supply and Pollution Control Commission.

We issued an order of notice setting the matter for public hearing at 10 a.m. on October 20, 1983 at the Commission's Concord offices. A copy of the notice was sent to John R. Sweeney of the Aeronautics Commission, George R. Gilman of the Department of Resources and Economic Development, John Bridges of the Division of Safety Services, and the Office of the Attorney General.

The notice was also published, as required, in the Union Leader, a newspaper of statewide circulation, on October 5, 1983; with an affidavit attesting to same timely filed with the Commission.

The duly noticed hearing was convened as scheduled, with Edgar D. Stubbs, Jr., Assistant Chief Engineer, presiding as Hearing Examiner. New

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England Telephone's case was presented by Wayne E. Snow, Engineering Manager. There were no intervenors present, nor were there any objections to the petition.

Mr. Snow indicated that the crossing of the lake would originate at Company Pole 576/7, proceeding about 20' underground to the shoreline, continuing submarine at an approximate maximum depth of 15' to the opposite shore — a distance of 1,300'. It would continue underground, rising on Pole 576/8 about 25' from the shoreline. While the original petition indicated the crossing would be by a 25-pair cable, Mr. Snow indicated that this now was to be a 50-pair cable. He stated that the cable currently on the poleline was now 25 pairs but, anticipating future growth in the area, the Company had opted for installation of the 50-pair submarine cable. Mr. Snow advised that the additional investment was minimal, and was weighed against future construction costs. Initially, the line would serve four customers. The Company indicated that all construction would comply with the National Electrical Safety Code.

When asked if electric power was served by the same route, Mr. Snow stated the route was strictly telephone, and that electric power to these customers came from another direction. Asked if alternate routes had been explored, Mr. Snow replied that other routing had been screened, but rejected because of costs and aesthetics.

The Commission finds the construction of this submarine plant under the public waters of Lake Pemigewasset in Meredith, New Hampshire, in the public interest, and will grant license for same. Our order will issue accordingly.

By order of the Public Utilities Commission of New Hampshire this third day of November, 1983.

ORDER

In consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that license be granted to New England Telephone and Telegraph Company for the purpose of installing submarine plant beneath the public waters of Lake Pemigewasset in Meredith, New Hampshire, said plant to include a 50-pair cable installed between New England Telephone and Telegraph Company Poles 576/7 and 576/8, to be constructed according to provisions of the National Electrical Safety Code and as described in Exhibits 1 through 6 of this Docket.

By order of the Public Utilities Commission of New Hampshire this third day of November, 1983.

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NH.PUC*11/08/83*[79810]*68 NH PUC 667*Southern New Hampshire Water Company, Inc.

[Go to End of 79810]

Re Southern New Hampshire Water Company, Inc.

DR 82-253, Fifth Supplemental Order No. 16,755

68 NH PUC 667

New Hampshire Public Utilities Commission

November 8, 1983

PETITION for postponement of step increase; granted.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, Order No. 16,299 (68 NH PUC 156), made allowances for the filing of a step increase in certain identified expense categories as of December 1, 1983 and in conjunction with such increases, to eliminate, or drop, the second block of its metered rate schedule, and to file a study so that each of its water systems in New Hampshire would recover its true cost of service; and

WHEREAS, Southern has now informed the Commission by letter dated October 18, 1983, that revenues earned since the permanent increase granted in Order No. 16,299 have offset increased expenses so designated in this order, and, therefore, are seeking postponement of a step increase, metered rate revision, and cost of service study; and

WHEREAS, after investigation and consideration it is our opinion that granting the postponement sought will be in the public good; it is hereby

ORDERED, that Southern may file for a step increase as provided for in Order No. 16,299, but for effect on May 1, 1984; and it is

FURTHER ORDERED, that Southern shall file for effect on May 1, 1984, tariff pages reflecting the elimination of the second block of its metered rate schedule, and a cost of service

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study encompassing all its New Hampshire water systems.

By Order of the Public Utilities Commission of New Hampshire this eighth day of November, 1983.

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NH.PUC*11/08/83*[79811]*68 NH PUC 667*New England Power Company

[Go to End of 79811]

Re New England Power Company

DF 83-149, Order No. 16,756

68 NH PUC 667

New Hampshire Public Utilities Commission

November 8, 1983

ORDER permitting utility to issue general and refunding mortgage bonds.

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BY THE COMMISSION:

ORDER

WHEREAS, Order No. 16,512 was issued on July 1, 1983 (68 NH PUC 445), authorizing New England Power Company to issue and sell one or more series, aggregating not exceeding $120,000,000, principal amount, of General and Refunding Mortgage Bonds, to mature in not more than thirty years from the first day of the month as of which the bonds are issued; and

WHEREAS, New England Power Company plans to issue the subject bonds as of the fifteenth of a month, to mature in not more than thirty years from the date of issue, it is

ORDERED, that Order No. 16,512 is hereby modified to allow New England Power Company to issue not exceeding $120,000,000, principal amount, of General and Refunding Mortgage Bonds to mature thirty years from the date of which bonds are issued.

By Order of the Public Utilities Commission of New Hampshire this eighth day of November, 1983.

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NH.PUC*11/10/83*[79812]*68 NH PUC 668*Public Service Company of New Hampshire

[Go to End of 79812]

Re Public Service Company of New Hampshire

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DF 83-337, Order No. 16,758

68 NH PUC 668

New Hampshire Public Utilities Commission

November 10, 1983

ORDER authorizing additional financing for a nuclear power plant construction program.

SECURITY ISSUES, § 58 — Purposes — Additions and betterments — Prudency.

[N.H.] The commission authorized an electric company to issue debentures to finance continuing construction on a nuclear plant, finding that the company had a right to complete the project, but the commission stated it would consider the prudency of the company's construction program in a separate docket.

SECURITY ISSUES, § 58 — Purposes — Additions and betterments — Conditions.

[N.H.] Statement, in a dissenting opinion, that additional financing for a nuclear power project should not be authorized when market conditions are unfavorable and when a company is unable to present any specific long-term cost and schedule projections relating to the plant. p. 670.

(AESCHLIMAN, commissioner, dissents, p. 670.)

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APPEARANCES: Frederick J. Coolbroth, Pierre G. Cameron, Jr., and John J. Lampron for Public Service Company of New Hampshire (PSNH or the "company"); Larry M. Smukler, Eugene Sullivan, Dr. Sarah Voll, and Kenneth Traum for the New Hampshire Public Utilities Commission staff (PUC).

BY THE COMMISSION:

REPORT

On November 1, 1983, PSNH filed a petition for authority to issue and sell not exceeding $100,000,000 of Unsecured Debentures and filed a motion for waiver of the fourteen-day notice period.

In its petition, PSNH asked for authorization to make the issue by November 10, 1983, asserting that market conditions favor a prompt issuance of the debentures. Based on this assertion, the Commission issued an Order of Notice reducing the notice requirement from fourteen to seven days and scheduled a hearing for November 9, 1983, as requested by the Company.

At the hearing, the attorney for PSNH advised the Commission that on the prior day electric utility market conditions worsened sharply, obviating a need for immediate issuance of the

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debentures. PSNH cited the closing of some nuclear plants as contributing factors in the market decline. Accordingly, PSNH amended its petition to request authority to issue the debentures at such time as its underwriters indicate that the market once again becomes favorable. PSNH projects that the issue will be completed by December 1, 1983, and will be expended on Seabrook construction by March, 1984.

The Commission and Staff are concerned with the continuing paucity of data available to it regarding costs and progress of Seabrook construction and PSNH's related financing needs. PSNH alleges that it is not able to submit data requested by Staff in this docket on future construction financing needs through the projected completion date of Seabrook I. The Commission feels it is not possible to adequately assess the significance of the proposed financing without this information.

The Company maintains that it has provided the Commission with all the related data available and that it is not suppressing unfavorable information. The Company cited the complexity of the calculations involved as presenting an updated analysis from being developed. It projects that the requested data will not be available until January, 1984.

The Commission is of the opinion that the data maintained by PSNH is not adequate to keep the Commission apprised of the construction costs and schedules of the Seabrook project. This is the same situation in which the Commission found itself in prior PSNH dockets, when PSNH indicated that henceforth it would keep the data necessary to assuage the Commission's concerns. Since the same concerns again present themselves in this docket, the Commission feels it must address them in its order disposing of this docket.

Our concerns do not justify denial of the petition, however. The issuance of debentures presented in this proceeding is a routine financial instrument of indebtedness that will be used

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to finance construction of the Seabrook Nuclear Project. PSNH has a vested right to complete this project. Re Public Service Co. of New Hampshire 1982 122 NH 1062, 51 PUR4th 298,454 A2d 435. By this decision, the New Hampshire Supreme Court has set forth that PSNH has a vested right to complete both units at Seabrook and that any questions regarding the prudency of the use of these proceeds or any other prudency question regarding their construction program be deferred until said construction program is asked to be borne by ratepayers in their electric rates.

Notwithstanding this finding, the Commission feels that a separate docket should be opened to address the data concerns discussed above.

Based on the foregoing analysis, the Commission approves the proposed financing as for a lawful corporate purpose and thereby approves the issuance pursuant to RSA 369. The Commission further directs that a separate docket be opened to determine what the data, maintenance and reporting requirements should be for PSNH relating to construction costs and schedules for Seabrook I and II, and the Executive Director and Secretary will issue the appropriate Order of Notice.

Our Order will issue accordingly.

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ORDER

Upon consideration of the foregoing Report, which is hereby incorporated by reference; it is hereby

ORDERED, that PSNH is authorized to issue no more than the principal amount of 100,000,000 dollars worth of debentures; and it is

FURTHER ORDERED, that on or before January first and July first in each year, PSNH shall file with this Commission a detailed statement duly sworn to by its treasurer or assistant treasurer showing the disposition of the proceeds of said securities, until the expenditure of the whole of said proceeds shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this tenth day of November, 1983.

AESCHLIMAN, commissioner, dissents: The evidence in this proceeding supports the Staff recommendation that the proposed financing be denied without prejudice at this time. Public Service Company has not satisfied its burden of proof that the financing is in the public good for two reasons. First, the urgency to act in order to take advantage of market conditions no longer exists. Second, the Company has not given the Commission adequate information about its construction program and financing needs.

PSNH requested that the Commission waive its normal notice requirements and consider this financing on an expedited schedule to take advantage of a "window" in the market. However, the testimony indicates that the market situation changed the day before the hearing (November 8th) when the Company's stock declined 1 1/2 points in a market reaction to bad news involving other nuclear projects. The testimony also indicates that the Company debated pursuing the financing at this time, but decided to go ahead.

Since this financing was not even contemplated at the hearings on the Company's $60 Million debenture filing

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and its $42.5 million pollution control revenue bond financing held on September 27, 1983, it is difficult to understand the need to act with such haste. Without this financing, PSNH will have a cash balance of $100 million at year end, in addition to their $160 Million revolving credit line which is unused at present.

The record indicates that PSNH will pay approximately 15% on the debentures while reinvesting the funds at roughly 9% until they are needed in April 1984. This results in a substantial carrying cost for PSNH and its customers. The record also indicates that this transaction is being promoted by the Company's underwriters who want the business at the present time because other offerings are light.

In addition, the lack of information about the Seabrook cost and schedule estimates and, consequently, the lack of any financial plan beyond 1984 is troublesome. Given the financial planning date for Seabrook I of July 1985, there is not even a financing plan through that date. The lack of information is especially worrisome in light of earlier representations by the

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Company. Following the $5.12 Billion cost estimate in November 1982, revised to $5.24 Billion by December 1982, the Commission was assured that the Company would have a "living" cost estimate that would be revised monthly and would prevent future "surprises" in cost increases. Mr. Bayless told the Commission on December 23, 1982 that:

Every single month we are going to want new estimates from UE&C. We don't want an update of an old estimate, we want a completely new cost estimate and scheduled estimate monthly. (DF 82-306, combined in Tr. with DF 82-331 at p. 59) All of the areas at the plant were to be reviewed with respect to cost and schedule every three months on a rotating basis.

So every three months, I want to emphasize, it is not just how are we doing with respect to the old estimate it is looking ahead for schedule, cost and new things they found ... . (DF 82-306, combined in Tr. with DF 82-331 at p. 62.)

And, Mr. Bayless assured the Commission that it would be advised of these changes. (Id. at p. 63)

In April the Commission first learned that Management Analysis Corporation estimated that Unit I would not be operational until December 1985 at the earliest. Subsequently, PSNH presented two sets of estimates at its June financing hearing, the official December 1982 $5.2 Billion estimate with Seabrook I operational December 1984 and a new financial planning estimate which split the difference between UE&C's online date and the consultant's date. (DF 83-172, June 9, 1983 — Tr. at 31.) This $5.8 Billion estimate put Unit I operational in July 1985. The Commission was assured that following the summer construction season more would be known particularly about the progress on piping and that no decisions needed to be made until fall.

On September 8, the Joint Owners voted to delay Unit II, reducing work to its lowest possible level. In the financing hearing on September 27, 1983, the Commission was told that

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information on the cost and schedule of Unit II would be ready by the end of October. (DF 83-254, Tr. at 8-9) At the November 9th hearing, this information is not available and PSNH indicates that it probably will not be available until January 1984. This lack of information is not only troubling to the Commission, it is troubling to the public and should be troubling to PSNH and the other Joint Owners. The new cost and schedule resulting from the September 8th decision will not be available until five months after the decision.

In view of this lack of information about how the instant financing fits into the Company's planning, the Company has not satisfied its burden of proof that the financing is in the public good. In fact, it is interesting to note that in a financing hearing on November 15, 1982, Mr. Bayless addressed the question of the timing of issuance in relation to the availability of cost estimates. At that time he felt it was necessary to delay the financings until the new Seabrook cost estimate was available. (DF 82-306, Nov. 15, 1982, Tr. at p. 11-14.) Taking all of these considerations into account the Commission should deny the financing without prejudice pending the filing of additional information on the Company's cost estimates and schedule for Seabrook Station and the presentation of a financing plan consistent with these estimates and schedule.

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I have urged the development of a formal monitoring process for the Seabrook project since the end of August. I am encouraged that the other Commissioners have also come to recognize that the information being supplied by PSNH is not adequate to keep the Commission apprised of the construction costs and schedule of the Seabrook project, and that the Commission will open a monitoring docket.

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NH.PUC*11/10/83*[79813]*68 NH PUC 672*Southern New Hampshire Water Company, Inc.

[Go to End of 79813]

Re Southern New Hampshire Water Company, Inc.

DE 83-386, Order No. 16,760

68 NH PUC 672

New Hampshire Public Utilities Commission

November 10, 1983

ORDER accepting a water utility service contract on a temporary basis.

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BY THE COMMISSION:

ORDER

WHEREAS, Southern New Hampshire Water Company, Inc. has entered into a contract with the Town of Derry for the wholesale supply of water for its service area in Londonderry; and

WHEREAS, this contract was received at the Commission on November 10, 1983; and

WHEREAS, the Southern New Hampshire Water Company, Inc. and the Town of Derry seek to have this contract to take effect on November 14, 1983; and

WHEREAS, this does not allow sufficient time for Commission investigation of this contract; it is hereby

ORDERED, that this contract may become effective on November 14, 1983 for a temporary period ending November 28, 1983; and it is

FURTHER ORDERED, that on or after November 28, 1983 the Commission will issue a supplemental order either denying or approving said contract.

By order of the Public Utilities Commission of New Hampshire this tenth day of November, 1983.

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NH.PUC*11/14/83*[79814]*68 NH PUC 673*Winter Termination Rules

[Go to End of 79814]

Re Winter Termination Rules

DRM 83-31, Second Supplemental Order No. 16,762

68 NH PUC 673

New Hampshire Public Utilities Commission

November 14, 1983

ORDER requiring the submission of data on the effects of winter termination rules.

BY THE COMMISSION:

REPORT

This docket was opened by Report and Order No. 16,164 (January 25, 1983) (68 NH PUC 22) in Docket No. DRM 82-304 for the purpose *inter alia* of evaluating certain aspects of the Commission's winter termination rules pending the long term review also initiated in DRM 82-304. The Commission issued Supplemental Order No. 16,656 dated September 27, 1983 (68 NH PUC 566), which directed the Winter Termination Rules Committee (Committee) to reconvene on October 4, 1983 to aid the Commission in its evaluation of the winter termination policies and, in particular, to:

> 1) evaluate the Commission's existing winter termination policies; 2) identify the data necessary to accomplish the above evaluation;

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> 3) implement measures to collect said data starting with the winter of 1983-1984; 4) develop alternative long term proposals for Improving the Commission's winter termination policies; and 5) develop methods of evaluating the above alternative long term proposals.

The current winter rules do not adequately address the needs of either the utilities or their customers. However, it is incumbent upon the parties to develop the empirical data necessary to formulate appropriate revisions.

The Commission has reviewed the Committee's report of its October 4, 1983 meeting, and commends the Committee for having agreed to several data requirements; however, the Commission is disappointed that the parties could not reach a comprehensive agreement on how to demonstrate the need for specific winter termination rule revisions.

Nonetheless, the Commission directs the Committee to collect the following data as agreed at the October 4, 1983 Committee meeting:

> 1) comparison of residential write-offs to residential sales; 2) number of disconnects bypassed due to winter rules (notices not sent due to winter rules); 3) number of payment arrangements entered into during the winter period; the amount, if any, of the customer's

arrearage at the time of contact with the utility; date when payment arrangement was made; 4) identification of customers entering into payment arrangements as either space heating or non-space heating customers; and 5) identification of the number of payment arrangements broken during the winter period (December-March) and after the winter period (April-September).

For purposes of this investigation the filing of winter termination data with the Commission is to be provided in a timely manner as agreed upon by the Committee.

Finally, the Commission wishes to note that this data, although relevant to the outcome of this docket, may not provide sufficient grounds to warrant a rules change. Therefore, the parties are urged to submit proposals for alternative winter termination programs. Furthermore, given the large size of the Committee and its difficulties to date in developing uniform data collection and reporting standards, the Commission does not foresee reconvening the Committee as a whole body but rather meeting with the parties on an individual basis as data and new proposals are submitted and reviewed. However, should due cause be shown in the future, the Committee may, at the call of the Commission, be requested to meet and to provide technical assistance for the purpose of evaluating issues and data pertinent to this docket.

Our order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report which is made a part hereof; it is

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ORDERED, that the Winter Termination Rules Committee collect and submit the following:

1) Comparison of residential write-offs to residential sales; 2) Number of disconnects bypassed due to winter rules (notices not sent due to winter rules); 3) Number of payment arrangements entered into during the winter period; the amount, if any, of the arrearage at the time of customer contact with the utility; date when payment arrangement entered into; 4) Identification of customers entering into payment arrangements as either space heating or non-space heating customers; and 5) Identification of the number of payment arrangements broken during the winter period (December-March) and following the winter period (April-November);

and it is

FURTHER ORDERED, that filing of this data with the Commission is to be provided in a timely manner as agreed upon by the parties; and it is

FURTHER ORDERED, that the Winter Termination Rules Committee not be reconvened until such time as the Commission deems appropriate for the purpose of evaluating empirical data and alternative proposals.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of November, 1983.

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NH.PUC*11/14/83*[79815]*68 NH PUC 675*Kearsarge Telephone Company

[Go to End of 79815]

Re Kearsarge Telephone Company

DR 83-330, Order No. 16,764

68 NH PUC 675

New Hampshire Public Utilities Commission

November 14, 1983

ORDER approving the elimination of four-party telephone service.

BY THE COMMISSION:

ORDER

WHEREAS, Kearsarge Telephone Company has filed with this Commission certain revisions to its tariff, NHPUC No. 5 — Telephone, said revisions providing for the elimination of four-party service in its New London exchange; and

WHEREAS, resulting improved service affords these upgraded customers an opportunity to elect optional services not available to four-party customers, as well as eliminating bothersome ringing; and

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WHEREAS, Kearsarge and other telephone utilities within New Hampshire have estimated that costs to serve four-party customers are higher than those of higher grade, particularly with new sophisticated central offices; and

WHEREAS, this Commission finds such improved service and cost savings in the public interest; it is

ORDERED, that Section 2, Sixth Revised Sheets 1 and 1A, Kearsarge Telephone Co. tariff, NHPUC No. 5, be, and hereby are, approved for effect with bills rendered on and after November 21, 1983.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of November, 1983.

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NH.PUC*11/14/83*[79816]*68 NH PUC 676*New Hampshire Electric Cooperative, Inc.

[Go to End of 79816]

Re New Hampshire Electric Cooperative, Inc.

DR 81-340, Supplemental Order No. 16,765

68 NH PUC 676

New Hampshire Public Utilities Commission

November 14, 1983

PETITION for authority to revise surcharges to recover undercollected electric charges; granted.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, Commission Order No. 15,986 (67 NH PUC 784) authorized recovery of the difference between temporary rates and those finally approved, plus associated rate case expense; and

WHEREAS, said recovery was to be accomplished via a surcharge on all bills rendered during the 12-months period starting November 15, 1982, with final adjustment during the thirteenth month starting on November 15, 1983; and

WHEREAS, said recovery now appears to be lacking an estimated $32,101 as of the end of the 12-months period; and

WHEREAS, New Hampshire Electric Cooperative, Inc. has now filed with this Commission 1st Revised Page 2 to Supplement No. 1 of Tariff NHPUC No. 11, said revision reducing the final surcharge to $0.0011 per kilowatt-hour from the $0.0027 per kilowatt-hour collected during the recovery period and calculated to recover the $32,101 indicated above; and

WHEREAS, this Commission finds such final adjustment in the public interest; it is

ORDERED, that 1st Revised Page 2 of Supplement No. 1 to New Hampshire

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Electric Cooperative, Inc. tariff, NHPUC No. 11, be, and hereby is, approved for effect on November 15, 1983; and it is

FURTHER ORDERED, that public notice be given by explanation of the reduction approved herein in the Newsletter accompanying this final adjustment.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of November, 1983.

==========

NH.PUC*11/14/83*[79817]*68 NH PUC 677*Public Service Company of New Hampshire

[Go to End of 79817]

Re Public Service Company of New Hampshire

DF 83-337, Supplemental Order No. 16,767

68 NH PUC 677

New Hampshire Public Utilities Commission

November 14, 1983

ORDER authorizing an electric company to issue unsecured debentures.

Tx

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, our Order No. 16,758, dated November 10, 1983 (68 NH PUC 668), issued in the above-entitled proceeding, authorized Public Service Company of New Hampshire to issue its unsecured Debentures (the "Debentures"), in a principal amount not exceeding $100,000,000; and

WHEREAS, following negotiations with underwriters, the Company has submitted to this Commission details concerning the sale of the Debentures, including the principal amount, the term and purchase price thereof, and the interest rate thereon, the principal amount of the Debentures being $100,000,000, said term being twenty years from November 15, 1983, said price of the Debentures being ninety-four and eighteen hundredths percent (94.18%) of the principal amount, and said interest rate being fifteen percent (15.00%) per annum, all in accordance with the Underwriting Agreement, a copy of which is to be filed with the Commission; and

WHEREAS, after due consideration, it appears that the issue and sale of $100,000,000, of the Debentures hereinabove described under the terms and conditions of the Debenture Indenture, dated as of November 1, 1983, upon the terms presented to this commission, including the term, purchase price and interest rate hereinabove set forth or referred to, is consistent with the public good; it is

ORDERED, that Public Service Company of New Hampshire be, and hereby is, authorized to issue and sell

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for cash its 15% Debentures due 2003, in the principal amount of one hundred million dollars ($100,000,000) at a price of ninety-four and eighteen hundredths percent (94.18%) of the principal amount, said Debentures to bear interest at the rate of fifteen percent (15.00%) per annum; and it is

FURTHER ORDERED, that all other provisions of said Order No. 16,758 of this Commission are incorporated herein by reference.

By Order of the Public Utilities Commission of New Hampshire this fourteenth day of November, 1983.

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[Go to End of 79818]

Re Fuel Adjustment Clause

Intervenor: Littleton Water and Light Department

DR 83-324, Supplemental Order No. 16,786

68 NH PUC 678

New Hampshire Public Utilities Commission

November 21, 1983

ORDER permitting a fuel surcharge to go into effect without a fuel adjustment clause hearing.

SUPPLEMENTAL ORDER

WHEREAS, the Commission in correspondence dated March 2, 1982, sent to the New Hampshire Electric Cooperative, Inc., Exeter & Hampton Electric Company, Connecticut Valley Electric Company, Inc., Granite State Electric Company, Municipal Electric Department, and Littleton Water & Light Department by the Commission's Executive Director and Secretary in relation to DR 82-59, notified the utilities that the Commission will not automatically schedule FAC hearings for those utilities which file monthly unless requested or needed by one of those utilities; and the Commission would not automatically schedule FAC hearings in the two off months for those utilities which have a quarterly FAC rate; and

WHEREAS, no utility maintaining a monthly FAC requested a hearing be scheduled; it is

ORDERED, that 119th Revised

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Page 6 of the Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for a fuel surcharge of $2.01 per 100 KWH for the month of November, 1983, be, and hereby is, permitted to become effective November 1, 1983.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of November, 1983.

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NH.PUC*11/22/83*[79819]*68 NH PUC 679*New England Telephone and Telegraph Company

[Go to End of 79819]

Re New England Telephone and Telegraph Company

DR 83-341, Order No. 16,770

68 NH PUC 679

New Hampshire Public Utilities Commission

November 22, 1983

ORDER approving individual pricing over packaged pricing for transferred telephone equipment and facilities following divestiture.

BY THE COMMISSION:

ORDER

WHEREAS, one component of the divestiture of the American Telephone and Telegraph Company (AT&T) is the transfer of Customer Premises Equipment (CPE) from its operating companies such as New England Telephone (NET) to a recently formed AT&T subsidiary effective on January 1, 1984; and

WHEREAS, the current NET tariff includes many packaged offerings which combine CPE with services that are not to be transferred to AT&T; and

WHEREAS, NET has filed revisions to said tariff by which these varied features are disaggregated, prices for each component being listed separately; and

WHEREAS, resulting individual pricing totals the same as the current packaged pricing and has no effect on customers' total billing; and

WHEREAS, the Commission finds such disaggregation facilitates the transfer cited above and is in the public interest; it is

ORDERED, that the following revised and original pages of New England Telephone and Telegraph Company Tariff No. 75 be, and hereby are, approved for effect on December 2, 1983:

Supplement No. 4 — Title Page

— Original Pages 1 and 2 Part A — Section 7 — First Revision of TOC Page 3, Pages 42, 44, 72, 74 Original Page 80 Part C — Section 6 — First Revision of Pages 260 and 262

— Original Page 259.1;

and it is

FURTHER ORDERED, that public notice of these changes be given affected

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customers by a summary of the changes to be included with those customers' billing.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of November, 1983.

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NH.PUC*11/22/83*[79820]*68 NH PUC 680*Walnut Ridge Water Company, Inc.

[Go to End of 79820]

Re Walnut Ridge Water Company, Inc.

DE 83-85, Second Supplemental Order No. 16,774

68 NH PUC 680

New Hampshire Public Utilities Commission

November 22, 1983

MOTION to recover costs and attorney's fees; denied.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, this Commission has no equitable, statutory, or regulatory authority to award costs, attorney fees and expenses other than pursuant to Puc 205, which is not applicable to the case at bar, the subject motion is denied.

By Order of the Public Utilities Commission of New Hampshire this twenty-second day of November, 1983.

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NH.PUC*11/23/83*[79821]*68 NH PUC 680*New England Power Company

[Go to End of 79821]

Re New England Power Company

DF 83-149, Supplemental Order No. 16,776

68 NH PUC 680

New Hampshire Public Utilities Commission

November 23, 1983

ORDER setting limits on interest rates payable on pollution control bonds.

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BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, by Order Nos. 16,515 and 16,756 (68 NH PUC 667) New England Power

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Company (the "Company") was authorized to issue and sell one or more series aggregating not exceeding $120,000,000, principal amount, of General and Refunding Mortgage Bonds, a portion of which, it was contemplated, would be issued in connection with issued of pollution control bonds relating to (i) conversion to coal of certain units at the Company's Brayton Point Generating Station and (ii) pollution control equipment associated with the Company's participation in Seabrook Units I and II; and

WHEREAS, the Company is also converting three units at its Salem Harbor Generating Station from oil to coal fired and such conversion may provide the potential for the issuance of additional pollution control bonds; it is

ORDERED, that the General and Refunding Mortgage Bonds authorized and approved by the Commission in this docket which are issued and sold to support pollution control revenue bonds shall bear interest at a rate not in excess of 12 1/2 percent per annum (unless a subsequent Order of the Commission approves a higher rate) and are to be sold with such interest rate and at such price as to conform with the interest rate and price of pollution control revenue bonds to be issued simultaneously therewith by an agency of The State of New Hampshire or The Commonwealth of Massachusetts or the City of Salem, Massachusetts; and it is

FURTHER ORDERED, that in all other respects Orders No. 16,512 and 16,756 of July 1, 1983 and November 8, 1983, respectively, shall remain in full force and effect.

By Order of the Public Utilities Commission of New Hampshire this 23 day of November, 1983.

==========

NH.PUC*11/23/83*[79822]*68 NH PUC 681*Rulemaking — Underground Utility Damage Prevention System

[Go to End of 79822]

Re Rulemaking — Underground Utility Damage Prevention System

DRM 83-248, Order No. 16,778

68 NH PUC 681

New Hampshire Public Utilities Commission

November 23, 1983

ORDER establishing an underground utility damage prevention program.

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CONSTRUCTION AND EQUIPMENT, § 5 — Underground conduits — Location — Damage prevention program.

[N.H.] The commission developed a damage prevention program and instituted a toll-free number under that program which would provide notification to excavators of the location of any

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underground pipeline facilities.

BY THE COMMISSION:

REPORT

This rulemaking results from a statutory directive in RSA 374:50, which in turn found its roots in a federal Department of Transportation Rule, Part 192.614 "Damage Prevention Program".

On April 1, 1982, the Department of Transportation, Materials Transportation Bureau, Research and Special Programs Administration, announced the implementation of a Final Rule requiring all Gas companies to develop a damage prevention program which would provide notification to excavators of the location of any underground pipeline facilities. This Commission monitors and enforces the rules of the Materials Transportation Bureau as they apply to the Natural Gas Pipeline Safety Program and as they are defined in 49 CFR Part 192 of the Federal Register. The rulemaking applies to our regulated gas distribution companies.

The Federal rulemaking allowed:

> § 192.614 Damage Prevention Program (a) ... an operator may perform any of the duties required ... through participation in a public service program, such as a "One-Call" system ... "

Because the Commission was aware that the "One-Call" system is a concept which has been implemented on a nationwide basis for the notification of all types of utilities, and which is not limited only to gas distribution companies, the Commission took the initiative to encourage the implementation of a new state statute which would result in a uniform notification system for all regulated N.H. utilities. All utilities were invited to participate in the formulation of the drafted bill, and as a result of the coordinated efforts, the bill became law on June 18, 1983.

The law required that the Commission adopt rules as follows:

RSA 374:50 — Rulemaking.

The Commission shall adopt rules, pursuant to RSA 541-A, relative to:

I. Minimum Requirements for the Operation of the System, including notification procedures. II. Procedures for the Investigation of Complaints relating to this subdivision. III. Emergency Situations for which Notice of Excavation is not required.

Staff developed draft rules which, on July 25, 1983, were forwarded to the following parties:

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

All Telephone
Utilities

All Gas Utilities

All Electric Utilities

All Water Utilities
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Comments were invited on the proposed

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rules and a meeting of all parties was held on September 15, 1983 which was attended by 24 representatives of Industries and Associations.

As a result of that meeting a second draft was forwarded to all parties on September 19, 1983 with a request for further comments by September 30, 1983.

A final draft was forwarded by letter to all parties on October 11, 1983. Parties were advised that " ... unless substantive comments are received in this office by November 4, 1983, we will take the necessary steps for final adoption." No such comments were received.

The rules will become a part of the Commission's Rules and Regulations for Utilities as follows:

PUC 306.09 — Underground Utility Damage Prevention Program PUC 405.08 — Underground Utility Damage Prevention Program PUC 506.04 — Underground Utility Damage Prevention Program PUC 605.06 — Underground Utility Damage Prevention Program

The rules provide for the establishment of a system which will provide a single toll-free telephone number which will be available on a state-wide basis, prominently displayed in each telephone directory, which will allow any party to request that a utility locate its underground facilities within seventy-two (72) hours of the initiating telephone call. It makes the system responsible for developing and implementing a public awareness program to assure that all parties effected by the program will be aware of their responsibilities. It requires that the system be prepared to provide, install and maintain system equipment at both the centralized message reception point and on company premises, and requires them to train company personnel in the operation of its equipment.

The rules set minimum standards for call transfer times, hours of operation, and emergency message processing. It institutes a program to assure that complaints by any party are properly investigated and resolved. It requires the submission of monthly damage reports to this Commission. Finally, it provides for system actions during emergency situations.

It provides for a prescribed form, Form PUC 509.23 "Report of Damage to Underground Plant Facilities".

We are satisfied that adequate and reasonable notice has been given to the parties, and that the parties have had adequate opportunities to participate in the rulemaking process. We find the rules to be responsive to the directive of RSA 374:50, and to be in the public interest.

Our Order will issue accordingly.

ORDER

Based upon the foregoing Report which is made a part hereof; it is hereby

ORDERED, that the rulemakings specified herein are adopted or inclusion in the Commission's Rules and Regulations.

PUC 306.09 — Underground Utility Damage Prevention Program PUC 405.08 — Underground Utility Damage Prevention Program PUC 506.04 — Underground Utility Damage Prevention Program PUC 605.06 — Underground Utility Damage Prevention Program

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Introduction

I. Minimum Requirements for the operation of the system including notification procedures.

A. *System Operation*

1. *Public Awareness Program*

The system shall be responsible for developing and implementing a public awareness program to assure that all parties affected by the underground damage prevention program shall be aware of their responsibilities. The system shall provide a single toll-free telephone number which shall be available on a statewide basis and which shall be prominently displayed in each telephone directory. The system shall be responsible for the availability of public awareness literature and shall develop a program to assure its distribution to the public. It shall also make such literature available for purchase and distribution by requesting parties.

2. *Company Equipment*

The system shall be prepared, if requested, to provide, install and maintain system equipment on company premises which receives and records messages. The system shall be responsible for the training of company personnel in the operation of such equipment. The system shall accept for use equipment provided by companies so long as it is compatible with the system operations.

B. *Center Operation*

1. *Equipment*

The system shall provide a central location to receive, transmit and record messages. The system shall provide adequate equipment and personnel to acknowledge calls within 20 seconds. The system shall man its operation, as a minimum, 10 hours each day and five (5) days each week excluding Saturdays, Sundays, and legal N.H. holidays. It shall provide emergency notification on a twenty-four (24) hour, seven (7) day per week basis. Routine messages will be transmitted by 4:30 p.m. of the date on which they are received. The system shall be capable, during the hours of manned operation, of transmitting emergency messages to participating companies within two (2) minutes of an incoming message.

II. *Investigation of Complaints*

A. The system shah institute procedures to receive and

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resolve complaints of excavators, utilities and the general public.

B. Participating companies shall institute procedures to receive and resolve complaints of excavators of the general public.

C. The Commission Staff will consider and decide unresolved complaints.

D. The parties involved in the complaint action shall have a right to a rehearing before the Commissioners, and shall have a further right of appeal by petition to the New Hampshire Supreme Court pursuant to RSA 541.

E. Monthly reports of damages shah be forwarded by the Company to this Commission; Attention: Engineering Department, using Form E-26 (Form PUC 509.23)

III. *Emergency Situations*

A. Whenever the public safety may be impaired or the adequacy of public service may be compromised, by strict adherence to the notification procedures contained in these rules and in RSA 374:51 II and RSA 374:53, such procedures may be waived. In such instances, the provision of RSA 374:55 shall not apply.

B. As soon as practicable during the emergency situation, the system shall be contacted to carry out the assigned notification procedures.

C. In the event of disagreement, the Commission shall decide whether a situation is or was deemed an emergency.

By Order of the Public Utilities Commission of New Hampshire this twenty-third day of November, 1983.

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[Graphic Not Displayed Here]

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NH.PUC*11/23/83*[79823]*68 NH PUC 687*Policy Water Systems, Inc.

[Go to End of 79823]

Re Policy Water Systems, Inc.

DE 83-279, Order No. 16,779

68 NH PUC 687

New Hampshire Public Utilities Commission

November 23, 1983

ORDER requiring metered water service.

SERVICE, § 310 — Meters and metering — Water — Reasons and purposes.

[N.H.] Following complaints of inadequate water service due to low pressure, poor water quality, equipment failures, and shutoffs without notice, the commission ordered a water utility to install meters at each customer's residence, finding that metering helps a utility recognize demand and trouble spots and often results in a decrease in consumption.

BY THE COMMISSION:

REPORT

On August 15, 1983, this Commission received a petition signed by 58 residents of the Town of Plaistow, who are provided water service by the Policy Water Systems, Inc. (Policy) of Windham, New Hampshire. The petition alleged inadequate water service including insufficient water due to recurring equipment failures; poor water pressure; lack of advance notice of water shut-offs; rusting of water pipes; unhealthful water due to high iron and manganese content; damage to customer heating systems; water unfit to bathe infants, sick and the elderly; company failure to return complaint calls; inaccessibility of company staff and related matters.

On October 13, 1983, a public hearing on the complaints was held in the Town of Plaistow, New Hampshire. Testimony and statements concerning the operation and management of Policy were received from customers of the Rolling Hills development in Plaistow and the Brook Park development in Londonderry. The Brook Park Estates Water Committee also submitted a list of questions regarding certain phases of Policy's operation which we will answer in this Report.

As a result of investigation and public hearing in this matter, the Commission directed a staff inspection of the Policy water systems at Rolling Hills and Brook Park.

Rolling Hills

The Rolling Hills system serves 52 customers, one of which is a 24 unit senior citizen apartment complex. Water is supplied from three wells that have yields of 12 gallons per minute (GPM), 100 GPM, and 30 GPM respectively for a total of 142 GPM or about 200,000 gallons per day. This satisfies the state guidelines of 600 gallons per customer per day. It does not, at times,

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meet the actual maximum demand placed on it by the existing customers.

Through the past several years the Commission has monitored water pressure at the home of Herbert Wiener (Weiner) on Upper Road. This house is at the highest elevation of the system and, as such, is subject to the lowest pressure. Pressure recordings were made in January, 1981, June, 1982, and September, 1983 and in each instance the pressure exceeded the state minimum of 20 pounds per square inch. There were problems, however, on occasion, during summer months. The Commission investigator, without a recorder, observed water pressure to be at less than satisfactory levels. Also, some customers complained of high levels of iron and manganese in the water. These problems were remedied in the spring of 1983 when Policy complied with

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Commission directives to install a booster pump which increased water pressure to acceptable levels, and a filtering system which removed or oxidized the iron and manganese in the water to comply with state and federal standards.

Samples taken at the Weiner's and at the senior citizen housing on August 31, 1983, showed iron at less than 0.10 mg/l and manganese at less than 0.03 mg/l. The state and federal standard is a maximum of 0.30 and 0.05 mg/l respectively.

Pressure records indicated a wide variance in operating pressure levels in early September of this year when the booster pump was in service. A staff inspection in October indicated that control adjustments steadied the pressure and a check at Weiner's showed an acceptable reading of 30 psig. The Weiners should have adequate pressure henceforth unless average system usage exceeds the state guideline of 600 gallons per customer per day.

The three well pumps pressurize the total system to a band of 60-80 psi. With 75 psi pressure at the pump, pressure at Weiner's was recorded at 30 psig. Using this differential, when there is 50 psig at the pump, pressure at the Weiner's should be 24 psig. The booster pump on this system is set to come on line if pressure at the pump house drops to 55 psig, which translates to 22 psig at Weiner's elevation. Since our standards call for a minimum of 20 psig, it appears that the booster pump adequately services even those parts of the system at higher elevations.

Brook Park

Brook Park is served from 5 wells with a cumulative yield of about 150,000 gallons per day to serve 94 customers. A 5-horse power booster pump is controlled to maintain a pressure of 40-55 psi at the pump house.

The questions raised by the Brook Park Estates Water Committee are answered as follows:

1. What records does Policy Water System have, that show that the Brook Park Estates use more than the required amount of water by law per household?

Answer: There is no N.H. statute that specifies how much water must be available for each household. The design standard that must be met for approval of the water system is 600 gallons per day per single family home.

2. What records does Policy Water

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System have that indicate that the problems at Brook Park Estates are directly connected to outdoor water use?

Answer: Since there is no metering, the only such indication is that the system is unable to respond to heavy summer demands.

3. What records does Policy Water Systems have that show it has caught outdoor water violators and what actions were taken against these violators to assure this situation did not occur again?

Answer: We do not know whether Policy records each violation and it is next to impossible to continuously monitor each customer's use, especially after dark. When a

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notice of restricted use has been issued to protect the integrity of the system, and a violation is detected, the customer may be disconnected and charged a tariff fee of $25.

4. Are there any records of rules and regulations that define both the consumers' and Policy Water Systems' rights and responsibilities? If so, why haven't they been distributed to the consumers?

Answer: The terms and conditions under which a utility will provide service are contained in its tariff which can be obtained at the Company office and/or at this Commission.

5. What are Policy Water Systems' reasons for not allowing our water consultant to view the contents of the pump house?

Answer: The plant and equipment employed by any public utility are private property.

6. What records does Policy Water Systems have that indicate that the developer was charged and paid for the initial house hook-ups to the system?

Answer: Financial records of any utility's plant investment, operational expenses and revenue received are filed each year with this Commission.

7. Can and will Policy Water Systems supply to Brook Park Estates or its representatives all necessary records that it has in its possession concerning the design criteria and specifications of the water system that supplies Brook Park Estates?

Answer: The design criteria and specifications, if they are public records, may be obtained from the N.H. Water Supply and Pollution Control Commission.

8. What rules and regulations govern the consumer who wishes to invest in his own well system for outside the household usage?

Answer: There are no rules of this Commission or the water company that prevent the development of individual wells. There are, however, rules which prohibit their connection with a public supply.

9. What records or information does Policy Water System have that indicate

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they have the right number of homes and are properly billing the area of Brook Park Estates?

Answer: Bills rendered by any utility must be as provided for and specified in its tariff which is on file with this Commission.

10. What is the minimum pressure requirement that is allowed in the Brook Park Estate water system at the consumer outlet?

Answer: 20 pounds per square inch.

11. What is the maximum deviation allowed in the pressure requirement that is allowed in the water system at Brook Park Estates?

Answer: Variations in pressure under normal operating conditions shall not exceed 50% of the average operating pressure. The average operating pressure shall be determined by

computing the arithmetical average of at least twenty-four (24) consecutive hourly pressure readings. Pressure variations outside the limits specified will not be considered a violation of this rule when such (1) Arise from unusual or extraordinary conditions, or (2) Are infrequent fluctuations not exceeding five (5) minutes duration, or (3) Arise from the operation of customer's equipment.

12. Does the PUC or any other state agency require that meters be placed on home to record the individual household water usage?

Answer: This Commission in this Order requires Policy to install meters and generally requires other water systems to do the same.

13. What assurance does the homeowner have that if water meters are installed, we will have a continuous supply of water?

Answer: If actual demands of customer usage are known, a utility can better plan to meet such demands. Also, individual metering frequently results in lower individual consumption.

14. What financial responsibilities does the homeowner have toward service not adequately performed?

Answer: An unmetered system bill can be adjusted for extended periods of unavailability.

Conclusions

The plant equipment employed at these two systems is standard water works equipment and appears to be properly maintained.

Both water systems meet the state design criteria as to source production or capability required. The problem arises, especially at Brook Park, during the summer months when system peak demands in excess of state guidelines are experienced. Outside water use for lawn and garden watering, and pool use, etc. appear to be a significant factor in use and demand at Brook Park

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and to a lesser extent at Rolling Hills. A standard hose, used by most homeowners will allow water flow at 8-10 gallons per minute and it can be seen that when a significant number are used at the same time and in combination with domestic use of 3-5 gallons per minute, the small water system is strained over a period of several hours.

Larger utilities that have built the capability to provide fire protection into their water systems can generally absorb outside use. However, some of these are forced to employ restricted use provisions in periods of drought as experienced during the summer of 1983.

A major problem in these two systems is that consumption is unknown, and, therefore, is higher than it probable would be were each service metered. A 1979 study in North Carolina showed the immediate effect of metering was a drop or decrease in consumption of 33%. If, after metering, system demands show the need of additional source capacity, the utility will be directed to proceed with such development with immediate cost recovery through rate and operating expense adjustments to tariff rates. NHCAR PUC 607.02 requires that each utility

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shall install a suitable measuring device at each source of supply to measure the quantity produced. We will require that there be a recording flow meter at the entrance to each distribution system so that peak demands will be known and recorded as to date and time. In addition, we shall order the metering of all customers at Brook Park by June 1 of 1984 with orderly continuation of customer meter installations at all other Policy systems.

There were complaints of equipment failures. These can happen on any mechanical or electrical system but, except under unusual circumstances, no utility should be inoperative for three days as reported in Rolling Hills. Major problems should be reported to this office by the utility and by the customer. We believe that a cooperative effort by this office, the utility and other involved parties will result in operation which is satisfactory to all concerned.

Ideally, a system should be capable of meeting peak demands, a condition that many large utilities strive to meet. Smaller utilities, however, should be able to meet average demands. In future rate cases this Commission will expect water utilities to specify how they plan to achieve this ability.

There are complaints that Policy does not answer calls, that no answering service is available at certain times, and that no one is on duty during holidays. This Commission's standards require that each utility make a full and prompt investigation of customer complaints and maintain records for at least two years showing name, address, date and character of complaint and disposition. Our rules also require utility filing, each month, of any pressure or service interruption complaints. Our records indicate that Policy is in violation of this requirement.

All utilities must file an annual financial report. Policy, as well as other large water companies, must also file quarterly financial statements. In addition, a petition for a revenue or rate adjustment is an occasion for an additional Commission review of the utility's financial and accounting operation. Policy is hereby notified that its compliance with this Commission's rules will henceforth be strictly scrutinized.

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We also expect Policy to respond to all service complaints promptly and courteously and to advise its customers either individually or by public notice in a newspaper of general circulation in the affected area of any pending planned outages.

Our Order will issue accordingly.

ORDER

For the reasons cited in the foregoing Report, which is incorporated herein by reference; it is hereby

ORDERED, that Policy Water Systems, Inc. (Policy) meter each customer at the Brook Park System in Londonderry by June 1, 1984, with an orderly and continuing program to accomplish metering at all other Policy systems, and it is

FURTHER ORDERED, that recording flow meters be established at each water system; and it is

FURTHER ORDERED, that Policy file reports of pressure problems and service

interruptions with this Commission in accordance with NHCAR PUC 604.05 and 604.06; and it is

FURTHER ORDERED, that Policy respond to each customer complaint promptly and courteously, and, to ensure effective implementation of the Order, contact its answering service for messages at least every two hours between the hours of 6:00 A.M. and 11:00 P.M. each day.

By Order of the Public Utilities Commission of New Hampshire this twenty-third day of November, 1983.

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NH.PUC*11/23/83*[79824]*68 NH PUC 692*Claremont Gas Light Company

[Go to End of 79824]

Re Claremont Gas Light Company

DE 82-197, 13th Supplemental Order No. 16,780

68 NH PUC 692

New Hampshire Public Utilities Commission

November 23, 1983

MOTION for rehearing of a settlement order; denied.

GAS, § 5 — Construction and equipment — Bottled gas — Conversion costs.

[N.H.] In looking at the interests of ratepayers who have had their gas service discontinued and must convert to bottled gas, the commission said the discontinuing company need only be responsible for those labor and material costs associated with the conversion of appliances to bottled gas

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while competitors who offer the new bottled gas service would be responsible for the costs of installing bottled gas tanks and their related accessories.

APPEARANCES: as previously noted.

BY THE COMMISSION:

REPORT

On October 26, 1983, the New Hampshire Public Utilities Commission ("Commission") issued Report and Twelfth Supplemental Order No. 16,735 (68 NH PUC 639) ("Decision") which, *inter alia*, accepted the terms of an offer of settlement and closed this docket. On

November 14, 1983, Claremont Gas Light Company ("Claremont" or "Company") filed a Motion for Rehearing ("Motion") pursuant to RSA 541:3 & 4. The Motion claimed *inter alia* that the Commission's Decision had the effect of amending the terms of the Offer of Settlement. After careful review, it is our opinion that Claremont's Motion is without merit and it will be denied.

Claremont's Motion was directed at the language in the Commission's Decision which provided (68 NH PUC at p. 640):

> The Commission notes that there is one matter of concern which is not addressed in the agreement. That matter is the question of whether customers who wish to purchase bottled or bulk gas from a company other than Claremont's affiliate, Utilgas, Inc., will also be entitled to a no-cost conversion. Since we are satisfied with the agreement, we will not attempt here to add additional terms. However, we will provide notice that the Commission believes that all customers within the discontinued areas should be entitled to a no-cost conversion to bottled or bulk gas regardless of which supplier is selected. Thus, the Commission will entertain and adjudicate any customer complaints on this matter if the Company refuses to provide a no-cost conversion.

The Company reasoned that the effect of the above language is to compel Claremont to pay any costs billed by either customers or competitors, including the cost of a new bottled gas tank.

Claremont has simply misread the above language. As noted therein, it was the Commission's intent to provide notice of its concerns so that all affected parties may address themselves to those concerns if they are relevant to a future proceeding. It was not the intent of the Commission to amend the terms of the Offer of Settlement.

The rationale of the Commission's concerns was accurately articulated by the Letter Opinion of Counsel issued to the Company on November 4, 1983. Counsel stated:

> ... [I]t was the Commission's intent that [Claremont's affiliate] Utilgas, Inc. not be left with either a competitive advantage or a competitive disadvantage as a result of the acceptance of the Offer of Settlement. Letter Opinion at p. 2.

We must continue to be concerned with the interests of the ratepayers whose service will be discontinued as well as those who will continue to be

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served by Claremont. The evidence in this docket clearly establishes that those customers would not have been discontinued but for Claremont's neglect of its system through the years. Thus, the focus of any future inquiry, should it occur, must be whether the discontinued ratepayer will be required to bear a higher conversion cost by virtue of a decision to purchase gas from a competitor of Claremont's affiliate. If a disputed cost is one which would ordinarily be borne by a competitor, then it would place Claremont or Utilgas, Inc. at a competitive disadvantage if we require that the cost be shifted away from the competitor. Our familiarity with the gas market leads us to conclude that the cost of a bottled gas tank would ordinarily be borne by a competitor and, thus, could not be shifted to either Claremont or Utilgas, Inc. The Commission's understanding of the term "conversion costs" for the purposes of interpreting the

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Offer of Settlement and providing notice of its concerns is that the term means those material and labor costs associated with the conversion of the appliances which are presently connected to the city gas system and which, because of the retirement of portions of that system, will now be connected to an LP bottled gas facility. "Conversion costs" will not include the costs of bottled gas tanks or the gas therein, of the associated regulators, hoods and piping, or of their related labor costs. Thus, to the extent that Claremont is concerned about being required to pay for bottled gas tanks, its concern is unfounded.

As noted, the above Commission concerns have been set forth solely for the purpose of providing notice. It was not and is not our intent to amend the terms of the Offer of Settlement and those terms would supersede any notice of Commission concerns contained in the Decision, unless and until the Commission issues a further Order after a duly noticed subsequent proceeding.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that the Motion for Rehearing filed by Claremont Gas Light Company on November 14, 1983 be, and hereby is, denied.

By Order of the Public Utilities Commission of New Hampshire this twenty-third day of November, 1983.

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NH.PUC*11/30/83*[79825]*68 NH PUC 695*Public Service Company of New Hampshire

[Go to End of 79825]

Re Public Service Company of New Hampshire

DF 83-286, Supplemental Order No. 16,785

68 NH PUC 695

New Hampshire Public Utilities Commission

November 30, 1983

ORDER authorizing an electric company to issue a promissory note to finance its pollution control bonds.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, our Order No. 16,686 dated October 11, 1983 (68 NH PUC 596) issued in the above-entitled proceeding, authorized Public Service Company of New Hampshire (the "Company") to issue its unsecured promissory note in a principal amount not exceeding $72,500,000 in connection with a pollution control revenue bond financing, subject to the

submission of the final terms of the financing to this Commission; and

WHEREAS, in accordance with said Order No. 16,686, following negotiations with underwriters, the Company has submitted to this Commission details concerning the pollution control revenue bond financing, including the proposed issuance by the New Hampshire Industrial Development Authority ("IDA") of the Pollution Control Revenue Bonds, 1983 Series A (Public Service Company of New Hampshire Project) (the "Bonds"), with the following principal amounts, terms, purchase prices and rates of interest:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Principal Amount	Term Years	Price to Public (% of Principal Amount)	Price to IDA (% of Principal Amount)	Rate of Interest
$ 3,250,000	5	100.00	96.15	12.25%
7,250,000	10	100.00	95.65	13.25%
8,000,000	20	100.00	95.15	13.75%
1,500,000	20	95.10	90.75	12.75%
$20,000,000				

and the loaning by the IDA to the Company of the net proceeds from the issue and sale of the Bonds and the issuance by the Company to the IDA of its unsecured promissory note in the principal amount of $20,000,000 providing for payment of principal of and premium and interest on said promissory note in a manner to provide at all times sufficient funds for payment when due of all obligations under the Bonds; and

WHEREAS, after due consideration, it appears that the issuance by the

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Company of its unsecured promissory note in the principal amount of $20,000,000 upon the terms hereinabove set forth is consistent with the public good; it is

ORDERED, that Public Service Company of New Hampshire be, and hereby is, authorized to issue its unsecured promissory note in the principal amount of $20,000,000 upon the terms hereinabove set forth; and it is

FURTHER ORDERED, that all other provisions of said Order No. 16,686 of this Commission are incorporated herein by reference.

By Order of the Public Utilities Commission of New Hampshire this thirtieth day of November, 1983.

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NH.PUC*11/30/83*[79826]*68 NH PUC 696*Fuel Adjustment Clause

[Go to End of 79826]

Re Fuel Adjustment Clause

Intervenors: New Hampshire Electric Cooperative, Inc., Concord Electric Company, Exeter and Hampton Electric Company, Granite State Electric Company, Municipal Electric Department of

Wolfeboro, Woodsville Water and Light Department, and Connecticut Valley Electric Company, Inc.

DR 83-344, Order No. 16,787

68 NH PUC 696

New Hampshire Public Utilities Commission

November 30, 1983

ORDER allowing a fuel surcharge and an oil conservation adjustment to remain in effect without a fuel adjustment clause hearing.

BY THE COMMISSION:

ORDER

WHEREAS, the Commission in correspondence dated March 2, 1982, sent to the New Hampshire Electric Cooperative, Inc., Granite State Electric Company, Connecticut Valley Electric Company, Inc., Exeter & Hampton Electric Company, Municipal Electric Department of Wolfeboro, Concord Electric Company, Woodsville Power and Light Department, and Littleton Water & Light Department in relation to DR 82-59, notified the utilities that the Commission will not automatically schedule FAC hearings in the two off months for those utilities which have a quarterly FAC rate; and

WHEREAS, no utility maintaining a

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monthly or quarterly FAC requested a hearing be scheduled; and

WHEREAS, this is one of the two off months for quarterly FAC utilities; it is

ORDERED, that the Commission in DR 81-340, Third Supplemental Order No. 15,986 dated November 10, 1982 (67 NH PUC 784) of the New Hampshire Electric Cooperative, Inc. rolled the cost of fuel on an estimated forward looking basis into base rates, thus eliminating the lagging Fuel Adjustment Clause and resulting in more stable and comprehensible rates; and

WHEREAS, the rolled in rate will remain in effect for approximately one year as revised in DR 83-143, Order No. 16,527 (68 NH PUC 468) unless a hearing is requested by any party, and a hearing is scheduled for December 16, 1983, no new rate will be stated for the New Hampshire Electric Cooperative, Inc. in this month's FAC order; and it is

FURTHER ORDERED, that 13th Revised Page 19A of Concord Electric Company tariff, NHPUC No. 8 — Electricity, providing for a fuel surcharge of $1.186 per 100 KWH for the months of October, November and December, 1983, be, and hereby is, permitted to remain in effect for the month of December, 1983; and it is

FURTHER ORDERED, that 13th Revised Page 19A of Exeter and Hampton Electric Company tariff, NHPUC No. 15 — Electricity, providing for a fuel surcharge of $1.30 per 100 KWH for the months of October, November and December, 1983, be, and hereby is, permitted to remain in effect for the month of December, 1983; and it is

FURTHER ORDERED, that 7th Revised Page 57 of Granite State Electric Company tariff, NHPUC No. 10 — Electricity, providing for an oil conservation adjustment of 21.4 cents ($0.214) per 100 KWH for the months of October, November and December, 1983, be, and hereby is, permitted to remain in effect for December, 1983; and it is

FURTHER ORDERED, that 9th Revised Page 30 of Granite State Electric Company tariff, NHPUC No. 10 — Electricity, providing for a fuel surcharge for the months of October, November and December, 1983 of $1.863 per 100 KWH be, and hereby is, permitted to remain in effect for December, 1983; and it is

FURTHER ORDERED, that 35th Revised Page 11B of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 6 — Electricity providing for a fuel surcharge of $3.29 per 100 KWH for the month of December, 1983, be, and hereby is, permitted to become effective December 1, 1983; and it is

FURTHER ORDERED, that 87th Revised Page 10-B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for a fuel surcharge credit of ($1.22) per 100 KWH for the month of December, 1983, be, and hereby is, permitted to become effective December 1, 1983; and it is

FURTHER ORDERED, that 84th Revised Page 18 of Connecticut Valley Electric Company, Inc. tariff, NHPUC No. 4 — Electricity, providing for an energy surcharge credit of ($0.73) per 100 KWH for the month of December, 1983, be, and hereby is, permitted to become effective December 1, 1983.

The above noted rates may be adjusted by a factor of approximately 1% depending upon the utility's classification

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in the Franchise Tax docket, DR 83-205, Order No. 16,524 (68 NH PUC 461).

By order of the Public Utilities Commission of New Hampshire this thirtieth day of November, 1983.

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NH.PUC*12/02/83*[79827]*68 NH PUC 698*Concord Electric Company

[Go to End of 79827]

Re Concord Electric Company

DC 83-275, Order No. 16,788

68 NH PUC 698

New Hampshire Public Utilities Commission

December 2, 1983

ORDER calculating the proper charges to be billed to a customer under an electric company's

line extension policy.

APPEARANCES: Raymond J. Bonito, pro se; Vernon E. McFarland on behalf of Concord Electric Company

BY THE COMMISSION:

REPORT

I. *PROCEDURAL HISTORY*

On August 24, 1983 this Commission received a letter from Mr. Raymond Bonito of Bow, New Hampshire in which he disputes Concord Electric Company's (Company) calculation of the Guaranteed Line Extension surcharge to his monthly bill. Mr. Bonito states that in a letter dated August 12, 1983, the Company notified him that his surcharged monthly payment was being reduced from $14.00 to $12.72 as a result of another service being built on his line. According to Mr. Bonito, his surcharge should be reduced to $2.00 per month. At Mr. Bonito's request, a hearing was scheduled for the Commission to consider his complaint.

Accordingly, by letter dated August 29, 1983, the Commission informed both Mr. Bonito and the Company that a hearing was scheduled for October 6, 1983. Thereafter, at the request of Mr. Bonito, the hearing was continued to October 11, 1983, at which time Mr. Bonito appeared Pro Se. Vernon E. McFarland, Vice President of the Company, appeared on its behalf.

II. *TESTIMONY*

It was established at the hearing that in September, 1982 Mr. Bonito contacted the Company regarding obtaining electrical service for a home he was constructing in a new 8-lot development on Stack Drive off Page Road in Bow, New Hampshire. A representative of the Company visited the site and estimated that a three pole line extension of approximately 650 feet would be necessary to provide electrical service

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for the Bonito property. Mr. Bonito's house was not then under construction.

Thereafter, on October 4,1982, Mr. Bonito and a duly authorized representative of the Company executed an Application and Agreement For Line Extension (Agreement) (Exhibit 1). In addition, Mr. Bonito executed a Mortgage Deed (Exhibit 1) to the Company to secure the payment of the obligations set forth in the Agreement.

The Agreement provides that in addition to paying for electric service in accordance with the applicable rate in the Company's effective Electric Tariff (Concord Electric Company, NHPUC No. 8 — Electricity, hereinafter referred to as "Tariff") (Exhibit 2), Mr. Bonito shall pay a surcharge of $14.00 per month for 60 months in return for the Company extending its service line. It further provides:

> The said additional amounts payable hereunder shall be revised downward but not upward in accordance with the Line Extension provisions of the Company's said Electric Tariff upon the connection to the Line Extension of one or more additional customers.

The provisions of the Agreement mirror the applicable provisions of the Company's Tariff. Section 16.1, Original Page 13, entitled *Extensions of Single-Phase Lines without Payment by Customer*, provides as follows:

> The Company will extend its existing distribution lines to domestic and small commercial customers without any payment or surcharge other than those contained in its rate schedules provided the total extension does not exceed 300 feet per customer excluding normal service drops and additionally, in the case of extensions on private property, does not require more than one pole per customer.

Section 16.2, entitled *Payment by Customer for Single-Phase Extension Along Public Ways*, provides for a monthly surcharge of $4.00 per 100 feet (4 ¢ per foot) for the footage in excess of the 300 feet as provided in Section 16.1, and states that the surcharge shall apply for a period of 60 consecutive months unless sooner terminated due to the average extension per customer becoming equal to or less than 300 feet.[1(65)]

The surcharge of $14.00 was calculated by taking the estimated required footage (650 feet), subtracting the 300 feet which the Company provides at no charge and multiplying that figure (350) by the 4 ¢ per foot charge: 650 — 300 = 350 × $.04 = $14.00.

After the Agreement was executed, permanent service commenced on January 3, 1983. Thereafter, Mr. Bonito's monthly bills contained the $14.00 surcharge until he was notified by the Company by letter dated August 12, 1983, that due to the addition of another service on the line, his surcharge was being reduced to $12.72 per month.

Mr. Bonito testified that the addition of the new customer should reduce his surcharge to $2.00 per month. He argued that the total footage of 650 feet less the 300 feet provided without charge to both customers would leave a total of 50 feet for which he was accountable. 50 feet multiplied

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by $.04 yields a surcharge of $2.00 per month.

The Company disagreed with Mr. Bonito. Mr. McFarland testified that in November, 1983, the Company made an additional visit to the site of Mr. Bonito's home and, based on discussions there with either Mr. Bonito or his representative, reached a determination that an additional pole extension of 210 feet would be necessary. According to Mr. McFarland, based on further information provided by either Mr. Bonito or his representative regarding the exact location of the house on the lot, the Company was forced to revise its earlier estimate of 650 feet to 860 feet. Mr. Bonito denies being present when such a determination was made.

Mr. McFarland further testified that as finally installed, the line extension to Mr. Bonito's property totalled 868 feet, 8 feet in excess of the revised estimate.[2(66)] If this figure had been used in the Agreement, Mr. Bonito's surcharge, prior to the addition of another customer, would have been $22.72 (868 — 300 = 568 × $.04 = $22.72). However, because the Agreement had previously been executed, the original $14.00 surcharge was therefore binding on Mr. Bonito and the Company. Thus, Mr. Bonito's bills following the commencement of service contained a surcharge of $14.00

Mr. McFarland testified that on August 11, 1983, temporary service was extended to another customer from the line extension serving Mr. Bonito. He stated that as a result thereof, in accordance with the above-stated provisions of the Tariff and Agreement, the Company recalculated Mr. Bonito's monthly surcharge to $12.72 and so notified him by letter dated August 13, 1983. However, according to Mr. McFarland, this recalculation was incorrect; the correct surcharge should be $8.40. The Company did not notify Mr. Bonito of this error prior to the hearing. Mr. McFarland stated that when the Company discovered this error upon investigating Mr. Bonito's complaint, it decided not to notify him because it might look "suspicious" in light of the pending hearing. Rather, it chose to wait until the hearing to divulge the results of its investigation.

According to Mr. McFarland, the $8.40 surcharge as proposed by the Company is derived by taking the total actual footage (868 feet) and subtracting the footage provided to both Mr. Bonito and the new customer without charge (300 × 2 = 600 feet), thereby leaving a total of 268 feet. Out of the remaining 268 feet, 210 feet represents the distance from pole 3 to pole 4. This footage is used exclusively to provide service to Mr. Bonito's property. Mr. McFarland testified that this 210 feet is therefore Mr. Bonito's responsibility. Multiplying 210 by $.04 yields a surcharge of $8.40.

With respect to the remaining 58 feet, Mr. McFarland testified that it is the responsibility of both Mr. Bonito and the new customer. Divided equally, each would be responsible for 29 feet. Thus, including this additional footage in the surcharge calculation would leave Mr. Bonito responsible for a total of 239 feet and a monthly surcharge of $9.56 (239 × $.04 = $9.56). Regarding the new customer, the Company would have to enter into a

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new line extension agreement for a surcharge of $1.16 per month (29 × $.04 = $1.16).

According to Mr. McFarland, the time and paperwork associated with processing the application and the recording fees for the Registry of Deeds make it cost prohibitive for the Company to enter into line extension agreements where the surcharge is under $2.00. Mr. McFarland testified that while not included in the Company's tariff, this has been Company policy for sometime. The Company therefore did not undertake to enter into such an agreement with the new customer because the surcharge would be under $2.00.

Mr. McFarland further testified that because no line extension agreement would be entered into with the new customer, the Company decided that to be fair to Mr. Bonito, it would not include his 29 feet in the calculation of the surcharge. The Company is therefore allowing Mr. Bonito a total of 329 feet without charge.

III. *ANALYSIS*

Mr. Bonito argues that the Agreement requires the Company to use the original field estimate of 650 feet in the recalculation of his surcharge necessitated by the addition of a new customer on the line expansion. He contends that by utilizing the actual footage of 868 feet, the Company is breaching the Agreement.

Contrary to Mr. Bonito's contention, however, nothing in the Agreement prevents the

Company from using 868 feet as the basis for its re-calculation. There are no provisions which require the Company to utilize the 650 feet estimate. In fact, there is no reference whatsoever to the 650 feet estimate. The only provision regarding recalculation necessitated by the addition of new customers requires a downward revision from the maximum amount of $14.00, and prohibits any increase. Thus, the Company may base its recalculation on 868 feet so long as the resulting surcharge does not exceed $14.00. The Commission therefore finds the Company's proposed monthly surcharge of $8.40 to be consistent with the Agreement and the Company's tariff.[3(67)]

It should be noted that executing an agreement with an exact surcharge amount in advance of construction and prior to placement of the line most often benefits the customer. As Mr. McFarland testified, the actual footage required when the line expansion is put into place usually exceeds the field estimate. Thus, to the extent more footage is required, the Company is responsible, not the customer. By basing the surcharge on the field estimate, a customer building a new home knows his surcharge in advance of actual construction.

This is perhaps best illustrated by the present case. As stated above, if the agreement between Mr. Bonito and the Company had been based upon the

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actual footage, his original surcharge, prior to the addition of a new customer would have been $22.72 (858 feet) instead of $8.40 (210 feet).

One final matter needs to be addressed. As noted above, the Company policy regarding not entering into line extension agreements where the monthly surcharge is under $2.00 is not contained the Company's Tariff. Mr. Bonito testified that because the Company did not enter into an agreement with the new customer, he was under the impression that the Company was arbitrarily enforcing the Tariff until he learned differently at the hearing.

To avoid even the appearance of discrimination, and in order that the Company's Tariff fully and accurately reflect its practices regarding line extension, we hereby order the Company to, amend its Tariff to reflect this policy. Upon the filing, the Commission may, in its discretion, conduct an investigation into the reasonableness of this Tariff change.

Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that effective August 11, 1983, Concord Electric Company be, and hereby is, permitted to assess a surcharge of $8.40 to the monthly bill of Raymond J. Bonito in accordance with the Line Extension Agreement entered into between Concord Electric Company and Raymond J. Bonito; and it is

FURTHER ORDERED, that any monthly surcharge payment made by Mr. Bonito after August 11, 1983 in excess of this amount be refunded by Concord Electric Company to Mr. Bonito; and it is

FURTHER ORDERED, than Concord Electric Company amend its Tariff to reflect its policy

regarding line extension agreements where the monthly surcharge is less than $2.00

By Order of the Public Utilities Commission of New Hampshire this second day of December, 1983.

FOOTNOTES

[1]Section 16.2 also provides for the signing of a line extension agreement by the Company and its customer based upon the Tariff provisions.

[2]Mr. Bonito does not contest the total footage as measured by the Company.

[3]While we hereby approve the Company's proposed surcharge of $8.40, we note that the Company's allowing Mr. Bonito 29 feet without charge cannot be supported by either document. The Company is in essence giving an advantage or preference to Mr. Bonito not afforded other customers. In addition, to the extent that the Company does not earn this revenue ($1.16 × 60 months = $69.60) from Mr. Bonito, it must do so from other customers. The amount however is insignificant in that removing it from the Company's revenue requirement would have no impact 011 the KWH charges of the other customers. We therefore decline to) disturb the Company's proposed surcharge. However, it is important that this decision not be construed as approving the principle embraced by the Company's action in this case.

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NH.PUC*12/05/83*[79828]*68 NH PUC 702*Pittsfield Aqueduct Company, Inc.

[Go to End of 79828]

Re Pittsfield Aqueduct Company, Inc.

DR 80-125, 11th Supplemental Order No. 16,789

68 NH PUC 702

New Hampshire Public Utilities Commission

December 5, 1983

PETITION by a water company for a second step rate increase in accordance with its previously approved rate design; granted.

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BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, the Commission in 9th Supplemental Report and Order No. 15,556, state on page 2 of the Report (67 NH PUC 250, 251), "At the completion of the installation of the 50 meters, we will accept a filing by Pittsfield for the purpose of making a step increase based on actual costs."; and

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WHEREAS, the Pittsfield Aqueduct Company by correspondence dated November 21, 1983, signed by its Treasurer, requested "the Commission to grant a step increase to the Pittsfield Aqueduct Company based on our cost of $7,152.50 for the installation of 50 new meters in 1983"; and

WHEREAS, the Commission on pages 13 and 14 of the previously noted Report approved a cost of capital of 11.9% on rate base, which when applied to the $7,152.50 and tax effected, results in a step increase of approximately $1,150; it is

ORDERED, that Pittsfield Aqueduct Company may increase its rates effective with its January 1, 1984 billings by $1,150 on an annual basis; and it is

FURTHER ORDERED, that the Company shall file the appropriate tariff pages to reflect said increase, and shall structure said tariff to comply with the Company's previously approved rate structure.

By Order of the Public Utilities Commission of New Hampshire this fifth day of December, 1983.

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NH.PUC*12/05/83*[79829]*68 NH PUC 703*Small Power Producers and Cogenerators

[Go to End of 79829]

Re Small Power Producers and Cogenerators

DE 83-62, Sixth Supplemental Order No. 16,790

68 NH PUC 703

New Hampshire Public Utilities Commission

December 5, 1983

ORDER requiring electric utilities purchasing from small power producers to file monthly reports on those purchases and relieving small power producers of the obligation to submit such reports.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, in Supplemental Order No. 13,744 (64 NH PUC 244) the Commission required all small power producers to submit monthly production reports to the Commission and re-iterated this requirement in Supplemental Order No. 14,797 (66 NH PUC 83); and

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WHEREAS, in Supplemental Order No. 14,280 (65 NH PUC 291) the Commission required that all electric utilities within the state provide quarterly information as to amount of kwh's purchased from small power producers; and

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WHEREAS, the Commission now finds that the information it requires would be best supplied by monthly reporting from electric utilities of kwh's purchased from small power producers; and

WHEREAS, such reporting would obviate the need for small power producers to report the same information themselves; it is therefore

ORDERED, that all electric utilities within the State provide monthly information as to amounts of kwh's purchased from each of the small power producers which supplies said utility with electric power; and it is

FURTHER ORDERED, that small power producers are relieved of the obligation to submit monthly production reports to the Commission; and it is

FURTHER ORDERED, that the examples of reports received from the Public Service Company of New Hampshire, appended to this Order, are acceptable forms for the utility reports from those utilities purchasing electric power from small power producers; and it is

FURTHER ORDERED, that utilities which make no purchases from small power producers may continue to inform the Commission of their lack of such purchases by letter on a quarterly basis.

By order of the Public Utilities Commission of New Hampshire this fifth day of December, 1983.

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Page 705

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NH.PUC*12/06/83*[79830]*68 NH PUC 709*Toll-free Calling During Certain Hours

[Go to End of 79830]

Re Toll-free Calling During Certain Hours

Intervenors: New England Telephone and Telegraph Company, Kearsarge Telephone Company,

Granite State Telephone Company, Merrimack County Telephone Company, and Union Telephone Company

DR 83-165, Order No. 16,791

68 NH PUC 709

New Hampshire Public Utilities Commission

December 6, 1983

PROPOSAL to require telephone companies to provide free intrastate toll calling during certain restricted hours; rejected.

SERVICE, § 468 — Telephone — Toll service — Free intrastate calling.

[N.H.] A proposal to require telephone companies to provide free intrastate toll calling on weekends and late at night was rejected where the commission found that the proposal would: (1) cause increased bills for all customers including those that would not make use of the free calling; (2) require substantial plant investment and upgrading before tree toll calling could be implemented; and (3) be in potential conflict with federal access charge policies following divestiture.

APPEARANCES: Roger Easton, pro se for the Petitioner; Jeanne S. Conroy for New England Telephone and Telegraph Company; Robert J. Collins for Kearsarge Telephone Company; Hobart Rand for Granite State Telephone Company; Paul Violette for Merrimack County Telephone Company; Wallase Flaherty for Union Telephone Company.

BY THE COMMISSION:

REPORT

On May 12, 1983, a petition was filed with this Commission to investigate the rates of all its regulated New Hampshire Telephone Utilities to determine whether all telephone calls within New Hampshire after 11:00 p.m. and before 8:00 a.m. on weekdays or at any time on a Saturday or Sunday shall be at local service rates.

An Order of Notice was issued on May 13, 1983 directing the petitioner to notify all persons desiring to be heard to appear at a public hearing at the Commission's Concord offices at 10:00 a.m. on June 6, 1983. Notices were sent to Roger Easton, all regulated New Hampshire telephone companies and the Office of the Attorney General.

An affidavit was received on May 31, 1983 indicating that a public notice had been published in the Union Leader on May 23, 1983.

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Representative Conrad Quimby, Chairman, Committee of Commerce and Consumer Affairs, N.H. Legislature, testified that this petition was the subject of a House Bill 790 which was

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brought before his Committee. After public hearing, the Committee voted the bill inexpedient to legislate, with the understanding that the subject would come before this Commission for consideration.

Representative Roger Easton, the petition's sponsor, testified that the change in telephone rate structure offered by his petition was consistent with the public good and would not be detrimental to the telephone companies in the State. He believes it will increase the use of the telephone system at times during which it is now little used. Any shortfalls in telephone company revenues will be made up in increased monthly charges which he indicated might be $1.00 to $1.50 per month over present basic rates. That additional rate would apply to all residential customers.

Mr. Edgar R. Condict offered an amendment to Mr. Easton's petition which restricted the offering to residential phone service and did not extend it to business phone service. He offered a second amendment which would require that all telephone calls dialed by a customer from a resident's phone without operator assistance between 11:00 p.m. and 8:00 a.m. on Friday, Saturday and Sunday should be at local service rates for up to a maximum of 30 minutes of such calls per month. He proposed that after a twelve month test period, if the rates necessary to support the petition were found to be more than 5% of present rates, the Commission would suspend the entire petition. He believes that his proposal may increase total company revenues since people will have an incentive to talk more than the 30 minutes a month and, as a result, their bills will increase. He noted that the 5% increase is adjusted for the national rate of inflation.

Upon cross-examination, Mr. Easton testified that he preferred that the Commission consider his own petition on its own merit, and that the Condict amendment should stand on its own for consideration.

Mr. Alan P. Murphy, District Manager, Network Pricing, testified for the New England Telephone Company. The Company has prepared a financial analysis of the impact of implementing the rate plan offered by Rep. Easton. It determined that there would be an annual revenue loss of approximately $6.7 million as a result of the resulting customer shifts away from existing message toll service at current rates, and from revenue losses from WATS and optional toll calling plans. In addition, there would be an increase in annual costs of $925,000 due to the additional equipment that will be required to process the stimulated calling during the "exclusion period" offered by the petition. The financial analysis was offered as Exhibit A.

Mr. Murphy offered an Exhibit B describing the various discount plans currently available to customers during the period of time that Mr. Easton proposes to allow "free" calling. He explained that there is presently a 60% discount for calls made during most of the time period described in Mr. Easton's petition.

The annual revenue loss was determined by selecting a study month of March, 1982 and calculating the minutes of message toll messages. The revenue

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from the toll messages which would be lost under the exclusion period was then compared to the actual revenues, and the result was a reduction of $383,000. Annualizing this figure results in

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a $4.4 million loss for the year 1982, which represents a reduction of approximately 14% in message toll revenues. Additionally, the Company expected that certain calls during the morning and late evening hours would shift to the exclusion period, since the customer could envision a savings by simply waiting for the exclusion period to arrive. The Company estimated that the lost monthly revenue resulting from that shift would be approximately $146,000, which would annualize to $1.7 million for 1982.

As a result of the increases in calling, and of the changes in customer calling habits, the company estimates that additional toll switching equipment of approximately $2.6 million in central office and transmission facilities would be required to process the increased number of calls. Approximately 18 months would be necessary to engineer, manufacture and install this equipment. This equipment is necessary because a study of the present toll switching network reveals that 50% of the transmission facilities now carry their peak load during Saturdays and Sundays. Any increase in the number of calls during this period would result in the need for new facilities. If such facilities were not installed, then customers would experience delays in their calls during the exclusion period.

Mr. Murphy estimated that if the exclusion period were offered to both residential and business customers, rates would be increased in all rate groups in accordance with the following example:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

RATE GROUP	INCREASE OVER BASIC RATES
Res. Group 1	$ .67
Res. Group 10	$ .82
Res. Group 21	$1.04
Bus. Group 1	$1.59
Bus. Group 10	$2.18
Bus. Group 21	$2.95

The Company estimates that the exclusion period will be of little benefit to businesses because the excluded hours do not fall within reasonable business hours. The preceeding schedule would, therefore, cause business customers to carry an unfairly large burden of the costs of the service. A second schedule was calculated allocating to residential customers their proportionate share of the offering:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Res. Group 1	$1.00
Res. Group 10	$1.23
Res. Group 21	$1.56
Bus. Group 1	$ .71
Bus. Group 10	$ .97
Bus. Group 21	$1.31

Mr Robert J. Collins, President of Kearsarge Telephone Company and Regional Manager of Operations for Telephone and Data Systems in the New England States, emphasized the adverse impact that the proposed petition would have on his Company's operation, particularly in view of the changing national telecommunications policy as a result of Federal Docket 78-72 and a companion Docket 80-286. Over half of the total revenues that supported the cost of rendering telephone service at Kearsarge Telephone was derived through interstate toll settlements. The changes that will result from the federal dockets, and which will be initiated on January 1, 1984,

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will ultimately shift away from inter-state, the coverage of the cost of doing business. He estimates that over

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half of the settlement revenue will be lost.

The resulting revenue deficiency will have to be made up either in local service rates or in intra-state message service rates. Since approximately 20% of the calls made by Kearsarge customers are during the particular period proposed in this petition, he finds it "inopportune" to suggest that no charges be made during that period of time. He opposes any plan that would allow toll-free calling on a state-wide basis and more specifically opposes any plan that would result in further increases to local service rates. He notes that existing local service rates will already be burdened by an additional flat charge for access to the inter-state network and he recommends against anything that will additionally load-up those rates.

Mr. Collins explained that his company, like New England Telephone Company, currently offers three optional plans — Granite State Calling, Circle Calling, and Selective Calling, which offer a consumer something other than the standard toll package. He estimates that if the petition were accepted, monthly rates to all customers would increase by $1.10 per month. He notes that even without this increase, the current change in federal policy may result in telephone bills which could be up to $14.00 above present rates.

Mr. Kevin Van Arsdell, Vice President of Finance and Administration for Granite State Telephone analyzed the impact of the petition to be approximately $142,308 based on current calling patterns. This lost revenue, if it were recovered in local rates, would add $2.96 to the monthly local charge. His analysis of plant capacity indicates that the increased traffic could be handled by existing facilities. He noted that his company also offers the three optional toll calling plans explained by the other companies. Granite State does not support the proposed petition.

Mr. Paul Violette, Vice President of Operations for Merrimack County Telephone Company also objected to the petition. He estimated that the loss of revenue would increase customer bills by over $1.00 per month. He noted that some of those customers make no toll calls at all during the night and week-end period. He explained that his Company also offers the many optional calling services.

Mr. Wallase J. Flaherty, Senior Vice President, Union Telephone Company, testified that his company would experience a decrease in intrastate toll revenues in excess of $60,000, or approximately 10% of its total toll revenues if the petition were approved. The affect of the increased week-end toll traffic would exceed the capacity of the company's equipment and would require the expenditure of new capital to provide that equipment. He estimates that the Company would need an increase in local rates of at least 15% to cover these expenses. He testified that one third of the company's customers made no intra-state toll calls during the last seven months. Those customers that do make such calls have the opportunity of the various optional calling plans.

COMMISSION ANALYSIS

The administrative vehicle which brought this petition before this Commission demonstrates the effectiveness by which a state agency working in

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concert with a legislative body, can comprehensively analyze a subject of public interest. Representative Roger Easton developed a bill to present to the State Legislature. The bill was forwarded to the House of Commerce and Consumer Affairs Committee for its review and recommendations. The Committee held a public hearing on the bill at which a Commission staff member testified as did, we understand, many of the intervenors in this docket.

The Committee, in considering the need to comprehensively evaluate the merits of this bill, and in further consideration of the pressures which it imposed upon itself to consider the merits of many other bills during a relatively short period of time, found that this Commission is the proper forum to explore this subject. We commend them for that foresight. The Commission is equipped to dedicate the time and resources necessary to comprehensively investigate such issues. A permanent record, including a transcript, is made of the proceedings. All parties to our proceedings have an opportunity to voice their views, support their position with documentation, and to cross-examine witnesses.

The Commission, with our general regulatory authority over telephone companies, has a unique perspective on issues such as the one before us. The issue inter-relates with other issues before the Commission which similarly impact on local telephone customer bills. From this perspective, we are uniquely qualified to comprehensively consider the needs of the whole spectrum of telephone customers.

The petition has several arguments in its favor. It is enticing to consider the opportunity of receiving free telephone calls on a state-wide basis after 11:00 p.m. and before 8:00 a.m. on weekdays, and at any time on Saturdays or Sundays. That enticement is enhanced by testimony of utility witnesses that the offsetting costs to customers will be in the range of $1.00 to $1.50 per month over present basic rates. For those who make a substantial number of intra-state toll calls during a month, or for those who would begin to make substantial calls if this program were put into effect, this does not at first blush appear to be a high price to pay for that opportunity.

The issues begin to cloud, however, when subsequent testimony indicates that the increases may be substantially higher than originally predicted. The New England Telephone Company offered testimony to show that although customers in the smallest exchanges would see Increases over basic rates of only $ .67, the business customers in the highest group, group 21, would see increases of $2.95, page 4 supra. Because the business customer is the least likely to benefit from this offering, a second schedule was calculated allocating to residential customers their proportionate share, page 4, supra. Under the second schedule, the Residence Group 1 customer would pay an increase of $1.00 per month and the Business Group 21 Customer would pay an additional $1.31 per month.

We are reminded, however, of earlier proceedings in which we received considerable testimony from the telephone customers on related issues. New England Telephone Company has previously requested increases in their basic rates which resulted in increases of approximately $1.00 per month on customer's basic bills. Customers

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from across the state gave loud and clear signals that such increases would have profound impacts on their finances. To some, one dollar a month was not significant. To many others, however, a one dollar a month increase would be profound.

In the instant case, approval of this petition would not only increase all customer's bills, but it would also increase the bills of a substantial number of customers who, company records show, will not make any use of the toll-free calling opportunities. We note that Union Telephone contends that approximately one third of its customers make no intra-state toll calls at all.

We also note the substantial plant investment cost that would accrue if the petition is allowed. New England Telephone Company alone estimates the need for approximately $2.6 million in central office and transmission facilities. We must consider whether N.H. customers as a whole, will be best served by directing these costs for this equipment or whether it should be directed toward updating and improving existing central office equipment (with a goal toward improved basic service.)

The Commission is particularly concerned with making a change of the kind proposed in this petition at this time. The Commission and the telephone utilities are presently involved in intensive analyses to determine the revenue effects and consequent rate impacts of Federal actions regarding both the AT&T divestiture and the FCC decision in Docket 78-72 commonly referred to as the access charge docket. It is clear that the Federal changes will result in substantial increases in basic exchange rates for local telephone customers, although there is great uncertainty as to timing of implementation and as to the outcome of legislation before the Congress to reverse or modify these effects. In view of this situation, the Commission does not think it is appropriate to voluntarily adopt other changes which will increase basic exchange rates.

However, the Commission wishes to stress the fact that appropriate pricing for telephone services is being and will be extensively reviewed by the Commission. Pricing structures, which were appropriate in the predivestiture environment may not be appropriate in the new emerging, more competitive environment. As Federal policy regarding the division of interstate toll becomes more definite and as the cumulative impacts of these changes are better known, the Commission will be in a better position to evaluate other rate design changes. Part of this evaluation will clearly focus on the pricing of intra-state toll.

Taking all of these consideration into account, the Commission does not find it in the public interest to require the regulated telephone companies to provide free intra-state toll calling after 11:00 p.m. and before 8:00 a.m. on week days or at any time on Saturdays or Sundays. Having reached our decision to disapprove the petition, we do not find it necessary to pursue the merits of Mr. Condict's amendment, as many of the same considerations for denying the petition apply to the amendment as well.

Our Order will issue accordingly.

ORDER

Based upon the foregoing Report which is made a part hereof; it is hereby

ORDERED, that the rates of all

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N.H. Telephone Utilities should not be revised to provide toll-free intra-state calling after 11:00 p.m. and before 8:00 a.m. on weekdays or at any time on Saturdays and Sundays.

By Order of the Public Utilities Commission of New Hampshire this sixth day of December, 1983.

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NH.PUC*12/07/83*[79831]*68 NH PUC 715*Lakes Region Water Company, Inc.

[Go to End of 79831]

Re Lakes Region Water Company, Inc.

DF 83-329, Order No. 16,794

68 NH PUC 715

New Hampshire Public Utilities Commission

December 7, 1983

PETITION by a water utility for authority to borrow funds in order to make capital improvements and replenish working capital; granted.

APPEARANCES: Dom D'Ambruoso for the petitioner; Kenneth E. Traum for the New Hampshire Public Utilities Commission staff.

BY THE COMMISSION:

REPORT

By this petition filed October 21, 1983, Lakes Region Water Company, Inc., a corporation duly organized and existing under the laws of the State of New Hampshire and operating as a water public utility in the town of Moultonboro under the jurisdiction of this Commission, seeks authority pursuant to the provisions of RSA 369 to borrow $50,000 from the Kingswood Trust and Savings Bank at 14% annual interest rate to be adjusted to market every two years for a term of fifteen (15) years.

At the duly noticed public hearing on the petition, held in Concord on December 1, 1983, Thomas A. Mason, President of the Company, testified that the proceeds of this issue would be used to purchase and install meters, as ordered previously by the Commission in DR 81-203, 5th Supplemental Order No. 16,283 (68 NH PUC 1.34) and to supplement working capital needs, due to a charge from advance billings to arrearage billings as required by meters, and for other legal corporate purposes.

The following is the Balance Sheet and Income Statement of the Company, as of September 30, 1983, and year ended September 30, 1983, pro formed to reflect this issue:

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[Graphic Not Displayed Here]

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Exhibit B

[Graphic(s) below may extend beyond size of screen or contain distortions.]

LAKES REGION WATER COMPANY, INC.
Statement of Income and Retained Earnings
For the Nine Months Ended September 30, 1983
(See Accountants' Compilation Report)

Revenue:
Annual Service Fees
Other Water Revenue
Surcharge Collected — Regular

Total Revenue

Revenue Deductions:
Operation and Maintenance
Expense, Schedule B-1
Depreciation
Amortization

Total Revenue Deductions

Operating Income
Other Income
Interest

Other Expense
Interest

Net Income (Loss)
Retained Earnings, January 1

Retained Earnings, September 30, Exhibit A

In response to New Hampshire Public Utilities Commission Staff data requests and through cross-examination, Mr. Mason listed the other potential lenders he approached and the basis upon which the Kingswood Bank was selected; namely, interest rate, rate stability, and timeliness.

The funds were not provided by stockholders, as the Mason's own 100% of the stock, and due to personal reasons could not provide the funds. In fact, the Kingswood Bank required equity mortgages on the water company as well as a personal guaranty from the Mason's and an equity mortgage on their residence.

Upon consideration of the evidence submitted, the Commission is satisfied that the proceeds herein will be used for the purposes herein listed above and in compliance with 5th Supplemental Order 16,283 in DR 81-203. The Commission finds that the issuance of $50,000, maturing in 15 years, is consistent with the public good.

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Our Order authorizing the issue and sale of these securities will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that Lakes Region Water Company, Inc. be, and hereby is, authorized to borrow $50,000. Such borrowing to be in accordance with

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terms and conditions set forth in the petition and presented at the hearing; and it is

FURTHER ORDERED, that the proceeds from said borrowing shall be used solely for one or more of the following purposes; to purchase and install meters, to replenish working capital, and for other legal corporate purposes; and it is

FURTHER ORDERED, that on January first and July first in each year, Lakes Region Water Company, Inc. shall file with this Commission a detailed statement, duly sworn to by its Treasurer, showing the disposition of the proceeds of such securities until the whole of such proceeds shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this seventh day of December, 1983.

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NH.PUC*12/07/83*[79832]*68 NH PUC 718*Gateway Village Water Systems

[Go to End of 79832]

Re Gateway Village Water Systems

DE 83-307, Third Supplemental Order No. 16,795

68 NH PUC 718

New Hampshire Public Utilities Commission

December 7, 1983

REPORT finding a small water system to be a public utility and granting it a temporary franchise.

BY THE COMMISSION

REPORT

This case was opened by the Commission on its own motion to determine if Gateway Village Water Systems (Gateway), owned by Albert S. Moulton in the Town of Thornton, New Hampshire, is, in fact, a public utility. Commission records indicate that this water system is providing service to single family homes in Gateway Village, Thornton, New Hampshire.

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A hearing was held on November 29, 1983 to determine certain facts in this case. Responses to data requests that were submitted at the hearing disclosed that Gateway serves thirteen customers, each of which is charged an annual rate of $125.

Gateway receives its water supply from a well owned by MVG Associates on adjoining land. Gateway then transmits the water by booster pump and pressure storage tank to its customers.

Testimony indicated that the booster pump facility is in need of repair to improve operating efficiency. There was also testimony that customers have not been able to contact Gateway in times of need.

Gateway is a public utility by virtue of its service to thirteen customers as defined by New Hampshire statute RSA 362:2 and 362:4. We are, therefore,

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authorized to require Gateway to provide each customer with a telephone number to be used whenever a problem develops with the water service. We will also require that Gateway respond promptly to each call.

The owner of the water system testified that he does not wish to continue operating the system and would sell it at negligible cost to his customers or some other party.

Under the existing circumstances, we will grant a temporary franchise to Gateway to operate as a public utility through January 31, 1984. During this time, the existing charge of $125 per year shall continue as a temporary rate. By January 31, 1984, Gateway is to inform this Commission of the status of the water system, and, if it is to continue as a public utility, of its plans for repairing the existing plant. Gateway is also required to submit data as may be requested by the Commission staff relating to the establishment of permanent rates and franchise authority.

Our Order will issue accordingly.

SUPPLEMENTAL ORDER

Based upon the foregoing Report which is made a part hereof; it is hereby

ORDERED, that a temporary franchise to operate as a public utility through January 31, 1984, is granted to Gateway Village Water System, such authority to include only those customers presently served; and it is

FURTHER ORDERED, that during the period of this temporary authority, that the rate of $125 per year shall apply; and it is

FURTHER ORDERED, that on or before January 31, 1984, Gateway Village Water System shall report to this Commission as to the status of system ownership and such other information as specified in this Report.

By Order of the Public Utilities Commission of New Hampshire this seventh day of December, 1983.

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[Go to End of 79833]

Re New England Telephone and Telegraph Company

DR 83-230, Order No. 16,798

68 NH PUC 719

New Hampshire Public Utilities Commission

December 8, 1983

ORDER approving a telephone company's revised direct inward dialing tariffs.

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BY THE COMMISSION:

ORDER

WHEREAS, New England Telephone and Telegraph Company, on July 6, 1983, filed with this Commission certain revisions to its Tariff No. 75, said revisions modifying the rate structure of the Direct Inward Dialing (DID) Service; and

WHEREAS; said filing was suspended by Order No. 16,538 pending investigation and decision; and

WHEREAS, said investigation is now complete and has shown the filing to be in the public interest, it is

ORDERED, that Part A, Section 7, 1st Revised Pages 5 and 6 of New England Telephone and Telegraph Company Tariff No. 75 be, and hereby are, rejected; and it is

FURTHER ORDERED, that New England Telephone and Telegraph Company file with the Commission, for effect as of the date of this Order, Part A, Section 7, 2nd Revised Pages 5 and 6 of said tariff; and it is

FURTHER ORDERED, that one-time public notice be given in the manner deemed most appropriate by the Company.

By order of the Public Utilities Commission of New Hampshire this eighth day of December, 1983.

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[Go to End of 79834]

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Re Town of Rindge

DX 83-378, Order No. 16,800

68 NH PUC 720

New Hampshire Public Utilities Commission

December 9, 1983

PETITION by a town for authority to pave over an unused railroad track crossing; granted.

BY THE COMMISSION:

ORDER

WHEREAS, the Town of Rindge, New Hampshire has requested permission to gravel and pave over the Boston and Maine Railroad Track at the so called Thomas Crossing on Hunt Hill Road, identified as AARDOT 400 746A; and

WHEREAS, the Boston and Maine Railroad has not operated over this line for over a year, it being under the embargo status due to track conditions; it is

ORDERED, that the Town of Rindge be and hereby is authorized to pave over the Thomas Crossing on Hunt Hill Road; and it is

FURTHER ORDERED, that if subsequent service is required to any location north of Thomas Crossing, the Town of Rindge shall remove all fill

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and paving materials to render the track useable for trains.

By Order of the Public Utilities Commission of New Hampshire this ninth day of December, 1983.

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NH.PUC*12/13/83*[79835]*68 NH PUC 721*Hanover Water Works

[Go to End of 79835]

Re Hanover Water Works

DR 83-187, Supplemental Order No. 16,801

68 NH PUC 721

New Hampshire Public Utilities Commission

December 13, 1983

ORDER approving a settlement agreement in a proceeding to increase water rates.

APPEARANCES: S. John Stebbins for the petitioner; Kenneth E. Traum and Robert B. Lessels for the New Hampshire Public Utilities Commission staff.

BY THE COMMISSION:

On July 21, 1983, Hanover Water Works filed certain revisions to it's tariff seeking increased annual revenues of $42,097, or a 9.0% increase overall.

Said filing was suspended by the Commission, and the matter set for hearing on December 7, 1983. The duly noticed public hearing was held at the Commission's office in Concord at 10 a.m. on said date. There were no appearances filed by intervenors, and after the marking of exhibits, the hearing was suspended for discussion of the issues by the Commission staff and representatives of Hanover Water Works. The justification for additional revenues was established and recognized with the final determination showing the need for an increase in annual revenues of $34,085 or 7.3% overall. Mr. Traum and Mr. Lessels of the Commission staff summarized the agreement for the record. Some of the highlights of the settlement are as follows:

1. 14.0% return on common equity. 2. The net of tax proceeds plus interest from the sale of land ($56,654) was used to reduce the amount of equity in the capital structure. 3. The Contribution in Aid of Construction account was reduced to recognize the amortization of the account in connection with the life of the contributed assets, for rate base purposes only. 4. When or if the proceeds from the sale of timber are used by the Company to acquire rate base assets, the CIAC account will increase to reflect the use of these proceeds. 5. Test year were reduced to pro form out a tax penalty. 6. The revised New Hampshire State Tax rate was recognized.

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7. Subject to the above adjustments and corresponding tax effects, the Company's filing was accepted. 8. For rate structure purposes the current tail block of the General Service Metered rate schedule will be eliminated and the rate increase will be spread on a uniform percent basis to all tariff rate schedules. 9. The settlement is for effect with all bills rendered on or after January 1, 1984.

The Commission finds the agreement fair and reasonable to all parties, and our Order will issue accordingly.

SUPPLEMENTAL ORDER

Upon consideration of the foregoing report which is made a part hereof; it is

ORDERED, that Hanover Water Works file revised tariff pages to recover additional revenues of $34,085; as specified in the attached report; and it is

FURTHER ORDERED, that said tariff pages shall be for effect on all bills rendered on or after January 1, 1984.

By Order of the Public Utilities Commission of New Hampshire this thirteenth day of December, 1983.

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[Go to End of 79836]

Re Telephone Utilities

DR 83-237, Third Supplemental Order No. 16,802

68 NH PUC 722

New Hampshire Public Utilities Commission

December 14, 1983

ORDER clarifying a previous order on the purchase of customer premises equipment by multiparty subscribers.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, Commission Order No. 16,677 (68 NH PUC 585) ordered all New Hampshire telephone utilities to:

> 1) Provide guidance to multi-party subscribers on tire purchase telephony equipment from the marketplace; 2) Optionally provide a modification service on a deregulated basis; 3) Make available for sale to multiparty subscribers that equipment currently in use; and 4) Advise potential buyers of said

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> equipment of difficulties they might encounter upon its relocation; and

WHEREAS, there appears to be some confusion regarding the purchase of equipment from other than the telephone utility, and the modification of same, if required; and

WHEREAS, clarification of Commission intent appears in the public interest; it is

ORDERED, that equipment purchased from other than the serving utility for use on its multi-party lines will be appropriately modified according to guidelines furnished by that utility and the manufacturer of the equipment; and it is

FURTHER ORDERED, that such modification, where feasible, can be performed by qualified technicians of the vendor, the telephone utility, or independent agency; at the customer's option; and it is

FURTHER ORDERED, that quality control inspection by the utility is not deemed essential to the integrity of the network; and it is

FURTHER ORDERED, that the Commission finds protection of the network from incompatible CPE is provided adequately by PUC 403.06(b)1.

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By order of the Public Utilities Commission of New Hampshire this fourteenth day of December, 1983.

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NH.PUC*12/14/83*[79837]*68 NH PUC 723*Mountain Springs Water Company

[Go to End of 79837]

Re Mountain Springs Water Company

Intervenor: Mountain Lakes District

DR 82-359, Order No. 16,803

68 NH PUC 723

New Hampshire Public Utilities Commission

December 14, 1983

ORDER requiring that the costs of refunding wrongly collected standby fees be borne by the utility's investors.

REPARATION, § 20 — Grounds for allowing or disallowing — Contract violation — Responsibility for refunding costs.

[N.H.] Where a water utility's collection of standby fees was deemed to be a violation of deeds of covenant and the utility was ordered to refund the fees, the commission found that management imprudence caused the wrongful collection and that the company and its investors should bear the burden of the costs of refunding the fees.

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APPEARANCES: Myers and Laufer by Daniel A. Laufer for Mountain Springs Water Company; Laurence F. Gardner for Mountain Lakes District.

BY THE COMMISSION:

REPORT

INTRODUCTION

The issue presented to the Commission in this docket is the treatment of approximately $ 175,000 of standby fees

1(68) collected by Mountain Springs Water Company (Company) during the last six years. After due consideration we will provide that the Company will not be permitted to recover the

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cost of any refunds from its rate-payers.

The issue arose out of the relationship of the Company with its affiliate Town and Country Homes, Inc. (TCH). The full and tortuous history of TCH, the Company, its customers and the Commission need not be told here; that history has already been adequately described in other Commission Orders. See e.g., Re Mountain Springs Water Co. (1981) 66 NH PUC 487, 488-492. It is sufficient to note that on September 23, 1976, the Commission approved a standby rate $25, Re Mountain Springs Water Co. (1976) 61 NH PUC 254, and on December 20, 1977, the Commission approved a request to raise that standby rate to $60, Re Mountain Springs Water Co. (1977) 62 NH PUC 343. The Company's customers filed a challenge to the standby fees in Superior Court. That challenge was based on the claim that the fees violated a covenant in the deeds conveying the vacant lots from TCH to the customers. The customers prevailed in Superior Court and that Court's holding was affirmed in Richter v Mountain Springs Water Co., Inc. (1982) 122 NH 850. It is the cost of returning the standby fees charged in violation of the deed covenants which is the issue presented to this Commission.

On January 12, 1983, the Commission held a duly noticed hearing on the issue of refunding the standby fees. No testimony was taken at the hearing; rather, the Commission heard arguments of counsel representing the Company and Mountain Lakes District (District).

POSITION OF THE PARTIES

The Company's position was that the funds should be refunded over a two to three year period. In addition, the Company stated that the Company's general service customers should pay for the refunds. The Company's argument rested on the assumption that the standby fees were established as a part of a rate structure designed to allow the Company to recover its full revenue requirement. That revenue requirement was set by the Commission pursuant to RSA 378:7 at a level equal to the Company's cost.

[2(69)] The subsequent decision that one of the components of recovery was improper has the effect of requiring the Company to refund revenues, thus leaving it in a position of recovering insufficient revenues to meet costs. The Company is contending, in effect,

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that since it had improperly over-recovered its costs from the standby customers, thus benefiting the general service customers, rectifying measures should be funded by the general service customers who had previously enjoyed the subsidy.

The District's position was that the conduct of the Company and its management dictates that the cost of the refund be allocated to the Company. The Company's management was aware of the deed covenants and yet it filed a tariff seeking to recover rates which were inconsistent with the covenants. When the Commission approved the tariffs, the Company did not seek a ruling as to the validity of the standby charges under the covenants; rather it engaged in numerous costly small claims disputes with its customers and continued to impose the charge through the years. This had the effect of significantly increasing the amount to be refunded. Thus, because management had actual knowledge that its filed tariffs were open to challenge and failed to

resolve the issue, it is unfair to impose the costs of refunds on the Company's general service customers when the standby customers prevail in their challenge.

COMMISSION ANALYSIS

As with many of the controversies involving this Company, the issue presented here is complex and does not lend itself to a simple solution. We are confronted with a decision which, on one hand, may have a severe financial impact on the Company and, on the other hand, may impose unfair charges on the Company's general service customers. In the end, we are persuaded that it would not be just and reasonable in this case to allow the cost of the refunds to be incorporated into the general service rates. We rest our analysis on two determinative factors. The first factor involves the legal effect of the decisions of the Commission and the Court. The second is the culpable role played by management in creating the present difficulties.

Legal Effect

An examination of our prior decisions indicates that the Company was subject to the standard ratemaking methodology employed by the Commission. That methodology first establishes the Company's overall revenue requirement in terms of its cost of providing service. The next step is to allocate the revenue requirement among the Company's customer classes. In making this allocation, the Commission considers a number of factors, including *inter alia* the fairness of the rates in apportioning costs without undue discrimination. *(See e.g.*, Bonbright J., *Principles of Public Utility Rates*, 1961 at 290-292.)

In the instant situation, the Commission followed the above methodology. The overall revenue requirement was based on the cost of service and a fair allocation of that revenue requirement between the Standby and General Service customers was proposed and accepted. See, Re Mountain Springs Water Co. (1981) 66 NH PUC 487, affirmed in part and reversed in part, Re Mountain Springs Water Co. *supra* at footnote 2; Re Mountain Springs Water Co. (1977) 62 NH PUC 343; Re Mountain Springs Water Co. (1976) 61 NH PUC 254. It is true that the Court concluded in Richter that the Company could not impose the rate approved by the Commission on

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its standby customers. It is important, however, that the Court rested its conclusion on the special factors arising from the contractual relationship between the Company and its customers as it pertains to nonutility services. Richter, 122 NH at p. 852. Thus, the Court did not hold that any finding or conclusion of the Commission was an improper determination for standard ratemaking purposes. The rate allocations established by the Commission must be considered to be just and reasonable rates derived from the record. *Cf.*, RSA 365:25. We must assume that they fairly allocated the Company's costs to the appropriate customer classes so that one class was not required to subsidize another.

3(70)

Management Conduct

Since we must assume that our previous determinations were correct for rate allocation

purposes, it remains to identify the barrier to the utility's ability to charge a just and reasonable rate and to assign responsibility for the existence of that barrier. There is no dispute that the barrier can be identified as the covenants enforced by the Court in Richter. The responsibility for the existence of that barrier must rest with the utility management.

Our finding with respect to management responsibility is based on several important factors. First, there is the identity of the Company's management with that of TCH to the point where the Company could be found to be a party to the deed covenants. Second, we must assume that the deed covenants formed a part of the basis of the bargain for the purchase of real estate; thus, TCH/ Mountain Springs received compensation in the purchase price for its agreement to include the deed covenants.

[4(71)] Third, management did not attempt to minimize its exposure to future liability at the time the standby fees were proposed. These factors add up to a situation where management freely entered into a voluntary contractual arrangement for compensation and did not attempt to limit its liability when rates were established which were inconsistent with the contractual arrangement. The responsibility for subsequent liability lies squarely on management's shoulders. It is unfair to expect the Company's general service ratepayers to assume any of the burden, particularly in view of the fact that management already received whatever compensation it bargained for when it became a party to the deed covenants.

CONCLUSION

Because it was management which erected a barrier to the collection of a

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just and reasonable rate established by the Commission, we have concluded that the Company's general service customers cannot be asked to compensate the Company for refunded standby fees. Our conclusion thus restricts the Company from recovering the cost of the refund from its ratepayers. It does not provide for how and when any refunds are to be made. This is consistent with our interpretation of what we can be requested to do in this instance; rule on the proper ratemaking treatment of the cost of a liability. RSA 363:17-a and RSA 378:7. The issue of whether the liability exists and, if so, how it is to be collected must be left to the appropriate judicial forum. The Company's standby customers have sought relief through the courts and, if they wish to pursue the matter further, that is the place where they must continue to go.[5(72)]

Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that the cost, if any, of liability for standby fees held by the Court in Richter v Mountain Springs Water Co., Inc. (1982) 122 NH 850, to be inconsistent with covenants contained in deeds executed by Town and Country Homes, Inc. as grantor will be borne by the investors of Mountain Springs Water Company, Inc.; and it is

FURTHER ORDERED, that this docket is closed.

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By order of the Public Utilities Commission of New Hampshire this fourteenth day of December, 1983.

FOOTNOTES

[1]Standby fees are charges imposed on owners of vacant lots for the purpose of ensuring the availability of water service should the lots ever be developed.

[2]But see, Re Mountain Springs Water Co. (1983) 123 NH — which remanded the Commission's rate Order for reconsideration of *inter alia* the proper valuation of rate base.

[3]We need not comment here on whether alternative rate structures would have served the dual purpose of being consistent with the deed covenants and fairly allocating the Company's revenue requirement without unjust discrimination. We simply did not have a record in support of such a dual purpose rate and any such comment would therefore only be speculation. We recognize that the Company could have attempted to design rates to be consistent with the deed covenants when the standby fees were first proposed in order to avoid a potential future liability (Tr. at 53). The effect of management's failure to attempt to minimize liability is discussed *infra*.

[4]The Court found the same factors to be important in Richter when it stated: "Here the covenants were part of the express basis of the bargain for the purchase of real estate. There is privity between the parties because the defendant [Mountain Springs Water Company] was a subsidiary of the grantor [TCH]. It was formed only to supply water to TCH's grantees. The trial judge found that the defendant was actually and/or constructively aware of the covenants in the deeds. It would be inequitable to allow the defendant to avoid the covenants, and we therefore affirm the trial court." (122 NH at p. 852.)

[5]We do not intend by this finding to disturb our previous Orders which provide that standby customers who are also general service customers may not engage in "self help" by deducting the Company's liability from current bills. See, e.g., Hall v Mountain Springs Water Co., Inc. (1983) 68 NH PUC 228; Re Mountain Springs Water Co. (1981) 66 NH PUC 487, 493, 494 (1981) revd in part Re Mountain Springs Water Co. (1983) 123 NH — . Recovery by the standby customers of any Company liability must be accomplished via established judicial collection procedures.

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NH.PUC*12/15/83*[79838]*68 NH PUC 728*Concord Steam Corporation

[Go to End of 79838]

Re Concord Steam Corporation

Intervenor: New Hampshire Hospital

DF 83-361, Order No. 16,807

68 NH PUC 728

New Hampshire Public Utilities Commission

December 15, 1983

PETITION by a steam company for authority to borrow funds in order to retire debt and finance construction programs; granted.

APPEARANCES: David Marshall and Roger Bloomfield for the company; Peter Scott and David Mulhern for the New Hampshire Hospital; Kenneth E. Traum and Sarah Voll for the New Hampshire Public Utilities Commission staff.

BY THE COMMISSION:

REPORT

On November 21, 1983, Concord Steam Corporation, a New Hampshire utility doing business in Concord, New Hampshire, filed a petition for approval of the issuance and sale of bonds in the aggregate principal amount of $4,500,000.

Said application was set for hearing on December 12, 1983 at the Commission's office in Concord. A duly noticed hearing was accordingly held at 10 a.m. At the hearing the Company submitted the written testimony of Roger G. Bloomfield, later marked as exhibit 1. Said testimony provided important updated and revised information about the request which the Commission deems essential, but at the same time the Commission wants to inform the Company of its displeasure in receiving said testimony without sufficient time to review it prior to the hearing.

The request as revised in exhibit 1 seeks authority to issue and sell $5,000,000.

(1) This borrowing will be through the New Hampshire Bond Bank and tax-exempt. (2) The interest will be variable based upon the Lehman Tax Exempt Commercial Paper Index. (3) Various conversion and put options exist, but basically the bonds will have a term of 15 years, subject to mandatory redemption after 7 years under certain conditions. (4) A liquidity letter of credit is required and will be issued by Citibank, N.A.. (5) The present anticipated effective interest rate including issuance costs will be approximately 8.0%, which appears to be significantly below the cost of any other means of financing. (6) The proceeds will be used as follows:

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1. $3,500,000 to retire existing long term debt with a present interest rate of 8.33%. 2. $1,200,000 for construction costs related to the cogeneration project. 3. The balance for issuance costs, etc.

(7) The bonds will be secured by a mortgage on the majority of the company's property, Roger Bloomfield's personal guarantee, a pledge Roger Bloomfield's stock in Concord Steam, and by a mortgage on certain other privately held real property of Roger Bloomfield. (8) Due to potential legislative changes relating to tax exempt bond issuances, the Company would like to close on the issue before year end.

Through direct testimony and cross-examination the subject of allocation between the utility and cogeneration unit were discussed. The Commission feels that this subject is not properly

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included in this docket, but essential before or in connection with the Company's next rate proceeding. Following this line of thinking, the Commission will simply recognize that allocations must be made in areas ranging from payroll to capital structure.

Based on the proceeding explanation, the Commission feels approval of this petition will reduce costs to the Company and to ratepayers in the long run while reducing risk, and thus will approve the petition; while continuing to express our concern as noted in DR 80-128, Report & Order No. 14,383 [65 N H PUC 354] "the Commission believes it necessary for the Company to increase its equity in future financings."

Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing report, which is made a part hereof; it is

ORDERED, that Concord Steam Corporation's request to borrow $5,000,000 through the New Hampshire Municipal Bond Bank for 15 year bonds, be, and hereby is, accepted; and it is

FURTHER ORDERED, that the Company shall submit to this Commission a copy of the final note, letter of credit, etc.; and it is

FURTHER ORDERED, that on January 1st and July 1st in each year, the Company shall file with this Commission a detailed statement, duly sworn to, showing the disposition of proceeds of said note until the expenditure of the whole of said proceeds shall have been fully accounted for.

By Order of the Public Utilities Commission New Hampshire this fifteenth day of December, 1983.

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NH.PUC*12/15/83*[79839]*68 NH PUC 730*White Rock Water Company, Inc.

[Go to End of 79839]

Re White Rock Water Company, Inc.

Intervenor: Office of Consumer Advocate

DR 83-282, Supplemental Order No. 16,808

68 NH PUC 730

New Hampshire Public Utilities Commission

December 15, 1983

ORDER approving a settlement agreement in a proceeding to establish temporary water rates.

APPEARANCES: Dom D'Ambruoso for the company; Michael Holmes, Consumer Advocate; Kenneth E. Traum and Robert B. Lessels for the New Hampshire Public Utilities Commission staff.

BY THE COMMISSION:

REPORT

On August 30, 1983, White Rock Water Company, Inc., a public utility providing water service in the town of Bow, New Hampshire, filed for a temporary and permanent rate increase of $9,472 or a 42.6% increase.

Said filing was suspended on September 12, 1983, and on November 4, 1983, the Commission set the matter for hearing on December 8, 1983. A duly noticed public hearing was held at the Commission's office in Concord at 10 a.m. on December 8, 1983.

During the course of the hearing, the Company requested, and with ail parties concurring, the hearing was suspended for discussion of the issues.

The parties reached an agreement as to the rate level for temporary rates, effective date, and rate structure; which was submitted to the Commission for review. The highlights of said agreement are as follows:

(1) The present rates would be increased by $5,722 on an annual basis as temporary rates. (2) The $5,722 will not result in the company earning a rate of return in excess of that approved in the last rate of White Rock Water Co., Inc. (3) The $5,722 will be distributed only to the consumption charge in the tariff. (4) The temporary rates will be for effect with all service rendered on or after the date of the Commission Order

The subject of Permanent rates is continuing as a matter of discussion between the parties, who will report to the Commission, as soon as possible on the results of said discussions. The Commission will then take whatever action is appropriate.

The Commission finds the agreement fair and reasonable, and our Order will issue accordingly.

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SUPPLEMENTAL ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that White Rock Water Company, Inc. file revised tariff pages to increase annual revenues by $5,722 on a temporary basis; as specified in the attached Report; and it is

FURTHER ORDERED, that said tariff pages shall be for effect with all services rendered on or after the date of this Order.

By Order of the Public Utilities Commission of New Hampshire this fifteenth day of December, 1983.

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NH.PUC*12/19/83*[79840]*68 NH PUC 731*New England Telephone and Telegraph Company

[Go to End of 79840]

Re New England Telephone and Telegraph Company

DE 83-370, Order No. 16,811

68 NH PUC 731

New Hampshire Public Utilities Commission

December 19, 1983

ORDER accepting telephone tariff revisions to facilitate the divestiture process.

BY THE COMMISSION:

ORDER

WHEREAS, New England Telephone and Telegraph Company filed with this Commission for effect January 1, 1984 certain revisions of its tariffs Nos. 75 and 76, said revisions designed to facilitate the divestiture process taking place on that date; and

WHEREAS, careful review of the filing has shown it to be in the best interest of the consumer and the Company; it is

ORDERED, that the revised tariff pages listed on the attachment hereto be, and hereby are, approved for effect on January 1, 1984; and it is

FURTHER ORDERED, that Part C of referenced Tariff No. 75 be, and hereby is, rescinded effective January 1, 1984.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of December, 1983.

Tariff pages issued December 2, 1983, for effect January 1, 1984.

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NHPUC — 75 Supplement No. 6 — Title Page — Original Pages 1 through 108 Part A — Section 1 — First Revision of Pages 1, 3 and 6 — Section 3 — Third Revision of Table of Contents Page 2 — First Revision of Pages 11 through 13 — Second Revision of Pages 14 and 16 through 18 — Section 4 — Second Revision of Table of Contents Page 1 — First Revision of Pages 1 and 3 — Original Pages 4.1 and 4.2 — Fourth Revision of Page 5 — First Revision of Pages 7 through 11, 15, 21 through 23, and 26 through 29 — Section 5 — First Revision of Pages 36, 37 and 42 — Section 7 — First Revision of Table of Contents Page 2 — First Revision of Pages 1 and 4 — Original Page 4.1 — First Revision of Pages 10, 19, 21 and 23 — Original Page 34.1 — First Revision of Pages 37 — Second Revision of Page 71 — Section 8 — Second Revision of Table of Contents Page 1 — Second Revision of Page 2 — Original Page 4.1 — Section 9 — Second Revision of Page 1 — First Revision of Page 2 — Second Revision of Pages 3, 8, 14, 50 and 67 — Section 10 — Second Revision of Table of Contents Page 1 — Second Revision of Pages 2 through 4 Part B — Section 1 — First Revision of Table of Contents Pages 1 and 2 — First Revision of Pages 2 through 6, 8, 9, 13, 18 through 20, 24, 25, 30, 32, 34, 39 and 42 — Section 2 — First Revision of Pages 3 through 5, 8, 9, 12, 17, 20, 22, 23, 26 through 28, 30, 39, 45 and 46 — Section 3 — First Revision of

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Page 1 NHPUC — No. 76 Supplement No. 1 — Title Page — Original Pages 1 through 6 Mobile — First Revision of Pages 1 through 5, and 8 through 10

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NH.PUC*12/19/83*[79841]*68 NH PUC 732*Wilton Telephone Company

[Go to End of 79841]

Re Wilton Telephone Company

DR 83-135, Supplemental Order No. 16,813

68 NH PUC 732

New Hampshire Public Utilities Commission

December 19, 1983

ORDER accepting a telephone company's compliance tariffs to replace monthly pole charges with highway construction charges.

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BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, Commission Order No. 15,542, issued on July 13, 1983, ordered Wilton Telephone Company to file revised tariff pages in which highway construction charges would reflect a rate of $250.00 per 0.1 mile, and would eliminate the $3.00 monthly pole charge; and

WHEREAS, the Company filed such revisions on December 6, 1983; and

WHEREAS, review of this filing has shown it to be in compliance with the cited order; it is

ORDERED, that Part VI, Section 4, 1st Revised Pages 1-3, be, and hereby are, approved; with the effective date of July 13, 1983 as specified in our earlier order.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of December, 1983.

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NH.PUC*12/19/83*[79842]*68 NH PUC 733*Vermont Electric Cooperative, Inc.

[Go to End of 79842]

Re Vermont Electric Cooperative, Inc.

DF 83-314, Order No. 16,814

68 NH PUC 733

New Hampshire Public Utilities Commission

December 19, 1983

ORDER authorizing transfer of ownership in the Seabrook nuclear project.

CONSOLIDATION, MERGER, AND SALE, § 23 — Transfer of ownership interest — Grounds for approval — Financial benefit.

[N.H.] The transfer of an electric cooperative's ownership interest in the Seabrook nuclear project to another electric cooperative was found by the commission to be for the public good because the transaction would enable the transferor and its owner/members to obtain the benefits of capacity and energy from the Seabrook units at lower overall financing costs, resulting in more efficient and economical service.

APPEARANCES: Sulloway, Hollis & Soden, by Martin L. Gross, for the Applicant.

BY THE COMMISSION:

REPORT

By this unopposed petition filed with the Commission on October 3, 1983, Vermont Electric Cooperative, Inc. (VEC), a Vermont electric utility cooperative corporation, seeks authority to sell and transfer its ownership

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interest in the Seabrook Nuclear Power Plant to Vermont Electric Generation & Transmission Cooperative, Inc. (VEG&T), also a Vermont electric utility cooperative corporation. Pursuant to notice duly given in accordance with the Commission's Order dated October 18, 1983, a hearing was held at the offices of the Commission on November 23, 1983.

The Seabrook Nuclear Power Plant is a nuclear generating station which is being constructed in Seabrook, New Hampshire by the Public Service Company of New Hampshire (PSNH) as a domestic electric utility company in association with a number of nonresident electric utilities, including VEC, pursuant to the provisions of RSA 374:30.

At the hearing, VEC's witness, William J. Gallagher, testified that VEC owns a 0.41259% undivided joint ownership interest in the Seabrook units, representing a capacity of approximately 9.49 MW.

VEC proposes to transfer its ownership interest to VEC&T, pursuant to an Agreement to Transfer Ownership Share which was marked as an exhibit. VEG&T is an affiliate of VEC and according to Mr. Gallagher, VEC controls VEG&T through its representation on the VEG&T Board.

Mr. Gallagher testified that simultaneously with the proposed transfer, VEC & VEG&T would enter a whole-sale power contract which would en-title VEC to the capacity and energy

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associated with the joint ownership interest in the Seabrook units.

According to Mr. Gallagher, the proposed transfer would enable VEC and its owner/members to obtain the benefits of Seabrook capacity and energy through lower financing costs, because the United States Rural Electrification Administration (REA) offers more attractive financing terms to "generation and transmission" cooperatives such as VEG&T than it does to "distribution" cooperatives such as VEC. Specifically, REA offers a lower times interest earned ratio and a lower debt service coverage requirement in mortgages securing loans from generation and transmission cooperatives. Under the wholesale power agreement between VEC and VEG&T, VEC would pay VEG&T an amount sufficient to amortize the debt associated with the units. The effect of the transfer and the wholesale power contract would permit VEC to retain the rights to the power while paying less in terms of financing costs, because of the intermediation of VEG&T.

Mr. Gallagher testified that the proposed transaction would also allow additional flexibility for sales of capacity and energy which may be in excess to VEC's needs at certain times of the year.

The Agreement to Transfer Ownership Share between VEC and VEG&T, dated as of December 1, 1982 was also marked as an exhibit. It provides, among other things, that VEG&T is to assume the debt incurred by VEC to finance VEC's costs paid or accrued in connection with the units as of the date of transfer. Also marked as an exhibit was the Order of the Vermont Public Service Board in Docket No. 4786, approving VEG&T's assumption of indebtedness, as provided for under the terms of the Agreement to Transfer Ownership Share.

An application to approve the transfer of ownership interest has been filed

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with the Nuclear Regulatory Commission and, according to Mr. Gallagher, approval is expected shortly.

There was no testimony or other evidence to the contrary.

Based upon the foregoing evidence, as well as the entire record in this proceeding, the Commission finds that the transfer of VEC's ownership interest in the Seabrook Project to VEG&T, as proposed in the application, would be for the public good, in that it will enable VEC and its owner/members to obtain the benefits of capacity and energy from the Sea-brook units, at lower overall financing costs, resulting in more efficient and economical service and that it is just and reasonable in accordance with the provisions of RSA 374:30 as well as all other applicable provisions of New Hampshire law that said transfer should be approved. Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing Report which is made a part hereof; it is

ORDERED, that the Application of Vermont Electric Cooperative, Inc., a Vermont electric utility cooperative corporation to transfer a 0.41259% ownership interest in the Seabrook units to Vermont Electric Generation & Transmission Cooperative, Inc., is hereby approved; and it is

FURTHER ORDERED, that the said transfer from Vermont Electric Cooperative, Inc. to Vermont Electric Generation & Transmission Cooperative, Inc. upon the terms proposed are hereby authorized in accordance with the authority vested in this Commission under RSA 374:30.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of December, 1983.

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NH.PUC*12/19/83*[79843]*68 NH PUC 735*Maine Central Railroad

[Go to End of 79843]

Re Maine Central Railroad

DX 83-385, Order No. 16,815

68 NH PUC 735

New Hampshire Public Utilities Commission

December 19, 1983

ORDER granting authority to suspend grade crossing protection.

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CROSSINGS, § 67 — Safety — Grade crossing protection — Suspension.

[N.H.] The commission authorized the suspension of grade crossing protection at several locations and ordered that all train movements over those crossings be protected by a member of the train crew until such time that the order was rescinded.

BY THE COMMISSION:

ORDER

WHEREAS, the Main Central Railroad has curtailed regular train service on the Mountain Division between North Conway and Whitefield; and

WHEREAS, since the curtailment in early September of 1983, only two (2) trains have operated over the Mountain Division; and

WHEREAS, the Maine Central Railroad has requested authority to take out of service the grade crossing protection at eight (8) locations from Intervale (North Conway) to Carroll, thereafter providing stop and protect by a member of the train crew if operations are resumed; it is

ORDERED, that the Maine Central Railroad be authorized to remove from service the grade crossing protection at Portland Road, Conway (U.S. Rt. 302 AARDOT 364 640F), Garland Ridge Road, Bartlett (U.S. Rt. 302 AARDOT 364 655V), Bear Notch Road, Bartlett (AARDOT 364 657J), Portland Road, Bartlett (U.S. Rt. 302 AARDOT 364 665B), Mount Washington Development Private Crossing, Carroll (RR MP 88.40), Portland Road, Carroll (U.S. Rt. 302 AARDOT 364 671E), Portland Road, Carroll (U.S. 3 AARDOT 364 674A), State Highway, Carroll (U.S. Rt. 3 AARDOT 364 675G); and it is

FURTHER ORDERED, that all train movements over these crossings be protected by a member of the crew until such time as this action is rescinded by a subsequent order.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of December, 1983.

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NH.PUC*12/21/83*[79844]*68 NH PUC 736*Hampton Water Works Company

[Go to End of 79844]

Re Hampton Water Works Company

Intervenor: City of Hampton

DR 83-365, Order No. 16,818

68 NH PUC 736

New Hampshire Public Utilities Commission

December 21, 1983

PETITION for step increase in water company's revenues; granted.

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REVENUES, § 5 — Water company — Revenue increase — Application to customer classes.

[N.H.] The commission approved a step increase in revenues to be spread on an equal percentage basis to all of the water company's customer classes and blocks, except for the reconnection charge.

APPEARANCES: Dom S. D'Ambruoso for the petitioner; Kenneth E. Traum and Robert B. Lessels for the New Hampshire Public Utilities Commission staff.

Limited Appearances: Philip G. Richard, city manager for Hampton; Anthony Kuncho, fire chief for Hampton.

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BY THE COMMISSION:

REPORT

On November 4, 1983, Hampton Water Works Company, a New Hampshire public utility, filed a petition for an increase of $458,240 on an annual basis or a 32.37% increase overall. A duly noticed public hearing was scheduled and held at the Commission offices in Concord at 2:00 p.m. on December 12, 1983.

The Company filed for a step increase in accordance with the provisions of paragraphs 5.3 and 6.0 of the Settlement Agreement dated April 1, 1982 which was accepted and approved in DR 81-283 and Second Supplemental Order No. 15,619, dated May 1, 1982 (67 NH PUC 295), and also in accordance with paragraph 3.2 of the Addendum to Settlement Agreement dated January 11, 1983 and approved by 4th Supplemental Order No. 16,141, dated January 14, 1983 (68 NH PUC 9).

The Company requested that the revenue increase be spread on an equal percentage basis to all customer classes and blocks, except for the reconnection charge. This approach conformed to the terms of the prior Settlement Agreement which matched rates to the applicable costs of service. With this goal in mind, and recognizing the necessarily limited scope of a step adjustment, the Commission agrees with the Company that any changes in rate structures, other than a percentage increase across the board, is not a proper subject for this proceeding but certainly is an item for consideration in future rate cases.

By the same rationale, the Commission will deny the request by the Town of Hampton for a public hearing on this step adjustment, but will certainly entertain such a request in conjunction with the next full rate case. Docket DR 81-283, which resulted in the Settlement Agreement which led to the instant Step Adjustment filing, included a public hearing in Hampton.

The instant filing is $458,240, mainly due to the investment the Company has recently made in non-revenue producing assets; particularly, the elevated storage tank which has been recognized as improving water flow rates to customers and hydrants on the system. The Company also requested rate relief to recover costs of debt issuance and property taxes as well as to increase the Company's post-tax interest coverage to the 2.0 — 2.18 times range.

At the request of the parties, and after Commission approval, settlement negotiations were conducted which

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proved successful and were read into the transcript of this proceeding.

The highlights of the settlement were as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

(1) Original Request:	$458,240
Company sponsored payroll & fringe revision:	— 11,470
Depreciation adjustment relating to vehicles:	— 2,100
Leased vehicle rate reduction:	— 280
Reduction in coverage ratio from 2.02 to 2.00X:	— 12,370

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Property tax adjustment, relat-
ing to the elevated water
tank for a partial year:         — 10,180
                                 ________
Recommended Step Increase:       $421,840
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(2) Once the actual property tax bill, net of discounts, is received in the fall of 1984, a step adjustment will be made reflecting any difference from $147,829 as included herein for property taxes.

The Commission feels that the Settlement proposed is fair and reasonable and will accept it as stated herein. Our Order will issue accordingly.

ORDER

Based upon the attached Report which is made a part hereof; it is

ORDERED, that Hampton Water Works shall file revised tariff pages to reflect an increase in annual rates of $421,840, to be distributed as an equal percentage increase across the board to all but the reconnection charge; and it is

FURTHER ORDERED, that this increase shall be for effect with all service rendered on or after the date of this Order.

By Order of the Public Utilities Commission of New Hampshire this twenty-first day of December, 1983.

==========

NH.PUC*12/21/83*[79845]*68 NH PUC 738*Concord Natural Gas Corporation

[Go to End of 79845]

Re Concord Natural Gas Corporation

DF 83-383, Order No. 16,819

68 NH PUC 738

New Hampshire Public Utilities Commission

December 21, 1983

REQUEST by gas company for authority to increase its short-term debt authorization; granted.

SECURITY ISSUES, § 28 — Debt issuance — Conditions and restrictions.

[N.H.] A gas company was authorized to increase its short-term debt authorization; the commission further ordered the utility to file with the commission a biannual statement detailing the disposition of proceeds of the notes or notes payable authorized, until the proceeds had been fully accounted for.

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BY THE COMMISSION:

ORDER

WHEREAS, Concord Natural Gas Corporation is presently authorized to issue until December 31, 1983 its short-term notes and notes payable in the amount of $1,250,000 by Order No. 16,308, issued in Docket No. DR 82-189 (68 NH PUC 168); and

WHEREAS, Concord Natural Gas Corporation, by letter dated November 30, 1983, requested authority to issue its short-term monies and notes payable in the amount of $1,750,000 until issuance and sale of its bonds proposed for sale in DF 83-339; and

WHEREAS, Concord Natural Gas Corporation would then propose its authorization be automatically reduced to $1,000,000; it is

ORDERED, that Concord Natural Gas Corporation be, and hereby is, authorized to issue and sell for cash its notes and notes payable in an aggregate amount of $1,750,000 until issuance and sale of its bonds as described in DF 83-331, and $1,000,000 thereafter until December 31, 1984; and it is

FURTHER ORDERED, that on or before January 1st and July 1st of each year, Concord Natural Gas Corporation shall file with this Commission a detailed statement, duly sworn to by its Treasurer, showing the disposition of proceeds of the notes or notes payable herein authorized, until the whole of said proceeds have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this 21st day of December, 1983.

==========

NH.PUC*12/21/83*[79846]*68 NH PUC 739*Fuel Adjustment Clause

[Go to End of 79846]

Re Fuel Adjustment Clause

Intervenor: Littleton Light and Water Department

DR 83-344, Supplemental Order No. 16,822

68 NH PUC 739

New Hampshire Public Utilities Commission

December 21, 1983

ORDER allowing a water and light department's surcharge to become effective.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, the Commission in correspondence dated March 2, 1982, sent to the New Hampshire Electric Cooperative, Inc., Exeter & Hampton Electric Company, Connecticut Valley Electric Company, Inc., Granite State Electric Company, Municipal Electric Department, and Littleton Water &

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Light Department by the Commission's Executive Director and Secretary in relation to DR 82-59, notified the utilities that the Commission will not automatically schedule FAC hearings for those utilities which file monthly unless requested or needed by one of those utilities; and the Commission would not automatically schedule FAC hearings in the two off months for those utilities which have a quarterly FAC rate; and

WHEREAS, no utility maintaining a monthly FAC requested a hearing be scheduled; it is

ORDERED, that 120th Revised Page 6 of the Littleton Water and Light Department tariff, NHPUC No. I — Electricity, providing for a fuel surcharge of $1.75 per 100 KWH for the month of December, 1983, be, and hereby is, permitted to become effective December 1, 1983.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of December, 1983.

==========

NH.PUC*12/21/83*[79847]*68 NH PUC 740*Tioga River Water Company, Inc.

[Go to End of 79847]

Re Tioga River Water Company, Inc.

DE 83-293, Order No. 16,823

68 NH PUC 740

New Hampshire Public Utilities Commission

December 21, 1983

PETITION for authority to establish a water utility in a limited area; granted.

APPEARANCES: Norman Harris, president, and D. Scott Beane, CPA, for the petitioner; Kenneth E. Traum, Robert B. Lessels, and Bruce B. Ellsworth for the New Hampshire Public Utilities Commission staff.

BY THE COMMISSION:

REPORT

By petition filed on September 14, 1983, the Tioga River Water Company, a duly organized New Hampshire corporation supplying water to eighteen customers in a limited area in the town of Belmont, New Hampshire, requested permission and approval under RSA 374:22 and 374:26 to exercise all rights necessary to engage in business as a public utility and charge rates in its

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requested Franchise area.

A duly noticed public hearing was held at 10 a.m. on November 22, 1983, at the Commission's offices in Concord.

The Company provided two witnesses to respond to a great variety of questions by the Commission and staff

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in areas ranging from financial and accounting to system reliability, quality, engineering, etc. Three exhibits were presented by the Company and PUC staff.

The system currently serves eighteen homes and is expected to reach its planned capacity of twenty-two by October 31, 1984. For this reason the Company pro formed revenue to reflect the expected twenty-two customers.

Rate of Return

The system has been in operation for approximately one and a half years, with the dollars to finance the system coming from several sources; the developer of the subdivision, the customers from hook-up fees, and the balance from Mr. Norman H. Harris as stockholder, lender, and President of Gilford Well Company.

The funds received from the developer were properly accounted for as contributions in aid of construction which means the ratepayers will not pay a rate of return or depreciation on assets reflecting those dollars. Consistently, ratepayers will not pay through rates for hook-ups which they have already paid for through hook-up charges. The remainder of the funds come from Mr. Harris and are entitled to a rate of return.

The funds supplied by Mr. Harris include $25,059 considered as debt at 11% simple annual interest and a $200 investment in common stock, which is overshadowed by a much larger negative earned surplus due to annual operating losses.

Thus simply looking at the debt due Mr. Harris, the utility must be granted the opportunity to earn $2,756 through rates to cover the annual interest expense.

Rate Base

The approach taken here varies somewhat from the Commission's normal ratemaking formula in which the rate of return is multiplied by the rate base to determine the net utility operating income requirement. This different approach can be attributed to the Utility's current negative surplus position. Since the Commission does not expect that situation to continue on adinfinitum, a rate base must be established now for use in later rate case filings.

Referring to Exhibits 1, 2, and 3 and the Company's responses to cross examination, the installed cost, per account, net of CIAC from the developer or customers, is as follows as of October 31, 1983. [This information is shown on p. 742, *infra*.]

Correspondingly, the accumulated reserve for depreciation would be $1,946 (two years depreciation at $973/year). The unamortized excess hook-up fees would be $1,616. ($2,020 less $202 × 2 years).

Thus the rate base as of October 31, 1983 is calculated to be $19,497 ($23,059 — 1,946 — 1,616).

Operating Expenses

The Company requested $4,500 for pro formed operation and maintenance expenses and $973 for depreciation expense. The Commission accepts the $973, but not the $4,500.

Tioga has proposed $150 for maintenance of structures and $1500 for maintenance of pumping equipment, to be applied annually in the rate-making process. There is no extensive

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operating history with this Company as to an actual average. During the preceeding year, Company testimony shows actual maintenance expenses of $150.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Account No.	*Installed Cost CIAC*	*Annual Depreciation*	*Annual Amortization*
2308.1	$ 2,371	$ 59	-
2308.2	2,111	53	-
2308.5	4,194	84	-
2316.2	6,074	607	-
2356	7,502	150	-
2359	807	20	-
2361	-[1]-		(202)
	$23,059	$973	(202)

[1]The excess collected from customers for hook-up fees less costs
$2,020, is being amortized over a ten year period, and is used to reduce the
overall revenue requirement.

In establishing rate or revenue levels, the Commission seeks to apply average costs that will stand up to the actual operating history for the next two years.[1]

If we err on the high side then the ratepayer must carry the burden, and conversely the Company if our allowance is insufficient. Considering that Tioga is a relatively new and small water system, it is our judgement, based on experience, that an allowance of $500 to cover maintenance of plant equipment should prove adequate. We will accept the other proposed O & M expenses with the exception of Miscellaneous at $75.

Revenue Requirement

Based on the preceeding sections of this Report, the revenue requirement of the Company is calculated as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Operation and Maintenance (per Co. Definition)	$4,500-1,225 (PUC adj.) = $3,275

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Depreciation Expense                               973         973
Cost of Capital                                    2,756
                                                               ____
Less: Amortization of Hook-up Excess               -202
                                                   ____________
Revenue Requirement                                6,802
22 customers yields a rate of $309/customer/year.
```

Meters

Commission requirements, under its Rules and Regulations are that production shall be determined from each source of supply and we are here directing that Tioga River install a recording flow meter at its well sources.

In all recent decisions, we have ordered the installation of individual customer meters so as to insure that the amount billed for water service represents the customers actual use of the product, and also to encourage conservation of this natural resource. On this small system, the rates here determined are among the highest in New

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Hampshire so we will not at this time require the additional investment of customer meters.

Franchise

The Tioga River Water Co. seeks to operate as a public utility in a limited area in the Town of Belmont and from testimony and evidence submitted, it appears that granting the authority sought will be in the public good.

Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the Tioga River Water Company, Inc. be, and hereby is, authorized to operate as a water public utility in a limited area in the Town of Belmont and more specifically to a subdivision known as Tioga River Estates; and it is

FURTHER ORDERED, that Tioga River Water Company shall file a tariff describing the terms, conditions, and rates to be charged, as set forth in this Report, and bearing the effective date of this Order.

By Order of the Public Utilities Commission of New Hampshire this twenty-first day of December, 1983.

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NH.PUC*12/22/83*[79848]*68 NH PUC 743*Concord Natural Gas Corporation

[Go to End of 79848]

Re Concord Natural Gas Corporation

DF 83-339, Order No. 16,825

68 NH PUC 743
New Hampshire Public Utilities Commission
December 22, 1983

ORDER granting gas company's application to issue and sell bonds.

SECURITY ISSUES, § 12 — Ratification — Bond issuance and sale.

[N.H.] The gas company was given authority to issue and sell bonds pursuant to commission restrictions as to indenture, term, and interest rate.

APPEARANCES: Charles Toll, Ronald P. Bisson, assistant treasurer, for Concord Natural Gas Corporation; Dr. Sarah Voll, Kenneth Traum, and Dr. Karl Kraemer for the NHPUC staff.

BY THE COMMISSION:

REPORT

By this application, filed October 31, 1983, Concord Natural Gas Corporation

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(the "Company"), a corporation duly organized and existing under the laws of the State of New Hampshire and operating therein as a gas utility under the jurisdiction of this Commission, seeks authority pursuant to the provisions of RSA 369:1, RSA 369:2 and RSA 369:4 to issue and sell for cash equal to the aggregate principal amount thereof plus accrued interest thereon to the date of issue, its First Mortgage Bonds, Variable Interest Series due 2003, in the aggregate principal amount of $750,000.

At the hearing on the application, held in Concord on December 15, 1983, the Company submitted exhibits detailing its long and short term notes as of October 31, 1983; its capital structure as of that date and pro formed to reflect the proposed issue; its income statement for the twelve month period ended October 31, 1983 and pro formed to reflect the proposed issue; the estimated issuance costs of said series; and forms of the Bond Purchase Agreement pursuant to which said series is to be issued, a registered Bond without coupons of said series, a Ninth Supplemental Indenture of Mortgage describing the bonds of said series and mortgaging property of the Company to secure them and other bonds issued and to be issued by the Company with the approval of this Commission, and votes of the Company's Board of Directors authorizing the series.

The proceeds from the sale of the bonds will be used to pay short term debt, any remaining balance of such proceeds to be used for the Company's general purposes.

The Company's evidence established that the bonds can be issued consistently with the limitations imposed by the Company's Indenture of Mortgage; that the weighted rate of interest currently payable on the Company's outstanding short term as of December 5, 1983 was 11.00%;

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and that the weighted average annual rate of interest for the six month period ended October 1983 distributed A rated public utility bonds (the rate which the proposed series would bear) was about 13.50%.

The Company's expert witnesses, by affidavit and live testimony, testified that the terms and conditions of the proposed issue are in the best interest of the Company's Stockholders, bondholders and ratepayers, that the proposed variable rate of interest provision is in their best interest inasmuch as, if the rate on distributed A rated public utility bonds declines, the interest rate on the porposed bonds will also decline to a minimum of 10%; if the rate of interest on distributed A rated public utility bonds increases, the rate on the proposed series will increase but will not exceed 18% in any event. Mr. Jackson testified that the terms available to Concord Natural Gas Corporation are favorable and that the issue should be approved.

After giving due consideration to the evidence, the Commission finds that the issue and sale of the bonds upon the terms presented to the Commission, including the indenture, term, and interest rate hereinabove set forth or referred to, will be consistent with the public good.

Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is

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ORDERED, that the applicant, Concord Natural Gas Corporation, be and hereby is, authorized to issue and sell at private sale, for cash equal to the aggregate principal amount thereof plus accrued interest thereon to the date of issue, its First Mortgage Bonds, Variable Interest Series due 2003, in the aggregate principal amount of $750,000, to bear interest at a variable rate per annum equal to the average of the annual yields on distributed A rated public utility bonds, as published monthly in Moody's Bond Survey, during the period of six consecutive calendar months last ended prior to each interest payment date (which variable rate shall not in any event exceed 18%per annum or be less than 10% per annum), to mature 2003, to provide for amortization prior to maturity of not more than 64% of the original principal amount thereof by application of sinking fund payments in the third year not exceeding in aggregate amount in any year 4% of said original principal amount and to be otherwise in form and substance as provided in, to be issued under and secured by, the Indenture of Mortgage dated as of July 1, 1952 made by Concord Gas Company to the present trustee, as heretofore supplemented and amended and as further supplemented by the following-mentioned Ninth Supplemental Indenture of Mortgage; and it is

FURTHER ORDERED, that Concord Natural Gas Corporation be, and hereby is, authorized to mortgage all its property, real personal, and mixed, tangible and intangible, including franchises and after acquired property (other than property of the kind defined as "excepted property" in said Indenture of Mortgage dated as of July 1, 1952), as security for the payment of said First Mortgage Bonds, Variable Interest Series due 2003 and all other bonds heretofore or hereafter issued with the approval of this Commission under said Indenture of Mortgage dated as of July 1, 1952 as heretofore and hereafter supplemented and amended with the approval of this Commission, all in and by, and as provided in, said Indenture of Mortgage as heretofore

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supplemented and amended and as further supplemented by said Ninth Supplemental Indenture of Mortgage; and it is

FURTHER ORDERED, that Concord Natural Gas Corporation be, and hereby is, authorized to make, execute and deliver to Bank of New Hampshire, National Association, as Trustee, a Ninth Supplemental Indenture of Mortgage providing for the creation of said First Mortgage Bonds, Variable Interest Series due 2003, mortgaging, and confirming the lien of said Indenture of Mortgage dated duly 1, 1952, as heretofore supplemented and amended, on, said property as security as aforesaid; and it is

FURTHER ORDERED, that the proceeds of the issuance and sale of said First Mortgage Bonds, Variable Interest Series due 2003, shall be applied to pay all of Concord Natural Gas Corporation's short term debt for borrowed money, and, to the extent not required therefore, for its general purposes; and it is

FURTHER ORDERED, that on January 1st and July 1st of each year Concord Natural Gas Corporation shall file with this Commission, a detailed Statement, duly sworn to by its Treasurer or Assistant Treasurer, showing the disposition of the proceeds of said First Mortgage Bonds,

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Variable Interest Series due 2003 until the expenditure of the whole of said proceeds shall be fully accounted for.

By Order of the Public Utilities Commission of New Hampshire this twenty-second day of December, 1983.

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NH.PUC*12/27/83*[79849]*68 NH PUC 746*Public Service Company of New Hampshire

[Go to End of 79849]

Re Public Service Company of New Hampshire

Intervenor: Community Action Program

DR 83-320, Order No. 16,826

68 NH PUC 746

New Hampshire Public Utilities Commission

December 27, 1983

APPLICATION by electric company for an alteration in its energy cost recovery mechanism; granted as modified.

----

1. AUTOMATIC ADJUSTMENT CLAUSES, § 7 — Energy cost clauses — Authorization — Exception.

[N.H.] The commission accepted the utility's revised energy cost recovery mechanism adjustment with one exception; because of the improper installation of pressure seal rings at one generating station the commission decided to take no ECRM related action at that site. p. 748.

2. AUTOMATIC ADJUSTMENT CLAUSES, § 15 — Energy cost clauses — Direct costs — Energy costs.

[N.H.] Where the utility test burned a load of oil which was of a lower gravity and which, therefore, was less expensive than the oil it was currently burning; and, where the utility's test was not fully analyzed at the time of its request for energy cost recovery mechanism adjustment, it was reasonable that the company did not include the lower priced oil in its ECRM estimate. p. 748.

APPEARANCES: Eaton W. Tarbell, Jr., for the company; Kenneth E. Traum for the New Hampshire Public Utilities Commission staff; Gerald Eaton, (October 25, 1983) hearing only for the Community Action Program (CAP).

BY THE COMMISSION:

REPORT

This docket was initiated by a petition filed on October 13, 1983 by Public Service Company of New Hampshire (PSNH), a public utility providing electricity in the State of New Hampshire. Said petition requested a change in the ECRM rate for November and December, 1983.

The original rate requested was $4.095/100 per kilowatt hour (KWH)

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for November and December, 1983, later revised to $4.115/100 KWH for November and December, 1983.

Following a duly noticed public hearing at the Commission's offices in Concord on October 25, 1983, the Commission issued Order No. 16,738 (68 NH PUC 645), setting an ECRM rate of $3.81/100 KWH for November, 1983 through June, 1984.

On November 21, 1983, PSNH filed a petition requesting that an ECRM hearing be scheduled in December, 1983, for the purpose of modifying Order No. 16,738, in order that a new ECRM rate might be established for January through June, 1984.

Said request of PSNH was approved by the Commission on November 23, 1983, and a duly noticed public hearing was held at the Commission's offices in Concord on December 13, 1983 at 2:00 P.M.

On November 28, 1983, PSNH pre-filed eleven exhibits and requested an ECRM rate of $3.766/100 KWH for January through June, 1984. On December 12, 1983, PSNH updated a number of those exhibits due to revised fuel cost estimates, a correction to the Merrimack Station maintenance schedule, and inclusion of the Merrimack Station coal pile survey adjustment. These revisions reduced the rate request from $3.766/100 KWH to $3.712/100 KWH.

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During the course of the December 15, 1983 hearing, PSNH further updated its filing to reflect actual November, 1983 results and again lowered its request to $3.615/100 KWH.

In total, prior to and during the course of the December 15, 1983 hearing, twenty exhibits and revisions were submitted into evidence, and five witnesses testified on behalf of the Company. In addition, post-hearing information was provided.

Prior to the December 15, 1983 hearing, the Commission's Staff sent a set of data requests to PSNH. The Company's responses to said requests are dated December 9, 1983 and December 12, 1983, and are marked as Exhibit 12.

During the course of the hearing, numerous aspects of the filing were explored, some of which were:

1. Oil price estimates, trends, contracts 2. Coal price estimates, contracts, inventory policy 3. Coal pile adjustment 4. Newington Station outage and corresponding efficiency improvement 5. Newington Station lower gravity oil test 6. Historic unavailability factors 7. Sales growth estimate of 4.2% 8. Retail loss adjustment factor 9. Actual November, 1983 results 10. Estimates savings from short-term purchases 11. Merrimack Station maintenance schedule

Several of the items merit additional discussion.

1. PSNH is currently negotiating a new oil contract. A PSNH witness testified that if such a contract had been in effect for the past six months, PSNH would have paid on average 30¢ less per barrel for oil. Under current oil prices, which are expected to remain the same for at least the next six months, the estimated savings would have been 34¢ per barrel.

Since a new contract has not yet been executed and in recognition of PSNH's efforts to attain a favorable oil

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contract rate through the possible new contract, we will not now reduce ECRM for such. By the same token, ratepayers will only pay the actual cost of oil through the mechanism of the ECRM reconciliation and will receive interest on any overcollections, or vice versa.

3. PSNH had this year's annual aerial coal pile survey taken on September 8, 1983. The survey showed 15,963.9 more tons in the coal pile than were indicated on the books of PSNH. Following past Commission precedent, this resulted in a credit of $551,773.72 being applied for the benefit of PSNH's New Hampshire retail customers in the ECRM reconciliation.

This required adjustment is smaller than it has been in prior years, but it is still sizeable. The Commission continues to feel that PSNH should endeavor to further minimize the difference between physical and book inventory.

[1] 4. PSNH incurred less than optimal operating efficiency from its Newington Station for approximately one year due to improper installation of pressure seal rings by Westinghouse. The NHPUC Engineering Department wil1 investigate the matter, no related ECRM adjustments or other actions will be made until said investigation is completed.

[2] 5. PSNH recently test burned a load of oil which is of lower gravity and which, therefore, is less expensive than the oil it currently burns at the Newington Station. The results of this test have not been fully analyzed, so PSNH did not include the lower priced oil in its ECRM estimate. In this situation, the Commission again agrees with PSNH's approach and commends the Company for looking at ways to reduce the ECRM rate to ratepayers. If the Company burns the lower priced, lower gravity oil in the upcoming ECRM period, ratepayers will benefit through the end of period reconciliation.

8. PSNH will shortly conduct a study of the Retail Loss Adjustment Factor, based on 1983 operating data. The Commission would hope that the results of said analysis will be completed and incorporated into the next reconciliation and ECRM filing.

In summation, with the caveat noted in paragraph 4 above, the Commission accepts the ECRM rate as revised by PSNH for January through June, 1984 of $3.615/100 KWH, a reduction of approximately $1.00 per month for the typical 500 KWH per month customer.

Our Order will issue accordingly.

ORDER

Upon consideration. of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that PSNH shall file revised tariff pages setting an ECRM rate of $3.615/100 KWH for January, 1984 through June, 1984.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of December, 1983.

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NH.PUC*12/27/83*[79850]*68 NH PUC 749*New Hampshire Electric Cooperative, Inc.

[Go to End of 79850]

Re New Hampshire Electric Cooperative, Inc.

DR 81-340, Fifth Supplemental Order No. 16,827

68 NH PUC 749

New Hampshire Public Utilities Commission

December 27, 1983

ORDER approving electric cooperative's tariff supplement.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, Supplement No. 1 to New Hampshire Electric Cooperative, Inc. tariff, NHPUC No. 11 — Electricity, documented an authorized surcharge for the recovery of the difference between temporary rates and those permanently approved in this docket; and

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WHEREAS, that recoupment was completed as of December 14, 1983; and

WHEREAS, New Hampshire Electric Cooperative, Inc. has filed Supplement No. 4 to said tariff cancelling the referenced Supplement No. 1; and

WHEREAS, the Commission finds such supplement to be in accordance with PUC 1601.05(m), it is

ORDERED, that Supplement No. 4 to New Hampshire Electric Cooperative, Inc. tariff, NHPUC No. 11, be, and hereby is, approved for effect on December 15, 1983.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of December, 1983.

==========

NH.PUC*12/28/83*[79851]*68 NH PUC 749*New England Telephone and Telegraph Company

[Go to End of 79851]

Re New England Telephone and Telegraph Company

DR 83-306, Order No. 16,829

68 NH PUC 749

New Hampshire Public Utilities Commission

December 28, 1983

ORDER allowing telephone company's tariff revision requesting permission for the disaggregation of complex inside wire.

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VALUATION, § 285 — Telephone property — Complex inside wiring — Disaggregation.

[N.H.] The state commission permitted the telephone company's tariff revisions which provided for the disaggregation of, and the establishment of rates for, the inside wiring associated with complex business installations; the commission, found that in the absence of disaggregation the telephone company could lose substantial revenue which in turn could impact on its rate of return and accelerate a general rate case filing.

APPEARANCES: Jeanne S. Conroy for New England Telephone and Telegraph Company.

BY THE COMMISSION:

REPORT

On September 23, 1983, New England Telephone and Telegraph Company (NET) filed with

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this Commission certain revisions of its Tariff, No. 75 — Telephone, providing for the disaggregation of, and the establishment of rates for, the inside wire associated with complex business installations. Pending investigation and decision, the filing was suspended by Order No. 16,687 on October 11, 1983. On October 20, 1983, an order of Notice was issued setting the matter for hearing at the Commission's Concord offices on November 29, 1983 at 2 p.m.

The duly-noticed hearing was convened on the appointed date, with NET represented by Attorney Jeanne S. Conroy. No intervenors were present.

Mr. Walter J. Haug was presented as the Company's only witness. He indicated that certain, packaged business offerings comprised both instrumentation and connecting wiring. With the former being transferred to American Telephone and Telegraph Company (AT&T) on January 1, 1984, NET desired to disaggregate the wire portion. to ensure that revenues from same remained with that Company rather than flow to AT&T. Mr. Haug further indicated that while no revenue impact would be felt by the NET customers with this disaggregation, failure to allow it could mean a loss to NET of some $4.5 million annually based on 1982 levels, decreasing in subsequent years as customers either buy the wire, install their own, or discontinue service. The Company further indicated that such a loss would have to be recovered from the general ratepayers.

An additional argument supporting this filing was cited as the Company's inability to determine the numbers of lines within these complex installations after the January 1, 1984 divestiture. With no control of the numbers of main stations and extensions, it is impossible to know such facts for billing purposes. Accordingly, this proposal seeks to fix these wire charges at quantities established on the effective date of divestiture, allowing future purchase of such wiring should the customer desire to avoid monthly charges.

Commission Analysis:

The arguments presented for disaggregation of the complex wire seem rather compelling, since absence of same could result in substantial loss of revenue. This could impact the NET rate of return and accelerate a general rate case filing.

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Another important consideration is the recent Federal Communications Commission decision that intra-system wiring would remain with the Bell Operating Companies rather than be transferred to AT&T-IS with the customer premises equipment. Such inclusion was considered anticompetitive.

Since AT&T would assume responsibility for the associated customer premises equipment in these complex business installations and the accompanying revenues, it was important to the Commission to understand if the split of revenue proposed was satisfactory to both companies. This concern was eased when testimony indicated the disaggregation plans had been discussed with AT&T representatives prior to the filing; and, despite public notice of this Commission's hearing, that Company failed to intervene.

While the instant filing has no impact on consumers' overall monthly charges, there is a possibility of significant changes in the deregulated customer premises equipment charges after

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divestiture. Concern in this area was eased by recent releases from the FCC indicating certain protection of the customer against exorbitant increases.

Based on these facts, the Commission finds this filing in the public interest. Our order will issue accordingly.

ORDER

In consideration of the foregoing Report, which is made a part hereof; it is

ORDERED, that

Pt. A, Sec. 2 — Table of Contents,
1st Rev. Pg. 1
Original Pgs. 11-16
Sec. 7 — 1st Rev. Pgs. 28, 29, 31, 32,
70 and 71
Pt. C, Sec. 5 — Original Pgs. 43 and 59
1st Rev. Pgs. 2, 6-9, 21, 31-33, 48-51, 62
Sec. 6 — 1st Rev. Pgs. 1, 4, 60, 65, 66,
73, 80, 89, 91, 95, 101, 151, 206,
207, 209, 210, 212, 245 and 249-251

of Tariff NHPUC No. 75 — Telephone, of New England Telephone and Telegraph Co. be, and hereby are, rejected; and it is

FURTHER ORDERED, that New England Telephone and Telegraph Company file replacement pages, bearing the next following revision number issued in lieu of those rejected herein, to become effective on the date of this order; and it is

FURTHER ORDERED, that New England Telephone and Telegraph Company give public notice to those customers affected by this order via bill insert or other method deemed appropriate by the Company, with affidavit attesting to same filed with the Commission.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of December, 1983.

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NH.PUC*12/29/83*[79852]*68 NH PUC 752*Connecticut Valley Electric Company, Inc.

[Go to End of 79852]

Re Connecticut Valley Electric Company, Inc.

DR 83-371, Order No. 16,831

68 NH PUC 752

New Hampshire Public Utilities Commission

December 29, 1983

COMMISSION order approving an electric company's administrative revisions to its tariff.

BY THE COMMISSION:

ORDER

WHEREAS, Connecticut Valley Electric Company, Inc. has filed revised tariff pages to incorporate certain administrative changes in its tariff; and

WHEREAS, these revisions reflect terminology previously approved for other utilities as for the public good, and/or to implement Commission rules for electric utilities; it is

ORDERED, that Original Page 4-A, 2nd Revised Page 4 and 3rd Revised Page 6, Connecticut Valley Electric Company, Inc. tariff, NHPUC No. 4 — Electricity, be, and hereby are, approved for effect January 1, 1984; and it is

FURTHER ORDERED, that seven (7) additional copies of said revisions be forwarded to this Commission; and it is

FURTHER ORDERED, that a onetime summary of this filing be provided CONVAL customers via bill insert or published notice.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of December, 1983.

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NH.PUC*12/30/83*[79853]*68 NH PUC 753*Fuel Adjustment Clause

[Go to End of 79853]

Re Fuel Adjustment Clause

Intervenors: New Hampshire Electric Cooperative, Inc., Concord Electric Company, Exeter and Hampton Electric Company, Granite State Electric Company, Municipal Electric Department of Wolfeboro, Woodsville Water and Light Department, and Connecticut Valley Electric Company, Inc.

DR 83-374, Order No. 16,833

68 NH PUC 753

New Hampshire Public Utilities Commission

December 30, 1983

ORDER approving electric companies' fuel adjustment clause requests.

AUTOMATIC ADJUSTMENT CLAUSES, § 13 — Outage — Purchase power costs — Adjustment.

[N.H.] The commission approved the electric company's increased power costs attributable to plant outage subject to refund if subsequent investigation shows that negligence or company

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error caused the damage.

APPEARANCES: Margaret H. Nelson for Concord Electric Company and Exeter and Hampton Electric Company; Michael Flynn for Granite State Electric Company; Kenneth E. Traum and Edgar Stubbs for the PUC staff.

BY THE COMMISSION:

REPORT

The Public Utilities Commission held a duly noticed public hearing on the fuel adjustment clause filings of Concord Electric Company, Exeter & Hampton Electric Company, and Granite State Electric Company, for the first quarter of 1984 at its office in Concord on December 14, 1983.

Concord Electric Company and Exeter & Hampton Electric Company were represented by one Witness, William H. Steff. Concord had a FAC rate of $1.186/100 KWH approved for the fourth quarter of 1983, while Exeter & Hampton Company had a rate of $1.30/100 KWH.

In developing the first quarter of 1984 estimates, the most significant inputs were based on estimates provided by the companies' sole electricity supplier, PSNH, of $0.03582850/KWH for January, 1984, $0.03879905/KWH for February, 1984, and $0.03633199/KWH for March, 1984.

Based on this and taking the amount of fuel expense rolled into base rates and the effect of the State Franchise Tax into account, Concord's proposed rate for the first quarter of 1984 was $0.079/100 KWH while Exeter & Hampton's was $0.026/KWH.

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These are significant decreases in both cases.

The decreases are attributable to overcollections in the fourth quarter of 1983, which by the mechanism of the Fuel Adjustment Clause, are deducted from the cost estimates for the 1st quarter of 1984. In addition, the utilities' sole supplier of electricity, Public Service Company of New Hampshire, is estimating a decrease in fuel costs for the 1st quarter of 1984 over the 4th quarter on a per KWH basis.

During the course of the December 14, 1983 hearing the Commission Finance Staff brought up the subjects of the Company's estimates of lost and unaccounted for electricity, timeliness of Public Service Co. of N.H. estimates, and the overcollection for the 4th quarter of 1983. Based on these lines of cross and specifically PSNH updates, the Company filed revised tariff pages as exhibit 2 which reduced the requested rates by approximately 10¢ /100 KWH to a credit of ($0.024)/100 KWH for Concord Electric Co. and a credit of ($0.081)/100 KWH for Exeter and Hampton Electric Co.. For a typical customer who uses 500 KWH per month, this FAC request will reduce the customer's bill on a monthly basis by $6.05 for Concord Electric customers and by $6.90 for Exeter & Hampton Electric Co. customers. The Commission believes the rates as revised for both companies are in the public good and our Order will issue accordingly.

Granite State Electric Company (GSEC) made its filing for a fuel Adjustment Clause Rate

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(FAC) and an Oil Conservation Adjustment Rate (OCA) on December 12, 1983 for the first quarter of 1984.

The rates requested were $1.401/100 KWH for the FAC, and $0.172/ 100 KWH for the OCA. For comparative purposes the respective rates for the fourth quarter were $1.863/100 KWH and $0.214/100 KWH (OCA). A combined decrease of $2.52/month for a typical 500 KWH/month customer.

During the course of the duly noticed hearing on December 14, 1983, twelve exhibits were submitted by the Company through one witness.

First, addressing the FAC request, the Commission is please with the magnitude of the decrease and the reasons for such; namely lower fuel costs, a smaller prior period adjustment, less unaccounted for KWH, and the anticipated return to service of Brayton. Point III on February 1, 1984.

The GSEC rate for the 4th quarter of 1983 had increased dramatically due to an extremely costly outage which occurred on August 26, 1983. On that date GSEC's sole electricity supplier and affiliate, New England Power Company (NEPCo.), saw its largest and most efficient generating unit, Brayton Point III, suffer a fire, explosion and very extensive damage. Even with all the measures NEPCo. took and is taking to expedite repairs, the unit is estimated to be down for five to six months.

The cause continues under investigation by various entities and until the unit returns to service, NEPCo. is forced to buy or generate replacement power from other more expensive sources.

The NHPUC feels unable to automatically approve inclusion of the replacement power costs in GSEC's New Hampshire FAC rate prior to completion of the investigations of the accident and reports. If an act of negligence

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or Company error is found to have been the cause of the outage, the company can be rightfully held accountable.

With that understanding the Commission will approve the increased replacement power costs due to the Brayton Point III outage, subject to refund if negligence or company error is found to have caused the damage. Beyond this, the Commission applauds the company for expediting repairs to the Unit, and its continuing cost cutting measures; i.e. making direct short-term purchases. With the aforementioned caveat, the Commission will accept GSEC's proposed first quarter FAC rate of $1.401/100 KWH.

Our Order will issue accordingly.

GSEC's OCA rate as proposed also reflects a decrease from the fourth quarter rate due to the unaccounted for KWH declining, a larger base of KWH sales, and the prior period adjustment.

Based on the record, the New Hampshire PUC will accept GSEC's proposal for the first quarter OCA rate of $0.172/100 KWH.

Correspondingly, the Commission will accept GSEC's proposed Qualifying Facility Power

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Purchase Rates for the first quarter of 1984.

Our Order will issue accordingly.

ORDER

Upon consideration of the foregoing Report, which is made a part hereof; it is hereby

ORDERED, that the Commission in correspondence dated March 2, 1982 sent to the New Hampshire Electric Cooperative, Inc., Granite State Electric Company, Connecticut Valley Electric Company, Inc., Exeter and Hampton Electric Company, Municipal Electric Department of Wolfeboro, Concord Electric Company, Woodsville Power and Light Department, and Littleton Water & Light Department by the Commission's Executive Director and Secretary in relation to DR 82-59, notified the utilities that the Commission will not automatically schedule FAC hearing for those utilities which file monthly unless requested or needed by one of those utilities; and the Commission would not automatically schedule FAC rate;

WHEREAS, no utility maintaining a monthly FAC requested a hearing be scheduled; and

WHEREAS, this is not one of the two off months for quarterly FAC utilities, hearings were held for Concord Electric Company, Exeter & Hampton Electric Company, and Granite State Electric Company; it is

ORDERED, that the Commission in DR 81-340, Third Supplemental Order No. 15,986 (67 NH PUC 784), dated November 10, 1982 of the N.H. Electric Cooperative, Inc. rolled the cost of fuel on an estimated forward looking basis into base rates thus eliminating the lagging Fuel Adjustment Clause and resulting in more stable and comprehensible rates; and

WHEREAS, the rolled in rate will remain in effect for approximately one year, as revised in DR 83-143, Order No. 16,527 (68 NH PUC 468), unless a hearing is requested by any party, and since a separate docket, DR 83-352, has been established for that purpose, no new rate will be stated for the New Hampshire Electric Cooperative, Inc. in this month's FAC order; and it is

FURTHER ORDERED, that 14th Revised Page 19A of Concord Electric

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Co. tariff, NHPUC No. 8 — Electricity is hereby denied; and it is

FURTHER ORDERED, that 15th Revised page 19A of Concord Electric Co. tariff NHPUC No. 8 — Electricity, providing for a fuel surcharge credit of $(0.24/100 KWH for the months of January, February, and March, 1984, be, and hereby is, permitted to go into effect for the month of January, 1984; and it is

FURTHER ORDERED, that 14th Revised Page 19A of Exeter & Hampton Electric Co. tariff NHPUC No. 15 — Electricity, is hereby denied; and it is

FURTHER ORDERED, that 15th Revised page 19A of Exeter & Hampton Electric Co. tariff, NHPUC No. 15 — Electricity, providing for a fuel surcharge credit of $(0.081)/100 KWH for the months of January, February, and March, 1984, be, and hereby is, permitted to go into effect for the month of January, 1984; and it is

FURTHER ORDERED, that 8th Revised Page 57 of Granite State Electric Co. tariff,

NHPUC No. 10 — Electricity, providing for an oil conservation adjustment of 17.2 cents ($0.172) per 100 KWH for the months of January, February, and March, 1984, be, and hereby is, permitted to go into effect for January, 1984; and it is

FURTHER ORDERED, that 10th Revised page 30 of Granite State Electric Co. tariff, NHPUC No. 10 — Electricity, providing for a fuel surcharge for the months of January, February, and March, 1984, of $1.401/100 KWH be, and hereby is, permitted to go into effect for January, 1984; and it is

FURTHER ORDERED, that 1st Revised page 11C of Granite State Electric Co. tariff, NHPUC No. 10 — Electricity, providing for a Qualifying Facility Power Purchase Rate for January, February, and March, 1984 of $0.05614/KWH and $0.05562/KWH be, and hereby is, permitted to go into effect January, 1984; and it is

FURTHER ORDERED, that 36th Revised page 11B of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 6 — Electricity, providing for a fuel surcharge of $3.40 per 100 KWH for the month of January, 1984, be, and hereby is, permitted to become effective January 1, 1984; and it is

FURTHER ORDERED, that 88th Revised page 10B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for a fuel surcharge credit of ($1.15) per 100 KWH for the month of January, 1984, be, and hereby is, permitted to become effective January 1, 1984; and it is

FURTHER ORDERED, that 85th Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for an energy surcharge credit of ($0.62) per 100 KWH for the month of January, 1984, be, and hereby is, permitted to become effective January, 1, 1984.

The above noted rates may be adjusted by a factor of approximately 1% depending upon the utility's classification in the Franchise Tax docket DR 83-205, Order No. 16,524 (68 NH PUC 461).

By Order of the Public Utilities Commission of New Hampshire this thirtieth day of December, 1983.

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NH.PUC*12/30/83*[79854]*68 NH PUC 757*Milford Water Works

[Go to End of 79854]

Re Milford Water Works

DE 83-257, Supplemental Order No. 16,834

68 NH PUC 757

New Hampshire Public Utilities Commission

December 30, 1983

ORDER denying water company's motion to rehear conditions imposed in a previous finding

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that certain structures were reasonably necessary for the convenience and welfare of the public.

SERVICE, § 473 — Water service — Facilities — Reasonably necessary.

[N.H.] The commission denied a water company's motion to rehear a previous decision that held that the construction of certain structures in the company's water system was reasonably necessary for the convenience and welfare of the public because: (1) the motion did not offer any new evidence which could not have been presented at the original hearings and (2) consideration of the public welfare and convenience required appropriate imposition of reasonable conditions to lessen the impact of such structures on the surrounding community.

BY THE COMMISSION:

SUPPLEMENTAL ORDER

WHEREAS, the Town of Milford (Milford) is a public utility pursuant to RSA 38:12 and RSA 362:4; and

WHEREAS, Milford filed a petition on August 4, 1983, requesting a finding that the construction of certain structures in its water system within the confines Town of Amherst is reasonably necessary for the convenience and welfare of the public pursuant to RSA 31:62; and

WHEREAS, the petition was filed after construction of the proposed structures was nearly completed; and

WHEREAS, the Commission held public hearings on the petition in the Towns of Milford and Amherst on September 6, 1983, and issued its Report and Order No. 16,737, dated October 28, 1983 (68 NH PUC 641), granting the petition with certain conditions; and

WHEREAS, on November 17, 1983, Milford filed a Motion for Rehearing contesting the conditions imposed; and

WHEREAS, said Motion did not offer any new evidence which could not have been presented at the original hearings; Re Gas Service, Inc. (1981) 121 NH 797; O'Laughlin v New Hampshire Personnel Commission (1977) 117 NH 999, 1004; and

WHEREAS, this Commission finds that its Order is within the scope of its statutory authority under *inter alia* RSA 31 :62, RSA 38: 12 and RSA Chapter 374; and

WHEREAS, this Commission is authorized pursuant to *inter alia* RSA 31:62 to impose reasonable conditions on a public utility to ensure that the situation of the structures in question is reasonably necessary for the public convenience or welfare; and

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WHEREAS, consideration of the public welfare and convenience requires appropriate imposition of reasonable conditions to lessen the impact of such structures on the surrounding community; Carter v Nashua (1973) 113 NH 407,417,418; Re Hackensack Water Co. (NJ 1967)

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67 PUR 3d 497, 507; Re Monmouth Consol. Water Co. (1966) 47 NJ 251, 220 A2d 189; and

WHEREAS, the evidence indicates that pumping from the Curtis Wells could deprive neighboring private well owners of their water supply, thereby creating potential short-term emergencies and long-term inconvenience and expense to the affected well owners; and

WHEREAS, it would not be in the public interest, should this occur, to cease operation of the Curtis Wells, a more reasonable alternative being for the Town of Milford to provide the affected persons with a water supply; and

WHEREAS, the Town of Milford owns and monitors test wells designed to measure any effect that the Curtis Wells may have on neighboring wells and is, therefore, in a better position to prove or disprove any alleged effect on private wells than are the individual private well owners; and

WHEREAS, the Commission found that it would not be in the public interest to grant the petition absent the conditions imposed; and

WHEREAS, the Commission finds that its Order no. 16,737 is not unlawful or unreasonable pursuant to RSA 541:4; it is hereby

ORDERED, that the Motion for Rehearing is denied.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of December, 1983.

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Endnotes

1 (Popup)

[1]Affidavit, December 21, 1982 by D. Pierre G. Cameron, Jr., General Council concurring December 21, 1982 — Partners Meeting.

2 (Popup)

[1]We also have examined Appendix A of the Company's Motion for Rehearing and Other Relief. While we are not commenting on the adequacy of the information contained therein for other purposes, we would note that the information pertinent to the Company's attempts to redress its safety problems confirms the existence of those problems.

3 (Popup)

[2]The Company's assertion would have been stronger if it had been denied the opportunity to present evidence pertinent to the mitigation of penalties. However, the Company did present evidence on its good faith *(see*, citations contained in paragraph 11 of the Company's Motion for Rehearing and Other Relief.) The Commission gave due weight to that evidence when it decided to impose only a minimal penalty *(see*, discussion on the Company's Good Faith Attempts to Address The Commission's Concerns, *supra)*.

4 (Popup)

[3]*See*, NGPSA § 5 (State Certifications and Agreements). *See also*, NGPSA § 11 (a) (1) which provides for penalties which are identical to those adopted in New Hampshire at RSA 374:7-aI and NGPSA § 11(a) (3) which allows mitigating circumstances to be considered which are substantially similar to those adopted at RSA 374:7-aI.

5 (Popup)

[4]If we were to accept the Company's view of the matter, we would have no choice but to refer our findings to the Office of Operations and Enforcement of the Department of Transportation. That Office would have the ability to assess penalties for payment to the United States Treasury which either equal or do not equal the minimum penalties imposed by the Commission. In addition, pursuant to NGPSA § 11(a) (2), the Office of Operations and Enforcement could impose an additional penalty of $50,000 above any other penalties to which the Company may be subject for violations of LNG safety standards. The New Hampshire statutes do not contain a comparable provision. Since we believe that this Commission has the authority to assess civil penalties and to exercise its discretion as it did here to fashion minimal penalties so that all parties may focus on correcting the violations, we need not speculate about the level of any federal penalties that may otherwise have been assessed.

6 (Popup)

[5]The record indicates that since Concord Natural Gas never implemented the federal standards, the violations have existed for each and every day for over twelve years. In this light the Commission's penalty is hardly severe.

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7 (Popup)

[1]Exhibit 3.

8 (Popup)

[2]Exhibit 4.

9 (Popup)

[3]Exhibit 4.

10 (Popup)

[*]Given this finding, it is unnecessary for us to reach the Company's argument based on the *Komisarek* case.

11 (Popup)

[1] We congratulate PSNH and joint owners on this step and hope that it will be continued in the future.

12 (Popup)

[2] Possibly the problem is that UEC is in the business of construction instead of completing power plants. Their recent record with Three Mile Island, Salem and Whoops #4 and #l is not stellar. Exhibit 27

13 (Popup)

[3] Dean Whitter Reynolds handbook is included as Exhibit 118.

14 (Popup)

[4] This goal is discussed in the following sections in relation to the potential for energy conservation and small power production.

15 (Popup)

[5] CLF also presented the testimony of Dr. Thompson, which relates to demand, but is not a forecast as such. His testimony is discussed in the sections relating to the potential contribution of conservation and alternate energy resources.

16 (Popup)

[6] Administrative notice was taken of DR 80-47.

17 (Popup)

[7] The Commission notes that unlike the PSNH load forecast, the Hogan forecast relies upon prices from the PSNH financial runs.

18 (Popup)

[8] Price changes operate through elasticity to effect changes in the ratio of energy to real output.

19 (Popup)

[9] Calculated from Exhibit 59, Table 5-1 and 11-1.

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20 (Popup)

[10] The Commission notes that even given PSNH's assumptions, a unit sale for ten years yields the most favorable result.

21 (Popup)

[11]Coal co-generation dominates in the model and Staff viewed this as not appropriate for New Hampshire where the relative economic advantages of wood waste are greater. (Exhibit 1, Technical Paper B, page 2)

22 (Popup)

[12]PSNH in other respects has emphasized the need for a planning horizon (for Seabrook to 2015) of sufficient length to allow a proper consideration of supply side issues. (PSNH Brief, p. VI-1) In this regard, as well, the Commission notes that PSNH Witness Perkins identified several new technologies which may be available in the 1990's. (Exhibit 45, Tab H, Attachment 2, Table 1, p. 4)

23 (Popup)

[1]That proceeding could be one specifically requested by PSNH for the purpose of reviewing its implementation of Commission standards or the issue could be incorporated into an ongoing ratemaking proceeding such as DR 82-333.

24 (Popup)

[1]This was not intended to foreclose PSNH from the opportunity to file exceptions. This opportunity was acknowledged by the Staff in its Memorandum and granted by the Commission in its Order.

25 (Popup)

[1]Profits defined as gross revenues less the cost of gas.

26 (Popup)

[1]The proposed new franchise tax was reviewed by the New Hampshire Supreme Court for constitutionality. The Court held that if certain amendments were incorporated, the proposal, would be constitutional. Re Opinion of the Justices (1983) 123 NH — , 461 A2d 132. The amendments identified by the Court were incorporated into the final legislation.

27 (Popup)

[2]The franchise tax expense is known, but, as discussed *infra*, the uncertainty of precisely which gross receipts are taxable renders the expense unmeasurable at the current time.

28 (Popup)

[3]Connecticut Valley Electric Company and Keene Gas Company were the only utilities subject to the tax which did not participate. Keene will he permitted to make an appropriate filing adjusting rates in accordance with this Order. Connecticut Valley has indicated its intent to address the franchise tax issue in its upcoming rate case.

29 (Popup)

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[4]Group A utilities were Concord Natural Gas Company, Manchester Gas Company, Gas Service, Inc., Claremont Gas Light Company and Petrolane — Southern New Hampshire Gas Company.

30 (Popup)

[5]Group B utilities were Northern utilities, Inc., Exeter and Hampton Electric Company Concord Electric Company, New Hampshire Electric Cooperative, Inc., and Granite State Electric Company

31 (Popup)

[1]It should be emphasized that this tariff amendment is ordered for the purpose of protecting the public health and safety. We make no findings as to whether the recording of telephone conversations is otherwise proper under RSA Chapter 570-A or whether such recorded conversations may be admissible as evidence in judicial proceedings. Those determinations are more properly left to the courts.

32 (Popup)

[1]Several of the findings in the Decision were clarified or modified in Report and Ninth Supplemental Order No. 16,456 (June 2, 1983 [68 NH PUC 376]). Those clarifications or modifications do not pertain to the subject of this Order.

33 (Popup)

[2]The referenced Pepper Report of November 15, 1932 was submitted to the Commission as a part of the record in this docket. That report identified 17 geographical areas where Claremont's system did not meet minimum safety standards applicable to corrosion control. Each area was fabled as a priority area and recommendations were made to bring the priority areas into compliance with minimum corrosion safety standards. The Pepper Report estimated the cost of a compliance program to be approximately $56,000.

34 (Popup)

[3]The agreement allowed Claremont to extend the June 28, 1983 deadline if Mr. Pepper was unavailable to perform his portion of the work in a timely fashion. Mr. Pepper was on site on June 22, 1983 and July 6, 1983. The record does not support a finding of unavailability. Rather, it appears that Mr. Pepper was not shown the agreement until June 22, 1983; more than one month after the agreement date and six days before the deadline. The Company declined to respond to a Staff inquiry for a specification of the dates prior to June 28, 1983 when Mr. Pepper's presence was requested and he could not be on site. Instead, the Company rested its justification of unavailability on Mr. Pepper's unwillingness to perform work until the Company paid him on a bill rendered in December, 1982 for work performed in the Fall of 1982. Since the cause of Mr. Pepper's unavailability was entirely within the control of the Company, it cannot serve as a justification for failure to adhere to the deadline.

35 (Popup)

[4]Area 11 has already been abandoned. Area 13 consists entirely of cast iron pipe and, accordingly, corrosion control measures are not required at this time.

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36 (Popup)

[5]The Commission recognizes that Claremont must engage in a multitude of activities to recover from its years of financial and engineering neglect. These activities do not, however, excuse the Company from its obligation to comply with reasonable Commission deadlines. While an occasional lapse is understandable, we cannot tolerate such behavior when it becomes consistent. *See e.g*., failure to comply with time requirements established in Staff-Company agreement (*supra*, footnote 3); request to delay payment of penalty imposed by Order No. 16,369; request to extend deadline for filing financial forms required by Order No. 16,456 (68 NH PUC 376).

37 (Popup)

*"Q. Do you have a dollar figure to what that is through the end of June 1983?

"A. Subject to check the number as of March 30th, 1983 is ill the order of $142,000. Maybe also just to give you an idea, the dollars we are talking about here are the indirect fuel costs that previously were flowed through account 518 by Maine Yankee participants. And as of the date Mr. Traum mentioned they were no longer, these indirect fuel costs were no longer included in account 518. They amount, that increment amounts to about $12,000 a month." (Tr. of 6/16/83 at 50.)

38 (Popup)

*See Attachment A.

39 (Popup)

[1]CAP subsequently filed a letter seeking to withdraw as an intervenor. This request was granted at the hearing of August 10, 1983 (] (Tr. at 5-3).

40 (Popup)

[2]We recognize PSNH's distinction between our substantive legal authority to set the interim rate and the procedural requirements that apply to all Commission actions. Here, we are discussing the parameters of our substantive authority to set a rate. PSNH's procedural objections are addressed at 11.B.2. infra.

41 (Popup)

[3]E.g., will the rate be able to go up or down as a result of future proceedings?

42 (Popup)

[4]For this reason, the rate does not give special consideration to the needs of any party other than PSNH.

43 (Popup)

[5]For example, as indicated infra, we (have) accepted an adjustment for working capital. However, PSNH had full notice that the adjustment was proposed and a full opportunity to cross-examine and present direct testimony on the issue. The record indicates that PSNH took advantage of that opportunity. See e.g., Exh. 10 at 4; Tr. at 60-3 to 603; Tr. at 4-91 to 4-100.

44 (Popup)

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[6]We certainly cannot predict whether or not the weight of the evidence will favor PSNH data and assumptions in subsequent phases of this proceeding. That determination must be made on the basis of the contemporary record.

45 (Popup)

[7]Avoided cost has been defined by all parties as being the cost incurred by an electric utility of electric energy or capacity or both which, but for the purchase from the QF, such utility would generate itself or purchase from another source. See also, 18 CFR § 2925.101

46 (Popup)

[8]The FERC language sanctions a levelized long term rate if the rate equals estimated avoided costs over the term of the obligation. As discussed in more detail infra, the levelized rate in this order will be tied, for some purposes, to actually experienced avoided costs. We believe that this affords additional protection to PSNH's ratepayers.

47 (Popup)

[9]The Commission must note that as payments to small power producers are flowed through PSNH's ECRM rate component on a dollar for dollar basis, PSNH faces absolutely no risk to its investors from errors in estimating avoided costs. The Company's concerns for its ratepayers is laudable, but in this case the interests of ratepayers are protected by this Commission in accordance with RSA 363:17-a.

48 (Popup)

[10]The Commission notes that the net present value payment will be based upon the PSNH discount rate of 15.1% through 1987 and 12.15% thereafter which was put on the record in this proceeding. The Commission recognizes that in its proposed revision to its long term contract policy, PSNH is proposing that 8% interest be accrued for some purposes in a "payback pool" (Tr. 4-16). We will not comment on the applicability of an 8% rate for the purpose of a voluntarily negotiated contract. However, for the purpose of a Commission established rate, we believe that the 8% rate is not sufficient to protect the PSNH ratepayers. PSNH's cost of capital as reflected in its discount rate is the appropriate figure because it will ensure that PSNH's ratepayers are left "whole" in the event of a "buy out".

49 (Popup)

[11]The values are expressed in cents per KWH and equal the sum of the 1983 present worth avoided costs in each year for the appropriate period. E.g. the 20 year rate which commences in 1983 may be represented as:

20

=70.221¢ /KWH. To continue the example any n = 1 20 year 1983 rate may be selected by a QF so long as it falls within the guidelines set forth in this Order and its present value sum does not exceed 70.221¢ /KWH.

50 (Popup)

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51 (Popup)

[1]Since PSNH is the only utility of sufficient size to be subject to the PURPA requirements relating to compensation, it is the only utility to which this award order is directed.

52 (Popup)

[2]*See*, Attachment A.

53 (Popup)

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54 (Popup)

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55 (Popup)

[1]For example, no crime is committed if the conversation is recorded with the consent of all parties to the conversation. The issue of consent in a criminal context is more properly resolved by the courts. *See also*, RSA 570-A:1 IV. (a) which *inter alia* excludes certain telephone instruments from the definition of "electronic, mechanical or other device" if the telephone is used in accordance with Company tariffs as approved by the Commission.

56 (Popup)

[*]This provision applies only to the manner in which Rate G is structured. It does not apply to the allocation of the temporary rates which will be applied to this rate class on the proportional basis described above.

57 (Popup)

[1]For example, many commenters pointed to recent increases in uncollectible accounts under the existing rules. While we must be concerned about increased uncollectibles, we cannot conclude that they were caused by our termination rules. The recession and increases in utility rates are other possible explanations for increased uncollectibles.

58 (Popup)

[2]*E.g.*, Exeter and Hampton Electric Company has recently filed a Petition for Temporary Exemption from PUC, 303.08(k) (2), (3) and (6). While we cannot at this time comment on the merits of Exeter & Hampton's Petition, we can state that we welcome proposals which offer constructive alternatives and an opportunity empirically to contrast those alternatives with our existing rules.

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59 (Popup)

[1] The Commission is concerned about whether it should address a Motion for Rehearing from what is, in effect, an interlocutory Order. However, since the Order will govern the relationship between PSNH and those QFs who elect to be subject to its terms, we believe that it is reasonable to rule on the Motion.

60 (Popup)

[2] The "buy out" methodology may be represented as:

Pmt = (1 + r) [(Ep + Cp) — (Ea + Ca)]

Pmt = Buy out payment.

r = PSNH's overall rate of return.

Ep = Total amount paid by PSNH to QF for energy.

Cp = Total amount paid by PSNH to QF for capacity.

Ea = Actual Commission established short-term energy rate multiplied by the number of Kwh purchased by PSNH.

Ca = Actual Commission established short-term capacity rate multiplied by the number of Kwh purchased by PSNH

61 (Popup)

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62 (Popup)

[3] We note that the Commission has already adopted a short-term capacity rate of .5¢ /Kwh. Re Small Energy Producers and Cogenerators (1980) 65 NH PUC 291, 299, 300. To the extent that the long-term rate established in the Interim Order does not exceed that short-term rate, it demonstrates a PSNH "bias" in that it does not compensate a QF for the long-term value of capacity. This issue will be examined further in the remaining part of this docket.

63 (Popup)

[4] To the extent that we have here set forth the "buy out" formula, we have also addressed PSNH's request that the Commission specify how the buy out rate is to be calculated. PSNH Motion for Clarification at Paragraph 10.

64 (Popup)

*For the purposes of this standard, the Commission assumes that the track has continued to be maintained at the level attained after the last improvements.

65 (Popup)

[1]The agreement also contemplated discontinuance of service in one area located on Washington Street which may, at some point in the future, be relocated.

66 (Popup)

[2]The list refers to the section numbers set forth in the Pepper Report.

67 (Popup)

[1]Section 16.2 also provides for the signing of a line extension agreement by the Company and its customer based upon the Tariff provisions.

68 (Popup)

[2]Mr. Bonito does not contest the total footage as measured by the Company.

69 (Popup)

[3]While we hereby approve the Company's proposed surcharge of $8.40, we note that the Company's allowing Mr. Bonito 29 feet without charge cannot be supported by either document. The Company is in essence giving an advantage or preference to Mr. Bonito not afforded other customers. In addition, to the extent that the Company does not earn this revenue ($1.16 × 60 months = $69.60) from Mr. Bonito, it must do so from other customers. The amount however is insignificant in that removing it from the Company's revenue requirement would have no impact 011 the KWH charges of the other customers. We therefore decline to) disturb the Company's proposed surcharge. However, it is important that this decision not be construed as approving the principle embraced by the Company's action in this case.

70 (Popup)

[1]Standby fees are charges imposed on owners of vacant lots for the purpose of ensuring the availability of water service should the lots ever be developed.

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[2]But see, Re Mountain Springs Water Co. (1983) 123 NH — which remanded the Commission's rate Order for reconsideration of *inter alia* the proper valuation of rate base.

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74 (Popup)

[3]We need not comment here on whether alternative rate structures would have served the dual purpose of being consistent with the deed covenants and fairly allocating the Company's revenue requirement without unjust discrimination. We simply did not have a record in support of such a dual purpose rate and any such comment would therefore only be speculation. We recognize that the Company could have attempted to design rates to be consistent with the deed covenants when the standby fees were first proposed in order to avoid a potential future liability (Tr. at 53). The effect of management's failure to attempt to minimize liability is discussed *infra*.

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76 (Popup)

[4]The Court found the same factors to be important in Richter when it stated: "Here the covenants were part of the express basis of the bargain for the purchase of real estate. There is privity between the parties because the defendant [Mountain Springs Water Company] was a subsidiary of the grantor [TCH]. It was formed only to supply water to TCH's grantees. The trial judge found that the defendant was actually and/or constructively aware of the covenants in the deeds. It would be inequitable to allow the defendant to avoid the covenants, and we therefore affirm the trial court." (122 NH at p. 852.)

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78 (Popup)

[5]We do not intend by this finding to disturb our previous Orders which provide that standby customers who are also general service customers may not engage in "self help" by deducting the Company's liability from current bills. See, e.g., Hall v Mountain Springs Water Co., Inc. (1983) 68 NH PUC 228; Re Mountain Springs Water Co. (1981) 66 NH PUC 487, 493, 494 (1981) revd in part Re Mountain Springs Water Co. (1983) 123 NH — . Recovery by the standby customers of any Company liability must be accomplished via established judicial collection procedures.

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