

DG 06-033

NORTHERN UTILITIES, INC.

Capacity Reserve Charge Rate Adjustment

Order on Stipulation and Settlement

ORDER NO. 24,687

October 27, 2006

APPEARANCES: Seth Shortlidge, Esq., of Pierce Atwood LLP, for Northern Utilities, Inc.; Rorie E. Hollenberg, Esq. of the Office of Consumer Advocate on behalf of residential ratepayers; and Edward N. Damon, Esq. for the Staff of the State of New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

On March 3, 2006, Northern Utilities, Inc. (Northern) filed with the New Hampshire Public Utilities Commission (Commission) a Capacity Reserve Charge (CRC) rate adjustment tariff sheet proposing a CRC rate of \$0.0309 per therm, applicable to all capacity-exempt (sometimes referred to as “grandfathered” or “non-capacity assigned”) firm transportation customers effective November 1, 2006. The filing of a CRC was contemplated in the settlement approved in Docket No. DG 05-080; Commission Staff and the Office of Consumer Advocate (OCA) recommended in the settlement that the New Hampshire Division’s share of the cost to maintain the reserve be recovered from capacity-exempt customers. *See Northern Utilities, Inc., Order No. 24,627 (June 1, 2006).*

On March 30, 2006, the Commission issued an Order of Notice scheduling a prehearing conference on May 4, 2006, which was held as scheduled.¹ On April 25, 2006, OCA filed notice of intent to participate in this docket on behalf of residential consumers pursuant to RSA 363:28.

¹ The Order of Notice made EnergyNorth Natural Gas, Inc. d/b/a KeySpan Energy Delivery New England (KeySpan) a mandatory party to the proceeding and stated that one of the issues was whether KeySpan should be required to establish a capacity reserve and, if so, how the cost should be determined and recovered.

On the same date, National Gypsum Company (NGC), Northern's largest industrial customer in New Hampshire, faxed a letter to the Commission expressing NGC's concern and opposition to the proposed CRC. Subsequently, on May 8, 2006, NGC filed a letter with the Commission formally requesting intervention. On April 28, 2006, Axcess Energy Group, describing itself as a provider of energy procurement and management services to clients served by Northern who may be affected by the proceeding, requested to be treated as an "Interested Party" and to be placed on the service list for future notices and related documents and information. On May 12, 2006, Commission Staff (Staff) filed a letter with the Commission proposing a procedural schedule, which was approved by secretarial letter on the same date.

On May 26, 2006, Northern filed with the Commission a second CRC Rate Adjustment tariff sheet, this time proposing a CRC rate of \$0.0101 per therm, applicable to all firm sales and transportation customers effective November 1, 2006. On June 22, 2006, Staff filed with the Commission a letter requesting a suspension of the procedural schedule pending Northern's filing of its Integrated Resource Plan (IRP) on June 30, 2006. On July 10, 2006, the Commission issued a secretarial letter approving the request. On September 22, 2006, Staff filed a letter with the Commission recommending a procedural schedule for this docket as well as part of the IRP docket, Docket No. DG 06-098. By secretarial letter dated September 28, 2006, the Commission approved the recommended procedural schedule. On October 18, 2006, Staff filed a Stipulation and Settlement (Settlement) executed by Northern, OCA and Staff, and the Commission held a hearing on the Settlement. At the hearing, Northern confirmed that it would arrange for NGC's execution of the Settlement.

II. SETTLEMENT

The substantive terms of the Settlement are set forth below:

A. Establishment of Interim Capacity Reserve Charge (“Interim CRC”)

1. Northern currently has a capacity imbalance that obviates the need to contract for incremental capacity to satisfy a capacity reserve.
2. Northern’s capacity imbalance may soon be eliminated (or substantially reduced) if Northern determines, through the IRP process, that doing so would be the “best cost” alternative for its customers.
3. The level and structure of the capacity reserve shall be considered in the current IRP proceeding, DG 06-098.
4. The resulting capacity reserve, if any, shall be implemented in accordance with the Commission directives in its final order in DG 06-098. The settlement provides an interim resolution to the issues between the parties and Staff by establishing an interim CRC.

B. Calculation of Interim CRC

5. The interim CRC shall be derived by allocating to capacity-exempt customers a proportionate share of the costs of the on-system peaking resources allocated to the New Hampshire Division.
6. The share shall be calculated as the ratio of capacity exempt design day load for the New Hampshire Division to total design day load for the New Hampshire Division (including capacity-exempt design day load).
7. The calculation shall be as set forth in Table NH Division Settlement – A.

Table NH Division Settlement -A

$$CRC_{INT} = \left(\frac{CEDD_{NHD}}{TDD_{NHD}} \right) \times P\$_{NHD} / CE_{NHD}$$

Where:

CRC_{INT}	Interim Capacity Reserve Charge
$CEDD_{NHD}$	The total forecast capacity exempt design day load for the New Hampshire Division
TDD_{NHD}	The total forecast design day load for the New Hampshire Division (including capacity exempt design day load)
$P\$_{NHD}$	The cost of on-system peaking resources included in Northern’s New Hampshire Division Cost of Gas as established in Northern’s most recent base rate case by the New Hampshire Commission
CE_{NHD}	The total forecast capacity exempt annual throughput for the New Hampshire Division

$$CRC = \left(\frac{10,107}{67,883} \right) \times \$686,642 / 1,847,688 = \$0.0553 \text{ per Dth}$$

C. Term of Interim CRC

- The Interim CRC rate shall be fixed, non-reconcilable, and remain in effect until the New Hampshire Commission issues its Order that further addresses the capacity reserve issue.

D. Impact of Interim CRC on Modified Proportional Responsibility Allocator

- The Interim CRC recovers fixed gas costs allocated to Northern’s New Hampshire Division customers through the Modified PR Formula and does not affect the allocation between the Maine and New Hampshire Divisions.

E. Northern's Obligation With Regard to Mitigation of Portfolio Imbalance

10. Northern shall continue to participate in capacity release and off-system sales markets to generate maximum incremental revenues through selling underutilized resources in order to benefit firm sales customers through reductions in fixed costs while, at the same time, maintaining adequate reliability to serve its customers. Northern will accomplish this through various means including, but not limited to, capacity release with limited recall rights, off-system sales and asset management transactions.

F. Future Consideration of Capacity Reserve, Interim CRC, and CRC

11. The review and evaluation of Northern's IRP including issues related to the capacity reserve and resulting CRC remains ongoing.
12. The parties and Staff intend to evaluate the level and structure of the capacity reserve as provided for in the DG 05-080 Settlement in conjunction with the IRP proceeding in DG 06-098.
13. The establishment and calculation of the interim CRC shall not have any precedent with respect to the positions that any party or the Staff may take in connection with the reserve capacity issue in DG 06-098.
14. Consistent with the Settlement in DG 05-080, the parties and Staff recognize that the Commission may consider the level of the reliability reserve as part of the IRP review process and should the Commission make determinations with regard to the size or structure of such reserve, such determination shall not take effect until the earlier of: (1) approval of equivalent modifications by the Maine Public Utilities Commission; or (2) the expiration of a nine (9) month period following

the date of the order during which the New Hampshire and Maine commission shall conduct joint proceedings for the purpose of coordinating consistent policies regarding the proposed modifications to the size and structure of the reserve.

III. POSITIONS OF THE PARTIES AND STAFF

A. Northern

In testimony before the Commission, Northern presented the background to the settlement and in particular noted that the settlement approved by the Commission in DG 05-080 provided for a capacity reserve equal to 30 percent of the capacity-exempt design day load as well as the allocation of Northern's fixed capacity costs between Northern's Maine and New Hampshire Divisions. The DG 05-080 settlement also provided that the level of a capacity reserve would be further investigated in the IRP filing.

Northern explained that because a final resolution of the capacity reserve issue could not be achieved in time to reflect the resolution in a CRC effective on November 1, 2006, the Settlement provides for an Interim CRC effective November 1, 2006. Although the Interim CRC is based on the capacity costs of Northern's on-system peaking resources, Northern indicated that there is no agreement among the parties and Staff that a permanent CRC, if any, would be based on the on-system peaking resources. In fact, Northern noted that the settlement provides that the establishment and calculation of the Interim CRC shall not have any precedent with respect to the positions that any party or the Staff may take in connection with the reserve capacity issue in DG 06-098.

Northern affirmed that the cost associated with reliability has always been included in cost of gas (COG) rate adjustments and without approval of the Settlement, firm customers will continue to pay for all total system costs net of mitigation revenues. According to Northern, the

interim CRC payable by capacity-exempt customers will operate to reduce COG costs paid by other firm customers.

In order to implement the Settlement, Northern stated that it expects to withdraw its last-filed CRC Rate Adjustment tariff sheet and replace it with a tariff sheet consistent with the Settlement. Northern also explained that Maine customers are unaffected by the settlement although Northern is urging a similar resolution of the CRC issue in Maine.

B. OCA and Staff

Both the OCA and Staff support the settlement.

IV. COMMISSION ANALYSIS

As a preliminary matter, NGC's request to intervene is granted, NGC having demonstrated rights, duties, interests or privileges affected by this proceeding as required by RSA 541-A:32, I(b) . The interests of justice and the orderly and prompt conduct of the proceedings would not be impaired by allowing the intervention. *See* RSA 541-A:32, I(c). We do not interpret Axsess Energy Group's request to be treated as an "Interested Party" as a request for intervenor status.

N.H. Code Admin. Rules Puc 203.22 (b) provides that the Commission shall approve disposition of any contested case by settlement "if it determines that the result is just and reasonable and serves the public interest." *See also* RSA 541-A:31, V(a). We conclude that the settlement presented here satisfies these criteria and we therefore approve it.

We note that the settlement does not pre-determine the reserve capacity issue in Northern's IRP docket and the Settlement does not bind the parties and Staff to any particular position in that docket. In addition, the settlement does not resolve the issue of whether

KeySpan should be required to establish a capacity reserve and, if so, how the cost should be determined and recovered.

The proposed interim CRC is a temporary charge that will be revisited shortly. In addition, we note that representatives of a wide variety of customer interests, including residential and large industrial customer interests, have executed, or are expected to execute, the settlement. Finally, the record in DG 05-080 suggests that grandfathered customers impose a risk on system reliability² and should bear some level of cost responsibility to address that perceived risk. It is expected that a full record on the matter will be developed in the IRP proceeding but, pending the outcome of that proceeding, the interim CRC rate is reasonable, as the rate is not excessive yet it still provides some relief for non-capacity-exempt firm customers.

Based upon the foregoing, it is hereby

ORDERED, that the Settlement is approved; and it is

FURTHER ORDERED, that Northern withdraw its second proposal for a CRC and file a compliance tariff with the Commission as soon as possible but in any event not later than October 31, 2006 in accordance with N.H. Admin. Rules Puc 1603.02(c).

² In the present docket, Northern has stated that “it agrees with its understanding of Staff’s position that there are policy reasons supporting recovery from only [capacity-exempt] customers for the capacity reserve, since Supplier failure associated with the unassigned transportation load poses a direct risk on the system as a whole, and that the Commission has already determined that there is a public interest benefit to having a portion of the transportation load not directly supported by assigned capacity, but rather by the reserve.” Cover letter to Northern’s March 3, 2006 filing, page 2. Northern went on to argue that “all classes of customers benefit from the reliability insurance that the reserve provides.” *Id.*

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day
of October, 2006.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary