

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 09-035

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

Petition for Permanent Rate Increase

Order Approving Temporary Rates

ORDER NO. 24,997

July 31, 2009

APPEARANCES: Gerald Eaton, Esq. for Public Service Company of New Hampshire; Meredith Hatfield, Esq., of the Office of Consumer Advocate, on behalf of residential utility ratepayers; and Edward N. Damon, Esq. and Matthew J. Fossum, Esq. for the Staff of the Public Utilities Commission

I. PROCEDURAL HISTORY

On April 17, 2009, Public Service Company of New Hampshire (PSNH or Company) filed a request for temporary distribution rates pursuant to RSA 378:27. PSNH sought an increase in distribution revenues of \$36,400,000, or about 14%, to become effective as temporary rates on July 1, 2009. On April 21, 2009, the Office of Consumer Advocate (OCA) notified the Commission that it would participate in this docket consistent with RSA 363:28. On April 30, 2009, the Commission issued an order of notice setting a prehearing conference and technical session for May 13, 2009, and a hearing on temporary rates for June 16, 2009. Prior to the prehearing conference, on May 11, 2009, Unitil Energy Systems, Inc. (Unitil) petitioned to intervene subject to certain voluntary limitations.

On May 13, 2009, PSNH filed a memorandum in support of temporary rates addressing questions about whether temporary rates could be set without the Company having filed a request for a change to its permanent distribution rates. At the prehearing conference on May 13,

2009, it was disclosed that PSNH had not published the April 30, 2009 order of notice from the Commission. As a result, the prehearing conference was continued. As reflected in a letter to the Commission filed on May 19, 2009, the Company and Staff recommended that the Commission issue a supplemental order of notice rescheduling the prehearing conference and the hearing on temporary rates. In addition, PSNH revised its request so that temporary rates would become effective on August 1, 2009. PSNH also committed to filing its notice of intent to file rate schedules pursuant to N.H. Code Admin. Rules 1604.05 on or before June 1, 2009, and its full tariff filing on or before July 1, 2009.

On May 22, 2009, a supplemental order of notice was issued setting a new prehearing conference and technical session for June 10, 2009, and a hearing on temporary rates for July 13, 2009. On May 29, 2009, PSNH filed its notice of intent to file rate schedules. On June 1, 2009, PSNH filed its affidavit of publication stating that it had published the supplemental order of notice on May 28, 2009. By secretarial letter of June 17, 2009, the Commission granted Unitil's request to intervene.

On June 30, 2009, PSNH filed its permanent rate filing along with two requests for confidential treatment of certain information and for a waiver of certain Commission filing requirements. Specifically, PSNH sought confidential treatment for documents not otherwise made public relating to officer compensation and the stock ownership of officers and directors, as well as a waiver of the requirement to file such information with respect to minor assistant officers. As to rates, the permanent rate filing requested an increase to permanent distribution revenues on an annual basis of approximately \$51,000,000. On July 30, 2009 the Commission issued an order suspending the Company's proposed tariff pages and setting a prehearing conference in the permanent rate case for August 12, 2009.

On July 6, 2009, PSNH filed a stipulation and settlement regarding temporary rates reflecting a settlement agreement between Staff of the Commission and the Company. The following day, PSNH submitted a letter withdrawing its earlier memorandum on temporary rates as the filing of the Company's permanent rate case had rendered the issues moot. The rescheduled hearing on temporary rates was held on July 13, 2009.

II. SUMMARY OF SETTLEMENT AGREEMENT

The settlement agreement recommends that PSNH be allowed to increase its distribution revenues on a temporary basis by \$25,611,000 annually during the course of the permanent rate proceeding. The increase was calculated by adjusting PSNH's original request for a \$36,400,000 increase as set forth in the agreement. The settlement agreement states that approximately \$19,000,000 of the increase is attributable to the incorporation of the Company's last allowed return on equity of 9.67%. *See Public Service Co. of New Hampshire*, Order No. 24,750 (May 25, 2007). Further, the settlement agreement states that \$6,000,000 of the increase is intended to allow PSNH to begin recovering amounts incurred during the December 2008 ice storm. According to the settlement agreement, as of December 31, 2008, PSNH had deferred \$62,700,000 in costs related to the storm. Further consideration of costs related to the storm is to be undertaken in the permanent rate portion of this proceeding.

The rates and charges resulting from the \$25,611,000 increase are calculated by adjusting all of the Company's current distribution rates and charges by a uniform percentage, as computed in the settlement agreement. According to the settlement agreement, the increase to distribution service rates, taken together with proposed simultaneous changes to PSNH's stranded cost recovery charge, energy service, and transmission cost adjustment mechanism rates, will result in a net decrease of approximately 1% in the overall rates of energy service

customers. Under the settlement agreement, PSNH and Staff are free to take different positions on any of the issues and/or adjustments included in the temporary rate settlement for purposes of determining permanent distribution rates.

III. POSITIONS OF THE PARTIES

A. PSNH

At the hearing on temporary rates, PSNH presented the testimony of Robert Baumann, Director of Revenue Regulation and Load Resources for Northeast Utilities Service Company which supplies services to various companies including PSNH, and Stephen Hall, Rate and Regulatory Services Manager for PSNH. According to the Company's witnesses, the original request for temporary rates of \$36,400,000 was based on three primary factors: (1) a shortage in test year revenues of approximately \$20,000,000; (2) pro forma adjustments of approximately \$10,000,000; and (3) recovery of costs relating to the ice storm of about \$6,000,000. Transcript of July 13, 2009 Hearing (7/13/09 Tr.) at 11-12. The amount the Company agreed to for purposes of the settlement agreement was "stripped down" to cover a test year shortage of approximately \$19,000,000, as well as ice storm related costs of about \$6,000,000. 7/13/09 Tr. at 13-14.

According to the Company's witnesses, the proposed temporary rates, when taken in combination with other changes in PSNH's rates for effect on August 1, 2009, will result in an overall decrease of approximately 1% for those taking energy service from PSNH. For those customers not taking energy service, the rate would, according to PSNH, generally increase though it is not known by how much since the Company does not know the rates of competitive suppliers. 7/13/09 Tr. at 19-20. In all, the Company supported the settlement on temporary rates

as providing a reasonable level of revenues while the Company awaited the conclusion of the permanent phase of the case. 7/13/09 Tr. at 27.

B. OCA

OCA was not a signatory to the settlement agreement, but stated that it did not oppose the agreement. 7/13/09 Tr. at 27. OCA questioned the Company witnesses about the derivation of the increases to the customer charges, and about the overall changes to the rates. 7/13/09 Tr. at 17-20. Additionally, OCA questioned Staff about the reconciliation of permanent rates, noting that there was nothing in the settlement agreement concerning reconciliation. 7/13/09 Tr. at 20. Staff responded that since temporary rates were to be effective on August 1, 2009, the rates would be reconciled to that day as is typical in these types of cases. 7/13/09 Tr. at 20.

C. Staff

Steven Mullen, Assistant Director of the Electric Division, testified for Staff. He clarified derivation of the final temporary rate amount in the settlement agreement. 7/13/09 Tr. at 22-25. Regarding the approximately \$19,000,000 adjustment included in the section on return on equity, he stated that the amount was determined by taking the Company's test year information "as is," in which the Company reported earning a return of about 6.5% and substituting the last allowed return on equity of 9.67% from the Company's last rate case, *Public Service Company of New Hampshire*, Order No. 24,750 (May 25, 2007) 92 NH PUC 124. 7/13/09 Tr. at 22-23. Essentially, the calculation, after being "grossed up" for income taxes, provided the amount needed for the Company to have met its allowed return on equity. 7/13/09 Tr. at 23.

As to the \$6,000,000 in costs related to the ice storm, Mr. Mullen stated that it did not represent any particular recovery period, only that it represented about 10% of the probable total

costs. 7/13/09 Tr. at 23. Mr. Mullen also identified other, minor adjustments, including the end of certain special pricing arrangements, a new software agreement, and changes in postage, which accounted for the remaining amount of temporary rates as defined by the settlement agreement. 7/13/09 Tr. at 24-25. He stated that Staff supported the amounts in the settlement agreement as the adjustments for return on equity and the storm costs appeared to be, on their face, reasonable. 7/13/09 Tr. at 25-26.

IV. COMMISSION ANALYSIS

Since the Staff and PSNH have put forth a settlement on temporary rates for our consideration, we employ the standard used to evaluate settlement agreements. New Hampshire Code of Administrative Rules Puc 203.20(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). However, even where all parties enter into a settlement agreement, the Commission cannot approve it “without independently determining that the result comports with applicable standards.” *Unitil Energy Systems, Inc.*, Order No. 24,677, 91 NH PUC 416, 425-426 (2006) (quotation omitted).

RSA 378:27 requires the Commission to set temporary rates at a reasonable level, that is:

sufficient to yield not less than a reasonable return on the cost of the property of the utility used and useful in the public service less accrued depreciation, as shown by the reports of the utility filed with the commission, unless there appears to be reasonable ground for questioning the figures in such reports.

See also Appeal of the Office of Consumer Advocate, 134 N.H. 651, 661 (1991). “This standard is ‘less stringent’ than the standard for permanent rates, in that temporary rates shall be determined expeditiously, without such investigation as might be deemed necessary to a determination of permanent rates.” *Id.* at 660 (citation and quotations omitted). Moreover, the

effective date of temporary rates “fixes and determines the period during which the rates allowed in the underlying permanent rate proceeding may apply.” *Appeal of Pennichuck Water Works*, 120 N.H. 562, 564 (1980). Based on the record in this case, we find the revenue increase as set forth in the settlement agreement to be appropriate and the resulting rates to be just and reasonable.

We note that the Company has indicated that it is under-earning as result of numerous factors, including increased costs of equipment and materials, and attrition. Moreover, according to the record, the increase in costs coupled with attrition appears likely to continue the Company’s under-earning. Thus, while the issues identified by PSNH will be further explored during the examination of PSNH’s filing for permanent distribution rates, we find that the records of the Company indicate that it is in need of an increase in rates on a temporary basis so as to earn a reasonable return. *See Appeal of the Office of Consumer Advocate*, 134 N.H. at 661.

As to the amount of the increase in temporary rates, as noted by Staff the single largest reason for the increase in temporary rates comes from the application of the Company’s last allowed return on equity to the test year data. As such, the increased revenues will provide the Company with the funding that it was essentially allowed to collect. Further, we find that the provision in the settlement agreement to adjust distribution rates for all rate classes by an equal percentage to be reasonable.

As regards the December 2008 ice storm, we note that in PSNH’s permanent rate filing it estimates that the costs of the storm amount to about \$66,000,000. Based on the testimony at hearing, it is likely that the Company will be able to demonstrate that recovery of at least some of those costs is appropriate, and that there is little, if any, benefit in denying PSNH the ability to begin that recovery. The \$6,000,000 recovery proposed as part of the temporary rate increase is

a fraction of the estimated costs. We find that it is a reasonable amount and that permitting recovery of that amount now will, to some degree, reduce later rate impacts to customers. In addition, we find the other adjustments to the calculation of the revenue increase to be reasonable.

Additionally, as noted by the Company at the hearing and in its filing, the approximate 10.5% increase in distribution revenues will be offset by simultaneous decreases in other rates. The resulting overall impact on customers taking energy service from PSNH will be a decrease in their bills of about 1%, while those not taking energy service will likely experience a slight increase. Thus, the increase in distribution revenues now will not have a profound impact on customers while still providing the Company with a reasonable amount of revenue. For these reasons, we approve the settlement agreement on temporary rates.

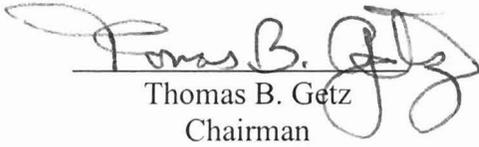
RSA 378:29 permits the reconciliation of temporary rates with permanent rates. While the settlement agreement does not address reconciliation, we note that permanent rates will be reconciled back to the effective date of temporary rates, *i.e.*, August 1, 2009. *See Appeal of Pennichuck Water Works*, 120 N.H. at 564. We do not, at this time, decide how any under- or over-recovery will be handled following the reconciliation.

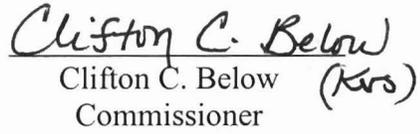
Based upon the foregoing, it is hereby

ORDERED, the settlement agreement on temporary rates is approved, with temporary rates to be effective August 1, 2009 on a service rendered basis; and it is

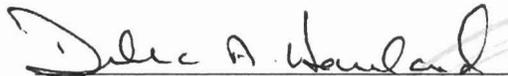
FURTHER ORDERED, that PSNH shall file with the Commission properly annotated tariff pages consistent with the settlement agreement within 10 days of the date of this order, as required by N.H. Code Admin. Rules Puc 1603.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of
July, 2009.


Thomas B. Getz
Chairman


Clifton C. Below (Krs)
Commissioner

Attested by:


Debra A. Howland
Executive Director

