

THE STATE OF NEW HAMPSHIRE

CONSUMER ADVOCATE
Meredith A. Hatfield

ASSISTANT CONSUMER ADVOCATE
Kenneth E. Traum

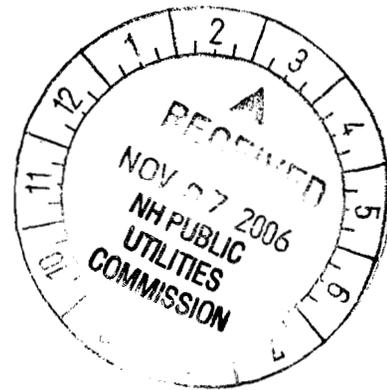


TDD Access: Relay NH
1-800-735-2964
Tel. (603) 271-1172
FAX No. 271-1177
Website:
www.oca.nh.gov

OFFICE OF THE CONSUMER ADVOCATE
21 S. FRUIT ST., SUITE 18
CONCORD, NEW HAMPSHIRE 03301-2429

November 7, 2006

Debra A. Howland
Executive Director and Secretary
State of New Hampshire
Public Utilities Commission
21 S. Fruit Street, Suite 10
Concord, New Hampshire 03301-2429



RE: DE 06-125 PSNH Default Energy Rates

Dear Ms. Howland:

Enclosed for filing with the Commission, please find an original and seven copies of Testimony of Kenneth Traum on behalf of The Office of Consumer Advocate in the above referenced matter.

Pursuant to the Puc rules copies of the within Testimony have been served on all parties in this docket by first class mail as well as electronically.

Sincerely,

A handwritten signature in cursive script, appearing to read "M. Hatfield".

Meredith A. Hatfield
Consumer Advocate

Enclosures
cc: Service List



**BEFORE THE
NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION**

In the matter of:)
Public Service Company of NH) **DE 06-125**
Energy Service Rates)

Direct Testimony

Of

**Kenneth E. Traum
Assistant Consumer Advocate**

Dated: November 7, 2006

1 **Q. Please state your name, business address and position.**

2 A. My name is Kenneth E. Traum. I am the Assistant Consumer Advocate for the Office of
3 Consumer Advocate (OCA), which is located at 21 S. Fruit Street, Suite 18, Concord,
4 New Hampshire 03301. I have been employed by the OCA for approximately 17 years.
5 I include my resume as Attachment 1.

6
7 **Q. Have you previously testified before the Commission?**

8 A. Yes. I have testified before the Commission in numerous dockets.
9

10 **Q. What is the purpose of your testimony?**

11 A. The purpose of my testimony is to respond to the anti-gaming proposal filed in
12 this docket. by Public Service Company of New Hampshire (PSNH).
13

14 **Q. Why did PSNH file an anti-gaming proposal?**

15 A. In DE 05-164,¹ the OCA raised the issue of “gaming.” In its order to adjust the
16 Energy Service rate, the Commission defined “gaming” as “the strategic
17 migration to and from PSNH’s Energy Service so as to take advantage of price
18 fluctuations in a manner that imposes unfair recovery burdens on customers that
19 may be unable to migrate due to such factors as the lack of competitive suppliers
20 sewing their market segment[,]” and the Commission agreed with the OCA’s
21 concern about the potential for gaming “given the size of the over-recovery to

¹ In this docket, the Commission adjudicated PSNH’s Proposed Transition Energy Service and Default Energy Service Rate.

1 date, the lack of any restrictions on migration to or from Energy Service and the
2 likelihood that some customers will have more ability than others to change
3 suppliers.” Re PSNH, Energy Service Rate Adjustment Proceeding, DE 05-164,
4 Order No. 24,644, June 30, 2006, slip. op. at 7. Consequently, the Commission
5 ordered PSNH “to include an anti-gaming proposal in its proposal for the Energy
6 Service rate that will be effective on January 1, 2007.”

7 **Q. What did PSNH propose?**

8 A. PSNH proposed that “any customer who is taking power from a competitive supplier
9 who then returns to Energy Service from PSNH ... be precluded from taking service
10 from the same competitive supplier for a period of six months from the date that the
11 customer resumes taking Energy Service from PSNH.” Testimony of Stephen R.
12 Hall, September 8, 2006, at p. 5. PSNH, however, did not recommend
13 implementation of an anti-gaming mechanism at this time.
14

15 **Q. Does the OCA believe that PSNH’s proposal goes far enough to protect
16 residential customers from gaming?**

17 A. No. Adopting PSNH’s alternative proposal does nothing to stop a customer from
18 moving back and forth from PSNH’s Energy Service to the competitive market
19 every month, so long as a different competitive supplier is selected.
20

21 **Q. Does the OCA think it is premature to implement an “anti-gaming”
22 mechanism?**

23 A. No. Even if the lack of an anti-gaming mechanism has not yet resulted in significant
24 cost shifting to customers who cannot choose a competitive supplier, the likelihood
25 exists that gaming will occur sooner rather than later.

1 **Q. What is the basis for your opinion?**

2 A. I presume that electric customers with competitive-supply options will act in a
3 rational fashion and take advantage of an opportunity to reduce costs once such an
4 opportunity is spotted.

5

6 **Q. Has PSNH acknowledged the probability for gaming its Energy Service
7 offering?**

8 A. Yes. In response to a data request of the OCA, PSNH stated, "In prior planning
9 periods, the potential for migration was considered remote and, as such, fixed-price
10 bilateral purchase contracts were executed to establish a secure power supply with
11 minimal exposure to market volatility." PSNH Response to OCA Data Request Set
12 1, No. 2, at bullet 3 (See Attachment 2). Further, PSNH stated "For 2007, PSNH
13 considers the potential for migration to be significant, especially after the volatile
14 winter months of January and February are completed." Id., at bullet 4.

15

16 **Q. Please provide an example of how a competitive supplier and a customer could
17 game PSNH's current Energy Service mechanism.**

18 A. For this example, please assume that the Energy Service rate is set at .09 per kWh
19 for all of 2007, but the actual costs to PSNH to meet the load during 2007 vary from
20 .12 per kWh in January, February, March, July, August and September to .06 per
21 kWh for the remaining months. A customer with competitive supply options could
22 take power from PSNH in the six high-cost months at .09 per kWh and then take
23 power from a competitive supplier in the six lower-cost months. Let's also assume
24 that this gaming customer uses one million kWh per month all year round. The
25 difference between what the gaming customer paid PSNH and PSNH's costs during
26 the six high-cost months is \$180,000, which difference would normally be recovered

1 by PSNH and paid by the gaming customer in the six lower-cost months. However,
2 if the gaming customer opts to take service from a competitive supplier in the six
3 lower-cost months, then that \$180,000 shifts to all remaining customers on PSNH's
4 Energy Service to the gaming customer's economic benefit.

5
6 **Q. Could you analogize "gaming" in the electric market with to gaming in another
7 market?**

8 A. Yes. The analogy that I would offer is that of a residential homeowner who must
9 decide whether or not to enter into a pre-buy home heating oil contract for the
10 winter.

11
12 **Q. Please explain further.**

13 A. I use heating oil to heat my home. Every year, before the heating season, my oil
14 dealer offers me a pre-buy oil contract at a fixed rate per gallon. I can respond to
15 this offer in one of several ways. I can enter at that time into a fixed-rate contract for
16 deliveries during the heating season. In doing so, I risk losing the opportunity to pay
17 any lower prices for oil during the heating season. Also, I can opt to pay for each
18 delivery during the heating season based upon then-current market prices. In doing
19 so, I risk paying higher prices during the heating season. Lastly, I can look to the
20 market for a different dealer who might offer me a fixed-price contract with the
21 provision that if market prices go below a certain number, then I would pay the
22 lower rate. If I opt for the last of these options, I pay a higher, up-front, fixed price
23 in exchange for the benefit of paying which ever price is lower at the time of the
24 delivery.

25

1 **Q. Along the continuum of the options in your heating-oil analogy, where do the**
2 **Energy-Service gaming customers fall?**

3 A. The Energy-Service gaming customers most closely resemble heating-oil customers
4 choosing the last option described above. However, there is one significant
5 difference. The Energy-Service gaming customers would not pay a premium or
6 higher, up-front, fixed price for the ability to pay the lower of the rates for
7 competitive supply or PSNH's Energy Service. Instead, the Energy-Service gaming
8 customers pay the lower price and shift the premiums associated with this choice to
9 customers who lack competitive options.

10

11 **Q. What should the Commission do about the probable gaming problem?**

12 A. The Commission should discourage misuse of energy service by some customers to
13 the detriment of others. The Commission should require PSNH to incorporate
14 within its Energy Service offering sufficient protection against gaming.

15

16 **Q. Upon what legal basis would the Commission act as you propose?**

17 A. RSA 374-F:3 V, (c) authorizes the Commission to "implement measures to
18 discourage misuse or long-term use of [Energy Service]" if doing so is in the public
19 interest. Further, RSA 374-F:3 VI, requires "restructuring of the electric utility
20 industry [to] be implemented in a manner that benefits all consumers equitably and
21 does not benefit one customer class to the detriment of another." RSA 374-F:3, VI,
22 also prohibits the unfair shifting of costs among customers.

23

24 **Q. How could the Commission require PSNH to protect customers without**
25 **competitive choice from gaming?**

1 A. There are several options. The first option is to require a customer who migrates to a
2 competitive supplier and then returns to PSNH's Energy Service to remain on
3 Energy service for at least 12 months thereafter. Currently, the migration of New
4 Hampshire natural gas customers of KeySpan, Northern Utilities and PSNH's sister
5 utility Connecticut Light & Power are similar restricted. This option is also similar
6 to PSNH's six-month proposal, but the restriction on migration following the return
7 to PSNH's Energy Service would apply to all competitive suppliers not just the one
8 from which the customer had migrated.

9
10 The second option is to bill customers with competitive supply options a monthly
11 rate based upon PSNH's costs for the month. In New Hampshire, National Grid and
12 Unitil bill their large customers a rate which varies monthly. A variation on this
13 option is used in Massachusetts by PSNH's sister utility, Western Mass Electric Co.
14 (WMECO). Specifically, WMECO initially bills the customer a flat rate for the
15 year, but if they opt to leave during the year to go to a competitive supplier,
16 WMECO recalculates their bill to reflect monthly costs. The OCA, however,
17 disagrees with the WMECO approach for two reasons: first, it is similar to
18 retroactive ratemaking in some ways; and, second, it may discourage customers
19 from leaving for the competitive market even when competitive rates might be lower
20 in the future..

21
22 The third option is to split PSNH's generation among large and small customer
23 classes and then develop separate Energy Service rates for the two classes.
24 Although neither National Grid nor Unitil own any generation assets, both currently
25 have separate Energy Service rates for their two classes. In light of the uncertainty

1 associated with the future of PSNH's ownership of generation assets, however, the
2 OCA does not recommend this approach.

3
4 The fourth option is to model the anti-gaming mechanism on the "pre-buy" approach
5 discussed earlier. Specifically, this alternative would require customers with
6 competitive-supply options to pay a built-in premium for the right to migrate back
7 and forth between the less expensive rates of the competitive supplier and the
8 PSNH's Energy Service.

9
10 The fifth option is to assign to and require the payment of any loss attributable to
11 gaming by the customer class engaging in the gaming.

12
13 **Q. Which option does the OCA recommend?**

14 A. The OCA recommends the first option.

15
16 **Q. How will the implementation of an anti-gaming policy like this impact PSNH's
17 planning for the amount of load it will serve?**

18 A. The implementation of such an anti-gaming policy should make PSNH's planning
19 for load somewhat more straightforward.

20
21 **Q. Please explain.**

22 A. PSNH has indicated that it does not know whether to plan for no migration or vast
23 amounts of it. In addition to protecting customers without competitive supply
24 options from costs shifted as a result of gaming, implementing an anti-gaming policy
25 would have the additional benefit of reducing PSNH's uncertainty about how much
26 load to plan and contract for, as customers would not be able to migrate back and

1 forth to the lowest cost provider. Reducing PSNH's planning uncertainty should
2 reduce costs to all energy service customers.

3

4 **Q. Please summarize your recommendations and the OCA's position.**

5 **A.**The Commission should take steps now to prevent the inevitable occurrence of
6 gaming and the financial harm to customers without competitive supply options that
7 will result from gaming. RSA 374-F:3, VI, and RSA 374-F:3, V (c), authorize the
8 Commission to implement an anti-gaming policy or mechanism, and the
9 Commission's failure to do so would be contrary to these statutes.

10

11 **Q. Does this complete your testimony?**

12 **A.**Yes.

Qualifications of Kenneth E. Traum

My name is Kenneth E. Traum. I am the Assistant Consumer Advocate for the Office of Consumer Advocate (OCA). My business address is 21 S. Fruit Street, Suite 18, Concord, New Hampshire 03301. I have been affiliated with the OCA for approximately seventeen (17) years.

I received a B.S. in Mathematics from the University of New Hampshire in June, 1971, and an MBA from the same University in June, 1973. Upon graduation, I first worked as an accountant/auditor for a private contractor and then for the New Hampshire State Council on Aging before going to the New Hampshire Public Utilities Commission (NHPUC) in February, 1976. At the NHPUC, I started as an Accountant III, advanced to a PUC Examiner and finally, became Assistant Finance Director.

In my positions with the NHPUC, I was involved in all aspects of rate cases, assisted others in the preparation of testimony and presented direct testimony, conducted cross-examination of witnesses, directed and participated in audits of utilities and performed other duties as required. While employed at the NHPUC, I was a member of the NARUC Staff Subcommittee of Accounts and attended the NARUC Regulatory Studies Program at Michigan State.

In 1984, I left the NHPUC for Bay State Gas Company. With Bay State, I was involved in various aspects of financial analysis for Northern Utilities, Inc., Granite State Gas Transmission, Inc., and Bay State Gas Company, as well as regulatory activities with regard to Maine, New Hampshire, Massachusetts and the FERC.

In early 1986, I returned to New Hampshire to join the Energy/North companies, where my areas of responsibility included cash management, regulatory affairs, forecasting and other financial matters. While with EnergyNorth, I was a member of the New England Utility Rate Forum and the New England Gas Association. I also represented the utility, which is the largest natural gas utility in New Hampshire, over a two year period in the generic Commission docket (DE 86-208) which developed a methodology for conducting gas marginal cost studies.

In 1989, I joined the Office of Consumer Advocate with overall responsibility for advising the Consumer Advocate and its Advisory Board on all Financial, Accounting, Economic and Rate Design issues which arise in the course of utility ratemaking or cases concerning determinations of revenue responsibility, competition, mergers, acquisitions and supply/demand issues. I assist the Consumer Advocate and the OCA Advisory Board in formulating policy and follow through to ensure that policy is implemented by the Office. In that role, I have testified before the NHPUC on many occasions. In early 2005, I was promoted to Assistant Consumer Advocate.

I am a member of the NASUCA (National Association of State Utility Consumer Advocates), Committees on Electricity, Economics and Finance, and Gas.

I am also Chairman of the Board of Directors for Granite State Independent Living as well as their Co-Chair for their Finance Committee and serve on the Advisory Board for N.H. Dig Safe.

Public Service Company of New Hampshire
Docket No. DE 06-125

Data Request NOCA-01
Dated: 10/06/2006
Q-OCA-002
Page 1 of 1

Witness: Richard C. Labrecque
Request from: Office of Consumer Advocate

Question:
How does PSNH plan purchases/sales recognizing the possibility of significant migration due to customer choice?

Response:
The current 2007 supplemental purchase plan includes the following elements to account for potential migration:

1. The base assumption is that 100% of the customers who are currently receiving energy service from a competitive supplier will return to PSNH Energy Service prior to January 1, 2007.

2. A monthly on-peak and off-peak supplemental purchase requirement is developed by subtracting PSNH's forecasted resource production from the base load forecast. This resource production includes owned generation, IPPs, Vermont Yankee and any other firm purchase commitments.

3. In prior planning periods, the potential for migration was considered remote and, as such, fixed-price bilateral purchase contracts were executed to establish a secure power supply with minimal exposure to market volatility.

4. For 2007, PSNH considers the potential for migration to be significant, especially after the volatile winter months of January and February are completed.

5. If market prices in March through December 2007 (or any subset of that period) decrease significantly below current levels, PSNH anticipates a quantity of migration similar to that experienced in 2006.

6. PSNH is considering the following alternative approaches:

(a) Leave unhedged a quantity of power to account for a base level of expected migration. If prices decline and migration occurs, this option would result in an over-collection and, perhaps, allow for a mid-year downward rate adjustment. If prices increase (e.g. due to a severe winter and tight natural gas market conditions), migration will not occur and these MWHs would be purchased at average prices in excess of those used in the rate forecast. This would create an under-collection.

(b) Leave unhedged a quantity of power to account for a base level of expected migration. However, PSNH would purchase "Call Options" that provide the option to procure power at fixed-prices at a later date. The cost of these Call Options is significant and would need to be included in the initial ES rate. If prices decline and migration occurs, the Call Options would not be exercised. As in scenario (a), an over-collection would result. If market prices increase, migration will not occur. The Call Options would be exercised to establish a secure, fixed-price power supply for these MWHs. There would be minimal impact on over- or under-collection.