

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

October 19, 2009 - 10:35 a.m.
Concord, New Hampshire

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RE: DE 09-180
PUBLIC SERVICE OF NEW HAMPSHIRE:
Proposed 2010 Default Energy
Service Rate.
(Prehearing conference)

PRESENT: Commissioner Amy L. Ignatius, Presiding

Sandy Deno, Clerk

APPEARANCES: Reptg. Public Service of New Hampshire:
Gerald M. Eaton, Esq.

Reptg. TransCanada Power Marketing:
Douglas L. Patch, Esq. (Orr & Reno)

Reptg. Freedom Logistics & Halifax-American:
Bart Fromuth

Reptg. Residential Ratepayers:
Meredith Hatfield, Esq., Consumer Advocate
Kenneth E. Traum, Asst. Consumer Advocate
Office of Consumer Advocate

Reptg. PUC Staff:
Suzanne G. Amidon, Esq.
Steven E. Mullen, Asst. Dir. - Electric Div.

Court Reporter: Steven E. Patnaude, LCR No. 52

ORIGINAL

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I N D E X

PAGE NO.

STATEMENTS REGARDING INTERVENTION BY TRANSCANADA:

Mr. Patch	5, 7
Mr. Eaton	7
Ms. Hatfield	8

STATEMENTS REGARDING INTERVENTION BY HALIFAX-AMERICAN AND FREEDOM LOGISTICS:

Mr. Fromuth	10
Mr. Eaton	11
Ms. Hatfield	11

* * *

STATEMENTS OF PRELIMINARY POSITION BY:

Mr. Eaton	12
Mr. Patch	13
Ms. Hatfield	13
Ms. Amidon	15

P R O C E E D I N G

CMSR. IGNATIUS: We will open the proceeding in docket DE 09-180, which was opened upon a filing by Public Service Company of New Hampshire on September 24th, 2009, a petition to establish its Default Service Energy rate -- or, its Default Energy Service rate, for effect with service rendered on or after January 1, 2010. With the petition, PSNH filed supporting Testimony of Robert Baumann. At the time of the filing, PSNH provided preliminary calculations of an Energy Service rate of \$0.0931 per kilowatt-hour for effect beginning January 1, 2010, which would be an increase over the current Energy Service rate.

According to PSNH, it's not asking the Commission to approve a particular rate at this time, but will revise its calculations prior to the hearing on the petition to reflect the most recent estimates of fuel and energy prices.

And, with that, let me take appearances please.

MR. EATON: Madam Commissioner, for Public Service Company of New Hampshire, my name is Gerald M. Eaton.

CMSR. IGNATIUS: Good morning.

1 MR. EATON: Good morning.

2 MR. FROMUTH: Bart Fromuth, for
3 Halifax-American.

4 CMSR. IGNATIUS: I'm sorry, can you say
5 your name again? I didn't hear it.

6 MR. FROMUTH: Bart Fromuth, for
7 Halifax-American.

8 CMSR. IGNATIUS: Mr. Fromuth, is that
9 right?

10 MR. FROMUTH: Yes. I am here actually
11 for Freedom Logistics, too. I'm sorry.

12 CMSR. IGNATIUS: All right. Thank you.
13 Yes.

14 MR. PATCH: Douglas Patch, for
15 TransCanada Power Marketing, Limited.

16 CMSR. IGNATIUS: Thank you.

17 MS. HATFIELD: Good morning. Meredith
18 Hatfield, for the Office of Consumer Advocate, on behalf
19 of residential ratepayers. And, with me is Ken Traum.

20 CMSR. IGNATIUS: Good morning.

21 MS. AMIDON: Good morning, Commissioner.
22 Suzanne Amidon, for Commissioner -- for Commission Staff.
23 And, with me today is Steve Mullen, who is the Assistant
24 Director of the Electric Division.

1 CMSR. IGNATIUS: Good morning. It
2 appears in the records that publication was made and filed
3 with the Commission, and check with the Clerk that that's
4 in the file? Thank you very much.

5 We have three requests for intervention:
6 TransCanada Power Marketing, Limited; Freedom Logistics,
7 LLC, and Halifax-American Energy Company, LLC. I will ask
8 for some expanded explanation for why the intervenors
9 request intervention. There's a full description of what
10 the companies do and what the docket is, but just a
11 statement that sort of "therefore, an entitlement to
12 intervention". And, I will tell you straight out I find
13 lacking some connection between what those three companies
14 do and why their interests are affected by this particular
15 proceeding.

16 So, perhaps, Mr. Patch, if you want to
17 go first and explain on why it is that this docket raises
18 issues that would justify intervention under the statute,
19 I'd appreciate it.

20 MR. PATCH: Sure. Is it okay if I sit?
21 I don't know if you can hear me.

22 CMSR. IGNATIUS: Of course.

23 MR. PATCH: Thank you. TransCanada
24 Power Marketing, limited, is a competitive supplier here

1 in the State of New Hampshire. And, TransCanada, the
2 parent company, is an owner of generation here in the
3 State of New Hampshire, the hydropower facilities on the
4 Connecticut River. The order of notice mentions
5 specifically a couple of issues that were of particular
6 interest to, in particular, to the marketing entity. And,
7 if you look at the order of notice, it says "how to
8 address the rate impacts resulting from customer
9 migration", "whether those impacts are consistent with the
10 restructuring principles of RSA 374-F". And, so, --
11 there's also been, I think, a couple of articles in the
12 newspaper about at least PSNH considering the potential
13 for transferring some costs onto the distribution rate.

14 And, so, TransCanada has an interest,
15 both of those entities, but, again, particularly the
16 marketing entity, and whether or not, if they are going to
17 be transferred onto the distribution rate or how are those
18 costs going to be recovered, and what impact that might
19 have on its business interests here in the State of New
20 Hampshire.

21 So, we feel that we have shown
22 sufficient rights, privileges, responsibilities that are
23 impacted pursuant to the provisions of RSA 541-A, the
24 Administrative Procedures Act. And, then, also, the rule,

1 the Public Utilities Commission's rule, Puc 203.17.

2 CMSR. IGNATIUS: Any response from any
3 of the parties or Staff or positions on the request for
4 intervention by TransCanada?

5 MR. EATON: I believe, if the Commission
6 has the authority to limit intervention to certain issues,
7 and we have no objection if the intervention is limited to
8 the issue of migration.

9 MR. PATCH: Can I respond?

10 CMSR. IGNATIUS: Yes, Mr. Patch.

11 MR. PATCH: The other issue that is
12 specifically raised in the order of notice that I think is
13 of particular importance is with regard to whether the
14 impacts are consistent with the restructuring principles
15 of RSA 374-F. So, if our intervention were to be limited
16 as Mr. Eaton just suggested, then I think it would
17 basically tie the hands of TransCanada unnecessarily.
18 And, it's hard to know, if you look at the overall issues,
19 I'm looking at the final paragraph before the "Based upon
20 the foregoing", Page 2 of the order of notice, some of
21 these issues interrelate.

22 Again, we're particularly interested in
23 the customer migration issue and how that impacts on the
24 rates. So, if we're just limited to the customer

1 migration issue, then it seems to me that we're -- our
2 hands are tied unnecessarily. Because that impacts on
3 some of the other issues that are raised earlier in that
4 paragraph, "actual, prudent and reasonable costs of
5 providing such service", I mean, we don't know until we
6 get into this docket what some of those issues are. So,
7 again, the focus of our attention is that, and the 374-F
8 issues. But I think they're so intertwined that it would
9 be unfortunate if our intervention were limited in that
10 fashion.

11 CMSR. IGNATIUS: Ms. Hatfield, you have
12 a comment.

13 MS. HATFIELD: Thank you. The OCA
14 supports full intervention for TransCanada. There may be
15 instances in this type of docket where, as Mr. Patch
16 noted, larger restructuring policy principles are raised
17 where the OCA and TransCanada may actually disagree. But
18 we think that, in light of the issues that PSNH has raised
19 in its filing related to migration and the impacts on
20 customers who are captive, we think it would be helpful to
21 hear the perspective of the competitive suppliers.

22 We do think that, in the discussion of
23 what the options might be to address that issue, there
24 might be information that PSNH might seek to protect from

1 competitive suppliers. But we think that that can be
2 managed through confidentiality protection in the docket.

3 CMSR. IGNATIUS: Other comments either
4 in response to Mr. Patch or Ms. Hatfield's suggestions?

5 (No verbal response)

6 CMSR. IGNATIUS: Mr. Eaton, I have a
7 question. Do you have see an opportunity for broader
8 involvement from TransCanada than you had suggested than
9 just the issue of migration, but with the opportunity for
10 protection of certain competitive issues as Ms. Hatfield
11 suggests?

12 MR. EATON: Yes. We would have sought
13 protection for competitive information, and also to
14 restrict dissemination of that information to just the
15 Office of Consumer Advocate and the Staff, as we have done
16 in the past. And, so, with that, we will assent to a
17 broader participation by TransCanada.

18 CMSR. IGNATIUS: Other comments?

19 (No verbal response)

20 CMSR. IGNATIUS: All right. I
21 appreciate that. I think, if one element of an early,
22 either in the tech session or early discussion among all
23 of the participants, would be some delineation of where
24 those lines will be drawn or at least agreement on a

1 process to determine where those lines will be drawn, if
2 they can't be worked out immediately.

3 The intervention request brought by Mr.
4 Rodier and Mr. Fromuth, on behalf of Halifax-American
5 Energy Company and Freedom Logistics, LLC, Mr. Fromuth, I
6 had the same sense reading it, it was very detailed and
7 useful on what the companies did and on issues in the
8 docket, but then didn't really make a link between those
9 two things, and just stated that there was a "strong
10 interest in the outcome of this proceeding" that could
11 affect the rights, duties, privileges of the companies.

12 So, can you provide me with a little
13 more detail on how you connect the two pieces together, of
14 what the companies do and what this docket will do, and
15 why your interests are affected?

16 MR. FROMUTH: Yes, Commissioner. I was
17 a last second substitute for Attorney Rodier, who has been
18 working on this. I would have liked to have relied,
19 obviously, on the Motion for Intervention put forth by
20 him. But, as you pointed out, it is somewhat deficient in
21 terms of your understanding of why it would point out the
22 necessity of our involvement here.

23 I would then cite Mr. Patch's arguments
24 for Halifax-American and Freedom Logistics, in terms of

1 competitive supply, especially in terms of the consumer
2 migration and how that might impact rates going forward.

3 CMSR. IGNATIUS: All right.

4 MR. FROMUTH: But, in terms of my own
5 involvement, as far as up to this point, I have a very,
6 very loose understanding of what has transpired in terms
7 of Mr. Rodier's influence.

8 CMSR. IGNATIUS: All right. Comments
9 from Mr. Eaton or any other participants?

10 MR. EATON: I believe I have the same
11 comments that, if these parties can focus on the issue of
12 migration and ask what other questions that are relevant
13 to whether PSNH's filing is consistent with the
14 restructuring principles of 374-F, and the same type of
15 caveat about how we would handle competitive information,
16 that we could assent to the intervention of these two
17 parties.

18 CMSR. IGNATIUS: All right. Any other
19 comments? Ms. Hatfield.

20 MS. HATFIELD: Thank you. I would just
21 agree with Mr. Eaton, and think that, if one competitive
22 supplier is allowed intervention, then others should
23 probably be afforded the same opportunity.

24 CMSR. IGNATIUS: All right. And,

1 although we're speaking of the filings as if it was one,
2 it's really one filing of two different Petitions to
3 Intervene submitted by Mr. Rodier. So, I assume the
4 arguments are the same, whether we're talking about
5 Freedom Logistics or Halifax-American Energy Company?

6 (No verbal response)

7 CMSR. IGNATIUS: And, I see no complaint
8 with that, so I'll assume that that's correct. All right.
9 I appreciate that. The next thing then would be to hear
10 preliminary positions of the parties on the filing. Mr.
11 Eaton.

12 MR. EATON: Yes, Madam Commissioner.
13 The issues involved in this proceeding are more -- are
14 more detailed than in the Stranded Cost Recovery Charge.
15 We're seeking to set a rate for 2010, that those costs are
16 estimated at this time and will be reconciled in the
17 proceeding that we will have in the subsequent year. And,
18 it's outlined in our prefiled testimony of Mr. Baumann the
19 costs that are changing. And, of course, one of the major
20 costs is migration. We didn't propose anything specific
21 on how that could be addressed, but we think we can
22 discuss that with the parties and perhaps come up with
23 something that will help address that matter.

24 CMSR. IGNATIUS: Thank you.

1 Mr. Fromuth, any positions at this stage of the
2 proceeding?

3 MR. FROMUTH: None at this time.

4 CMSR. IGNATIUS: All right. Mr. Patch?

5 MR. PATCH: We don't have a position at
6 this stage. And, I would just cite to the fact that PSNH,
7 in the Baumann prefiled testimony, Page 6, at the bottom,
8 "Does PSNH have a proposal at this time that would address
9 the issues raised above?" Those issues being customer
10 migration, the impact on the rate, and some of the issues
11 we've already discussed. And, the response is "Not at
12 this time. PSNH believes that any solution to this issue
13 should be vetted by all interested parties through
14 technical session discussions." So, we don't have a
15 position, because there's really nothing specific to
16 respond to yet.

17 CMSR. IGNATIUS: All right. Ms.
18 Hatfield.

19 MS. HATFIELD: Thank you. The OCA is
20 still reviewing PSNH's filing. But I did want to
21 highlight a couple of issues. One is one that we've
22 already talked quite a bit about already this morning, and
23 that is the impact of increased migration levels. As PSNH
24 has stated in Mr. Baumann's testimony that that has put

1 upward pressure on the Energy Service rates, such that the
2 filing is approximately 5 percent higher than it would
3 have been absent migration. And, PSNH goes on to say that
4 "the end result is that certain customers that are unable
5 to switch to a third party, predominantly residential
6 customers, are now shouldering additional fixed costs,
7 while those who can switch to a competitive supplier are
8 able to seek lower market rates." That's certainly a
9 concern for the OCA.

10 We also look forward to any possible
11 solutions that PSNH might propose. I do, though, want to
12 just note that, given the fact that we have less than two
13 months between now and the hearing, and potentially some
14 major issues related to the restructuring policy
15 principles and where we find ourselves today, that it's
16 possible that this might need to be a longer conversation
17 than one that we can have in the next two months.

18 Another specific issue that we'll want
19 to be looking at is the issue of how PSNH plans for
20 migration, what assumptions they make, and what
21 information and analysis goes into those assumptions. If
22 I remember correctly, last year or this calendar year,
23 during the mid year update, PSNH stated that their
24 assumption for migration is based just on actuals. And, I

1 think that that can be problematic if the Company is only
2 assuming the actual number and using that as a projection.
3 I think we would want to work with the Company so that
4 they had a more sophisticated approach to developing what
5 their migration assumption is, to try to protect
6 customers, like small business and residential customers,
7 who don't have the opportunity to choose.

8 So, we think there are a lot of issues
9 to be discussed. We'll certainly work with the other
10 parties to try to do that in the time that we have. But I
11 did just want to note that this is a larger -- there are
12 some larger questions at issue that might take more time.

13 CMSR. IGNATIUS: Thank you. Ms. Amidon.

14 MS. AMIDON: Thank you. Staff has
15 already commenced discovery, we've issued a set of data
16 requests, and we continue to review the docket. We will
17 propose a procedural schedule, which we hope will allow
18 everybody to, you know, thoroughly examine the docket, and
19 including the issue about customer migration, and we'll
20 provide the Commission with a proposed procedural schedule
21 sometime after the technical session today.

22 CMSR. IGNATIUS: All right. Is there
23 anything further then for this morning?

24 (No verbal response)

1 CMSR. IGNATIUS: If not, I'll close the
2 hearing in this case and await word on a procedural
3 schedule. And, also, I should note that I, because it's
4 only me here today, and Chairman Getz and Commissioner
5 Below are at a meeting in Boston, there can't be an actual
6 ruling, I'd rather not do an actual ruling on the
7 interventions, I'll take that under advisement, but my
8 recommendation would be that they both be granted -- all
9 three of them, excuse me, be granted with the conditions
10 that we've talked about this morning. Thank you.

11 (Whereupon the prehearing conference
12 ended at 10:57 a.m., and the Staff and
13 the Parties convened a technical session
14 thereafter.)
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