

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 12-295

PNE ENERGY SUPPLY, LLC D/B/A POWER NEW ENGLAND

**Petition for Review of Public Service Company of New Hampshire Service Charges to
Competitive Electric Suppliers**

Order Following Hearing

ORDER NO. 25,603

December 13, 2013

APPEARANCES: James T. Rodier, Esq. and Sheehan, Phinney, Bass & Green PA by Christopher Cole, Esq. on behalf of PNE Energy Supply, LLC; Murtha Cullina LLP by Robert J. Munnelly, Jr. on behalf of North American Power & Gas, LLC; Orr & Reno by Douglas L. Patch, Esq. on behalf of Retail Energy Supply Association; Bernstein, Shur, Sawyer & Nelson, PA by Christopher G. Aslin, Esq. on behalf of Electricity N.H. LLC; Matthew J. Fossum, Esq. on behalf of Public Service Company of New Hampshire; and Suzanne G. Amidon, Esq. on behalf of Commission Staff.

I. PROCEDURAL HISTORY

On October 1, 2012, PNE Energy Supply, LLC d/b/a Power New England (PNE) filed a petition and accompanying testimony requesting that the Commission review the reasonableness and appropriateness of the approved charges for Selection Services, Billing and Payment Services, and Collection Services (collectively, Competitive Supplier Charges) billed by Public Service Company of New Hampshire (PSNH or Company) to competitive electricity power suppliers (CEPS). The relevant portions of the tariff provisions cited by PNE are as follows:

1) Selection Charge—The Company will be entitled to make a Selection Charge for any changes initiated by a Customer, Supplier or authorized agent to a different Supplier or to Default Service or Self Supply. For customers who are currently taking Supplier Service, Default Service or Self-Supply Service, the Selection Charge will be assessed to the new Supplier at the time the Company receives an enrollment transaction from the new Supplier. For Customers who are currently taking Supplier Service, the Selection Charge will be assessed to the existing Supplier at the time the Company receives a drop transaction from the existing Supplier. The Selection Charge will be assessed to the

Customer if the Customer terminates Self-Supply Service and receives Default Service or initiates Self-Supply Service when receiving Default Service or Supplier Service. Selection Charge---\$5.00.

2) Billing and Payment Service Charge—The Company will provide Billing and Payment Service as an option to Suppliers who have entered into a written agreement for Billing and Payment Service with the Company for a minimum of one year. The monthly Billing and Payment Service Charge, listed below, is for billing arrangements which can be accommodated by the Company's billing systems without significant programming changes. Billing and Payment Service Charge---\$0.50 per bill rendered.

3) Collection Services Charge---The Company will provide Collection Services in conjunction with Billing and Payment Service for Suppliers who have entered into a written agreement for such service with the Company for a minimum of one year. Collection Services Charge---0.252% of total monthly receivable dollars.¹

PNE's petition did not request any rate relief but stated that any resulting rate adjustment would take place in a subsequent PSNH rate case. The Commission issued an Order of Notice on November 21, 2012. The Order of Notice stated that PSNH qualified as an intervenor pursuant to RSA 541-A:32 and is a necessary party to this docket. On December 13, 2012, the Office of Consumer Advocate (OCA) filed a letter with the Commission indicating that it would be participating in the docket pursuant to RSA 363:28. The Commission granted intervention to the following parties: North American Power & Gas (NAPG), Retail Energy Supply Association (RESA) and Electricity N.H. LLC (ENH Power).

Discovery ensued pursuant to a procedural schedule approved by the Commission via a secretarial letter dated March 20, 2013. The procedural schedule included discovery, the filing of testimony by RESA, ENH Power and NAPG, and rebuttal testimony by PSNH.² The hearing was held as scheduled on October 10, 2013. Pursuant to the Commission's ruling at hearing, the parties filed closing statements on October 28, 2013. On November 7, 2013, RESA, on behalf of

¹ Electricity Delivery Service Tariff— NHPUC No. 8, Pages 31 through 40. PSNH's "Services and Schedule of Charges" are found in Section 2, pages 32 through 36.

² For additional information on the procedural history of this docket, see Order No. 25,478 (March 5, 2013) denying PSNH's motion to dismiss PNE's petition and granting interventions, and Order Nos. 25,528 (June 25, 2013) and 25,576 (September 25, 2013) addressing discovery disputes in this docket.

intervenors, and PNE each filed letters providing supplemental information. PSNH filed a motion to strike the supplemental information on November 12, 2013. PNE, on behalf of itself and intervenors, filed an objection to PSNH's motion to strike on November 14, 2013.

II. POSITIONS OF THE PARTIES AND STAFF

A. RESA

In its closing brief, RESA stated that PSNH testified at hearing that the Commission approved the Competitive Supplier Charges in 1999 in connection with the Company's restructuring docket (DE 09-099) and that the Company never recalculated the Competitive Supplier Charges since they were first approved 13 years ago. RESA Brief at 2. RESA emphasized that although PSNH has had three rate cases since the time the Competitive Supplier Charges were first approved by the Commission, PSNH has never provided cost justification for the charges in those subsequent rate case proceedings. *Id.* at 2-3. According to RESA, PSNH has taken the position that the reason it did not provide any cost justification in rate proceedings after 1999 was that no one intervened to raise any issue about the Competitive Supplier Charges. Further, the Company prefers to wait until the next rate case to do an embedded cost of service study to determine whether the Competitive Supplier Charges are justified. *Id.* at 3.

Referring to the record, RESA pointed out that not only did PSNH fail to offer cost-justification for the Competitive Supplier Charges, but PSNH testified that it had applied the Selection charge to both the new CEPS (the CEPS selected by the customer) and the legacy supplier (the CEPS for which the customer discontinued service) in the case of a customer switch from one CEPS to another, thus collecting \$10.00 for a single transaction. *Id.* at 4-5.

RESA also argued that PSNH collected some of the same costs included in the Competitive Supplier Charges through distribution rates and through the Competitive Supplier

Charges. RESA claimed that it is unusual for a distribution company to provide collection services because the trend in the industry is toward a purchase of receivables program where the distribution company buys the entire receivable. RESA asserted that charges for collection services should be on an equal footing with charges for default service, and because every electric customer gets a bill, it would be reasonable to allocate the cost of providing billing and collection service to all customers. *Id.* at 5-7. RESA concluded by requesting that the Commission direct PSNH to discontinue the Competitive Supplier Charges. *Id.* at 9.

On November 7, 2013, RESA filed a letter with supplemental information regarding PSNH's failure to revisit the \$5.00 Selection Charge. RESA pointed to Order No. 23,659 (March 22, 2001) 86 NH PUC 170 where the Commission addressed the Selection Charge. In that Order, the Commission stated its concern that the \$5.00 charge might not be cost-based and that the Commission expected "to consider that question in the next rate case, and we also intend to revisit the issue of whether it is appropriate to impose this charge on the customer or the supplier." *Id.* at 177-78. RESA November 7, 2013 Letter at 1. RESA stated that PSNH did not raise the issue in its 2003 rate case, or in any of its subsequent rate cases. RESA stated that the language in Order No. 24,369 strengthens its argument that the Commission should prevent PSNH from continuing to bill the Selection Charge until the Commission finds that it is just and reasonable, and recovers PSNH's costs and nothing more. *Id.* at 2.

B. PNE

PNE made four arguments in its closing. First, PNE argued that PSNH, and not the petitioner, should bear the burden of proving that its Competitive Supplier Charges are just and reasonable. PNE Brief at 2-3. According to PNE, only PSNH can produce the "economic justification and reasonableness of the charges at issue...." *Id.* at 3. In addition, PNE claimed

that the intervenors' prefiled and live testimony established a sufficient basis to shift the burden of persuasion from the petitioner to PSNH to demonstrate the reasonableness of the charges.

PNE noted that the revenue to PSNH from all of the charges at issue was over \$1 million for the 12-month period ending May 31, 2013. Further, such charges are material to the business of the CEPS and to the rapidly emerging competitive marketplace. *Id.* at 4.

Second, PNE alleged that PSNH improperly "double charges" the Selection Charge in certain circumstances. *Id.* at 5. According to PNE, the hearing exposed a substantial difference between the CEPS and PSNH over the interpretation of Section 2(a) of PSNH's Tariff. PNE claims that since July 2010 PSNH has improperly doubled the \$5.00 Selection Charge in connection with customer changes from one supplier to another supplier by charging \$5.00 to the new CEPS and \$5.00 to the legacy CEPS. *Id.* PNE noted that PSNH admitted that it charged both CEPS in such a transaction even though the CEPS who is dropped does not initiate the transaction. *Id.* at 6. PNE argued that the language of the Tariff makes it clear that a single fee, not a double fee, is contemplated. *Id.* at 7.

Third, PNE argued that because PSNH did not provide any data with respect to the reasonableness of the Competitive Supplier Charges, the charges must be presumed to be unjust and unreasonable. *Id.* at 8. PNE noted that the Competitive Supplier Charges were established fourteen years ago and that PSNH has had sufficient time since their initiation to collect data to determine the actual costs; however, PSNH has not tracked the necessary data to revisit the charges. *Id.* at 9. PNE pointed out that PSNH agreed that there is no cost justification for the Selection Charge. *Id.* PNE argued that based on PSNH's testimony, the Selection Charge "has never been justified by any baseline analysis of the cost of the services that underlie switching suppliers." *Id.* at 10. PNE also claimed that the Billing and Payment Charge and the Collection

Charge are also unjust and unreasonable and are not supported by cost data. *Id.* According to PNE, because PSNH recovers these costs from customers through its distribution rates, PSNH realizes an unfair and unreasonable double recovery for the services, first in distribution rates, and then through the supplier charges. *Id.* at 11.

Finally, PNE argued that the Commission should “fashion a broad remedy to address PSNH’s actions, and its unwillingness to provide cost-related data.” *Id.* at 12. PNE requested that the Commission: (1) order PSNH to immediately discontinue imposing the Selection Charge unless and until PSNH can demonstrate the costs; (2) order PSNH to provide an accounting of every transaction in which it imposed a \$10.00 Selection Charge for purpose of ordering rebates of the improperly imposed additional \$5.00 charge; (3) order a moratorium on the imposition of the Billing Payment Charges and Collection Charges until PSNH can demonstrate the reasonableness of the charges; and (4) retain jurisdiction of the docket and order Staff to investigate when PSNH began assessing the Selection Charge on both the new and legacy CEPS. *Id.* at 12-13.

PNE filed a letter on November 7, 2013 in response to the supplemental information provided by RESA. In that letter, PNE stated that the information in RESA’s letter supports PNE’s argument that the Commission should direct PSNH to account for, and rebate to the relevant supplier, all amounts charged under the Selection Charge back to at least the 2003 rate-setting proceeding.

C. NAPG

NAPG argued that the Competitive Supplier Charges lack valid cost support and are inconsistent with the restructuring principles of RSA 374-F:3, IV, V and VII. NAPG Brief at 3. NAPG repeated the assertion of other supplier-intervenors that PSNH did not provide any cost

support when the Commission approved the tariff in 1999. *Id.* at 3-4. According to NAPG, PSNH adopted the \$5.00 Selection Charge because that was the charge being assessed by Granite State Electric Company, yet Granite State Electric Company has never imposed the Selection Charge on suppliers. *Id.* at 4. NAPG opined that if a cost was incurred in switching customers, that cost should be recovered through distribution rates. *Id.*

NAPG claimed that PSNH offered only outdated, fully embedded cost analyses performed during the 1999 rate case³ to support the Billing and Payment Charge and Collection Charge. NAPG stated that the cost data is out of date due to the increased use of electronic processing systems and relies on an inappropriate embedded cost methodology *Id.* at 5-6. NAPG argued that for these reasons, the charges should be invalidated.

According to NAPG, the use of a fully embedded cost rate methodology as a means to calculate the Billing Payment Charges and Collection Charges is unprecedented and unwise. *Id.* at 7. NAPG stated that distribution customers already pay fully embedded costs for transmission and distribution services, and to require CEPS to pay embedded cost-based rates to access the same services would result in a duplicative payment that would exclusively benefit the distribution provider. *Id.* at 8. NAPG contended that this overcharging of CEPS burdens competition and harms customers who are seeking a price in the competitive market. NAPG also pointed out that other utilities do not charge CEPS for switching, billing and collection services or, if they do so, the charge is calculated on an incremental basis. *Id.* at 8-9.

NAPG also argued that Competitive Supplier Charges should not be assessed against CEPS while exempting PSNH's default service. NAPG noted that PSNH confirmed that default service customers pay none of the Competitive Supplier Charges, and that costs of the associated

³ The 1999 case was not a rate case but was the docket related to PSNH's restructuring pursuant to the electric utility restructuring statute, RSA 374-F.

services are recovered through distribution rates. NAPG argued that PSNH's default service competes in the marketplace without any burden of the Competitive Supplier Charges. NAPG insisted that PSNH's default service customers should pay the costs through default service rates to avoid a misuse of default service. *Id.* at 9-10.

NAPG repeated the argument that, PSNH assesses the \$5.00 Selection Charge against both the new CEPS and the legacy CEPS when a customer moves from one competitive supplier to another. *Id.* at 11. NAPG argued that the Commission should rule that PSNH has unlawfully imposed charges for supplier "drops" in violation of PSNH's tariff and should bar PSNH from doing so in the future. According to NAPG, PSNH should be required to refund all payments in cases where the supplier did not initiate the service change. *Id.* at 11-12.

NAPG next argued that PSNH should not be allowed to offer supplier services at market-based rates because (1) suppliers are required to use PSNH services if they elect to participate in the consolidated distribution/supply charges and (2) it would be anti-competitive to have the energy supply business of the monopoly distribution provider be the only market participant able to offer customers a single consolidated bill. *Id.* at 13. NAPG insisted that supplier services should not be treated by the distribution company as an unregulated competitive service. In the alternative, NAPG suggested that the Commission allow suppliers to supply single-bill consolidated billing that would include PSNH distribution charges. *Id.*

Finally, NAPG argued that the Commission should refund all Competitive Supplier Charges to the maximum extent permitted by law. *Id.* at 14. NAPG requested that the Commission (1) find that each supplier charge is unjust, unreasonable and/or discriminatory and to discontinue the charge until PSNH establishes a sufficient justification for the charge; (2) if any supplier charge is retained, apply the charges to PSNH default service and only to the extent

permitted by the tariff; (3) reject PSNH's request to be relieved of the requirement of providing consolidated billing services for CEPS; and (4) issue refunds dating back two years from the fall of 2012 pursuant to RSA 365:29. *Id.* at 2-3.

D. ENH Power

ENH Power repeated the argument of other intervenors that PSNH had not prepared a cost-analysis to support the Selection Charge, and that PSNH has based its Billing and Payment Charges and Collection Charges on an embedded cost calculation instead of a calculation of incremental costs. ENH Power noted that PSNH embedded its costs for billing and collection services in its distribution rates and, therefore, PSNH collected these costs from customers of competitive suppliers through distribution rates; and by billing CEPS for billing and collection services, PSNH was compensated twice for the same service. ENH Power Brief at 1-3.

With respect to the Selection Charge, ENH Power claimed that because PSNH has no cost justification for the Selection Charge and has never revisited the costs of the service since the \$5.00 fee was approved by the Commission 13 years ago, there is no basis to conclude that the Selection Charge is just and reasonable. ENH Power noted that PSNH conceded that customer switches are essentially automated and ENH Power suggested that with automated electronic services, the cost for a customer switching to a CEPS is likely somewhere between 10 and 15 cents per switch. *Id.* at 4. ENH Power shared the views expressed by other supplier-intervenors that PSNH had no justification to assess the Selection Charge to both the new and legacy CEPS when a customer switched from one CEPS to another. *Id.* ENH opined that the costs are likely recovered through PSNH's distribution rates and the additional recovery through the Selection Charge is likely unlawful. *Id.* at 5.

ENH Power claimed that PSNH's embedded cost approach to calculating the Billing and Payment Charges and Collection Charges results in double recovery and in unfair cost shifting between customers receiving PSNH's default energy service and customers choosing energy supply service from a competitive supplier. According to ENH Power, PSNH fully recovers its billing and collection costs through distribution rates, and no portion of those costs are recovered from the energy service supply rate from default service customers. On the other hand, the Billing and Payment Charges and Collection Charges are paid by both the CEPS and its customers, thus requiring competitive supply customers to pay twice for the costs—once in their distribution rates and once in their energy service bills. *Id.* at 5. ENH Power argued that PSNH should only recover the incremental cost, if any, associated with billing and collection services provided to competitive suppliers. *Id.* at 6-7.

ENH Power concluded by requesting that the Commission suspend the implementation of PSNH's tariff provisions regarding the Competitive Supplier Charges. In addition, because it claimed that the tariff charges are unjust and unreasonable, ENH Power requested a refund for CEPS, particularly where the charges constituted a double payment. *Id.* at 8-9.

E. PSNH

PSNH stated that, contrary to the assertions of the CEPS, PSNH does not bear the burden to prove that its charges are just and reasonable. PSNH stated that pursuant to New Hampshire Code Admin. Rules Puc 203.25, the party seeking relief—in this case PNE—bears the burden of proof unless otherwise specified by law. According to PSNH, the burden rests with the CEPS to demonstrate that PSNH's charges are unjust or unreasonable, and the suppliers have not done so. PSNH Brief at 2.

PSNH noted that the CEPS have contended that PSNH should be required to refund certain charges collected pursuant to the approved tariff. According to PSNH, the Commission's authority to order a refund is defined by RSA 365:29 which states that a refund may be ordered only if the rate or charge is determined to be illegal or unjustly discriminatory. PSNH argued that the CEPS provided no evidence that PSNH's charges are illegal or unjustly discriminatory. Further, PSNH attested that if the Commission did order any changes to PSNH's tariff, it could do so on a prospective basis only (citing RSA 378:7). Accordingly, PSNH concluded that changes could be made on a going-forward basis only. *Id.* at 3.

PSNH challenged the CEPS' argument that PSNH inappropriately calculated the charges at issue on an embedded cost basis. PSNH argued that all of its distribution revenue requirements are calculated on an embedded cost basis, and the fact that the revenue from those charges has increased over time is not in itself proof that PSNH's charges are unjust or unreasonable. *Id.* at 4. PSNH stated that at some point in the future it will request a general change in its rates and it will review specific charges and revenues in the context of the Company's overall rate of return to determine whether adjustments are required. *Id.* at 5. PSNH further stated that it preferred to make any changes "based upon a thorough cost of service study." *Id.* at 6.

Regarding its application of the Selection Charge, PSNH stated that it was appropriate to assess the charge on a supplier at the time of an "add" or "drop" and that the practice is consistent with the terms of the tariff. *Id.* at 7. PSNH noted that the CEPS have argued that PSNH should not be entitled to assess a Selection Charge because the incremental cost of processing the applicable electronic data interface (EDI) transaction is very low, however, PSNH disagreed that incremental costs are a proper measure for the charge. *Id.* at 8. PSNH contended

that the proper measure for its charges is the fully embedded costs for such services and whatever administrative costs the Company incurs with all supplier transactions, including customer enrollments, drops and moves. PSNH maintained that its charges should not be based on incremental costs for specific transactions. *Id.* at 8-9. PSNH also stated that the Selection Charge may serve an important policy goal of avoiding gaming in supply markets. *Id.* at 9.

Regarding the Billing and Payment Charges and Collection Charges, PSNH noted that the CEPS want PSNH to reduce or eliminate the charges because the costs of providing these services are low. PSNH repeated that the charges were not established on the basis of incremental costs, but embedded costs, and argued that CEPS have not presented any convincing argument for changing the basis for calculating the Competitive Supplier Charges. *Id.* at 10. According to PSNH, CEPS are not obligated to use PSNH's billing and payment or collection services and could perform that service themselves. *Id.* In response to supplier statements that customers of CEPS paid twice for the services, PSNH noted that any revenue from the charges is credited to distribution revenue and thereby reduces distribution rates for all customers. *Id.* at 11.

In conclusion, PSNH stated that if the Commission agrees that further review of the Competitive Supplier Charges is warranted, the Commission should describe the process for a cost of service study to be conducted by PSNH and further noted that, to the extent that the relief sought by suppliers may apply to other utilities, the Commission may consider fashioning relief in a more generic proceeding about the practices of New Hampshire utilities with respect to CEPS. *Id.* at 12.

On November 12, 2013, PSNH filed a motion to strike the materials provided by RESA on November 7, 2013. PSNH stated that the filing was made in an untimely manner and in

violation of the Commission's rules, contains nothing new or relevant, and should therefore be stricken from the record. PSNH Motion to Strike at 1.

F. Commission Staff

Referring to the Order of Notice in this proceeding, Staff stated that the scope of the docket is to determine "whether it is useful for the Commission to conduct a review of the reasonableness of the approved tariff charges separate from a review of PSNH's revenue requirements in the context of a future rate case." Staff noted that the petition of PNE did not seek a rate adjustment in this case, but stated that any rate adjustment would take place in a subsequent PSNH general rate case. Staff Brief at 1. Staff agreed with other parties that the record demonstrates that the Competitive Supplier Charges were not based on costs known at the time the Commission approved the tariff charges. Staff opined that it is appropriate to conduct a review of the reasonableness of the charges through a cost of service study, preferably through a distribution rate case; however, Staff acknowledged that the Commission could request a cost of service study outside the context of a distribution rate case. Staff further recommended that the Commission deny the request by the CEPS for refunds or rebates of amounts paid to PSNH pursuant to the tariff because, (1) there is no evidence in the record to determine whether or not the various supplier charges are just and reasonable, and (2) the issue of refunds is outside of the scope of the docket. *Id.* at 3. Finally, Staff recommended that, until such time as a cost of service study of the supplier charges is completed, the Commission allow the existing tariff provisions to remain in place. *Id.* at 4.

III. COMMISSION ANALYSIS

The scope of this docket is to determine "whether it is useful for the Commission to conduct a review of the reasonableness of the approved tariff charges separate from a review of

PSNH's revenue requirements in the context of a future rate case." Order of Notice (11/21/12) at 4. The purpose of the docket is not to review whether PSNH's charges to competitive energy suppliers have impeded the development of the competitive market, or the effect of the charges on the profitability of competitive suppliers. Order No. 25,528 (June 25, 2013) at 5. In addition, although the Commission does not favor single issue ratemaking, we asserted in this proceeding that the single issue ratemaking prohibition does not serve to cut off Commission inquiry into the reasonableness of any rate at any time; and that the Commission has the authority to examine a rate without requiring an adjustment. *Id.* at 7. We also stated that in this proceeding we would allow inquiry into the circumstances in which PSNH has actually applied the Selection Charge. Order No. 25,576 (September 25, 2013) at 9.

As a procedural matter, we first decide PSNH's Motion to Strike (Motion) the supplemental information provided by RESA on behalf of the supplier intervenors on November 7, 2013. The information RESA provided was a prior Commission order (Order No. 23,659) which expressed concern regarding whether the \$5.00 Selection Charge was cost based and whether it should be billed to the competitive supplier or to the customer. PSNH claimed that the supplemental filing was not timely and not relevant. Although the filing is untimely, we nonetheless find it relevant. Because it is a publicly available order of the Commission, issued in a PSNH docket, PSNH cannot demonstrate it is disadvantaged by the order being brought to the Commission's attention at this late date. We therefore deny PSNH's Motion. The material provided by RESA demonstrates that when the Selection Charge was first approved, the Commission intended to obtain information regarding the cost justification for the Selection Charge, a matter within the scope of this docket.

Our denial of the motion to strike does not, however, affect the validity of the tariff provisions relative to the Competitive Supplier Charges approved by the Commission in PSNH's 1999 restructuring docket. That tariff is a lawful tariff and the Commission may not impose alternative rates unless, after a hearing, the Commission concludes that the rates, fares or charges are unjust or unreasonable, or that the regulation or practice of implementing the rates is unjust and unreasonable. RSA 378:7. The record does not support a finding regarding whether the charges are just and reasonable, and absent such a finding, we will not suspend the tariff or the charges as requested by the competitive electric suppliers.

We now direct our attention to the admission by PSNH that it has billed the \$5.00 Selection Charge to both the new and legacy CEPS, for total revenue of \$10.00, when a competitive supplier customer switches to a different supplier. We have reviewed the tariff and the parties' arguments. As noted above, the tariff is a lawful tariff approved by this Commission. The tariff states that the Selection charge (identified as \$5.00) will apply as follows: "For customers who are currently taking Supplier Service. . .the Selection Charge will be assessed to the *new Supplier* at the time the Company receives an enrollment transaction from the new Supplier. For Customers who are currently taking Supplier Service, the Selection Charge will be assessed to the *existing Supplier* at the time the Company receives the drop transaction from the existing Supplier." (emphasis added)

The intervenor CEPS argue that this language contemplates that one switch, whether it is from PSNH to a CEPS or from one CEPS to another, results in a single Selection Charge. PSNH argues that a plain reading of the tariff indicates that the Selection Charge will be applied to both the new supplier and the legacy supplier when a customer moves from one CEPS to another.

Given the opposite interpretations of the tariff offered in this docket, we find that that tariff language is, at best, unclear.

We do, however, agree with the CEPS that when a customer moves from one competitive supplier to another, the transaction involves one switch and not two. If moving from one competitive supplier to another constituted two switch transactions then moving from a competitive supplier to PSNH, or the other way around, would also constitute two switch transactions. PSNH presented no evidence to show that it charges itself as well as the competitive supplier in cases involving a switch between PSNH and a competitive supplier. We must therefore conclude that only one switch charge is appropriate when a customer moves from one supplier to another, whether the switch is between two competitive suppliers or a competitive supplier and PSNH.

Therefore, we direct PSNH to discontinue billing more than one Supplier Charge when a distribution customer switches from one competitive supplier to a different competitive supplier. This directive shall be effective as of the date of this Order and will continue until such time as the Commission orders otherwise following an inquiry into the reasonableness of the Selection Charge as further discussed in this Order.

The CEPs have also requested, pursuant to RSA 365:29, that we order PSNH to refund or rebate revenues collected through the Competitive Supplier Charges by PSNH from the intervenors. Pursuant to RSA 365:29, if the Commission finds after hearing and investigation “that an illegal or unjustly discriminatory rate, fare, charge, or price has been collected for any service” the Commission may order reparations. In this docket, we have made no such finding. Therefore, we deny the CEPs’ request.

We are, nonetheless, troubled that PSNH has not yet developed the incremental cost of the Competitive Supplier Charges. According to testimony, PSNH originally calculated the costs of the Billing and Payment Services and Collection Services charges on an embedded cost basis. The Selection Charge was established at the advent of competition without the benefit of prior experience in switching customers among competitive suppliers, or a cost-of-service study for performing such a service. We agree with the intervenors that it would be more appropriate to calculate the Competitive Supplier Charges based on the incremental costs for providing those services and we find that sufficient experience has been gained to now determine a cost basis for the Selection Charge.

Therefore, we direct PSNH to conduct a cost-of-service study on the incremental cost basis for the Selection service, the Billing and Payment service and the Collection service that PSNH provides to CEPSs. PSNH will be allowed to continue to bill the Selection Charge, as modified by this Order, and the Billing and Payment and Collection Charges until the Commission determines the appropriate costs for these services.

Given the years in which these charges have been in place and the directive to develop incremental cost-based analysis, we issue a supplemental order of notice establishing a prehearing conference and temporary rate hearing on the Competitive Supplier Charges discussed in this order. We will use the incremental cost study we have directed PSNH to conduct as a basis for evaluating the costs of these Competitive Supplier Charges and, if necessary, for adjusting those charges.

Based upon the foregoing, it is hereby

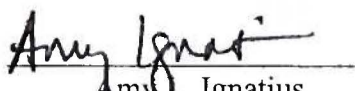
ORDERED, PSNH's Motion to Strike is hereby DENIED; and it is

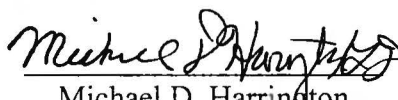
FURTHER ORDERED, that the request for reparations pursuant to RSA 365:29 is hereby DENIED;


FURTHER ORDERED, that PSNH shall modify its application of the Selection Charge to assess the Selection Charge only to the CEPS initiating a customer switch; and it is

FURTHER ORDERED, that PSNH shall commence to conduct a cost of service study of the incremental costs associated with the Competitive Supplier Charges and shall advise the Commission of the schedule for this study within 30 days of the date of this Order.


By order of the Public Utilities Commission of New Hampshire this thirteenth day of December, 2013.


Amy L. Ignatius
Chairman


Michael D. Harrington
Commissioner


Robert R. Scott
Commissioner

Attested by:


Lori A. Davis
Assistant Secretary

SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED

Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.

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Docket #: 12-295-1 Printed: December 13, 2013

FILING INSTRUCTIONS:

- a) Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with: DEBRA A HOWLAND
EXEC DIRECTOR
NHPUC
21 S. FRUIT ST, SUITE 10
CONCORD NH 03301-2429
- b) Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.
- c) Serve a written copy on each person on the service list not able to receive electronic mail.