

THE STATE OF NEW HAMPSHIRE
before the
PUBLIC UTILITIES COMMISSION

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

Line Extension Charges
Docket No. DE 12-307

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE'S
PETITION TO INTERVENE
AND
MOTION TO DISMISS

Public Service Company of New Hampshire ("PSNH" or the "Company") hereby respectfully petitions to intervene in the above-captioned docket pursuant to RSA 541-A: 32 and Puc §§ 203.02 and 203.17. Furthermore, PSNH moves that this docket be dismissed. In support of its Petition and Motion, PSNH says the following:

A. PETITION TO INTERVENE

1. PSNH is a New Hampshire public utility engaged in the business of the distribution and sale of electricity. As part of its business, PSNH, from time to time, will extend portions of its distribution lines to serve customers in newly developed areas of its franchised service territory. The costs for such line extensions have historically been governed by a tariff reviewed and approved by the New Hampshire Public Utilities Commission ("Commission"). In certain instances, costs of such line extensions must be borne by the customer or customers making a line extension necessary. PSNH's current policy and pricing requirements for line extensions is set out in its approved tariff. *See* Electricity Delivery Service Tariff – NHPUC No. 8, § 34, Line Extensions, available at <http://www.puc.state.nh.us/Regulatory/Tariffs/PSNH%20Tariff%20No%208.pdf>.

2. On October 15, 2012, Jim Snyder of 125 Asby Road, Canterbury, New Hampshire, filed a letter Petition with the Commission seeking to change the way utilities recover the costs

of line extensions. Specifically, Mr. Snyder's Petition states, "if a company is going to have the monopoly on providing an essential utility in this area, it seems they should provide it equally to all customers on Class 5 or higher public roads. If the cost of infrastructure is to be borne by customers, it should be as a group."

3. Because, *inter alia*, the Petition seeks to change PSNH's tariff, it is clear that PSNH has rights, duties, privileges immunities and other substantial interests that may be affected by the proceeding. Accordingly, PSNH requests to be an intervenor in this proceeding pursuant to RSA 541-A:32 and the Commission's rules.

B. MOTION TO DISMISS

4. As noted in a memorandum filed by Commission Staff on October 19, 2012, in this docket, Mr. Snyder contacted the Commission's Consumer Affairs Division on July 6, 2012, regarding an estimate PSNH had provided to him for the construction of a line extension necessary to serve the home he was constructing in Canterbury. On July 24, 2012, Mr. Snyder met with representatives of Commission Staff and PSNH to discuss PSNH's line extension tariff and the estimate provided to Mr. Snyder. Following that meeting, PSNH reviewed its tariff to determine whether possible amendments to the tariff were warranted in light of the concerns raised relative to the assignment of costs in locations, such as Mr. Snyder's, where PSNH was not responsible for setting poles. Following that review, PSNH determined that the costs were properly accounted for in areas where PSNH did not set poles¹, and, therefore, no tariff changes were necessary. Mr. Snyder then filed the instant Petition.

5. According to Mr. Snyder's Petition, he alleges that under a prior line extension policy, as embodied in a prior version of PSNH's tariff, there was an option to pro-rate the cost of a line

¹ PSNH's conclusion was based on the fact that in areas where it does not set poles, it is charged a specified amount for each pole by the entity that sets the poles.

extension on a customer's bill. In addition, he notes that after a line was extended, customers later added to that extension would share a portion of the cost of the extension. The Petition further states that under PSNH's current policy the first user on a line must bear the entire cost of an extension. PSNH notes, in line with Mr. Snyder's Petition, that under the prior line extension policy, the costs of an extension were pro-rated on a customer's bill for a period of 60 months. If new customers were later added to the extension within that 60-month period, those customers would share a portion of the cost for the remainder of the period.

6. The Petition contends that both the current and prior line extension practices are unfair and argues that since a utility will have a monopoly on providing service in a given area, that utility should bear the cost of extending service lines along all Class V or higher roads within that area. According to the Petition, there is "no justification for individuals to be bearing the cost of infrastructure for a service that not only will they pay for decades to come but also to effectively subsidize that cost for all future development on the road."

7. On October 19, 2012, Commission Staff filed its memorandum in the docket recounting the meeting held with Commission Staff and PSNH, as well as PSNH's subsequent analysis of its tariff. According to Staff's memorandum, Staff does not oppose Mr. Snyder's Petition, and takes no position on the issues raised therein. Staff did note, however, that in light of the comprehensive settlement in Docket No. DE 08-135, the docket that established PSNH's current line extension policy and tariff, the parties to that settlement should be given the opportunity to comment. By this submission, PSNH, a party to the settlement in Docket No. DE 08-135, opposes Mr. Snyder's Petition, and requests that the Commission dismiss the Petition.

8. As noted, PSNH's current policy is embodied in a tariff that was reviewed and approved by the Commission in Docket No. DE 08-135. In that docket, PSNH submitted

information about its then-existing policy. PSNH contended that its prior policy resulted in subsidies from existing customers to newer customers, that the policy was difficult to administer, and that it was difficult for customers to understand. PSNH explained that the impetus to change its line extension policy was the result of its 2006 distribution rate case, where it was made apparent that existing customers were subsidizing the costs of providing service to new customers because the distribution revenue received from new customers was insufficient to recover the actual cost of initiating service. Based upon those concerns, PSNH proposed amendments to the policy intended to avoid subsidies, ease administrative burdens and increase customer comprehension. On September 18, 2009, a settlement agreement between PSNH, Commission Staff, the Office of Consumer Advocate and the Homebuilders and Remodelers Association of New Hampshire (“HBRANH”) was filed with the Commission. In that settlement, each of the signatories (including, notably, Commission Staff) agreed that an approved settlement was “Binding on Settling Parties” and to support the terms and conditions within the settlement.

9. Under the policy as set out in the settlement, PSNH would phase-in, over three years, line extension charges based upon a cost per foot. The three year phase-in was intended to lessen the impact of the changes to the policy on customers requesting line extensions. The phase-in period runs until March 31, 2013, after which time the settlement provides for a new methodology for calculating the cost per foot that will apply to line extensions. Further, under the new policy the costs of a line extension are paid up front, rather than over a 60-month period.

10. The Commission accepted and approved that settlement in Order No. 25,046 (November 20, 2009). In approving the settlement, the Commission found that the resulting policy was “fair to new customers and existing customers as it phases out a long-standing policy

that has allowed for a level of subsidization.” *Id.* at 10. The Commission further found that “eliminating the subsidy of current customers for new line extensions, and requiring new customers to pay the actual cost of such service, is reasonable and in the public interest.” *Id.*

11. The Commission should dismiss this Petition’s attempt to amend or abolish PSNH’s line extension policy as approved by the Commission. Before addressing arguments for dismissal, however, PSNH notes that Mr. Snyder’s Petition challenges not only PSNH’s current policy as approved in Docket No. DE 08-135, but also PSNH’s prior policy, as well as line extension charges in general for all of the state’s utilities. PSNH’s prior policy regarding line extensions is substantially similar to the existing policy for other utilities in New Hampshire. *See, e.g.*, Appendix B, Line Extension Policy, NH PUC Tariff No. 3 of Unitil Energy Systems, Inc.; and Page 17, Overhead Line Extension Policy, NH PUC Tariff 18 of Granite State Electric Company d/b/a Liberty Utilities.

12. To the extent the Commission intends to act upon this Petition, any such action may affect the existing policies and tariffs of other electric, gas or water utilities. As such, Mr. Snyder’s Petition seeks a policy change of general applicability – a request requiring a rulemaking pursuant to RSA chapter 541-A and N.H. Code of Admin. Rules Puc 205. Therefore, even if this Petition is not dismissed, no action should be taken without following the requisite procedures for a rulemaking proceeding.

13. As to the instant motion to dismiss, the Petition seeks to undo a settlement agreement, one that the Commission found to be both fair and reasonable, prior to its initial phase-in period being completed. Thus, granting this Petition would upend a settlement agreement that has not even run for the minimum period envisioned in its creation and execution. With respect to settlement agreements:

Pursuant to N.H. Code Admin. Rules Puc 203.20(b), the Commission shall approve disposition of a contested case by settlement if it determines that the result is just and reasonable and serves the public interest. In determining the public interest, the Commission serves as arbiter between the interests of customers and those of the regulated utilities.

In general, the Commission recognizes that settlement of issues through negotiation and compromise provides an opportunity for creative problem solving, allows the parties to reach a result more in line with their expectations, and is often a more expedient alternative to litigation. Even where all parties join a settlement agreement, however, the Commission must independently determine that the result comports with applicable standards. The issues must be reviewed, considered and ultimately judged according to standards that provide the public with assurance that a just and reasonable result has been reached.

Unitil Corporation and Northern Utilities, Inc., Order No. 25,390 (July 9, 2012) at 21

(quotations and citations omitted). In this case, the Commission, as the arbiter between the interests of customers and the utility, concluded that PSNH's current line extension policy is just, reasonable and appropriate. To alter that policy before it has been fully implemented would undermine confidence that this policy, enacted pursuant to a settlement, and approved by the Commission, is, in fact, just and reasonable. Furthermore, it would cast doubt on whether any settlement agreement could be seen as durable and reliable. There have been no changes in facts or circumstances that warrant departure from the line extension policy that the Commission found to be in the public interest, and the Commission should not now entertain a challenge to a settlement that has not achieved the ends it was designed to achieve.

14. Furthermore, PSNH also notes that as part of HBRANH's petition to intervene in Docket No. DE 08-135, it stated that its members were commercial and residential customers of PSNH, and that its members, as developers and builders of residential properties, were concerned with the possible impact of the policy change on their businesses and their ability to provide affordable housing to New Hampshire's citizens. *See* December 4, 2008, Petition to Intervene of Homebuilders and Remodelers Association of New Hampshire in Docket DE 08-135 at 2. Thus,

an organization intent on ensuring the availability of affordable housing was a party to the settlement, as were the Office of Consumer Advocate on behalf of residential ratepayers, and Commission Staff. In that those entities agreed to support the current policy as embodied in the settlement, the Commission should not now entertain arguments that a policy agreed upon by entities with such diverse interests is somehow unfair or inappropriate.


15. For the foregoing reasons, the Commission should dismiss the Petition. PSNH's policy is the product of recent negotiation and settlement with numerous parties, including those whose interests are similar to those of Mr. Snyder. That settlement was reviewed and approved by the Commission as fair and reasonable and it has yet to meet its minimum intended implementation period. The existing policy properly assigns costs and allows for recovery of those costs and is therefore fair and appropriate. As such, there is no basis to reform PSNH's line extension policy and the Petition should be dismissed.

WHEREFORE, PSNH respectfully requests that the Commission issue an order granting PSNH's requests to intervene and to dismiss the Petition, and to order such further relief as may be just and equitable.

Respectfully submitted,

Public Service Company of New Hampshire

November 16, 2012
Date

By: 
Matthew J. Fossum
Counsel
780 North Commercial Street
Post Office Box 330
Manchester, New Hampshire 03105-0330
(603) 634-2961
Matthew.Fossum@nu.com

CERTIFICATE OF SERVICE

I hereby certify that, on the date written below, I caused the attached Petition for Intervention and Motion to Dismiss to be served pursuant to N.H. Code Admin. Rule Puc 203.11.

November 16, 2012
Date


Matthew J. Fossum