

STATE OF NEW HAMPSHIRE  
BEFORE THE  
NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

DG 16-\_\_

CONCORD STEAM CORPORATION

PETITION FOR EMERGENCY RATES AND TO DISCONTINUE SERVICE

NOW COMES Concord Steam Corporation (“Concord Steam” or “the Company”), by and through its undersigned attorneys, and respectfully petitions the New Hampshire Public Utilities Commission (“the Commission”) for emergency rates pursuant to RSA 378:9, and for authority to discontinue service pursuant to RSA 374:28. In support of these requests, Concord Steam states as follows:

Introduction

1. Concord Steam is a regulated public utility authorized to provide steam service in Concord, New Hampshire. The Company presently has one residential customer and 84 commercial or institutional customers, including the State of New Hampshire, Concord Steam’s largest customer. At the time of its last rate case in 2013, Concord Steam’s customer base consisted of one residential customer and 101 commercial or institutional customers. *See Concord Steam Corporation*, DG 12-242, Order No. 25, 499 (April 25, 2013) at 1.

2. As indicated in the Prefiled Direct Testimony of Peter Bloomfield, P.E. submitted with this Petition, the State of New Hampshire has recently informed Concord Steam that it will be issuing a Request for Proposals (“RFP”) to convert the State’s buildings currently taking steam service from the Company to another heat source. By the end of 2016, the Company will have lost 12% of its steam load due to the migration of other customers from steam service. The

additional revenue shortfall resulting from losing the State as a customer would require a significant rate increase for remaining customers. In all likelihood, such a rate increase would cause the remaining customers to seek a less expensive alternative to steam service. This additional customer migration would result in the classic “‘death spiral,’ a situation in which rates steadily increase and the number of customers steadily decrease until the customer base can no longer fund the system.” *Re New Hampshire Gas Corporation*, DG 02-003, Order No. 23, 965, 87 NH PUC 300, 301 (2002).

### Request to Discontinue Service

3. To avoid above-described “death spiral,” Concord Steam has decided that in lieu of continuing to operate at rates that are likely to substantially increase over time, it will instead provide customers with an orderly transition to another service provider and to cease operations. To facilitate this transition and closure, Concord Steam has entered into an Asset Purchase Agreement with Liberty Utilities (“Liberty”) whereby Liberty will purchase certain assets of the Company. This agreement will enable Concord Steam to work with Liberty to develop a plan for a systematic transition of Concord Steam’s customers to natural gas service provided by Liberty and to permanently discontinue steam service to these customers<sup>1</sup> on or about May 31, 2017.

4. Because Liberty is a regulated public utility and is authorized to provide natural gas service in the City of Concord, Concord Steam believes that the proposed plan to sell certain

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<sup>1</sup> It is anticipated that the State of New Hampshire may have some requirements for steam service for a period of time after May 31, 2017, i.e. until the State converts from steam at its Hugh Gallen complex to another provider pursuant to the above-referenced RFP process. Concord Steam does not anticipate continuing those operations in its current corporate structure nor as a regulated utility but its principals may do so as a separate entity that contracts with the State for service if the State so desires.

of its assets to Liberty, provide notice to customers, transition them to another regulated utility within a structured schedule, and to permanently discontinue service is reasonable under the circumstances faced by the Company. As part of this transition plan, Concord Steam intends to coordinate with Liberty to insure that customers pay their outstanding steam bills before Liberty begins providing those customers with service. For the above-stated reasons, Concord Steam meets the public good standard for discontinuing service under RSA 374:28.

### **Emergency Rate Request**

5. Concord Steam is in need of near-term rate relief to meet its increasing expenses, recover the revenue shortfall that will occur when customers transition from Concord Steam to Liberty (or another service provider), and to recover costs associated with the winding down of the Company's business that are not reflected in its current usage rates. Concord Steam's current usage rates became effective May 1, 2013 and have not increased since then. *See Concord Steam Corporation*, DG 12-242, Order No. 25, 499 (April 25, 2013). However, over the past three years, Concord Steam's expenses have increased and its customer base has decreased. As Mr. Bloomfield's testimony indicates, the Company has experienced a net loss of over \$500,000 during the past decade. As a result of under-performing returns and required capital investments, salaries of the Company's principals have been deferred, the Company's line of credit has been extended and dividends have not been paid to the Company's stockholders.

6. Given its financial condition as well as the short time period within which the Company intends to continue operating, Concord Steam is petitioning for emergency rates under RSA 378:9 in lieu of filing a traditional rate case or a request for temporary rates, which the New Hampshire Supreme Court has observed is "a time consuming procedure." *Petition of Public*

*Service Company of New Hampshire*, 97 N.H. 549, 550 (1951). In accordance with N.H. Admin. Rule Puc 1601.01(e), Concord Steam is documenting its request for emergency rates through the Prefiled Direct Testimony of Peter Bloomfield, P.E., submitted herewith, and in the schedules attached thereto.

7. As indicated in Mr. Bloomfield's prefiled testimony and attached schedules, the Company is seeking an overall rate increase of approximately 23%. Because the Company intends to cease operations within a year, it will be unable to reconcile these rates with actual expenses. Therefore, Concord Steam is also seeking the authority to adjust usage rates by  $\pm$  50% to correct for variations in mid heating season weather, plant closure costs and to address customer migrations and other unanticipated events. The Company believes an overall rate of return of 7.58% is justified, assuming that the Company is allowed to recover its closure costs and others reflected in the requested revenue requirement. In view of the foregoing, Concord Steam believes that the requested rates are just and reasonable.

8. RSA 378:9 authorizes the Commission, whenever it is of the opinion that an emergency exists, to allow a public utility to temporarily alter, amend or suspend its rates. This statute vests the Commission with "wide discretionary powers to decide whether a crisis is of sufficient severity to warrant relief and if so the extent of the relief." *Id.* The crisis need not be unforeseen, sudden or unexpected; it is the urgency of the utility's needs that determines whether emergency rates should be allowed. *Id.* at 550-551. The test to determine whether the emergency rate statute applies is to ask "whether reasonable persons may find the affairs of this company are at such a crisis that immediate and substantial disaster threatens unless prompt relief is given." *Id.* at 551. In addition, the New Hampshire Supreme Court has held that the

Commission may approve emergency rate relief to put a stop to a utility's continuing operating losses. *See New England Telephone & Telegraph Company v. State*, 95 N.H. 58, 62 (1948).

9. Concord Steam meets the foregoing standards for emergency rates. As the schedules to Mr. Bloomfield's testimony indicate, the Company has operated at a net loss of approximately \$516,000 during the last decade. The Company's line of credit has been extended and its principals' salaries have been deferred. Because of its small size and its customers' demonstrated ability to easily migrate from steam service to a less expensive alternative, the Company is actually facing the classic "death spiral" situation which is a rare occurrence for a New Hampshire utility. Unless it receives near-term rate relief, the Company will experience operating losses which will strain its ability to provide service to remaining customers. Given that Concord Steam intends to assist with the transfer of its customers to Liberty over a relatively short period of time, the requested rates will be "temporary" as contemplated by RSA 378:9. In view of the foregoing, emergency rates are appropriate.

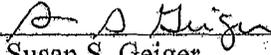
WHEREFORE, Concord Steam Corporation respectfully requests that the Commission:

- A. Establish emergency rates as set forth in the Prefiled Direct Testimony of Peter Bloomfield, P.E. for effect no later than October 1, 2016;
- B. Authorize Concord Steam to work with Liberty Utilities for an orderly transition of Concord Steam's customers to Liberty Utilities, including the requirement that steam service customers pay outstanding steam bills owed to Concord Steam prior to receiving service from Liberty;

- C. Authorize Concord Steam to cease operations as a public utility at such time as all customers except the State of New Hampshire have ceased taking service from Concord Steam;
- D. Authorize Concord Steam to permanently discontinue service as set forth in the Prefiled Direct Testimony of Peter Bloomfield, P.A.; and
- E. Grant such further relief as the Commission deems appropriate.

Respectfully submitted,

**CONCORD STEAM CORPORATION**  
By its Attorneys,  
**ORR & RENO, P.A.**

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