

STATE OF NEW HAMPSHIRE
Before the
PUBLIC UTILITIES COMMISSION

DOCKET NO. DE 24-070
Electric Distribution Utilities
Request for Change in Distribution Rates
OBJECTION OF THE LARGE CUSTOMER CONSORTIUM
TO PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE'S
MOTION TO STRIKE ITS DIRECT TESTIMONY

The Large Customer Consortium (“LCC”), consisting of Hancock Lumber Company, Inc., Monadnock Paper Mills Inc., Pike Industries Inc., and the University System of New Hampshire, respectfully submits this Objection to the Motion to Strike filed by Public Service Company of New Hampshire d/b/a Eversource Energy (“PSNH”).

PSNH seeks to minimize the Commission’s near-plenary ratemaking authority and force customers to pursue inefficient single-issue ratemaking via subsequent complaint, apparently in an effort to indefinitely preserve certain elements of its rate design for customers and to shield its ratemaking from outside scrutiny. If PSNH cannot be bothered to consider the changes necessary to modernize its rate design for large customers, then the Commission has ample authority to consider and impose LCC’s proposal and/or any other just and reasonable rate design on PSNH. The Commission should exercise that authority now for purposes of administrative efficiency and to ensure that PSNH’s comprehensive rate design, including those elements PSNH affirmatively chose not to change, continues to be just and reasonable and aligns with the Restructuring Policy Principles in RSA 374-F:3.

For these reasons and as set forth below, the Commission should deny the Company’s motion and allow the testimony of Mr. Perkins and Mr. Cetin to be considered in full.

I. The Commission has Near-Plenary Rate Authority to Examine the Rate Design of Rates LG and B and Should Exercise that Authority Here.

PSNH's affirmative decision to not propose changes to the rate design of Rates LG and B¹ for the thirty-second consecutive year is a convenient maneuver to avoid scrutiny. This failure, however, does not alter the Commission's authority and duty to ensure PSNH's comprehensive rate structure produces a result that is just and reasonable for PSNH and consumers alike. Nor does it make it efficient or practical to begin a subsequent proceeding on the sole issue of the transmission rate design for Rates LG and B. To the contrary, not investigating the rate design for all customer classes would reward PSNH for strategically avoiding such topic for decades and send the signal that PSNH and other utilities can skip the work necessary to modernize rate schemes by cherry-picking only those rates and rate designs they want to change.

a. The Direct Testimony of Mr. Perkins and Mr. Cetin Clearly Aligns with the LCC's Stated Intent and Area of Interest for Intervention.

In the LCC's petition to intervene dated July 12, 2024, the LCC clearly stated its intention to raise concerns with PSNH's existing rate design for large customers and to propose an alternative solution that was clearly not included in PSNH's initial filing:

In its initial filing, PSNH advocates for enhancing efficiency and equity properties of PSNH's existing rates, and for sending price signals to customers that will incentivize efficient usage of its system and therefore more efficient expansion of the grid. Contrary to these goals, PSNH's rate design proposal does not address longstanding cross-subsidization and inefficiency issues with the Company's rate design for Rate LG customers that must be resolved for these stated objectives to be realized. In this proceeding, the Consortium intends to present evidence and argument on a rate design alternative to PSNH's proposal for Rate LG customers that is superior in terms of efficiency and equity.

LCC Petition to Intervene, at 3 (Jul. 12, 2024).

¹ LCC acknowledges that Rate B was redesigned in 2007 based on a proposal by Commission Staff, not PSNH. *See Public Service Company of New Hampshire*, Order No. 24,750, Docket No. DE 06-028 (May 25, 2007).

In its brief regarding limiting intervention dated August 2, 2024, PSNH did not oppose the LCC's petition to intervene, nor did PSNH seek to formally limit the scope or nature of LCC's participation. In fact, PSNH expressed its anticipation that LCC would focus on the issues that LCC had identified in its petition to intervene including a rate design alternative:

As an initial matter, the Company does not oppose granting any of the petitions to intervene, including CLF's petition as amended. Each petition to intervene sets forth the issues that the petitioners intend to participate in during the proceeding. With the exception of CPCNH, the Commission does not need to formally limit the potential intervenors' participation in this proceeding at this time. The issues identified in the respective petitions to intervene align with the basis for the petitioners' standing and the Company fully anticipates that the petitioners will limit their participation to those particular issues.

PSNH Brief Regarding Limiting Intervention, at 3 (Aug. 2, 2024).

In Order No. 27,054, the Commission found no issue with the LCC's petition to intervene, including the LCC's stated intent to focus on rate design as its sole area of interest:

The Commission agrees with Eversource that the parties listed above have set forth sufficient basis for intervention. The parties' participation in the matter, as expressed in their petitions to intervene, is limited to the parties' area of interest. Eversource indicated that formal limitation on participation is not needed at this time for these parties.

Procedural Order, at 2 (Sept. 5, 2024)

Consistent with PSNH's expectation and the Commission's order, the LCC has limited its participation in this proceeding to issues included in the LCC's petition to intervene. As stated in the petition, a rate design alternative is the single issue on which the LCC intends to opine. The testimony of LCC's witnesses, Mr. Perkins and Mr. Cetin, provides evidence relevant to that issue. Now that PSNH has had the opportunity to review the alternative rate design proposal offered by the LCC and appears to strongly dislike the proposed solution, the Company seeks to disqualify the LCC's participation through a false argument of scope and relevance.

b. The Commission has Significant Ratemaking Authority; A Utility's Failure to Revise One Element of Rate Design Does Not Shield that Element from Review.

The Commission has ample authority to investigate rate design for Rates LG and B and the duty to ensure PSNH's overall rate structure produces a just and reasonable result. The sources of the Commission's authority include RSA 378:5 (providing the Commission discretion to investigate the reasonableness of proposed higher rates) and RSA 378:7 (providing the Commission with authority to determine that rates, services, or practices are unjust and unreasonable or in violation of any provision of law and to set the just and reasonable or lawful rates). The source of the Commission's duty includes RSA 374:2 (prohibiting charges that are unjust or unreasonable). Moreover, under RSA 374-F:4 VIII(a), the Commission "is authorized to order such charges and other service provisions and to take such other actions that are necessary to implement restructuring and that are substantially consistent with the principles established in this chapter." Of note, the Commission must advance the objective of providing "clear price information on the cost components of generation, transmission, distribution and any other ancillary charges." R.S.A. 374-F:3 III; *Granite State Electric Company*, Order 25,611, Docket No. DE 13-327 (Dec. 23, 2013). The LCC testimony discusses this Restructuring Policy Principle and several others, explaining why PSNH's antiquated rate design for large customers contravenes them and why LCC's alternative rate design supports them.

The Commission has specifically exercised its authority to consider and implement transmission rate design changes that were proposed by parties other than PSNH before. *See Public Service Company of New Hampshire*, Order 24,750, Docket No. DE 06-028 (May 25, 2007). PSNH argues that case is distinguishable because "the very focus and scope of Docket No. DE 06-028 was the Company's proposal to change its transmission rates." PSNH Motion to Strike ¶3.

However, that case was about far more than just transmission rates; it was about reducing stranded costs, reducing the energy service charge, and increasing transmission and distribution rates. Order 24,750, at 1–2. In other words, that case, like this one, provided the appropriate forum for stakeholders to consider necessary rate design updates and efficiently ensure an overall rate structure that produced just and reasonable results.

c. It is Administratively Efficient and Consistent with Commission Policy to Investigate the Rate Design for Large Customers in this Case.

Considering the rate design for Rates LG and B now, in the context of a large rate case impacting nearly every other facet of delivery rates, is administratively efficient and logical. The alternative, as PSNH points out, is for LCC to file a subsequent complaint, which would unnecessarily create two proceedings with overlapping issues and parties. Moreover, a subsequent proceeding on the issue of transmission rate design for Rates LG and B would create exactly what this Commission disfavors, single-issue ratemaking. *See PNE Energy Supply*, Order No. 25,603, Docket No. DE 12-295 (2013) at 14 (“[T]he Commission does not favor single issue ratemaking.”); *see also, e.g., Energy Efficiency Rate Mechanisms*, Order No. 24,934, Docket No. DE 07-064 (2009) at 22 (“[I]t would be appropriate to propose revenue decoupling in the context of a rate case in order to avoid single-issue ratemaking.”). As the Commission has explained, “[s]ingle-issue rate cases are frowned upon in utility ratemaking because the objective of ratemaking is . . . to ensure that the company has a reasonable opportunity to earn a reasonable overall return on investments dedicated to public utility functions.” *Connecticut Valley Electric Co.*, Order No. 23,887 (2001) 86 NH PUC 947, 950–51 (emphasis added).

d. PSNH’s Arguments About Due Process and Prejudice Ring Hollow.

PSNH’s arguments about due process and prejudice warrant little attention. As previously discussed, all parties and the Commission have been on notice since LCC filed its intervention

petition, after issuance of Order No. 27,029, that its interest in this case was the rate design of Rates LG and B. *See* LCC Petition to Intervene (Jul. 12, 2024). This includes a superior rate design proposal that actually aligns with PSNH’s stated ratemaking goals in this case, including enhancing efficiency and equity and increasing price transparency. *Id.* The LLC’s intervention was granted, with LCC’s participation only generally confined to its area of interest as expressed in its petition to intervene and without a formal limitation. *See* Procedural Order, 2–3 (Sept. 5, 2024).

PSNH’s concerns about an efficient and orderly proceeding are unfounded and speculative. As previously discussed, addressing the rate design for Rates LG and B in this proceeding is the administratively efficient course and consistent with the Commission’s policy against single-issue ratemaking. LCC’s testimony is limited in scope, following the specific area of interest identified in the LCC’s petition to intervene, and highly probative as to whether PSNH’s rate scheme—in its entirety—is just and reasonable and compliant with other state laws, including the Restructuring Policy Principles. The position advocated by the LCC in its testimony is narrow and clear, having been already implemented by Eversource entities throughout Massachusetts and by other New England utilities, and accepted for purposes of settlement by Liberty Utilities in New Hampshire.

Furthermore, PSNH’s reliance on Order No. 24,667 to argue that the LCC’s testimony must be excluded is entirely misplaced. PSNH states that “[t]he Commission excluded evidence in Order No. 24,667, and for similar reasons.” PSNH Motion to Strike ¶ 7. Not true.

In fact, the Commission *denied* the utility’s motion to strike evidence offered by an intervenor in Order No. 24,667. *City of Nashua*, Docket No. DW 04-048 (Sept. 22, 2006). The Commission reasoned that “there is nothing to strike at this juncture because prefiled testimony does not become part of the evidentiary record until it is adopted under oath by a live witness at

hearing.” *Id.* at 6. The Commission further found that the utility had not made a showing that its “ability to prepare for hearing had been unfairly compromised.” *Id.* at 7.

As in the matter addressed in Order No. 24,667, here PSNH has not shown that its ability to prepare for hearing has been unfairly compromised. PSNH has been on notice since early July of 2024 of LCC’s intentions and of LCC’s scope of intervention since early September. There is no surprise, and there has been ample time to fairly prepare, especially given the data requests propounded by LCC on PSNH and objected to by PSNH.

II. Conclusion

For the above-discussed reasons, LCC requests that the Commission deny PSNH’s Motion to Strike. The testimony of Mr. Perkins and Mr. Cetin should be considered in full because the Commission has the authority to investigate the justness and reasonableness of the transmission rate design for PSNH’s large customers and the duty to ensure the rate design is not unjust and reasonable, both in the context of ensuring a rate scheme that is in totality just and reasonable.

PSNH’s recommendation to have customers instigate single-issue ratemaking proceedings is the definition of inefficient and clearly contradicts the Commission’s prior findings on rate design process. LCC’s testimony will assist the Commission in making the judgments it must, and those judgments should be made in this case to avoid inefficient and ineffective single-issue ratemaking in the future. PSNH is in no way prejudiced by an examination of the transmission rate design for Rates LG and B, including the alternative proposed by LCC. To the contrary, ratepayers would be harmed by the continuation of a rate design that is severely outdated and contrary to the Restructuring Policy Principles.

It is unsurprising yet deeply disappointing that PSNH opposes common-sense modernization of its rate design for large customers in New Hampshire. As detailed in the

testimony of Mr. Perkins and Mr. Cetin, the proposed transmission rate design solution offered by the LCC is a proven solution for large customers in Eversource Energy's service territories in Massachusetts and for large customers in Maine, that came into being in the context of distribution rate cases like this one. In Liberty Utilities' current distribution rate case, Docket DE 23-039, Liberty Utilities voluntarily agreed to adopt a rate design solution identical to the LCC's proposal here, finding that the proposed transmission rate design for large customers supports and helps advance rate modernization efforts. Unfortunately, PSNH has followed Eversource Energy's pattern of behavior in other jurisdictions; to stringently oppose basic improvements to rate design that better reflect ratemaking principles and that recognize large customer's capabilities to efficiently utilize PSNH's system in a manner that benefits all ratepayers. This is a puzzling approach for a utility that is seeking to adopt a novel performance-based ratemaking plan with core metrics that would be supported by the adoption of the LCC's proposed solution (*i.e.*, Customer Satisfaction and Active Demand Response).

WHEREFORE, the Large Customer Consortium respectfully requests that this Commission deny the Motion to Strike and accept the testimony of Mr. Perkins and Mr. Cetin in full.

Respectfully submitted,

Large Customer Consortium

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