

NH.PUC\*01/03/77\*[77798]\*62 NH PUC 1\*Northern Utilities, Inc., Allied Gas Division

[Go to End of 77798]

## Re Northern Utilities, Inc., Allied Gas Division

I-E 14,597, Order No. 12,547

62 NH PUC 1

New Hampshire Public Utilities Commission

January 3, 1977

PETITION of gas utility regarding emergency curtailment procedures; suspended pending commission investigation.

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BY THE COMMISSION:

Order

Whereas, Northern Utilities, Inc., Allied Gas Division, a public utility engaged in the business of supplying gas service in the state of New Hampshire, on December 3, 1976, filed with this commission certain revisions of its tariff, New Hampshire Public Utilities Commission No. 6 — Gas, regarding emergency curtailment procedures due to gas supply restrictions from their supplier.

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date thereof, be suspended pending investigation and decision thereon; it is

Ordered, that Fifth Revised Page 19 and Second Revised Page 19A and First Revised Page 19B of tariff, New Hampshire Public Utilities Commission No. 6 — Gas, of Northern Utilities, Inc., Allied Gas Division, be and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this third day of January, 1977.

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NH.PUC\*01/03/77\*[77799]\*62 NH PUC 1\*City of Dover Water Department

[Go to End of 77799]

## Re City of Dover Water Department

DE 77-1, Order No. 12,548

62 NH PUC 1

New Hampshire Public Utilities Commission

January 3, 1977

PETITION for authority to extend water mains and service; granted.

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SERVICE, § 210 — Extensions — Water company.

[N.H.] A water company was authorized to extend service further into a municipality where no other water company had franchise rights in the affected area, and the petitioner agreed to serve the area under its regularly filed tariff, where the municipality was in accord with the petition, and where the commission found the proposed service to be in the public interest.

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BY THE COMMISSION:

Order

Whereas, the Dover Water Department, a water public utility, operating under the jurisdiction of this commission, by a petition entered on January 3, 1977 (filed December 7, 1976), seeks authority under RSA 374:22 and 26 as amended, to extend its mains and service further into the town of Rollinsford; and

Whereas, no other water utility has franchise rights in the area sought, and the petitioner submits that the area will be served under its regularly filed tariff; and

Whereas, the Board of Selectmen, town of Rollinsford, has stated that it is in accord with the petition; and

Whereas, after investigation and consideration, this commission is satisfied that the granting of the petition will be for the public good; it is

Ordered, that the Dover Water Department be, and hereby is, authorized to extend its mains and service further into the town of Rollinsford in the area herein described, and as set forth on a map on file in the commission offices as follows:

That property known as the Dover Bowl and that known as the Giant store in the town of Rollinsford; and for these purposes to construct and maintain, the necessary lines and apparatus.

By order of the Public Utilities Commission of New Hampshire this third day of January, 1977.

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NH.PUC\*01/03/77\*[77800]\*62 NH PUC 2\*New Hampshire Electric Cooperative, Inc.

[Go to End of 77800]

**Re New Hampshire Electric Cooperative, Inc.**

I-R14,594, Order No. 12,549

62 NH PUC 2

New Hampshire Public Utilities Commission

January 3, 1977

PETITION for approval of contract to provide electric service to an inn on a temporary basis at a reduced rate; granted.

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RATES, § 321 — Special electric rate under contract.

[N.H.] An Electric cooperative was authorized to serve a financially troubled inn at a low rate under contract where the inn was undergoing reorganization and was closed, where the cost of minimal lighting requirements under the cooperative's PG rate would be excessive, and where it would be too costly for all concerned to convert physically for service under another rate.

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BY THE COMMISSION:

Order

Whereas, New Hampshire Electric Cooperative, Inc., a utility selling electricity under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 50 with the White Mountain National Bank relative to providing electric service to the Eastern Slopes Inn, North Conway,

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New Hampshire, to become effective on the date of this order; and

Whereas, the Eastern Slopes Inn, previously provided electrical service under the PG rate, has been foreclosed by the White Mountain National Bank, is undergoing reorganization, and is closed for the winter 1976-77 months. The cost for minimal lighting requirements under that rate would be exorbitant. To convert physically for service under the G rate for this temporary period would be costly to both the Cooperative and the inn; and

Whereas, such temporary service can be provided under G rate with the minor modification that it be at 7,200 volts, and the customer will supply all transformation and be responsible for all transformation line losses; and

Whereas, upon investigation and consideration, this commission is of the opinion that special circumstances exist which render the terms of this contract just and in the public interest; it is

Ordered, that said contract become effective upon the date of this order and remain in effect until the inn is reopened for business, at which time it will accept service under the PG rate.

By order of the Public Utilities Commission of New Hampshire this third day of January, 1977.

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NH.PUC\*01/05/77\*[77801]\*62 NH PUC 3\*Public Service Company of New Hampshire

[Go to End of 77801]

## Re Public Service Company of New Hampshire

I-E14,374, 18th Supplemental Order No. 12,555

62 NH PUC 3

New Hampshire Public Utilities Commission

January 5, 1977

PETITION seeking approval of contract as part of electric company's thermal storage device load research program; granted.

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BY THE COMMISSION:

Supplemental Order

Whereas, this commission in Order No. 11,943 dated July 29, 1975, approved a form of special contract to be used by Public Service Company of New Hampshire in its electric thermal storage device load research program; and

Whereas, Kenneth Charles Lanpher, Sr., and Linda Marcia Irene Lanpher and the company have executed such a special contract; it is

Ordered, that the contract so executed be, and hereby is, approved by the commission in accordance with its powers under RSA 378:18 and that such contract is approved as of the day of its execution.

By order of the Public Utilities Commission of New Hampshire this fifth day of January, 1977.

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NH.PUC\*01/10/77\*[77802]\*62 NH PUC 4\*Rate Structures of New Hampshire Electric Utilities

[Go to End of 77802]

## Re Rate Structures of New Hampshire Electric Utilities

DR 75-20, Fourth Supplemental Order No. 12,557

62 NH PUC 4

New Hampshire Public Utilities Commission

January 10, 1977

ORDER requiring Class A electric utilities to initiate and engage in an experimental pricing program.

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RATES, § 326 — Electric — Time-differentiated rates.

[N.H.] Class A electric utilities were required to initiate and engage in an experimental pricing program and to develop tariffs with time-differentiated rates based on average costs to be applied to each customer class, residential, commercial, and industrial, with a view to exploring the feasibility of implementing time-differentiated rates based on marginal costs either short-run or long-run, in order to enable the commission to make an equitable and just determination of whether time-differentiated rates (peak-load pricing) should be applied to New Hampshire customers and on what basis.

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BY THE COMMISSION:

Report

By its Order No. 11,711 dated January 22, 1975 this commission initiated and instituted generic electric rate structure hearings. Numerous public hearings have been held during which the commission has heard voluminous technical evidence from both the electric companies and intervenors in this proceeding. The companies submit that their rate structures, based upon the cost of service, are adequate, fair, and efficient and that this traditional method of setting rates should not be disturbed. On the other hand, intervenors proposed that the declining block rate structure is no longer applicable to present-day economic situations. They put forth various theories which are designed to shift the usage patterns of electric customers from peak periods to off-peak periods.

The attempt to control loads through rate design changes is far too large and important to undertake without positive knowledge of the actual effects these new rate designs may have on customers and utilities. Prior to instituting any permanent tariff changes in rate structures, the commission needs specific and actual data in individual cases rather than theories and generalities. The commission needs to gain knowledge of the actual reactions of electric customers over a representative period of time which will include seasonal fluctuations.

This commission is aware of various rate design programs being undertaken by various states in the United States on their own motion or in conjunction with the Federal Energy Administration. We are also particularly aware of the electric utility rate design study being conducted by the Electric Power Research Institute and the Edison Electric Institute in response to a resolution adopted by the National Association of Regulatory Utility Commissioners on December 5, 1974. The resolution, which focuses on rate design in particular and load

management in general, calls for a study of the technology and cost of time-of-day pricing as a means of controlling peak-load growth. A progress report of this study was issued on October 28, 1976, and the study will continue through 1977. When completed, this study should provide significant data, test results, and recommendations which will be helpful to this commission and other commissions in making final determinations in this and other generic rate structure proceedings.

None of the other programs around the country have been sufficiently concluded in terms of presenting any firm or final conclusions about rate structures and designs. Also, in the experimental cases around the nation there is much variation in the types of rates being used and it appears that it will be some time before there is a consistency of results for application on a wide basis.

Notwithstanding the ongoing tests, the commission will institute its own experimental program to test the reactions and responses of the electric customers in the state of New Hampshire of certain New Hampshire electric utilities. This experimental program will involve only the so-called Class A utilities in New Hampshire. They are Public Service Company of New Hampshire, Concord Electric Company, Exeter and Hampton Electric Company, New Hampshire Electric Cooperative, Inc., Granite State Electric Company, and Connecticut Valley Electric Company, Inc. The commission exempts Woodsville Municipal Electric Department, Municipal Electric Department of Wolfeboro, and Littleton Water and Light Department from the effects of this order, realizing and recognizing the limited resources and capabilities of these small municipal companies which are under our jurisdiction because they serve a few customers outside of their corporate limits.

The commission, therefore, has determined that this proceeding should enter an experimental phase, the results of which may form the basis for some permanent tariff changes. We undertake this experimental phase concurrently with the continued hearing of testimony and cross-examination, all with the view toward making some permanent changes in rate structures.

Numerous theories for new rate structures have been advanced. No concrete, detailed proposals, however, have been offered which could be implemented by any of the companies involved in this proceeding. Thus, the commission will require Class A New Hampshire electric utilities to initiate and engage in an experimental pricing program to be developed by each of these companies consistent with this interim report. Each company will be required to submit a program to the commission for its approval prior to actual commencement of the program.

Initially, we will require each company to develop tariffs with time-differentiated rates based on average costs to be applied to each customer class, residential, commercial, and industrial.

Each company shall:

1. Select a representative number of customers in each class using recognized statistical sampling techniques.
2. Develop tariffs with time-differentiated rates based on average costs for each customer class.
3. Estimate costs of necessary metering equipment and estimate the time required to have such equipment installed and operating, considering the various types of metering equipment

described in the record of these proceedings.

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4. Submit an experimental program based on such tariffs to last for a period of twelve months. Such program is to include a proper method of informing the customers selected about the program and enlisting their cooperation in carrying out the program.

Each customer selected will be required to participate in the program for a period of twelve months. Any shorter period of time would necessitate annualizing monthly data and forecasting what customers' usage would be during the balance of a calendar year. A 12-month period will be more complete as it will include seasonal weather patterns and seasonal usage of customers on the system thus yielding actual data for a 12-month test period. Each such customer, however, will receive two electric bills each month, one based on the tariff rates charged to all other similar customers in the class, and the other based on the time-differentiated rates in the tariffs approved by the commission. Each such customer will have the option of paying either of the two bills submitted.

Each company will be required to submit quarterly progress reports of this experimental program to keep the commission fully informed about the practical effects and results of this initial program. As a part of this experimental program the companies shall study and suggest load management programs, compile the data relative to load management, and submit this data on or before December 31, 1977.

Over a longer period of time, the commission will require each company to explore the feasibility of implementing time-differentiated rates based on marginal costs, either short-run or long-run.

In this regard, during the next twelve months, the commission will require each company to study and report upon the development of costing and pricing methodologies, basic load research, the structure, benefits, and costs of new rate forms based on short-run and long-run marginal costs, an assessment of metering capabilities and costs, and an evaluation of alternative rate structures with regard to customer acceptance and revenue stability.

The commission believes that these alternative rate structures must be studied and considered in order to make an equitable and just determination of whether time-differentiated rates (peak-load pricing) should be applied to New Hampshire customers and on what basis. Our order will issue accordingly.

**Supplemental Order**

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that each company be, and hereby is, required, in accordance with the terms of the attached report, to:

1. Submit tariffs with time-differentiated rates based on average costs for each customer class, residential, commercial, and industrial, for approval by the commission on or before March 1, 1977. This date may be extended for a reasonable period of time upon a proper application by any company for good cause;

2. Explore the feasibility of implementing time-differentiated rates based on marginal costs, both short-run and long-run and to report on such study in detail on or before December 31, 1977;

3. Study and suggest load management programs on or before December 31, 1977.

By order of the Public Utilities Commission of New Hampshire this tenth day of January, 1977.

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NH.PUC\*01/13/77\*[77803]\*62 NH PUC 7\*Connecticut Valley Electric Company, Inc.

[Go to End of 77803]

## Re Connecticut Valley Electric Company, Inc.

DR 76-187, Order No. 12,563

62 NH PUC 7

New Hampshire Public Utilities Commission

January 13, 1977

PETITION of electric company seeking rate increase; suspended pending commission investigation.

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BY THE COMMISSION:

Order

Whereas, Connecticut Valley Electric Company, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on December 28, 1976, filed with this commission, for effect January 24, 1977, tariff, NHPUC No. 4 — Electricity, providing for a revision of its rate structure such that revenues are increased by \$344,057 annually, and individual rates more accurately reflect the costs of providing service; and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date thereof be suspended, pending investigation and decision thereon; it is

Ordered, that tariff, NHPUC No. 4 — Electricity of Connecticut Valley Electric Company, Inc., be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of January, 1977.

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NH.PUC\*01/13/77\*[77804]\*62 NH PUC 7\*Concord Natural Gas Corporation

[Go to End of 77804]

## Re Concord Natural Gas Corporation

DR 76-66, Supplemental Order No. 12,564

62 NH PUC 7

New Hampshire Public Utilities Commission

January 13, 1977

PETITION for authority to increase natural gas rates; granted in accordance with order.

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RATES, § 143 — Reasonableness — Cost of service.

[N.H.] A natural gas company was authorized to update and increase the base cost of gas to reflect more closely the current fuel costs.

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BY THE COMMISSION:

Supplemental Order

Whereas, Concord Natural Gas Corporation,

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in compliance with this commission's Order No. 12,540, has filed new tariff pages to its tariff, NHPUC No. 13 — Gas, to produce an increase in rates of \$188,204; and

Whereas, the commission is satisfied that the company has complied with our order to update and increase the base cost of gas to more nearly reflect current fuel costs; it is

Ordered, that Fifth Revised Pages 13, 14, 15, and 16; Third Revised Page 17, and Second Revised Pages 19, 20, and 21A be, and hereby are, canceled; and it is

Further ordered, that Seventh Revised Page Nos. 13, 14, 15, and 16; Fifth Revised Page 17 and Third Revised Pages 19, 20, and 21 A of Concord Natural Gas Corporation tariff, NHPUC No. 13 — Gas be, and hereby are, permitted to become effective with all bills rendered on or after January 11, 1977; and it is

Further ordered, that notice of said increase in rates be given by publication of this order in a newspaper having general circulation in the territory served, including a schedule of the new rates.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of January, 1977.

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NH.PUC\*01/14/77\*[77805]\*62 NH PUC 8\*Boston and Maine Corporation

[Go to End of 77805]

**Re Boston and Maine Corporation**

I-T14,603, Order No. 12,566

62 NH PUC 8

New Hampshire Public Utilities Commission

January 14, 1977

PETITION of railroad to change its tariff schedule; granted.

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BY THE COMMISSION:

Order

In the matter of the petition of the Boston and Maine Corporation, by Robert W. Meserve and Benjamin H. Lacy, trustees for, and on behalf of, carriers in New England territory, pursuant to RSA 378:3 and pursuant to commission Order No. 2979 dated December 18, 1935, praying for authority to put into effect on less than statutory notice a supplement to its tariff schedule to provide for the following:

"To establish a per car charge of \$80 on shipments of automobile parts and automobile body parts in not less than three cars at one time, on one bill of lading, by one consignor to one consignee,

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in one calendar day, running from midnight to midnight between any two of the following named stations: Dover, Farmington, Gonic, NH."; and it is;

Ordered, that said petitioner, under the statute above referred to, be, and hereby is, authorized to put into effect on less than statutory notice, the publication above mentioned, effective on one day's notice; and it is

Further ordered, that the above order number shall be shown on the face of the tariff as authority for this less than statutory notice.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of January, 1977.

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NH.PUC\*01/17/77\*[77806]\*62 NH PUC 9\*New Hampshire Department of Resources and Economic Development

[Go to End of 77806]

**Re New Hampshire Department of Resources and Economic Development**

DT 76-8, Order No. 12,569

62 NH PUC 9

New Hampshire Public Utilities Commission

January 17, 1977

PETITION for authority to construct grade crossing over railroad tracks for snowmobile use; granted subject to conditions.

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CROSSINGS, § 32 — Snowmobile use.

[N.H.] An unopposed petition for authority to construct a grade crossing for snowmobile use over railroad tracks was granted, subject to conditions, for use in the snow season only where there were no other such crossings currently in operation, and no private property would be crossed in the immediate vicinity of the proposed crossing.

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APPEARANCES: Paul T. Doherty for the petitioner; Donald E. L. Hallock, president for Wolfeboro Rail Road Company; and Gertrude Delory for the Central New Hampshire Snow Bunnies of Ashland.

BY THE COMMISSION:

Report

By this unopposed petition filed January 21, 1976, the state of New Hampshire Department of Resources and Economic Development (DRED), Bureau of Off Highway Vehicles (BOHV), seeks authority to lay out and construct a grade crossing for snowmobile use over the tracks of the Concord

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to Lincoln Railroad line in the town of Ashland. A hearing was held at the offices of the commission on Tuesday, January 4, 1977.

The crossing is proposed to be located in the town of Ashland and would cross the tracks of the state-owned Concord to Lincoln rail line 35 feet north of the switch to the Ashland Paper Company sidetrack which is between Interstate Route 93 and state highway Route 3B. The proposed crossing would traverse the rail line from the Ashland landfill on the south to other property of the town of Ashland on the north. No private property will be crossed in the immediate vicinity of the proposed crossing.

Paul Doherty, supervisor of BOHV testified that DRED was requesting this proposed crossing to assist a local snowmobile club known as the Central New Hampshire Snow Bunnies. Department of Resources and Economic Development supports the development of a statewide snowmobile trail system. In addition to over 500 miles of state trails, private clubs have developed an estimated 10,000 miles of trails. This sport of snowmobiling is growing rapidly

and the trail system is being developed to keep snowmobiles where they should be. Doherty indicated that this proposed crossing would only be for winter use and would not include use by other all-terrain vehicles during nonwinter months.

The crossing is proposed to be constructed at an angle to the rail line which would require the crossing to be approximately 16 feet wide. Donald Hallock, president of the Wolfeboro Rail Road Company and operator of the state-owned Concord to Lincoln line stated that safety and maintenance problems increase in direct proportion to the width of a crossing across track. A 16-foot crossing would approximate the width of a regular vehicular crossing. There seems to be no need for such a wide crossing for snowmobiles. Hallock suggested that a crossing at a 90-degree angle to the rail line would reduce the necessary width of the crossing to eight feet while still allowing ample room for the passage of two-way snowmobile traffic. We agree and will order the approaches of this trail to be so constructed as to provide a crossing at a 90-degree angle on both approaches to the tracks.

Hallock also suggested, and we agree, that the planking to be used for the crossing need not be placed as close to the tracks (about two inches) as is the usual case in crossing construction. Snowmobiles do not require tightly fitted planking in order to traverse the tracks. A distance of eight inches between planking and rail flanges and between planking sections themselves seems desirable and will not hamper the travel of the snowmobiles. Such a method of construction will facilitate the maintenance of the track in winter months. With the larger distance of eight inches there will be less likelihood of ice and snow compaction.

Any crossing presents a hazard to railroad operation and it is with moderate reluctance that we authorize such a crossing. Plowing of the rail line is hampered by a crossing and additional maintenance is necessary to be certain that snow and ice compaction does not occur.

To our knowledge there are no other such crossings in any jurisdiction for traversing a rail line currently in operation.

Exhibits were presented showing a sketch of the crossing and two photographs of the area. The visibility at

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the proposed crossing is very good, being about 500 feet in each direction.

Since any crossing is a potential hazard to the operation of a railroad the commission will require strict regulation of its use. There shall be appropriate stop signs on both approaches to the crossing. Department of Resources and Economic Development shall develop and submit to the commission a proposed sign for use at this crossing. The crossing will not be open for use until the commission approves the signs and they are erected at the site.

The railroad shall operate its trains at a speed not to exceed 15 miles per hour on the approaches to the crossing and shall provide one long blast of a whistle approximately 300 feet before reaching the crossing. The railroad shall maintain the crossing in the usual manner, the added expense to be borne by DRED. Department of Resources and Economic Development shall also incur the costs of construction and the placing and maintenance of signs.

This crossing shall be valid for use in the snow season only and shall be valid from date of

issuance of this report and order until April 1, 1977. Thereafter it shall not be valid for any use and will only be used in subsequent years upon reissuance of authority by supplemental order of the commission. Our order will issue accordingly.

#### Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that an eight-foot wide crossing established at right angles to trackage of the Concord to Lincoln rail line be, and hereby is, authorized for the exclusive use of snowmobiles and snowmobile trail grooming equipment; and it is

Further ordered, that said crossing shall be located in the town of Ashland, New Hampshire, between Interstate Route 93 and state highway Route 3B at a point 35 feet north of the present spur track switch, all as more particularly shown on plans on file with this commission; and it is

Further ordered, that the following safety measures are required:

1. Every snowmobile shall stop before traversing the crossing.
2. Stop signs approved by the commission shall be erected on both sides of the rail line.
3. Planking of the crossing shall be placed no closer than eight inches to the rail and no closer than eight inches to each other plank.
4. Locomotive speed on the approaches to the crossing shall not exceed 15 miles per hour.
5. The Wolfeboro Rail Road Company shall cause a whistle warning to be made on both approaches to the crossing at about 300 feet therefrom; and it is

Further ordered, that the Department of Resources and Economic Development shall bear the cost of construction of the crossing and the added cost of maintenance incurred by the Wolfeboro Rail Road Company in the upkeep of the crossing; and it is

Further ordered, that the crossing be, and hereby is, authorized for the winter season only, effective from the date of this order and terminating automatically on April 1, 1977.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of January, 1977.

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NH.PUC\*01/18/77\*[77807]\*62 NH PUC 12\*New England Power Company

[Go to End of 77807]

### **Re New England Power Company**

DF 76-161, Second Supplemental Order No. 12,573

62 NH PUC 12

New Hampshire Public Utilities Commission

January 18, 1977

PETITION by electric company for authority to issue general and refunding mortgage bonds; granted subject to conditions.

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SECURITY ISSUES, § 95 — General and refunding mortgage bonds.

[N.H.] An electric company was authorized to issue and sell for cash its general and refunding mortgage bonds at a price of 100.51 per cent of the principal amount, with interest at the rate of 8.625 per cent per annum, and to issue and pledge another of its first mortgage bonds, at the same rate of interest, as further security for the general and refunding bonds.

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BY THE COMMISSION:

Supplemental Order

Whereas, by Order No. 12,495 of this commission dated November 29, 1976, New England Power Company was authorized to issue and sell for cash us general and refunding mortgage bonds, Series A, in an aggregate principal amount of \$50 million, maturing in not more than thirty years from the date thereof, and to bear such interest rate as would be determined by competitive bidding; and

Whereas, by Supplemental Order No. 12,535 of this commission dated December 21, 1976, New England Power Company was authorized to issue and pledge, as further security for its general and refunding mortgage bonds, its first mortgage bonds, Series V, in an aggregate principal amount of \$20 million, bearing the same interest rate and having the same maturity as said general and refunding mortgage bonds; and

Whereas, New England Power Company has determined that the bonds shall mature on January 1, 2007; and

Whereas, in compliance with said orders, New England Power Company has secured proposals for the purchase of said general and refunding mortgage bonds, Series A, in a manner satisfactory to the commission, the most favorable offer being 100.51 per cent for \$50 million principal amount of general and refunding mortgage bonds, Series A bearing interest at the rate of 8.625 per cent per annum, thus establishing a cost of money to the company of 8.5774 per cent per annum to maturity, upon consideration; it is

Ordered, that New England Power Company be, and hereby is, authorized to issue and sell for cash its general and refunding mortgage bonds, Series A, in the amount of \$50 million at a price of 100.51 per cent of the principal amount, said general and refunding bonds to bear interest at the rate of 8.625 per cent per annum, and to issue and pledge its first mortgage bonds, Series V, in the amount of \$20 million, bearing the same rate of interest as said general and refunding bonds, Series A, as further security for the general and refunding bonds; and it is

Further ordered, that the authorization contained herein be subject to all

the terms and conditions stipulated in our original and first supplemental orders in this proceeding.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of January, 1977.

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NH.PUC\*01/24/77\*[77808]\*62 NH PUC 13\*Northern View Water Company, Inc.

[Go to End of 77808]

### **Re Northern View Water Company, Inc.**

I-R 14,462, Order No. 12,577

62 NH PUC 13

New Hampshire Public Utilities Commission

January 24, 1977

PETITION of water company for rate increase; suspended pending commission investigation.

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BY THE COMMISSION:

Order

Whereas, Northern View Water Company, Inc., a public utility engaged in the business of supplying water service in the state of New Hampshire, on January 17, 1977, filed with this commission certain revisions of its tariff, NHPUC No. 1 — Water, Third Revised Page 5, providing for an increase in rates effective February 10, 1977; and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date thereof be suspended pending investigation and decision thereon; it is

Ordered, that Third Revised Page 5 of tariff, NHPUC No. 1 — Water of Northern View Water Company, Inc., be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of January, 1977.

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NH.PUC\*01/26/77\*[77809]\*62 NH PUC 14\*Public Service Company of New Hampshire et al.

[Go to End of 77809]

### **Re Public Service Company of New Hampshire et al.**

DR 76-46, 11th Supplemental Order No. 12,578

62 NH PUC 14

New Hampshire Public Utilities Commission

January 26, 1977

PETITIONS by electric companies for authority to apply a fuel adjustment charge to regular February monthly billings to their customers; granted.

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RATES, § 303 — Fuel adjustment clauses in rate schedules.

[N.H.] Electric companies were authorized to apply a fuel adjustment charge to regular February monthly billings to their customers in view of the fact that the fuel clause was instituted as an automatic mechanism for recovery of fuel costs above base and such a clause is a widely used and accepted method of directly changing a customer's bill to recover the extra cost of fuel paid by the companies, with the additional revenues recovered by this clause going directly to offset the increase in the cost of fuel above the base cost of fuel in basic rates.

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APPEARANCES: Martin L. Gross and Philip Ayers for Public Service Company of New Hampshire; Joseph S. Ransmeier for Concord Electric Company and Exeter and Hampton Electric Company; Robert Schill for Connecticut Valley Electric Company, Inc.; Thomas W. Morse for New Hampshire Electric Cooperative, Inc.; Kirk L. Ramsauer for Granite State Electric Company; Dennis Bean for the Municipal Electric Department of Wolfeboro; Richard Deane for Littleton Water and Light Department; Robert Brown for Woodsville Water and Light Department; Peter W. Brown for VOICE; and Steven W. Ruback for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

Pursuant to RSA 378:3-a(II), the commission, on January 17, 18, and 20, 1977, held hearings on the petitions of nine New Hampshire electric companies for authority to apply a fuel adjustment charge to regular February monthly billings to their customers.

Each company participating in these proceedings has a fuel adjustment clause as part of its duly filed tariff with this commission. The fuel clause operates to recover the company's fuel costs which are above base, that is, over and above the fuel costs included in basic rates.

The fuel clause was instituted for Public Service Company of New Hampshire after remand from the supreme court of commission Order No. 10,679 denying the fuel clause. Fuel costs were then fluctuating frequently and thus it was not possible to reflect these rapidly changing costs in basic rates. Basic rates are changed normally after detailed and lengthy proceedings which are highly technical in nature. Thus, the fuel clause was instituted as an automatic mechanism for recovery of fuel costs above base. The automatic adjustment varies up and down from month to month.

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For Public Service Company, for example, the fuel adjustment clause represents the extra costs of fuel over what these costs were in mid-1971. The fuel surcharge would normally be included with other costs in the basic rates but because the fuel cost element has fluctuated it is applied as a separate element. Thus, customers' bills are comprised of a fuel charge and a basic rate charge.

Under the fuel adjustment clause, the customer pays 100 per cent of the company fuel cost just as he pays 100 per cent of all other legitimate costs of the company.

The fuel adjustment clause is a widely used and accepted method of directly changing a customer's bill to recover the extra cost of fuel paid by the company. The additional revenues recovered by this clause go directly to offset the increase in the cost of fuel above the base cost of fuel in basic rates. This automatic fuel adjustment clause is also part of wholesale rates under the jurisdiction of the Federal Power Commission.

In 1975 and 1976, Touche-Ross & Company, at the request of this commission, performed an in-depth audit of the Public Service Company fuel adjustment clause. Among its recommendations Touche-Ross & Company stated "we recommend that the fuel adjustment clause continue to pass through fuel costs, including purchased energy, to ratepayers. On balance we believe that at the present time for this company and its ratepayers, the advantages of a fairly simple clause outweigh any possible advantages of a more complex clause."

Another Touche-Ross & Company recommendation urged a survey of the existing coal pile. The survey established a coal inventory discrepancy which has been a subject at these monthly hearings. Refunds to customers have been made as a result of this coal inventory discrepancy and the commission in a separate supplemental order will determine the final adjustment in this refund matter.

#### *Littleton Water and Light Department*

Littleton Water and Light Department, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on January 19, 1977, filed with this commission 37th Revised Page 6 to its tariff, NHPUC No. 1 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect on February 1, 1977. Littleton purchases all of its requirements from the New England Power Company. Littleton reported that the total fuel cost billed by the New England Power Company during the month of December, 1976, was \$7,480.97. During this period the total kilowatt-hours sold by Littleton was 2,773,239. The fuel adjustment charge, therefore, by simple division is \$0.0026975 rounded to \$0.0027. The fuel adjustment charge proposed for the month of February, 1977, is 27 cents per hundred kilowatt-hours applied to all bills to be rendered in that month.

#### *Municipal Electric Department of Wolfeboro*

Municipal Electric Department of Wolfeboro, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on January 6, 1977, filed with this commission 27th Revised Page 9A to its tariff, NHPUC No. 4 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect February 1,

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1977. Wolfeboro purchases all of its requirements from Public Service Company of New Hampshire. Wolfeboro reported that during the month of December, 1976, the total fuel cost billed by Public Service Company was \$40,265.28. During this same period the total kilowatt-hours sold by Wolfeboro was 2,554,071. The fuel adjustment, therefore, by simple division and rounded is \$0.0157 per kilowatt-hour. The fuel adjustment charge proposed for effect in the month of February, 1977, is \$1.57 per hundred kilowatt-hours to apply to all bills rendered in that month.

*New Hampshire Electric Cooperative, Inc.*

New Hampshire Electric Cooperative, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on January 18, 1977, filed with this commission 33rd Revised Page 13 to its tariff, NHPUC No. 6 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect on February 1, 1977. The company reported that the total fuel cost billed by its several power suppliers for power during the month of December, 1976, was \$411,462. Total sales by the Co-op during the same month were 29,334,683 kilowatt-hours. By simple division, the fuel adjustment charge proposed for February, 1977, is \$0.01403 rounded to \$0.0140 per kilowatt-hour. The fuel adjustment charge to be applied to all bills rendered in the month of February is proposed to be \$1.40 per hundred kilowatt-hours.

*Granite State Electric Company*

Granite State Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on January 14, 1977, filed with this commission 29th Revised Page 15A to its tariff, NHPUC No. 8 — Electricity, comprising the monthly fuel adjustment charge for effect February 1, 1977. Granite State Electric Company purchases all of its requirements from the New England Power Company. Granite State reported that the variable portion of the fuel cost billed by New England Power Company was \$73,158.38. Total sales to Granite State customers during the same period were 31,057,344 kilowatt-hours. By simple division this yields \$0.0024 to which is added the fixed fuel portion of \$0.0124 or \$1.24 per hundred kilowatt-hours. Thus, the fuel adjustment charge applicable to bills rendered in the month of February, 1977, is proposed to be 31.48 per hundred kilowatt-hours.

*Woodsville Water and Light Department*

Woodsville Water and Light Department, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on January 13, 1977, filed with this commission Second Revised Page 10B to its tariff, NHPUC No. 3 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect February 1, 1977. Woodsville purchases all of its requirements from Central Vermont Public Service Corporation. Woodsville reported that during the month of December, 1976, the total fuel cost billed by Central Vermont was a credit of \$1,197.41. During this same period the total kilowatt-hours sold by Woodsville was 772,106. The fuel adjustment, therefore, by simple division and

rounded is a credit of \$0.0017 per kilowatt-hour. The fuel adjustment charge proposed for the month of February, 1977, is a credit of 17 cents per hundred kilowatt-hours to apply to all bills rendered in that month.

*Connecticut Valley Electric Company, Inc.*

Connecticut Valley Electric Company, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on January 13, 1977, filed with this commission Fifth Revised Page 18 to its tariff, NHPUC No. 3 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect February 1, 1977. Connecticut Valley purchases all of its requirements from Central Vermont Public Service Corporation. Connecticut Valley reported that during the month of December, 1976, the total fuel cost billed by Central Vermont was a credit of \$ 18,200. During this same period the total kilowatt-hours sold by Connecticut Valley was 14,201,200. The fuel adjustment, therefore, by simple division and rounded is a credit of \$0.001282 per kilowatt-hour. The fuel adjustment charge proposed for the month of February, 1977, is a credit of \$0.1282 per hundred kilowatt-hours to apply to all bills rendered in that month.

*Concord Electric Company*

Concord Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on January 11, 1977, filed with this commission 23rd Revised Page 15A to its tariff, NHPUC No. 6 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect February 1, 1977. Concord Electric purchases all of its requirements from Public Service Company of New Hampshire. Concord Electric reported that the total fuel cost billed by Public Service Company during the month of December, 1976, was \$372,955.89. Total sales during that same period were 25,308,799 kilowatt-hours. The fuel adjustment charge by simple division is \$0.0474 per kilowatt-hour. Therefore, the fuel adjustment charge proposed for the month of February, 1977, is \$1.47 per hundred kilowatt-hours.

Witness MacDonald testified that Concord Electric Company follows procedures for verification of the power bill from Public Service Company which are comparable to the procedures outlined in these proceedings by Exeter and Hampton Electric Company.

*Exeter and Hampton Electric Company*

Exeter and Hampton Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on January 7, 1977, filed with this commission 19th Revised Page 16 to its tariff, NHPUC No. 11 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect February 1, 1977. Exeter and Hampton purchases all of its requirements from Public Service Company of New Hampshire. Exeter and Hampton reported that the total fuel cost billed by Public Service Company for the period November 30, 1976, to December 31, 1976, was \$400,542.94. Total sales by Exeter and Hampton during that same period were 26,783,695 kilowatt-hours. The fuel adjustment charge, therefore, by simple division and

rounded is \$0.0150. Thus, the fuel adjustment charge proposed to be billed during the month of February, 1977, is \$1.50 per hundred kilowatt-hours.

Michael Dalton, chief engineer for Exeter and Hampton testified that he periodically reviews the monthly power bill received from Public Service Company. The purpose of the review is to verify that the Public Service Company bill properly represents the kilowatt-hour and kilovolt-ampere demand used by Exeter and Hampton are the same quantities shown on the meters measuring actual energy use.

*Public Service Company of New Hampshire*

Public Service Company of New Hampshire, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on January 14, 1977, filed with this commission 26th Revised Pages 15 and 16 to its tariff, NHPUC No. 20 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect February 1, 1977.

Page 16 of the company's fuel surcharge filing for February indicates that fuel cost above base for the data month of December was \$6,626,299. During this same period the kilowatt-hours subject to the fuel adjustment were 481,055,000. The fuel adjustment, therefore, by simple division and rounded is \$0.0138 per kilowatt-hour. The fuel adjustment charge proposed for effect in the month of February is \$1.38 per hundred kilowatt-hours to apply to all bills rendered in that month.

Witness VanderBeken testified that the proposed February fuel adjustment charge is higher than the previous month due to higher fuel costs and the unavailability of the Merrimack coal generating plant during the data month of December. Also, kilowatt-hour usage was high during the data month which necessitated the burning of greater amounts of oil for generation in view of the Merrimack plant's breakdown status.

The motions by intervenors to deny portions of the fuel surcharge which can be attributed to replacement power to offset usage at the Merrimack II plant due to boiler tube leaks and other equipment replacements are denied. The present state of technology dictates that we must accept equipment failures as an inevitable result of prolonged steam plant operations. Repair of boiler tube leaks and the replacement of gas fan gaskets and valves is part of the normal maintenance of such a plant.

The cost of obtaining replacement power, repairing of boiler tube leaks, and replacement of other equipment, is covered by the company's basic rates as a normal operating expense. It is only the additional cost of fuel above base that has never been factored into the basic rates that is to be recovered by the surcharge. Unless there is evidence of mismanagement on the part of the company in these matters, the fuel cost of replacement power under the provisions of the NEPOOL agreement and the company's filed tariffs is justified.

The surcharge proposed for February includes no coal inventory adjustment. The commission heard extensive testimony of the final adjustment for the coal inventory refund. Regarding this aspect of the proceeding, parties will file briefs. A decision, therefore, is deferred on the coal inventory adjustment until after the submission of briefs.

We find no evidence in the record

presented by intervenors that there has been any mismanagement with respect to these operations and we find that the company has met its burden of proof by a preponderance of the evidence that it is entitled to a full recovery of fuel costs above base for the data month.

#### Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that 26th Revised Pages 15 and 16 of Public Service Company of New Hampshire tariff, NHPUC No. 20 — Electricity, providing for the monthly fuel surcharge of \$ 1.38 per hundred kilowatt-hours for the month of February, 1977, be, and hereby are, permitted to become effective February 1, 1977; and it is

Further ordered, that 23rd Revised Page 15A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of \$1.47 per hundred kilowatt-hours for the month of February, 1977, be, and hereby is, permitted to become effective February 1, 1977; and it is

Further ordered, that 19th Revised Page 16 of Exeter and Hampton Electric Company tariff, NHPUC No. 11 — Electricity, providing for the monthly fuel surcharge of \$ 1.50 per hundred kilowatt-hours for the month of February, 1977, be, and hereby is, permitted to become effective February 1, 1977; and it is

Further ordered, that Fifth Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of a credit of \$0.1282 per hundred kilowatt-hours for the month of February, 1977, be, and hereby is, permitted to become effective February 1, 1977; and it is

Further ordered, that 33rd Revised Page 13 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of \$1.40 per hundred kilowatt-hours for the month of February, 1977, be, and hereby is, permitted to become effective February 1, 1977; and it is

Further ordered, that 29th Revised Page 15A of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of \$1.48 per hundred kilowatt-hours for the month of February, 1977, be, and hereby is, permitted to become effective February 1, 1977; and it is

Further ordered, that 27th Revised Page 9A of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of \$1.57 per hundred kilowatt-hours for the month of February, 1977, be, and hereby is, permitted to become effective February 1, 1977; and it is

Further ordered, that 37th Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of 27 cents per hundred kilowatt-hours for the month of February, 1977, be, and hereby is, permitted to become effective February 1, 1977; and it is

Further ordered, that Second Revised Page 10B of Woodsville Water and Light Department

tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of a credit of 17 cents per hundred kilowatt-hours for the month of February, 1977, be, and hereby is, permitted

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to become effective February 1, 1977.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of January, 1977.

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NH.PUC\*01/27/77\*[77810]\*62 NH PUC 20\*Manchester Water Works

[Go to End of 77810]

### Re Manchester Water Works

DE 77-8, Order No. 12,583

62 NH PUC 20

New Hampshire Public Utilities Commission

January 27, 1977

PETITION for authority to extend water mains and service; granted.

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SERVICE, § 210 — Extensions — Water company.

[N.H.] A water company was authorized to extend service further into a municipality where no other water company had franchise rights in the affected area, and the petitioner agreed to serve the area under its regularly filed tariff, where the municipality was in accord with the petition, and where the commission found the proposed service to be in the public interest.

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BY THE COMMISSION:

Order

Whereas, Manchester Water Works, a water public utility operating under the jurisdiction of this commission, by petition filed January 10, 1977, seeks authority under RSA 374:22 and 26 as amended, to extend its mains and service further into the town of Londonderry; and

Whereas, no other water utility has franchise rights in the area sought and the petitioner submits that the area will be served under its regularly filed tariff; and

Whereas, the Board of Selectmen, town of Londonderry, has stated that it is in accord with the petition; and

Whereas, after investigation and consideration, this commission is satisfied that the granting

of the petition will be for the public good; it is

Ordered, that Manchester Water Works be, and hereby is, authorized to extend its mains and service further into the town of Londonderry in the area herein described, and as set forth on a map on file in the commission offices, as follows:

Beginning at a point along Londonderry's west boundary line with

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Manchester, said point being the southwesterly most existing franchise limit for the town of Londonderry; thence southerly along said boundary line 7,500 feet to a point; thence easterly along a line that is parallel to Londonderry's north boundary line with Manchester to a point 200 feet west of Hall road, said point being along a straight line perpendicular to the center line of Hall road, and 1,500 feet  $\pm$  southwest of the center line of Little Cohas Brook, so-called. Thence, northeasterly 1,500 feet  $\pm$  following a line that is parallel to the center line of Hall road to the point where it intersects with the center line of Little Cohas Brook; thence northerly along Little Cohas Brook to a point where it intersects with center line of the Boston and Maine Railroad right of way; thence easterly 800 feet  $\pm$  along the center line of the railroad right of way to a point; thence northerly to a point along the center line of Grenier field, said point being 2,000 feet southeast of the intersection of Grenier Field road and Webster road; thence northwesterly along the center line of Grenier Field road to the center line of Harvey road; thence northerly along the center line of Harvey road to a point 1,000  $\pm$  south of the center line of Nutfield drive, said point being the southerly most existing franchise limit along Harvey road; thence westerly along the southerly boundary of said franchise limit granted in D-E4126, to the point of beginning, and for these purposes to construct and maintain the necessary lines and apparatus.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of January, 1977.

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NH.PUC\*02/08/77\*[77811]\*62 NH PUC 21\*Ross Express, Inc.

[Go to End of 77811]

### **Re Ross Express, Inc.**

DT 76-74, Order No. 12,592

62 NH PUC 21

New Hampshire Public Utilities Commission

February 8, 1977

APPLICATION for authority to operate as a common carrier of property in interstate commerce in New Hampshire; granted.

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1. MONOPOLY AND COMPETITION, § 24 — Monopolistic rights under certificates.

[N.H.] Existing holders of certificates and permits are not entitled to immunity from competition although certificated carriers are afforded some protection against unnecessary competition, irresponsible operations, and unnecessary duplication of services. p. 24.

2. MONOPOLY AND COMPETITION, § 62 — Motor carriers — Public interest.

[N.H.] A motor carrier was authorized to engage in operations in interstate commerce on its intrastate routes serving all points in New Hampshire where the carrier has performed

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satisfactorily and efficiently; where the company did not represent unnecessary competition, irresponsible operations, or unnecessary duplication of services; where there would be no diversion of traffic from protesting carriers; and such grant of authority would foster beneficial competition. p. 24.

3. MONOPOLY AND COMPETITION, § 62 — Motor carriers — Effect on existing carriers.

[N.H.] The commission seeks to prohibit unbridled competition which might depress the earnings of existing carriers to the point where it is detrimental to the point and/or they are forced out of the market. p. 24.

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APPEARANCES: Charles De Grandpre and Grenville Clark for Ross Express, Inc.; John F. O'Donnell for St. Johnsbury Trucking Company; James E. Mahoney for Holmes Transportation, Inc., Nashua Motor Express, Inc., Auclair Transportation, Inc., Graf Bros., Inc., and Coastal Tank Lines, Inc.; and Frank J. Weiner for F. S. Willey Company, Inc.

BY THE COMMISSION:

Report

By this opposed application filed June 9, 1976, Ross Express, Inc., seeks authority from this commission to operate as a regular and an irregular route common carrier of property by motor vehicle between points and places in New Hampshire in the transportation of general commodities, except Class A and B explosives, household goods, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading.

In response to inquiries from certain protestants for clarification of the authority sought, Ross Express, Inc., stated that it " ... has not operated, nor does it seek authority to operate, a courier service for the carriage of commercial papers, documents, written instruments, cash letters, checks, drafts, and other nonnegotiable instruments and records on behalf of banks, banking institutions, or commercial businesses."

The purpose of this application is to obtain a refinding of public convenience and necessity and a certificate of public convenience and necessity in accordance with the requirements of § 206(a)(b) of the Interstate Commerce Act (49 USCA § 306(a)(6)) as amended, to enable the

applicant to engage in operations in interstate and foreign commerce within limits which do not exceed the scope of intrastate operations authorized to be conducted by the applicant by public utilities commission Order No. 8829, attached hereto as Exh A.

Commission Order No. 8829 was issued to Ross Express on November 9, 1967, pursuant to RSA 375-B:4, the grandfather provisions of the then newly enacted motor carrier statute. That order issued Property Carrier Certificate of Public Convenience and Necessity No. 3 to Ross Express, Inc., and pursuant to this authority Ross serves every city and town in the state of New Hampshire.

The intention of § 206(a)(6) is to allow state commissions, which are presumably more familiar with local transportation conditions within their states to hear and pass upon such applications. The Ross Express application presents this commission with the first opportunity to consider an application submitted under § 206(a)(6) of the Interstate Commerce Commission Act.

Section 206(a)(6) requires public notice in the *Federal Register*. Notice of this proceeding appeared in the *Federal Register* in Vol 41, No. 167, p. 36130 on Thursday, August 26, 1976. In addition, this commission required publication in

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New Hampshire. Local notice of this proceeding appeared in a statewide newspaper on August 7, 1976, in accordance with the commission's direction. Over forty carriers, thought to be interested in this proceeding, received notice of hearings mailed directly to them by this commission. Duly noticed hearings were held at the offices of the commission on October 5th, 6th, and 7th and on November 3, 1976. All parties were given the opportunity to engage in direct and redirect examination, cross-and recross-examination, to address the commission both orally and by written brief.

Throughout the hearings in this matter this commission applied its own rules of practice and procedure. This commission also operated under RSA 365:9, *Evidence* which states that in any investigation or hearing "the commission shall not be bound by the technical rules of evidence." The evidence in this case included affidavits of parties not present and hearsay statements from witnesses. The commission weighs each statement and accords each statement a certain significance considering the manner in which it was made, the credibility of the witness making it, and the existence of any corroborating statements, if any.

*Supporting Shipper Evidence — Intrastate Operation*

Shipper witnesses from B. J., Inc. (Manchester, NH), and C. M. Rice Paper Company (Concord, NH) utilize Ross Express for wholly intrastate traffic movement and have been satisfied with the service rendered particularly to the small rural towns in New Hampshire (T 154, 155, 156; 2-2, 6, 9). Numerous other supporting statements were received indicating the quality of Ross Express's service. Ross Express provides 13 daily truck routes over its regular and irregular route authority (T189-190, 4-104) and also provides overnight delivery service to the entire state of New Hampshire.

*Supporting Shipper Evidence — Interstate Operation*

Shipper witnesses from Montgomery Ward, Amway, and Stanley Home Products all testified that they use their private fleet to transport products to New Hampshire where they utilize Ross Express for intrastate distribution. Each, shipper contemplates terminating its private fleet and plans to linehaul their products into New Hampshire via existing common carriers to the Ross Express terminal. They all wish to continue to use Ross Express for intrastate distribution.

Montgomery Ward has previously used interstate common carriers for so-called "direct shipments" into New Hampshire but terminated this type of service because it did not prove satisfactory in meeting the needs of its customers (T 35, 36, 39, 40, 61), Ross Express, however, has provided them with satisfactory service (T 62).

The testimony of the Stanley Home Products witness is replete with complaints about existing services of presently certificated interstate common carriers. While the complainants were not present to answer questions it remains significant that numerous complaints do exist. The commission does not seek to verify every fact or allegation contained in such complaints but the existence of so many complaints does indicate inefficiencies with present services. It is also significant that many complaints originate in rural areas,

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where witness Grilley indicates Ross Express has performed satisfactorily and efficiently.

Amway sales representatives in New Hampshire work on a one-week cycle from prepayment to actual receipt of goods. Ross Express's overnight service is suitable for Amway's delivery needs especially in the rural, less traveled areas of this state where Ross Express customarily travels.

[1-3] It is a well settled principle that existing holders of certificates and permits are not entitled to immunity from competition. Certificated carriers are afforded some protection against unnecessary competition, irresponsible operations and unnecessary duplication of service. In the instant case, Ross Express does not represent unnecessary competition, irresponsible operations, or unnecessary duplication of services.

The three shipper witnesses supporting the interstate portion of this application presently engage in private carriage to the Ross Express terminal. They seek to terminate that private carriage, engage an interstate common carrier to line-haul into New Hampshire, and retain Ross Express for New Hampshire distribution. This situation will not cause diversion of any traffic from protestants but actually may generate traffic into New Hampshire to the Ross Express terminal. And, to the extent that Montgomery Ward, Amway, and Stanley might determine that transferring shipments from an interstate line-haul carrier to Ross would be unnecessarily time consuming and thus detrimental to their customers, they are free to terminate service with Ross Express and retain another carrier. So, actually, by a grant of authority here, Ross would be afforded only the proper advantage he himself can produce by offering a service more effectively tailored to the needs of shippers required to serve each and every point in New Hampshire. It appears the such a grant of authority would foster beneficial competition in that protestants may be induced to improve or augment their services to meet this new competition.

The inadequacy of some protestants services has been demonstrated by untimely deliveries

(T 35, 2-10, 2-11) and some protestants have certain restrictions in operating authority to reach all points in New Hampshire (Coastal, T 2-141; Willeys, Exh 44; Nashua, Exh 58 and 59, and T 3-132, 134, 136; Homes, Exh 70 and T 4-15; and St. Johnsbury, Exh 77 and T 4-42 and 43).

In this case we do not think that the introduction of a new service would be an unnecessary or wasteful duplication Or that it would unduly harm the investment of the carriers who have operations in New Hampshire. The commission seeks to prohibit unbridled competition which might depress the earnings of the existing carriers to the point where it is detrimental to the public and/or they are forced out of the market.

Based on all of the evidence in the record, the commission grants the following Requests For Rulings of Law made by Ross Express; Nos. 2, 3, 4, 5, and 6. The commission grants Request No. 1 with the qualification that the authority contained in RSA 375-B for this commission to conduct hearings on applications under § 206(a)(6) of the Interstate Commerce Commission Act is implied and not expressed (see RSA 375-B:17 (III))

Based on all of the evidence in the record the commission grants the following Requests For Findings of Fact: Nos. 1-9, 11-20, 22-35, and 37-39. Request No. 10 is granted with the qualification

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that although the applicant is authorized to serve the entire state of New Hampshire on a daily basis it does not serve every point in the state on each day.

The commission grants Request No. 21 with the qualification that the applicant will be tendered additional traffic based on witness testimony which can reasonably be believed and thus there is a reasonable expectation that Ross will be tendered additional traffic.

The commission grants in part and denies in part Request No. 36. The commission finds that existing carriers are not unwilling but are unable to satisfy the needs of testifying shippers who must serve the public. All other requests for rulings of law and findings of fact not specifically granted are hereby denied.

After making the above Ruling of Law and Findings of Fact and after weighing all of the evidence presented, a substantial residuum of credible evidence exists which is sufficient upon which to pass a grant of authority.

Based upon all the facts submitted in this proceeding the commission is of the opinion that public convenience and necessity requires the issuance of a certificate to Ross Express, Inc., to engage in operations in interstate commerce on its intrastate routes serving all points in New Hampshire and it is further found that the said Ross Express, Inc., is a common carrier not controlled by, or under a common control with, any other carrier engaged in operations outside the state of New Hampshire. Our order will issue accordingly.

Order

Property Carrier Certificate of Public Convenience and Necessity No. 438

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Ross Express, Inc., be, and hereby is, authorized to engage in operations in

intrastate commerce on its regular and irregular intrastate routes as a common carrier of property by motor vehicle as follows:

Transportation of general commodities, except Class A and B explosives, household goods, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading between all points and places in the state of New Hampshire as set forth in Order No. 8829 dated November 9, 1967; [See Appendix] and it is

Further ordered, that this certificate is issued after notice to interested persons through publication in the *Federal Register* of the filing of the application and of the desire of the applicant also to engage in interstate and foreign commerce within the limits of the intrastate authority granted; it is issued after reasonable opportunity was afforded to interested persons to be heard; and this commission has duly considered the question of the proposed interstate operations and has found that the public convenience and necessity requires that the applicant be authorized to engage in intrastate operations and also be authorized to engage to interstate and foreign commerce within limits that do not exceed the scope of the intrastate operations authorized to be conducted; and it is

Further ordered, that said operations shall comply with the provisions of RSA 375-B, and the rules and regulations prescribed by the public utilities commission pursuant thereto.

By order of the Public Utilities Commission

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of New Hampshire this eighth day of February, 1977.

#### APPENDIX

Order No. 8829

Property Carrier Certificate Of Public Convenience and Necessity No. 3

Whereas, in accordance with the provisions of RSA 375-B, Ross Express, Inc., of Penacook, New Hampshire, has made application, pursuant to RSA 375-B:4, effective December 1, 1967, to continue operations as a property carrier by motor vehicle, which is claimed, under oath, to have been in bona fide operation on or before December 1, 1966, and continued since that date; it is

Ordered, that Ross Express, Inc., be, and hereby is, authorized to engage in operations as a regular and irregular route common carrier of property by motor vehicle in the following described territory:

#### *Regular Route Common Carrier*

Transportation of general commodities with the exception of household goods over the following specified routes, in either direction, as follows:

1. From Nashua to Colebrook, via US highway Route No. 3, and between Franklin and Ashland, via NH highway Route Nos. 127 and 3B.
2. Between Colebrook and Errol, via NH highway Route No. 26.
3. Between Errol and West Ossipee, via NH highway Route No. 16.

4. Between West Ossipee and Meredith, via NH highway Route No. 25.
5. Between Meredith and New Hampton, via NH highway Route No. 104.
6. Between Boscawen and West Lebanon via US highway Route No. 4.
7. Between West Lebanon and Littleton, via NH highway Route No. 10.
8. Between Littleton and Concord, via interstate Highway No. 93.
9. Between Concord and Salmon Falls, via US highway Route No. 4 and NH highway Route Nos. 115 and 4.
10. Between Epsom Traffic Circle and Wolfeboro, via NH highway Route No. 28.
11. Between Salmon Falls and Alton, via unnumbered highway to Somersworth; thence via NH highway Route Nos. 16A, 16 and 11 to Alton.
12. Between Concord and Keene, via NH highway Route No. 9.
13. Between Hopkinton and Claremont, via NH highway Route No. 103.
14. Between Potter Place and Newport, via NH highway Route No. 11.
15. Between Newport and Marlow, via NH highway Route No. 10.
16. Between Marlow and Claremont, via NH highway Route Nos. 123 and 12.
17. Between Keene and Hampton, via NH highway Route No. 101.
18. Between Seabrook and Durham, via US highway Route Nos. 1 and 4.
19. Between Durham and Exeter, via NH highway Route No. 108.
20. Between US highway Route No. 4 and NH highway Route No. 101, via NH highway Route 125.
21. Between Manchester and Salem, via NH highway Route No. 28.

Service is authorized to all intermediate points on the above numbered routes.

*Irregular Route Common Carrier*

Transportation of general commodities,

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with the exception of household goods, as above described, between points and places in New Hampshire; and it is

Further ordered, that said operations shall comply with the provisions of RSA 375-B, and the rules and regulations prescribed by the public utilities commission pursuant thereto; and it is

Further ordered, that the provisions of this order shall become effective as of December 1, 1967.

By order of the Public Utilities Commission of New Hampshire this ninth day of November, 1967.

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[Go to End of 77812]

## Re North Stratford Railroad Corporation

DT 76-174, Order No. 12,593

62 NH PUC 27

New Hampshire Public Utilities Commission

February 9, 1977

PETITION for authority to operate and maintain railroad service between North Stratford, New Hampshire and Beecher Falls, Vermont; granted.

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CERTIFICATES, § 122 — Railroad service.

[N.H.] A railroad was authorized to operate a railroad line, abandoned by another railroad, pursuant to an agreement with the commission which acquired title to the railroad line to assure the continuance of the operation of freight service thereon.

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BY THE COMMISSION:

Order

Whereas, the Interstate Commerce Commission has authorized the Maine Central Railroad Company to abandon its Beecher Falls branch in docket AB-83; and

Whereas, this commission, pursuant to the provisions of RSA 372-A with the approval of the governor and council is acquiring title to the Beecher Falls branch to assure the continuance of operation of freight service thereon; and

Whereas, pursuant to the provisions of said RSA 372-A, this commission has been authorized by the governor and council to enter upon an operating agreement with the North Stratford Railroad Corporation, a corporation duly organized under the provisions of Chap 294 of the Revised Statutes Annotated, with its principal place of business at Littleton, New Hampshire, pursuant to a petition filed with this office November 29, 1976, which seeks authority to operate and maintain the said Beecher Falls branch and also to obtain trackage rights over that portion of the Canadian National Railways between North Stratford and Groveton; and

Whereas, the commission is of the opinion that public convenience and necessity requires the operation of the

railroad line between North Stratford and Beecher Falls; it is

Ordered, that the North Stratford Railroad Corporation be, and hereby is, authorized to operate and maintain the line of railroad between North Stratford and Beecher Falls under the provisions of an agreement between the said railroad and the state of New Hampshire; and it is

Further ordered, that the North Stratford Railroad Corporation be, and hereby is, authorized to enter into a trackage right agreement for operations between North Stratford and Groveton with the Canadian National Railroad; and it is

Further ordered, that the provisions of this order shall become effective upon the cessation of service on the Beecher Falls branch by the Maine Central Railroad Company.

By order of the Public Utilities Commission of New Hampshire this ninth day of February, 1977.

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NH.PUC\*02/09/77\*[77813]\*62 NH PUC 28\*New Hampshire Department of Public Works and Highways

[Go to End of 77813]

### Re New Hampshire Department of Public Works and Highways

DT 76-147, Order No. 12,594

62 NH PUC 28

New Hampshire Public Utilities Commission

February 9, 1977

PETITION for authority to institute agreement, for improvement of grade crossings; granted.

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CROSSINGS, § 68 — Protection and safety — Protective devices.

[N.H.] The installation of automatic flashing lights at a railroad grade crossing was authorized, with the cost of such installation to be borne by the state of New Hampshire through federally allocated funds.

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BY THE COMMISSION:

Order

(Town of Sanbornville)

Whereas, the New Hampshire Department of Public Works and Highways and the Boston and Maine Corporation by its trustees have entered into an agreement in a project No. RRS-000S(4)S2768-A, for the upgrading of the railroad grade crossing at the intersection of the Conway branch and NH Highway No. 109 (identified as crossing AAR-DOT 54 243C), to

include the installation of automatic flashing lights thereat; and

Whereas, the said agreement provides for the cost of the project to be borne by the state of New Hampshire through federally allocated funds; and

Whereas, the commission is of the opinion that the interests of public safety require its consent to the installation as proposed; it is

Ordered, that the Boston and Maine

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Corporation be, and hereby is, authorized to install automatic flashing light signals at the grade crossing created by the intersection of NH Highway No. 109 and the Conway branch, in accordance with an agreement between the said Boston and Maine Corporation and the New Hampshire Department of Public Works and Highways, dated November 14, 1976, which is contained in the files of this commission marked DT 76-147; and it is

Further ordered, that no portion of the expense involved in the change authorized herein shall be allocated to the Boston and Maine Corporation.

By order of the Public Utilities Commission of New Hampshire this ninth day of February, 1977.

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NH.PUC\*02/09/77\*[77814]\*62 NH PUC 29\*New Hampshire Department of Public Works and Highways

[Go to End of 77814]

### Re New Hampshire Department of Public Works and Highways

DT 76-147, Supplemental Order No. 12,595

62 NH PUC 29

New Hampshire Public Utilities Commission

February 9, 1977

PETITION for authority to institute agreement for the upgrading and replacement of grade crossings; granted.

-----

CROSSINGS, § 68 — Protection and safety — Protective devices.

[N.H.] The replacement of automatic flashing light signals at a railroad grade crossing to provide for an approved type of automatic flashing signal, including cantilever type mountings, and the relocation of automatic flashing yellow signals at both approaches to the crossing was authorized, with the cost of the project to be borne by the state of New Hampshire through federally allocated funds.

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BY THE COMMISSION:

Supplemental Order

(Town of Ossipee)

Whereas, the New Hampshire Department of Public Works and Highways and the Boston and Maine Corporation by its trustees have entered into an agreement in Project RRP-000S(4) S-2768-A for the reconstruction and replacement of signals at the Ossipee Aggregate crossing in the town of Ossipee intersecting the Conway branch with New Hampshire highway Route 16 (identified as crossing AAR-DOT 54 253H); and

Whereas, the said agreement provides for the cost of the project to be borne by the state of New Hampshire through federally allocated funds; and

Whereas, the commission is of the opinion that the proposed change is in the interest of public safety, and should, therefore, give its consent to the change as proposed; it is

Ordered, that the Boston and Maine Corporation be, and hereby is,

**Page 29**

authorized to replace the automatic flashing light signals at the Ossipee Aggregate grade crossing in the town of Ossipee located on New Hampshire highway Route 16 to provide for an approved type of automatic flashing signal, including cantilever type mountings, and the relocation of automatic flashing yellow signals at both approaches to the crossing in accordance with a plan filed with this commission and marked DT 76-147; and it is

Further ordered, that no portion of the expense involved in the change authorized herein shall be allocated to the Boston and Maine Corporation.

By order of the Public Utilities Commission of New Hampshire this ninth day of February, 1977.

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NH.PUC\*02/09/77\*[77815]\*62 NH PUC 30\*Northern Utilities, Inc., Allied Gas Division

[Go to End of 77815]

**Re Northern Utilities, Inc., Allied Gas Division**

I-E14,610, Order No. 12,596

62 NH PUC 30

New Hampshire Public Utilities Commission

February 9, 1977

PETITION of gas utility regarding temporary restrictions on the acceptance of new customers; suspended pending commission investigation.

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BY THE COMMISSION:

Order

Whereas, Northern Utilities, Inc., Allied Gas Division, a public utility engaged in the business of supplying gas service in the state of New Hampshire, on January 27, 1977, filed with this commission certain revisions of its tariff, NHPUC No. 6 — Gas, regarding temporary restrictions on the acceptance of new customers; and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date thereof be suspended pending investigation and decision thereon; it is

Ordered, that Supplemental No. 10 to tariff, NHPUC No. 6 — Gas, of Northern Utilities, Inc., Allied Gas Division be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this ninth day of February, 1977.

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NH.PUC\*02/09/77\*[77816]\*62 NH PUC 31\*Public Service Company of New Hampshire

[Go to End of 77816]

## Re Public Service Company of New Hampshire

I-R14,616, Order No. 12,597

62 NH PUC 31

New Hampshire Public Utilities Commission

February 9, 1977

PETITION of electric company for approval of special contract; granted.  
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BY THE COMMISSION:

Order

Whereas, Public Service Company of New Hampshire, a utility selling electricity under the jurisdiction of this commission has filed with this commission a copy of its Special Contract No. 37 with Total Environmental Action, Inc., for electric service at rates other than those fixed by its schedule of general application; and

Whereas, upon investigation and consideration, this commission is of the opinion that special circumstances exist relative thereto, which render the terms and conditions thereof just and consistent with the public interest; it is

Ordered, that said contract may become effective as of the effective date thereof.

By order of the Public Utilities Commission of New Hampshire this ninth day of February, 1977.

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NH.PUC\*02/09/77\*[77817]\*62 NH PUC 31\*New Hampshire Electric Cooperative, Inc.

[Go to End of 77817]

## Re New Hampshire Electric Cooperative, Inc.

I-R14,617, Order No. 12,598

62 NH PUC 31

New Hampshire Public Utilities Commission

February 9, 1977

PETITION of electric cooperative seeking purchased power adjustment; suspended pending commission investigation.

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BY THE COMMISSION:

Order

Whereas, New Hampshire Electric Cooperative, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on February 1, 1977, filed with this commission its new tariff, NHPUC No. 7 — Electricity, which is designed to produce approximately the same revenues on a test year ending September 30, 1976, as those collected by the present Tariff No. 6 and the purchased power adjustment now in effect, effective March 7, 1977; and

**Page 31**

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date thereof be suspended pending investigation and decision thereon; it is

Ordered, that tariff, NHPUC No. 7 — Electricity, of the New Hampshire Electric Cooperative, Inc., be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this ninth day of February, 1977.

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NH.PUC\*02/09/77\*[77818]\*62 NH PUC 32\*Goodwin Railroad, Incorporated

[Go to End of 77818]

## Re Goodwin Railroad, Incorporated

DT 77-16, Order No. 12,600

62 NH PUC 32

New Hampshire Public Utilities Commission

February 9, 1977

PETITION for authority to operate and maintain rail service between Concord and Lincoln, New Hampshire; granted.

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CERTIFICATES, § 122 — Railroad service.

[N.H.] A railroad company was authorized to operate and maintain a railroad line between Concord and Lincoln, New Hampshire, under provisions of an agreement between the company and the state where another railroad company was going to discontinue service over the line, and the commission concluded that public convenience and necessity required the operation of the line.

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BY THE COMMISSION:

Order

Whereas, the Wolfeboro Rail Road Company has been conducting operations on the line of railroad between Concord and Lincoln pursuant to an operating agreement; and

Whereas, the commission has been notified that operations conducted thereunder will cease, effective February 12, 1977; and

Whereas, the Goodwin Railroad, Incorporated, a New Hampshire corporation, has entered into an agreement with this commission to operate freight service and to acquire railroad equipment for this purpose; and

Whereas, pursuant to the provisions of RSA 372-A, this commission has been authorized by the governor and council to enter into an operating agreement with the Goodwin Railroad, Incorporated, a corporation duly organized under the provisions of Chap 294 of the Revised Statutes Annotated, with its principle place of business at Bow, New Hampshire, pursuant to a petition filed with this office on February 9, 1977, which seeks authority to operate and maintain the said Concord to Lincoln line; and

Whereas, the commission is of the opinion that the public convenience and necessity requires the operation of the railroad line between Concord and Lincoln; it is

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Ordered, that Goodwin Railroad, Incorporated, be, and hereby is, authorized to operate and maintain the line of railroad between Concord and Lincoln under the provisions of an agreement

between the said railroad and the state of New Hampshire; and it is

Further ordered, that the provisions of this order shall become effective upon the cessation of service on the Concord to Lincoln line by the Wolfeboro Rail Road Company.

By order of the Public Utilities Commission of New Hampshire this ninth day of February, 1977.

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NH.PUC\*02/11/77\*[77819]\*62 NH PUC 33\*Stan's Van Service, Inc.

[Go to End of 77819]

### **Re Stan's Van Service, Inc.**

DT 76-167

62 NH PUC 33

New Hampshire Public Utilities Commission

February 11, 1977

HEARING on motion to quash subpoenas requiring production of business records and documents in proceeding involving application by a motor carrier for authority to operate as a carrier of household goods; subpoena denied.

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WITNESSES, § 5 — Subpoena duces tecum.

[N.H.] A subpoena requiring production of business records and documents in a proceeding involving an application by a motor carrier for authority to operate as a carrier of household goods was quashed due to the volume of material requested and the undemonstrated relevance of much of that documentation at this point in the proceedings.

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APPEARANCES: Silas Little III for the applicant and Stephen F. Weyl for Ray the Mover, Inc., Diggins and Rose, Inc., and McLaughlin Moving and Storage Company.

BY THE COMMISSION:

Report

On February 9, 1977, upon the request of counsel for the applicant in this proceeding, the commission, pursuant to its power under RSA 367:10 issued several subpoenas for the production of "all business records, calendars, schedules, invoices, dispatch records, and/or other memoranda showing moves booked; origin and destination; moves made; moves cancelled; customer complaints; damage claims; for both interstate and intrastate operations as applicable; assignment of equipment and personnel; for the months of May through September, inclusive for the years 1976 and 1975." The subpoenas duly served are objected to by the recipients, who are

protestants in this case. Counsel for the protestants requested and was granted a hearing on a motion to quash the subpoenas. Hearing was held at the office of the commission at 9:00 A.M. on Friday, February 11, 1977.

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Counsel for the protestants contended that: (1) the documents sought are irrelevant; (2) to produce the documentation in the period of time allowed is oppressive; (3) the purpose of the subpoenas is to harass the protestants because of their opposition to the application. Counsel for the protestants makes these allegations on behalf of three of their clients who appear in this case: Ray the Mover, Inc., Diggins and Rose, Inc., and McLaughlin Moving and Storage Company.

Counsel for the protestants represents that at least one of his clients, if ordered to comply with the subpoena, would need a truck to transport all of the requested documents to the commission. It was represented that one protestant out of the three affected has at least 200 cases of documents in storage which would have to be produced. Protestants would find this to be an oppressive burden in view of the volume of material and especially in view of the fact that applicant's counsel has not demonstrated the necessity for producing all of these documents. In fact, applicant's counsel, at hearing, indicated that he did not know what was in those boxes. Given this uncertainty and given the volume of material which would be multiplied threefold if the subpoenas were granted, the commission thinks that the subpoenas should not be effective to compel production of the material sought under the circumstances.

While we recognize there may be admissible evidence among the documents sought, present circumstances do not justify the production of all of the documents until there is a demonstration of relevance and a need for them to be produced. If, during the course of the proceedings, applicant's counsel can adequately demonstrate the need for certain records of the protestants the commission will exercise its power to compel the production of those documents which are clearly relevant to these proceedings.

The commission does not perceive that there has been any harassment of the protesting carriers by applicant's counsel. Thus, the commission does not advance this as a reason for the denial of the subpoenas. Our decision here, as in all other cases before the commission, is based upon a case-by-case analysis and not upon any absolute standards. Due to the volume of material requested and the undemonstrated relevance of much of that documentation at this point in the proceedings the commission will deny the subpoena.

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NH.PUC\*02/11/77\*[77820]\*62 NH PUC 35\*Volunteers Organized in Community Education

[Go to End of 77820]

## **Re Volunteers Organized in Community Education**

DE 76-186, Order No. 12,601

62 NH PUC 35

## New Hampshire Public Utilities Commission

February 11, 1977

HEARING on proposed rules and regulations relating to discontinuance of service by electric, gas, and water utilities in special customer situations, order in accordance with opinion.

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SERVICE, § 213 — Discontinuance — Clarification of issues.

[N.H.] The commission listed issues relevant to a hearing on proposed rules and regulations relating to discontinuance of service by electric, gas, and water utilities in special customer situations, cautioning, however, that the list of issues was not intended to be exclusive of any other pertinent, relevant, and material issues but merely as a guide for the presentation of evidence.

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APPEARANCES: Peter W. Brown for the petitioner; Franklin Hollis and Joseph S. Ransmeier for Concord Electric Company, Exeter and Hampton Electric Company, Pennichuck Water Works, Hampton Water Works, and Northern Utilities, Inc.; Pierre O. Caron for Public Service Company of New Hampshire; Thomas W. Morse for New Hampshire Electric Cooperative, Inc.; Charles H. Toll, Jr., for Concord Natural Gas Corporation, Gas Service, Inc., and Manchester Gas Company; and Steven W. Ruback for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

Volunteers Organized in Community Education, known as VOICE, on May 13, 1976, filed Proposed Rules and Regulations — Discontinuance of Service by Electric, Gas, or Water Utilities In Special Customer Situations. A duly noticed prehearing conference was held at the Concord Public Library auditorium on February 3, 1977. The parties listed above entered their appearances and have become parties to this proceeding. The commission may exercise its discretion to allow future appearances for good cause shown but is not disposed to do so since any later appearance would have the disadvantage of not having participated in the prehearing conference and not having been the recipient of this procedural order which governs these proceedings.

*Witnesses*

Each appearing party has filed a list of witnesses. Volunteers Organized in Community Education witnesses are listed in a prehearing memorandum. All other parties furnished the commission with lists of witnesses with appropriate notification to all appearances. As of February 10, 1977, the witness lists are closed subject to only such changes as the commission in its discretion deems necessary and appropriate.

Each appearing party has agreed to furnish a summary of witness testimony to the commission. Each such summary

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shall be filed no later than February 23, 1977, and shall be furnished to all appearing parties.

Volunteers Organized in Community Education requested the testimony of commission chief engineer, Bruce B. Ellsworth, for the purpose of determining the experience and practices of the commission under its current regulations. Accordingly, Mr. Ellsworth will testify on the matters set forth in a witness summary to be furnished all appearing parties.

Commission Rule of Practice and Procedure C-8 states that "To avoid unnecessary cumulative evidence, the commissioners or the hearing examiner may limit the number of witnesses or the time for testimony upon a particular issue in the course of any hearing." In this case the commission foresees the strong possibility that witnesses from the companies and from tenant groups will give similar testimony. Although the commission has set aside three days of hearings (March 2nd, 3rd, and 4th) for the full exploration of all issues this is not an invitation to use all of the reserved time. When the commission considers itself fully apprised of the evidence relative to a particular issue it shall invoke the above quoted rule.

#### *Lead Counsel*

The commission contemplated the need for utility companies with similar interests to appoint lead counsel. To some extent this was arranged prior to the prehearing conference and some companies have agreed to use the same counsel. However, there are several attorneys who are likely to present evidence on similar issues. To the extent possible witness preparation should be coordinated to expedite the hearing in this proceeding. Otherwise, there appears to be no need to appoint lead counsel.

#### *Schedule for Posthearing Memoranda*

There was a general consensus that filing of posthearing memoranda by the parties would be helpful. In an attempt to strike a balance among the parties' various requests, the commission will require that any posthearing memoranda should be filed no later than three weeks from the date the last transcript of the hearings is prepared and filed with the commission. Parties will be informed of this date.

#### *Clarification of Issues*

The issues relevant and pertinent to these proceedings are listed here. The list is not intended to be exclusive of any other pertinent, relevant, and material issues but merely as a guide for the presentation of evidence.

1. Definition of "third-party residential customer."
2. Identification of third-party residential customer.
3. Cost of identification of third-party residential customers and how the cost will be allocated.
4. The system of notice under existing rules.
5. Costs related to a utility company offer to serve third-party residential customers.
6. Who will bear the cost of the extension of service.
7. If the utility bears the cost, how will the cost of this service be allocated, i.e., recovered.

8. The relative rights and liabilities as between the owner of a building and the utility which are involved in the actual

physical placement of a service line to third-party residential customers.

9. Any matter raised in the proposed rules.

10. Reasons of the alleged inadequacy of the present rules.

11. Necessity for flexibility in the rules to account for unforeseen instances.

12. Legal basis upon which this commission can promulgate these proposed rules and regulations.

Order

Upon consideration of the foregoing report which is made a part hereof; it is

Ordered, that all of the parties named as appearing parties in this proceeding shall comply with the procedural guidelines set forth in the attached report as well as the other rules and regulations of the commission.

By order of the Public Utilities Commission of New Hampshire this eleventh day of February, 1977.

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NH.PUC\*02/15/77\*[77821]\*62 NH PUC 37\*Public Service Company of New Hampshire et al.

[Go to End of 77821]

**Re Public Service Company of New Hampshire et al.**

DR 76-46, 12th Supplemental Order No. 12,605

62 NH PUC 37

New Hampshire Public Utilities Commission

February 15, 1977

PETITION for rehearing on electric company's fuel adjustment clause; denied.

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BY THE COMMISSION:

Supplemental Order

The commission having before it a motion for rehearing filed February 14, 1977, for, and on behalf of, the Legislative Utility Consumers' Council and VOICE, for a rehearing on the commission decision rendered in its 11th Supplemental Order No. 12,578 issued January 26, 1977; after full consideration of the allegations in said motion and after weighing the reasons presented in said motion, is of the opinion and the order is, that said motion for rehearing be, and

hereby is, denied.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of February, 1977.

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NH.PUC\*02/22/77\*[77822]\*62 NH PUC 38\*Public Service Company of New Hampshire et al.

[Go to End of 77822]

## **Re Public Service Company of New Hampshire et al.**

DR 76-46, 13th Supplemental Order No. 12,611

62 NH PUC 38

New Hampshire Public Utilities Commission

February 22, 1977

PETITIONS by electric companies for authority to apply a fuel adjustment charge to regular March monthly billings to their customers; order in accordance with opinion.

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RATES, § 303 — Fuel adjustment clauses in rate schedules.

[N.H.] In passing upon petitions by electric companies for authority to apply a fuel adjustment charge to regular March monthly billings to their customers, the commission pointed out that reference might be made to its previous decisions in this docket for statements and explanations of the fuel adjustment clause.

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APPEARANCES: Martin L. Gross and Philip Ayers for Public Service Company of New Hampshire; Joseph S. Ransmeier for Concord Electric Company and Exeter and Hampton Electric Company; Richard Schwartz for Connecticut Valley Electric Company, Inc.; Frederick S. Hall for New Hampshire Electric Cooperative, Inc.; Philip H. R. Cahill for Granite State Electric Company; Dennis Bean for the Municipal Electric Department of Wolfeboro; Richard Deane for Littleton Water and Light Department; Robert Brown for Woodsville Water and Light Department; H. Philip Howorth for the city of Nashua; and Steven W. Ruback and Michael Love for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

Pursuant to RSA 378:3-a(II), the commission, on February 17, 1977, held hearings on the petitions of nine New Hampshire electric companies for authority to apply a fuel adjustment charge to regular March monthly billings to their customers.

Reference may be made to previous commission decisions in this docket for statements and

explanations of the fuel adjustment clause.

*Littleton Water and Light Department*

Littleton Water and Light Department, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on February 15, 1977, filed with this commission 38th Revised Page 6 to its tariff, NHPUC No. 1 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect on March 1, 1977. Littleton purchases all of its requirements from the New England Power Company. Littleton reported that the total fuel cost billed by the New England Power Company during the month of January, 1977, was \$12,996.15. During this period the total kilowatt-hours sold by Littleton was 3,425,955. The fuel adjustment charge, therefore, by simple division is \$0.0037934 rounded to \$0.0038. The fuel adjustment charge proposed for the month of March, 1977,

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is 38 cents per hundred kilowatt-hours applied to all bills to be rendered in that month.

*Municipal Electric Department of Wolfeboro*

Municipal Electric Department of Wolfeboro, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on February 4, 1977, filed with this commission 28th Revised Page 9A to its tariff, NHPUC No. 4 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect March 1, 1977. Wolfeboro purchases all of its requirements from Public Service Company of New Hampshire. Wolfeboro reported that during the month of January, 1977, the total fuel cost billed by Public Service Company was \$42,049.08. During this same period the total kilowatt-hours sold by Wolfeboro was 3,096,127. The fuel adjustment, therefore, by simple division and rounded is \$0.0136 per kilowatt-hour. The fuel adjustment charge proposed for effect in the month of March, 1977, is \$1.36 per hundred kilowatt-hours to apply to all bills rendered in that month.

*New Hampshire Electric Cooperative, Inc.*

New Hampshire Electric Cooperative, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on February 16, 1977, filed with this commission 34th Revised Page 13 to its tariff, NHPUC No. 6 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect on March 1, 1977. The company reported that the total fuel cost billed by its several power suppliers for power during the month of January, 1977, was \$466,753. Total sales by the Co-op during the same month were 36,363,598 kilowatt-hours. By simple division, the fuel adjustment charge proposed for March, 1977, and rounded is \$0.0128 per kilowatt-hour. The fuel adjustment charge to be applied to all bills rendered in the month of March is proposed to be \$1.28 per hundred kilowatt-hours.

*Granite State Electric Company*

Granite State Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on February 14, 1977, filed with this commission 30th Revised Page 15A to its tariff, NHPUC No. 8 — Electricity, comprising the monthly fuel adjustment charge for effect March 1, 1977. Granite State Electric Company purchases all of its requirements from the New England Power Company. Granite State reported that the variable

portion of the fuel cost billed by New England Power Company was \$129,759.56. Total sales to Granite State customers during the same period were 32,891,032 kilowatt-hours. By simple division this yields \$0.0040 to which is added the fixed fuel portion of \$0.0124 or \$1.24 per hundred kilowatt-hours. Thus, the fuel adjustment charge applicable to bills rendered in the month of March, 1977, is proposed to be \$1.64 per hundred kilowatt-hours.

*Woodsville Water and Light Department*

Woodsville Water and Light Department, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on February 15, 1977, filed with this commission Fourth Revised Page 10B to its tariff, NHPUC No. 3 — Electricity, comprising

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the monthly calculation of the fuel adjustment charge for effect March 1, 1977. Woodsville purchases all of its requirements from Central Vermont Public Service Corporation. Woodsville reported that during the month of January, 1977, the total fuel cost billed by Central Vermont was \$683.20. During this same period the total kilowatt-hours sold by Woodsville was 944,032. The fuel adjustment, therefore, by simple division and rounded is \$0.0007 per kilowatt-hour. The fuel adjustment charge proposed for the month of March, 1977, is 7 cents per hundred kilowatt-hours to apply to all bills rendered in that month.

*Connecticut Valley Electric Company, Inc.*

Connecticut Valley Electric Company, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on February 15, 1977, filed with this commission Sixth Revised Page 18 to its tariff, NHPUC No. 3 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect March 1, 1977. Connecticut Valley purchases all of its requirements from Central Vermont Public Service Corporation. Connecticut Valley reported that during the month of January, 1977, the total fuel cost billed by Central Vermont was \$10,685. During the same period the total kilowatt-hours sold by Connecticut Valley was 14,746,700. The fuel adjustment therefore, by simple division is \$0.000725 per kilowatt-hour. The fuel adjustment charge proposed for the month of March, 1977, is 7 cents per hundred kilowatt-hours to apply to all bills rendered in that month.

*Concord Electric Company*

Concord Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on February 11, 1977, filed with this commission 24th Revised Page 15A to its tariff, NHPUC No. 6 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect March 1, 1977. Concord Electric purchases all of its requirements from Public Service Company of New Hampshire. Concord Electric reported that the total fuel cost billed by Public Service Company during the month of January, 1977, was \$410,807.04. Total sales during that same period were 28,819,680 kilowatt-hours. The fuel adjustment charge by simple division is \$0.01425 per kilowatt-hour. Therefore, the fuel adjustment charge proposed for the month of March, 1977, is \$1.43 per hundred kilowatt-hours.

*Exeter and Hampton Electric Company*

Exeter and Hampton Electric Company, a public utility engaged in the business of supplying

electric service in the state of New Hampshire, on February 8, 1977, filed with this commission 20th Revised Page 16 to its tariff, NHPUC No. 11 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect March 1, 1977. Exeter and Hampton purchases all of its requirements from Public Service Company of New Hampshire. Exeter and Hampton reported that the total fuel cost billed by Public Service Company for the period December 31, 1976 to January 31, 1977, was \$452,316.48. Total sales by Exeter and Hampton during that same period were 31,293,344 kilowatt-hours. The fuel adjustment charge, therefore, by simple division and rounded is \$0.01445 per kilowatt-hour. Thus, the fuel adjustment charge

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proposed to be billed during the month of March, 1977, is \$1.45 per hundred kilowatt-hours.

*Public Service Company of New Hampshire*

Public Service Company of New Hampshire, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on February 15, 1977, filed with this commission 27th Revised Pages 15 and 16 to its tariff, NHPUC No. 20 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect March 1, 1977.

Page 16 of the company's fuel surcharge filing for February indicates that fuel cost above base for the data month of December was \$5,912,268. During this same period the kilowatt-hours subject to the fuel adjustment were 523,965,000. The fuel adjustment, therefore, by simple division and rounded is \$0.0113 per kilowatt-hour. The fuel adjustment charge proposed for effect in the month of March, 1977, is \$1.13 per hundred kilowatt-hours to apply to all bills rendered in that month.

Witness VanderBeken testified that the proposed March fuel adjustment charge is lower than the previous month due to a greater availability of both Merrimack I and Merrimack II coal generating plants. Also, the fuel costs at Merrimack were reduced by a rail freight cost refund of \$105,192.46 (see Exh P1 (c)). The increased availability of Merrimack allowed the company to keep fuel costs at a relatively lower level. The rail freight refund also reduced total fuel costs, thus decreasing the numerator of the fraction which yields the fuel charge. Kilowatt-hour usage in the data month was high due to extremely cold weather. This fact increased the denominator of the fraction which yields the fuel charge. All the above factors caused a calculated fuel charge substantially below the charge for the previous month.

VanderBeken presented Exh P2 showing a calculation to recover coal adjustment excess refund. The excess coal adjustment refund occurred because the final installment of that refund in November, 1976, was based on estimated kilowatt-hour sales for the month of October (see NHPUC report dated September 30, 1976, p. 6). The excess of \$34,969 having been credited to consumers is actually due the company. It is a minimal refund to the company which, when added to the March fuel adjustment computation will increase it by one cent to \$1.14.

Staff member Lessels suggested ordering the company to improve sampling techniques of incoming coal. We shall consider this suggestion and determine whether or not our engineering department, whose responsibility it would be, should address this issue.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that 27th Revised Pages 15 and 16 of Public Service Company of New Hampshire tariff, NHPUC No. 20 — Electricity, be, and hereby are, rejected and the company is authorized to file revised tariff pages providing for the monthly fuel surcharge of \$1.14 per hundred kilowatt-hours for the month of March, 1977; and it is

Further ordered, that 24th Revised Page 15A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of \$1.43 per hundred kilowatt-hours for the month of March, 1977, be, and hereby

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is, permitted to become effective March 1, 1977; and it is

Further ordered, that 20th Revised Page 16 of Exeter and Hampton Electric Company tariff, NHPUC No. 11 — Electricity, providing for the monthly fuel surcharge of \$1.45 per hundred kilowatt-hours for the month of March, 1977, be, and hereby is, permitted to become effective March 1, 1977; and it is

Further ordered, that Sixth Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of seven cents per hundred kilowatt-hours for the month of March, 1977, be, and hereby is, permitted to become effective March 1, 1977; and it is

Further ordered, that 34th Revised Page 13 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of \$1.28 per hundred kilowatt-hours for the month of March, 1977, be, and hereby is, permitted to become effective March 1, 1977; and it is

Further ordered, that 30th Revised Page 15A of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of \$1.64 per hundred kilowatt-hours for the month of March, 1977, be, and hereby is, permitted to become effective March 1, 1977; and it is

Further ordered, that 28th Revised Page 9A of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of \$1.36 per hundred kilowatt-hours for the month of March, 1977, be, and hereby is, permitted to become effective March 1, 1977; and it is

Further ordered, that 38th Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of 38 cents per hundred kilowatt-hours for the month of March, 1977, be, and hereby is, permitted to become effective March 1, 1977; and it is

Further ordered, that Fourth Revised Page 10B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of seven cents per hundred kilowatt-hours for the month of March, 1977, be, and hereby is, permitted to become effective March 1, 1977.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of

February, 1977.

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NH.PUC\*02/23/77\*[77823]\*62 NH PUC 42\*Kearsarge Telephone Company

[Go to End of 77823]

## Re Kearsarge Telephone Company

DR 76-171, Supplemental Order No. 12,615

62 NH PUC 42

New Hampshire Public Utilities Commission

February 23, 1977

APPLICATION by telephone company for authority to increase rates; granted in part.

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**Page 42**

1. RETURN, § 26.4 — Cost of equity capital — Effect of capital structure.

[N.H.] A return on common equity of 13.5 per cent was deemed fair for a telephone company which had a relatively low common equity ratio, 32 per cent, where the new capital required to meet construction expenditures would be raised through additional debt, issued by a government agency, and there was a need for further substantial capital for the company to meet construction needs. p. 43.

2. RETURN, § 111 — Telephone company.

[N.H.] A return of 9.3 per cent was deemed reasonable for a telephone company. p. 43.

3. VALUATION, § 224 — Rate base determination — Construction work in progress.

[N.H.] Construction work in progress was excluded from a telephone company's rate base. p. 44.

4. VALUATION, § 224 — Rate base determination — Construction work in progress — Items placed in service.

[N.H.] Items which were in a telephone company's construction work in progress account but which represented plant that had been actually placed in service, but which, owing to normal bookkeeping delays, had not been transferred to plant-in-service accounts, were allowed to be included in the company's rate base. p. 44.

5. RETURN, § 35 — Attrition allowance.

[N.H.] An attrition allowance of 0.4 per cent was made because of a telephone company's need for new capital expenditures and the size of required new plant investment in relation to the size of the company, thus preventing the probability of near-term deterioration of the rate of

return allowed in this case. p. 44.

6. RATES, § 573 — Telephone — Free interexchange service.

[N.H.] A telephone company seeking a rate increase was directed to consider extending its present mileage bands into wider zones. p. 45.

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APPEARANCES: Richard F. Upton for the petitioner and Steven W. Ruback for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

On November 23, 1976, Kearsarge Telephone Company, a public utility engaged in the business of supplying telephone service in the state of New Hampshire, filed with this commission its tariff, NHPUC No. 5 — Telephone, providing for an increase in rates and charges in the amount of \$66,682 effective December 27, 1976. The proposed rates were suspended by Order No. 12,512 dated November 9, 1976.

A duly noticed public hearing was held at the office of the commission on January 12, 1977. The company presented testimony and other evidence indicating that the actual rate of return being realized was below the company's cost of capital based upon results for the twelve months ended September 30, 1976. The company testified that it had experienced substantial increases in plant investment in order to keep pace with system growth and to improve service. These plant expenditures have amounted to \$2,160,000 since 1970, with the need for substantial capital expenditures in the years 1977 and 1978, and subsequent years.

*Rate of Return*

[1, 2] The company requested a rate of return of 9.81 per cent based upon capitalization at September 30, 1976. In arriving at this return the company testified to a rate of return on common equity of 15 per cent.

The commission recognizes the relatively low common equity ratio, 32 per cent, and the need for further substantial capital for the company to meet construction needs. The new capital required

**Page 43**

to meet construction expenditures will be raised through additional debt, issued by a government agency, and through retained earnings. Giving due regard to these factors and study of the company's operations and projections we find that the fair rate of return on common equity is 13.5 per cent. Applying that rate to the capital structure at September 30, 1976, we find the fair rate of return to be 9.3 per cent, computed as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

	<i>AmountOf</i>	<i>Total</i>	<i>Per Cent</i> <i>Rate</i>	<i>Weighted</i> <i>Rate</i>
Long-term Debt	\$1,649,148	62	7.5 %	4.7%

Preferred Stock	175,000	6	5.36	.3
Common Equity	838,325	32	13.5	4.3
	<u>\$2,662,473</u>	<u>100</u>		<u>9.3%</u>

### *Rate Base*

[3, 4] The company proposed an average rate base of \$2,621,641 which included telephone plant under construction. The issue of the inclusion of construction work in process in the rate base has been raised in many cases before this commission. Following the majority of these decisions we have denied the inclusion of construction work in process in the rate base.

The account construction work in process included \$22,069 representing plant that had been actually placed in service but with normal bookkeeping delays had not been transferred to plant-in-service accounts. We have included this amount in the rate base.

We find the average rate base for the test year ending September 30, 1976, is as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Telephone Plant in Service	\$3,183,268
Less: Depreciation Reserve	964,273
Net Plant	<u>\$2,218,995</u>
Plus: Materials and Supplies	80,348
Allowance for Working Capital	46,962
Rural Telephone Bank Stock	129,000
Average rate base	<u>\$2,475,305</u>

### *Attrition Allowance*

[5] Because of the need for new capital expenditures and the size of required new plant investment in relation to the size of the company an allowance for attrition is in order to prevent the probability of near term deterioration in the rate of return allowed in this report. For the years 1977 and 1978, the company projects capital expenditures of approximately \$300,000 per year. There is a good possibility that the 1977 capital expenditures may exceed \$400,000. Additionally, circumstances may develop that could require extensive replacement of certain central office equipment.

Based upon the estimated capital requirements of \$300,000 per year the rate of investment will be 10 per cent of end-of-period total capitalization.

We find that an allowance of 0.4 per cent applied to average rate base should help to ameliorate or lessen attrition.

**Page 44**

### *Revenue Requirements*

Applying the fair rate of return, 9.3 per cent, and an attrition allowance, 0.4 per cent, to the average rate base, \$2,475,305, the required net operating income is \$240,000. The following table computes the revenue requirements:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

REVENUE REQUIREMENT  
USING YEAR ENDED SEPTEMBER 30, 1976

Net Operating Income, as reported

Adjustments:

1. Local Service Increase
2. Toll Service Increase
3. Toll Payroll Inc. Impact
4. Wage Increases
5. Tax Adjustments

Net Adjustments

Earnings With Adjustments

Required Net Operating Income  
(9.3% Rate of Return and 0.4% Attrition Factor)

Deficiency

Revenue Deficiency (0.4836)

We conclude that the company is entitled to an increase in revenues in an annual amount of \$53,000.

*Tariff Considerations*

[6] In view of the revenue requirements which we have determined, the company will be directed by our order to submit certain new tariff pages in lieu of those filed in this proceeding; such new pages shall be designed to produce an increase of \$53,000 in annual revenues.

We concur in the increases sought in service connection charges and in miscellaneous special equipment charges as being comparable with those recently sought and approved by this commission for other New Hampshire telephone companies.

The company presented testimony as to the desirability of reducing mileage bands in the system, and of ultimately allowing all customers throughout the system to pay similar rates, with no additional charges to those living outside the base rate area. Although the company made no provisions for such a plan in their submission, we find sufficient merit in the concept to direct them to consider extending the present mileage bands into wider zones.

Except for such commitments as are necessary to provide for the inclusion of the "zone" concept, it is our judgment that the reductions imposed as a result of this order shall be made, to the extent possible, in equal percentage steps in all levels of the local exchange base rates. Our order will issue accordingly.

**Supplemental Order**

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the revisions to tariff, NHPUC No. 5 — Telephone, as filed by Kearsarge Telephone Company on November 23, 1976, to become effective on December 27, 1976, providing for an increase in annual revenues of \$66,682, and which were suspended by commission

Order No. 12,512 dated December 9, 1976, be, and hereby are, rejected in part; and it is

Further ordered, that Kearsarge Telephone Company file new tariff pages setting forth therein rates designed to produce an annual increase in revenue of \$53,000; and it is

Further ordered, that when said filing has been approved by this commission, a supplemental order will issue authorizing said tariff revisions; and it is

Further ordered, that such revised pages shall carry the notation "Issued in compliance with Order No. 12,615 in case DR 76-171"; and it is

Further ordered, that the company establish new mileage zones throughout its franchised area to replace its present mileage bands; and it is

Further ordered, that Kearsarge Telephone Company give public notice of this rate increase by publishing the same once, prior to the effective date, in a newspaper having general circulation in the territory served by said company.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of February, 1977.

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NH.PUC\*03/01/77\*[77824]\*62 NH PUC 46\*Connecticut Valley Electric Company, Inc.

[Go to End of 77824]

## Re Connecticut Valley Electric Company, Inc.

DR 76-187, Order No. 12,618

62 NH PUC 46

New Hampshire Public Utilities Commission

March 1, 1977

PETITION by electric company for authority to increase rates; granted.

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1. RETURN, § 87 — Electric company.

[N.H.] An electric company's petition to increase rates to a level calculated to yield a rate of return of 7 per cent was granted, although the commission noted that the rate of return sought was considerably below that which the company could justify. p. 47.

2. VALUATION, § 290 — Working capital allowance — Electric company — Purchased power.

[N.H.] The commission disagreed with an electric company's computation of working capital allowance, since it included purchased power. p. 47.

3. RATES, § 321 — Electric — Flat rates.

[N.H.] An electric company's proposal to adopt flat rates for energy costs within each category as a departure from the conventional declining block rate structure was not objected to by the commission. p. 47.

APPEARANCES: Donald L. Rushford for the petitioner and Steven W. Ruback for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

Connecticut Valley Electric Company, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on December 28, 1976, filed with this commission tariff, NHPUC No. 4 —

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Electricity, which proposed an increase of gross annual revenues of \$344,057 and an overall rate of return of 7 per cent. The commission suspended the proposed filing on January 13, 1977, by its Order No. 12,563. A duly noticed hearing was held at the commission on February 16, 1977.

*Fair Rate of Return*

[1] The company claimed a fair rate of return of 10.4 per cent but sought only a 7 per cent rate of return in this case. It was agreed by the commission staff, the company, and intervenors that the submitted rate of return of 10.4 per cent was not being accepted for purposes of this case or for any future cases. Since the rate of return sought was considerably below that which the company could justify, the commission will allow a 7 per cent fair rate of return. The commission believes a fair rate of return to be significantly greater than 7 per cent.

*Rate Base*

[2] We accept the company's submitted computations showing net average plant in service, based on a 13-month average, of \$3,325,000. We disagree with the company's computation of working capital allowance, since it includes purchased power. We compute working capital to be \$126,000, as opposed to the company's exhibit of \$615,000. Adding the adjusted working capital requirement yields a rounded rate base of \$3.5 million.

*Cost-of-service Study*

The company submitted a cost-of-service study reflecting the current rates of return of their customer classes. The returns showed a trend from a negative 28.5 per cent to a positive 16 per cent. This increase indicates that each customer class is beginning to provide the same rate of return.

*Revenue Requirements*

The company suffered a net loss of \$100,000 in the year ended December 31, 1976.

By application of the allowed 7 per cent fair rate of return to the rounded rate base of \$3.5 million we find that the company is entitled to the increase in its gross revenues which it requested of \$344,057 on an annual basis.

*Rates*

[3] The rate structure submitted by the company represents a departure from the conventional declining block rate structure by proposing flat rates established for energy costs within each category. This energy cost is supplemented by customer and demand costs as appropriate. These costs previously were covered by incorporation in the declining energy charge. We do not object to the company's proposed design.

The company testified that cost of service studies have shown that the total electric living rate(s) (D-1, G-1) produces negative returns. Despite increases of 11.3 per cent and 14.5 per cent over current revenues, the returns will be — 12.6 per cent and -15.2 per cent respectively. Because of these factors, the commission concurs in a restriction being placed on new customers for both rates. We find, however, that an effective date of three months subsequent to the effective date of the order is necessary in the case of these two rates (D-1, G-1) to

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allow those planning to use these rates an opportunity to make necessary application to the company. The company should also take necessary steps to notify customers of these forthcoming restrictions. The G-1 rate may be totally abolished five years from the effective date. Our order will issue accordingly.

*Order*

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Connecticut Valley Electric Company, Inc., be, and hereby is, permitted to increase its annual rates to produce revenues over and above those produced by its tariff, NHPUC No. 3 by the amount of \$344,057 as reflected in tariff, NHPUC No. 4, to be spread among rates as specified in NHPUC No. 4 as revised; and it is

Further ordered, that Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 3 — Electricity, is hereby canceled; and it is

Further ordered, that Original Pages 4, 5, 6, 20, 23, 24, 30, and 31 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, are hereby rejected; and it is

Further ordered, that Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, as amended to include First Revised Pages 4, 5, 6, 20, 23, 24, 30, and 31 be, and hereby is, approved for effect with all bills rendered on or after March 1, 1977; and it is

Further ordered, that the freezing of Rates D-1 and G-1 as indicated on First Revised Pages 20 and 23 is delayed for three months following the effective date of this order; and it is

Further ordered, that public notice be given by one-time publication of this order in a newspaper having general circulation in the territories served.

By order of the Public Utilities Commission of New Hampshire this first day of March, 1977.

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NH.PUC\*03/02/77\*[77825]\*62 NH PUC 48\*Ross Express, Inc.

[Go to End of 77825]

**Re Ross Express, Inc.**

DT 76-74, Supplemental Order No. 12,620

62 NH PUC 48

New Hampshire Public Utilities Commission

March 2, 1977

APPLICATION for authority to operate as a common carrier of property in interstate and foreign commerce; denied.

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BY THE COMMISSION:

Supplemental Order

The commission having before it a motion for rehearing filed February 25, 1977, for, and on behalf of, Holmes Transportation, Inc., Nashua Motor Express, Inc., Auclair Transportation, Inc., Graf Bros., Inc., and Coastal Tank

**Page 48**

Lines, Inc., for a rehearing on the commission decision rendered in its report and Order No. 12,592 issued February 8, 1977 (62 NH PUC 21); after full consideration of the allegations in said motion and after weighing the reasons presented in said motion, is of the opinion and the order is, that said motion for rehearing be, and hereby is, denied.

By order of the Public Utilities Commission of New Hampshire this second day of March, 1977.

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NH.PUC\*03/03/77\*[77826]\*62 NH PUC 49\*Continental Telephone Company of New Hampshire, Inc.

[Go to End of 77826]

**Re Continental Telephone Company of New Hampshire, Inc.**

I-R14,627, Order No. 12,621

62 NH PUC 49

New Hampshire Public Utilities Commission

March 3, 1977

APPLICATION of telephone company seeking a tariff revision in its billing practice regarding arrearages; granted.

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BY THE COMMISSION:

Order

Whereas, Continental Telephone Company of New Hampshire, Inc., a public utility providing telephone service in certain areas in New Hampshire, has filed a revision to its tariff, NHPUC No. 11 — Telephone, to provide for arrears billing in the Melvin Village exchange, effective March 4, 1977; and

Whereas, Continental Telephone bills in arrears in all its other exchanges within the state of New Hampshire; and

Whereas, it appears to the commission that the rights and interests of the public affected will not be adversely affected if the 30-day statutory filing period is waived; it is

Ordered, that Section 2, First Revised Sheet 7 of Continental Telephone Company of New Hampshire, Inc., tariff, NHPUC No. 11 — Telephone, be, and hereby is, permitted to become effective on March 4, 1977; and it is

Further ordered, that public notice of this authorization be given by publication of this order in a newspaper having general circulation in the territory affected.

By order of the Public Utilities Commission of New Hampshire this third day of March, 1977.

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NH.PUC\*03/03/77\*[77827]\*62 NH PUC 50\*Ross Express, Inc.

[Go to End of 77827]

### **Re Ross Express, Inc.**

DT 76-74, Second Supplemental Order No. 12,622

62 NH PUC 50

New Hampshire Public Utilities Commission

March 3, 1977

APPLICATION for authority to operate as a common carrier of property in interstate and foreign commerce; denied.

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BY THE COMMISSION:

Supplemental Order

The commission having before it a motion for rehearing filed March 2, 1977, for, and on behalf of, F. S. Willey Company, Inc., for a rehearing on the commission decision rendered in its report and Order No. 12,592 issued February 8, 1977 (62 NH PUC 21); after full consideration of the allegations in said motion and after weighing the reasons presented in said motion, is of the opinion and the order is, that said motion for rehearing be, and hereby is, denied.

By order of the Public Utilities Commission of New Hampshire this third day of March, 1977.

=====

NH.PUC\*03/04/77\*[77828]\*62 NH PUC 50\*New England Power Company

[Go to End of 77828]

## Re New England Power Company

DF 74-23, Ninth Supplemental Order No. 12,624

62 NH PUC 50

New Hampshire Public Utilities Commission

March 4, 1977

PETITION for continuance of exemption, as modified, relating to issuance of short-term notes; granted.

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SECURITY ISSUES, § 98 — Short-term rates — Exemption.

[N.H.] An electric company was authorized to issue and renew, without first obtaining the approval of the commission, short-term notes of less than a specified amount.

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BY THE COMMISSION:

Supplemental Order

Whereas, by Eighth Supplemental Order No. 12,506 of this commission, dated December 1, 1976, New England Power Company was granted an exception from commission regulations to issue and renew, from time to time, its bonds, notes, or other evidence of indebtedness, payable less than twelve months after the date thereof, in an aggregate amount outstanding at any one time (not including any such indebtedness which is to be retired with

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the proceeds of any such issue or renewal), not in excess of \$115 million which exemption expires March 31, 1977, unless such period is extended by order of this commission; and

Whereas, New England Power Company, on February 17, 1977, sought authority to continue the exemption in said Order No. 12,506 to March 31, 1978, but, to decrease its authority to issue its short-term notes in an amount not to exceed \$96 million; and

Whereas, this commission, after investigation and consideration, finds that said request is consistent with the public good; it is

Ordered, that New England Power Company, without first obtaining the approval of this commission be, and hereby is, authorized, from time to time, to issue and renew its notes, bonds, or other evidence of indebtedness payable less than twelve months from the date thereof, in an aggregate amount thereof outstanding at any one time (not including any such indebtedness which is to be retired with the proceeds of any such issue or renewal), not in excess of \$96 million; and it is

Further ordered, that the exemption contained herein shall expire March 31, 1978, unless extended by order of this commission; and it is

Further ordered, that on January 1st and July 1st in each year said New England Power Company shall file with this commission a detailed statement, duly sworn to by its treasurer, showing the disposition of proceeds of said notes, bonds, or other indebtedness until the whole of said proceeds shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this fourth day of March, 1977.

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NH.PUC\*03/04/77\*[77829]\*62 NH PUC 51\*Granite State Electric Company

[Go to End of 77829]

## Re Granite State Electric Company

DF 74-22, 26th Supplemental Order No. 12,625

62 NH PUC 51

New Hampshire Public Utilities Commission

March 4, 1977

PETITION for continuance of exemption, as modified, relating to issuance of short-term notes; granted.

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SECURITY ISSUES, § 98 — Short-term rates — Exemption.

[N.H.] An electric company was authorized to issue and renew, without first obtaining the approval of the commission, short-term notes of less than a specified amount.

-----

BY THE COMMISSION:

Supplemental Order

Whereas, by 25th Supplemental Order No. 12,156 (DF 74-22) of this commission dated February 23, 1976, Granite State Electric Company was granted an exemption from commission regulations permitting it to issue and

renew, from time to time, its bonds, notes, or other evidence of indebtedness payable less than twelve months after the date thereof, in an aggregate amount thereof outstanding at any one time (not including any such indebtedness which is to be retired with the proceeds of any such issue or removal) not in excess of \$9.5 million which exemption expires March 31, 1977, unless such period is extended by order of this commission; and

Whereas, Granite State Electric Company, on February 17, 1977, sought authority to continue the exemption in said Order No. 12,156 to March 31, 1978, but, to decrease its authority to issue its short-term notes in an amount not to exceed \$1.5 million; and

Whereas, this commission, after investigation and consideration, finds that said request is consistent with the public good; it is

Ordered, that Granite State Electric Company, without first obtaining the approval of this commission be, and hereby is, authorized from time to time to issue and renew its notes, bonds, and other evidences of indebtedness payable less than twelve months from the date thereof, in an aggregate amount thereof outstanding at any one time (not including any such indebtedness which is to be retired with the proceeds of any such issue or renewal) not in excess of \$1.5 million; and it is

Further ordered, that the exemption contained herein shall expire March 31, 1978, unless extended by order of this commission; and it is

Further ordered, that on January 1st and July 1st in each year, said Granite State Electric Company shall file with this commission a detailed statement, duly sworn to by its treasurer, showing the disposition of the proceeds of said notes, bonds, or other evidences of indebtedness.

By order of the Public Utilities Commission of New Hampshire this fourth day of March, 1977.

=====

NH.PUC\*03/08/77\*[77830]\*62 NH PUC 52\*Ross Express, Inc.

[Go to End of 77830]

### **Re Ross Express, Inc.**

DT 76-74, Third Supplemental Order No. 12,629

62 NH PUC 52

New Hampshire Public Utilities Commission

March 8, 1977

APPLICATION for authority to operate as a common carrier of property in interstate and foreign commerce; denied.

-----

BY THE COMMISSION:

Supplemental Order

The commission having before it a motion for rehearing filed March 7, 1977, for, and on behalf of, St. Johnsbury Trucking Company, Inc., for a rehearing on the commission decision rendered in its report and Order No.

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12,592 dated February 8, 1977 (62 NH PUC 21); after full consideration of the allegations in said motion and after weighing the reasons presented in said motion, is of the opinion and the order is, that said motion for rehearing be, and hereby is, denied.

By order of the Public Utilities Commission of New Hampshire this eighth day of March, 1977.

=====

NH.PUC\*03/09/77\*[77831]\*62 NH PUC 53\*Kearsarge Telephone Company

[Go to End of 77831]

**Re Kearsarge Telephone Company**

DR 76-171, Second Supplemental Order No. 12,634

62 NH PUC 53

New Hampshire Public Utilities Commission

March 9, 1977

SUPPLEMENTAL order related to telephone company's application for authority to increase rates; revised tariffs permitted to become effective.

-----

RATES, § 573 — Telephone — Free interexchange service.

[N.H.] A telephone company which had reduced a proposed rate increase in compliance with a previous commission order received commission approval of revised maps and tariff pages establishing mileage zones, thereby reducing mileage bands in its system as further directed by the previous order.

-----

BY THE COMMISSION:

Supplemental Order

Whereas, Kearsarge Telephone Company, in compliance with the commission's Order No. 12,615 (62 NH PSC 42), has filed new tariff pages designed to produce an increase in rates of

553,000 over rates presently in effect; and

Whereas, the commission is satisfied that the company has complied with our order, in that such reduction as imposed by this order has been made, to the extent possible, in equal percentage steps in all levels of the local exchange base rates; and

Whereas, Kearsarge Telephone Company has filed revised maps and tariff pages establishing mileage zones, thereby reducing mileage bands in the system as further directed by our order; it is

Ordered, that such revised tariff pages be, and hereby are, permitted to become effective with all bills rendered on or after March 21, 1977; and it is

Further ordered, that notice of said increase be given by publication of this order, in the usual manner, in a newspaper having general circulation in the territory served.

The secretary of the commission is hereby directed to issue the above order this ninth day of March, 1977.

=====

NH.PUC\*03/14/77\*[77832]\*62 NH PUC 54\*Town of Plymouth

[Go to End of 77832]

### Re Town of Plymouth

DT 76-87, Supplemental Order No. 12,637

62 NH PUC 54

New Hampshire Public Utilities Commission

March 14, 1977

PETITION for authority to construct a grade crossing over tracks of state-owned railroad; granted.

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CROSSINGS, § 32 — Establishment of grade crossing.

[N.H.] A municipality was authorized to lay out and construct a grade crossing over tracks of a state-owned railroad, and it was granted a perpetual easement for the specified grade crossing to serve the municipality and its agent, and the general public, to pass and repass by foot or by motor vehicle over the prescribed crossing.

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BY THE COMMISSION:

Supplemental Order

Whereas, the commission, by its Order No. 12,327 dated July 19, 1976, granted a perpetual

easement to lay out and construct a grade crossing over the state-owned Concord to Lincoln rail line; and

Whereas, upon further study and investigation it appears that Order No. 12,327 was improperly issued and that the disposition of the request of the town of Plymouth should be subsequent to the approval of the governor and council as required under RSA 372-A; and

Whereas, RSA 372-A:4 provides that the public utilities commission as the sole agent for the state of New Hampshire is authorized to sell, transfer, or lease all or any part of the rail property and other property acquired under the provision of that statute; and

Whereas, the governor and council at their meeting on February 9, 1977, authorized the public utilities commission to grant to the town of Plymouth the authority to lay out, construct, and maintain a grade crossing over a portion of the Concord to Lincoln state-owned railroad line and to have an appropriate easement over and across said trackage; it is

Ordered, that commission Order No. 12,327 is void and of no force and effect whatever; and it is

Further ordered, that the town of Plymouth be, and hereby is, now authorized to lay out and construct a grade crossing on a certain tract of land, more particularly bounded and described as follows:

Beginning at a point which is located south 88 degrees 18 minutes west 15 feet west of Railroad Station No. 2700 + 67.76; thence north 01 degree 42 minutes west a distance of 50 feet along land of J. J. Newberry Company; thence north 88 degrees 18 minutes east a distance of 15 feet to Railroad Station No. 2701 + 17.76 and continuing on the same course a distance of 20 feet; thence south 01 degree 42 minutes east a distance of 50 feet along land of the Plymouth Village Water and Sewer District (formerly known as Plymouth Village Fire District); thence south 88 degrees 18 minutes west a distance of 20 feet to Railroad Station No. 2700 + 67.76 and continuing on the same course a distance of 15 feet to the point of beginning; and it is

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Further ordered, that the town be granted a perpetual easement for this public grade crossing to serve the town and its agent, and the general public, to pass and repass by foot or by motor vehicle over the land hereinabove described; and it is

Further ordered, that the speed for railroad equipment at this crossing shall be no greater than ten miles per hour.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of March, 1977.

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NH.PUC\*03/17/77\*[77833]\*62 NH PUC 55\*Lakes Region Water Company, Inc.

[Go to End of 77833]

**Re Lakes Region Water Company, Inc.**

DE 76-37, Order No. 12,642

62 NH PUC 55

New Hampshire Public Utilities Commission

March 17, 1977

PETITION by water company to operate in a limited area in a specified town; granted and rate increase allowed.

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RETURN, § 115 — Water company.

[N.H.] A water company's claimed rate of return of 5.27 per cent was accepted by the commission which believed a fair rate of return currently was greater than that amount.

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APPEARANCES: Carroll R. Hunter for the petitioner.

BY THE COMMISSION:

Report

On April 14, 1976, the Lakes Region Water Company, Inc., a New Hampshire corporation with its place of business in Moultonboro, New Hampshire, filed with this commission a petition requesting authority to operate as a water public utility in a limited area in the town of Moultonboro. A duly noticed hearing was held at the office of the commission in Concord on September 2, 1976.

The petitioner represented that Lakes Region Water Company, Inc., owns and operates water systems and is presently serving developments in Moultonboro, New Hampshire, called Paradise Shores, Far Echo Harbor, and West Point. In accordance with statutory requirements, these systems have been installed under the supervision of the New Hampshire Water Supply and Pollution Control Commission and design approval has been given by that commission for the three systems.

At this hearing the petitioner presented testimony on unaudited financial statements for the year ended December 31, 1974. The petitioner maintained that the current rates authorized by the commission and presently in force are not sufficient to meet its expenses and provide a reasonable rate of return.

The company presented a pro forma income statement for the years 1975,

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1976, and 1977. The revenue requirements proposed by the company call for an increase in permanent rates which would lead to revenue increases of approximately \$4,000 for annual services over the rates currently in force.

In view of the time which had lapsed between the period covered by the financial statements provided by the petitioner, and the hearing date, more current financial statements were requested of the petitioner.

The 1975 unaudited financial statements were received in December of 1976. At that point we again requested more current statements as of June 30, 1976 or December 31, 1976. In February, 1977, we received the financial statements for 1976, and have based our decision on those statements.

#### *Rate Base*

The petitioner has three districts. Using the average of beginning and end of 1976, the rate bases are, rounded, \$118,000 for Paradise Shores; \$36,000 for West Point; and \$49,000 for Far Echo Harbor. The differences between the average rate base submitted by the petitioner in the 1976 financial statements and that determined by the staff are caused by the inclusion by the staff of the average net plant in service in 1976, and inclusion of accumulated depreciation through December 31, 1975, on machinery, equipment, and office furnishings.

#### *Fair Rate of Return*

The company claimed a fair rate of return of 5.27 per cent per the 1974 financial statements. Since the commission believes a fair rate of return currently to be greater than 5.27 per cent, we will accept 5.27 per cent.

#### *Revenue Requirements*

The company's net income has deteriorated since 1974. Using 1976 as the test year it is clear that the company's requested increase of approximately \$4,000 is more than justified.

Considering the above factors and the level of existing rates, the company has requested that the filed tariff be made permanent. Should operations fail to achieve a financially sound level, a subsequent request could be filed. Our order will issue accordingly.

#### *Order*

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Lakes Region Water Company, Inc., be, and hereby is, authorized to operate as a public water utility in limited areas in the town of Moultonboro, New Hampshire, bounded and described as follows:

(1) *Paradise Shores*: Beginning at a point on the shores of Lake Winnepesaukee at the entrance of Shannon brook, thence running in a northeasterly direction along Shannon brook approximately 2,500 feet; thence turning and running northerly to Route 109 a distance of approximately 2,500 feet to the southerly sideline of said highway; thence turning and running along the southerly sideline of Route 109 in a northwesterly direction a distance of approximately 2,600 feet to a point opposite from the Ossipee Mountain road; thence turning and running southwesterly a distance of approximately 3,500 feet to the easterly side of Lees Mills pond; thence turning and running southeasterly a distance of approximately 1,500 feet to the shore of Lake Winnepesaukee at Shannon brook, the place of beginning;

(2) *Far Echo Harbor*: Beginning at a point on the Moultonboro Neck road at the Far Echo road; thence running in a generally southwesterly direction along the said roadway to the shore of Lake Winnepesaukee; thence turning and running in a generally southeasterly direction along the shore of said lake a distance of approximately 1,000 feet to a point; thence turning and running northeasterly along an existing roadway to the southerly sideline of Moultonboro Neck road; thence running in a northerly direction along the southerly sideline of the said Moultonboro Neck road approximately 1,100 feet to the point of beginning;

(3) *West Point*: Beginning at a point near the shoreline of Lake Winnepesaukee on the westerly side of Long Island at the intersection of the West Point road and the Long Island road; thence following said West Point road in a westerly, southerly, and easterly direction as the road curves to an intersection with the Long Island road; thence turning and running in a northerly direction along said Long Island road to the place of beginning; said areas being outlined on maps on file in the office of the commission and for this purpose to construct the necessary facilities; it is

Further ordered, that its tariff, NHPUC No. 1 — Water — Lakes Region Water Company, Inc., setting forth rates for each of the three areas terms and conditions covering service in these areas, which shall become effective with the date of this order; and it is

Further ordered, that Lakes Region Water Company, Inc., shall immediately file three signed copies of its tariff and seven additional copies.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of March, 1977.

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NH.PUC\*03/21/77\*[77834]\*62 NH PUC 57\*New Hampshire Electric Cooperative, Inc.

[Go to End of 77834]

**Re New Hampshire Electric Cooperative, Inc.**

I-R14,637, Order No. 12,646

62 NH PUC 57

New Hampshire Public Utilities Commission

March 21, 1977

PETITION of electric cooperative seeking approval of special contract; granted.

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BY THE COMMISSION:

Order

Whereas, New Hampshire Electric Cooperative, Inc., a utility selling electricity under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No.

51 with The Thomson Company effective whenever service is made available, for electric service at rates other than those fixed by its schedule of general application; and

**Page 57**

Whereas, upon investigation and consideration, this commission is of the opinion that special circumstances exist relative thereto, which render the terms and conditions thereof just and consistent with the public interest; it is

Ordered, that said contract may become effective as of the effective date thereof.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of March, 1977.

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NH.PUC\*03/21/77\*[77835]\*62 NH PUC 58\*Hudson Water Company

[Go to End of 77835]

### **Re Hudson Water Company**

I-R14,640, Order No. 12,647

62 NH PUC 58

New Hampshire Public Utilities Commission

March 21, 1977

PETITION of water utility seeking approval of water service contract; granted.

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BY THE COMMISSION:

Order

Whereas, Hudson Water Company, a utility selling water under the jurisdiction of this commission, has filed with this commission a copy of its Contract No. 7 with Arcadian Homes, Inc., Rodgers Bros., Inc., and Brookfield Estates, effective February 25, 1977, for water service at rates other than those fixed by its schedule of general application; and

Whereas, upon investigation and consideration, the commission is of the opinion that special circumstances exist relative thereto, which render the terms and conditions thereof just and consistent with the public interest; it is

Ordered, that said contract may become effective as of the effective date thereof.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of March, 1977.

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NH.PUC\*03/25/77\*[77836]\*62 NH PUC 59\*Public Service Company of New Hampshire et al.

[Go to End of 77836]

**Re Public Service Company of New Hampshire et al.**

DR 76-46, 14th Supplemental Order No. 12,656

62 NH PUC 59

New Hampshire Public Utilities Commission

March 25, 1977

PETITION by electric companies for authority to apply a fuel adjustment charge to regular April monthly billings to their customers; granted.

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RATES, § 303 — Fuel adjustment clauses — Electric companies.

[N.H.] Nine New Hampshire electric companies were authorized to apply a fuel adjustment charge to their regular April monthly billings to their customers.

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APPEARANCES: Martin L. Gross and Philip Ayers for Public Service Company of New Hampshire; Joseph S. Ransmeier for Concord Electric Company and Exeter and Hampton Electric Company; Richard Schwartz for Connecticut Valley Electric Company, Inc.; John Pillsbury, manager, for New Hampshire Electric Cooperative, Inc.; Kirk L. Ramsauer for Granite State Electric Company; Dennis Bean for the Municipal Electric Department of Wolfeboro; Richard Deane for Littleton Water and Light Department; Robert F. Brown for Woodsville Water and Light Department; Morgan Hollis for the city of Nashua; and Steven W. Ruback and Michael Love for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

Pursuant to RSA 378:3-a(II), the commission, on March 18, 1977, held hearings on the petitions of nine New Hampshire electric companies for authority to apply a fuel adjustment charge to regular April monthly billings to their customers.

Reference may be made to previous commission decisions in this docket for statements and explanations of the fuel adjustment clause.

*Littleton Water and Light Department*

Littleton Water and Light Department, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on March 15, 1977, filed with this commission 39th Revised Page 6 to its tariff, NHPUC No. 1 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect on April 1, 1977. Littleton purchases all of its requirements from the New England Power Company. Littleton reported that the total fuel cost billed by the New England Power Company during the month of February, 1977, was

\$13,424.29. During this period the total kilowatt-hours sold by Littleton was 3,362,340. The fuel adjustment charge, therefore, by simple division is \$0.0039926 rounded to \$0.0040. The fuel adjustment charge proposed for the month of April, 1977, is 40 cents per hundred kilowatt-hours applied to all bills to be rendered in that month.

*Municipal Electric Department of Wolfeboro*

Municipal Electric Department of

Wolfeboro, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on March 4, 1977, filed with this commission 29th Revised Page 9A to its tariff, NHPUC No. 4 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect April 1, 1977. Wolfeboro purchases all of its requirements from Public Service Company of New Hampshire. Wolfeboro reported that during the month of February, 1977, the total fuel cost billed by Public Service Company was 526,271. During this same period the total kilowatt-hours sold by Wolfeboro was 2,597,417. The fuel adjustment, therefore, by simple division and rounded is \$0.0101 per kilowatt-hour. The fuel adjustment charge proposed for effect in the month of April, 1977, is \$1.01 per hundred kilowatt-hours to apply to all bills rendered in that month.

*New Hampshire Electric Cooperative, Inc.*

New Hampshire Electric Cooperative, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on March 15, 1977, filed with this commission 35th Revised Page 13 to its tariff, NHPUC No. 6 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect on April 1, 1977. The company reported that the total fuel cost billed by its several power suppliers for power during the month of February, 1977, was \$286,891. Total sales by the Co-op during the same month were 33,275,339 kilowatt-hours. By simple division, the fuel adjustment charge proposed for April, 1977, and rounded is \$0.0086 per kilowatt-hour. The fuel adjustment charge to be applied to all bills rendered in the month of April is proposed to be 86 cents per hundred kilowatt-hours.

*Granite State Electric Company*

Granite State Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on March 15, 1977, filed with this commission 31st Revised Page 15A to its tariff, NHPUC No. 8 — Electricity, comprising the monthly fuel adjustment charge for effect April 1, 1977. Granite State purchases all of its requirements from the New England Power Company. Granite State reported that the variable portion of the fuel cost billed by New England Power Company was \$130,202.47. Total sales to Granite State customers during the same period were 32,817,615 kilowatt-hours. By simple division this yields \$0.0040 to which is added the fixed fuel portion of \$0.0124 or \$1.24 per hundred kilowatt-hours. Thus, the fuel adjustment charge applicable to bills rendered in the month of April, 1977, is proposed to be \$1.64 per hundred kilowatt-hours.

*Woodsville Water and Light Department*

Woodsville Water and Light Department, a public utility engaged in the business of

supplying electric service in the state of New Hampshire, on March 15, 1977, filed with this commission Fifth Revised Page 10B to its tariff, NHPUC No. 3 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect April 1, 1977. Woodsville purchases all of its requirements from Central Vermont Public Service Corporation. Woodsville reported that during the month of February, 1977, the total fuel cost billed by Central Vermont was \$1,758.17. During this

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same period the total kilowatt-hours sold by Woodsville was 890,920. The fuel adjustment, therefore, by simple division and rounded is \$0.0020 per kilowatt-hour. The fuel adjustment charge proposed for the month of April, 1977, is 20 cents per hundred kilowatt-hours to apply to all bills rendered in that month.

*Connecticut Valley Electric Company, Inc.*

Connecticut Valley Electric Company, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on March 13, 1977, filed with this commission Seventh Revised Page 18 to its tariff, NHPUC No. 3 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect April 1, 1977. Connecticut Valley purchases all of its requirements from Central Vermont Public Service Corporation. Connecticut Valley reported that during the month of February, 1977, the total fuel cost billed by Central Vermont was \$28,757. During this same period the total kilowatt-hours sold by Connecticut Valley was 12,536,800. The fuel adjustment, therefore, by simple division is \$0.002294 per kilowatt-hour. The fuel adjustment charge proposed for the month of April, 1977, is 22 cents per hundred kilowatt-hours to apply to all bills rendered in that month.

*Concord Electric Company*

Concord Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on March 11, 1977, filed with this commission 25th Revised Page 15A to its tariff, NHPUC No. 6 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect April 1, 1977. Concord Electric purchases all of its requirements from Public Service Company of New Hampshire. Concord Electric reported that the total fuel cost billed by Public Service Company during the month of February, 1977, was \$242,982.42. Total sales during that same period were 24,706,078 kilowatt-hours. The fuel adjustment charge by simple division is \$0.00983 per kilowatt-hour. Therefore, the fuel adjustment charge proposed for the month of April, 1977, is 98 cents per hundred kilowatt-hours.

*Exeter and Hampton Electric Company*

Exeter and Hampton Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on March 8, 1977, filed with this commission 21st Revised Page 16 to its tariff, NHPUC No. 11 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect April 1, 1977. Exeter and Hampton purchases all of its requirements from Public Service Company of New Hampshire. Exeter and Hampton reported that the total fuel cost billed by Public Service Company for the period January 31, 1977 to February 28, 1977, was \$264,130.58. Total sales by Exeter and Hampton during that same period were 24,989,238 kilowatt-hours. The fuel adjustment charge, therefore, by simple

division and rounded is \$0.0106 per kilowatt-hour. Thus, the fuel adjustment charge proposed to be billed during the month of April, 1977, is \$1.06 per hundred kilowatt-hours.

*Public Service Company of New Hampshire*

Public Service Company of New

**Page 61**

Hampshire, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on March 16, 1977, filed with this commission 29th Revised Pages 15 and 16 to its tariff, NHPUC No. 20 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect April 1, 1977.

Page 16 of the company's fuel surcharge filing for April indicates that fuel cost above base for the data month of February was \$5,093,030. During this same period the kilowatt-hours subject to the fuel adjustment were 473,078,000. The fuel adjustment, therefore, by simple division and rounded is 50.0108 per kilowatt-hour. The fuel adjustment charge proposed for effect in the month of April, 1977, is \$1.08 per hundred kilowatt-hours to apply to all bills rendered in that month.

Witness VanderBeken testified that the proposed fuel adjustment charge is lower than the previous month. Both Merrimack coal burning units remained in operation for a high percentage of time during the data month of February, although approximately six outages did occur. VanderBeken noted that no adjustments for Btu deficient coal were made during February.

Witness Harvey, a company vice-president with responsibility for operations and maintenance, presented Exhs P2 and P2(a) and described the outages which took place during the data month at Merrimack II. Harvey described the precise times of the two outages, the causes of the outages, and the steps taken to correct those outages.

Witness Hardy, a company staff assistant with primary responsibility as fuel coordinator, presented Exhs P3 through P3(d) and described the fuel data shown on those exhibits and described the parallel sampling methodology for coal.

Both motions made by the Legislative Utility Consumers' Council pertain to issues currently under litigation in the New Hampshire supreme court. Thus, the commission takes no action on these, pending the resolution of that litigation.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that 29th Revised Pages 15 and 16 of Public Service Company of New Hampshire tariff, NHPUC No. 20 — Electricity, providing for the monthly fuel surcharge of \$1.08 per hundred kilowatt-hours for the month of April, 1977, be, and hereby are, permitted to become effective April 1, 1977; and it is

Further ordered, that 25th Revised Page 15A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of 98 cents per hundred kilowatt-hours for the month of April, 1977, be, and hereby is, permitted to become effective April 1, 1977; and it is

Further ordered, that 21st Revised Page 16 of Exeter and Hampton Electric Company tariff, NHPUC No. 11 — Electricity, providing for the monthly fuel surcharge of \$1.06 per hundred kilowatt-hours for the month of April, 1977, be, and hereby is, permitted to become effective April 1, 1977; and it is

Further ordered, that Seventh Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of 22 cents per hundred kilowatt-hours for the month of April, 1977, be, and hereby is, permitted to become effective April 1, 1977; and it is

Further ordered, that 35th Revised Page 13 of New Hampshire Electric

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Cooperative, Inc., tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of 86 cents per hundred kilowatt-hours for the month of April, 1977, be, and hereby is, permitted to become effective April 1, 1977; and it is

Further ordered, that 31st Revised Page 15A of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, providing for a monthly fuel surcharge of \$1.64 per hundred kilowatt-hours for the month of April, 1977, be, and hereby is, permitted to become effective April 1, 1977; and it is

Further ordered, that 29th Revised Page 9A of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of \$1.01 per hundred kilowatt-hours for the month of April, 1977, be, and hereby is, permitted to become effective April 1, 1977; and it is

Further ordered, that 39th Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of 40 cents per hundred kilowatt-hours for the month of April, 1977, be, and hereby is, permitted to become effective April 1, 1977; and it is

Further ordered, that Fifth Revised Page 10B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of 20 cents per hundred kilowatt-hours for the month of April, 1977, be, and hereby is, permitted to become effective April 1, 1977.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of March, 1977.

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NH.PUC\*03/28/77\*[77837]\*62 NH PUC 63\*Rate Structures of New Hampshire Electric Utilities

[Go to End of 77837]

## Re Rate Structures of New Hampshire Electric Utilities

DR 75-20, Fifth Supplemental Order No. 12,658

## 62 NH PUC 63

## New Hampshire Public Utilities Commission

March 28, 1977

SUPPLEMENTAL report relating to time-differentiated rates for residential electric service.

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1. RATES, § 303 — Fuel adjustment clause — Electric companies.

[N.H.] An electric company's inclusion of a fixed element of its fuel surcharge in its experimental basic rates was disapproved on the grounds that these basic rates should exclude this fixed element of the fuel surcharge, so that the applicable monthly fuel surcharge would apply to both the presently effective rates and the experimental rates in the same manner. p. 64.

2. PAYMENT, § 9 — Liability — Experimental rates and regular rates.

[N.H.] Customers of electric companies which were required to file experimental residential rates with the commission and which were to be billed at both regular rates and the experimental rates were given the option of

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paying either rate, depending on which rate is lower. p. 64.

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BY THE COMMISSION:

Supplemental Report

By its Fourth Supplemental Order No. 12,557 (62 NH PUC 4), this commission directed, in part, that each Class A electric utility "submit tariffs with time-differentiated rates ... on or before March 1, 1977." The order further provided that the above date "may be extended for a reasonable period of time upon application by any company for good cause."

[1] All companies have now responded with proposed residential rates, but some have asked for further time to complete proposals on commercial and industrial rates. We approve the filed rates with one minor exception. Granite State Electric Company has included a fixed element of its fuel surcharge in its experimental basic rates. These basic rates should exclude this fixed element of the fuel surcharge, so that the applicable monthly fuel surcharge shall apply to both the presently effective rates and the experimental rates in the same manner.

[2] Two companies suggested alternate methods than the pay-either-bill approach set forth in the commission's earlier report.

With respect to the pay-either-bill approach, the commission recognizes that this option permits the customer to pay the lower of the two bills and may have some effect on the test results. The pay-either-bill approach is consistent with the commission report dated January 10, 1977, which emphasizes the need to gain knowledge of the actual reactions of electric customers.

The commission is of the opinion that the filed residential experimental rates should be implemented immediately, and will extend the period for implementation of the other classes until June 1, 1977.

Accordingly, the commission finds that the residential experimental rates submitted by all companies may become effective as of April 1, 1977, on a statistical sampling of customers as proposed, except that the sample of New Hampshire Electric Cooperative, Inc., will be increased to not less than fifty customers (forty-five residential).

The final tariffs required by our order shall specify that customers billed under the experimental rate will also receive a bill calculated on the present rate, and shall have the option of paying either one. Precise on-and off-peak periods will also be set forth in the tariff pages.

Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that experimental time differentiated residential electric rates as contained in reports filed with this commission in response to commission Order No. 12,557, and as qualified by this report, be, and hereby are, approved; and it is

Further ordered, that appropriate tariff pages be filed as a supplement to existing tariffs, to become effective as of April 1, 1977.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of March, 1977.

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NH.PUC\*03/29/77\*[77838]\*62 NH PUC 65\*New England Telephone and Telegraph Company

[Go to End of 77838]

## **Re New England Telephone and Telegraph Company**

DE 76-191, Order No. 12,660

62 NH PUC 65

New Hampshire Public Utilities Commission

March 29, 1977

PETITION for a license authorizing a telephone company to place and maintain underground lines on state-owned railroad right of way; granted.

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CONSTRUCTION AND EQUIPMENT, § 5 — Underground telephone lines.

[N.H.] A telephone company was authorized to place and maintain underground lines along a state-owned railroad right of way where it was designed to provide service for present and future

growth in the area, where there was no objection to the proposed construction, where it was found to be in the public interest, and where the license sought could be issued and exercised by the company without adversely affecting the public rights.

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BY THE COMMISSION:

Order

Whereas by petition filed December 29, 1976, New England Telephone and Telegraph Company seeks a license, pursuant to RSA 371:17-20, to place and maintain buried cable on state-owned railroad right of way in Laconia, New Hampshire; and

Whereas, the petitioner represents that the proposed plant will run along the railroad right of way from Messer street to Elm street and is designed to provide telephone service and for future growth in the New England Company's Laconia exchange; and

Whereas, following due notice no other interested parties recorded any objections to the proposed construction and upon investigation of all the facts before the commission, it is found that the proposed construction is necessary to meet the reasonable requirements of the public, and that the license sought may be issued and exercised by the petitioner without substantially affecting the public rights; it is

Ordered, that a license be, and hereby is, granted to New England Telephone and Telegraph Company to place and maintain a buried cable on state-owned railroad right of way in the city of Laconia, all in accordance with the above description which is contained on a plan on file at the office of the commission.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of March, 1977.

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NH.PUC\*03/29/77\*[77839]\*62 NH PUC 66\*Hanover Water Works Company

[Go to End of 77839]

## **Re Hanover Water Works Company**

DR 76-138, Order No. 12,661

62 NH PUC 66

New Hampshire Public Utilities Commission

March 29, 1977

PETITION by water company for authority to increase rates; granted in part.

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1. RETURN, § 26.4 — Cost of equity capital — Factors considered.

[N.H.] A 12 per cent cost of equity capital was held to be reasonable for a small water company after a review of earnings on common equity of similar utilities and after consideration of the risk factor resulting from a high debt ratio of 63.8 per cent. p. 67.

2. RETURN, § 26 — Composite cost of capital — Water company.

[N.H.] A composite cost of capital of 9.77 per cent was held to be equitable for a small water company. p. 67.

3. VALUATION, § 229.1 — Working capital allowance — Taxes.

[N.H.] Payroll and property taxes were excluded from a water company's working capital allowance. p. 67.

4. VALUATION, § 224 — Rate base items — Construction work in progress.

[N.H.] Construction work in progress was excluded from a water company's rate base. p. 67.

5. VALUATION § 25 — Rate base determination — Use of average figures in lieu of year-end figures.

[N.H.] The commission disagreed with a water company's use of year-end totals for deferred taxes, investment tax credit, and materials and supplies instead of averages for the year in working capital. p. 67.

6. RETURN, § 115 — Water company.

[N.H.] A return of 9.77 per cent, when applied to an original cost rate base, was found to be just and reasonable for a water company. p. 68.

7. EXPENSES, § 92 — Amortization of rate case expenses.

[N.H.] A small water company's rate case expenses were amortized over a two-year period. p. 68.

8. EXPENSES, § 114 — Income taxes on nonoperating revenue.

[N.H.] Income taxes on nonoperating revenue were disallowed as an operating charge for rate-making purposes. p. 68.

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APPEARANCES: S. John Stebbins for the petitioner and Steven W. Ruback for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

On September 20, 1976, Hanover Water Works Company (Hanover), a New Hampshire corporation operating as a public water utility in the town of Hanover under the jurisdiction of this commission, filed with this commission certain revisions of its tariff, NHPUC No. 4 — Water, to become effective January 1, 1977. The proposed increase was designed to produce an annual increase in revenue of \$57,440 or 19.1 per cent.

On October 8, 1976, the proposed rate increase was suspended by commission Order No.

12,458 pending investigation and decision thereon. A duly noticed public hearing was held at the office of the commission on February 22, 1977.

The company submitted data and testimony showing that earnings had been and were deteriorating due to an increase in the rate base; increased taxes; increased cost of labor, materials, and supplies and further capital investment

**Page 66**

required in the system. After the hearing the petitioner submitted revised 1976 financial statements and corresponding exhibits.

*Cost of Capital*

[1, 2] The company's capital structure is made up of long-term debt of \$735,000 plus common equity of \$416,644 according to the report as of December 31, 1976. As reflected in petitioner's Exh 6, the actual interest rate on the long-term debt is 8.5 per cent. The petitioner requested a 12 per cent rate of return on common equity with no attrition allowance.

After a review of earnings on common equity of like utilities and giving due consideration to the risk factor resulting from a high debt ratio of 63.8 per cent and Hanover being a small water company, we find that a cost rate of 12 per cent on common equity is reasonable. We further find that the composite cost of capital of 9.77 per cent is equitable for Hanover Water Works Company as reflected in the following schedule.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

	<i>Capital Structure</i>	<i>Cost</i>	<i>Cost of Capital</i>	
	Ratio	Amount	Rate	Amount
Long-term Debt	63.8%	\$ 735,000	8.5%	\$ 62,475
Common Equity:				
Common Stock	13.5	155,000	12.0	18,600
Surplus	22.7	261,644	12.0	31,397
Total Common Equity	36.2	416,644		49,997
Total Capital	100.0%	\$1,151,644		
Total Cost of Capital				\$112,472

*Rate Base*

[3-5] The company has submitted an average rate base of \$1,067,735 as of December 31, 1976. We disagree with the petitioner's inclusion of payroll and property taxes in working capital; inclusion of unfinished construction in the net average plant; use of year-end totals for deferred taxes, investment tax credit, and materials and supplies instead of averages for the year in working capital.

We find a rate base of \$1,044,767 computed as follows to be reasonable and proper.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

	<i>December 31, 1975</i>	<i>December 31, 1976</i>	<i>Average</i>
Gross Plant	\$1,787,323	\$1,827,685	
Less: Unfinished Const.	485	883	
Less: Depreciation Res.	506,597	538,242	
Less: Contribution in Aid of Construction	255,254	260,828	

Total	\$1,024,987	\$1,027,732	\$1,026,360
Net Average Plant in Service			
<i>Working Capital</i>			
Deferred Taxes	(13,700)	(16,385)	(15,043)
Invest. Tax Credit	(17,212)	(20,273)	(18,743)
CIAC Subject to Refund	(27,385)	(27,385)	(27,385)
Materials & Supplies	35,746	31,289	33,518
Four Months Oper. & Main. (\$138,180 ÷ 3)			46,060
Average Rate Base			\$1,044,767

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**Page 67**

*Fair Rate of Return*

[6] We find that 9.77 per cent, when applied to an original cost rate base, is a just and reasonable rate of return for the Hanover Water Works Company.

*Test Year*

[7, 8] The petitioner filed Exh 6 and Schedules 1 thru 8 for the twelve months ended December 31, 1975, and pro forma for 1976. At the hearing the petitioner filed Exh 9, preliminary and tentative financial statements for 1976. This exhibit was revised in subsequent mailings to the commission.

These preliminary statements reflect a worsening of the petitioner's earnings. This was in large part due to the excess in rate case expense of actual over pro forma of approximately \$5,500. In the petitioner's "response to data requests by consumer advocate," the petitioner states, "the company is not seeking reimbursement directly for those expenses." In recognition of those facts, we will accept as a test year the twelve months ended December 31, 1976, but will amortize the rate case expense at \$2,000 per year for two years. We will also exclude income taxes on nonoperating revenue.

Based on the actual operations before adjustments to operating revenues and operating expenses, the net operating income for 1975 was \$77,271. The corresponding figure for 1976 was \$63,032.

*Revenue Increase*

To establish just and reasonable rates to produce a return of 9.77 per cent upon the company's rate base of \$1,044,767, a revenue increase of \$49,831 is necessary as computed in the following schedule.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

	<i>At Present Rates</i>	<i>At Allowed Rates</i>	
	<i>Actual Results-1976</i>	<i>Add'l Reg. and Adjust. Reg.</i>	<i>Total</i>
Operating Revenue	\$301,220	\$49,831	\$ 351,051
Oper. & Main. Expense	138,179	(7,459)*	130,720
Depreciation	35,620	—	35,620
Amortization	—	2,000**	2,000

Taxes-Other	62,050	—	62,050
Income Taxes	2,339	16,247	18,586
<hr/>			
Expenses	238,188		248,976
Net Operating Income	\$ 63,032	\$39,043	\$ 102,075
Rate Base			\$1,044,767
Rate of Return			9.77%

Removal of rate case expense from operation and maintenance. \*\*Amortization of \$2,000 of rate case expense over two-year period.

On the basis of the record of this case, and after thorough review and investigation, we find substantial evidence to warrant an increase in revenues of \$49,831.

### *Rates*

In order to produce an annual increase in revenue of \$49,831 it is our opinion that all rate schedules, including the general service — unmetered, should be increased by an equal percentage amount to all blocks of each schedule. We will, however, allow the filed increase in the service connection charge and in the turn-on charge and such increased

### Page 68

revenue represented by these charges shall be included as part of the above allowed increase in total revenue. Our order will issue accordingly.

### Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the revisions of its tariff, NHPUC No. 4 — Water, as filed by the Hanover Water Works Company on September 20, 1976, which revisions were suspended by commission Order No. 12,458 dated October 8, 1976, be, and hereby are, rejected; and it is

Further ordered, that in accordance with the increase in rates authorized by this report and order, Hanover Water Works Company file new tariff pages setting forth therein rates designed to produce an annual increase in gross revenue of \$49,831; and it is

Further ordered, that the revised tariff pages incorporating all the above changes be filed to become effective with all current bills rendered on or after April 1, 1977; and it is

Further ordered, that Hanover Water Works Company give public notice of these new rates by publishing the same in a newspaper having general circulation in the territory served.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of March, 1977.

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NH.PUC\*03/29/77\*[77840]\*62 NH PUC 69\*Public Service Company of New Hampshire

[Go to End of 77840]

**Re Public Service Company of New Hampshire**

I-E14,374, 19th Supplemental Order No. 12,663

62 NH PUC 69

New Hampshire Public Utilities Commission

March 29, 1977

PETITION seeking approval of contract as part of electric company thermal storage device load research program; granted.

-----

BY THE COMMISSION:

Supplemental Order

Whereas, this commission in Order No. 11,943 dated July 29, 1975, approved a form of special contract to be used by Public Service Company of New Hampshire in its electric thermal storage device load research program; and

Whereas, Richard A. Kohut and Robyn-Le Kohut and the company have executed such a special contract; it is

Ordered, that the contract so executed be, and hereby is, approved by the commission in accordance with its powers under RSA 378:18 and that such contract is approved as of the day of its execution.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of March, 1977.

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NH.PUC\*03/30/77\*[77841]\*62 NH PUC 70\*Public Service Company of New Hampshire

[Go to End of 77841]

**Re Public Service Company of New Hampshire**

DE 76-172, Order No. 12,665

62 NH PUC 70

New Hampshire Public Utilities Commission

March 30, 1977

PETITION for authority to reconstruct and maintain electric lines over and across a river; granted.

-----

ELECTRICITY, § 7 — Authorization for transmission lines.

[N.H.] An electric company was authorized to reconstruct and maintain electric lines over

and across a river where the company represented that the reconstruction of the water crossing was necessary because the poles along the existing line were subject to soil erosion around their bases and also subject to damage from ice during spring thaws, where the proposed crossing would increase the span between the poles to eliminate the problem, where no interested parties objected to the project, and where it was found that the proposed construction was necessary to meet the reasonable requirements of the public and would not substantially affect the public rights and the waters crossed.

-----

BY THE COMMISSION:

Order

Whereas, by petition filed November 26, 1976, Public Service Company of New Hampshire seeks a license pursuant to RSA 371:17-20 to reconstruct and maintain an electric transmission line over and across the Ammonoosuc river in the town of Lisbon, New Hampshire; and

Whereas, the petitioner represents that the reconstruction of the water crossing is necessary because the poles along the existing line are subject to soil erosion around their bases and also are subject to damage from ice during spring thaws; and

Whereas, the proposed crossing increases the span between the poles to eliminate the problem; and

Whereas, following due notice no other interested parties recorded any objections to the crossing and upon investigation of all the facts before the commission, it is found that the proposed construction is necessary to meet the reasonable requirements of the public and that the license sought may be issued and exercised by the petitioner without substantially affecting the public rights and the waters crossed; it is

Ordered, that a license be, and hereby is, granted to the Public Service Company of New Hampshire for an electric line over and across the public waters of the Ammonoosuc river in the town of Lisbon, all in accordance with the plans on file at the office of the commission.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of March, 1977.

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NH.PUC\*03/31/77\*[77842]\*62 NH PUC 71\*New Hampshire Department of Public Works and Highways

[Go to End of 77842]

**Re New Hampshire Department of Public Works and Highways**

DT 77-5, Order No. 12,668

62 NH PUC 71

New Hampshire Public Utilities Commission

March 31, 1977

PETITION for authority to rehabilitate grade railroad crossings and to install automatic flashing light protection at such crossings; granted.

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CROSSINGS, § 68 — Protective devices at grade crossings.

[N.H.] The state Department of Public Works was authorized to rehabilitate three railroad crossings at grade and to install automatic flashing light protection at such crossings in the interests of safety to both highway travelers and to railroad operations, with the being borne by the state through the use of federal funds.

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BY THE COMMISSION:

Order

Whereas, the Department of Public Works and Highways, through federal funds made available through the Federal Highway Safety Act of 1973, seeks authority to rehabilitate three crossings, all of which are state highways intersecting the track of the Wolfeboro Rail Road Company at grade and to install automatic flashing light protection in the interests of safety to both highway travelers and to railroad operations; and

Whereas, the commission is of the opinion that public safety requires the granting of the petition, all costs of which will be borne by the state of New Hampshire through the use of federal funds; it is

Ordered, that the New Hampshire Department of Public Works and Highways be, and hereby is, authorized to reconstruct the grade crossings and to install automatic flashing lights thereat in accordance with plans on file at this office marked DT 77-5 at each of the three crossings as follows:

Intersection of New Hampshire highway Route 16 and the tracks of the Wolfeboro Rail Road Company in the town of Wakefield, identified as Crossing AAR-DOT 845 297 T.

Intersection of New Hampshire highway Route 109 and the tracks of the Wolfeboro Rail Road Company, known as the Fernald crossing, identified as Crossing AAR-DOT 845 301 F.

Intersection of New Hampshire highway Route 28 and the tracks of the Wolfeboro Rail Road Company in the town of Wolfeboro, known as the Wolfeboro Falls crossing, identified as Crossing AAR-DOT 845 312 T. and it is

Further ordered, that the signals authorized herein shall be installed in a manner satisfactory to the commission, and in accordance with the standards approved by the commission.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of March, 1977.

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NH.PUC\*04/01/77\*[77843]\*62 NH PUC 72\*New England Household Moving and Storage, Inc.

[Go to End of 77843]

**Re New England Household Moving and Storage, Inc.**

DT 76-122, Order No. 12,673

62 NH PUC 72

New Hampshire Public Utilities Commission

April 1, 1977

APPLICATION for authority to operate as a carrier of household goods; denied.

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BY THE COMMISSION:

Order

The commission having before it a motion for rehearing filed March 28, 1977, for, and on behalf of, New England Household Moving and Storage, Inc., for a rehearing on the commission decision rendered in its report issued March 10, 1977; after full consideration of the allegations in said motion and after weighing the reasons presented in said motion, is of the opinion and the order is, that said motion for rehearing be, and hereby is, denied.

By order of the Public Utilities Commission of New Hampshire this first day of April, 1977.

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NH.PUC\*04/01/77\*[77844]\*62 NH PUC 72\*Tilton — Northfield Aquaduct Company

[Go to End of 77844]

**Re Tilton — Northfield Aquaduct Company**

DR 76-102, Order No. 12,674

62 NH PUC 72

New Hampshire Public Utilities Commission

April 1, 1977

APPLICATION by water company for authority to increase rates; granted in part.

-----

1. RETURN, § 115 — Water company.

[N.H.] A return of 12.2 per cent was deemed fair and reasonable for a water company. p. 73.

2. RETURN, § 35 — Attrition allowance.

[N.H.] A 0.5 per cent allowance for attrition was granted to prevent the probability of near-term deterioration in a small water company's rate of return because of the need for capital

expenditures and the size of required plant investment in relation to the size of the company. p. 73.

APPEARANCES: Jay C. Boynton for the petitioner and Michael Love for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

On July 29, 1976, the Tilton —

Page 72

Northfield Aquaduct Company, a public utility engaged in the business of supplying water in the towns of Tilton and Northfield, filed with this commission its tariff providing for an increase in rates in the amount of \$91,466 effective October 1, 1976. The proposed rates were suspended by Order No. 12,371 dated August 27, 1976.

A duly noticed public hearing was held at the office of the commission on February 15, 1977. The company presented testimony and other evidence indicating that they had operated in a loss position for the twelve months ended December 31, 1975. The company testified that it required a substantial rate increase in order to improve its financial position and to raise capital to improve the system and its operation.

We now have received the actual operating results for the year ended December 31, 1976, and shall use this period for the test year. This data indicates further deterioration of the company's finances and increased operating losses.

An additional meeting was held in Tilton on March 29, 1977, at which time the ratepayers were given the opportunity to voice their opinions.

#### *Rate of Return*

[1] The company submitted a rate of return based upon the capital structure at December 31, 1975, pro formed to include a proposed change in its long-term debt at 12.3 per cent. The company used a 13 per cent cost of common equity.

Updating the capital structure to December 31, 1976, we find the fair rate of return to be 12.2 per cent, computed as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

	<i>Per Cent of Total</i>	<i>Rate</i>	<i>Weighted Rate of Return</i>
Long-term Debt	79.8	12%	9.6%
Common Equity	20.2	13	2.6
Total	100.0		12.2%

#### *Rate Base*

The company proposed an average rate base of \$201,230 as of December 31, 1975. We have updated company figures using the average rate base for the year ended December 31, 1976. We find the average rate base for the year ended December 31, 1976, is as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Gross Plant in Service	\$391,995
Less: Depreciation Reserve	221,140
Net Plant	<u>\$170,855</u>
Plus: Materials and Supplies	9,243
Allowance for Working Capital	24,192
	<u>                    </u>
Average Rate Base	\$204,290

### *Attrition Allowance*

[2] Because of the need for capital expenditures and the size of required plant investment in relation to the size of the company, an allowance for attrition is in order to prevent the probability of near-term deterioration in the rate of return allowed in this report. The company projects capital expenditures of substantial amounts for needed improvements to the system. The timing of these expenditures will depend upon the terms and amount of new borrowing and improvement in the financial condition of the company following the implementation of new rates authorized herein.

We find that an allowance of 0.5 per cent applied to average rate base should help to ameliorate or lessen attrition.

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### *Revenue Requirements*

Applying the fair rate of return, 12.2 per cent, and an attrition allowance of 0.5 per cent to the average rate base, \$204,290, the required net operating income is \$25,900. The following table computes the revenue requirements:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

#### REVENUE REQUIREMENTS USING YEAR ENDED DECEMBER 31, 1976

Net Operating Loss, as reported  
Adjustments:  
Additional Maintenance Man  
Capitalization to Construction  
Amortization of Engr. Services  
Building Maintenance  
Electricity - Pumping Station  
Additional Main Maintenance  
Temporary River Crossing  
Additional Depreciation  
Additional Property Taxes

Operating Loss with Adjustments  
Required Net Operating Income

Revenue Deficiency

We conclude that the company is entitled to an increase in revenues in an annual amount of \$80,800.

### *Rates*

We recognize that the present water company management has made an effort and has, in fact, improved the water flow in several areas of the system and that these efforts included work and improvements to several fire hydrants, however, we must also give recognition to the New Hampshire Board of Fire Underwriters report. This report was made in 1966, and in testimony by the water company it was stated that no improvement in fire flows had been experienced since that time. The measured fire flow has been inadequate and has been about 40 per cent of the required flow of 2,500 GPM in the central business district.

In this regard, we feel that an increase in the water company's municipal fire protection rate of 75 per cent is justified at this time and that the remainder of the \$80,800 allowed increase in revenue shall be made up by an equal percentage increase in all other blocks of the company's rate schedule. The previously existing municipal fire protection rates were proportionately higher than the existing residential rates. To correct the disparity the commission authorizes a smaller increase in the municipal fire protection rate than in all other rates.

Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the revisions of its tariff, NHPUC No. 4 — Water, as filed by the Tilton — Northfield Aquaduct Company on July 29, 1976, which revisions were suspended by commission Order No. 12,371 dated August 27, 1976, be, and hereby are, rejected; and it is

Further ordered, that in accordance with the increase in rates authorized by this report and order, Tilton — Northfield

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Aquaduct Company file new tariff pages, as follows:

Third Revised Page 11, Issued in lieu of Second Revised Page 11 Third Revised Page 12, Issued in lieu of Second Revised Page 12 Third Revised Page 13, Issued in lieu of Second Revised Page 13 Third Revised Page 14, Issued in lieu of Second Revised Page 14

setting forth therein rates designed to produce an annual increase in revenue of \$80,800, such rates reflecting a 75 per cent increase in municipal fire protection charges with the remaining increased revenue dollars to be reflected in an equal percentage increase in all other blocks of the company's rate schedules; and it is

Further ordered, that the revised tariff pages incorporating all the above changes be filed to become effective with all current bills rendered on or after April 1, 1977, such tariff pages to carry the notation "Issued in compliance with Order No. 12,674 in case DR 76-102"; and it is

Further ordered, that Tilton — Northfield Aquaduct Company give public notice of these new rates by publishing the same once in a newspaper having general circulation in the territory served by said company.

By order of the Public Utilities Commission of New Hampshire this first day of April, 1977.

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NH.PUC\*04/01/77\*[77845]\*62 NH PUC 75\*Water and Light Department of the Town of Littleton

[Go to End of 77845]

## Re Water and Light Department of the Town of Littleton

I-R14,646, Order No. 12,675

62 NH PUC 75

New Hampshire Public Utilities Commission

April 1, 1977

PETITION of municipal water and light utility seeking a change in billing practices regarding interest charges; granted.

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BY THE COMMISSION:

Order

Whereas, the Water and Light Department of the town of Littleton, New Hampshire, on March 28, 1977, filed with this commission a Second Revised Page 3 of the terms and conditions of their tariff, NHPUC No. 1 — Electricity, providing for a monthly interest charge of 1.5 per cent per month; and

Whereas, after investigation and consideration, this commission finds that such a provision is consistent with the policies of other electric utilities and is in the interests of both the company and its customers; it is

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Ordered, that Original Page 3 of its tariff, NHPUC No. 1 — Electricity, be, and hereby is, canceled; and it is

Further ordered, that First Revised Page 3 to its tariff, NHPUC No. 1 — Electricity, be, and hereby is, rejected; and it is

Further ordered, that Second Revised Page 3 to its tariff, NHPUC No. 1 — Electricity, be, and hereby is, permitted to become effective on April 1, 1977; and it is

Further ordered, that a one-time publication be made in a newspaper having general circulation in the area.

By order of the Public Utilities Commission of New Hampshire this first day of April, 1977.

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NH.PUC\*04/01/77\*[77846]\*62 NH PUC 76\*Public Service Company of New Hampshire et al.

[Go to End of 77846]

**Re Public Service Company of New Hampshire et al.**

DR 76-46

62 NH PUC 76

New Hampshire Public Utilities Commission

April 1, 1977

PETITION for adjustment of charges made by electric company under its fuel adjustment clause; denied.

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RATES, § 303 — Electric company — Fuel adjustment clause.

[N.H.] A motion for a Btu adjustment on the April surcharge made by an electric company under its fuel adjustment clause was denied in recognition of the fact that by adjusting for the weight of coal due to moisture pick-up, the company pays for the same number of Btu that it bargained for.

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APPEARANCES: Martin L. Gross and Philip Ayers for Public Service Company of New Hampshire; Joseph S. Ransmeier for Concord Electric Company and Exeter and Hampton Electric Company; Richard Schwartz for Connecticut Valley Electric Company, Inc.; John Pillsbury, manager, for New Hampshire Electric Cooperative, Inc.; Kirk L. Ramsauer for Granite State Electric Company; Dennis Bean for the Municipal Electric Department of Wolfeboro; Richard Deane for Littleton Water and Light Department; Robert F. Brown for Woodsville Water and Light Department; Morgan Hollis for the city of Nashua; and Steven W. Ruback and Michael Love for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Supplemental Report

On March 25, 1977, the commission issued report and Fourteenth Supplemental Order No. 12,656 authorizing the fuel adjustment charge for companies in this proceeding for the month of April. As to the Public Service Company of New Hampshire (PSC) fuel adjustment

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charge for April the Legislative Utility Consumers' Council (LUCC) made two motions. The commission disposed of both motions by indicating that the matters raised in them were "currently under litigation" before the New Hampshire supreme court. In fact, the motion regarding a requested Btu adjustment for the April surcharge is not currently under litigation at the supreme court and must be treated here.

Legislative Utility Consumers' Council contends that coal bunkered and burned during the

data month of February failed to meet contract Btu specifications and, thus, an adjustment should be made.

Public Service Company of New Hampshire Exh P3 states that the heat content of coal bunkered and burned in February was 13,420 Btu per pound as per the PSC station analysis. Vendor's analysis of this coal was made at the mine in November and December, 1976, and revealed a Btu content of 13,614 and 13,743 respectively. The Btu content required by the contract is 13,600 at Buyers Station (see coal purchase agreement dated January 27, 1967, Par 4, p. 2). Legislative Utility Consumers' Council concludes that 13,420 is 180 Btu per pound less than contract specifications and a refund of \$39,254.86 should be made. Legislative Utility Consumers' Council did not take into account the application of the moisture adjustment factor which compensates for any deficiencies in Btu. Thus, the motion for an adjustment of \$39,254.86 is denied.

Each Btu adjustment made previously by PSC with Consolidation Coal Company (CCC), its supplier, has been based upon the measurement of the heat content of the coal at the mine. Legislative Utility Consumers' Council and other intervenors have accepted these adjustments made at the mine yet they now contend that the measurement of heat content at Buyers Station should form the basis for a Btu adjustment. The positions are inconsistent.

Legislative Utility Consumers' Council insists upon the literal language of the contract; i.e., that CCC meet all contract specifications "at Buyers Station." There is unrebutted testimony in the record that over the course of the contract PSC and CCC have not strictly adhered to the terms of that contract. The coal purchase agreement contains no provision excluding modification and thus a modification of the contract by the mutual consent of the parties needs no consideration to be binding. The repeated occasions of performance by both parties as hereafter described have been acquiesced in without objection by either party. Such performance over time is determinative of meaning of the contract and of the rights and obligations of the parties thereunder (UCC Art 2, §§ 2-208, 2-209).

The process of testing the Btu content of coal is illustrated by the following example. The process begins at the mine when the vendor analyzes the coal for moisture content and Btu content. After shipment and an unspecified duration in the coal pile, PSC performs a station analysis to test moisture content of the coal.

For example, a ton of coal at the mine which includes 3 per cent moisture (97 per cent coal) and 13,600 Btu per pound according to contract specifications will have greater moisture (less coal) and less Btu per pound at bunkering. Assuming a moisture pick-up of 1.5 per cent, that ton of coal will include 4.5 per cent moisture (95.5 per cent coal) and 13,396 Btu per pound ( $13,600 \times 1.5\% = 204$ ;  $13,600 - 204 = 13,396$ ).

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Since we are concerned with the cost of coal, it is useful to convert Btu to dollars. Currently purchased coal with 13,600 Btu per pound is priced at \$34.03 per ton. Thus, PSC pays \$2.50 per thousand Btu ( $\$34.03 \div 13,600 = \$0.00250$  per Btu or \$2.50 per thousand Btu).

At Buyers Station, although the same ton of coal contains more moisture (4.5 per cent) and less coal (95.5 per cent) and less Btu (13,396) PSC still pays \$2.50 per thousand Btu ( $\$33.52 \div$

13,396 = \$0.00250 per Btu or \$2.50 per thousand Btu).

At Buyers Station, at bunkering when PSC weighs out a ton of coal there will be a small amount left over containing 204 Btu (13,600 - 13,396 = 204). This is explained by the fact that the ton of delivered coal picked up moisture and thus increased in weight. Public Service Company of New Hampshire weighs out a ton which contains 4.5 per cent moisture, 95.5 per cent coal and 13,396 Btu per pound. Public Service Company of New Hampshire then applies a 1.5 per cent moisture correction factor which adjusts for any deficiencies in the Btu content of coal and thus pays less than the full contract ton price for the coal which has fewer Btu per pound ( $\$34.03 \times 98.5\% = \$33.52$ ).

If coal picks up moisture, its weight will increase but there is still the same number of total Btu as before the moisture pick-up. By adjusting for the increase in weight due to moisture pickup, PSC pays for the same number of Btu it bargained for.

Based upon all of the foregoing reasons, the LUCC motion for a Btu adjustment on the April surcharge is denied.

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NH.PUC\*04/04/77\*[77847]\*62 NH PUC 78\*Northern Utilities, Inc.

[Go to End of 77847]

## Re Northern Utilities, Inc.

DR 76-108, Order No. 12,678

62 NH PUC 78

New Hampshire Public Utilities Commission

April 4, 1977

PETITION by gas company for authority to increase rates; granted as modified.

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1. RETURN, § 92 — Gas company.

[N.H.] A return of 9.16 per cent was deemed reasonable for a gas company. p. 79.

2. RETURN, § 35 — Attrition allowance.

[N.H.] An attrition allowance of 0.5 per cent was added to a gas company's return allowance in view of continuing inflation and curtailment of gas supplies and in view of the fact that the company is highly leveraged, has high construction budgets, has limited growth potential, uses accelerated depreciation for income taxes, and flows through the benefits of the resultant tax savings to income. p. 79.

3. RATES, § 303 — Fuel adjustment clause — Cost of purchased gas.

[N.H.] A gas company was allowed to file tariffs to reflect a fold-in of the cost of gas adjustment

equally distributed to each rate schedule and block where this method of folding in the increases in the cost of gas to the distribution company places the burden evenly on all customers without preference to any category of customers and does not result in any increased revenues to the company or any increase to its customer bills. p. 81.

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APPEARANCES: Franklin Hollis for the petitioner and Michael Love for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

These proceedings were initiated when Northern Utilities, Inc., Allied Gas Division (the company), a public — utility engaged in the business of supplying gas service in certain areas of the state, on August 17, 1976, filed with this commission certain revisions to its tariff, NHPUC No. 6 — Gas, providing for increased rates in the amount of \$294,920, effective September 15, 1976, said filing having been suspended per Order No. 12,372 dated August 30, 1976, pending investigation and decision. A duly noticed public hearing was held at the commission office in Concord on March 10, 1977.

At the hearing the company increased its request for higher annual revenues to approximately \$387,765 (an 8.6 per cent increase). This was based on a test year ended November 30, 1976. Later in the proceedings a revised test year ending December 31, 1976, was adopted. The company consequently revised its request for increased annual revenues to approximately \$335,000.

#### *Rate of Return*

[1] We have adjusted the company's original submission of cost of capital to include additional data furnished by the company at the request of staff and the Legislative Utility Consumers' Council.

We have not included the \$1 million of equity the company wanted pro formed into the cost of capital. We believe that it will be too far into the future before the company will issue the stock, and the amounts and terms, at this time, are pure speculation.

The computation of the cost of capital is tabulated in the following schedule.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

	<i>Capitalization</i>			
	<i>Amount</i>	<i>Ratio</i>	<i>Cost Rate</i>	<i>Wgted. Cost</i>
Long-term Debt	\$10,152,743	55.87%	8.43%	4.71%
Short-term Debt	700,000	3.85	7.25	0.28
Preferred Stock	2,705,940	14.89	5.84	0.87
Common Stock	4,613,832	25.39	13.00	3.30
	\$18,172,515	100.00%		9.16%

We find the cost of capital to the company to be 9.16 per cent.

*Attrition Allowance*

[2] Experience over recent years has shown that this company and others in similar situations have had continuing attrition in earned rates of return following rate increases. Continuing inflation and curtailment of gas supply have been and probably will continue to be contributing factors of attrition. The company is highly leveraged, has high construction budgets for the next few years, has limited growth potential, uses accelerated

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depreciation for federal income taxes and flows through the benefits of tax savings from accelerated depreciation and investment tax credit to income. Based on our analysis of the record in this case and on our judgment, we add 0.5 per cent to the fair rate of return as calculated and find that the factor to be applied to average rate base is 9.66 per cent.

*Rate Base*

We find the rate base upon which the company's revenue requirements are to be based is \$3,889,836 per the average of December 31, 1975 and December 31, 1976.

We accept the company's working capital calculation because an analysis of the records indicates that the result is reasonable and acceptable.

*Revenue Requirements*

Applying the overall fair rate of return of 9.66 per cent to the rate base (\$3,890,000), the required net utility income becomes \$376,000.

Actual net utility income for the test year ended November 30, 1976, was \$202,258. Due to the unusual weather conditions and cycle billing procedures of the company, the Legislative Utility Consumers' Council and staff argued and the company agreed that a more acceptable figure for net utility income was \$252,087 for the year ended December 31, 1976.

We accept the pro forma expense adjustments as filed in Exh 2, Schedule 3, p. 1 of 7 except for the federal income tax computation and payroll adjustment. Due to a revised figure for net utility income, the federal income taxes were adjusted accordingly. As for the payroll adjustment, due to the updating of the test year, the adjustment should be reduced by \$2,400.

The revenue deficiency is calculated as follows, adopting certain adjustments proposed by the company.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Net Utility Operating Income as of December 31, 1976		\$252,000
Pro Forma Payroll Adjustments	\$ 48,512	
Pro Forma Insurance Adjustments	\$ 41,100	
Pro Forma Depreciation Adjustments	\$ 50,000	
Pro Forma General Taxes Adjustment	\$ 19,640	
Pro Forma Net Adjustments before Inc. Taxes	\$ 159,252	
Pro Forma Income Taxes	39,690	199,000
Net Utility Operating Income Pro Forma		53,000

Required Net Utility Operating Income	376,000
Required Increase in Net Utility Oper. Inc.	323,000
Required Increase in Revenues	335,000

Per this calculation the required increase in annual revenues is \$335,000 reflecting the company's 3.96 per cent composite federal income tax rate.

#### *Application of Rate Increases*

The company has proposed to apply this rate increase relatively evenly throughout each of the rate schedules and steps with the exception of the AC-1 rate schedule, which would receive a much larger percentage increase.

The commission finds that increasing the AC-1 by 54 per cent and the remaining rates an average of 9 per cent is an

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acceptable and reasonable method to allocate this rate increase.

#### *Fold-in Cost of Gas Adjustment*

[3] Northern Utilities has also proposed to fold-in a portion of their basic rates. The commission finds that this fold-in is appropriate since the increases in the cost of natural gas, propane, and LNG will continue into the future. The fold-in will add \$0.0721 per therm to all of the basic rates and reduce the present winter cost of gas adjustment from \$0.1219 per therm to \$0.0498 per therm. This method of folding in the increase in the cost of gas to the distribution company places the burden evenly on all customers without preference to any category of customers. The folding in of a portion of the present cost of gas adjustment does not result in any increased revenues to Northern Utilities or any increase to their customers bill.

#### *"Roots" Program*

In reviewing their cost of gas adjustment, this commission has become increasingly concerned over the "Roots" program which was initiated by Northern Utilities several years ago. This program was designed to provide those customers in the immediate vicinity of the distribution pipeline temporary propane service until the distribution system was expanded to make a physical connection practical.

At the time of initiation of this program, Northern Utilities was expanding their distribution system and the cost of propane was comparable to the cost of natural gas. However, in the past several years, the cost of expanding the system and the availability of natural gas has made the potential for connection to these customers minimal. With the increasing cost of propane, it is the conclusion of this commission that no further customers shall be added onto the "Roots" program and that the program should be gradually phased out as the customers request disconnection or the distribution system is extended.

#### *Metering*

As discussed during the hearing, the company will be required to submit a revised Exh 3, Schedule 2, p. 3 of 4. The existing page states that in the event a customer requests a test of his gas meter, a deposit of \$10 will be required. In accordance with the rules and regulations for gas

utilities, the amount of the fee may not exceed \$5.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that First Revised Page 12, 11th Revised Page 23, Tenth Revised Page 25, Ninth Revised Page 27, Fifth Revised Page 29, Fifth Revised Page 30, Third Revised Page 31, and Seventh Revised Page 32 be, and hereby are, rejected;

and it is

Further ordered, that revised tariff pages be submitted to produce revenues over and above those produced by the basic rates in tariff, NHPUC No. 6 — Gas, by the amount of \$335,000; and it is

Further ordered, that Revised Pages 21, 22, and 22A to Northern Utilities, Inc., tariff, NHPUC No. 6 — Gas, be submitted to reflect the updated base unit cost of gas, with a subsequent reduction in the purchased cost of gas adjustment; and it is

Further ordered, that the revised tariff pages reflect a fold-in of the cost of gas

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adjustment equally distributed to each rate schedule and block; and it is

Further ordered, that when such submissions have been approved by this commission, a supplemental order will be issued accordingly.

By order of the Public Utilities Commission of New Hampshire this fourth day of April, 1977.

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NH.PUC\*04/07/77\*[77848]\*62 NH PUC 82\*Continental Telephone Company of Maine

[Go to End of 77848]

## Re Continental Telephone Company of Maine

DR 76-49, Order No. 12,684

62 NH PUC 82

New Hampshire Public Utilities Commission

April 7, 1977

PETITION of telephone company for rate increase; granted.

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BY THE COMMISSION:

Order

Whereas, on April 27, 1976, Continental Telephone Company of Maine, a public utility

engaged in the business of providing telephone service in Chatham and East Conway, New Hampshire, filed with this commission a new tariff, NHPUC No. 3 — Telephone, providing for an increase in basic telephone rates; and

Whereas, on March 28, 1977, Continental Telephone Company of Maine filed with this commission a new tariff, NHPUC No. 4 — Telephone, canceling tariff, NHPUC No. 3; and

Whereas, this filing has been duly heard considered, and investigated by the Maine Public Utilities Commission, under whose jurisdiction the telephone exchanges serving these communities falls; and

Whereas, this commission is satisfied that in the deliberations of the Maine Public Utilities Commission, the interests of the New Hampshire customers of these exchanges were given the same consideration as those of the Maine customers; and

Whereas, in preceding cases involving these exchanges, this commission has relied on and accepted the decisions of the Maine Public Utilities in matters regarding these customers; it is

Ordered, that Continental Telephone Company of Maine, tariff, NHPUC No. 3 — Telephone, be and hereby is rejected; and it is

Further ordered, that Continental Telephone Company of Maine tariff, NHPUC No. 4 — Telephone be, and hereby is, authorized to become effective with service rendered on or after April 9, 1977; and it is

Further ordered, that Continental Telephone Company of Maine give public notice of the new rates and tariff changes by publishing a summary of the same once immediately following the receipt of this order in a newspaper having

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general circulation in the territory served.

By order of the Public Utilities Commission of New Hampshire this seventh day of April, 1977.

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NH.PUC\*04/07/77\*[77849]\*62 NH PUC 83\*Public Service Company of New Hampshire et al.

[Go to End of 77849]

**Re Public Service Company of New Hampshire et al.**

DR 76'46

62 NH PUC 83

New Hampshire Public Utilities Commission

April 7, 1977

INVESTIGATION of coal pile inventory adjustment matters related to electric company's fuel adjustment clause.

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1. COMMISSIONS, § 44 — Jurisdiction over managerial matters.

[N.H.] The commission should not interfere with prudent company management although when inefficiency, improvidence, economic waste, abuse of discretion, or action inimical to the public interest is shown, it may and should intervene. p. 89.

2. RATES, § 303 — Fuel adjustment clause — Coal pile moisture factor.

[N.H.] The commission denied an additional adjustment or refund for the moisture content in coal pursuant to an electric company's fuel adjustment clause. p. 93.

3. RATES, § 303 — Fuel adjustment clause — Ash content of coal.

[N.H.] The commission denied an additional adjustment or refund for the ash content of coal pursuant to an electric company's fuel adjustment clause. p. 94.

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APPEARANCES: Martin Gross and Philip Ayers for Public Service Company of New Hampshire; Peter W. Brown for VOICE; Steven W. Ruback and Michael Love for the Legislative Utility Consumers' Council; and H. Philip Howorth for the city of Nashua.

BY THE COMMISSION:

Report

Within the context of the monthly hearings of the fuel adjustment clause held pursuant to RSA 378:3-a(II), the New Hampshire Public Utilities Commission (commission) has heard voluminous evidence spanning five months (August 20, 1976, to January 18, 1977) regarding the matter of the Public Service Company of New Hampshire (PSC) coal pile inventory adjustment. The perspective of this matter within the context of the whole fuel adjustment proceeding is hereafter provided for the comprehension by the reader of this complex matter.

*Background of the Fuel Adjustment Charge and Coal Pile Inventory Adjustment*

The documents relative to the history and development of commission action on the fuel adjustment charge are

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numerous and voluminous. Reference is made to a description of those documents in the attached Appendix A.

Public Service Company of New Hampshire has been making filings with the commission since October of 1971, indicating fuel costs above base. No fuel adjustment charge, however, was applied to bills until April of 1972. On August 8, 1972, the commission issued Order No. 10,679 denying the fuel adjustment charge. Public Service Company of New Hampshire immediately ceased applying the fuel surcharge to customer bills. On October 19, 1972, the New Hampshire supreme court (112 NH 348, 96 PUR3d 414, 296 A2d 126) issued a decision suspending Order No. 10,679 and indicating that the PSC filed rates (see petition for rate

increase filed July 8, 1971, docket D-R6081) should go into effect under bond. On October 31, 1972, the commission issued its Supplemental Order No. 10,774 allowing PSC's filed rates to be collected under bond. The fuel adjustment charge, therefore, was recommenced as of November 1, 1972. Except for brief periods in September and July of 1973, when, because of the price freeze the actual adjustment was decreased, the fuel adjustment charge has been in effect since November of 1972.

As PSC's fuel costs above base increased over time so did the questions about the operation of the fuel surcharge and complaints that the increased cost was a burden on consumers. In order to cause a review of the fuel adjustment charge this commission retained the international accounting firm of Touche Ross & Company to do an independent, in-depth audit of the PSC fuel adjustment clause. In a three-part report transmitted to this commission on August 1, 1975, August 28, 1975, and June 7, 1976, Touche Ross & Company commented and recommended that the fuel adjustment clause continue to pass through fuel costs including purchased energy to ratepayers. Touche Ross & Company noted that the clause was a fairly simple clause to administer (Comments and Recommendations; Fuel Adjustment Design Alternatives and Monitoring Procedures for Public Service Company of New Hampshire, Touche Ross & Company audit report submitted June 7, 1976, p. 5, commission informal docket I-R14,394).

Touche Ross & Company also recommended that "regular periodic physical inventories of the coal pile be taken to help determine actual coal consumption for accounting purposes and fuel surcharge determinations" (Comments and Recommendations Concerning Fuel Purchasing, Accounting, and Selected Other Areas of PSC, Touche Ross & Company audit report, August 28, 1975, p. 1, commission informal docket I-E14,565).

Acting on the recommendation of the Touche Ross & Company received by PSC in September, 1975, PSC contracted for a survey and inventory of their coal pile. That survey was taken in November of 1975, and on January 13, 1976, they received the results. Fuel Engineering Company of New York, the surveyors, reported that the company had recorded on its book inventory and, therefore, had paid Consolidation Coal Company (CCC), its coal supplier, for more tons of coal than were actually burned. Because PSC was surprised at the result, it asked fuel engineering to verify its findings. On April 5, 1976, fuel engineering performed a second survey and these results were generally confirmatory of the first survey. Subsequent to this, PSC entered into discussions with

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CCC regarding the results of the two surveys. The coal supplier was surprised and, pursuant to its right under contract, decided to have a third survey performed by a separate independent coal surveying company. This third survey was performed on July 20, 1976, and on August 13, 1976, CCC notified PSC that the findings of the first two surveys were corroborated. On that same day PSC notified the commission by telephone of the coal pile inventory discrepancy.

In February of 1976, the Division of Audits, Office of Accounting and Finance, Federal Power Commission released its "Report on Results of Audit Related to Charges for Wholesale Electric Service by Public Service Company of New Hampshire Under the Fuel Adjustment Clause." The audit staff concluded that the operation of the wholesale fuel adjustment clause was

in accordance with FPC opinions. The staff concluded that procurement policies in underlying fossil fuel costs were adequate to insure that fuel costs were prudently incurred (see commission informal docket I-R14,594).

On May 19, 1976, prior to any notification regarding the coal pile inventory discrepancy and prior to the enactment of RSA 378:3-a, this commission held its first monthly hearing on the PSC proposed fuel adjustment charge for the month of June, 1976. The filing made by PSC in May, based upon data in the month of April, would be the basis for the fuel adjustment charge billed in June. The hearing in May was held to further establish confidence in PSC's fuel adjustment clause.

When the commission was informed on August 13, 1976, about the coal pile inventory discrepancy it was suggested that the company meet with the commission to discuss the matter in which the overcharges would be returned to PSC customers. Such a conference was held on August 30, 1976, at which time the company proposed the following: the company assumed a linear build-up of the coal pile inventory discrepancy starting in November, 1971, when the coal pile was zeroed. The company was and is unable to establish the precise times when the discrepancy built up. Furthermore, neither the commission nor the intervenors are able to establish when the coal pile inventory discrepancy actually occurred. The company went on in its proposal to break down the overcharges into four categories: the retail refund, the resale refund, the VELCO (Vermont Electric Light Company) refund, and a retained portion to the company during the period of time when the fuel adjustment charge was not in effect.

The company pointed out in its proposal that the per ton price for coal between November of 1971 and 1976, had increased substantially. They pointed out that if the linear buildup was assumed to have occurred equally in each of the months from November of 1971 to August of 1976, then the built-up tons should be priced out at the cost of coal during those months. Being unable, however, to establish the number of tons built up in each month, the company decided to price out the refundable coal at the current price of \$34.03 per ton. They pointed out that pricing the coal out at the actual increasing prices of over the last five years would yield a refund to consumers of about \$2.5 million. Public Service Company of New Hampshire noted in this proposal that the refund based upon the current price of coal would be about \$4.5 million.

The monthly fuel adjustment hearings generally cover material relative to the

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data month upon which the next succeeding months' fuel adjustment charge is based. Intervenors' questions, however, were seldom confined to matters arising in the data month but went beyond the scope of the proposed fuel adjustment charge for any particular month. In some instances the commission attempted to keep questions within the bounds of the data month but most often a full and complete inquiry regarding matters beyond the data month was allowed.

At the August 20, 1976 monthly fuel adjustment charge hearing, matters were raised regarding the coal pile inventory discrepancy. This discrepancy was questioned at length (see Transcripts, DR 76-46, August 20 and 23, 1976).

The inventory discrepancy found by CCC and the inventory discrepancy found by PSC differed by a small amount. By agreement, PSC and CCC split the difference and arrived at the

settlement figure of 127,209.60 tons. This figure became the basis for refunds throughout these entire proceedings.

In its August 31, 1976 Third Supplemental Order No. 12,380 the commission commenced refunds to retail customers. On September billings, PSC customers realized a ten-cent per hundred kilowatt-hours refund on the monthly fuel adjustment charge. In that month PSC returned \$311,644.01 or the value of 9,157.92 tons priced at \$34.03, the then current cost of coal.

In its September 16, 1976 Fourth Supplemental Order No. 12,422 the commission ordered PSC not to charge any of its customers for any portion of the 74,189.31 tons of coal bunkered in August, 1976. By this order the commission continued the coal refunds.

In its September 30, 1976 Fifth Supplemental Order No. 12,445 the commission fixed the fuel adjustment charge applicable to the month of October reflecting the burning of 74,189.31 tons of zero cost coal in August. The fuel adjustment charge in that month was 51 cents per hundred kilowatt-hours or 47 cents per hundred kilowatt-hours less than it would have been had the coal refund not been given. The calculated retail portion of the October refund was anticipated to be \$1,495,767.80 or 43,954.39 in equivalent tons. The actual refund for October was \$1,433,499 or 42,123.09 equivalent tons when actual October kilowatt-hour sales for October became known.

The calculated retail portion of the November refund was anticipated to be \$1,196,945 or 35,173.22 in equivalent tons. When actual kilowatt-hour sales became known, Public Service Company had refunded \$1,294,233 or 38,032.11 in equivalent tons. The total actual refund to retail customers for September, October, and November was \$3,039,326 or \$34,969 more than the calculated refund (see Exh 1 VanderBeken, DR 76-46, January hearing). This \$34,969 overpayment was recovered from customers by surcharge of one cent per hundred kilowatt-hours in the month of March, 1977.

On August 13, 1976, when the commission was notified of the coal pile inventory discrepancy it issued a press release. In that press release it characterized the overcharges as leading to refunds to PSC customers. The characterization of this proceeding as a refund proceeding has continued throughout all these months. The terms refund and rebate have been used interchangeably at times but the character of these proceedings as refund proceedings has been dominant. These proceedings, therefore, are not

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proceedings for the reparation by PSC (pursuant to RSA 365:29) to any of its customers for any "illegal or any unjustly discriminatory rate, fare, charge, or price which has been collected for any service."

The events leading to the discovery of the coal pile discrepancy began with the hiring of Touche Ross & Company in 1975, pursuant to the exercise by the commission of its general supervisory powers under RSA 374:2. The notification of the discrepancy came after RSA 378:3-a was enacted and the matter of the discrepancy has been covered within the context of the monthly fuel adjustment clause hearings required by RSA 378:3-a. At no time has this commission been petitioned by any complainant pursuant to RSA 365:29.

On December 6, 1976, the commission issued Ninth Supplemental Order No. 12,507 in these proceedings denying the motion of PSC to Determine the Scope of the Monthly Fuel Adjustment Hearing. Essentially, PSC wished to limit the scope of inquiry by intervenors regarding matters of fuel procurement, fuel policies, and management of the company with regard to these matters. The commission decided that the legislative intent of RSA 378:3-a required full and complete inquiry and, thus, denied that motion.

Commission actions throughout the history and development of the fuel adjustment clause strongly indicates a close continuing surveillance of this entire matter. The commission has consistently examined the monthly figures of PSC and has reviewed the accuracy of the calculation involved in the monthly fuel adjustment charge filings. The commission held the first monthly fuel adjustment clause hearing on its own motion (May 19, 1976) and in subsequent monthly hearings has allowed a broad scope of inquiry at these hearings by attorneys for intervenors, by state senators and representatives, and by the public generally. The commission, on its own initiative and to cause a review of the fuel adjustment clause, hired Touche Ross & Company to perform an audit which led to the survey of the coal pile which in turn resulted in refunds of over \$3 million to PSC retail customers. All of these actions indicate the strict, careful, and close scrutiny the commission has exercised over the fuel adjustment clause.

Intervenor VOICE in its brief raises questions about the "inherent dangers" in the fuel adjustment clause. The fuel adjustment clause used in New Hampshire is less complex than fuel adjustment clauses in various other states (see Touche Ross & Company audit report dated June 7, 1976, p. 5). There have indeed been problems with fuel adjustment clauses in other states and there have been abuses which were corrected through adversary proceedings before public utilities commissions and before the Federal Power Commission. It should be noted that PSC wholesale fuel adjustment clause has withstood the scrutiny of the Federal Power Commission, Division of Audits, Office of Accounting and Finance and that office stated specifically that the clause used by the PSC was in accordance with FPC opinions and that the PSC procurement policies were adequate to insure that fuel costs were prudently incurred. It should also be noted in response to Mr. Brown's recitation of "inherent dangers" that the PSC clause has withstood the scrutiny of an independent professional accounting firm which (1) recommended that the fuel clause be continued, (2) raised no abuses by PSC in the application of that

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clause, and (3) stated that the clause was a fairly simple one to administer.

The Touche Ross & Company report as noted above recommended "regular periodic inventories of the coal pile" and the PSC in its news release No. 76-83 dated August 20, 1976, attached a statement regarding the coal pile inventory which indicated that the procedure for survey and inventory adjustment will be conducted on an annual basis from now on. We concur with this planned action, urge that it, in fact, be done and shall see to it that such action is, in fact, carried out. An annual survey and inventory will establish by adjustment the actual amount of coal being burned for PSC customers.

It is equally likely that the results of the Touche Ross & Company recommended survey of the PSC coal pile could have produced an opposite result. A survey could have shown that there

was less coal in the pile than on the books of the company. This would have meant that PSC was undercharging its customers for coal burned to produce electricity. Had this been the case, the proceeding before this commission would have been one to consider the manner in which the undercollection could be recouped by PSC from its customers.

Intervenors in this proceeding generally seem to be requiring a mathematical precision and certainty in a matter which is not capable of such precision and certainty. Indeed, the Touche Ross & Company audit report points out that periodic over- and underrecoveries will occur in accounting for fuel burned. Certain suggestions were made to improve methods for fuel cost accounting so that the amplitude of over- and undercollections would be reduced. But the audit report points out that over- and underrecoveries from month to month will occur and that the effort of the commission and the company should be focused upon minimizing the over- and underrecoveries (see Touche Ross & Company audit report dated June 7, 1976, pp. 4 and 5).

Figures used prominently in connection with the coal pile buildup over book inventory are 127,209.60 tons of coal and \$4.5 million overcollection from PSC customers. While these are sizeable figures standing alone, they take on a different aspect when viewed from the total perspective.

The 127,209.60 tons of coal amount to something less than 3 per cent of the total coal purchased over the 57-month period. During this period the about average customer using 500 kilowatt-hours per month had bills totaling approximately \$931. The total dollar coal adjustment per residential customer is about \$4.70 for the entire 57-month period, or an overcharge of about one-half of one per cent. The actual overcharge was less since the actual price paid per ton of coal during the period (\$12 per ton in 1971 to \$34 per ton in 1976) was less than the price used to value the coal for refund purposes (i.e., \$34.03 per ton).

#### *The Refund*

Public Service Company of New Hampshire has refunded to its customers \$4,328,942.68 for coal, and \$268,839.52 for a Btu adjustment. This is a total refund of \$4,597,782.20. In addition to this refund, the company will make an additional refund of \$105,192.46 which is an amount associated with the transportation costs for Btu deficient coal. None of these refunds is any longer an issue in

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these proceedings. There are, however, four additional claimed amounts:

1. An amount for purchases of *excontract coal* above the contract price.
2. An amount for *excess moisture content* in coal.
3. An amount for *excess ash content* in coal.

4. An amount for *interest* on the Btu deficiency adjustment, the transportation costs for Btu deficient coal, the purchases of excontract coal, the excess moisture content of coal, and the excess ash content of coal.

#### *Excontract Coal*

[1] Public Service Company of New Hampshire's rate of usage of coal is dependent upon

several variable factors. Coal usage will depend upon the demand of the customers in PSC's own system, the demand of the companies who are members of the New England Power Pool and the availability of the PSC coal-burning units at Merrimack. Availability of those units varies from time to time depending upon both scheduled and unscheduled maintenance which must be performed. These factors listed above are the normal variables the company must deal with. Against these variables the company must estimate its usage and establish a rate of delivery of fuel.

The enormous uncertainty which befell the entire United States during the Arab oil embargo had a substantial effect upon the management decisions at PSC to purchase excontract coal. Management decisions have to anticipate situations and needs. As we look back and engage in hindsight, our vision is 20-20, it might appear that certain purchases of excontract coal were not, in fact, necessary. At the time of the purchase, however, this commission finds that PSC was reasonable and prudent in its purchase of excontract coal. The management of PSC has the prerogative to act in the best interest of its customers. It has the obligation to serve its customers by law and it was facing a most uncertain situation which at times reached emergency proportions. The purchase of excontract coal in view of these uncertainties, we think, was a reasonable and prudent exercise of management prerogative.

In the fall of 1973, a critical fuel shortage developed and its impact and ramifications are felt to this day. During this time and thereafter, utilities were searching for coal. The search for coal would continue beyond these initial frantic days as the increasing unavailability of oil pressured the existing coal supplies.

A New England meeting of public utilities commissions was held in Boston on December 3, 1973, with representatives of New England Power Pool to discuss the seriousness of the situation. A plan was presented outlining the actual shutoff to customers by sections on a rotating basis. Comments were made as to the possibility of residents being asked to live in one room with block wardens for enforcement. Draft legislation was prepared as an amendment to Chap 374 "authorizing action by the governor and the public utilities commission to curtail use of electric power." A series of news bulletins was started in December of 1973 by NEPOOL indicating days' supply of fuel on hand in New England, and subsequently these reports were followed by Public Service Company weekly reports to this commission of coal on hand at its Merrimack plant. The initiation of the PSC coal reports in November of 1974 appear to coincide with Federal

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Power Commission Order No. 515 issued November 4, 1974, requiring electric utilities to make weekly reports of coal supplies to the Federal Power Commission starting on November 3, 1974.

The NEPOOL bulletins from December 4, 1973, to April 19, 1974, indicate stocks of fuel in New England in a range of thirty-two to thirty-four days. Public Service Company of New Hampshire and many other companies attempt to maintain a 45-day fuel supply at a minimum and attempt to maintain more when possible.

The PSC weekly reports received by the commission and maintained by its engineering

department indicate that on November 16, 1974, PSC had a coal supply of fifty-one days which started decreasing substantially in December. It fell below thirty days on December 14, 1974, reached a low of twenty-one days on January 18, 1975, and finally rose above thirty days on March 22, 1975. It reached a high of sixty-three days on May 17, 1975, and on September 13, 1975, had declined to twenty-eight days. It recovered to fifty-two days on November 8, 1975, as a result of limited generation.

From the testimony, it is shown that the first excontract coal was purchased in February, 1974, continuing almost monthly until December of 1975, with one final purchase in May of 1976. Against the backdrop of the critical fuel supply situation starting in the fall of 1973, the company's efforts to build up its stockpile of coal to amounts beyond forty-five days would appear to be a logical and prudent management decision to protect its customers against possible hardships of curtailed power use. The company has testified that even had it known that the coal pile contained more than shown on its book inventory it still would have purchased similar amounts of excontract coal.

In the exercise of managerial discretion in estimating requirements and trying to second guess the international fuel crisis it strikes us that if error is to be made, it is better to have an excess occur in the coal pile rather than in an inventory record. The former results in a coal supply cushion and a refund to customers and the latter in a short supply of fuel and a surcharge to customers for coal actually used and not paid for.

Since the company does not pay for contract coal in the stockpile until it is used and in view of the past uncertainty of the oil and coal supply, we do not find the company's purchases of excontract coal during the period February, 1974, to December, 1975, to be unreasonable.

The CCC contract was signed on January 27, 1967. Public Service Commission of New Hampshire's "estimated requirements" in 1967 meant something different than in 1973. The commission takes notice of the fact that during 1973 and thereafter conditions regarding the purchase of fuel changed drastically. Then, oil was in shortest supply and oil is used for a substantially large portion of electricity generation. Because of the oil shortage, there was a greater dependency upon and in some cases a shift to the usage of coal for generation. This fact created an even greater uncertainty about the adequacy of the supply of coal under these emergency conditions.

Regarding PSC's decision to purchase coal generally, there is evidence of a flexible arrangement between PSC and CCC regarding deliveries of coal which is probably beneficial to the company and its customers. Public Service Company of New Hampshire testified that it was

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within the contemplation of the parties at the time of signing the contract that strict adherence to contract terms was not required. There is evidence of the fact that PSC stopped CCC coal shipments when PSC had a long outage at the Merrimack station. The fact that they halted deliveries of contract coal and made no purchases of excontract coal during this period is a management decision which would indicate that the assertions by intervenors that excontract coal purchases were made when not needed are incorrect assertions (Transcript, Vol II, p. 175, January 18, 1977).

Intervenors contend that the purchase of excontract coal was not reasonable because in the event of a force majeure suspending the CCC obligation to maintain a 45-day storage pile, the coal company was obligated to restore the pile to its required level after expiration of the force majeure. The obligation to restore the pile after force majeure does not help PSC when the coal pile is being drawn down during a force majeure. Even when the force majeure is short lived PSC must in the exercise of good and prudent management anticipate situations which may amount to a force majeure. Simply stated, later restoration of the coal pile does not rectify a present dwindling supply.

Perhaps the largest, most significant and pervading force majeure type situation occurred when the Arab oil embargo shocked this nation. The consequent shift away from oil to coal pressured every coal supply arrangement.

The contract with CCC terminates in 1977. The commission has been notified that a new contract with CCC will be on different terms. Notably the coal company will not any longer carry the coal pile financially but will require payment at time of stockpiling, not at the time of bunkering, as under the existing contract. Thus PSC, if it enters a contract with CCC, will have a much greater working capital requirement. Public Service Company of New Hampshire under such an arrangement will have to purchase all the coal stockpiled at Bow regardless of when that coal is bunkered and burned.

Anticipating the eventual termination of the CCC contract and the need to establish a firm long-term supply of quality coal, PSC tested the spot market from time to time. Public Service Company of New Hampshire engaged in shopping around simply to see if they could find a better supply with a better supplier on better terms. If PSC eventually recontracts with CCC at least it will have done so after some testing of the market through other suppliers.

The coal contract required CCC to supply the current operating requirements of PSC's Merrimack station and to maintain the "estimated requirements" of said station for forty-five days. Thus, the determination of the 45-day requirement is estimated and will undoubtedly vary depending on the circumstances. The variations of the estimates, the variations of external circumstances affecting the estimates, and the need to apply foresight to these varied circumstances may from time to time result in action which otherwise might not have been taken had the true and complete picture been known in advance.

Intervenors' submissions show 16 instances when CCC notified PSC of force majeure. Such notification in our opinion would be sufficient to justify excontract purchases by PSC. In addition, PSC reads the papers and trade journals and garners information about the

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availability of fuels which may lead PSC to the decision that it would be wise to make an excontract coal purchase.

Intervenors assert that only two times should the force majeure raise "concern." They say that in the other noticed situations, excontract purchases were not justified because the duration of the force majeure was not significant. At the time of the notification PSC does not know how long a force majeure will be in effect. When the force majeure is lifted and the potential for

another remains it would be reasonable for PSC to believe that an excontract purchase would be necessary.

Intervenors emphasize the fact that excontract coal was more expensive for "each and every purchase." The commission sees nothing unusual in this since the normal market condition is that spot purchases of excontract coal are more costly than prices under long-term contracts.

Regarding the purchase of excontract coal, it is just as reasonable and plausible to conclude that any unwise action of PSC viewed historically was not due to management inefficiency or poor judgement but to external factors beyond the effective control of management. The case of *Re Customers of Edison Electric Illum. Co. (Mass 1934) 5 PUR NS 369, Case Nos. 4439, 4444, 4678*, is instructive and supportive of the position the commission takes on the excontract coal issue. The Edison Company entered into a ten-year coal contract in 1926 with the C. H. Sprague and Son Company. In 1929, the Edison Company agreed to purchase additional coal from Sprague at a higher price for sixty months. The petitioners attacked the actions of Edison as improvident and not in good faith. These complaint proceedings took place during the depression and the Massachusetts Department of Public Utilities found that if the 60-month contract had not been made Edison could have obtained coal considerably cheaper. Yet, the Massachusetts Department of Public Utilities found that the 60-month contract was not improvident or unreasonable as petitioners claimed. The situation before our commission is analogous and we make the same finding.

Intervenors ask the commission to judge past management decisions regarding purchases of excontract coal, and to find that such management decisions were improper and unreasonable. When inefficiency, improvidence, economic waste, abuse of discretion, or action inimical to the public interest are shown, this commission may and should intervene ("*Principles of Public Utility Regulation*," Priest, Vol 2, pp. 694, 695). We do not find in this record any such showing. Thus, the commission will not interfere with what we find to be the prudent management of PSC. We find ample authority for the principle that this commission should not interfere with prudent company management. *Re New England Teleph. & Teleg. Co. (Mass 1973) D.P.U. 17490*; *Re General Teleph. Co. of Florida (Fla 1967) Docket No. 7766-TP, Order No. 4137*; *Watkins v Atlantic City Electric Co. (NJ 1967) 67 PUR3d 483*; *Letourneau v Citizens Utilities Co. (1965) 125 Vt 38, 59 PUR3d 1, 209 A2d 307*; *Missouri ex rel. Southwestern Bell Teleph. Co. v Missouri Pub. Service Commission, 262 US 276, PUR1923C 193, 67 L Ed 981, 43 S Ct 544*.

If the PSC is to be criticized for anything in this matter, it is for not having engaged the services of an engineering or accounting firm to perform annual surveys of its coal pile, particularly after

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the imposition of a monthly surcharge. The company knows that keeping an inventory of a coal pile is an uncertain matter incapable of any precise mathematical certainty. In view of this it would have been most prudent had the company caused annual surveys of its coal pile. The fact that they did not has certainly led to the magnitude of the coal pile inventory discrepancy which is the subject of these proceedings.

For all of the above stated reasons the commission denies any claimed adjustment or refund

for purchases of excontract coal above the contract price.

### *Moisture*

[2] The coal supplied to PSC by CCC is stockpiled at the Merrimack station in Bow, New Hampshire. Public Service Company of New Hampshire does not pay for that coal when it is in the stockpile but only after it is bunkered. The bunkering process is the last step immediately prior to the burning of the coal for generation purposes. When the coal is bunkered PSC accordingly makes entries on its book inventory. It is the discrepancy between the book inventory and the actual physical inventory of the coal pile which has created the issues the commission has before it.

Coal picks up moisture in transit and while it is in the stockpile. When the coal is bunkered it is weighed and the weight of the coal includes moisture. Public Service Company of New Hampshire applies a moisture adjustment factor to the coal weighed and bunkered. By this method PSC compensates for the fact that the weight of the coal during the bunkering process contains a certain amount of water.

Public Service Company of New Hampshire pays for its coal when it is bunkered, thus PSC applies the moisture factor during the bunkering process to reduce the amount that it is to pay CCC. For example, if one ton of coal is weighed and bunkered and a 1.5 per cent moisture factor is applied, then the PSC will actually pay CCC for 1,970 pounds of coal rather than the 2,000 pounds which was weighed and bunkered.

Over the period of the entire CCC contract since 1967 the company has used different moisture factors. The first experience PSC had was during the period 1967 to 1971, when it applied a 2 per cent moisture factor during the bunkering process. This resulted in a zeroing of the physical coal pile in November of 1971. This indicates that the moisture factor of 2 per cent was too high. In subsequent months the PSC has used different moisture factors and has found over time that a 1.5 per cent moisture factor applied during the bunkering process and used as a basis for determining the amount of money to be paid to CCC is the closest to the actual situation. The contract provides the CCC shall ship coal at no greater moisture factor than 3 per cent, mine weight. Public Service Company of New Hampshire has applied a 1.5 per cent moisture factor over the most recent past period which together with the contract allowance of 3 per cent equates to 4.5 per cent as the total moisture content measured. Analysis at the Bow plant done by PSC corroborates this 4.5 per cent figure.

Public Service Company of New Hampshire does the sampling for the purpose of testing moisture at the Bow plant. On a daily basis PSC employees take samples of coal which come up over the last conveyor before bunkering. This daily sample is placed in an air-tight

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container and at the end of a month the composite monthly sample is tested for moisture. This analysis is done at the chemical laboratory at the Merrimack station and the results appear in monthly fuel analysis reports entered on the record in these proceedings.

Merrill Exh 1E indicates the Merrimack station percentage moisture since November of 1971 at 4.51 per cent. This was determined by taking the monthly moisture sample and multiplying

that by the tons bunkered in each month to get a weighted monthly coal moisture figure. This was done over a period of five years to get the weighted average of 4.51 per cent.

Intervenors and Mr. Lessels assert that the actual moisture content of the coal was 2.57 per cent over and above the 3 per cent contract specification, mine weight. They assert that because of this PSC has actually been paying for water content rather than coal. They assert that because of this PSC is paying for more water than coal and therefore charging its customers for water content of the coal. In computing the 2.57 per cent, the coal train work sheets were used (Transcripts 2-225). When coal comes into the Merrimack station it goes over the B belt which is near the unloading platform at the rail siding.

Moisture samples taken at the B belt are practically useless (Transcript January 18, 1977, Vol 2, p. 225). At the B belt the comparison is between the weight of the coal at the mine and the weight of the coal as it enters the Bow station. The important and critical point at which moisture analysis should be taken is at the time of bunkering because it is at the time of bunkering that PSC pays CCC for the fuel. There is, therefore, a greater validity to the sampling to test moisture during the bunkering process. The closer the analysis gets to the time of the actual burning of the coal the more accurate it will be in determining the price of coal that PSC pays CCC for the fuel. The weighing at the B belt is designed to show PSC if it is generally getting what it has bargained for. But the weighing at that point does not determine what the company is paying for coal. The weighing at the B belt is a sequence in a chain of events, but that weighing is not determinative of moisture or the price to be paid for the coal. The B belt weighing is used basically to verify the contents of a particular train load of coal before it goes into the big pile. When coal is stockpiled it loses its identity as a particular train load lot, therefore, it is necessary for the composite moisture samples to be taken at a time as close to the burning process as possible.

For all of the above stated reasons, the commission denies an additional adjustment or refund for the moisture content in coal.

#### *Ash*

[3] The CCC contract (Par 4) specifies that the coal company is obligated to deliver coal containing an ash content of not more than 7.5 per cent. Intervenors claim refunds for excessive ash content for the months of May, June, August, and November of 1972; March of 1973; March of 1975; and February and October of 1976. Since the February, 1976, coal delivery was the only one subject to the contract, there can be no valid claim for refund due to excess ash for any of the other deliveries. These other deliveries were excontract coal deliveries and, therefore, not subject to the contract provision regarding excess ash.

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With respect to the February, 1976, contract delivery the ash content was 7.61 per cent or 0.11 per cent in excess of the contract specification. The question arises as to what effect this excess ash content has upon the cost of the coal. Intervenors apply the excess percentage to the total tonnage in the month in question and derive total tons of ash. They then apply the cost per ton of coal to this excess ash tonnage and derive a dollar figure which they claim should be refunded.

The same weight of the coal which intervenors determine to be ash has already been the subject of adjustments for moisture content. How then, we ask, can the same weight of the product be subjected to further adjustment? It appears that ash content of coal has a negative effect on the Btu of that coal. The Btu all have been measured and adequate adjustments referred to herein above have been made. Accordingly, the commission denies any additional adjustment or refund for the ash content of coal.

### *Interest*

Public Service Company of New Hampshire assumed that the coal pile inventory discrepancy occurred on a linear basis from the zeroing of the coal pile in November of 1971. Although this method has been challenged there is no evidence to show that the discrepancy occurred any other way. Assuming then that the discrepancy occurred on a linear basis PSC computed the cost of the build-up at various prices from November, 1971. The cost of coal then was substantially less. Priced out at the ascending cost of coal the total refund would have been about \$2.5 million. Because of the uncertainty of when the discrepancy actually occurred, PSC obtained an agreement from CCC to correct the discrepancy at today's price of \$34.03 per ton. At this level, the refund exceeds \$4.5 million and the difference between the two figures more than compensates PSC customers for the time value of any money overpaid to PSC. Thus, with regard to the inventory adjustment, any further interest claim appears unreasonable.

While intervenors' claims for interest on the Btu adjustment refund and the refund for transportation costs associated with Btu deficient coal are capable of more precise determination, it remains that PSC did not obtain an interest element in its settlement with CCC and thus has no funds which belong to its customers. Public Service Company of New Hampshire has not been unjustly enriched at the expense of its customers.

In any case, if interest is rightfully due the customer of PSC, such interest would have to be calculated from the time each customer made an overpayment to PSC. Customers would not lose the time value of their money until they parted with it and this would be a different time from most all customers.

Interest cannot be computed from the date of coal delivery because that coal may not be bunkered for a long period of time and until it is bunkered PSC does not pay CCC. Interest cannot be computed from the date of bunkering because the customers of PSC do not pay for the coal at that time and have not any basis for an interest claim. Interest, additionally, cannot even be computed from the billing date because the customers have not parted with their funds at that point.

The computation of interest by intervenors has not been made from the date customers actually pay their bills,

and, thus, there is no accurate information in the record upon which to ascertain what interest might be due.

In the computation of interest it would have to further be determined what portion of each customer's bill was an overpayment. One would have also to determine the number of bills

during the period actually involved in overpayment. The method of calculating a proper interest would be an administrative nightmare employing additional aid at additional cost. It would not be justified in view of this nor would it be justified due to the fact that PSC has given the customers the benefit of pricing out coal at today's higher costs when in all likelihood some portion of the inventory discrepancy occurred at a time when coal cost less.

Since the commission denies adjustments based on claims for excess moisture, excontract coal and excess ash, the interest issue as to these items is moot.

#### *Conclusion*

The following PSC requests for findings and rulings in connection with verification of adjustment refunds are granted: one through eight, ten through 21, 23 through 27, 29 through 37, and 40.

The following requests for findings of fact submitted by the Legislative Utility Consumers' Council are granted: one through five, seven, nine through 17, 20, 26 through 31, 33, 35, 37 through 39, 43 and 44, 50 through 52, 54 and 55, 63 through 72, 75, 77, 80, and 84 through 94.

All requests for findings and rulings made by PSC and intervenors not specifically granted and not otherwise covered by this report are hereby denied.

The record in these proceedings does not support claimed adjustments and refunds for the purchase of excontract coal, for excess moisture content of the coal, for excess ash content of the coal, or for interest on these or any other items already refunded.

Based upon all foregoing, the claimed adjustments and refunds for the purchase of excontract coal, for excess moisture content of coal, for excess ash content of coal, and for interest on these or any other items are denied.

#### APPENDIX A

Documents Relative to the Public Service Company of New Hampshire Fuel Adjustment Clause

Reports and Orders of the New Hampshire Public Utilities Commission

Audit Reports

New Hampshire Supreme Court Decisions Relative to the Fuel Adjustment Clause

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE  
FUEL ADJUSTMENT CLAUSE  
REPORTS AND ORDERS OF THE COMMISSION

*Report and/or  
Order. No.*

10,679

*Supp. 10,774*

11,226

12,268

Supp. 12,313

2nd Supp. 12,351

3rd Supp. 12,380

4th Supp. 12,422

5th Supp. 12,445

6th Supp. 12,470

7th Supp. 12,482

8th Supp. 12,503

9th Supp. 12,507

10th Supp. 12,538

11th Supp. 12,578

12th Supp. 12,605

13th Supp. 12,611

14th Supp. 12,656  
surcharge

Supp. Report

[Graphic(s) below may extend beyond size of screen or contain distortions.]

*OTHER COMMISSION DOCUMENTS*

*Informal  
Docket No.*

*I-R14,394*

*I-E14,565*

[Graphic(s) below may extend beyond size of screen or contain distortions.]

*NEW HAMPSHIRE SUPREME COURT DECISIONS*

*Reference*

*112 NH 348,  
96 PUR3d 414,*

*113 NH 497,  
2 PUR4th 59,  
311 A2d 513*

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NH.PUC\*04/11/77\*[77850]\*62 NH PUC 99\*Northern Utilities, Inc., Allied Gas Division

[Go to End of 77850]

**Re Northern Utilities, Inc., Allied Gas Division**

DR 76-108, Supplemental Order No. 12,687

62 NH PUC 99

New Hampshire Public Utilities Commission

April 11, 1977

PETITION by gas company for authority to increase rates; granted as modified.

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RATES, § 373 — Gas — Cost of fuel.

[N.H.] A gas company's rate schedule reflecting a rate increase in accordance with commission Order No. 12,678 was approved as filed where the commission was satisfied that the company had complied with its order to update and increase the base cost of gas to reflect current fuel costs.

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BY THE COMMISSION:

Supplemental Order

Whereas, Northern Utilities, Inc., Allied Gas Division, in compliance with this commission's Order No. 12,678 (62 NH PUC 78), has filed new tariff pages to its tariff, NHPUC No. 6 — Gas, to produce an increase in rates of \$335,000; and

Whereas, the commission is satisfied that the company has complied with our order to update and increase the base cost of gas to more nearly reflect current fuel costs; it is

Ordered, that First Revised Page No. 10, Original Page Nos. 11 and 12, and First Revised Page No. 13; and Second Revised Page Nos. 21 and 22; and Fourth Revised Page 22A; and Tenth Revised Page 23 and Ninth Revised Page 25 and Eighth Revised Page 27 and Fourth Revised Pages 29 and 30, and Second Revised Page 31 and Sixth Revised Page 32 of Northern Utilities, Inc., Allied Gas Division, tariff, NHPUC No. 6 — Gas, be, and hereby are, canceled; and it is

Further ordered, that Second Revised Page No. 10, First Revised Page 11 and Second Revised Page 12 and Second Revised Page 13; and Third Revised Pages 21 and 22; and Fifth Revised Page 22A; and 12th Revised Page 23; and 11th Revised Page 25; and Tenth Revised Page 27; and Sixth Revised Pages 29 and 30; and Fourth Revised Page 31 and Eighth Revised Page 32 of Northern Utilities, Inc., Allied Gas Division tariff, NHPUC No. 6 — Gas, be, and hereby are, permitted to become effective with all bills rendered on or after April 1, 1977; and it is

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Further ordered, that notice of said increase in rates be given by publication of this order in a newspaper having general circulation in the territory served, including a schedule of the new rates.

By order of the Public Utilities Commission of New Hampshire this eleventh day of April, 1977.

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NH.PUC\*04/13/77\*[77851]\*62 NH PUC 100\*Manchester Motor Freight, Inc.

[Go to End of 77851]

## Re Manchester Motor Freight, Inc.

DT 76-88, Order No. 12,701

62 NH PUC 100

New Hampshire Public Utilities Commission

April 13, 1977

APPLICATION for authority to operate as an irregular route common carrier of property by motor vehicle; granted in accordance with opinion.

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CERTIFICATES § 88 — Public interest factor — Ability and fitness of motor carrier.

[N.H.] A certificate authorizing a motor carrier to operate as an irregular route common carrier of property was granted where the commission found that the applicant was fit, willing, and able properly to perform the service and that public convenience and necessity required the proposed service.

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APPEARANCES: James T. McKenna, president, for the applicant; Charles A. DeGrandpre and Robert E. Jauron for Ross Express, Inc.; and James E. Mahoney for Auclair Transportation, Inc., and Nashua Motor Express, Inc.

BY THE COMMISSION:

Report

By application filed June 28, 1976, Manchester Motor Freight, Inc., seeks the issuance of a certificate of public convenience and necessity authorizing operations as an irregular route common 100 carrier transporting loaded and unloaded trailers prior to and subsequent to rail transportation between points and places in Manchester, Goffstown, Hooksett, Bedford, Merrimack, Litchfield, Londonderry, Derry, Chester, Auburn, Candia, Bow, and Dunbarton; also the transportation of loaded and unloaded trailers not involved in rail transportation between points and places in the same points as listed. Hearing thereon was held at Concord on February 11, 1977.

Applicant is a New Hampshire corporation organized May 14, 1976. Its president appeared as the witness and indicated that he had been with the former New Haven Railroad and its successor the Penn Central Railroad for approximately twenty years and was furloughed when this bankrupt railroad came under the control of the Consolidated Rail Corporation.

By this application it is intended to transport loaded and unloaded trailers between points and places in the various towns and cities listed and to the terminal

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of the Boston and Maine Railroad in the city of Manchester for continued transportation in the railroad's piggyback service. Among the customers who would be served by this service are the New Hampshire Shippers Cooperative, the Boston and Maine Corporation, the Holton Process Company, Granite State Acoustics, Inc., LeBlanc Electric, Inc., and Pitcher Associates, Inc. All have submitted letters indicating that they support the application and in one instance indicating that difficulty has been experienced in the past in obtaining prompt handling of piggyback trailers and requesting a carrier who can handle them without delay.

One tractor would be employed and two employees would be assigned for accomplishing the service. The tractor presently available is a 1974 International. A small 1968 step-in van is available for service work. Operations are presently conducted within the city of Manchester under the exemption contained in RSA 375-B:3 I.

In the handling of these trailers it is proposed to charge a rate, in addition to the through rates, for piggyback or trailer on flatcar service as published in the filed tariffs. Present operations are being conducted without a profit but applicant is confident that if an expansion beyond the confines of Manchester is authorized, there will be sufficient business to insure a desirable and profitable service.

The application is opposed by Ross Express, Inc., Auclair Transportation, Inc., and Nashua Motor Express, Inc. President Charles E. Ross, Jr., of Ross Express, Inc., operates a daily service to points and places in New Hampshire. This carrier employs thirty persons; it has 13 individual routes and is operating 30 trucks, 21 of which are of the van type and has tractors in the Manchester area every working day. This carrier claims that Manchester and the immediate surrounding towns are the heart of the business offered to it, and that it has extra capacity at present and can handle the transportation as proposed without adding extra equipment to its fleet. A motion was submitted and granted to take judicial notice of its statewide property carrier certificate of public convenience and necessity authorizing common carrier service over certain regular routes and over irregular routes serving all points in the state. Judicial notice was also given to the fact that an order has been issued by the commission following hearing which has authorizing operations in interstate commerce of vehicles traveling wholly within the state of New Hampshire which it plans to register with the Interstate Commerce Commission to permit full interchange of traffic in interstate commerce.

A witness from Auclair Transportation, Inc., appeared and testified that this carrier provides a cartage type service. This carrier has five straight trucks, 111 tractors, 252 trailers (five of which are reefers), and three yard horses. It is stated that three of these tractors and six trailers are presently idle. This carrier claims to be a relatively short-haul carrier and is at present handling trailer on flatcar loads at the Manchester Terminal and has transported a considerable amount of less truckload traffic for the Shippers Cooperative. Motion was also submitted and granted to take judicial notice of a certificate and permit held by this carrier as contained in Order No. 8760, D-T4639 and Order No. 8761, D-T4640.

This carrier operates regular route service generally in central and eastern New Hampshire south of a line drawn

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east and west through Plymouth and irregular route service to all points in the state.

The president and general manager of Nashua Motor Express, Inc., also testified in opposition to the granting of the authority sought. This carrier claims to be capable of providing trailer on flat-car service and is actually engaged in providing such service. Its equipment consists of 31 tractors, 47 trailers, one straight truck, one maintenance truck, and five company automobiles. This carrier claims it has idle equipment at present consisting of four tractors and ten and sometimes 12 trailers. It claims to handle six to eight truckloads per week to and from Manchester and points contained in the other cities and towns which applicant desires to serve. It also handles a substantial business for the New Hampshire Shippers Cooperative and claims to have excellent relations with that agency. Its garage is located in Nashua. It has two salesmen and is engaged primarily in handling relatively short-haul business.

Both Auclair Transportation, Inc., and Nashua Motor Express, Inc., as protestants, presented exhibits to indicate the extent of which their intrastate operations are involved. The Auclair exhibit listed shipments handled on January 24th, 25th, and 26th, indicating that 27 shipments were handled from Manchester to the cities of Portsmouth, Dover, Nashua, Keene, and the Pease Air Force Base; and 22 shipments originating at Concord were destined to North Hampton, Portsmouth, Exeter, Raymond, Dover, Farmington, Rochester, Pelham, Plaistow, Derry, Somersworth, Pittsfield, Nashua, Keene, Hinsdale, Salem, Seabrook, and Hooksett. The shipments originating in Manchester consisted of cigarettes while 102 those from Concord consisted of alcoholic liquor. This exhibit also contains intrastate shipments handled from April 5 to April 30, 1976, inclusive. Of these, 28 originated in Manchester destined to various points in the state, five originated in Concord, and one in Dover.

An exhibit was introduced by Nashua Motor Express, Inc., containing intrastate shipments handled from September 9 to September 21, 1976. This exhibit indicates that there were 23 shipments originating in Concord, most of which were destined to Nashua, one to Marlborough, two in Keene, and one each to Hudson and Milford. There were 19 originating in Jaffrey with seven destined to Manchester, three to Nashua, and one each to Exeter, Somersworth, Dover, Newport, and Epping, and two to Rochester. Five shipments originated in Nashua with two each to Manchester and Concord and one to Wilton. There were also five shipments originating in Hudson with two destined to Nashua and one each to Laconia, Rochester, and Exeter. One shipment originated in Merrimack destined to Keene.

The transportation involved in this proceeding raises a jurisdictional issue. The Interstate Commerce Commission exercises jurisdiction through Part II of the Interstate Commerce Act over transportation provided under a common control from the point of origin to the point of destination.

The jurisdictional issue is brought forth relative to § 203(b)(8) relating to commercial zones. This section exempts from Part II of the Interstate Commerce Act, except those provisions relative to qualifications and maximum hours of service of employees and safety of operations or

standards of equipment, "The

transportation of passengers or property in interstate or foreign commerce wholly within a municipality or between contiguous municipalities or within a zone adjacent to and commercially a part of any such municipality or municipalities, except when such transportation is under a common control management, or arrangement for a continuous carriage or shipment to or from a point without such municipality, municipalities, or zone ... ."

The regulations of the Interstate Commerce Commission define a municipality as any city, town, village, or borough which has been created by special legislative act, or which has been, otherwise individually incorporated or chartered pursuant to general state laws, or which is recognized as such, under the Constitution or by the laws of the state in which located, and which has a local government. *It does not include a town of the township or New England type.* (1038.100) Emphasis supplied.

The definition of a commercial zone of each municipality in the United States, with the exception indicated in the note at the end of this section, within which the transportation of passengers or property, in interstate or foreign commerce, when not under a common control, management, or arrangement for a continuous carriage or shipment to or from a point without such zone, is exempt from all provisions of Part II of the Interstate Commerce Act except the provisions of § 204 relative to the qualifications and maximum hours of service of employees and safety of operations or standards of equipment shall be deemed to consist of: (a) the municipality itself, hereinafter called the base municipality; (b) all municipalities which are contiguous to the base municipality, when the base municipality has a population of 25,000 but less than 100,000; all unincorporated areas within four miles of its corporate limits; and all of any other municipality any part of which is within four miles of the corporate limits of the base municipality. (1048.101)

The note referred to excepts municipalities the commercial zones of which have been or are hereafter individually or specially determined. Manchester and vicinity has not been individually or specially determined. The distances used in computing miles are air line distances.

It is apparent that under the Interstate Commerce Act operations within the four-mile corporate limits of the city of Manchester are not within its jurisdiction except for matters concerned with safety of operations.

Since evidence submitted in connection with the instant application indicates its operations are not under common control for continuous passage it would appear that there is no conflict between the statutes of this state which relate to transportation between points in New Hampshire whereas the Interstate Commerce Commission's jurisdiction relates wholly to interstate commerce.

From the evidence introduced in this proceeding it is apparent that applicant proposes to provide a service solely connected with the movement of trailers to and from points for loading and unloading, some of which will have a prior or subsequent rail haul in a piggyback service. The rates charged are in addition to and wholly independent of those for the piggyback service.

Upon consideration of all the facts the commission is of the opinion that applicant is fit, willing, and able properly to perform the service and that public convenience

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and necessity requires the issuance of a certificate authorizing transportation of loaded and unloaded trailers between points and places in Manchester, Goffstown, Hooksett, Bedford, Merrimack, Litchfield, Londonderry, Derry, Chester, Auburn, Candia, Bow, and Dunbarton. Our order will issue accordingly.

Order

Property Carrier Certificate of Public Convenience and Necessity No. 442

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Manchester Motor Freight, Inc., of Manchester be, and hereby is, authorized to engage in operations as a common carrier of property for hire by motor vehicle as follows:

Transportation of loaded and unloaded trailers between points and places in Manchester, Goffstown, Hooksett, Bedford, Merrimack, Litchfield, Londonderry, Derry, Chester, Auburn, Candia, Bow, and Dunbarton; and it is

Further ordered, that said operations shall comply with the provisions of RSA 375-B and the rules and regulations prescribed by the Public Utilities Commission pursuant thereto.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of April, 1977.

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NH.PUC\*04/15/77\*[77852]\*62 NH PUC 104\*Public Service Company of New Hampshire

[Go to End of 77852]

## **Re Public Service Company of New Hampshire**

DR 76-124

62 NH PUC 104

New Hampshire Public Utilities Commission

April 15, 1977

MOTION to compel discovery in fuel adjustment clause inquiry; denied.

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BY THE COMMISSION:

Report

On April 5, 1977, the Legislative Utility Consumers' Council filed with this commission a motion to compel discovery in this proceeding. Counsel alleged among other things in his

motion that certain materials known to directors of Public Service Company of New Hampshire and received by them in report form are material to the presentation of counsel's case in this proceeding. The motion prays that the commission compel Public Service to produce for deposition two of its directors.

We have no jurisdiction to compel directors of Public Service Company to submit to deposition of consumer advocate. The commission has resolved this issue previously (see D-T6638, Browning-Ferris Industries of New Hampshire, Inc., report and Supplemental

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Order No. 11,634 dated October 31, 1974). The commission in that case decided that the remedy of a party seeking to compel a deposition is in the superior court. Accordingly, the motion is denied.

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NH.PUC\*04/15/77\*[77853]\*62 NH PUC 105\*New Hampshire Department Public Works and Highways

[Go to End of 77853]

## Re New Hampshire Department Public Works and Highways

DT 77-59, Order No. 12,706

62 NH PUC 105

New Hampshire Public Utilities Commission

April 15, 1977

REQUEST for exemption from stopping vehicles at two grade crossings; granted subject to conditions.

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CROSSINGS § 68 — Exemption from stopping vehicles at grade crossings — Safety devices at crossings.

[N.H.] An order exempting motor vehicles from stopping at two grade railroad crossings was granted subject to conditions relating to the speed of trains approaching such crossings and to the construction of more protective and safety devices.

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BY THE COMMISSION:

Order

Whereas, there are two grade crossings in the town of Newington created by the intersection of the northbound and southbound lanes of the Spaulding Turnpike (US 4 and NH 16) and the side track which leads to Pease Air Force Base; and

Whereas, both of these crossings are protected by the installation of automatic flashing signals of an approved type which indicates the approach of trains; and

Whereas, the New Hampshire Department of Public Works and Highways has requested that certain vehicles be exempt from stopping before passing over these crossings in accordance with the provisions of RSA 262-A:47 II and III; and

Whereas, there are many vehicles using this highway which carry petroleum products and other inflammable and dangerous commodities, the stopping of which creates a hazardous motor vehicle problem; and

Whereas, the provisions of this order will require all train movements to approach these crossings in a manner which will permit such movement to be stopped if the highway traffic is congested, thereby creating a hazardous condition; it is

Ordered, that the Boston and Maine Corporation shall cause its train movements to approach the northbound and southbound lanes of the Spaulding Turnpike while operating on the Pease Air Force spur track at such speeds that the train may be stopped to avoid collisions

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with motor vehicle traffic, if it is found that such traffic has not stopped in obedience to the flashing light signal; and it is

Further ordered, that vehicles carrying passengers for hire and vehicles used for the transportation of inflammable liquids in cargo tanks approaching on the northbound and southbound lanes of the Spaulding Turnpike be, and hereby are, exempt from stopping before passing over these crossings pursuant to the provisions of RSA 262-A:47 II and III; and it is

Further ordered, that the New Hampshire Department of Public Works and Highways shall install and maintain on the same mast that supports the advance warning disc, a reflectorized sign, with a yellow background, a black border with the word "EXEMPT" in black, in accordance with the standard sign set forth in Figure 2 of the Railroad Highway Grade Crossing Warning System Bulletin No. 7 as published by the Association of American Railroads; and it is

Further ordered, that the provisions of this order shall become effective coincidental with the installation of the signs herein specified.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of April, 1977.

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NH.PUC\*04/18/77\*[77854]\*62 NH PUC 106\*Northern Utilities, Inc., Allied Gas Division

[Go to End of 77854]

## Re Northern Utilities, Inc., Allied Gas Division

I-R14,672, Order No. 12,708

62 NH PUC 106

New Hampshire Public Utilities Commission

April 18, 1977

PETITION of gas utility seeking approval of special contract; granted.

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BY THE COMMISSION:

Order

Whereas, Northern Utilities, Inc., Allied Gas Division, a utility selling gas under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 33 with Kane-Gonic Brick Company, effective on April 15, 1977, for gas service at rates and conditions other than those fixed by its schedule of general applications; and Whereas, upon investigation and consideration, this commission is of the opinion that special circumstances exist relative thereto, which render the terms and conditions thereof just and consistent with the public interest; it is

Ordered, that said contract may become effective as of the effective date thereon.

By order of the Public Utilities Commission of New Hampshire this eighteenth day on April, 1977.

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NH.PUC\*04/18/77\*[77855]\*62 NH PUC 107\*Rate Structures of New Hampshire Electric Utilities

[Go to End of 77855]

**Re Rate Structures of New Hampshire Electric Utilities**

DR 75-20

62 NH PUC 107

New Hampshire Public Utilities Commission

April 18, 1977

MOTION for rehearing of order requiring electric utilities to file experimental rate proposals; denied.

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PROCEDURE, § 34 — Petition for rehearing — Time limitation.

[N.H.] A motion for rehearing of a commission order or decision must be filed within twenty days after the issuance of such order or decision.

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BY THE COMMISSION:

## Report

On April 7, 1977, VOICE filed a motion for rehearing in this proceeding. The motion for rehearing, among other things, alleges that the commission has acted improperly in meeting with the representatives of electric companies who had filed experimental rate proposals pursuant to commission Order No. 12,557 dated January 10, 1977 (62 NH PUC 4). The motion prays that the decision of the implementation of these rates be stayed until VOICE can be heard on them.

Order No. 12,557 dated January 10, 1977 (requiring filing of experimental rate proposals), was based upon the complete record of these lengthy proceedings spanning almost two years. These are proceedings in which VOICE has been a substantial and continuous intervenor. The commission order was based upon the record to which VOICE has contributed, however, the order was issued on the commission's own initiative and not at the specific request of any parties in this proceeding.

Subsequent to the issuance of the January 10th order, this commission received no documents from VOICE objecting to or requesting a motion for rehearing on the contents of that order. The commission did not receive from VOICE any communication by way of request or otherwise to have any input into the experimental pricing proposals which the commission directed electric companies to file. Our order required the proposals to be submitted on or before March 1, 1977, and except in one instance all companies complied. Public Service Company of New Hampshire filed its proposal a day later, after receiving verbal authority from the commission. The file in this proceeding contains evidence showing that Public Service Company of New Hampshire, Concord Electric Company, and Exeter and Hampton Electric Company sent copies of their filings of March 1st to counsel for VOICE. Other companies may have done the same but it cannot be verified by any evidence in our files. In any case, on March 2nd the commission sent a notice to all interested parties informing them that the electric companies time-of-day rate proposals had been filed and were available for inspection.

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Subsequent to Mr. Brown's receipt of these filings of March 1st, the commission received no response from him regarding the contents of those filings.

On March 8th, the staff of this commission met with Public Service Company representatives to review technical compliance with our Order No. 12,557. On March 7th, counsel for VOICE contacted the chief engineer of this commission who was conducting these meetings I and counsel for VOICE was invited to attend the March 8th meeting as well as the meetings scheduled for March 11th and 15th. Counsel for VOICE did not attend any of those meetings.

These meetings were held in lieu of telephone calls or letters that could have otherwise been sent by the commission to the companies asking questions of clarification regarding the filings. The commission was interested in beginning the experimental pricing programs as soon as possible and in order to expedite the review of these filings decided that meetings would be the quickest way to resolve any problems of a technical nature which might have occurred due to the filings.

The purpose of the meetings was to examine the proposals for experimental rate design, ask

questions regarding the technical aspects of those documents, and to make sure that the companies understood the format of making a formal tariff filing based upon the experimental rate design proposals in the documents we received on March 1st. Essentially, then, the meeting was exacting technical compliance with our January 10th order and was insuring that tariff filing rules would be adhered to when the final rate design proposal was filed. The staff interest in all of this was to minimize any problems that might have caused delays and might have necessitated a returning of tariffs to the companies for changes. Such an occurrence would have delayed the implementation of the experimental rate design program which is necessary to determine if any new rate structure is appropriate to be adopted in New Hampshire.

As a result of these meetings, the commission issued Order No. 12,658 on March 28, 1977 (62 NH PUC 63), approving the experimental rates and ordering implementation of the rates as of April 1, 1977. The timing of this order indicates swift action on the part of the commission to get the experimental pricing program under way as soon as possible. The end result of the meetings was the order on March 28th and that order shows that there were two minor technical changes and that there was no change in the policy of the commission or the philosophy of the commission as originally put forth in its January 10th order.

In the March 28th order the commission ordered New Hampshire Electric Cooperative, Inc., to increase the size of its sample to insure the validity of results and it ordered Granite State Electric Company to break out of its experimental rates the portion included therein for a fuel surcharge. This was done so that the customers who would be receiving two bills under the pay-either-bill approach would be able to make more accurate comparisons between the two bills. Otherwise, the order of March 28th did not in any way vary the requirements of the commission set down in its original January 10th order which was based upon the record in these proceedings and to which VOICE did not object.

Counsel for VOICE indicates that the commission scheduled "private meetings." These meetings were staff

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meetings with company representatives. There was no intention to exclude or restrict anyone from attending these meetings. Evidence of this fact was the open invitation to Mr. Brown to attend any of the meetings. The situation that we have here is not unlike the situation when counsel for various intervenors have met with members of the commission staff to clarify provisions of commission orders. In addition, the commission had no part in these meetings.

Since the commission received no request for hearing subsequent to its January 10th order and since the commission received no request for hearing subsequent to the March 1st experimental rate design submissions, the commission finds it difficult to understand how it could ever grant a rehearing when a hearing was never requested. Counsel for VOICE in his March 8th letter requested the meetings be reopened but did not request a hearing.

The motion for rehearing is manifestly unclear in that it does not specify the date from which relief is requested. A motion for rehearing pursuant to RSA 541:3 must be filed within twenty days of any order or decision of the commission. More than twenty days have passed since Order No. 12,557 (January 10, 1977), and since March 8th (letter to commission), and so if counsel for

VOICE measures from these dates, the motion for rehearing is untimely. If the motion for rehearing is measured from the so-called "private meetings" it is untimely, those meetings having been held on March 8th, 11th, and 15th. If the motion for rehearing is measured from Order No. 12,658 (March 28, 1977), it is timely but is denied for all of the foregoing reasons.

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NH.PUC\*04/20/77\*[77856]\*62 NH PUC 109\*Connecticut Valley Electric Company, Inc.

[Go to End of 77856]

### Re Connecticut Valley Electric Company, Inc.

I-R14,661, Order No. 12,716

62 NH PUC 109

New Hampshire Public Utilities Commission

April 20, 1977

PETITION of electric company seeking approval of special contract; granted.

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BY THE COMMISSION:

Order

Whereas, Connecticut Valley Electric Company, Inc., a utility selling electricity under tile jurisdiction of this commission, has filed with the commission a copy of its Special Contract No. 4 with Joy Manufacturing Company, effective May 1, 1977, for electric service at rates other than those fixed by its schedule of general application; and

Whereas, upon investigation and consideration, this commission is of the opinion that special circumstances exist relative thereto which render the terms and conditions thereof just and consistent with the public interest; it is

Ordered, that the said contract may

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become effective as of the effective date thereof.

By order of the Public Utilities Commission of New Hampshire this twentieth day of April, 1977.

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NH.PUC\*04/20/77\*[77857]\*62 NH PUC 110\*Pennichuck Water Works

[Go to End of 77857]

### Re Pennichuck Water Works

DR 76-163, Order No. 12,717

62 NH PUC 110

New Hampshire Public Utilities Commission

April 20, 1977

APPLICATION by water company for authority to increase rates; granted as modified.

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1. RETURN, § 115 — Water company.

[N.H.] A return of 10.34 per cent was deemed reasonable for a water company. p. 110.

2. RETURN, § 35 — Attrition allowance.

[N.H.] An attrition allowance of 0.5 per cent was added to a water company's return allowance in view of the fact that continuing inflation and the need for substantial investment in plant over the next several years will continue to be contributing factors to attrition. p. 110.

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APPEARANCES: John B. Pendleton for the petitioner; Steven W. Ruback for the Legislative Utility Consumers' Council; H. Philip Howorth for the city of Nashua; and Senator D. Alan Rock, pro se.

BY THE COMMISSION:

Report

On November 3, 1976, Pennichuck Water Works, a public utility engaged in the business of supplying water in the city of Nashua and a portion of the town of Merrimack, filed with this commission its tariff providing for an increase in rates in the amount of \$743,096, effective December 15, 1976. The proposed rates were suspended by Order No. 12,508 dated December 6, 1976.

On December 30, 1976, the company filed a petition for temporary rates to be effective for the duration of the hearings on this case.

A duly noticed public hearing was first held at the Nashua Public Library on March 8, 1977, and then reconvened at the office of the commission on March 24, 1977. The company presented testimony and other evidence indicating that earnings have shown a steady decline and are below the level which the commission determined to be reasonable previously. The company submitted testimony and revised exhibits based upon operating results for the year ended December 31, 1976. The requested increase in rates was revised to \$965,854.

*Rate of Return*

[1] The company submitted a revised rate of return based upon the capital structure at December 31, 1976, pro

formed to reflect issuance of long-term debt to eliminate its short-term debt. Using the capital structure at December 31, 1976, and pro forming to include the conversion of short-term debt to long-term debt, we find the fair rate of return to be 10.34 per cent, computed as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

CAPITALIZATION

Long-term Debt  
Common Equity

Total

*Attrition Allowance*

[2] Experience over recent years has shown that this company and others in similar situations have had continuing attrition in earned rates of return following rate increases. Continuing inflation and the need for substantial investment in plant forecasted over the next several years will continue to be contributing factors to attrition. The company, in its filing, used an attrition rate of 1.823 per cent based upon the average shortfall in the rate of return compared to the rate approved in its last rate case. The company has not established that the claimed rate of attrition is attributable to factors of a recurring nature. Based on our analysis of the record in this case and on our judgment we find that a factor of 0.5 per cent to be applied to average rate base should eliminate substantially or ameliorate attrition.

*Rate Base*

The company submitted a revised average rate base of \$6.4 million as of December 31, 1976. Plant in service has been increased to include \$96,051 to reflect construction of a 300,000 gallon reservoir which was completed prior to the end of the test year. Cash amounting to \$89,000 has been excluded. A further adjustment for investment tax credits has been made to provide a reduction of the credits restored ratably over the life of the property from rate base.

We find the average rate base for the test year ended December 31, 1976, as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

RATE BASE

Gross Plant in Service  
Less: Reserve for Depreciation  
Contributions in Aid of  
Construction  
Investment Tax Credit

Net Plant  
Plus: Materials and Supplies  
Four Months Operations and Maint.

Average Rate Base

*Revenue Requirements*

Applying the fair rate of return, 10.34 per cent, and an attrition allowance of: 0.50 per cent to

the average rate base, \$6.4 million, the required net operating income is \$694,000. The following table computes the revenue requirements.

We conclude that the company is entitled to an increase in revenues in an annual amount of \$647,000, an increase of 35.2 per cent in revenues over the existing tariff.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

REVENUE REQUIREMENTS  
 USING YEAR ENDED DECEMBER 31, 1976

Net Operating Income, as reported  
 Adjustments:  
 Wage and Salary Increase  
 Taxes, other than Federal  
 Federal Income Taxes

Operating Income with Adjustments  
 Required Net Operating Income

Revenue Deficiency  
 Required Increase in Revenues (+4,836)

### *Temporary Rates*

On January 3, 1977, the company filed a petition for temporary rates. This petition stated that unless prompt action is taken, the company will not be able to maintain its credit and attract capital on reasonable terms. We find that this petition for temporary rates should be approved and that this rate increase be made effective from December 30, 1976. The company will be allowed to collect an additional \$234,000, which includes \$220,000 of temporary rates for the period from December 30, 1976 to April 30, 1977, and \$14,000 of rate case expenses, to be collected over a period of two years. This will have the effect of increasing the required revenues by \$117,000, from \$647,000 to \$764,000.

The company, by our order, will be directed to file tariff sheets to allow for rates which will recover the additional amount due to temporary rates for a two-year period. Prior to the end of the two-year period the company will file tariff sheets which will be effective on or after April 30, 1979, in light of the fact that the temporary rates granted herein will have been completely recovered by April 30, 1979.

### Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the revisions to its tariff, NHPUC No. 4 — Water as filed by Pennichuck Water Works on November 3, 1976, which, revisions were suspended by commission Order No. 12,508 dated December 6, 1976, be, and hereby are, rejected; and it is

Further ordered, that in accordance

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with the increase in rates authorized by this report and order, Pennichuck Water Works shall file new tariff pages setting forth therein rates designed to produce an annual increase in gross revenues of \$764,000 through the period ending April 30, 1979, and these new tariff pages shall so state; and it is

Further ordered, that these revised tariff pages shall be filed to become effective with all current bills rendered on or after April 30, 1977; and it is

Further ordered, that prior to April 30, 1979, Pennichuck Water Works shall file additional tariff pages setting forth therein rates designed to produce an annual increase in gross revenues of \$647,000, such rates to take effect on May 1, 1979; and it is

Further ordered, that Pennichuck Water Works give public notice of these new rates by publishing the same in a newspaper having general circulation in the territory served.

By order of the Public Utilities Commission of New Hampshire this twentieth day of April, 1977.

NH.PUC\*04/22/77\*[77858]\*62 NH PUC 113\*Hudson Water Company

[Go to End of 77858]

## Re Hudson Water Company

I-R14,685, Order No. 12,720

62 NH PUC 113

New Hampshire Public Utilities Commission

April 22, 1977

PETITION of water utility seeking approval of special contract; granted.

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BY THE COMMISSION:

Order

Whereas, Hudson Water Company, a utility selling water under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 8 with Gerald Q. Nash, effective April 29, 1977, for water service at rates other than those fixed by its schedule of general application; and

Whereas, upon investigation and consideration, this commission is of the opinion that special circumstances exist relative thereto which render the terms and conditions thereof just and consistent with the public interest; it is

Ordered, that said contract may become effective as of the effective date thereof.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of April, 1977.

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NH.PUC\*04/22/77\*[77859]\*62 NH PUC 114\*Gas Service, Inc.

[Go to End of 77859]

**Re Gas Service, Inc.**

DF 77-22, Order No. 12,721

62 NH PUC 114

New Hampshire Public Utilities Commission

April 22, 1977

PETITION for authority to issue and sell for cash 7,500 shares of preferred stock; granted.

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SECURITY ISSUES, § 82 — Purpose — Refunding of short-term notes.

[N.H.] A gas company was authorized to issue and sell preferred stock to pay off all or a portion of its short-term notes outstanding at the time of sale where it was found by the commission that the issue and sale of these securities would be consistent with the public good.

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APPEARANCES: Charles H. Toll, Jr., for the petitioner and Michael Love for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

By this petition filed February 25, 1977, Gas Service, Inc. (the "company"), a corporation duly organized and existing under the laws of the state of New Hampshire and operating therein as a gas public utility under the jurisdiction of this commission, seeks authority pursuant to the provisions of RSA 369 to issue and sell for cash 7,500 shares of 9.25 per cent cumulative preferred stock, \$100 par value, Series A.

At the hearing on the petition, held in Concord on April 14, 1977, the commission submitted that the net proceeds of the sale of the preferred stock will prepay all or a portion of its short-term notes outstanding at the time of the sale. The aggregate price of the preferred stock will be \$750,000.

The company further submitted that the securities will be sold through a private sale to Monumental Life Insurance Company. A copy of the preferred stock purchase agreement was filed as Exh 3. James E. Donovan of Smith Barney Harris Upham, Inc., testified that his business firm was able to place this offering at a favorable rate because of the amount of surplus funds available to insurance companies at this time. He further testified that if the company were rated by the rating service it would carry a rating of Ba by Moody's or BB by Standard & Poor's. The dividend rate 9.25 per cent falls within the range that range offerings with similar ratings are selling for in today's market.

The company submitted an exhibit showing the capital structure as at December 31, 1976, and pro forma for the sale of these securities. Exhibits were also submitted showing: pro forma income statement, long-term debt and short-term notes, amendment to the articles of agreement, and capitalization as of December 31, 1976. A certified copy of the authorizing votes of the

company's board of directors and stockholders were put into evidence after the hearing.

Upon investigation and consideration, the commission is satisfied that the proceeds from the proposed financing

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will be expended to pay off all or a portion of its short-term notes outstanding at the time of the sale and finds that the issue and sale of these securities will be consistent with the public good.

Our order will issue authorizing the issuance and sale of 7,500 shares of Series A preferred stock, \$100 par value to be sold through private sale to Monumental Life insurance Company in accordance with the terms of the preferred stock purchase agreement filed with this case.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the applicant, Gas Service, Inc., be, and hereby is, authorized to issue and sell at private sale, for \$750,000 cash, 7,500 shares of Series A preferred stock with a par value of \$100 per share entitled to cumulative cash dividends thereon of \$9.25 per share per annum (the "Series A preferred stock"), the other powers, preferences, and privileges of which, and the qualifications, limitations, and restrictions of which, are to be substantially as provided in Art IV of the applicant's articles of agreement as proposed to be amended and set forth in a document entitled "Amendment of the Articles of Agreement of Gas Service, Inc.," filed as an exhibit in these proceedings; and it is

Further ordered, that Gas Service, Inc., be, and hereby is, authorized and directed to apply the net proceeds from the issuance and sale of said 7,500 shares of Series A preferred stock to prepay all or a portion of its short-term notes (that is, promissory notes payable according to their terms on demand or less than twelve months after their respective dates), all of which short-term notes are payable to the order of banks; and it is

Further ordered, that on January 1st and July 1st of each year, Gas Service, Inc., shall file with this commission a detailed statement, duly sworn to by its treasurer or assistant treasurer, showing the disposition of the proceeds of said Series A preferred stock, until the expenditures of the whole of said proceeds shall have been accounted for.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of April, 1977.

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NH.PUC\*04/22/77\*[77860]\*62 NH PUC 115\*Canadian National Railway Company Agreement

[Go to End of 77860]

## Re Canadian National Railway Company Agreement

I-T14,692, Order No. 12,722

62 NH PUC 115

New Hampshire Public Utilities Commission

April 22, 1977

ORDER approving agreement between state of New Hampshire and Canadian. Rational Railway Company for operation of railroad between certain specified points.

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RAILROADS, § 1 — Service agreement.

[N.H.] The New Hampshire commission chairman was authorized to enter into an agreement with the Canadian National Railway Company for the operation of railroad trackage between Beecher Falls, Vermont, and North Stratford, New Hampshire, pursuant to terms and conditions stated in that agreement.

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BY THE COMMISSION:

Order

Whereas, the New Hampshire Public Utilities Commission, pursuant to RSA 372-A, is the sole agent for the state of New Hampshire for the acquisition, sale, transfer, or lease of all or any part of the rail properties owned by the state of New Hampshire; and

Whereas, Alexander J. Kalinski as the chairman of the New Hampshire Public Utilities Commission and thus authorized to execute documents on behalf of the state of New Hampshire to carry out the provisions of RSA 372-A; and

Whereas, the state of New Hampshire and the Canadian National Railway Company have negotiated an agreement under which the Canadian National will operate trackage owned by the state of New Hampshire, located between Beecher Falls, Vermont, and North Stratford, New Hampshire, including various other terms and conditions: it is

Ordered, that Alexander J. Kalinski, chairman of the New Hampshire Public Utilities Commission and duly authorized agent of the state of New Hampshire be, and hereby is, authorized to enter into an agreement with the Canadian National Railway Company dated April 22, 1977, for the operation of the trackage between Beecher Falls, Vermont, and North Stratford, New Hampshire, and including other terms and conditions stated in that agreement.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of April, 1977.

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NH.PUC\*04/27/77\*[77861]\*62 NH PUC 116\*Public Service Company of New Hampshire et al.

[Go to End of 77861]

**Re Public Service Company of New Hampshire et al.**

DR 76-46

62 NH PUC 116

New Hampshire Public Utilities Commission

April 27, 1977

MOTION for rehearing of commission's supplemental report denying motion for a Btu adjustment applicable to fuel adjustment charge in month of April; denied.

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RATES, § 303 — Fuel adjustment clause — Electric company.

[N.H.] The commission denied a motion for a rehearing of its supplemental report denying a motion for a Btu adjustment applicable to a fuel adjustment charge in the month of April where the measurement of the heat content of coal at the mine formed the basis for the Btu

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adjustment and where departure from the literal language of an electric company's coal contract was not found to be unreasonable or detrimental to consumer interests when it was shown by the evidence that the electric distributing company pays the coal mining company for the Btu for which they had bargained even though the electric company accounted for its coal on a first-in, first-out (FIFO) basis.

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BY THE COMMISSION:

Report

On April 18, 1977, the Legislative Utility Consumers' Council (LUCC) filed a motion for rehearing on the supplemental report of the commission dated April 1, 1977, denying the LUCC's motion for a Btu adjustment applicable to the fuel adjustment charge in the month of April, 1977. The motion for rehearing properly sets forth the sequence of events in Pars 1 through 5.

Regarding the relief requested in the prayer of the motion for rehearing, the commission acknowledges the fact that the coal measured at 13,614 Btu per pound and 13,743 Btu per pound at the Consolidated Coal Company (CCC) mine was not the same coal that measured 13,420 Btu per pound at the Merrimack station, all of which figures are shown on the company Exh P3 entered on the record at the March 18, 1977 hearings. Acknowledging this fact, however, does not change the conclusions of the commission in its supplemental report of April 1, 1977, and the motion for Btu adjustment in the month of April is denied.

The commission, in its April 1st supplemental report, chose to illustrate the process of testing

coal for Btu content by offering an example. For purposes of this example a ton of coal was traced from mine to bunkering at PSC. This simplification was used in order to illustrate the steps taken for Btu adjustment. Such simplified examples occasionally have educative value.

Public Service Company of New Hampshire accounts for its coal on a first-in, first-out (FIFO) basis. As coal is received at the Merrimack station from CCC unit trains, the cost of that coal is recorded on the company's books and physically placed in a storage pile and may not be used for some months. For accounting purposes under the FIFO method adopted by the company, in accordance with the recommendations of the Touche Ross audit report (I-E14,565), the cost of coal received the longest time ago forms the basis for the most current monthly surcharge. Thus, the coal which underwent a vendor's analysis at the mine is not the same coal that is bunkered and burned at Public Service Company and upon which Public Service Company performs an adjustment by applying a moisture correction factor.

The vendor's Btu per pound figures do not equate with the Btu per pound figures derived from the PSC monthly composite analysis. The vendor's figures indicate whether or not PSC had shipped what is bargained for in terms of the Btu content of coal. The PSC monthly composite figures indicate whether or not the applied moisture correction factor reasonably relates to the moisture content of the coal being bunkered. The vendor's analysis and the PSC monthly composite analysis do not compare like units of coal. They are analyses performed on different units of coal and for different purposes.

Our April 1st supplemental report shows by example that the cost per thousand

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Btu of coal at the mine equates with the cost per thousand Btu of coal during bunkering and burning at PSC. In actual experience and due to the inexactitude of coal inventory methodology, these cost figures do not precisely equate, as Touche Ross points out in its audit report of June 7, 1976, pp. 4 and 5. Over- and underrecoveries will always occur and the emphasis should be on reducing the amplitude of these over-and underrecoveries.

The importance of this illustration is to show that the cost per thousand Btu at the mine equates (as nearly as possible) with the cost per thousand Btu at bunkering as a result of the application of the moisture of the ton which may be water. This correction adjusts downward the cost per ton. This lower cost per ton compensates for any loss of Btu in that given ton. Thus, the application of this correction factor does compensate consumers for the Btu or heat content loss of coal due to moisture pickup.

The commission emphasized that the Btu adjustments heretofore made in these hearings and accepted by LUCC were based upon the measurement of heat content at the mines. Evidence of this fact is found in the October hearing when the Btu adjustment figures were shown to have been developed from letters written by CCC to the New Hampshire Air Pollution Control Commission. The figures in this letter indicate the measurement of the heat content of the coal at the mine and it was these figures that formed the basis for the Btu adjustment. Whether or not the position of the LUCC or other intervenors is now inconsistent with their past position is immaterial.

Departure from the literal language of the coal contract is not found to be unreasonable or

detrimental to consumer interests when it is shown by the evidence that PSC pays CCC for the Btu for which they have bargained.

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NH.PUC\*04/29/77\*[77862]\*62 NH PUC 118\*Public Service Company of New Hampshire et al.

[Go to End of 77862]

## Re Public Service Company of New Hampshire et al.

DR 76-46, 15th Supplemental Order No. 12,728

62 NH PUC 118

New Hampshire Public Utilities Commission

April 29, 1977

PETITIONS of electric companies for authority to apply a fuel adjustment charge to regular May monthly billings to their customers; granted.

RATES, § 303 — Fuel adjustment clause — Electric companies.

[N.H.] Electric companies were authorized to apply a fuel adjustment charge to regular May monthly billings to their customers after such charge was found to be just and reasonable.

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APPEARANCES: Martin L. Gross and Philip Ayers for Public Service Company of New Hampshire; Douglas K. MacDonald for Concord Electric Company; Richard F. Gilmore for Exeter and Hampton Electric Company; Jonathan Booraem for Connecticut Valley Electric

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Company, Inc.; Mayland H. Morse for New Hampshire Electric Cooperative, Inc.; Philip H. R. Cahill for Granite State Electric Company; Dennis Bean for the Municipal Electric Department of Wolfeboro; Richard Deane for Littleton Water and Light Department; Robert Brown for Woodsville Water and Light Department; and Steven W. Ruback and Michael Love for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

Pursuant to RSA 378 :3-a(II), the commission, on April 18, 1977, held hearings on the petitions of nine New Hampshire electric companies for authority to apply a fuel adjustment charge to regular May monthly billings to their customers.

Reference may be made to previous commission decisions in this docket for statements and explanations of the fuel adjustment clause.

*Littleton Water and Light Department*

Littleton Water and Light Department, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on April 15, 1977, filed with this commission 40th Revised Page 6 to its tariff, NHPUC No. 1 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect on May 1, 1977. Littleton purchases all of its requirements from the New England Power Company. Littleton reported that the total fuel cost billed by the New England Power Company during the month of March, 1977, was \$4,029.59. During this period the total kilowatt-hours sold by Littleton were 2,707,574. The fuel adjustment charge, therefore, by simple division is \$0.0014882 rounded to \$0.0015. The fuel adjustment charge proposed for the month of May, 1977, is 15 cents per hundred kilowatt-hours applied to all bills to be rendered in that month.

*Municipal Electric Department of Wolfeboro*

Municipal Electric Department of Wolfeboro, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on April 5, 1977, filed with this commission 30th Revised Page 9A to its tariff, NHPUC No. 4 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect May 1, 1977. Wolfeboro purchases all of its requirements from Public Service Company of New Hampshire. Wolfeboro reported that during the month of March, 1977, the total fuel cost billed by Public Service Company was \$31,208.76. During this same period the total kilowatt-hours sold by Wolfeboro were 2,199,742. The fuel adjustment, therefore, by simple division and rounded is \$0.0141 per kilowatt-hour. The fuel adjustment charge proposed for effect in the month of May, 1977, is \$1.41 per hundred kilowatt-hours to apply to all bills rendered in that month.

*New Hampshire Electric Cooperative, Inc.*

New Hampshire Electric Cooperative, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on April 15, 1977, filed with this commission 36th Revised Page 13 to its tariff, NHPUC No. 6 — Electricity, comprising the monthly calculation of the fuel adjustment

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charge for effect on May 1, 1977. The company reported that the total fuel cost billed by its several power suppliers for power during the month of March, 1977, was \$310,112. Total sales by the Co-op during the same month were 27,528,304 kilowatt-hours. By simple division, the fuel adjustment charge proposed for May, 1977, and rounded is \$0.0113 per kilowatt-hour. The fuel adjustment charge to be applied to all bills rendered in the month of May, 1977, is proposed to be \$1.13 per hundred kilowatt-hours.

*Granite State Electric Company*

Granite State Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on April 14, 1977, filed with this commission 32nd Revised Page 15A to its tariff, NHPUC No. 8 — Electricity, comprising the monthly fuel adjustment charge for effect May 1, 1977. Granite State Electric Company purchases all of its requirements from the New England Power Company. Granite State reported that the variable

portion of the fuel cost billed by New England Power Company was \$37,849.10. Total sales to Granite State customers during the same period were 29,603,549 kilowatt-hours. By simple division this yields \$0.0013 to which is added the fixed fuel portion of \$0.0124 or \$1.24 per hundred kilowatt-hours. Thus, the fuel adjustment charge applicable to bills rendered in the month of May, 1977, is proposed to be \$1.37 per hundred kilowatt-hours.

*Woodsville Water and Light Department*

Woodsville Water and Light Department, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on April 15, 1977, filed with this commission Sixth Revised Page 10B to its tariff, NHPUC No. 3 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect May 1, 1977. Woodsville purchases all of its requirements from Central Vermont Public Service Corporation. Woodsville reported that during the month of March, 1977, the total fuel cost billed by Central Vermont was \$140.21. During this same period the total kilowatt-hours sold by Woodsville were 737,882. The fuel adjustment, therefore, by simple division and rounded is \$0.00019 per kilowatt-hour. The fuel adjustment charge proposed for the month of May, 1977, is two cents per hundred kilowatt-hours to apply to all bills rendered in that month.

*Connecticut Valley Electric Company, Inc.*

Connecticut Valley Electric Company, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on April 13, 1977, filed with this commission First Revised Page 18 to its tariff, NHPUC No. 4 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect May 1, 1977. Connecticut Valley purchases all of its requirements from Central Vermont Public Service Corporation. Connecticut Valley reported that during the month of March, 1977, the total fuel cost billed by Central Vermont was \$2,200. During this same period the total kilowatt-hours sold by Connecticut Valley were 12,622,364. The fuel adjustment, therefore, by simple division is \$0.000174 per kilowatt-hour. The fuel adjustment charge proposed for the month of May,

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1977, is \$0.0174 per hundred kilowatt-hours to apply to all bills rendered in that month.

*Concord Electric Company*

Concord Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on April 8, 1977, filed with this commission 26th Revised Page 15A to its tariff, NHPUC No. 6 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect May 1, 1977. Concord Electric purchases all of its requirements from Public Service Company of New Hampshire. Concord Electric reported that the total fuel cost billed by Public Service Company during the month of March, 1977, was \$302,179.19. Total sales during that same period were 23,883,860 kilowatt-hours. The fuel adjustment charge by simple division is \$0.01265 per kilowatt-hour. Therefore, the fuel adjustment charge proposed for the month of May, 1977, is \$1.27 per hundred kilowatt-hours.

*Exeter and Hampton Electric Company*

Exeter and Hampton Electric Company, a public utility engaged in the business of supplying

electric service in the state of New Hampshire, on April 8, 1977, filed with this commission 22nd Revised Page 16 to its tariff, NHPUC No. 11 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect May 1, 1977. Exeter and Hampton purchases all of its requirements from Public Service Company of New Hampshire. Exeter and Hampton reported that the total fuel cost billed by Public Service Company for the period February 28, 1977, to March 31, 1977, was \$326,495.40. Total sales by Exeter and Hampton during the same period were 26,054,862 kilowatt-hours. The fuel adjustment charge, therefore, by simple division and rounded is \$0.01253 per kilowatt-hour. Thus, the fuel adjustment charge proposed to be billed during the month of May, 1977, is \$1.25 per hundred kilowatt-hours.

*Public Service Company of New Hampshire*

Public Service Company of New Hampshire, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on April 15, 1977, filed with this commission 30th Revised Pages 15 and 16 to its tariff, NHPUC No. 20 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect May 1, 1977.

Page 16 of the company's fuel surcharge filing for May indicates that fuel cost above base for the data month of March was \$5,310,067. During this same period the kilowatt-hours subject to the fuel adjustment were 442,978,000. The fuel adjustment, therefore, by simple division and rounded is \$0.0120 per kilowatt-hour. The fuel adjustment charge proposed for effect in the month of May, 1977, is \$1.20 per hundred kilowatt-hours to apply to all bills rendered in that month.

Witness VanderBeken testified that the proposed May fuel adjustment charge of \$1.20 per hundred kilowatt-hours is higher than the previous month. The calculation for the monthly surcharge was explained and summarized in a manner similar to previous monthly hearings.

The testimony in all the monthly fuel clause proceedings since their inception

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in May, 1976, has been cumulative. Information placed upon each successive monthly record builds upon a base of information established at earlier hearings in this docket. Reference may be made to transcripts of previous hearings in this docket as well as prior reports and orders of the commission for more complete explanations of individual items.

The evidence from this hearing also shows that in the data month of March the fuel cost passed on to Public Service customers as a result of purchases from the Maine Electric Power Co. — New Brunswick included an element of interest expense mentioned in the unit contract for these purchases. This expense item is not includable in the Federal Power Commission's Uniform System of Accounts No. 151 and, thus, is not a proper charge against the fuel adjustment. The amount attributable to interest on fuel inventory was \$1,495 and is so small that it does not affect the level of the fuel adjustment charge. It will not, however, be included in any further monthly calculations.

The Legislative Utility Consumers' Council (LUCC) reserved the right to file motions regarding the station energy charge for Hartford Electric Light Company (HELCO) Middletown Unit No. 4, the ash content specifications of the boiler at Merrimack II, and failure of the

right-hand throttle valve. We have not received those motions. Accordingly, we do not resolve these issues at this time.

Based upon all of the evidence in the record of this proceeding and subject to the rights reserved by LUCC on the three aforementioned issues, the commission finds that the proposed fuel adjustment charge for the month of May is just and reasonable, in accordance with pertinent tariff provisions and all other applicable provisions of law. Our order will issue accordingly.

#### Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that 30th Revised Pages 15 and 16 of Public Service Company of New Hampshire tariff, NHPUC No. 20 — Electricity, providing for the monthly fuel surcharge of \$1.20 per hundred kilowatt-hours for the month of May, 1977, be, and hereby are, permitted to become effective May 1, 1977; and it is

Further ordered, that 26th Revised Page 15A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of \$1.27 per hundred kilowatt-hours for the month of May, 1977, be, and hereby is, permitted to become effective May 1, 1977; and it is

Further ordered, that 22nd Revised Page 16 of Exeter and Hampton Electric Company tariff, NHPUC No. 11 — Electricity, providing for the monthly fuel surcharge of \$1.25 per hundred kilowatt-hours for the month of May, 1977, be, and hereby is, permitted to become effective May 1, 1977; and it is

Further ordered, that First Revised Page 13 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of \$0.0174 per hundred kilowatt-hours for the month of May, 1977, be, and hereby is, permitted to become effective May 1, 1977; and it is

Further ordered, that 36th Revised Page 13 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of \$ 1.13 per hundred kilowatt-hours for the month of May, 1977, be, and hereby is, permitted to

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become effective May 1, 1977; and it is

Further ordered, that 32nd Revised Page 15A of Granite State Electric Company tariff, NHPUC No.8 — Electricity, providing for the monthly fuel surcharge of \$1.37 per hundred kilowatt-hours for the month of May, 1977, be, and hereby is, permitted to become effective May 1, 1977; and it is

Further ordered, that 30th Revised Page 9A of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of \$1.41 per hundred kilowatt-hours for the month of May, 1977, be, and hereby is, permitted to become effective May 1, 1977; and it is

Further ordered, that 40th Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of 15 cents per hundred

kilowatt-hours for the month of May, 1977, be, and hereby is, permitted to become effective May 1, 1977; and it is

Further ordered, that Sixth Revised Page 10B of Woodsville Water and Light Department tariff NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of two cents per hundred kilowatt-hours for the month of May, 1977, be, and hereby is, permitted to become effective May 1, 1977.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of April, 1977.

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NH.PUC\*04/29/77\*[77863]\*62 NH PUC 123\*New England Telephone and Telegraph Company

[Go to End of 77863]

### Re New England Telephone and Telegraph Company

DE 77-14, Order No. 12,730

62 NH PUC 123

New Hampshire Public Utilities Commission

April 29, 1977

PETITION by telephone company for authority to place and maintain P submarine plant crossing state-owned public waters; granted.

CONSTRUCTION AND EQUIPMENT, § 5 — Underground lines — Telephone company.

[N.H.] A telephone company was granted a license to place and maintain a submarine plant crossing under the Merrimack river at Concord, New Hampshire, where the proposed construction was designed to provide additional telephone circuits in the area, where no interested parties objected to the proposed construction, and where it was found that the proposed construction was necessary to meet the reasonable requirements of the public and would not substantially affect the public rights and the waters crossed.

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BY THE COMMISSION:

Order

Whereas, by petition filed January 21,

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1977, New England Telephone and Telegraph Company seeks a license pursuant to RSA 371:17-20 to place and maintain a submarine plant crossing state-owned public waters in Concord, New Hampshire, under the Merrimack river; and

Whereas, the petitioner represents that the proposed construction will cross approximately 1,200 feet of the river, from Pole No. 170/42 on the shoreline to Manhole No. 28 on the property of H. White and is designed to provide additional telephone circuits in the New England Company's Concord exchange; and

Whereas, following due notice no other interested parties recorded any objections to the proposed construction and upon investigation of all the facts before the commission, it is found that the proposed construction is necessary to meet the reasonable requirements of the public, and that the license sought may be issued and exercised by the petitioner without substantially affecting the public rights and the waters crossed; it is

Ordered, that a license be, and hereby is, granted to New England Telephone and Telegraph Company to place and maintain a submarine plant crossing the Merrimack river in the city of Concord, all in accordance with the above description which is contained on a plan on file at the office of the commission.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of April, 1977.

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NH.PUC\*05/02/77\*[77864]\*62 NH PUC 124\*Granite State Electric Company

[Go to End of 77864]

## Re Granite State Electric Company

DR 77-63, Order No. 12,731

62 NH PUC 124

New Hampshire Public Utilities Commission

May 2, 1977

PETITION of electric company seeking rate increase; suspended pending commission investigation.

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BY THE COMMISSION:

Order

Whereas, Granite State Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on April 22, 1977, filed with this commission certain revisions to its tariff, NHPUC No. 8 — Electricity, providing for increased rates in the amount of \$1,089,100; and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date thereof be suspended, pending investigation and decision thereon; it is

Ordered, that First Revised Pages 17, 19,23-26, 35, 37, and 38 of tariff, NHPUC No. 8 —

Electricity, of Granite State Electric Company be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this second day of May, 1977.

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NH.PUC\*05/02/77\*[77865]\*62 NH PUC 125\*Public Service Company of New Hampshire

[Go to End of 77865]

## Re Public Service Company of New Hampshire

DR 77-49, Order No. 12,732

62 NH PUC 125

New Hampshire Public Utilities Commission

May 2, 1977

PETITION of electric company seeking rate increase; suspended pending commission investigation.

BY THE COMMISSION:

Order

Whereas, Public Service Company of New Hampshire, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on April 27, 1977, filed with this commission its tariff, NHPUC No. 21 — Electricity and Supplement No. 1 thereto, providing for increased rates in all classes of retail service, designed to increase annual revenues in the amount of \$27,017,520, effective June 1, 1977; and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date thereof be suspended, pending investigation and decision thereon; it is

Ordered, that tariff, NHPUC No. 21 — Electricity and Supplement No. 1 thereto, of Public Service Company of New Hampshire be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of new Hampshire this second day of May, 1977.

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NH.PUC\*05/02/77\*[77866]\*62 NH PUC 125\*New England Telephone and Telegraph Company

[Go to End of 77866]

## Re New England Telephone and Telegraph Company

DE 77-44, Order No. 12,733

62 NH PUC 125

New Hampshire Public Utilities Commission

May 2, 1977

PETITION by telephone company for authority to place and maintain submarine plant under Lake Winnepesaukee; granted.

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CONSTRUCTION AND EQUIPMENT, § 5 — Underground lines — Telephone company.

[N.H.] A telephone company was granted a license to place and maintain a submarine plant crossing under Lake Winnepesaukee

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where the proposed construction was designed to provide additional telephone circuits in the area, where no interested parties objected to the proposed construction, and where it was found that the proposed construction was necessary to meet the reasonable requirements of the public and would not substantially affect the public rights and the waters crossed.

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BY THE COMMISSION:

Order

Whereas, by petition filed March 31, 1977, New England Telephone and Telegraph Company seeks a license pursuant to RSA 371:17-20 to place and maintain a submarine plant crossing under Lake Winnepesaukee in the town of Gilford, New Hampshire; and

Whereas, the petitioner represents that the proposed construction will cross approximately 5,000 feet of the lake, from Pole No. 45/34A1 on the south end of Camp Island (property of Mrs. George A. Sawyer) to terminal No. 45/34A on the south end of Round Island (property of R. E. Folsom, D. L. Folsom, and A. R. Folsom), and is designed to provide additional telephone circuits in the New England Company's Glendale exchange; and

Whereas, following due notice no other interested parties recorded any objections to the proposed construction and upon investigation of all the facts before the commission, it is found that the proposed construction is necessary to meet the reasonable requirements of the public, and that the license sought may be issued and exercised by the petitioner without substantially affecting the public rights and the waters crossed; it is

Ordered, that a license be, and hereby is, granted to New England Telephone and Telegraph Company to place and maintain a submarine plant crossing Lake Winnepesaukee in the town of Gilford, all in accordance with the above description which is contained on a plan on file at the office of the commission.

By order of the Public Utilities Commission of New Hampshire this second day of May,

1977.

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NH.PUC\*05/03/77\*[77867]\*62 NH PUC 126\*New England Telephone and Telegraph Company

[Go to End of 77867]

### Re New England Telephone and Telegraph Company

I-E14,695, Order NO. 12,736

62 NH PUC 126

New Hampshire Public Utilities Commission

May 3, 1977

PETITION of telephone company for introduction of dual name listings for residence service customers; suspended pending commission investigation.

BY THE COMMISSION:

Order

Whereas, New England Telephone and Telegraph Company, a public utility engaged in the business of supplying telephone service in the state of New Hampshire, on April 4, 1977, filed with

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this commission certain revisions to its tariff, NHPUC No. 70, Part III, Section 7, Fifth Revision of Page 1 providing for the introduction of dual name listings for residence service customers, filed for effect May 4, 1977; and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date thereof be suspended, pending investigation and decision thereon; it is

Ordered, that Part III — General, Section 7, Fifth Revision of Page 1 of tariff, NHPUC No. 70 of New England Telephone and Telegraph Company be, and hereby is suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this third day of May, 1977.

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NH.PUC\*05/05/77\*[77868]\*62 NH PUC 127\*Public Service Company of New Hampshire et al.

[Go to End of 77868]

### Re Public Service Company of New Hampshire et al.

DR 76-46

62 NH PUC 127

New Hampshire Public Utilities Commission

May 5, 1977

MOTION for rehearing of commission report limited to the issue of the coal pile inventory adjustment under an electric company's fuel adjustment clause; denied.

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1. EVIDENCE, § 3 — Judicial notice.

[N.H.] The commission may take judicial notice of facts of common knowledge. p. 128.

2. COMMISSIONS, § 44 — Jurisdiction over managerial matters.

[N.H.] The commission has authority to make a determination of whether or not a public utility company's actions have a reasonable and fair effect upon the rights of the public, and if they are not fair and reasonable, it may take steps to avoid any unreasonableness or unfairness or prejudicial effect on the public rights. p. 128.

3. RATES, § 303 — Fuel adjustment clause — Electric company — Purchases of excontract coal.

[N.H.] Commission findings that an electric company's purchases of excontract coal were reasonable and prudent and did not have an adverse effect upon the company's consumers by reason that its fuel adjustment clause obviated the necessity to inquire into the basis for the company's belief that the purchase was necessary. p. 128.

4. EVIDENCE, § 11 — Presumptions — Good faith of corporate management.

[N.H.] Good faith is to be presumed on the part of the manager of a business. p. 128.

5. REPARATION, § 42 — Interest on refunds — Fuel adjustment clause.

[N.H.] Interest on refunds pursuant to an electric company's fuel adjustment clause was held to be a moot question where claimants for reparation had not pursued their claims pursuant to methods prescribed by statute and where, in the absence of a plan prescribing a method and an equitable basis for distribution of interest to the electric company's customers, there was no evidentiary basis upon which to order the payment of interest, and, since the refunds made were based on current rather than historical costs of coal,

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the refunds had more than compensated the electric consumers for any loss of funds for overpayments. p. 128.

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BY THE COMMISSION:

## Supplemental Report

On April 26, 1977, the Legislative Utility Consumers' Council (LUCC) and Volunteers Organized in Community Education (VOICE) filed a motion for rehearing from the commission report of April 7, 1977, which is limited to the issue of the coal pile inventory adjustment.

[1] Legislative Utility Consumers' Council and VOICE contend that it is an error of law to deny intervenors claim for excontract coal refunds in reliance upon the Arab oil embargo when there was no evidence in the record concerning the same. The commission may take judicial notice of facts of common knowledge, *City of Omaha v Omaha & C. B. Street R. Co.* (Neb 1940) 34 PUR NS 257. See also *Re Tennessee Gas & Transmission Co.* (Teen 1941) 40 PUR NS 129 where it was held that the commission can take judicial notice of events occurring during a national emergency which are of such a character as to be matters of common knowledge. In addition, the commission has always taken official or judicial notice of other matters of common knowledge such as interest rates, rates of return of other companies, and the issuance of securities by other companies. Such a vast number of authorities uphold this type of judicial notice that this matter should be beyond question.

[2-4] Legislative Utility Consumers' Council and VOICE contend that it is error of law to evaluate PSC's management decision to purchase excontract coal upon the basis of PSC's belief of coal available without consideration of the grounds of said belief, whether the belief was erroneous, and the responsibility for the erroneous belief. Our evaluation of PSC's management decision. was made to determine whether or not the acts of the company had a reasonable and fair effect upon the rights of the public. We have the authority to make a determination of whether or not the company's actions have a reasonable and fair effect upon the rights of the public (RSA 374:3). If they are not fair and not reasonable we may then take steps to avoid any unreasonableness or unfairness or prejudicial effect on the public rights. *Oklahoma v Oklahoma Gas & E. Co.* (Okla Sup Ct 1975) 9 PUR4th 369, 374 536 P2d 887. Our findings (62 NH PSC 83, 88-93) that PSC purchases of excontract coal were reasonable and prudent and did not have an adverse effect upon PSC customers obviates the necessity to inquire into the basis for PSC's belief that the purchase was necessary. Furthermore, Justice Cardozo speaking for the U. S. Supreme Court in *West Ohio Gas Co. v Ohio Pub. Utilities Commission* (1935) 294 US 63, 72, 6 PUR NS 449 79 L Ed 761, 55 S Ct 316, has said "Good faith is to be presumed on the part of the manager of a business."

[5] Legislative Utility Consumers' Council and VOICE contend that it is error of law to deny intervenors' claims for interest upon the grounds that PSC did not receive an interest refund from its coal supplier. Our decision clearly states, and we reiterate, that if PSC collected nothing from its supplier which it could *refund* to its customers and the intervenors still insist upon an interest element for those customers then the

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claim for that interest element is in the nature of a reparation pursuant to RSA 365:29 which the intervenors have not pursued.

Legislative Utility Consumers' Council and VOICE contend that by a clear preponderance of the evidence the commission's denial of intervenors' claims for refunds and adjustments is unjust,

unreasonable, and unlawful. The report of the commission dated April 7, 1977, is based upon a clear preponderance of the evidence in the record as the record will show.

Legislative Utility Consumers' Council and VOICE further contend that the interest refund would not be an administrative nightmare because such refund could be made to the entire retail class in the same manner as the previous distribution inventory for Btu and Btu transportation refund.

In the April 7, 1977 (62 NH PUC 83), report, the commissions stated that "if interest is rightfully due ... such interest would have to be calculated" (62 NH PUC at p. 95) and that "the method of calculating a proper interest would be an administrative nightmare" (62 NH PUC at p. 96). The commission comment on the matter of calculating interest for individual customers was predicated on a supposition; i.e., "if interest is rightfully due."

Since refunds were made based on current rather than historical costs of coal the refunds have more than compensated PSC customers for any loss of funds for overpayments made since November, 1971 (62 NH PUC 94, 95). Thus, interest was found not to be a necessary element for refund.

In addition, the commission made the finding that the interest claim was in the nature of a reparation and the claimants have not pursued that claim in accordance with RSA 365:29. In the absence of a claim pursuant to RSA 365:29 and a plan prescribing a method and an equitable basis for distribution of interest to PSC customers, there is no evidentiary basis upon which to order the payment of interest.

Since customers have been compensated for loss of their funds because refunds were made at current fuel costs, and since intervenors have not pursued a claim for reparation, the issue of an interest element is moot.

Legislative Utility Consumers' Council and VOICE contend finally that it was error for the commission to fail to apply an evidentiary or other standard upon which to evaluate the evidence. The commission did, in fact, apply an evidentiary standard in evaluating the evidence. After hearing the conflicting evidence and judging the credibility of the witnesses, the commission analyzed and evaluated the evidence on the record as the April 7, 1977, report will show. The commission has found that there is a substantial amount of credible evidence to support the findings made in that report. On this basis, the commission has denied the intervenors' claim for further refunds and adjustments.

After having given full and adequate consideration to the allegations in this motion for rehearing and after review of our April 7, 1977, decision, the commission is of the opinion that all of the reasons for denial of intervenors' claims for refunds and adjustments are fully and adequately set forth therein. The findings made in the April 7, 1977, report are based upon sufficient, considerable, and credible evidence in the record. Accordingly, the motion for rehearing is denied.

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NH.PUC\*05/09/77\*[77869]\*62 NH PUC 130\*Northern Utilities, Inc., Allied Gas Division et al.

[Go to End of 77869]

## Re Northern Utilities, Inc., Allied Gas Division et al.

DR 77-54 et al., Order No. 12,744

62 NH PUC 130

New Hampshire Public Utilities Commission

May 9, 1977

INVESTIGATION as to whether gas companies should be allowed to recover a service charge for underground purchased gas storage in the cost of gas adjustment; order in accordance with opinion.

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### 1. RATES, § 303 — Fuel adjustment clause — Gas companies.

[N.H.] The demand or capacity costs associated with maintaining underground gas and with firm gas supplies are allowed by a gas company's presently effective cost of gas adjustment. p. 131.

### 2. RATES, § 303 — Fuel adjustment clauses — Gas companies.

[N.H.] The element one demand (capacity) charge of a gas company is properly recovered under the company's cost of gas adjustment, and the service charge for underground purchased storage is also properly recoverable in the absence of any evidence demonstrating that recovery of this amount in the cost of gas adjustment is unfair, unreasonable, or detrimental to the public. p. 131.

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APPEARANCES: Milton F. Todd, assistant treasurer, for Northern Utilities, Inc.; James C. Hood for Manchester Gas Company; Charles H. Toll for Gas Service, Inc., and Concord Natural Gas Corporation; and Michael Love for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

On April 29, 1977, the above named companies submitted calculations for the cost of gas adjustment (CGA) for the summer period, May 1, 1977, through October 31, 1977.

The proposed cost of gas adjustments are as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Northern Utilities, Inc., Allied Gas Div.	\$0.0650 per therm
Manchester Gas Company	\$0.0607 per therm
Gas Service, Inc.	
Nashua	\$0.0754 per therm
Keene	\$0.0364 per therm
Laconia	\$0.0699 per therm
Concord Natural Gas Corporation	\$0.0484 per therm

A duly noticed public hearing was held at the office of the commission on April 29, 1977, to review the various components of the CGA's for all companies.

Each of the distribution companies which purchases natural gas from Tennessee Gas Pipeline Company (all except Gas Service, Keene Division) allowed for an approximate four-cent per Mcf increase in the cost of this gas scheduled to go into effect July 1, 1977. It was explained at the hearing that this increase represents Tennessee Gas Pipeline Company's estimate of the amount which will be filed for with the Federal Power Commission

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and allowed to become effective July 1, 1977.

The second component contributing to the CGA is the increased cost of supplemental fuels such as propane and liquefied natural gas (LNG). The cost per gallon for propane and LNG are approximately the same as the costs paid last winter and are reasonable.

Legislative Utility Consumers' Council (LUCC) and the finance staff raised the question as to whether Manchester Gas Company should be allowed to recover the \$12,600 service charge for underground purchased storage in the CGA. Subsequent to the hearing, the finance staff suggested that "to some extent and possibly in total" this charge was already in the basic rates.

A review of the file in the last Manchester Gas Company rate case (DR 75-207) reveals Exh PG 10, Schedule 2, which contains details of the maintenance and operations adjustment summary. The figure of \$5,243 appearing on Schedule No. 2 is a monthly lease charge on an LNG storage tank in Manchester. This figure does not relate in any way to the \$12,600 service charge for underground purchased storage in Pennsylvania. We conclude after a review of all the data in DR 75-207 that no part of the \$12,600 is in the basic rates as established in DR 75-207.

[1, 2] Cost of gas adjustment filings for the period November, 1975, to April, 1976 (Second Revised Page No. 18) and for the period November, 1976, to April, 1977 (Seventh Revised Page No. 20) include line items for service charges for underground storage of gas. This is evidence of the fact that the company has sought recovery of underground storage costs in the CGA and not in any rate case.

Witness Giordano (Transcript p. 18) testified that the service charge for underground gas storage is "really a capacity charge, a demand charge." The "demand charge is designed to cover those elements of cost that are fixed that do not change with the volume of gas that flows through the pipeline." (T. pp. 18 and 19). These are costs "associated with maintaining the underground pool."

The CGA calculation (Manchester Gas Company, Exh No. 1, Eighth Revised Page No. 20 of tariff, NHPUC No. 12 — Gas) contains information about the costs proposed for recovery. Among these costs is a certain demand or capacity charge which is the first entry (element one) of the CGA. Another cost is the underground purchased storage service charge which has been characterized as a capacity (or demand) type charge (T. p. 18). These demand or capacity charges have been included in the CGA from its inception and have been approved by the commission after previous hearings on the cost of gas adjustment.

First Revised page No. 17 of Manchester Gas Company Tariff No. 12 — Gas contains the currently operable CGA clause. The clause states that there shall be a cost of gas adjustment applied to all firm gas which will reflect "increases or decreases in the cost of gas purchased or produced for sale." The commission is of the opinion that the demand or capacity costs associated with maintaining underground gas and with firm gas supplies are allowed by the presently effective CGA.

No party to the proceedings disagrees that the storage service charge is a legitimate cost, and no party to the proceedings raises a question about the element one demand (capacity) cost payable by Manchester under the CGA

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to its supplier. Legislative Utility Consumers' Council and finance staff question the propriety of collecting the service charge for underground purchased storage under the CGA because it is a capacity cost. These parties, however, do not question the collection of the demand (capacity) charges in element one of the calculation. We conclude that the element one demand (capacity) charge is properly recovered under the CGA and that the service charge for underground purchased storage is also properly recoverable in the absence of any evidence demonstrating that recovery of this amount in the CGA is unfair, unreasonable, or detrimental to the public.

In the event the service charge for underground purchased storage was not allowed to be recovered in the CGA it would be allowed to be recovered in some other manner because it is a legitimate cost of gas "purchased or produced" (see NHPUC Tariff No. 12). The effect of recovery under the CGA would not be appreciably different from recovery under any other method. Recovery under the CGA would be automatic and current, and recovery through a rate case would be deferred to a later time. Recovery in the rate base might result in some differences due to other variables having an effect on rate base. Any difference we believe would be de minimis.

The last portion of the CGA was the adjustment for any undercollection or overcollection during the previous summer period. Of the four distribution companies with six franchise areas, four of the areas had undercollected with only Concord Natural Gas Corporation and Gas Service (Keene) having small over-collections. The amounts as previously reported to the commission were properly entered.

In summary, the proposed CGA should be allowed to become effective on all bills issued on or after May 1, 1977. Our order will issue accordingly.

**Order**

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Sixth Revised Page 22A of Northern Utilities, Inc., Allied Gas Division, tariff, NHPUC No. 6 — Gas providing for a cost of gas adjustment of \$0.0650 per therm for the period of May 1, 1977, through October 31, 1977, be, and hereby is permitted to become effective May 1, 1977; and it is

Further ordered, that Sixth Revised Page 21 of Concord Natural Gas Corporation tariff, NHPUC No. 13 — Gas, providing for a cost of gas adjustment of \$0.0484 per therm for the period of May 1, 1977, through October 31, 1977, be, and hereby is permitted to become effective May 1, 1977; and it is

Further ordered, that Seventh Revised Page 3 of Gas Service, Inc. (Nashua), tariff, NHPUC No. 5 — Gas, providing for a cost of gas adjustment of \$0.0754 per therm for the period of May 1, 1977, through October 31, 1977, be, and hereby is permitted to become effective May 1, 1977; and it is

Further ordered, that Fifth Revised Page 3 of Gas Service, Inc. (Keene), tariff, NHPUC No. 5 — Gas, providing for a cost of gas adjustment of \$0.0364 per therm for the period of May 1, 1977, through October 31, 1977, be, and hereby is permitted to become effective May 1, 1977; and it is

Further ordered, that Sixth Revised Page 3 of Gas Service, Inc. (Laconia), tariff, NHPUC No. 5 — Gas, providing for a cost of gas adjustment of \$0.0699 per therm for the period of May 1, 1977,

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through October 31, 1977, be, and hereby is permitted to become effective May 1, 1977; and it is

Further ordered, that Eighth Revised Page No. 20 of Manchester Gas Company, Inc., tariff, NHPUC No. 12 — Gas, providing for a cost of gas adjustment of \$0.0607 per therm for the period May 1, 1977, through October 31, 1977, be, and hereby is, permitted to become effective May 1, 1977; and it is

Further ordered, that public notice of these provisions be given by publication of this order in newspapers having a general circulation in the territories served.

By order of the Public Utilities Commission of New Hampshire this ninth day of May, 1977.

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NH.PUC\*05/10/77\*[77870]\*62 NH PUC 133\*New England Telephone and Telegraph Company

[Go to End of 77870]

## Re New England Telephone and Telegraph Company

I-E14,695, Supplemental Order No. 12,745

62 NH PUC 133

New Hampshire Public Utilities Commission

May 10, 1977

SUPPLEMENTAL order on petition for authority for telephone company to introduce dual name listings for residential service customers; proposed petition rejected and company ordered to

submit new tariff providing for a waiver period.

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RATES, § 533 — Telephone directory charges — Dual name listings — Waiver period.

[N.H.] The commission, although recognizing that a one-time charge for any subscriber who elects to avail himself or herself of dual name listings for residential telephone service was consistent with a telephone company's present tariff, and generally is in the best interest of the public because it prevents the costs of an individual's actions from being borne by other ratepayers; the commission concluded that it also was desirable to provide a waiver period whereby all subscribers may take advantage of this service without incurring a one-time charge.

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BY THE COMMISSION:

Supplemental Order

Whereas, New England Telephone and Telegraph Company, a public utility engaged in the business of supplying telephone service in the state of New Hampshire, on April 4, 1977, filed with this commission certain revisions to its tariff, NHPUC No. 70, Part III, Section 7, Fifth Revision of Page 1 providing for the introduction of dual name listings for residential service customers; filed for effect May 4, 1977; and

Whereas, by its Order No. 12,736, this

**Page 133**

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commission suspended that filing pending further investigation and decision thereon; and

Whereas, such investigation discloses that in accordance with its present tariff, the company proposes a one-time charge of 57.50 for any customer who elects to avail himself of this service; and

Whereas, after further investigation, this commission, although recognizing that such a one-time charge is consistent with the present tariff, and generally is in the best interests of the public because it prevents the costs of an individual's actions from being borne by other ratepayers, believes that it is also desirable to provide a waiver period whereby all customers may take advantage of this offering without incurring a one-time charge; it is

Ordered, that New England Telephone and Telegraph Company tariff, NHPUC No. 70, Part III, Section 7, Fifth Revision of Page 1 be, and hereby is, rejected; and it is

Further ordered, that the company submit a new tariff page to include a waiver period of ninety days from the effective date of the new filing, whereby any customer requesting a dual name listing in the next following publication of his telephone directory will be allowed to do so without incurring the nonrecurring charge; and it is

Further ordered, that the company give notice of this new offering in a manner which will assure customer recognition of the offering.

By order of the Public Utilities Commission of New Hampshire this tenth day of May, 1977.

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NH.PUC\*05/11/77\*[77871]\*62 NH PUC 134\*Public Service Company of New Hampshire

[Go to End of 77871]

## Re Public Service Company of New Hampshire

DE 76-168, Order No. 12,747

62 NH PUC 134

New Hampshire Public Utilities Commission

May 11, 1977

PETITION for authority to construct and maintain an electric line over and across a river; granted.

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CONSTRUCTION and equipment, § 5 — Overhead electric lines.

[N.H.] An electric company was authorized to construct and maintain a transmission line over and across a river to serve a wastewater treatment facility where it was found that the proposed overhead crossing was the best alternative for extending service to the facility, where, in terms of cost, it was the most desirable economic choice and, in terms of aesthetics, it was found that disturbing or destroying the bankings of the river, slicing a roadway into the bankings, and erecting bright red and yellow warning signs would constitute a much greater intrusion than a thin wire strung between two poles.

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APPEARANCES: Lawrence E. Spellman

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and Frederick J. Coolbroth for the petitioner; William Humm for the Society for the Protection of New Hampshire Forests; and Daniel Collins for the Water Supply and Pollution Control Commission.

BY THE COMMISSION:

Report

By petition filed November 3, 1976, the Public Service Company of New Hampshire (PSC) seeks authority pursuant to RSA 371:17 for a license for a 34.5-kv line over and across the Merrimack river in Franklin, New Hampshire. This proposed line crossing is intended to serve the Franklin wastewater treatment facility. A duly noticed hearing was held at the office of the commission on May 3, 1977.

George Gilman, commissioner of the Department of Resources and Economic Development on November 30, 1976, filed an objection to the proposed overhead river crossing. He received a communication from this office dated April 6, 1977, informing him of this hearing. No one from his office appeared at 10:00 o'clock on May 3, 1977, and his office was contacted by telephone with the information that the hearing had begun.

Public Service Company counsel submitted a motion to amend petition for license for electric lines across public waters to change Par 5 of the originally filed petition. The motion was accepted and a previous statement in the original petition was amended to the effect that the state of New Hampshire owns or will own the easement on the easterly side of the river across which the line will pass.

Public Service Company presented Stewart Aither, staff engineer, who presented several exhibits representing the area to be affected by the proposed line crossing. Aither also submitted an exhibit on comparative costs (Exh No. 6) indicating that the overhead line would cost \$4,000 and the underwater line would cost \$61,350. Under standard practice and procedure, the customer to be served would bear any added costs for undergrounding. Thus, it is estimated that the state of New Hampshire, owner of the wastewater treatment facility, would have to pay an additional \$57,350 for the undergrounding.

Further comparisons were made between the overhead line and the underground cable. The overhead line is easier to repair because any problem on it would be more visible. An underwater crossing would be less visible and more difficult to get to and even under ideal conditions would take several days longer to repair. If any problem occurred during the winter when the river was frozen this would make repairs impossible and a temporary overhead crossing would have to be constructed until the problem was found and corrected.

Further comparisons were made regarding the construction of overhead versus the construction of the underwater cable. In order to install either line, poles would have to be erected on the opposite banks. To install the underwater cable it would be necessary to require a roadway and modification of the extremely steep banking which exists on one side of the river. This roadway would necessitate the clearing of trees and the opening of a wide swath through the forest and down to the river bank. In the opinion of the witness the view of both banks with the overhead crossing is a more natural view uninterrupted by any roadway.

If the underwater cable were to be

placed in substitution of a planned overhead crossing, large warning signs would have to be erected in the vicinity of the cable to warn of the high voltage cable. Such signs would be about one foot square and would be yellow and red and would be very visible and in the opinion of the witness a more visible intrusion on the aesthetics of the area.

In order to place an underwater cable, the company would have to apply to the Army Corps of Engineers and such an application is likely to take about three months. Subsequent to approval by the Army Corps of Engineers, the company would have to order the cable and the lead time on ordering cable is about four months. Contrasted against this seven-month period it was stated

that service to the wastewater treatment plant could occur in a shorter time interval if the overhead crossing was used.

Public Service Company of New Hampshire presented Bruce Smith, senior biologist, who indicated that an overhead line crossing would have no effect whatsoever on the aquatic community in the river but that some disturbance to the aquatic community would occur in the installation of the underwater cable and at any times when the underwater line would have to be repaired. Mr. Smith indicated his familiarity with the area of the river and indicated that in his opinion an overhead crossing really does not interfere but that the warning sign would be more visible than the overhead line would be. In addition, he testified that the roadway which would have to be prepared for construction would destroy the bankings.

William Humm for the Society for the Protection of New Hampshire Forests conducted limited cross-examination and also testified in opposition to the overhead crossing. Mr. Humm explored various alternative possibilities and the evidence shows that an alternative service from the city of Franklin would involve the conversion of a circuit for 1.1 miles, the rebuilding of the "Prospect Street line" for 0.9 miles and the addition of a new line of about 0.6 miles in length from Prospect street to the wastewater treatment plant. The cost of this project on the basis of 1976 work order figures is in the vicinity of \$210,000. The costs of such alternative lines are prohibitive in view of the stated cost for the overhead crossing of \$4,000.

Mr. Humm indicated that for strictly aesthetic reasons the overhead crossing would have an adverse visible impact on the river corridor and that in his opinion this intrusion should be avoided and it is in the public interest to avoid it. He indicated that the river corridor has seen increased recreation since the water quality has improved. Mr. Humm, on cross-examination indicated that overhead lines, however, would not be a deterrent to people wishing to use the river corridor.

Daniel Collins of the Water Supply and Pollution Control Commission indicated that installation of the overhead crossing would make service available sooner than if an underwater cable were placed. The underwater crossing would delay the connection of the service which is needed to make the plant operable.

The evidence and exhibits showing the affected areas submitted by PSC presented the commission with sufficient information so that a view was not necessary.

Upon consideration of all the evidence in this record, it is the determination and finding of this commission that the proposed overhead crossing is the best alternative for extending service to the

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wastewater treatment facility. In terms of cost, it is the most desirable economic choice and in terms of aesthetics the commission finds that disturbing and perhaps destroying the bankings of the river, slicing a roadway into the bankings, and erecting bright red and yellow warning signs constitute a much greater intrusion than a thin wire strung between two poles. For all the foregoing reasons, the commission grants the petition. Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that a license be, and hereby is, granted to Public Service Company of New Hampshire to construct and maintain an electric line over and across the Merrimack river in the city of Franklin, New Hampshire, in order to serve the Franklin wastewater treatment facility, all in accordance with the description which is contained on a plan on file at the office of the commission.

By order of the Public Utilities Commission of New Hampshire this eleventh day of May, 1977.

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NH.PUC\*05/12/77\*[77872]\*62 NH PUC 137\*Public Service Company of New Hampshire

[Go to End of 77872]

### Re Public Service Company of New Hampshire

I-A14,652, Order No. 12,750

62 NH PUC 137

New Hampshire Public Utilities Commission

May 12, 1977

REQUEST for comprehensive management and operations study of electric company.

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COMMISSIONS, § 44 — Jurisdiction over managerial matters.

[N.H.] An electric company was authorized to enter into a contract with a reputable management consulting firm to perform a management and operations audit.

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BY THE COMMISSION:

Order

Whereas, the New Hampshire Public Utilities Commission pursuant to RSA 374:3 has general supervisory power over all public utilities in the state of New Hampshire; and

Whereas, in an era of rapidly increasing costs it is essential that the ratepayers be assured that everything reasonable is being done to minimize public utility expenses while insuring the financial viability of the public utility; and

Whereas, public utility management must perform and function at an optimum efficient level in providing adequate

service at the lowest possible rates; and

Whereas, this commission perceives a need for a management and operations audit of the Public Service Company of New Hampshire; and

Whereas, the commission recognizes its own staff capabilities and limitations in the performance of such a management audit; it is

Ordered, that the Public Service company of New Hampshire be, and hereby is, authorized to enter into a contract with a reputable management consulting firm to perform a management and operations audit all in accordance with a *Request For Management Efficiency Review and Solicitation Letter* attached hereto and made a part hereof [see Appendix A].

By order of the Public Utilities Commission of New Hampshire this twelfth day of May, 1977.

#### Appendix A

#### Management Audit

#### *Request for Proposal for Management Efficiency Review of the Public Service Company of New Hampshire*

##### Part I: General Information for the Consultant

A. It is proposed that if a contract is entered into as a result of this Request For Proposal it will be a contract for an amount reasonably related to size and financial ability of Public Service Company. Negotiations may be undertaken by the commission with those consultants whose proposals as to price and other factors show them to be qualified, responsible, and capable of performing the work. The contract that may be entered into will be that most advantageous to the state price and other factors considered. The commission on behalf of the state of New Hampshire reserves the right to reject any and all proposals received, and is not in any way liable for any of the costs incurred by consultants. Consultant liability will be determined in accordance with RSA 365:38.

B. If it is necessary a conference will be held to discuss with prospective consultants chosen as finalists by this commission the work to be performed and to allow them to ask questions arising from their review of this Request For Proposal. This would be for informational purposes only.

C. In order to be considered by this commission, proposals from various consultants must arrive at the offices of the New Hampshire Public Utilities Commission, 26 Pleasant Street, Concord, N.H. 03301 on or before July 1, 1977.

D. The consultant should outline its primary responsibilities in a detailed proposal which outlines the recommended approach based upon the objectives outlined in the solicitation letter. Recommended approaches where possible should be based upon the consultants' prior experience and knowledge of management review and analysis. The consultant selected to perform the services outlined in this Request For Proposal is required to contract directly with the Public Service Company of New Hampshire.

E. Payment for any contract entered into as a result of this Request For Proposal will be

made in accordance with the terms of the actual contract. Consultants submitting proposals should outline a preferred monthly payment schedule. Adoption of this payment schedule will be at the discretion of the

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commission and may be modified by the commission.

**Part II: Information Required from Consultants**

A. Each consultant should state its full name, address, and if applicable the branch office or other subordinate element that will perform or assist in performing the work hereunder.

B. Each consultant should state in their own words in as succinct terms as possible their understanding of the problem presented under this Request For Proposal.

C. Each consultant should submit in narrative form a plan for accomplishing the work, indicate the number of man-hours allocated to each task, and indicate whether any subcontracting for any portion of the work is planned.

D. Prior past experience in the area of management review and analysis should be included. This will form part of the criteria for selection by the commission. Proposals should include description of qualifying experience, cost of project, starting and completion date, and the names and telephone numbers of all responsible officials of the consultant firm who will be in charge of the management audit.

E. Each consultant should provide a staffing proposal, a description of the audit team which will conduct the review and analysis on site at the Public Service Company of New Hampshire. This shall include the description of the hierarchy in the consultant firm responsible for the work of the on-site audit team.

F. Each consultant should provide the following information regarding cost of services:

The category of manpower to be provided;

Estimated hours for each category of manpower;

The rate per hour for each man-hour;

Total projected cost for each category;

Out-of-pocket expenses, including travel and lodging;

Cost of supplies and materials;

Any other direct costs;

Any other general administrative overhead costs; and

Total bid price.

G. The firm should include a timetable for completion of the project and arrangements for interim reporting.

**Part III: Aspects of the Public Service Company Operations Which Should Receive Study During Phase One of the Investigation**

### 1. *General Corporate Management*

Formulation, dissemination, and adherence to corporate policies and objectives.

Long-range strategic planning.

Planning capital projects.

Directing public relations and stockholder relations.

Dealing with utility industry coordinating groups.

Responding to major issues with customers.

Assuring continuity of fuel supply, etc.

Supporting managerial and technical research and development.

Approving and monitoring operating plans and budgets.

Directing legal and regulatory activities. 2. *Corporate Financial Management*

Short- and long-range financial planning.

Relationships with bankers and investment institutions.

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Maintenance of accounting, budgeting, and financial systems.

Presentation of financial information.

Relationship with external auditors.

Maintenance of cash controls.

### 3. *Systems Engineering and Facilities Planning*

Short- and long-range forecasting and planning for general facility requirements.

Maintenance of energy system models.

Developing required facilities and system, capabilities.

Evaluating future energy sources and fuels.

Determining the feasibility of alternative facilities.

Preparation of regulatory reports. 4. *Equipment Resources and Planning*

Short- and long-range planning of equipment requirements.

Evaluation of equipment performance and decisions on equipment replacement.

Scheduling and assignment of equipment to projects.

Maintaining and repairing of equipment.

Maintaining equipment operating standards.

Evaluating operating results against operating standards.

Preparation of equipment usage information.

*5. Procurement and Stores*

Forecasting of warehousing and material requirements.

Evaluation of material and vendor performance.

Conducting value engineering and analysis.

Controlling inventory levels.

Requisition, purchasing, and issuance of materials to projects and users.

Maintaining standards for material units and costs.

Maintaining perpetual inventory records.

Management of warehousing operations.

Maintaining relations with vendors.

*6. Production and Operations*

Forecasting meteorological conditions and demand loads.

Planning resource utilization and mix of operating units.

Dispatching system loads and monitoring load readings.

Monitoring resource usage and expenditures.

Detection and restoring of system failures.

Analysis of energy system failures.

Purchasing and sale of interchange energy.

Implementation of new facilities.

Delivering energy.

*7. Construction and Maintenance — Generation, Transmission, and Distribution*

Developing general construction and maintenance plans.

Definition of projects to be completed.

Estimating project resource requirements.

Assigning priority to projects.

Developing manpower, equipment, and material standards.

Scheduling of projects.

Supervision of construction and maintenance.

Monitoring project status.

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Evaluation of project performance and standards.

*8. Personnel Resources and Planning*

Forecasting short- and long-range manpower requirements.  
Developing a manpower acquisition and training plan to meet long-range requirements.  
Recruiting and employment of manpower.  
Training and education of employees.  
Evaluation of employee status and performance.  
Operating a safety program.  
Evaluation and administration of wage and salary rate.  
Administration of benefit program.  
Administration of pension and retirement plans.  
Maintaining employee records.

*9. Customer Information and Service*

Maintaining customer service information.  
Processing customer inquiries and service requests.  
Installing new service.  
Discontinuing service.  
Maintaining customer relations.  
Providing technical assistance to customers.

*10. Revenue System*

Maintaining customer revenue information.  
Reading meter usage and accumulating service charges.  
Preparing bills for services rendered.  
Collecting cash payments.  
Evaluating customer balance collectibility and performing collection procedures.

Appendix B

Sample Letter Sent by New Hampshire Public Utilities Commission

Re: Public Service Company of New Hampshire Management Audit — I-A14,652

The New Hampshire Public Utilities Commission is seeking a management consulting firm to conduct a comprehensive management and operations study of the Public Service Company of New Hampshire, this state's largest electric utility. This letter is to advise you that our commission formally invites a proposal from your firm for providing consulting assistance in performing a management efficiency review of the above named company.

Enclosed herewith is a document entitled *Request for Proposal for Management Efficiency Review of the Public Service Company of New Hampshire* which contains general information to assist you in your proposal to this commission. Enclosed also is a copy of the commission Order

No. 12,750 initiating this audit process.

This management audit is the first such audit to be conducted in the state of New Hampshire. On September 1, 1976, this commission decided and publicly disclosed that it would be engaging a management consulting firm to study all aspects of Public Service Company's planning, management, and operation. By its Order No. 12,750 dated May 12, 1977, the commission has officially initiated the process for performance of a management audit.

The objectives of this study include the determination of what improvements, if any, can be accomplished in the management and operations of the Public Service Company of New

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Hampshire and specifically which, if any, cost saving measures can be instituted. The ultimate purpose is to explore all economically practicable opportunities for giving ratepayers lower rates and/or better service.

We invite you to submit to us ten copies of your proposal on or before July 1, 1977. We would like to commence this management audit as soon as possible after that date and have it completed as soon as practicable after that date.

The audit, we envision, will be performed in two distinct phases. The first phase will consist of a broad but comprehensive overview of the management and the entire operations of the company. While the scope of this first phase is broad, its depth should be sufficient to determine what areas might yield significant cost savings, improvement in management methods, or improvements to customers. Since it is not possible or desirable to interview and observe all individuals or aspects of each of the functional units for purposes of this survey, the proposal should explain what sampling methods you would use to reach valid conclusions. While your proposal should detail how you will select representative areas to be studied, we recognize it would be premature to select specific areas prior to the start of work on phase one.

The second phase, if it becomes necessary, will consist of an in-depth analysis ordered by the commission after consideration of the recommendations for further studies, and the cost of those studies, contained in the phase one report. It will not be possible, therefore, to estimate the extent or cost of the phase two studies in your proposal. You would be required to agree, however, that many of those individuals involved in the phase one analysis would be available for any phase two studies ordered by this commission. We would expect, therefore, that your billing rates for those individuals during phase two will be the same as for those in phase one, except as you stipulate otherwise in your proposal.

It will be necessary that any recommendations especially those involving potential cost savings, be justified and accompanied by adequate backup information. The selected consulting firm must be willing to stand behind its conclusions and recommendations subsequent to filing them with this commission.

If you are selected to perform the study, your proposal will be placed in our files and as such will be available for public inspection.

The commission is soliciting several proposals for the management audit and after receipt of these proposals will choose three finalists. The company will then be requested to comment upon

the three finalists and indicate if they are objectionable in any respect. The commission wishes to establish a cooperative rather than an adversary approach to this management consultant study and feels it is necessary for the company to interview with the three finalist firms before the commission finally chooses one of them to do the study. It should be a prerequisite for the final contract that the management consulting firm which is chosen should not have had any prior contacts with the company. This will avoid any conflict of interest and will insure the public confidence in the results of the study. Such a cooperative approach will aid the management consulting company in identifying the problems that may exist in the Public Service Company of New Hampshire and such cooperation will also enhance the opportunity at a later date for the

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implementation of any changes that the management consulting firm might suggest.

While this commission does not wish the Public Service Company of New Hampshire to become an adversary to the management audit program team, the commission does want to make it clear that the company should not be allowed to bias the management auditing team's work. Clearly, objectivity must be obtained. Cooperation between the audit team and the company is absolutely necessary to insure the effective identification of problems and the development of sound programs to improve managerial effectiveness. The work between the two should be done at arm's length and personal contact between the consultants and the company personnel should be as infrequent and formal as possible. Also, the company should not have an opportunity to preview or react to any findings prior to their submission to the public utilities commission and their release to the public. While this approach may in some ways hamper an audit team's ability to make recommendations, it does generally insure the appearances of objectivity so as to ensure public confidence in the work being done.

We ask that you please acknowledge receipt of this letter and tell us your intentions with respect to this request for proposal.

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NH.PUC\*05/16/77\*[77873]\*62 NH PUC 143\*Pennichuck Water Works

[Go to End of 77873]

**Re Pennichuck Water Works**

DR 76-163, Supplemental Order No. 12,755

62 NH PUC 143

New Hampshire Public Utilities Commission

May 16, 1977

PETITION of water utility seeking revisions in its main extension terms and conditions; granted.

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BY THE COMMISSION:

Supplemental Order

Whereas, Pennichuck Water Works, a public utility engaged in the business of supplying water service in the state of New Hampshire, on January 17, 1977, filed with this commission certain revisions to its tariff, NHPUC No. 4 — Water, providing for changes in the present main extension terms and conditions; and

Whereas, this commission in Order No. 11,457 in D-R6630 directed Pennichuck Water Works to further study its main extension provisions and to submit statistical data to support any proposed changes; and

Whereas, Pennichuck Water Works in its request for increased rates (DR 76-163) has submitted certain statistical data to support revisions to its main extension plan; and

Whereas, this commission, after investigation and consideration, finds that

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these changes are necessary and consistent with the public good; and

Whereas, the city of Nashua, through its counsel, has indicated approval of these changes; it is

Ordered, that Pennichuck Water Works file with this commission revised tariff pages reflecting the proposed changes to its main pipe extension plan, such revised pages to become effective as of the date of this order; and it is

Further ordered, that notice of these changes to the main pipe extension plan be given by a one-time publication in a newspaper having general circulation in the area served.

By order of the Public Utilities Commission of New Hampshire this sixteenth day of May, 1977.

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NH.PUC\*05/17/77\*[77874]\*62 NH PUC 144\*Littleton Water and Light Department

[Go to End of 77874]

**Re Littleton Water and Light Department**

I-R14,693, Order No. 12,758

62 NH PUC 144

New Hampshire Public Utilities Commission

May 17, 1977

PETITION of municipal water and light department seeking rate increase; suspended pending commission investigation.

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BY THE COMMISSION:

Order

Whereas, Littleton Water and Light Department, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on April 26, 1977, filed with this commission certain revisions to Municipal Electric Department of Littleton, New Hampshire tariff, NHPUC No. 1 — Electricity, providing for an increase in rates (\$1,306.08), effective May 23, 1977; and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date thereof be suspended, pending investigation and decision thereon; it is

Ordered, that Second Revised Pages 7 and 8, and Third Revised Pages 9, 10, 13, and 15 of tariff, NHPUC No. 1 — Electricity of Municipal Electric Department of Littleton, New Hampshire be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of May, 1977.

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NH.PUC\*05/18/77\*[77875]\*62 NH PUC 145\*New Hampshire Department of Public Works and Highways

[Go to End of 77875]

## Re New Hampshire Department of Public Works and Highways

DT 76-184, Order No. 12,760

62 NH PUC 145

New Hampshire Public Utilities Commission

May 18, 1977

PETITION for authority to install a new railroad grade crossing; granted.

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CROSSINGS, § 32 — Establishment — Highway construction program.

[N.H.] Authority was granted for establishment of a grade railroad crossing pursuant to a highway construction program, subject to conditions relating to safety and burden of cost.

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APPEARANCES: Roderick Cyr for the petitioner; John E. O'Keefe for the Boston and Maine Corporation; and W. Michael Dunn for Suburban Propane Gas Service, Inc.

BY THE COMMISSION:

Report

By petition filed February 22, 1976, the New Hampshire Department of Public Works and

Highways seeks authority to lay out and construct a grade crossing over the tracks of the Boston and Maine Corporation in the town of Milford. This petition is occasioned by a Federal Aid Primary Project RF-010-1 (6), New Hampshire Project No. P-7105-B, which is an extension of New Hampshire Route No. 101, known as the Horace Greeley highway. Hearing thereon was held at Concord on March 28, 1977.

This plan is a relocation of Route 101, a Milford bypass extending from its present terminus in a westerly direction where it will again rejoin present Route 101 one-quarter of a mile east of Jones' crossing. The general layout of the project was approved by action of the governor and council in 1975, and is estimated to cost approximately \$2.5 million. Its overall length is approximately two and one-third miles. The plans call for a two-lane highway, the center line of which would cross the railroad tracks at grade 30 feet south of the southerly edge of Route 101. The present highway route and railroad tracks run parallel, generally east and west, with the proposed new route approaching from the south.

The design of the crossing is such that there will be four individual crossings. Two lanes, each averaging 25 feet in width, are proposed on either side of a center island. In addition, two turning lanes are proposed, each averaging 22 feet in width. The westerly turning lane is for the use of eastbound through traffic, while the easterly lane is for westbound traffic when turning easterly on present Route 101. One of the two center lanes is for through westerly traffic while the other accommodates approaching traffic westbound on present Route 101 to an easterly direction on the proposed bypass.

At present there is a switch and track which leads in an easterly direction to a spur track into the property of the Suburban Propane Gas Service, Inc., near the center of the proposed crossing layout. To eliminate this switch and

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track from the proposed crossing location, it would be relocated easterly of its property near the Hollis Street crossing, thus train movements would approach the spur track in a westerly direction. It will also be necessary to relocate the propane storage tanks now on the Suburban Propane company property.

It is proposed to install traffic lights at the intersection of the present and new Route 101 and also crossing flashing lights on six masts interconnected with the traffic lights. Upon the approach of a train, when the flashing lights are actuated, the traffic lights will clear for the approach from the crossing to prevent traffic from backing up over the grade crossing.

There will be no realignment required of the railroad track other than the relocation of the switch and spur track. The topography in the area is level and the visibility will be adequate, providing a view along the railroad tracks of 600 feet when at any point on the highway within 200 feet of the crossing. The total length of the crossing will be 150 feet. It is proposed as a "rubber type" crossing which is a relatively new crossing surface estimated to last far longer than other types of surface.

Figures submitted by the petitioner indicate a traffic flow of 6,190 vehicles per day, which projected on a 20-year basis is estimated at 11,180. No contribution is proposed from the Boston and Maine Corporation for construction and installation although petitioner indicates the

crossing signals should be maintained by the railroad corporation. The right of way, which is being obtained for the new highway, is of sufficient width so that equipment installed to signal the approach of trains will necessarily have to be located within the limits of the right of way.

The Boston and Maine Corporation is not opposed to the location of a new grade crossing, but since there are four other crossings in the one-mile area extending from Richardson's to Jones' crossing, east and west of the proposed location, it proposes that at least one of those be eliminated. The railroad corporation objects to assuming the cost of maintaining new crossing protection, as it feels these costs should also be borne by the petitioner. The witness for the railroad corporation also suggests that the plowing of the roadway section within the crossing will require additional care to prevent a hazard to rail operations.

An exhibit was introduced indicating the location of the new crossing, with Jones' crossing about 1,300 feet to the west, Hollis street about 500 feet to the east, a private crossing 1,000 feet to the east and Richardson's crossing 3,800 feet to the east. It is also pointed out that the new switch location for the new side track will have to be located only a few feet (25 to 30) west of the Hollis Street crossing.

The expense of relocating the 450-foot side track, installing the crossing, and the crossing protection is estimated by railroad witnesses at \$154,168, of which the relocation is \$28,800, the crossing is \$63,400, crossing signals are \$44,932, and accounting and supervision is \$17,036. Annual signal maintenance is estimated at \$2,327.

Masts for crossing protection signals would be located adjacent to each of the lanes entering present Route 101 and at each of the two lanes on which traffic would leave the present route. All of these masts would be located within the area taken by the state for highway purposes. A suitable cutout would be required to be installed at the crossing to

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eliminate signal indications while railroad equipment may be within the crossing circuits but not actually moving over the crossing.

By relocating the siding and switch for the gas company and to retain the length of track necessary, the new switch will be just west of the present Hollis Street crossing, thus train movements to and from the siding will cause additional use of this crossing for railroad equipment. No proposal is submitted for protection of this crossing which is used primarily to obtain access to the Suburban Gas and Hitchiner plants. A more circuitous route would be available after construction by using the new crossing and highway, a portion of the Old Milford road and Hollis street approaching from the south.

Flashing signal circuits will extend between 1,100 and 1,200 feet from the crossing for operating purposes with a positive circuit of 50 feet on each approach.

The location of the proposed crossing is opposed by the Suburban Propane Gas Service, Inc. This opposition is based largely upon the fact that even though a new side track facility and relocation of its tanks will be provided, its delivery system will be appreciably changed if the project is allowed to be constructed in accordance with present plans. This corporation receives tank cars of propane gas which are presently switched to its spur track from the morning local

train moving westbound on the Nashua — Bennington branch. This is accomplished by stopping the train on the main line, then proceeding in a westerly direction with such cars as may be destined to the Gas Corporation, then making a reverse move through the switch to spot the cars where desired. If there are empty cars they can be moved out and placed in the train before spotting the loaded cars. After performing this work, the train then proceeds toward Wilton. By reversing the direction in which this siding is approached, it is claimed that cars cannot be delivered until the return movement several hours later, thus making it a strong possibility that cars of propane gas will be spotted on their spur track during hours when there are no employees on duty to supervise their handling or to provide for unloading procedures which require approximately five and one-half hours. Thus, each car that is destined to its plant will have to be carried beyond its location, at least as far as Wilton, and remain there until the train returns from its westerly terminal, or a special move made to the spur track of the consignor. At the present time the loads are delivered in the morning, or by noon, which is an ideal situation because personnel are readily available to supervise unloading and be in a position to protect the handling of such cars which contain a highly inflammable and dangerous commodity.

There are no run-around tracks between Milford and Wilton. The nearest is Wilton, approximately one and one-half miles to the west.

A witness for Suburban Gas testified that prior to establishing the present site in 1972, considerable time was spent in obtaining a suitable location. This site was finally selected because it was felt that there would be no interference with the freight service.

Employees are at the plant from 8:00 A.M. but there is no one on duty at night. If it was then known that night deliveries would be a possibility, the plant would not have been located at this site. Retailing the product is a substantial portion of the business, hence this is handled

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during the usual business hours.

The facts presented in this proceeding indicate that the proposed highway project has been approved by the governor and executive council. Previous litigation involving adjacent land prohibits the layout of the new highway at a point westerly of the proposed location. The Milford bypass has been and apparently still is being constructed in sections, with the ultimate plan to continue in a westerly direction so that eventually the bypass will be located south of the railroad right of way. The next step in this plan, however, is not programmed at this time and it is impossible to determine with any degree of certainty how soon this section will be constructed.

It is clear that the highway, as proposed, will interfere with the freight service as now enjoyed by the Suburban Propane Gas Service. Whether this will be sufficient to cause any deterioration of freight service from the railroad because of delays to deliveries or deliveries at inconvenient hours, can only be determined by future procedures. To withhold permission to construct the crossing as planned would seriously affect highway users. This, of course, does not seem justified, even though it would be a more ideal situation if the intersection and crossing could be designed and located at a point where side track facilities and train operations as well as highway traffic could be less involved. The commission sympathizes with the railroad policy which opposes additional crossings at a location where there are four others within a one-mile

distance. The evidence is plain in this proceeding that there will be no benefit to the railroad because of the proposed new crossing. On the contrary, it may have an adverse effect on rail operations and service. Thus, it is felt that no part of the design or construction cost, nor should any portion of maintenance costs be required to be paid by the railroad corporation. If, after the crossing is constructed, it appears that any of the existing crossings can be closed, it may be proper for any interested party to petition for such a closure. It is also hoped that the last leg of the bypass can be designed and constructed without undue delay after which the crossing authorized herein should be closed.

Upon consideration of all the facts, the commission is of the opinion that its consent must be given to the laying out and constructing of a grade crossing as proposed in plans on file at this office marked DT 76-184; and that the spur track to the Suburban Propane Company be relocated; and that the crossing be protected by installation of automatic flashing signals, such signals to be interconnected with the traffic lights at the intersection of the new highway and present Route 101; and that no portion of the costs of the project shall be borne by the Boston and Maine Corporation; and that maintenance of the crossing and crossing protection shall be borne by the state of New Hampshire. Our order will issue accordingly.

#### Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the New Hampshire Department of Public Works and Highways be, and hereby is, authorized to lay out and construct a crossing at grade over the tracks of the Boston and Maine Corporation in the town of Milford at a point approximately one-quarter mile east of Jones' crossing, in accordance with plans on file at the office

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of this commission, marked DT 76-184; and it is

Further ordered, that the crossing authorized herein be protected by the installation of automatic flashing lights to be interconnected with traffic lights to be installed at the intersection of the proposed new highway, Route 101 and the present highway No. 101, all in a manner satisfactory to the commission; and it is

Further ordered, that the spur track serving the Suburban Propane Gas Service, Inc., be relocated in accordance with plans on file with the commission, as referred to above; and it is

Further ordered, that all costs of construction and installation, together with the maintenance of the crossing and the crossing protection devices, shall be borne by the state of New Hampshire.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of May, 1977.

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NH.PUC\*05/19/77\*[77876]\*62 NH PUC 149\*Granite State Electric Company

[Go to End of 77876]

## Re Granite State Electric Company

DR 77-63, Order No. 12,763

62 NH PUC 149

New Hampshire Public Utilities Commission

May 19, 1977

PETITION by intervenors for additional hearing; denied.

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PROCEDURE, § 2 — Power of commission to govern procedure — Additional hearing.

[N.H.] The commission held that where an electric company served three franchise areas in the state, the rights of its customers would be adequately protected by holding a hearing in one central location.

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APPEARANCES: Philip H. R. Cahill and William C. Hayes for the petitioner; Steven Ruback and Michael Love for the Legislative Utility Consumers' Council; and William Weismann for LISTEN.

BY THE COMMISSION:

Report

On May 18, 1977, the commission, pursuant to public notice, held a procedural hearing on the Granite State Electric Company's petition for an increase in rates.

For purposes of these proceedings the commission recognizes the appearances listed above. No other appearances will be accepted unless unusual circumstances are presented and good cause is shown.

The commission will establish June 14, 1977, at 10:00 A.M. for the commencement of the evidentiary hearing in this matter at the office of the commission in Concord, New Hampshire. The commission has also reserved June 15, 1977, for any continuation of that hearing.

Any one of the appearing parties who initiates correspondence of data requests

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directly to any one of the other parties in the proceeding shall also be responsible to furnish every appearing party with copies of such documents. This is necessary so that the actions of any appearing party will be known to all the other parties.

All parties in attendance indicated a spirit of cooperation and offered to coordinate all of their activities towards the most expeditious resolution of this matter, and, in furtherance of this, have agreed to meet at the office of the commission on Friday, May 27, 1977, at 10:00 A.M. At

this time staff, LUCC, and LISTEN will present as many data requests as possible to the company. On the filing of data requests, the commission understands, however, that not all such requests can be made by May 27, 1977.

Legislative Utilities Consumers' Council and LISTEN and staff were unable to determine at the procedural hearing whether or not they would be filing testimony and exhibits or hiring experts to present evidence to the commission. Such determination can only be made after a review of the materials in this case filed at the procedural hearing by the company and the commission reserves the rights of all these parties to file such testimony and exhibits; and to present such witnesses as are necessary for a full and complete presentation of the interests of these parties. The commission requests that the parties give notice as soon as possible of the desire to present testimony, exhibits, and witnesses in this case.

Lebanon in Service to Each Neighbor requested a hearing to be held in Lebanon. The company pointed out, and the commission took judicial notice of the fact, that Granite State Electric Company serves three franchise areas in the state; one located in the Lebanon area, one located in the Salem area, and one located in the Charlestown-Walpole area. The city of Concord is central to all of these locations, we think, and an appropriate place for all the hearings to be held. The commission, its staff, hearing room, documents, library, and other facilities are all in Concord. In fairness to all of the customers of the company in the Salem and Charlestown-Walpole areas the hearing should be held in Concord and not in Lebanon, which would be a greater distance for the Salem customers. In addition, the consumers in Lebanon are formally protected in these proceedings by the appearance of LISTEN. Their formal appearance entitles LISTEN to the rights of presenting evidence, cross-examination of witnesses, filing motions for rehearing before the commission, and appeal to the New Hampshire supreme court. Also the customers of Lebanon (as well as those in the other franchise areas) are generally protected by the LUCC.

The commission finds that the rights of the customers of the company are abundantly and adequately protected in these proceedings; and that no further benefit will inure to the customers as a result of a hearing in Lebanon. For all of the above reasons the commission will hold all of the hearings in this matter in Concord. The commission will further require compliance with the procedure set forth herein.

Order

Based upon the foregoing report, which is made a part hereof; it is

Ordered, that all of the parties named as appearing parties in this proceeding shall comply with the procedural guidelines set forth in the attached

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report as well as other percedural rules and regulations of the commission.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of May, 1977.

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NH.PUC\*05/27/77\*[77877]\*62 NH PUC 151\*New England Telephone and Telegraph Company

[Go to End of 77877]

## Re New England Telephone and Telegraph Company

DE 77-62, Order No. 12,771

62 NH PUC 151

New Hampshire Public Utilities Commission

May 27, 1977

PETITION of a telephone company for a license to place and maintain underwater cable on a state-owned right of way; granted.

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TELEPHONES, § 2 — In general — Construction and equipment — Licensing.

[N.H.] A license to maintain an underwater cable on a state-owned waterway was granted to a telephone company where the cable would be used to provide for reasonable requirements of the public, where no objections to the proposal were filed following due notice to interested parties, and where the license sought could be issued and exercised by the telephone company without substantially affecting the public rights and the waters crossed.

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BY THE COMMISSION:

Order

Whereas, by petition filed April 22, 1977, New England Telephone and Telegraph Company seeks a license pursuant to RSA 371:17-20 to place and maintain underwater plant crossing state-owned public water in Dover, New Hampshire across the Salmon Falls river at the Eliot bridge; and

Whereas, the petitioner represents that the proposed construction of the 400 pair submarine cable will cross approximately 40 feet of the river from the causeway within the public way of Gulf road to the New Hampshire — Maine state line and is designed to provide additional telephone facilities for the South Berwick and Eliot, Maine area served from the New England Telephone Company's Dover exchange; and

Whereas, following due notice no other interested parties recorded any objections to the proposed construction and upon investigation of all the facts before the commission, it is found that the proposed construction is necessary to meet the reasonable requirements of the public, and that the license sought may be issued and exercised by the petitioner without substantially affecting the public rights and the waters crossed; it is

Ordered, that a license be, and hereby is, granted to New England Telephone and Telegraph Company to place and maintain underwater plant crossing state-owned public water in Dover, New

Hampshire across the Salmon Falls river at the Eliot bridge.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of May, 1977.

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NH.PUC\*05/27/77\*[77878]\*62 NH PUC 152\*Public Service Company of New Hampshire, et al.

[Go to End of 77878]

## Re Public Service Company of New Hampshire, et al.

DR 76-46, 16th Supplemental Order No. 12,773

62 NH PUC 152

New Hampshire Public Utilities Commission

May 27, 1977

PETITION of electric companies for authority to apply a fuel adjustment charge to regular monthly billings to their customers; granted.

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1. RATES, § 303 — Kinds and forms of rates and charges — Variable rates based on cost — Fuel clauses.

[N.H.] Where electric utilities had filed revisions to their tariffs comprising the monthly calculation of their fuel adjustment charges, the commission found that the filings were in accordance with the applicable provisions of law and that the proposed fuel adjustment charges were just and reasonable, and approved the rate increases. p. 153.

2. COMMISSIONS, § 26 — Proceedings pending before supreme court — Fuel adjustment charge.

[N.H.] The commission deferred any action on a motion to reduce the fuel adjustment charge where the matter raised by the motion was presently pending in litigation before the state supreme court. p. 155.

3. RATES, § 303 — Kinds and forms of rates and charges — Variable rates based on cost — Fuel clauses.

[N.H.] Where an electric company had improperly included the interest element on fuel inventories to be passed along in its fuel adjustment clause it was allowed to refund these overcharges to consumers by deducting the overcharges from the fuel adjustment clause for one month. p. 156.

4. RATES, § 303 — Variable rates based on cost — Fuel clauses — Station energy charge.

[N.H.] The commission found that a station service charge represented an energy charge incurred to keep capacity available for generation and was an expense properly recoverable through the mechanism of the fuel adjustment clause. p. 157.

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APPEARANCES: Martin L. Gross and Philip Ayers for Public Service Company of New Hampshire; Douglas K. MacDonald for Concord Electric Company; Richard F. Gilmore for Exeter and Hampton Electric Company; Richard Schwartz for Connecticut Valley Electric Company, Inc.; Mayland H. Morse for New Hampshire Electric Cooperative, Inc.; Philip H. R. Cahill for Granite State Electric Company; Dennis Bean for the Municipal Electric Department of Wolfeboro; Richard Deane for Littleton Water and Light Department; Robert Brown for Woodsville Water and Light

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Department; and Steven W. Ruback and Michael Love for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

<HC> [1] Pursuant to RSA 378:3-A(II), the commission, on May 19, 1977, held hearings on the petitions of nine New Hampshire electric companies for authority to apply a fuel adjustment charge to regular June monthly billings to their customers.

Reference may be made to previous commission decisions in this docket for statements and explanations of the fuel adjustment clause.

*Littleton Water and Light Department*

Littleton Water and Light Department, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on May 16, 1977, filed with this commission 41st Revised Page To Its Tariff, NHPUC No. 1 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect on June 1, 1977. Littleton purchases all of its requirements from the New England Power Company. Littleton reported that the total fuel cost billed by the New England Power Company during the month of April, 1977, was \$4,369.02. During this period the total kilowatt-hours sold by Littleton were 2,816,978. The fuel adjustment charge, therefore, by simple division is \$0.0015509 rounded to \$0.0016. The fuel adjustment charge proposed for the month of June, 1977, is 16 cents per hundred kilowatt-hours applied to all bills to be rendered in that month.

*Municipal Electric Department of Wolfeboro*

Municipal Electric Department of Wolfeboro, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on May 12, 1977, filed with this commission 31st Revised Page 9A to its tariff, NHPUC No. 4 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect June 1, 1977. Wolfeboro purchases all of its requirements from Public Service Company of New Hampshire. Wolfeboro reported

that during the month of April, 1977, the total fuel cost billed by Public Service Company was \$20,968.92. During this same period the total kilowatt-hours sold by Wolfeboro were 2,359,241. The fuel adjustment, therefore, by simple division and rounded is \$0.0089 per kilowatt-hour. The fuel adjustment charge proposed for effect in the month of June, 1977, is 89 cents per hundred kilowatt-hours to apply to all bills rendered in that month.

*New Hampshire Electric Cooperative, Inc.*

New Hampshire Electric Cooperative, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on May 17, 1977, filed with this commission 37th Revised Page 13 to its tariff, NHPUC No. 6 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect on June 1, 1977. The company reported that the total fuel cost billed by its several power suppliers for power during the month of April, 1977, was \$230,114. Total sales by the Co-op during the same month were 24,206,022 kilowatt-hours. By simple division, the fuel adjustment charge proposed for June, 1977, and rounded is

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\$0.00950 per kilowatt-hour. The fuel adjustment charge to be applied to all bills rendered in the month of June, 1977, is proposed to be 95 cents per hundred kilowatt-hours.

*Granite State Electric Company*

Granite State Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on May 12, 1977, filed with this commission 33rd Revised Page 15A to its tariff, NHPUC No. 8 — Electricity, comprising the monthly fuel adjustment charge for effect June 1, 1977. Granite State Electric Company purchases all of its requirements from the New England Power Company. Granite State reported that the variable portion of the fuel cost billed by New England Power Company was \$41,993.13. Total sales to Granite State customers during the same period were 25,400,728 kilowatt-hours. By simple division, this yields \$0.0017 to which is added the fixed fuel portion of \$0.0124 per hundred kilowatt-hours. Thus, the fuel adjustment charge applicable to bills rendered in the month of June, 1977, is proposed to be \$1.41 per hundred kilowatt-hours.

*Woodsville Water and Light Department*

Woodsville Water and Light Department, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on May 17, 1977, filed with this commission Seventh Revised Page 10B to its tariff, NHPUC No. 3 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect June 1, 1977. Woodsville purchases all of its requirements from Central Vermont Public Service Corporation. Woodsville reported that during the month of April, 1977, the total fuel cost billed by Central Vermont was a credit of \$1,193.96. During this same period the total kilowatt-hours sold by Woodsville was 750,338. The fuel adjustment, therefore, by simple division and rounded is \$0.0016 per kilowatt-hour. The fuel adjustment charge proposed for the month of June, 1977, is a credit of 16 cents per hundred-kilowatt-hours to apply to all bills rendered in that month.

*Connecticut Valley Electric Company, Inc.*

Connecticut Valley Electric Company, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on May 16, 1977, filed with this commission Second Revised Page 18 to its tariff, NHPUC No. 4 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect June 1, 1977. Connecticut Valley purchases all of its requirements from Central Vermont Public Service Corporation. Connecticut Valley reported that during the month of April, 1977, the total fuel cost billed by Central Vermont was a credit of \$17,960. During this same period the total kilowatt-hours sold by Connecticut Valley were 11,110,000. The fuel adjustment, therefore, by simple division is a credit of \$0.001617. The fuel adjustment charge proposed for the month of June 1977, is a credit of 16 cents per hundred kilowatt-hours to apply to all bills rendered in that month.

*Concord Electric Company*

Concord Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on May 12, 1977, filed with this commission 27th Revised Page 15A to its tariff, NHPUC No. 6 — Electricity, comprising the monthly calculation of

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the fuel adjustment charge for effect June 1, 1977. Concord Electric purchases all of its requirements from Public Service Company of New Hampshire. Concord Electric reported that the total fuel cost billed by Public Service Company during the month of April, 1977, was \$233,509.48. Total sales during that same period were 20,765,728 kilowatt-hours. The fuel adjustment charge by simple division is \$0.01124 per kilowatt-hour. Therefore, the fuel adjustment charge proposed for the month of June, 1977, is \$1.12 per hundred kilowatt-hours.

*Exeter and Hampton Electric Company*

Exeter and Hampton Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on May 12, 1977, filed with this commission 23rd Revised Page 16 to its tariff, NHPUC No. 11 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect June 1, 1977. Exeter and Hampton purchases all of its requirements from Public Service Company of New Hampshire. Exeter and Hampton reported that the total fuel cost billed by Public Service Company for the period March 31, 1977, to April 29, 1977, was \$253,253.56. Total sales by Exeter and Hampton during the same period were 23,139,264 kilowatt-hours. The fuel adjustment charge, therefore, by simple division and rounded is \$0.01094 per kilowatt-hour. Thus, the fuel adjustment charge proposed to be billed during the month of June, 1977, is \$1.09 per hundred kilowatt-hours.

*Public Service Company of New Hampshire*

Public Service Company of New Hampshire, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on May 18, 1977, filed with this commission 31st Revised Pages 15 and 16 to its tariff, NHPUC No. 20 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect June 1, 1977.

Page 16 of the company's fuel surcharge filing for June indicates that fuel costs above base for the data month of April were \$4,868,203. During this same period the kilowatt-hours subject

to the fuel adjustment were 407,165,000. The fuel adjustment, therefore, by simple division and rounded is \$0.0119 per kilowatt-hour. The fuel adjustment charge proposed for effect in the month of June, 1977, is \$1.16 per hundred kilowatt-hours to apply to all bills rendered in that month. This amount reflects a MEPCO — New Brunswick adjustment as described below.

[2] The commission in this report and order will address the three motions for further refunds filed May 2, 1977, by the Legislative Utility Consumers' Council (LUCC). Legislative Utility Consumers' Council makes a motion to reduce fuel adjustment charge for the month of May, 1977. Legislative Utility Consumers' Council claims the monthly surcharge should be reduced by an amount to reflect substituted increased fuel costs incurred as a result of unscheduled outages at Public Service Company's coal-fired facilities at Bow, New Hampshire. This is precisely the issue before the New Hampshire supreme court in an appeal taken by LUCC and VOICE (Volunteers Organized in Community Education) from the commission report and 11th Supplemental Order No. 12,578 dated January 26, 1977, authorizing a fuel adjustment charge for

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February, 1977. Since the matter raised in this motion is presently pending in litigation before the New Hampshire supreme court we defer any action on it until the issues before that court are resolved.

[3] Legislative Utility Consumers' Council makes a motion for credit or refund to be applied to June 1, 1977, fuel adjustment charge (interest on fuel inventory — Montaup). The motion erroneously refers to Montaup. At the hearing LUCC addressed the purchase of power from the Maine Electric Power Company — New Brunswick, to which the text of this motion actually refers. This request is associated with an issue raised at the hearing on April 19, 1977, and treated in commission report dated April 29, 1977 (See p. 6, Par 4).

Public Service Company of New Hampshire purchases electricity from the Maine Electric Power Company — New Brunswick (MEPCO). The bill rendered by the seller to PSC includes an element of interest expense which is mentioned in the unit contract between the parties for these purchases. This expense item (interest on fuel inventory) is not includable in the Federal Power Commission Uniform System of Accounts No. 151 and thus is not a proper charge against the fuel adjustment for any month.

From the inception of the MEPCO contract in May, 1976, to the time the motion was filed, there were nine months in which the interest on fuel inventory appeared in the fuel adjustment. The LUCC motion asks for the interest element from each of the nine months to be cumulated and then deducted from the fuel adjustment in the month of June.

At the May 19th hearing regarding the applicable fuel adjustment charge, PSC submitted a calculation showing that the inclusion of the interest on fuel inventory affected the size of the fuel adjustment charge in only one of the nine months. The month in which this occurred was the data month of August, 1976 (see Exh P2). The fuel adjustment for the month of October, 1976 (based on August data) should have been 50 cents per hundred kilowatt-hours rather than 51 cents per hundred kilowatt-hours which was actually charged. Thus, a refund of one cent per hundred kilowatt-hours for usage in October, 1976, is due to customers.

Public Service Company of New Hampshire by communication to the commission dated

April 22, 1977, acknowledged the impropriety of including the interest element on fuel inventories. Public Service Company of New Hampshire informed the commission on that date that the element "interest on fuel inventory" would no longer appear in the monthly fuel adjustment charge filing. In fact, this element was not included in the filing for June.

In the filing for June, PSC made a further adjustment to its MEPCO purchases to reflect differences in the Canadian Exchange rates. In the data months of December, 1976, and February, 1977, the Canadian Exchange resulted in overcollections of a magnitude sufficient to change the size of the fuel adjustment charge based on those data months.

Exhibit P2 also reflects the adjustment for the Canadian Exchange and shows that in February of 1977 (based on December, 1976, data) the fuel adjustment charge should have been \$1.37 per hundred kilowatt-hours rather than the \$1.38 per hundred kilowatt-hours which was actually charged. Thus, a refund of one cent per hundred kilowatt-hours for

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usage in February, 1977, is due to customers.

Exhibit P2 goes on to show that the fuel adjustment charge for April, 1977 (based on February, 1977, data), should have been \$1.07 per hundred kilowatt-hours rather than the \$1.08 per hundred kilowatt-hours which was actually charged. Thus, a refund of one cent per hundred kilowatt-hours for usage in April, 1977, is due to customers.

The cumulation of actual dollars of overcollections in these three months was \$103,418. Public Service Company of New Hampshire proposed to return this amount in June and to do so PSC estimates June kilowatt-hour sales to apply to the refund. The total refund by the calculation shown on Exh P2 amounts to three cents per hundred kilowatt-hours which is reflected in the \$1.16 per hundred kilowatt-hours fuel adjustment charge for June.

[4] Legislative Utility Consumers' Council makes a motion for refunds to be applied on fuel adjustment charge for June, 1977 (station energy charge — Middletown No. 4). The station energy charge or the station service charge as it is sometimes called represents an energy charge incurred to keep capacity available for generation. In the instant example, PSC paid the Hartford Electric Light Company (HELCO) a 520,057 station energy charge to keep HELCO's Middletown Unit No. 4 available for generation of electricity. Public Service Company of New Hampshire is entitled under contract for 100 mw of generation from Middletown No. 4 when it is needed. In the data month of March PSC paid the \$20,057 station energy charge for zero mw of generation. Thus, LUCC alleges that PSC customers are receiving no value (i.e. no kwh) but are paying anyway.

The firm power contract such as the HELCO contract is a valuable asset to PSC and thus to its customers. The firm commitments made under these contracts entitle PSC to certain amounts of electrical energy. These entitlements are a very essential part of PSC's planning so that it may adequately meet customer demand. These firm power entitlements are generally more economical than purchases of replacement power through NEPEX. And, as PSC counsel points out, the existence of a firm entitlement satisfies a PSC obligation under the NEPOOL agreement, avoids certain charges for not having such entitlements and reduces the decremental costs of PSC's other units when they purchase through NEPEX.

In a prior rate case on appeal to the New Hampshire supreme court, the court instructed this commission to consider an "appropriate allowance for current costs in some form" to recover increased costs of fuel. *Public Service Co. of New Hampshire v New Hampshire* (1973) 113 NH 497, 503, 2 PUR4th 59, 311 A2d 519. The fuel adjustment clause thereafter approved by the commission clearly and expressly provides that PSC may charge its customers "with increases ... in the *cost of fossil fuels* ... burned in company owned generating stations and *in other generating stations from which the company purchases capacity and energy under agreement to enable it to fulfill its power requirements.*"

To be sure, this is not the only form of fuel clause. Such clauses vary from state to state. Some are more complex than others and in relation to other clauses the PSC clause is relatively simple to administer (Touche Ross and Co. audit report, NHPUC Informal Docket No. I-E14,394).

While the present fuel clause used by

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PSC may be subject to criticism, it is, to quote a recent Federal Power Commission opinion, "in our judgment ... a practicable vehicle for preserving the economic integrity of utilities for the ultimate benefit of their customers and consequently, we believe that their benefits outweigh their faults." See *Re New England Power Co.* (1972) 48 FPC 899, 97 PUR3d 41, Opinion No. 633.

Hartford Electric Light Company Middletown Unit No. 4 is a generating station from which PSC purchases capacity and energy under agreement. Hartford Electric Light Company burned fossil fuel to keep Middletown No. 4 in a state of readiness to provide capacity for PSC when needed to enable PSC to fulfill its power requirements. The situation described here is precisely the type of situation contemplated by the language of the fuel clause, i.e., "*cost of fossil fuels ... other generating stations from which the company purchases capacity and energy under agreements to enable it to fulfill its power requirements.*" The clause clearly and expressly allows recovery of the station energy charge. This recovery is, we think, an "appropriate allowance for current costs" of PSC.

Generating facilities are placed in readiness for generation of electricity based upon demand projections at periodic intervals during each day. However, if the demand does not materialize the plant will not be called on to generate electricity. The costs incurred to keep capacity available are costs which are properly identifiable as energy costs. Energy is needed to supply a station's basic electric needs. Energy is burned in that station's boilers to keep it ready for generation. The costs for energy associated with this readiness are energy costs. These energy costs are called station service charges. Since the station energy charge is an energy cost burned at "other generating stations from which the company purchases capacity and energy" it is recoverable through the mechanism of the fuel adjustment clause.

Based upon all of the evidence in the record of this proceeding the commission finds that the proposed fuel adjustment charge for the month of June is just and reasonable, in accordance with pertinent tariff provisions and all other applicable provisions of law. Our order will issue accordingly.

## Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that 31st Revised Pages 15 and 16 of Public Service Company of New Hampshire tariff, NHPUC No. 20 — Electricity, providing for the monthly fuel surcharge of \$1.16 per hundred kilowatt-hours for the month of June, 1977, be, and hereby are, permitted to become effective June 1, 1977; and it is

Further ordered that 27th Revised Page 15A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of \$1.12 per hundred kilowatt-hours for the month of June, 1977, be, and hereby is, permitted to become effective June 1, 1977; and it is

Further ordered, that 23rd Revised Page 16 of Exeter and Hampton Electric Company tariff, NHPUC No. 11 — Electricity, providing for the monthly fuel surcharge of \$1.09 per hundred kilowatt-hours for the month of June, 1977, be, and hereby is, permitted to become effective June 1, 1977; and it is

Further ordered, that Second Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 —

**Page 158**

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Electricity, providing for the monthly fuel surcharge of a credit of 16 cents per hundred kilowatt-hours for the month of June, 1977, be, and hereby is, permitted to become effective June 1, 1977; and it is

Further ordered, that 37th Revised Page 13 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of 95 cents per hundred kilowatt-hours for the month of June, 1977, be, and hereby is, permitted to become effective June 1, 1977; and it is

Further ordered, that 33rd Revised Page 15A of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of \$1.41 per hundred kilowatt-hours for the month of June, 1977, be, and hereby is, permitted to become effective June 1, 1977; and it is

Further ordered, that 31st Revised Page 9A of the Municipal Electric Department of Wolfboro tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of 89 cents per hundred kilowatt-hours for the month of June, 1977, be, and hereby is, permitted to become effective June 1, 1977; and it is

Further ordered, that 41st Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of 16 cents per hundred kilowatt-hours for the month of June, 1977, be, and hereby is, permitted to become effective June 1, 1977; and it is

Further ordered, that Seventh Revised Page 10B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of a credit of 16 cents per hundred kilowatt-hours for the month of June, 1977, be, and hereby is, permitted to

become effective June 1, 1977.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of May, 1977.

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NH.PUC\*05/31/77\*[77879]\*62 NH PUC 159\*Hudson Water Company

[Go to End of 77879]

## Re Hudson Water Company

I-R14,702, Order No. 12,777

62 NH PUC 159

New Hampshire Public Utilities Commission

May 31, 1977

PETITION of water utility seeking approval of special contract; granted.

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BY THE COMMISSION:

Order

Whereas, Hudson Water Company, a utility selling water under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract Nos. 9, 10, and 11 with Fred Worthen, Gerald Q. Nash, and Ferd Gaukstern, effective May 16, 1977, for service from a main extension on Lowell road, Hudson, New Hampshire from Birch street to Flagstone drive; and

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Whereas, upon investigation and consideration, this commission is of the opinion that special circumstances exist relative thereto, which render the terms and conditions thereof just and consistent with the public interest; it is

Ordered, that said contract may become effective as of the effective date thereof.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of May, 1977.

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NH.PUC\*05/31/77\*[77880]\*62 NH PUC 160\*New England Telephone and Telegraph Company

[Go to End of 77880]

## Re New England Telephone and Telegraph Company

I-R14,703, Order No. 12,778

62 NH PUC 160

New Hampshire Public Utilities Commission

May 31, 1977

PETITION of telephone company seeking approval of special contract; granted.

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BY THE COMMISSION:

Order

Whereas, New England Telephone and Telegraph Company, a utility under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 001 with Digital Equipment Corporation, effective May 31, 1977, for service at rates other than those fixed by its schedule of general application; and

Whereas, upon investigation and consideration, this commission is of the opinion that special circumstances exist relative thereto which render the terms and conditions thereof just and consistent with the public interest; it is

Ordered, that said contract may become effective as of the effective date thereof.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of May, 1977.

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NH.PUC\*06/07/77\*[77881]\*62 NH PUC 160\*New England Telephone and Telegraph Company

[Go to End of 77881]

## Re New England Telephone and Telegraph Company

DE 77-45, Order No. 12,781

62 NH PUC 160

New Hampshire Public Utilities Commission

June 7, 1977

PETITION of a telephone company for a license to place and maintain an aerial plant over a lake; granted.

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**Page** 160

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TELEPHONE, § 2 — In general — Construction and equipment — Licensing.

[N.H.] The commission granted a license to a telephone company to place and maintain

aerial plants over a lake where the construction was necessary to provide additional telephone circuits to meet the requirements of the public and where no interested parties recorded any objection to the proposed construction; it found that the exercise of the license would not substantially affect public rights or the waters crossed.

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BY THE COMMISSION:

Order

Whereas, by petition filed March 31, 1977, New England Telephone and Telegraph Company seeks a license pursuant to RSA 371:17-20 to place and maintain an aerial plant crossing Bow lake in the town of Strafford, New Hampshire; and

Whereas, the proposed construction consists of four crossings, beginning at the property of Dr. Steinmuller on the mainland to the property of McVane on Morse Island, thence to the property of Parker on Parker Island, thence to the property of Brown on Beech Island, and the fourth crossing beginning at the property of McVane on Morse Island to the property of Noga on Pine Island; and

Whereas, following due notice no other interested parties recorded any objections to the proposed construction and upon investigation of all the facts before the commission, it is found that the proposed construction is necessary to meet the reasonable requirements of the public, and that the license sought may be issued and exercised by the petitioner without substantially affecting the public rights and the waters crossed; it is

Ordered, that a license be, and hereby is, granted to New England Telephone and Telegraph Company to place and maintain an aerial plant crossing Bow lake in the town of Strafford, New Hampshire, all in accordance with the above description which is contained on a plan on file at the office of the commission.

By order of the Public Utilities Commission of New Hampshire this seventh day of June, 1977.

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NH.PUC\*06/09/77\*[77882]\*62 NH PUC 161\*Littleton Water and Light Department

[Go to End of 77882]

**Re Littleton Water and Light Department**

I-R14,693, Supplemental Order No. 12,782

62 NH PUC 161

New Hampshire Public Utilities Commission

June 9, 1977

PETITION of municipal water and light department seeking rate increase; granted.

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BY THE COMMISSION:

Supplemental Order

Whereas, Littleton Water and Light Department, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on April 22, 1977, filed with this commission certain revisions to Municipal Electric Department of Littleton, New Hampshire tariff, NHPUC No. 1 — Electricity, providing for a 10 per cent increase in rates, effective May 23, 1977; and

Whereas, Order No. 12,758 of this commission, dated May 17, 1977, suspended this filing pending investigation and decision; and

Whereas, it now appears that such increase is proper and the rights and interests of the public duly protected; it is

Ordered, that this suspension be, and hereby is, lifted; and that Second Revised Pages 7 and 8 and Third Revised Pages 9, 10, 13, and 15 of Municipal Electric Department of Littleton, New Hampshire tariff, NHPUC No. 1 — Electricity, may become effective as of the date of this order.

By order of the Public Utilities Commission of New Hampshire this ninth day of June, 1977.

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NH.PUC\*06/09/77\*[77883]\*62 NH PUC 162\*Granite State Telephone/Chester Telephone Company

[Go to End of 77883]

## Re Granite State Telephone/Chester Telephone Company

DE 77-86, Order No. 12,783

62 NH PUC 162

New Hampshire Public Utilities Commission

June 9, 1977

PETITION of telephone company seeking elimination of two- and four-party line service; suspended pending commission investigation.

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BY THE COMMISSION:

Order

Whereas, Granite State Telephone/Chester Telephone Company, a public utility engaged in the business of supplying telephone service in the state of New Hampshire, on May 10, 1977, filed with this commission certain revisions of its tariff, NHPUC No. 6 — Telephone, providing for the elimination of two- and four-party line service in the Chester exchange, effective June 11, 1977; and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date thereof be suspended pending investigation

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and decision thereon; it is

Ordered, that Section 2, Third Revised Sheet 1A of tariff, NHPUC No. 6 — Telephone, Granite State/Chester Telephone Company be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this ninth day of June, 1977.

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NH.PUC\*06/09/77\*[77884]\*62 NH PUC 163\*Manchester Gas Company

[Go to End of 77884]

### Re Manchester Gas Company

DF 77-85, Order No. 12,784

62 NH PUC 163

New Hampshire Public Utilities Commission

June 9, 1977

PETITION for authority to issue a stock dividend; granted.

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SECURITY ISSUES, § 101 — Stock dividends — Gas company.

[N.H.] The commission approved a stock dividend, at the rate of three additional shares for each 100 presently held, where it found that the payment of the dividend was consistent with the public good and in conformity with the state law.

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BY THE COMMISSION:

Order

Whereas, Manchester Gas Company (the "company"), a New Hampshire corporation doing business as a gas public utility under the jurisdiction of this commission, by petition filed June 3, 1977, represents that as of March 31, 1977, the common stockholders' equity in the company was a follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

400,000 shares \$5 par value  
authorized \$1,111,235  
222,247 shares 55 par value

issued	
Capital Surplus	361,000
Retained Earnings	1,577,483
	<hr/>
	\$3,049,718

and

Whereas, the company proposes to issue no more than 6,667 shares, representing 3 per cent of the shares presently authorized and outstanding, to present stockholders at a rate of three additional shares for each 100 shares presently held; and

Whereas, the company asserts that it will be able to pay dividends at the current annual rate of 70 cents per share on both the presently outstanding stock and on the new shares to be issued, resulting in a dividend increase to present stockholders of 3 per cent; and

Whereas, the company alleges that the stockholders entitled to fractional shares will be paid in cash on the basis of a value of \$8 per share, the quoted bid price as of the declaration date, March 31, 1977; and

Whereas, the company proposes that the record date for payment of this stock dividend will be the later of June 16, 1977, or ten days subsequent to the date of public utilities commission approval, and the company further proposes that the payment date be fourteen days thereafter; and

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Whereas, in support of its petition, the company has appended to its petition certain financial statements, consisting of a balance sheet and income statement showing adjustments for financing, both of which are dated as of March 31, 1977, and the company further filed as an exhibit a copy of the corporate vote, authorizing said 3 per cent stock dividend which vote was adopted at a meeting of the directors of the Manchester Gas Company held on March 31, 1977; and

Whereas, the commission is satisfied, after having reviewed the allegations of the petition and the appended exhibits, that a public hearing on this petition is not necessary, and that payment of this common stock dividend will be consistent with the public good, and in conformity with the provisions of RSA 369:1; it is

Ordered, that the Manchester Gas Company be, and hereby is, authorized to declare and issue a stock dividend of three shares of \$5 par value common stock for each 100 shares presently outstanding; and it is

Further ordered, that Manchester Gas Company be, and hereby is, authorized to pay in cash, to the stockholders entitled to fractional shares, an amount based upon a value of \$8 per common share; and it is

Further ordered, that within thirty days after the date of payment of this stock dividend, said Manchester Gas Company shall file with this commission, a financial statement, duly sworn to by its treasurer, indicating appropriate entries on the company's balance sheet.

By order of the Public Utilities Commission of New Hampshire this ninth day of June, 1977.

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NH.PUC\*06/10/77\*[77885]\*62 NH PUC 164\*Golden Brook Water System, Inc.

[Go to End of 77885]

## Re Golden Brook Water System, Inc.

DE 77-38, Order No. 12,786

62 NH PUC 164

New Hampshire Public Utilities Commission

June 10, 1977

PETITION by a water company for a certificate of public convenience and necessity; granted.

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CERTIFICATES, § 125 — Water company — Franchise area.

[N.H.] The commission granted a certificate of public convenience and necessity to a water company where it found that it was in the public interest to grant a franchise area to the company.

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APPEARANCES: James A. Sayer, Jr., for the petitioner; Margaret Case, pro se; and Kenneth Ochsner, pro se.

BY THE COMMISSION:

Report

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By petition filed March 25, 1975, Golden Brook Water System, Inc., of Windham, New Hampshire, seeks the authority to operate as a public utility engaged in the sale, transmission, and distribution of water in a limited area in the town of Windham, New Hampshire. The company by its petition seeks to be granted a franchise area and to have a certain water rate authorized for its operations. A duly noticed hearing was held at the office of the commission on May 4, 1977.

This report will address the issue of the franchise but will not resolve the issue of water rates. Rate matters will be subject to a subsequent report and order of this commission.

The water company has been operating and has petitioned the commission pursuant to RSA 362:4 under which the legislature has indicated that any private water system with more than ten customers must file and become a public utility. It appears from the record in these proceedings and associated filings by the company that it is in the public interest to grant a franchise area to the petitioner. The franchise area of the Golden Brook Water System, Inc., is described in our

order attached to this report. Our order will issue accordingly.

#### Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the Golden Brook Water System, Inc., be, and hereby is, authorized to operate as a public water utility pursuant to RSA 362:4 in a limited area of the town of Windham, New Hampshire, as more particularly bounded and described in Appendix A which is attached hereto and made a part hereof.

By order of the Public Utilities Commission of New Hampshire this tenth day of June, 1977.

#### Appendix A

Beginning at the intersection of Simpson road with Rock Pond road in the town of Windham, county of Rockingham, state of New Hampshire, at a stake on the northerly side of Rock Pond road and the southeast corner of the arc of the intersection of said two roads, and a point on the southerly boundary of Lot 25-D-6;

Thence crossing the intersection of Rock Pond road and Simpson road to the southwest corner of the arc on the southerly boundary of Lot 26 a distance of 100 feet more or less;

Thence continuing along the northerly side of Rock Pond road a distance of 333.64 feet to the southwest corner of Lot No. 27;

Thence turning and running north 13 degrees 42 minutes west a distance of 183 feet along the boundary between Lot No. 27 and Lot No. 28 to a stake;

Thence turning and running north 76 degrees 18 minutes west along the boundary between Lot No. 28 and Lot No. 29 a distance of 166 feet to a stake on the easterly side of Sharon road.

Thence continuing across Sharon road a distance of 50 feet to the southeast corner of Lot No. 53;

Thence continuing north 76 degrees 18 minutes east a distance of 323.99 feet to a stake;

Thence turning and running north 56 degrees 51 minutes east a distance of 42 feet to a ditch and land now or formerly of Lagasse;

Thence running by various northerly

#### Page 165

courses along said ditch a distance of 1,627 feet to the intersection of said ditch with a brook, and the northwesterly corner of Lot No. 46A;

Thence turning and running easterly along the brook a distance of 230 feet to a stake;

Thence turning and running southeasterly along the boundary between Lot No. 46A and land of Vernon Carpenter a distance of 380 feet to a stake;

Thence turning and running 47 feet along a stone and wire fence to a stake on the easterly boundary of Lot No. 45;

Thence turning and running along a stone wall bed southeasterly south 75 degrees 08

minutes east a distance of 289.95 feet to a stake;

Thence continuing along said stone wall bed south 75 degrees 08 minutes east a distance of 333.45 feet to a stake at the southeast corner of Lot No. 41 and the arc of a turnaround.

Thence continuing southeasterly a distance of 320.90 feet to an iron pipe at the southeast corner of Lot No. 25-D-14, and being the northerly point of Lot No. 25-D-15;

Thence continuing south 74 degrees 23 minutes 30 seconds east a distance of 107 feet to a corner and a stone wall and land now or formerly of Edward Sullivan;

Thence continuing along said stone wall south 15 degrees 04 minutes 30 seconds east a distance of 92.24 feet to a stake;

Thence continuing south 14 degrees 34 minutes 10 seconds east a distance of 111.07 feet to an iron pipe at the intersection of two stone wall beds, being the northwest corner of Lot No. 25-D-29;

Thence turning said corner and running north 71 degrees 21 minutes 47 seconds east a distance of 145.75 feet to a stake;

Thence continuing north 66 degrees 18 minutes 5 seconds east a distance of 88.64 feet;

Thence continuing across the reserve 50-foot strip a distance of 50 feet to the northwest corner of Lot No. 25-D-31;

Thence continuing north 66 degrees 18 minutes 05 seconds east a distance of 66.19 feet;

Thence continuing north 78 degrees 43 minutes 20 seconds east a distance of 172 feet;

Thence continuing north 78 degrees 43 minutes 20 seconds east a distance of 128 feet to a stone wall corner;

Thence turning and running south 65 degrees 45 minutes 12 seconds east a distance of 156.30 feet to a stone bound;

Thence crossing a reserve strip for a road a distance of 50 feet;

Thence turning and running a distance of 130 feet more or less to a stone bound and the northeast corner of Lot No. 25-D-34;

Thence turning and running south 19 degrees 10 minutes 00 seconds west a distance of 100 feet;

Thence turning and running south 02 degrees 03 minutes 25 seconds west a distance of 140.65 feet to an iron pipe;

Thence turning and running south 84 degrees 15 minutes west a distance of 69.72 feet to an iron pipe;

Thence turning and running south 04 degrees 53 minutes 47 seconds east a distance of 127.99 feet to a stake on the northerly side of Jordan road;

Thence turning and running along the northerly side of Jordan road south 84 degrees 45 minutes west a distance of 82.72 feet;

Thence north 04 degrees 40 minutes 15 seconds west a distance of 99.47 feet to a stake;

Thence turning and running south 87 degrees 04 minutes 00 seconds west a distance of 82.50 feet to an iron pin;

Thence continuing north 86 degrees 44 minutes 00 seconds west a distance of 99.03 feet to an iron pin;

Thence turning and running south 05 degrees 07 minutes east a distance of 100 feet to a stake on the northerly side of Jordan road;

Thence turning and running north 85 degrees 09 minutes west a distance of 92.13 feet to a stake;

Thence turning and running south 79 degrees 37 minutes west a distance of 49 feet to an iron pin;

Thence turning and running north 27 degrees 34 minutes 25 seconds west a distance of 149.90 feet to an iron pin;

Thence turning and running south 79 degrees 36 minutes 00 seconds west a distance of 150.11 feet to an iron pin;

Thence continuing in the same direction 4.29 feet;

Thence turning and running 50 feet westerly across a reserve strip to an iron pin at the southeast corner of Lot No. 25-D-28;

Thence continuing south 60 degrees 03 minutes 48 seconds west a distance of 242.24 feet to an iron pin;

Thence turning and running southerly a distance of 110 feet to a stone bound at the southeast corner of Lot No. 25-D-27;

Thence south 78 degrees 03 minutes west a distance of 520.12 feet to a stone bound;

Thence turning and running south 13 degrees 34 minutes 30 seconds east a distance of 325.33 feet to the northerly side of Rock Pond road;

Thence westerly along the northerly side of Rock Pond road by various courses a distance of 1,034.20 feet and the point of beginning.

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NH.PUC\*06/13/77\*[77886]\*62 NH PUC 167\*Hudson Water Company

[Go to End of 77886]

## Re Hudson Water Company

I-R14,640, Supplemental Order No. 12,787

62 NH PUC 167

New Hampshire Public Utilities Commission

June 13, 1977

PETITION of water utility seeking approval of special contract; granted.

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BY THE COMMISSION:

Supplemental Order

Whereas, Hudson Water Company, a utility selling water under the jurisdiction of this commission, has filed with this commission a first supplement to its Special Contract No. 7, to include HUDCO Development Corporation as a participant, effective June 6, 1977, for water service at rates other than those fixed by its schedule of general application; and

Whereas, Hudson Water Company Special Contract No. 7 has been approved by this commission's Order No. 12,647 dated March 21, 1977; and

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Whereas, upon investigation and consideration, this commission is of the opinion that special circumstances exist relative to the first supplement to the contract which render the terms and conditions thereof just and consistent with the public interest; it is

Ordered, that said first supplement to Special Contract No. 7 may become effective as of the effective date thereof.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of June, 1977.

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NH.PUC\*06/13/77\*[77887]\*62 NH PUC 168\*Fryeburg Water Company

[Go to End of 77887]

**Re Fryeburg Water Company**

DR 76-162, Order No. 12,788

62 NH PUC 168

New Hampshire Public Utilities Commission

June 13, 1977

PETITION of water utility seeking rate increase; granted.

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BY THE COMMISSION:

Order

Whereas, Fryeburg Water Company, a public utility engaged in the business of supplying

water service in the state of New Hampshire, on November 1, 1976, filed with this commission certain revisions to its tariff, NHPUC No. 7 — Water, providing for an increase in rates to become effective December 1, 1976; and

Whereas, said filing was suspended by this commission's Order No. 12,502 dated November 29, 1976; and

Whereas, said filing has now been duly heard, considered, and investigated by the Maine Public Utilities Commission, under whose jurisdiction the majority of the company's customers reside; and

Whereas, this commission is satisfied that in the deliberations of the Maine Public Utilities Commission the interests of the New Hampshire customers were given the same consideration as those of the Maine customers; and

Whereas, in preceding cases involving Fryeburg Water Company this commission has relied on and accepted the decision of the Maine Public Utilities Commission in matters regarding the customers served in New Hampshire; it is

Ordered, that Sheet 2, Third Revision, Sheet 3, First Revision, and Sheet 4, First Revision, of Fryeburg Water Company tariff NHPUC No. 7 are hereby rejected; and it is

Further ordered, that Fryeburg Water Company file new tariff sheets to reflect such increase as authorized by Maine Public Utilities Commission in F. C. No. 2330 dated May 26, 1977, and to be designated NHPUC No. 7:

Sheet 2, Fourth Revision, In Lieu of Third Revision Sheet 3, Second Revision, In Lieu of First Revision

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Sheet 4, Second Revision, In Lieu of First Revision

These revised pages shall bear the effective date as authorized by the Maine Public Utilities Commission; and it is

Further ordered, that public notice of these revisions shall be given by individual notice to each customer.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of June, 1977.

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NH.PUC\*06/14/77\*[77888]\*62 NH PUC 169\*Gas Service, Inc.

[Go to End of 77888]

**Re Gas Service, Inc.**

DR 77-87, Order No. 12,796

62 NH PUC 169

New Hampshire Public Utilities Commission

June 14, 1977

PETITION of gas utility seeking rate increase; suspended pending commission investigation.

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BY THE COMMISSION:

Order

Whereas, Gas Service, Inc., a public utility engaged in the business of sup-plying gas service in the state of New Hampshire, on June 9, 1977, filed with this commission certain revisions of its tariff, NHPUC No. 5 — Gas, providing for increased rates designed to increase annual revenues in the amount of \$694,182 or 9.2 per cent, filed for effect July 9, 1977; and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date thereof be suspended pending investigation and decision thereon; it is

Ordered, that Section 2, Sixth Revised Pages 4-7 and Seventh Revised Page 8 (Nashua Division), Section 3, Third Revised Pages 5-7 (Keene Division), and Section 4, Fifth Revised Pages 4-7 (Laconia Division) of tariff, NHPUC No. 5 — Gas, of Gas Service, Inc., be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of June, 1977.

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NH.PUC\*06/16/77\*[77889]\*62 NH PUC 170\*Public Service Company of New Hampshire v Robert Buelte et al.

[Go to End of 77889]

**Public Service Company of New Hampshire v Robert Buelte et al.**

DE 76-154, Order No. 12,802

62 NH PUC 170

New Hampshire Public Utilities Commission

June 16, 1977

PETITION of an electric company for condemnation of property in order to construct and maintain transmission lines; granted.

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1. EMINENT DOMAIN, § 5 — Right to appropriate property — Necessity as a factor.

[N.H.] The commission granted an electric company an easement where it had determined the necessity for the taking in a previous order. p. 170.

2. EMINENT DOMAIN, § 8 — Compensation — Valuation.

[N.H.] Where the parties disagreed on the amount of compensation for property taken by eminent domain, the commission made a decision on the basis of the evidence in the record and an on-site inspection. p. 171.

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APPEARANCES: Irving H. Soden and Frederick J. Coolbroth for Public Service Company of New Hampshire; Bruce R. Larson for Robert and Jill Buelte.

BY THE COMMISSION:

Report

By petition for condemnation filed October 18, 1976, the Public Service Company of New Hampshire (hereinafter "PSC"), a New Hampshire corporation and a public utility engaged in the generation, distribution, and sale of electrical energy in said state seeks authority from the commission, pursuant to RSA 371 to take certain rights and easements in land located in Chester, New Hampshire, and owned by Robert C. and Jill F. Buelte, Public Service Company of New Hampshire requests the commission to determine the necessity for the taking, the price to be paid for the taking, and the division of said award between the present owners and their existing mortgagee.

[1] The issue of necessity has already been determined. The commission takes judicial or administrative notice of its Order No. 11,267 dated January 29, 1974, Order No. 11,307 dated February 20, 1974, and Order No. 12,215 dated April 20, 1976, all in connection with the determination of necessity for the transmission line from the proposed Seabrook power plant to the PSC substation at Londonderry and which crosses the Buelte property.

The entire length of the line is approximately 28 miles and PSC presently owns a right of way 225 feet in width across the subject premises. These proceedings involve a proposed taking in order to widen the right of way an additional 95 feet southerly to and adjacent to the existing right of way. The additional width is proposed to accommodate new structures for the increased voltage of the new transmission line. The proposed widening of the existing right of way over a distance of approximately 2,705 feet amounts to a taking of a shade over six acres.

The Buelte property comprises 100

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acres, more or less, with no buildings. The southerly boundary of the property is an old road which is the only access to the property. This access allows the Bueltes the capacity of subdividing, although at the time of the hearing no plans have been submitted or approved for any subdivision. Buelte has a single building permit for his own home somewhere on the property.

Buelte purchased the land in 1975 for \$35,000 or \$350 per acre. Buelte suggests through expert witness Taylor (Transcript, p. 43) that PSC should pay \$9,000 for the six-acre taking, or an average of \$1,500 per acre. The commission finds insufficient evidence in the record to support a claim of \$1,500 per acre, an appreciation of \$1,150 per acre in two years.

Witness Taylor testified that not all the acreage within the 100 acre tract should be valued the same, and the commission agrees. It is reasonable to conclude that the land in this tract located along the access road which may be subdivided is more valuable than the backland where the power line is located. Testimony of the Buelte expert (Taylor) and the PSC expert (Lane) corroborates the finding that the six acres proposed to be taken is rocky, hilly, rugged terrain (Taylor, Transcript p. 46 and Lane, Transcript p. 29). These six acres are substantially back from the access road and the property which Buelte someday proposes to subdivide for building lots.

As a basis for his \$9,000 total demand, Taylor presented results of other sales of property in the general vicinity of the Buelte land (see respondents Exhs A and B). Although these sales indicate a per acre value of \$2,400 to \$3,000 they are smaller road frontage building parcels. They also "are not comparable" according to witness Taylor (Transcript p. 50). These sales were used because they were "in the same relative area" of the Buelte land (see Taylor, Transcript p. 50).

Public Service Company witness Lane presented his appraisal report (Exh 6) listing what he termed comparable sales in the area. These comparative sales indicate property with similar characteristics to the Buelte property and indicate values from \$250 per acre to \$937 per acre (Exh 6, p.11). Based upon the Lane appraisal report he gave his opinion that the highest and best use of the land is woodland. (Exh 6, pp. 5 and 6).

As a result of his study Public Service Company witness Lane appraises the land before taking at \$40,000 and after the taking at \$36,600 which includes the elements of severance damage and recognition of standing timber value of \$500 and cord wood of \$225. The damages, therefore, proposed by Public Service Company are \$3,400.

[2] The commission took a view of the premises on May 18, 1977. This examination of the premises corroborated the evidence that the property proposed to be taken is rocky, hilly, rugged, woodland terrain. The property proposed for subdivision along the access road is protected from the intrusion. Of the right of way by intervening woodland. On the basis of the evidence in the record and an on-site inspection the commission finds that six-acre taking is valued at \$3,000 or an average per acre price of \$500. The commission adopts the timber value figures of witness Lane (\$500 for sawable timber and \$225 of cord wood) for an additional value of \$725. Total damages for the entire proposed taking are, therefore, \$3,725.

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Counsel for Buelte and Public Service Company appear to agree that 6 per cent of the damages award should be apportioned to the mortgagees William F. Copper and Virginia K. Copper of Mattawan, New Jersey (T. p. 70, 71) and the commission concurs.

The petition prays that the right and easement include: (a) the right to clear and keep clear the strip of all trees and underbrush by such means as the petitioner may select, and to remove all structures or obstructions which are now or may hereafter be found within the limits of the above described strip; (b) the right to remove from said premises and other premises of the said Bueltes in the vicinity thereof such trees or parts of trees as in the judgement of the petitioner may interfere with or endanger said lines or their maintenance or operation; (c) the right to restrain or prohibit any change in the existing grade or level of said strip by excavation or filling; and (d)

the right to install, maintain, and replace anchors and guy wires on the land adjacent to and lying outside of the above described strip as needed to strengthen or support the petitioner's line or lines at angle points, the right to do the necessary cutting and trimming of trees and brush and to remove all structures or obstructions that interfere with said guys and anchors, and to restrict any excavation that interferes with said guys or anchors. The commission order will permit Public Service Company the rights requested in a, b, and c but will not permit the right requested in d. That section actually seeks to establish another easement outside of the right of way described in the petition. There is no evidence in the record regarding the need for or location of anchors or guys, nor does the petition describe the portions of the Buelte land which may be affected if anchors and guys were needed. We think that the use of any other parts of the Buelte land should be subject to further negotiation between the parties and subject to a future request to this commission for an easement for the right to install, maintain, and replace anchors and guy wires. Our order will issue accordingly.

#### Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Public Service Company of New Hampshire be, and hereby is, authorized to acquire a perpetual right and easement over a strip of land 95 feet in width lying 10 feet northerly and 85 southerly of a line described as follows:

"Beginning at a point in a stone wall at Robert C. Buelte's and Jill F. Buelte's northwesterly boundary at land of the Public Service Company of New Hampshire, said point being located northeasterly 526 feet more or less along said stone wall from said Buelte's most westerly corner at the northeasterly side of Hazelton Mill road, so-called; thence running north 70 degrees — 55 minutes — 33 seconds east. 2,719.22 feet to said Buelte's easterly boundary at land of Albert Warren. (The bearings in this description are based on the New Hampshire Grid System.)" and, all as more particularly described on plans in the record of these proceedings; and it is

Ordered, that Public Service Company of New Hampshire shall pay total damages of \$3,725 for certain rights and easements in land owned by Robert C. Buelte and Jill F. Buelte of Chester, New Hampshire as described in a deed dated April 30, 1975, and recorded in the Rockingham county Registry of

#### Page 172

Deeds, Volume 2236 p. 1892; and it is

Further ordered, that 6 per cent of the total damages should be apportioned and paid to the mortgagees of said land, William F. Copper and Virginia K. Copper of Mattawan, New Jersey; and it is

Further ordered, that the right and easement of Public Service Company shall include: (a) the right to clear and keep clear the strip of all trees and underbrush by such means as the petitioner may select, and to remove all structure or obstructions which are now or may hereafter be found within the limits of the above described strip; (b) the right to remove from said premises and other premises of the said Bueltes in the vicinity thereof such trees or parts of trees as in the judgement of the petitioner may interfere with or endanger said lines or their maintenance or

operation; and (c) the right to restrain or prohibit any change in the existing grade or level of said strip by excavation or filling.

By order of the Public Utilities Commission of New Hampshire this sixteenth day of June, 1977.

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NH.PUC\*06/17/77\*[77890]\*62 NH PUC 173\*Public Service Company of New Hampshire

[Go to End of 77890]

## Re Public Service Company of New Hampshire

DR 77-49, Order No. 12,803

62 NH PUC 173

New Hampshire Public Utilities Commission

June 17, 1977

ORDER by commission establishing procedural guidelines in electric company's rate case.

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PROCEDURE, § 2 — Power of commission to govern procedure — Administrative proceedings.

[N.H.] The commission held that it could individualize the hearing procedure to adequately accommodate and satisfactorily protect the interests, rights, and responsibilities of all parties, including the commission, and its discretion in these matters allowed it wide opportunities in the way of permitting effective participation in administrative proceedings; in a rate proceeding in which the orderly and systematic presentation of evidence and argument was critical to the evaluation of interests of all parties involved, the commission required that intervenors appoint lead counsel to represent their collective interests.

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APPEARANCES: Martin L. Gross and Philip Ayers for the petitioner; Steven W. Ruback and Michael Love for the Legislative Utility Consumers' Council; Steve Gannon for Rochester Area Concerned Citizens; Robert R. Cushing for Stockholders for Corporate Responsibility; Jay Adams for Cheshire County Citizens Against Nuclear Power; Paula J. Kolapakka for Monadnock Alternative Energy Coalition; and Jefferson Brummer for Granite State Alliance.

BY THE COMMISSION:

Report

By the petition filed April 27, 1977, Public Service Company of New

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Hampshire (PSC), a New Hampshire corporation engaged in the generation, transmission, distribution, and sale of electricity seeks the authority of the New Hampshire Public Utilities Commission (commission) to increase the rates for all retail service to provide an annual increase in revenues of \$27,017,520.

On May 2, 1977, the commission issued Order No. 12,732 (62 NH PSC xxx) pursuant to RSA 378:6 suspending the proposed effective date of said increase pending full investigation and decision thereon. A duly noticed hearing was held at the office of the commission on June 1, 1977, for the express purpose of delineating the procedure applicable throughout these rate proceedings. The several issues raised at that hearing are decided here.

#### *Intervention*

The commission rules of practice and procedure, enacted pursuant to the provisions of RSA 541-A, provide for the intervention of interested parties (see Rules A(6)(f), A(6)(d) and C(2) issued under Order No. 11,428 dated May 21, 1974). The intervention provided for in these rules is permissive, not mandatory, and intervention is granted or denied at the discretion of the commission. Procedural rules regarding intervention and the application of agency discretion are commonly employed before administrative agencies. *Meeker v Lehigh Valley R. Co.* 236 US 434, PUR1915D 1072, 59 L Ed 644, 35 S Ct 337; and *Sunshine Broadcasting Co. v Fly* (DC DC 1940) 35 PUR NS 520, 33 F Supp 560.

Our rules of practice and procedure could not anticipate every type of situation that could arise at a hearing. No set of rules can anticipate all of the various differences and difficulties that any given case will present. Thus, the rules of practice and procedure contain the requisite discretionary power for the commission to form the procedure for a hearing which will afford due process to all and which will expedite the disposition of the proceeding. It is desirable for our rules to contain discretionary provisions. This allows the commission to individualize the hearing procedure to adequately accommodate and satisfactorily protect the interests, rights, and responsibilities of all parties, including the commission. Our discretion in these matters allows us wide opportunities in the way of permitting effective participation in administrative proceedings.

Formal and full intervention is not without difficulty in rate case proceedings such as we have before us. Prolonged hearings, undue enlargement of the record, and introduction of extraneous issues are some of the difficulties that can and have been encountered in cases where there are numerous pro se interventions.

The commission recognizes the interests of consumers as evidenced by its decision to hold evening informational hearings throughout the state. While we recognize these interests and wish to have the benefits of the consumers' viewpoint we also are motivated to resolve this case before us as expeditiously as possible. We are mindful of the December 1, 1977 bonding date after which PSC can implement its full rate increase prior to a decision by the PUC (RSA 378:6). We wish to avoid this result for we do not believe this is in the best interests of the consumers even though PSC would file a bond to protect consumers and even though there are provisions for crediting consumers with any overcollections. We are equally

mindful of the necessity for sufficient time for the staff, the consumer advocate, PSC, and any experts to read, study, analyze, and react to the inevitable volumes of testimony which will be filed.

In an effort to carry out our statutory responsibility while accommodating the interest of the parties before us we seek a solution for the intervention of Granite State Alliance, Rochester Area Concerned Citizens, Stockholders for Corporate Responsibility, Cheshire County Against Nuclear Power and Monadnock Alternative Energy Coalition.

Participation as a full intervenor presupposes some familiarity with the proceedings of the commission, the presentation of evidence, the cross-examination of witnesses, the filing of exhibits, the preservation of exceptions, the knowledge of when objections or responses to objections are proper, and understanding of the express, implied, and inherent powers of the commission, an understanding of the manner and method for rehearing and appeal, and an understanding of the principles of administrative law.

The proposed intervenors before us are uninitiated in proceedings before the commission. They are untrained in the law and have demonstrated no other capability to deal with the complexities of the proceedings before us. The intervenors before us, however, have demonstrated a sufficient right and interest in the proceedings so that their participation and the presentation of their arguments and concerns is indeed relevant. There is a way, we feel, to allow full intervention of these parties.

Revised Statute Annotated 363-C, created the Legislative Utility Consumers' Council as the state consumer representative. The consumer advocate, employed by LUCC, is an attorney trained in the law, initiated in the proceedings of the commission, familiar with the principles of administrative law, educated as to the complexities of a rate case and the rights, obligations, and remedies of an intervenor at every stage of the proceedings. The rights and interests of the intervenors will be better served, protected, and advocated through the guidance, direction, and representation of an attorney such as the consumer advocate. We do not presuppose, however, that all the intervenors will choose to be represented by the consumer advocate. Some may choose to retain other counsel.

At the procedural hearing these intervenors exhibited mutual concurrence and support of each others' positions. The interests presented by these intervenors are essentially similar and the commission will require that intervenors appoint lead counsel to represent their collective interest. *Re Volunteers Organized in Community Education (1977) 62 NH PUC 35.*

The nature of the rate proceeding before us is essentially complex, involving not only issues of law and legal procedure but also methods of accounting and principles of finance, economics, and engineering. It is a proceeding in which the commission may engage experts to assist it in these complex determinations. It is a proceeding in which the orderly and systematic presentation of evidence and argument is critical to the evaluation of the interests of all parties involved. This is an additional reason to commend these responsibilities to trained persons to represent the various interests before us.

Our administrative rules of practice

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and procedure give us discretion in the acceptance of parties for full intervention. Our discretion in this matter leads us to conclude that Granite State Alliance, Rochester Area Concerned Citizens, Stockholders for Corporate Responsibility, Cheshire County Citizens Against Nuclear Power and Monadnock Alternative Energy Coalition shall be permitted full intervention only if represented by counsel, and only if they appoint lead counsel to represent their collective interests.

Subsequent to the procedural hearing the commission received requests for full intervention from Volunteers Organized in Community Education (VOICE) and Representative Edward F. Smith of Manchester. These late filed requests for full intervention have been considered by the commission and we are of the opinion that VOICE and Representative Smith may have full intervenor status if represented by counsel and if they agree to the appointment of a lead counsel to represent all the interests of the intervenors.

All intervenors with the exception of LUCC shall confirm their plans for intervention with the commission before June 30, 1977, and inform the commission of the identity of lead counsel for the intervenors.

In summary, each intervenor named herein with the exception of the LUCC must participate through lead counsel. The presentation of evidence, cross-examination, and the filing of exhibits in this case will be accomplished by four parties: counsel for PSC, the commission staff, the LUCC, and lead counsel for intervenors if they choose not to use the LUCC.

#### *Testimony, Exhibits, Discovery, Data Requests*

Prepared prefiled testimony and exhibits will be received by the commission from PSC on or before June 30, 1977. Intervenors, we expect, will expeditiously review these filings and exercise diligence in making requests for further data and conducting discovery. We will not now limit the time period for discovery and data requests but at some future point the commission will determine when to terminate its receipt of information and when the record contains sufficient data upon which a decision may be rendered. *Windham Estates Asso. v New Hampshire*, decided May 31, 1977.

Although we do not now set any time limitation on discovery or data requests, the intervenors and staff are required to prefile any direct testimony they may have on or before September 15, 1977. Public Service Company of New Hampshire is then required to file any responses or rebuttal on or before October 3, 1977.

#### *Hearings*

Hearings on the merits of these proceedings shall be held at the offices of the commission and shall commence on October 11, 1977. Other dates reserved by the commission for further hearings on the merits are October 12, 13, 18, 25, 26, and 27, 1977, if they are necessary. Evening informational hearings will also be held at various locations throughout the state at times, dates, and places to be hereafter noticed.

#### *Distribution of Documents*

Any document or correspondence filed by PSC in these proceedings shall be distributed as

follows: five copies for

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the office of the secretary; three copies for the commission finance department; three copies for the commission engineering department; two copies for the LUCC; and seven copies to lead counsel for the intervenors for distribution to the individual named intervenors. Any other party filing documents or correspondence shall follow the same distribution pattern and, in addition, supply PSC with two copies of any such document or correspondence, one at the offices of the company in Manchester, the other at the office of counsel in Concord. This distribution level may be waived by the secretary of the commission for good cause shown as in the case of particularly large volumes of materials.

Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that counsel for PSC, LUCC, staff of the commission and lead counsel for the intervenors, all parties named as appearing parties in this proceeding shall comply with the procedural guidelines set forth in the attached report as well as the other rules and regulations of the commission.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of June, 1977.

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NH.PUC\*06/21/77\*[77891]\*62 NH PUC 177\*Public Service Company of New Hampshire v Antoine Lessard et al.

[Go to End of 77891]

## **Public Service Company of New Hampshire v Antoine Lessard et al.**

D-E2927 et al., Supplemental Order No. 12,808

62 NH PUC 177

New Hampshire Public Utilities Commission

June 21, 1977

PETITIONS of electric company involving the construction and maintenance of transmission lines, the assessment of damages, and appointment of a guardian ad litem; granted.

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BY THE COMMISSION:

Supplemental Order

Whereas, under Order No. 5621 (D-E2927) dated October 11, 1949, Frank E. George of Concord, New Hampshire was appointed guardian ad litem for Antoine Lessard whose whereabouts were unknown, pursuant to the provisions of RL Chap 294, § 4; and

Whereas, under Order No. 5622 (D-E2928) dated October 11, 1949, Frank E. George of Concord, New Hampshire was appointed guardian ad litem for Liola C. Danforth whose whereabouts

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were unknown, pursuant to the provision of RL Chap 294, § 4; and

Whereas, under Order No. 5623 (D-E2929) dated October 11, 1949, Frank E. George of Concord, New Hampshire was appointed guardian ad litem for Elizabeth Eardley as her whereabouts were unknown, pursuant to RL Chap 294, § 4; and

Whereas, under Order No. 6009 (D-E3146) dated November 19, 1951, Frank E. George of Concord, New Hampshire was appointed guardian ad litem to represent the interests of the unknown owners; and

Whereas, Frank E. George of Concord, New Hampshire is now deceased; and

Whereas, it is now necessary to appoint a new guardian ad litem in order to transfer the held funds to the New Hampshire State Treasury pursuant to the provisions of RSA 471-A relative to abandoned property; it is

Ordered, that Dom S. D'Ambruoso of Bow, New Hampshire, and executive secretary of the New Hampshire Public Utilities Commission, be, and hereby is, appointed guardian ad litem for Antoine Lessard (D-E2927, Order No. 5621, October 11, 1949); Liola C. Danforth (D-E2928, Order No. 5622, October 11, 1949); Elizabeth Eardley (D-E2929, Order No. 5623, October 11, 1949) and for the interests of unknown owners (D-E3146, Order No. 6009, November 19, 1951); and it is

Further ordered, that said guardian ad litem, Dom S. D'Ambruoso, be, and hereby is, authorized to transfer the sums in bankbooks of the said parties he represents to the New Hampshire State Treasury pursuant to RSA 471-A relative to abandoned property.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of June, 1977.

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NH.PUC\*06/21/77\*[77892]\*62 NH PUC 178\*Public Service Company of New Hampshire

[Go to End of 77892]

## Re Public Service Company of New Hampshire

I-R14,709, Order No. 12,809

62 NH PUC 178

New Hampshire Public Utilities Commission

June 21, 1977

PETITION of electric company seeking approval of special contract; granted.

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 BY THE COMMISSION:

Order

Whereas, Public Service Company of New Hampshire, a utility selling electricity under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 38 with Anne L. Rieger effective on the date service first made available, for electric service at rates other than those

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fixed by its schedule of general application; and

Whereas, upon investigation and consideration, this commission is of the opinion that special circumstances exist relative thereto, which render the terms and conditions thereof just and consistent with the public interest: it is

Ordered, that said contract may become effective as of the effective date thereof.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of June, 1977.

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 NH.PUC\*06/23/77\*[77893]\*62 NH PUC 179\*Public Service Company of New Hampshire et al.

[Go to End of 77893]

## **Re Public Service Company of New Hampshire et al.**

DR 76-46, 17th Supplemental Order No. 12,811

62 NH PUC 179

New Hampshire Public Utilities Commission

June 23, 1977

PETITION by electric utilities for authority to apply a fuel adjustment charge to monthly billings; granted.

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 1. RATES, § 303 — Fuel adjustment clauses — Electric companies.

[N.H.] The commission authorized electric utilities to recover fuel costs through a fuel adjustment charge applied to regular monthly bills. p. 179.

2. RATES, § 303 — Variable rates based on costs — Inappropriate inclusions.

[N.H.] The commission ordered an electric utility to apply a credit where it found the company had inappropriately included interest on fuel inventory and an exchange rate of currency through the fuel adjustment charge. p. 182.

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APPEARANCES: Martin L. Gross and Philip Ayers for Public Service Company of New Hampshire; Douglas K. MacDonald for Concord Electric Company; Richard F. Gilmore for Exeter and Hampton Electric Company; Richard Schwartz for Connecticut Valley Electric Company, Inc.; Thomas W. Morse for New Hampshire Electric Cooperative, Inc.; Kirk Ramsauer for Granite State Electric Company; Dennis Bean for the Municipal Electric Department of Wolfeboro; Richard Deane for Littleton Water and Light Department; Robert Brown for Woodsville Water and Light Department; and Michael Love for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

[1] Pursuant to RSA 378:3-A(II), the commission, on June 17 and 20, 1977, held hearings on the petitions of nine New Hampshire electric companies for authority to apply a fuel adjustment charge to regular July monthly billings to their customers.

Reference may be made to previous commission decisions in this docket for statements and explanations of the fuel adjustment clause.

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*Littleton Water and Light Department*

Littleton Water and Light Department, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on June 15, 1977, filed with this commission 42nd Revised Page 6 to its tariff, NHPUC No. 1 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect on July 1, 1977. Littleton purchases all of its requirements from the New England Power Company. Littleton reported that the total fuel cost billed by the New England Power Company during the month of May, 1977, was \$15,679.70. During this period the total kilowatt-hours sold by Littleton were 2,443,384. The fuel adjustment charge, therefore, by simple division and rounded is \$0.0064 per kilowatt-hour. The fuel adjustment charge proposed for the month of July, 1977, is 64 cents per hundred kilowatt-hours applied to all bills to be rendered in that month.

*Municipal Electric Department of Wolfeboro*

Municipal Electric Department of Wolfeboro, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on June 6, 1977, tiled with this commission 32nd Revised Page 9A to its tariff, NHPUC No. 4 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect July 1, 1977. Wolfeboro purchases all of its requirements from Public Service Company of New Hampshire. Wolfeboro reported that during the month of May, 1977, the total fuel cost billed by Public Service Company was \$17,854.68 net. During this same period the total kilowatt-hours sold by Wolfeboro were 1,657,063. The fuel adjustment, therefore, by simple division and rounded is \$0.0107 per kilowatt-hour. The fuel adjustment charge proposed for effect in the month of July, 1977, is \$1.07 per hundred kilowatt-hours to apply to all bills rendered in that month.

*New Hampshire Electric Cooperative, Inc.*

New Hampshire Electric Cooperative, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on June 14, 1977, filed with this commission 38th Revised Page 13 to its tariff, NHPUC No. 6 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect on July 1, 1977. The company reported that the total fuel cost billed by its several power suppliers for power during the month of May, 1977, was \$198,236. Total sales by the Co-op during the same month were 19,737,404 kilowatt-hours. By simple division, the fuel adjustment charge proposed for July, 1977, and rounded is \$0.01004 per kilowatt-hour. The fuel adjustment charge to be applied to all bills rendered in the month of July, 1977, is proposed to be \$1 per hundred kilowatt-hours.

*Granite State Electric Company*

Granite State Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on June 10, 1977, filed with this commission 34th Revised Page 15A to its tariff, NHPUC No. 8 — Electricity, comprising the monthly fuel adjustment charge for effect July 1, 1977. Granite State Electric Company purchases all of its requirements from the New England Power Company.

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Granite State reported that the variable portion of the fuel cost billed by New England Power Company was \$147,535.36. Total sales to Granite State customers during the same period were 25,166,867 kilowatt-hours. By simple division this yields \$0.0059 to which is added the fixed fuel portion of \$0.0124 per hundred kilowatt-hours. Thus, the fuel adjustment charge applicable to bills rendered in the month of July, 1977, is proposed to be \$1.83 per hundred kilowatt-hours.

*Woodsville Water and Light Department*

Woodsville Water and Light Department, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on June 14, 1977, filed with this commission Eighth Revised Page 10B to its tariff, NHPUC No. 3 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect July 1, 1977. Woodsville purchases all of its requirements from Central Vermont Public Service Corporation. Woodsville reported that during the month of May, 1977, the total fuel cost billed by Central Vermont was \$878.99. During this same period the total kilowatt-hours sold by Woodsville were 721,865. The fuel adjustment, therefore, by simple division and rounded is \$0.0012 per kilowatt-hour. The fuel adjustment charge proposed for the month of July, 1977, is 12 cents per hundred kilowatt-hours to apply to all bills rendered in that month.

*Connecticut Valley Electric Company, Inc.*

Connecticut Valley Electric Company, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on June 14, 1977, filed with this commission Third Revised Page 18 to its tariff, NHPUC No. 4 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect July 1, 1977. Connecticut Valley purchases all of its requirements from Central Vermont Public Service Corporation. Connecticut Valley reported that during the month of May, 1977, the total fuel cost billed by Central

Vermont was \$12,942. During this same period the total kilowatt-hours sold by Connecticut Valley were 11,186,000. The fuel adjustment, therefore, by simple division is \$0.001157 per kilowatt-hour. The fuel adjustment charge proposed for the month of July, 1977, is 11 cents per hundred kilowatt-hours to apply to all bills rendered in that month.

*Concord Electric Company*

Concord Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on June 8, 1977, filed with this commission 28th Revised Page 15A of its tariff, NHPUC No. 6 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect July 1, 1977. Concord Electric purchases all of its requirements from Public Service Company of New Hampshire. Concord Electric reported that the total fuel cost billed by Public Service Company during the month of May, 1977, was \$232,385.13. Total sales during that same period were 20,072,589 kilowatt-hours. The fuel adjustment charge by simple division is \$0.01158 per kilowatt-hour. Therefore, the fuel adjustment charge proposed for the month of July, 1977, is \$1.16 per hundred kilowatt-hours.

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*Exeter and Hampton Electric Company*

Exeter and Hampton Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on June 8, 1977, filed with this commission 24th Revised Page 16 of its tariff, NHPUC No. 11 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect June 1, 1977. Exeter and Hampton purchases all of its requirements from Public Service Company of New Hampshire. Exeter and Hampton reported that the total fuel cost billed by Public Service Company for the period April 29, 1977 to May 31, 1977, was \$254,151.38. Total sales by Exeter and Hampton during the same period were 22,365,604 kilowatt-hours. The fuel adjustment charge, therefore, by simple division and rounded is \$0.01136 per kilowatt-hour. Thus, the fuel adjustment charge proposed to be billed during the month of July, 1977, is \$1.14 per hundred kilowatt-hours.

*Public Service Company of New Hampshire*

Public Service Company of New Hampshire, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on June 17, 1977, filed with this commission 32nd Revised Pages 15 and 16 to its tariff, NHPUC No. 20 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect July 1, 1977.

Page 16 of the company's fuel surcharge filing for July indicates that fuel costs above base for the data month of May were 14,012,330. During this same period the kilowatt-hours subject to the fuel adjustment were 373,252,000. The fuel adjustment, therefore, by simple division and rounded is \$0.0107 per kilowatt-hour. The fuel adjustment charge proposed for effect in the month of July, 1977, is \$1.06 per hundred kilowatt-hours to apply to all bills rendered in that month. This amount reflects a MEPCo. — New Brunswick adjustment as described below.

[2] In May, 1977, PSC inappropriately included two items in its fuel adjustment charge. These were "interest on fuel inventory" relative to unit power purchases from MEPCo. and also "Canadian exchange." The billed retail fuel rate per hundred kilowatt-hours for May (based on

March data) was \$1.20. The exclusion of the interest element and an adjustment to reflect the exchange rate of currency reduces the billed fuel rate for that month to \$1.19 per hundred kilowatt-hours. Based on actual kilowatt-hour sales in the billing month, PSC is shown to have overcharged \$30,906. This amount is returned to PSC customers via the July fuel adjustment charge based on estimated July kilowatt-hour sales and subject to future adjustment depending on the accuracy of the July sales estimate.

The fuel charge for Concord Electric, Exeter and Hampton, and Wolfeboro reflects an adjustment by PSC relating to unit power purchased by PSC from the Maine Electric Power Company -New Brunswick (MEPCo.). The credit reflects the impact of prior improper application of the interest on fuel inventory component in the monthly fuel adjustment. Also, the credit reflects a Canadian exchange rate adjustment which should have been included in the monthly computations. These two adjustments cover fuel charges for the period May, 1976, to April, 1977.

Based upon all of the evidence in the

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record of this proceeding the commission finds that the proposed fuel adjustment charge for the month of July is just and reasonable, in accordance with pertinent tariff provisions and all other applicable provisions of law. Our order will issue accordingly.

#### Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that 32nd Revised Pages 15 and 16 of Public Service Company of New Hampshire tariff, NHPUC No. 20 — Electricity, providing for the monthly fuel surcharge of \$1.06 per hundred kilowatt-hours for the month of July, 1977, be, and hereby are, permitted to become effective July 1, 1977; and it is

Further ordered, that 28th Revised Page 15A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of \$1.16 per hundred kilowatt-hours for the month of July, 1977, be, and hereby is, permitted to become effective July 1, 1977; and it is

Further ordered, that 24th Revised Page 16 of Exeter and Hampton Electric Company tariff, NHPUC No. 11 — Electricity, providing for the monthly fuel surcharge of \$1.14 per hundred kilowatt-hours for the month of July, 1977, be, and hereby is, permitted to become effective July 1, 1977; and it is

Further ordered, that Third Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of 11 cents per hundred kilowatt-hours for the month of July, 1977, be, and hereby is, permitted to become effective July 1, 1977; and it is

Further ordered, that 38th Revised Page 13 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of \$1 per hundred kilowatt-hours for the month of July, 1977, be, and hereby is, permitted to become effective July

1, 1977; and it is

Further ordered, that 34th Revised Page 15A of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of \$1.83 per hundred kilowatt-hours for the month of July, 1977, be, and hereby is, permitted to become effective July 1, 1977; and it is

Further ordered, that 32nd Revised Page 9A of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of \$1.07 per hundred kilowatt-hours for the month of July, 1977, be, and hereby is, permitted to become effective July 1, 1977; and it is

Further ordered, that 42nd Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of 64 cents per hundred kilowatt-hours for the month of July, 1977, be, and hereby is, permitted to become effective July 1, 1977; and it is

Further ordered, that Eighth Revised Page 10B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of 12 cents per hundred kilowatt-hours for the month of July, 1977, be, and hereby is, permitted to become effective July 1, 1977.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of June, 1977.

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NH.PUC\*06/27/77\*[77894]\*62 NH PUC 184\*Manchester Water Works

[Go to End of 77894]

### Re Manchester Water Works

DE 77-99, Order No. 12,813

62 NH PUC 184

New Hampshire Public Utilities Commission

June 27, 1977

PETITION by a water company for authority to extend water mains and service, granted.

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SERVICE, § 178 — Contracts and franchises — Water company. .Hn [N.H.] The commission granted a water company's petition to extend its mains and service further into an area in which the company had existing franchise rights.

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BY THE COMMISSION:

## Order

Whereas, Manchester Water Works, a water public utility operating under the jurisdiction of this commission, by a petition filed May 31, 1977 (entered June 27, 1977), seeks authority under RSA 374:22 and 26 as amended, to extend its mains and service further into the town of Auburn; and

Whereas, no other water utility has franchise rights in the area sought, and the petitioner submits that the area will be served under its regularly filed tariff; and

Whereas, the Board of Selectmen, town of Auburn, has stated that it is in accord with the petition; and

Whereas, after investigation and consideration, this commission is satisfied that the granting of the petition will be for the public good; it is

Ordered, that Manchester Water Works be, and hereby is, authorized to extend its mains and service further into the town of Auburn in the area herein described, and as set forth on a map on file in the commission offices, as follows:

Beginning at a point along the center line of Chester road, Auburn, New Hampshire, 383 feet easterly of the point where it intersects with the center line of the Boston and Maine railroad tracks, said point being the furthestmost existing franchise limit for Chester road as granted by DE 76-139, from this point northeasterly along the center line of the path and contour of Chester road 200 feet +/- to a point intersecting with an extended line of the northwesterly most lot line of property belonging now or formerly to Armond Gendron; and for these purposes to construct and maintain the necessary lines and apparatus.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of June, 1977.

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NH.PUC\*07/05/77\*[77895]\*62 NH PUC 185\*New Hampshire Department of Public Works and Highways

[Go to End of 77895]

## Re New Hampshire Department of Public Works and Highways

DT 77-80, Order No. 12,818

62 NH PUC 185

New Hampshire Public Utilities Commission

July 5, 1977

REQUEST for authority to construct three overhead bridges; granted.

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CROSSINGS, § 78 — Intersecting tracks — Protection and safety.

[N.H.] The commission granted authority to the department of public works and highways to construct three overhead highway bridges.

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BY THE COMMISSION:

Order

Whereas, in connection with the extension of the Spaulding Turnpike in the city of Rochester and the town of Milton, the New Hampshire Department of Public Works and Highways desires to construct three overhead highway bridges, one of which involves the southbound lane to cross the track of the Farmington branch of the Boston and Maine Corporation in the city of Rochester, the second to provide an overhead crossing for the relocation of Farmington road in the town of Milton across the track of the Conway branch of the Boston and Maine Corporation in the town of Milton, and the third will carry the southbound lane of the Spaulding Turnpike over the track of the Conway branch of the Boston and Maine Corporation in the town of Milton; and

Whereas, the overhead clearances proposed are above the ruling clearances for lines over which the railroad equipment must pass; and

Whereas, no contribution is expected of the Boston and Maine Corporation, all costs being borne by public authorities; it is

Ordered, that the New Hampshire Department of Public Works and Highways be, and hereby is, authorized to construct three highway bridges over the tracks of the Boston and Maine Corporation as follows:

Structure No. 103/194. An overhead bridge carrying the southbound lane of the Spaulding Turnpike over the track of the Farmington branch at Railroad Engineering Station No. 596+98 with a minimum vertical clearance of 20 feet 1.625 inches above the rails.

Structure No. 219/124. An overhead bridge carrying the relocated Farmington road over the tracks of the Conway branch of the Boston and Maine Corporation at Railroad Engineering Station No. 1,005 + 12 with a minimum vertical clearance of 20 feet one inch above the rail.

Structure No. 141/122. An overhead bridge carrying the southbound lane of the Spaulding Turnpike over the tracks

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of the Conway branch of the Boston and Maine Corporation at Railroad Engineering Station No. 1,210+12 with a minimum vertical clearance of 20 feet 3.5 inches; and it is

Further ordered, that side clearances shall be no less than those specified in the petition marked DT 77-80; and it is

Further ordered, that no portion of the cost of the installation and maintenance of the above structures shall be borne by the Boston and Maine Corporation.

By order of the Public Utilities Commission of New Hampshire this fifth day of July, 1977.

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NH.PUC\*07/05/77\*[77896]\*62 NH PUC 186\*Francestown Electric and Water Company

[Go to End of 77896]

## Re Francestown Electric and Water Company

DF 77-79, Order No. 12,819

62 NH PUC 186

New Hampshire Public Utilities Commission

July 5, 1977

PETITION by an electric and water company for authority to borrow funds to finance construction and to meet outstanding obligations; granted.

-----

PUBLIC UTILITIES, § 134 — Operations and practices — Finances.

[N.H.] An electric and water company was granted the authority to borrow long-term debt in order to meet outstanding obligations and to finance construction of shelters over wells in order to prevent pollution; the commission found the loans would be consistent with the public good.

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APPEARANCES: Donald A. Marsden and John Schott for the petitioner.

BY THE COMMISSION:

Report

By petition filed May 18, 1977, Francestown Electric and Water Company, a corporation duly organized under the laws of the state of New Hampshire, seeks authority, pursuant to the provisions of RSA 369, to borrow \$6,500 of long-term debt.

At a duly noticed hearing held in Concord on June 28, 1977, the petitioner testified that the loans were necessary to meet outstanding obligations and to finance construction. During the winter the company experienced a number of freeze-ups, leaks and breaks in their mains which required expenditures of approximately \$4,000. In addition, the company finds it necessary to replace the shelters over their wells to prevent pollution at an estimated cost of \$3,000.

The petitioner submitted that it had borrowed \$2,500 on an emergency basis from several of its directors. These loans have interest at a rate of 8 per cent with

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an indefinite payback. A bank commitment for \$4,000 has been obtained, to be repaid semiannually over a period of four years in increments of \$500, plus accrued interest at the rate

of 10 per cent.

Upon investigation and consideration, this commission is satisfied that the proceeds of these borrowings will be used to finance present and future improvements and for other lawful corporate purposes, and finds that the loans will be consistent with the public good. Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Frankestown Electric and Water Company be, and hereby is, authorized to secure loans of \$2,500 cash, from several of its directors, for an indefinite period at an interest rate of 8 per cent, and a bank loan of \$4,000 cash, payable in semiannual installments of \$500 each, plus accrued interest at a rate of 10 per cent; and it is

Further ordered, that the proceeds from said loans be used solely to finance present and future improvements to its plant, equipment, and for other lawful corporate purposes; and it is

Further ordered, that on January 1st and July 1st in each year, said Frankestown Electric and Water Company shall file with this commission a detailed statement, duly sworn to by its president and treasurer, showing the disposition of the proceeds of said loans until the whole of said proceeds shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this fifth day of July, 1977.

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NH.PUC\*07/05/77\*[77897]\*62 NH PUC 187\*Public Service Company of New Hampshire

[Go to End of 77897]

## Re Public Service Company of New Hampshire

DR 77-49, Supplemental Order No. 12,821

62 NH PUC 187

New Hampshire Public Utilities Commission

July 5, 1977

PETITION seeking rehearing in electric company rate increase request; denied.

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BY THE COMMISSION:

Supplemental Order

The commission having before it a motion filed July 1, 1977, for, and on behalf of Stockholders for Corporate Responsibility for a rehearing of Order No. 12,803, issued June 17, 1977 (62 NH PUC 173), after full consideration of the allegations in said motion and after weighing the reasons presented in said motion upon the issue of intervention, is of the opinion, and the order is,

that said motion for rehearing be, and hereby is, denied.

By order of the Public Utilities Commission of New Hampshire this fifth day of July, 1977.

=====

NH.PUC\*07/06/77\*[77898]\*62 NH PUC 188\*Public Service Company of New Hampshire

[Go to End of 77898]

### **Re Public Service Company of New Hampshire**

DR 77-49, Second Supplemental Order No. 12,824

62 NH PUC 188

New Hampshire Public Utilities Commission

July 6, 1977

PETITION seeking rehearing in electric company rate increase request; denied.

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BY THE COMMISSION:

Supplemental Order

The commission having before it a motion filed July 5, 1977 (62 NH PSC 187), for and on behalf of Granite State Alliance, for a rehearing on Order No. 12 803 issued June 17, 1977 (62 NH PSC 173), after full consideration of the allegations in said motion and after weighing the reasons presented in said motion upon the issue of intervention, is of the opinion and the order is that said motion for rehearing be, and hereby is, denied.

By order of the Public Utilities Commission of New Hampshire this sixth day of July, 1977.

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NH.PUC\*07/07/77\*[77899]\*62 NH PUC 188\*Continental Telephone Company of Maine

[Go to End of 77899]

### **Re Continental Telephone Company of Maine**

DF 77-100, Order No. 12,826

62 NH PUC 188

New Hampshire Public Utilities Commission

July 7, 1977

PETITION by a telephone company for authority to issue and sell mortgage notes; granted.

-----

## 1. SECURITY ISSUES, § 58 — Mortgage notes — Authorization.

[N.H.] A telephone company was authorized to issue and sell mortgage notes where the funds

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received from their sale were necessary to improve service by adding new lines, constructing new headquarters facility, and making other system improvements. p. 189.

## 2. REPORTS, § 1 — Disposition of mortgage notes — Telephone company.

[N.H.] The commission ordered a telephone company to file with it a detailed statement showing the disposition of the proceeds of the company's mortgage notes. p. 189.

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## BY THE COMMISSION:

## Order

[1, 2] Whereas, Continental Telephone Company of Maine, a telephone utility serving principally in Maine with a small number of customers in New Hampshire (East Conway and Chatham) seeks authority, pursuant to RSA 360, to issue and sell its mortgage notes in the aggregate amount of \$6,825,000 to the Rural Telephone Bank for a period of thirty-five years at an interest rate of 7 per cent per annum; and

Whereas, these funds are necessary to improve service by adding 187 miles of new lines, constructing a new headquarters facility, and making other system improvements; and

Whereas, in addition to the funds required for construction in the loan request, the company is required by a provision in the loan contract to buy Rural Telephone Bank Class "B" stock in the amount of \$325,000 (\$6.5 million × 0.05), thereby increasing the company's loan fund requirement by said amount; and

Whereas, said filing has now been duly heard, considered, and investigated by the Maine Public Utilities Commission, under whose jurisdiction the majority of the company's customers reside; and

Whereas, this commission is satisfied that in the deliberations of the Maine Public Utilities Commission the interests of the New Hampshire customers were given the same consideration as those of the Maine customers; and

Whereas, in preceding cases involving Continental Telephone Company of Maine this commission has relied on and accepted the decision of the Maine Public Utilities Commission in matters regarding the customers served in New Hampshire; it is

Ordered, that Continental Telephone Company of Maine be, and hereby is, authorized to issue and sell mortgage bonds in the aggregate amount of \$6,825,000 to the Rural Telephone Bank for a period of thirty-five years at an interest rate of 7 per cent per annum; and it is

Further ordered, that Continental Telephone Company of Maine shall file with this commission a detailed statement, duly sworn to by its treasurer showing the disposition of the proceeds of said mortgage notes.

By order of the Public Utilities Commission of New Hampshire this seventh day of July, 1977.

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NH.PUC\*07/07/77\*[77900]\*62 NH PUC 190\*Walnut Ridge Water Company, Inc.

[Go to End of 77900]

### **Re Walnut Ridge Water Company, Inc.**

DE 76-179, Order No. 12,827

62 NH PUC 190

New Hampshire Public Utilities Commission

July 7, 1977

PETITION by a water company for authority to operate as a public utility and for an increase in rates; granted.

-----

#### 1. CERTIFICATES, § 125 — Water company.

[N.H.] The commission granted a water company a franchise area where it was in the public interest to do so, and where, under state statute, a private water system with more than ten customers must file and become a public utility. p. 190.

#### 2. RATES, § 595 — Water company.

[N.H.] Upon investigation and consideration of all the evidence, the commission found that an annual rate request of \$80 per customer was just and reasonable. p. 190.

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APPEARANCES: Peter Lewis for the petitioner and Michael Love for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

On December 16, 1976, Walnut Ridge Water Company, Inc., a New Hampshire corporation with its place of business in Atkinson, New Hampshire, filed with this commission a petition requesting authority to operate as a public water utility in a limited area in the town of Atkinson, to validate an existing situation, and to seek provisions for increased rates and charges. A duly noticed hearing was held at the office of the commission in Concord on May 4, 1977.

[1] The water company has been operating since 1965 and has petitioned the commission pursuant to RSA 362:4 under which the legislature has indicated that any private water system with more than ten customers must file and become a public utility. It appears from the record in these proceedings and associated filings by the company that it is in the public interest to grant a franchise area to the petitioner. At the hearing the company presented a U. S. geodetic map as a description of the franchise area. A more definitive description was requested and has subsequently been submitted to this commission. The water system has been approved by the New Hampshire Water Supply and Pollution Control Commission to service 233 lots.

At this hearing the petitioner presented testimony on unaudited financial statements for the year ended December 31, 1976. These statements indicate that the current rates presently in force are not sufficient to meet its expenses and provide a reasonable rate of return.

[2] The company presented a pro forma income statement for the years ended 1975, 1976, and 1977. The revenue requirements proposed by the company call for an increase in permanent rates which would lead to revenue increases of approximately 34,300 for annual services over the rates currently in force. The requested increase was to raise the annual billing rate from \$60 to \$80.

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### *Rate Base*

The company presented a rate base which included estimated costs for the year 1976. That rate base has been adjusted to agree with the actual figures from the company's financial statements. Accordingly, we find the average rate base to be computed as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

	<i>December 31</i>	
	1975	1976
Fixed Assets	\$33,224	\$49,574
Less: Depreciation	3,753	7,719
Net Plant	\$29,471	\$41,855

Working Capital:  
Operating Expenses  
(4 months)

Average Rate Base

### *Fair Rate of Return*

The company requested a fair rate of return of 10.2 per cent. Based upon further information received by the staff, we find a fair rate of return to be 8.6 per cent calculated as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

COST OF CAPITAL

Long-term Debt

Common Equity

Total

*Revenue Requirements*

By applying the cost of capital of 8.61 per cent to the average rate base of \$38,956, we find the required net operating income to be \$3,354. The company's net income has deteriorated since 1974. Using 1976 as the test year, it is clear that the company's requested increase is justified. Applying the annual billing rate of \$80 requested to 215 customers, the pro forma income is \$17,200. Deducting the 1976 operating expenses of \$13,843 from the adjusted revenues, the net operating income would be \$3,357.

Upon investigation and consideration of all the evidence submitted, the commission finds that the public good requires the granting of a franchise area. The commission further finds that the rate request of \$80 per customer is just and reasonable. Our order will issue accordingly.

*Order*

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Walnut Ridge Water Company, Inc., be, and hereby is,

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authorized to operate as a public water utility in a limited area in the town of Atkinson, New Hampshire, bounded and described as follows:

Beginning at the most southwesterly corner thereof on the westerly side of Shannon and adjacent to the town of Salem at a town line stone marker; thence

Northeasterly (N 79-30 E) by said town line 250 feet more or less to a stone town boundary marker at said Shannon road; thence continuing in the same direction 5,000 feet to a stone town marker and a corner; thence

Northeasterly (N 63-30 E) 7,350 feet to an intersection at Sawyer avenue and Meditation lane; thence

Northwesterly approximately 3,000 feet by said Meditation lane to the intersection of Sawmill road; thence

Northwesterly (N 47 W) 6,250 feet more or less to a point and a corner east of Killey Swamp; thence

Southwesterly (S 77-30 W) 3,000 feet more or less to the intersection of Pope road and Westside drive; thence

Southwesterly along Westside drive approximately 3,750 feet to a point where the Salem-Atkinson town line intersects said road; thence

Southeasterly (S 35-45 E) 1,850 feet more or less by said town line to a point and a stone town marker; thence

Southwesterly (S 86-39 W) 350 feet along said town line to a stone town boundary marker; thence

Southwesterly (S 10-45 W) 5,250 feet along said town line to a stone town boundary marker at said Shannon road; thence

Running in the same direction across said road and by said town line 1,000 feet and back to point of beginning; said area being outlined on a map on file in the office of the commission and for this purpose to construct the necessary facilities; and it is

Further ordered, that its tariff marked NHPUC No. 1 — Water — Walnut Ridge Water Company, Inc., setting forth the annual rate of \$80 per customer, and terms and conditions covering service in the franchise area, shall be filed immediately, signed in triplicate with seven additional copies and with the title page showing the following notation: "Authorized by NHPUC Order No. 12,827 in case DE 76-179 dated July 7, 1977"; and it is

Further ordered, that the tariff as filed shall bear the effective date of this order.

By order of the Public Utilities Commission of New Hampshire this seventh day of July, 1977.

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NH.PUC\*07/11/77\*[77901]\*62 NH PUC 192\*New Hampshire Electric Cooperative, Inc.

[Go to End of 77901]

**Re New Hampshire Electric Cooperative, Inc.**

I-R14,711, Order No. 12,831

62 NH PUC 192

New Hampshire Public Utilities Commission

July 11, 1977

PETITION of electric cooperative seeking approval of special contract; granted.

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BY THE COMMISSION:

Order

Whereas, New Hampshire Electric Cooperative, Inc., a utility selling electricity under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 52 with R. S. R. Realty, effective whenever service is made available, for electric service at rates other than those fixed by its schedule of general application; and

Whereas, upon investigation and consideration, this commission is of the opinion that special circumstances exist relative thereto, which render the terms and conditions thereof just and consistent with the public interest; it is

Ordered, that said contract may become effective as of the effective date thereof.

By order of the Public Utilities Commission of New Hampshire this eleventh day of July, 1977.

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NH.PUC\*07/13/77\*[77902]\*62 NH PUC 193\*Concord Steam Corporation

[Go to End of 77902]

## Re Concord Steam Corporation

I-R14,713, Order No. 12,836

62 NH PUC 193

New Hampshire Public Utilities Commission

July 13, 1977

PETITION of steam utility seeking tariff revisions relative to fuel adjustment clause, return on common equity, and interest rate on delinquent accounts; suspended pending commission investigation.

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BY THE COMMISSION:

Order

Whereas, Concord Steam Corporation, a public utility engaged in the business of supplying steam service in the state of New Hampshire, on June 22, 1977, filed with this commission for effect July 29, 1977, certain revisions of its tariff, NHPUC No. 2 — Steam, relative to the fuel adjustment clause, return on common equity, and the interest rate on delinquent accounts; and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date thereof be suspended pending investigation and decision thereon; it is

Ordered, that First Revised Pages 11 and 12, and Original Page 11(a) of tariff, NHPUC No. 2 — Steam, of Concord Steam Corporation be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of July, 1977.

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NH.PUC\*07/14/77\*[77903]\*62 NH PUC 194\*Pennichuck Water Works

[Go to End of 77903]

## Re Pennichuck Water Works

DF 77-94, Order No. 12,837

62 NH PUC 194

New Hampshire Public Utilities Commission

July 14, 1977

PETITION of a water utility for authority to issue and sell unsecured notes; granted.

-----

SECURITY ISSUES, § 58 — Purposes of capitalization — Additions and betterments.

[N.H.] The commission authorized the issuance and sale of unsecured notes where it found that the proceeds of the sale would be used for the purchase and construction of property reasonable and necessary for present and future use in the conduct of a water company's business, to replenish working capital, and for other corporate purposes.

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APPEARANCES: E. Tarbell, Jr., and James L. Sullivan for the petitioner.

BY THE COMMISSION:

Report

By this unopposed petition filed June 17, 1977, Pennichuck Water Works, a corporation duly organized under the laws of this state, and operating as a public utility in the city of Nashua and a limited area in Merrimack, seeks authority pursuant to RSA 369, to issue and sell for cash, \$1,250,000 principal amount of 20-year unsecured notes, bearing interest at the rate of 8.95 per cent per annum to American United Life Insurance Company of Indianapolis, Indiana.

A duly noticed hearing was held in Concord on July 12, 1977. The petitioner submitted that the proceeds from the issue and sale of the notes will be used to pay off \$1,125,000 of short-term bank loans outstanding at the date of consummation of the financing proposed herein, the proceeds of which have been used for the purchase and construction of property reasonable and necessary for present and future use in the conduct of the company's business; to replenish working capital and for other proper corporate purposes.

Upon investigation and consideration of the evidence submitted, this commission is of the opinion that the granting of the authorization sought will be for the public good. Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Pennichuck Water Works be, and hereby is, authorized to issue and sell for cash \$1,250,000 principal amount of its unsecured notes to the American United Life Insurance Company of Indianapolis, Indiana, said notes bearing interest at the rate of 8.95 per cent per annum; and maturing twenty years from the date of issue; and it is

Further ordered, that the proceeds from the sale of said notes shall be used to retire \$1,125,000 of short-term bank loans outstanding at the date of consummation of the financing proposed herein; proceeds of which loans have

been used for the purchase and construction of property reasonably requisite for present and future use in the conduct of the company's business; to replenish working capital and for other proper corporate purposes; and it is

Further ordered, that on January 1st and July 1st in each year, said Pennichuck Water Works shall file with this commission a detailed statement, duly sworn to by its treasurer, showing the disposition of proceeds of said notes, until the whole of said proceeds shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of July, 1977.

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NH.PUC\*07/15/77\*[77904]\*62 NH PUC 195\*Northern View Water Company

[Go to End of 77904]

## Re Northern View Water Company

DR 77-9, Supplemental Order No. 12,838

62 NH PUC 195

New Hampshire Public Utilities Commission

July 15, 1977

PETITION by a water company for an increase in rates; granted in part.

-----

RATES, § 603 — Water company — Minimum bills.

[N.H.] The commission denied a water company's minimum charge to apartments where it found that the application of the minimum charge would be unfair since under any conditions the apartment dwellers could never reach the minimum usage under the fixture rate.

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APPEARANCES: David E. Tardiff for the petitioner and Michael Love for Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

On January 18, 1977, Northern View Water Company, a public utility engaged in the business of supplying water in a limited area in the town of Pembroke, filed with this commission its tariff providing for an increase in rates in the amount of \$ 1,516, effective

February 10, 1977. The proposed rates were suspended by Order No. 12,577 dated January 24, 1977, pending investigation and hearing.

A duly noticed public hearing was held at the office of the commission on May 3, 1977. The company presented testimony and other evidence indicating that they had operated at a loss for twelve months ended December 31, 1976. The company testified that it required a substantial rate increase to improve its financial position and to raise capital to improve the system and its operation.

### *Rate of Return*

The company submitted a rate of return based upon the capital structure at December 31, 1976, pro formed to include

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a proposed change in its total debt of \$9,832.

Updating the capital structure to December 31, 1977, we find the fair rate of return to be 10 per cent.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

	<i>Per Cent of Total</i>	<i>Weighted Ratio</i>
	<i>Rate of Return</i>	
Long-term Debt	57	8% 4.6%
Notes Payable	12	12 1.4
Common Equity	31	13 4.0
	100	10.0%

### *Rate Base*

The company proposed a rate base of \$16,154 as of December 31, 1976.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Gross Plant in Service	\$18,319
Less: Depreciation Reserve	3,107
Net Plant	\$15,212
Plus: Allowance for Working Capital	942
	\$16,154

### *Revenue Requirements*

Applying the fair rate of return, 10 per cent, to the rate base, \$16,154, the computed increase is \$1,615. We conclude that the company is entitled to an increase in revenues in the amount of \$1,516 as requested.

By applying the cost of capital of 10 per cent to the average rate base of \$ 16,154, we find the required net operating income to be \$1,615. Using 1976 as the test year it is clear that the company's requested increase is justified.

Upon investigation and consideration of all the evidence submitted the commission finds that the rate increase requested of \$1,516 is just and reasonable.

*Rates*

We have reexamined the issue of the minimum charge as it relates to the apartments served by this utility and conclude that the minimum should not be applied for the reasons that no individual sillcocks exist, there is but one bathroom and its attendant equipment, there are no washing machines, and finally no children in these apartments. It is our feeling that lacking the ability to install the water using equipment mentioned, that the application of the minimum charge would be unfair since under any conditions the apartment dwellers could never reach the minimum under this fixture rate.

The rate schedule as filed to produce the increase in revenues of \$1,516 shall be allowed. Our order will issue accordingly.

## Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that this commission Order No. 12,782 suspending Third Revised Page 5 of Northern View Water Company's tariff, NHPUC No. 1 — Water, providing for an increase in rates, be and hereby is lifted; and it is

Further ordered, that Third Revised Page 5 shall become effective with all bills rendered on or after July 1, 1977; and it is

Further ordered, that Northern View Water Company shall refile Third Revised Page 5 showing the effective

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date of July 1, 1977, and bearing the notation "Authorized by NHPUC Order No. 12,838 in case DR 77-9, dated July 15, 1977"; and it is

Further ordered, that such pages shall be signed in triplicate, with seven additional copies and filed with this commission as soon as possible.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of July, 1977.

=====

NH.PUC\*07/18/77\*[77905]\*62 NH PUC 197\*Public Service Company of New Hampshire v Robert Buelte et al.

[Go to End of 77905]

**Public Service Company of New Hampshire v Robert Buelte et al.**

DE 76-154, Supplemental Order No. 12,839

62 NH PUC 197

New Hampshire Public Utilities Commission

July 18, 1977

MOTION by electric company to amend previous order describing scope of easement; granted.

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BY THE COMMISSION:

Supplemental Order

Whereas, the commission on June 16, 1977, issued Order No. 12,802 in this proceeding authorizing Public Service Company of New Hampshire to acquire perpetual right and easement of certain land described in that order; and

Whereas, on July 5, 1977, Public Service Company of New — Hampshire by its counsel filed a motion to amend the order to include certain specific language describing the activities which can be undertaken within that easement; and

Whereas, the inclusion of said specific language will not alter the finding of the commission regarding the necessity of the taking or the damages to be awarded for the taking; and

Whereas, no objection has been made by other counsel in this proceeding who received notice of this motion; it is

Ordered, the second paragraph of Order No. 12,802 dated June 16, 1977 (62 NH PUC 169), be, and hereby is, amended to read as follows:

"Ordered, that Public Service Company of New Hampshire be, and hereby is, authorized to acquire a perpetual right and easement to construct, repair, rebuild, operate, patrol, and remove overhead and underground lines consisting of wires, cables, ducts, manholes, poles, and towers, together with foundations, crossarms, braces, anchors, guys, grounds, and other equipment for transmitting electric current and/or intelligence over, under, and across a strip of land 95 feet in width lying ten feet northerly and 85 feet southerly of a line described as follows:

" 'Beginning at a point in a stone wall at Robert C. Buelte's end Jill F. Buelte's northwesterly boundary at land of the Public Service Company of New

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Hampshire, said point being located northeasterly 526 feet more or less along said stone wall from said Buelte's most westerly corner at the northeasterly side of Hazelton Mill road, so-called; thence running north 70 degrees -55 minutes -33 seconds east, 2,710.22 feet to said Buelte's easterly boundary at land of Albert Warren. (The bearings in this description are based on the New Hampshire grid system.) " and, all as more particularly described on plans in the record of these proceedings; and it is

Further ordered, that in every other manner and respect Order No. 12,802 remains in full force and effect.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of July, 1977.

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NH.PUC\*07/18/77\*[77906]\*62 NH PUC 198\*Jaffrey Water Works

[Go to End of 77906]

**Re Jaffrey Water Works**

DR 77-109, Order No. 12,840

62 NH PUC 198

New Hampshire Public Utilities Commission

July 18, 1977

PETITION of water utility seeking rate increase; suspended pending commission investigation.

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BY THE COMMISSION:

Order

Whereas, Jaffrey Water Works, a public utility engaged in the business of supplying water service in, the town of Rindge, New Hampshire on July 5, 1977, filed with this commission certain revisions to its tariff providing for an increase in its revenues of \$6,753 effective July 30, 1977; and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date thereof be suspended pending investigation and decision thereon; it is

Ordered, that the revised rate schedules as submitted by letter dated June 30, 1977, be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of July, 1977.

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NH.PUC\*07/18/77\*[77907]\*62 NH PUC 199\*New England Telephone and Telegraph Company

[Go to End of 77907]

**Re New England Telephone and Telegraph Company**

I-R14,714, Order NO. 12,841

62 NH PUC 199

New Hampshire Public Utilities Commission

July 18, 1977

PETITION of telephone company to introduce new usage-sensitive optional calling plan; suspended pending commission investigation.

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BY THE COMMISSION:

## Order

Whereas, New England Telephone and Telegraph Company, a public utility engaged in the business of supplying telephone service in the state of New Hampshire, on June 24, 1977, filed with this commission certain revisions of its tariff, NHPUC No. 70 — Telephone, providing for the introduction of regulations, rates, and charges for a new, usage-sensitive optional calling plan to be known as selective calling service, filed for effect August 1, 1977; and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date thereof be suspended pending investigation and decision thereon; it is

Ordered, that Part V — Message Toll Section 1 Fourth Revised Page 6; Ninth Revised Pages 3, 4; Tenth Revised Page 5; 11th Revised Page 1; 15th Revised Page 2; Section 2 Original Pages 1-4 of tariff, NHPUC No. 70 — Telephone of New England Telephone and Telegraph Company be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of July, 1977.

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NH.PUC\*07/20/77\*[77908]\*62 NH PUC 199\*John W. Moyers, Jr., d/b/a Skip Moyer Enterprises

[Go to End of 77908]

## Re John W. Moyers, Jr., d/b/a Skip Moyer Enterprises

DT 76-71

62 NH PUC 199

New Hampshire Public Utilities Commission

July 20, 1977

REHEARING of commission order granting common carrier authority; affirmed.

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1. PROCEDURE, § 32 — Rehearings — Introduction of evidence.

[N.H.] The commission excluded the introduction of any factual evidence or evidence subsequent to the date of the original proceeding. p. 200.

2. CERTIFICATES, § 56 — Operation prior to regulation — Good faith application.

[N.H.] Where a common carrier had operated without authority from the commission, the commission found that his application and appearance before the commission indicated

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a good faith and willingness to comply with the rules and regulations and laws of the

commission; the commission accordingly affirmed its earlier order granting an irregular route common carrier certificate to applicant. p. 200.

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APPEARANCES: Joseph F. Wundrok for the applicant and Silas Little for Lakes Region Disposal Company, Inc.

BY THE COMMISSION:

Report

A rehearing was held in the above matter on July 18, 1977, at the office of the commission.

On July 22, 1976, the commission issued its report and Order No. 12,341 in this proceeding granting an irregular route common carrier authority to John W. Moyers, Jr., d/b/a Skip Moyer Enterprises authorizing the transportation of rubbish and garbage between all points and places in Bristol, Bridgewater, Hill, and New Hampton. On October 5, 1976, a duly filed motion for rehearing on behalf of Lakes Region Disposal Company, Inc., alleged that the commission misunderstood the evidence, had no grounds to make a finding of fitness, and that the affidavit evidence does not conform to commission standards.

On August 25, 1976, the commission issued Supplemental Order No. 12,369 granting the rehearing.

[1] At the rehearing counsel for the Lakes Region Disposal Company, Inc., sought to introduce evidence of facts subsequent to the date of the original hearing. Upon objection by applicant's counsel, the commission ruled that an application for a rehearing of a prior determination is not a new proceeding but merely another step in the proceeding in the prior determination of the case. The commission also stated that the purpose of a rehearing is to direct the commission's attention to matters said to have been overlooked or mistakenly conceived or construed in the original decision. The commission stated that by granting a rehearing it is inviting a reconsideration upon the record which was used for a prior basis of its original determination. Thus, this ruling excludes the introduction of any factual evidence or evidence subsequent to the date of the original proceeding. *Lambert v New Hampshire*, 115 NH 516.

Counsel for Lakes Region attempted to show that the applicant did not have a full and complete knowledge of the details of the financial and tax statements submitted to support the application. Counsel for Lakes Region also emphasized testimony of his witness at the prior hearing to the effect that Lakes Region, an existing carrier, had the ability to absorb any new demands for service.

[2] The commission has reviewed the evidence in the record and has reconsidered that evidence as a result of this rehearing proceeding. After this additional review and reconsideration the commission finds that its prior determination to grant irregular route common carrier authority to the applicant is supported by a substantial residuum of credible evidence.

The commission also finds that there also was sufficient evidence in that record to support a finding of fitness, willingness, and ability to perform the proposed service. Although the applicant did, in fact, operate without authority from this commission, his application

and appearance here indicate a good faith willingness to comply with the rules and regulations and laws of the commission.

The commission further finds that the affidavit evidence in its opinion also shows a sufficient probative value to support the application in this case. Accordingly, our decision in the report and Order No. 12,341 dated July 22, 1976 is affirmed.

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NH.PUC\*07/22/77\*[77909]\*62 NH PUC 201\*Public Service Company of New Hampshire et al.

[Go to End of 77909]

## Re Public Service Company of New Hampshire et al.

DR 76-46, 18th Supplemental Order No. 12,845

62 NH PUC 201

New Hampshire Public Utilities Commission

July 22, 1977

PETITIONS of electric companies for authority to apply a fuel adjustment charge to customer bills; granted.

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RATES, § 303 — Variable rates based on cost — Recovery.

[N.H.] The commission permitted electric companies to recover varying fuel costs by application of an adjustment derived by dividing the total fuel costs for the month by the total kilowatt-hours sold.

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APPEARANCES: Martin L. Gross, Eaton W. Tarbell, Jr., and Philip Ayers for Public Service Company of New Hampshire; Douglas K. MacDonald for Concord Electric Company; Richard F. Gilmore for Exeter and Hampton Electric Company; Richard Schwartz for Connecticut Valley Electric Company, Inc.; Mayland Morse for New Hampshire Electric Cooperative, Inc.; William G. Hayes for Granite State Electric Company; Dennis Bean for the Municipal Electric Department of Wolfeboro; Fred Haggett for Littleton Water and Light Department; Robert Brown for Woodsville Water and Light Department; and Michael Love for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

Pursuant to RSA 378:3-A(II), the commission, on July 20, 1977, held hearings on the

petitions of nine New Hampshire electric companies for authority to apply a fuel adjustment charge to regular August monthly billings to their customers.

Reference may be made to previous commission decisions in this docket for statements and explanations of the fuel adjustment clause.

*Littleton Water and Light Department*

Littleton Water and Light Department,

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a public utility engaged in the business of supplying electric service in the state of New Hampshire, on July 19, 1977, filed with this commission 43rd Revised Page 6 of its tariff, NHPUC No. 1 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect on August 1, 1977. Littleton purchases all of its requirements from the New England Power Company. Littleton reported that the total fuel cost billed by the New England Power Company during the month of June, 1977, was \$9,037.24. During this period the total kilowatt-hours sold by Littleton were 2,730,871. The fuel adjustment charge, therefore, by simple division and rounded is \$0.0033093 per kilowatt-hour. The fuel adjustment charge proposed for the month of August, 1977, is 33 cents per hundred kilowatt-hours applied to all bills to be rendered in that month.

*Municipal Electric Department of Wolfeboro*

Municipal Electric Department of Wolfeboro, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on July 8, 1977, filed with this commission 33rd Revised Page 9A to its tariff, NHPUC No. 4 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect August 1, 1977. Wolfeboro purchases all of its requirements from Public Service Company of New Hampshire. Wolfeboro reported that during the month of June, 1977, the total fuel cost billed by Public Service Company was \$23,461.20 net. During this same period the total kilowatt-hours sold by Wolfeboro were 1,701,883. The fuel adjustment, therefore, by simple division and rounded is \$0.0137 per kilowatt-hour. The fuel adjustment charge proposed for effect in the month of August, 1977, is \$1.37 per hundred kilowatt-hours to apply to all bills rendered in that month.

*New Hampshire Electric Cooperative, Inc.*

New Hampshire Electric Cooperative, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on July 18, 1977, filed with this commission 39th Revised Page 13 to its tariff, NHPUC No. 6 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect on August 1, 1977. The company reported that the total fuel cost billed by its several power suppliers for power during the month of June, 1977, was \$230,908. Total sales by the Co-op during the same month were 17,977,611 kilowatt-hours. By simple division, the fuel adjustment charge proposed for August, 1977, and rounded is \$0.0128 per kilowatt-hour. The fuel adjustment charge to be applied to all bills rendered in the month of August, 1977, is proposed to be \$1.28 per hundred kilowatt-hours.

*Granite State Electric Company*

Granite State Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on July 19, 1977, filed with this commission 35th Revised Page 15A to its tariff, NHPUC No. 8 — Electricity, comprising the monthly fuel adjustment charge for effect August 1, 1977. Granite State Electric Company purchases all of its requirements from the New England Power Company. Granite State reported that the variable portion of the fuel cost billed by New England Power Company was

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\$93,318.47. Total sales to Granite State customers during the same period were 25,403,591 kilowatt-hours. By simple division and rounded this yields \$0.0037 to which is added the fixed fuel portion of \$0.024 per hundred kilowatt-hours. Thus, the fuel adjustment charge applicable to bills rendered in the month of August, 1977, is proposed to be \$1.61 per hundred kilowatt-hours.

*Woodsville Water and Light Department*

Woodsville Water and Light Department, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on July 15, 1977, filed with this commission Ninth Revised Page 10B to its tariff, NHPUC No. 3 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect August 1, 1977. Woodsville purchases all of its requirements from Central Vermont Public Service Corporation. Woodsville reported that during the month of June, 1977, the total fuel cost billed by Central Vermont was \$29.53. During this same period the total kilowatt-hours sold by Woodsville were 717,827. The fuel adjustment, therefore, by simple division and rounded is \$0.000041 per kilowatt-hour. The fuel adjustment charge, therefore, proposed for the month of August, 1977, is \$0.00 per kilowatt-hours to apply to all bills rendered in that month.

*Connecticut Valley Electric Company, Inc.*

Connecticut Valley Electric Company, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on July 19, 1977, filed with this commission Fourth Revised Page 18 to its tariff, NHPUC No. 4 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect August 1, 1977. Connecticut Valley Electric purchases all of its requirements from Central Vermont Public Service Corporation. Connecticut Valley reported that during the month of June, 1977, the total fuel cost billed by Central Vermont was \$435. During this same period the total kilowatt-hours sold by Connecticut Valley were 10,966,000. The fuel adjustment, therefore, by simple division is \$0.000040 per kilowatt-hour. The fuel adjustment charge proposed for the month of August, 1977, is 0.4 of one cent per hundred kilowatt-hours to apply to all bills rendered in that month.

*Concord Electric Company*

Concord Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on July 8, 1977, filed with this commission 29th Revised Page 15A to its tariff, NHPUC No. 6 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect August 1, 1977. Concord Electric purchases all of its requirements from Public Service Company of New Hampshire. Concord Electric reported that the total fuel cost billed by Public Service Company during the month of June, 1977, was

\$279,905.15. Total sales during that same period were 20,826,357 kilowatt-hours. The fuel adjustment charge by simple division is \$0.01344 per kilowatt-hour. Therefore, the fuel adjustment charge proposed for the month of August, 1977, is \$1.34 per hundred kilowatt-hours.

*Exeter and Hampton Electric Company*

Exeter and Hampton Electric Company,

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a public utility engaged in the business of supplying electric service in the state of New Hampshire, on July 11, 1977, filed with this commission 25th Revised Page 16 of its tariff, NHPUC No. 11 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect August 1, 1977. Exeter and Hampton purchases all of its requirements from Public Service Company of New Hampshire. Exeter and Hampton reported that the total fuel cost billed by Public Service Company for the period May 31, 1977 to June 30, 1977, was \$316,167.60. Total sales by Exeter and Hampton during the same period were 21,343,015 kilowatt-hours. The fuel adjustment charge, therefore, by simple division and rounded is \$0.01481 per kilowatt-hour. Thus, the fuel adjustment charge proposed to be billed during the month of August, 1977, is \$1.48 per hundred kilowatt-hours.

*Public Service Company of New Hampshire*

Public Service Company of New Hampshire, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on July 18, 1977, filed with this commission 33rd Revised Pages 15 and 16 to its tariff, NHPUC No. 20 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect August 1, 1977.

Page 16 of the company's fuel surcharge filing for August indicates that fuel costs above base for the data month of June were \$4,695,858. During this same period the kilowatt-hours subject to the fuel adjustment were 375,337,000. The fuel adjustment, therefore, by simple division and rounded is \$0.0125 per kilowatt-hour. The fuel adjustment charge proposed for effect in the month of August, 1977, is \$1.25 per hundred kilowatt-hours to apply to all bills rendered in that month.

Legislative Utility Consumers' Council (LUCC) made a motion that the Btu credit adjustment shown on Exh P-3 should be based upon the independent analysis of the coal rather than upon the vendor's analysis. After PSC counsel voiced objections to this motion LUCC requested the commission to defer action on this motion until more information is obtained regarding the different methods that may be used in these analyses and until it can be determined which of the analyses is most accurate. The commission has taken the motion under advisement and will defer action until a later date.

Based upon all of the evidence in the record of this proceeding the commission finds that the proposed fuel adjustment charge for the month of August is just and reasonable, in accordance with pertinent provisions and all other applicable provisions of law. Our order will issue accordingly.

Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that 33rd Revised Pages 15 and 16 of Public Service Company of New Hampshire tariff, NHPUC No. 20 — Electricity, providing for the monthly fuel surcharge of \$1.25 per hundred kilowatt-hours for the month of August, 1977, be, and hereby are, permitted to become effective August 1, 1977; and it is

Further ordered, that 29th Revised Page 15A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge

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of \$1.34 per hundred kilowatt-hours for the month of August, 1977, be, and hereby is, permitted to become effective August 1, 1977; and it is

Further ordered, that 25th Revised Page 16 of Exeter and Hampton Electric Company tariff, NHPUC No. 11 — Electricity, providing for the monthly fuel surcharge of \$1.48 per hundred kilowatt-hours for the month of August, 1977, be, and hereby is, permitted to become effective August 1, 1977; and it is

Further ordered, that Fourth Revised Page 16 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of four cents per hundred kilowatt-hours for the month of August, 1977, be, and hereby is, permitted to become effective August 1, 1977; and it is

Further ordered, that 39th Revised Page 13 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of \$1.28 per hundred kilowatt-hours for the month of August, 1977, be, and hereby is, permitted to become effective August 1, 1977; and it is

Further ordered, that 35th Revised Page 15A of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of \$1.61 per hundred kilowatt-hours for the month of August, 1977, be, and hereby is, permitted to become effective August 1, 1977; and it is

Further ordered, that 33rd Revised Page 9A of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of \$1.37 per hundred kilowatt-hours for the month of August, 1977, be, and hereby is, permitted to become effective August 1, 1977; and it is

Further ordered, that 43rd Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of 33 cents per hundred kilowatt-hours for the month of August, 1977, be, and hereby is, permitted to become effective August 1, 1977; and it is

Further ordered, that Ninth Revised Page 10B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of \$0.00 per hundred kilowatt-hours for the month of August, 1977, be, and hereby is, permitted to become effective August 1, 1977.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of

July, 1977.

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NH.PUC\*07/22/77\*[77910]\*62 NH PUC 205\*Hudson Water Company

[Go to End of 77910]

## Re Hudson Water Company

DF 77-98, Order No. 12,846

62 NH PUC 205

New Hampshire Public Utilities Commission

July 22, 1977

PETITION by water company for authority to issue short-term notes; granted.

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SECURITY ISSUES, § 98 — Short-term notes — Water company.

[N.H.] The commission authorized a water company to issue and sell for cash short-term notes bearing interest at a rate not in excess of one per cent above the prime rate and found that the issuance of the notes was consistent with the public good.

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BY THE COMMISSION:

Order

Whereas, under Supplemental Order No. 12,524 of this commission, dated December 13, 1976, Hudson Water Company was granted a short-term borrowing limit of \$600,000 and said notes to bear interest at a rate not in excess of one per cent above the prime rate of interest; and

Whereas, Hudson Water Company on June 20, 1977, sought authorization to increase the short-term borrowing limit to \$800,000; and

Whereas, Hudson Water Company, in its best judgment, believes that the most prudent and economical course would be to refinance these short-term borrowings after the 1977 construction period and to continue to watch the capital structure, including possible need for additional common equity; and

Whereas, this commission, after investigation and consideration, finds that the issuance and sale of said note or notes is consistent with the public good; it is

Ordered, that Supplemental Order No. 12,524 dated December 13, 1976, as issued under DF 6255, to the extent that it pertains to the issuance of short-term notes, be, and hereby is, revoked;

and it is

Further ordered, that Hudson Water Company be, and hereby is, authorized to, from time to time, issue and sell for cash, and renew its short-term note or notes, payable less than twelve months from the date thereof, on the aggregate principal amount not in excess of \$800,000 said note or notes, to bear interest at a rate not in excess of one per cent above the prime rate of interest; and it is

Further ordered, that Hudson Water company first obtain approval of this commission before incurring short-term indebtedness after March 31, 1978, in excess of the amount allowed by the terms of Supplemental Order No. 7446 of this commission; and it is

Further ordered, that on January 1st and July 1st in each year, said Hudson Water Company shall file with this commission a detailed statement, duly sworn to by its treasurer, showing the disposition of the proceeds of said short-term notes until the whole of said proceeds have been accounted for.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of July, 1977.

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NH.PUC\*07/22/77\*[77911]\*62 NH PUC 207\*Public Service Company of New Hampshire

[Go to End of 77911]

**Re Public Service Company of New Hampshire**

DF 77-107, Order No. 12,848

62 NH PUC 207

New Hampshire Public Utilities Commission

July 22, 1977

PETITION for authority to issue and renew short-term notes; granted.

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SECURITY ISSUES, § 58 — Purposes and subjects of capitalization — Construction and purchase of property.

[N.H.] The commission granted an electric company authority to issue additional short-term notes where the notes were necessary for the purchase and construction of property reasonably requisite for present and future use in the conduct of the company's business and would primarily be used to finance the company: construction program on an interim basis.

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APPEARANCES: Ralph H. Wood and Russell A. Winslow for the petitioner.

BY THE COMMISSION:

## Report

By this unopposed petition filed July 11, 1977, Public Service Company of New Hampshire (the "company"), a corporation duly organized and existing under the laws of the state of New Hampshire and operating therein as an electric public utility under the jurisdiction of this commission, seeks authority pursuant to the provisions of RSA 369 to issue and sell for cash, and from time to time to renew, notes payable less than twelve months after the date thereof (hereinafter referred to as "short-term notes") in such amounts that short-term notes outstanding at any time may aggregate up to but not exceed \$100 million. A duly noticed public hearing was held in Concord on July 21, 1977.

Company witness Harrison testified that the maximum aggregate amount of short-term notes which it could issue at June 30, 1977, under the provisions of Order No. 5968, as amended by Supplemental Order No. 7446, was approximately \$48,621,600 and that et dune 30, 1977, short-term notes aggregated \$24.5 million. Harrison estimated the company's current outside cash requirements during the months of July and August, 1977, to be \$43,808,000. The company expects very shortly to have issued the maximum amount of short-term notes which it is authorized to issue under Supplemental Order No. 7446. Thus, additional authority is required to enable the company to issue additional short-term notes.

Outside cash requirements were estimated to be about \$87 million for the period September through December, 1977, indicating that the short-term notes outstanding would increase during the balance of the year (following proposed permanent financing in August and September, 1977, expected to raise about \$45 million from the sale of common and preferred stock) to an estimated aggregate of \$110,346,000 at December 31, 1977, in the absence of further permanent financing.

The proceeds of the sale of the short-term notes will be expended in the purchase and construction of property reasonably requisite for present and

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future use in the conduct of the company's business and for other proper corporate purposes and will primarily be used to finance the company's construction program on an interim basis. The company stated that the construction program for the year 1977 included principally the following listed items and for the years 1978-84 would include the same or similar items estimated to cost about \$973.3 million.

[Graphic(s) below may extend beyond size of screen or contain distortions.]

<i>Facilities</i>	<i>Estimated Construction Expenditures - 1977 (Millions of Dollars)</i>
Generation Facilities	
Company's Share of Seabrook Nuclear Plant	\$ 88.5
Participation in Other Plants	6.3
Other Generation	2.1
Total Generation Facilities	\$ 97.0
Transmission Facilities	7.4
Distribution and General Facilities	16.1

Total

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 \$120.4

The company has lines of credit with banks aggregating \$74,075,000. It expects to take appropriate action to secure further lines of credit. The rate of interest on loans under the present lines of credit was the prime rate or a rate based on the prime rate, depending on compensating balances arrangements.

As of May 31, 1977, the maximum amount of short-term unsecured indebtedness which it could incur without the consent of its preferred stockholders was approximately \$88,692,000. After the proposed sale of common and preferred stock in August and September, 1977, the maximum is expected to be about \$98.9 million.

A balance sheet as of May 31, 1977, a statement of estimated cash flow for the period July through December, 1977, and a copy of authorizing votes of the company's board of directors were filed as exhibits.

Based upon all of the evidence the commission finds that the proceeds from the short-term notes will be expended in the purchase and construction of property reasonably requisite for present and future use in the conduct of the petitioner's business and for other corporate purposes, and finds that the issue and sale of the short-term notes will be consistent with the public good. Our order will issue accordingly.

#### Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Public Service Company of New Hampshire be, and hereby is, authorized to issue and sell, and from time to time renew, for cash, its note or notes payable less than twelve months after the date thereof in an aggregate principal amount not exceeding \$100 million at any one time outstanding (not including any such notes to be retired with the proceeds of any such issue or renewal); and it is

Further ordered, that interest on bank borrowings will be at the prime rate or a rate of rates based on the prime rate; and it is

Further ordered, that on or before January 1st and July 1st in each year, Public Service Company of New Hampshire shall file with this commission a detailed statement, duly sworn to

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by its treasurer or an assistant treasurer, showing the disposition of the proceeds of the notes herein authorized until the expenditures of the whole of said proceeds shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of July, 1977.

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NH.PUC\*07/22/77\*[77912]\*62 NH PUC 209\*Public Service Company of New Hampshire

[Go to End of 77912]

## Re Public Service Company of New Hampshire

DF 77-102, Order No. 12,849

62 NH PUC 209

New Hampshire Public Utilities Commission

July 22, 1977

PETITION by electric company for authority to issue and sell common and preferred stock; granted.

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1. SECURITY ISSUES, § 57 — Purposes and subjects of capitalization — Common and preferred stock.

[N.H.] The commission granted an electric company authority to issue and sell common and preferred stock where the proceeds would be used to pay off a portion of the company's short-term notes outstanding at the time of sale. p. 209.

2. SECURITY ISSUES, § 111 — Financing methods and practices — Private placement.

[N.H.] A utility's preferred stock was expected to be sold through a private placement with insurance companies or other institutions. p. 210.

3. SECURITY ISSUES, § 111 — Financing methods and practices — Negotiated public offering.

[N.H.] A utility proposed to sell its common stock through a negotiated public offering where such a negotiated sale would result in terms at least as favorable as those that might be obtained through a competitive sale. p. 210.

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APPEARANCES: Ralph H. Wood and Russell A. Winslow for the petitioner.

BY THE COMMISSION:

Report

By this unopposed petition, filed July 1, 1977, Public Service Company of New Hampshire (the "company"), a corporation duly organized and existing under the laws of the state of New Hampshire, and operating therein as an electric public utility under the jurisdiction of this commission, seeks authority pursuant to the provisions of RSA 369 to issue and sell for cash 1.2 million shares of common stock, \$5 par value, and not exceeding 200,000 shares of preferred stock, \$100 par value. A duly noticed hearing was held in Concord on July 31, 1977.

[1] Company witness Harrison testified that the proceeds of the sale of the common stock and the preferred stock will be used to pay off a portion of the short-term notes outstanding at the

time of the sale (estimated to be about \$60 million), the proceeds of which will have been expended in the purchase and construction of property reasonably requisite for present and future use in the conduct of the company's business. All expenses incurred in accomplishing the financing, including the fee paid to the underwriters in connection with the sale the preferred stock is expected to be the general funds of the company.

[2, 3] The common stock will be sold through a negotiated public offering and the preferred stock is expected to sold through a private placement with insurance companies or other institutions, although conditions could cause the company to change to a negotiated public offering. The company asserted its belief that the difficulty of raising capital in today's money markets continued to justify a negotiated public offering of the common stock and that a negotiated sale would result in terms at least as favorable as those that might be obtained through a competitive sale. The company also asserted that the private placement market for preferred stock was particularly good at this time.

The company submitted a balance sheet as of May 31, 1977, actual and pro formed for the sale of these securities. Exhibits were also submitted showing: disposition of proceeds; estimated expenses of the issues; and capital structure as of May 31, 1977, and pro formed for the sale of these securities. Projected financing requirements and estimated construction expenditures were outlined in testimony. A copy of the company's registration statement for the common stock filed with the Securities and Exchange Commission on July 19, 1977, a copy of the proposed agreement among underwriters and underwriting agreement for the common stock in proof form, and a certified copy of authorizing votes of the company's board of directors were put in evidence at the hearing.

Based upon all of the evidence, the commission finds that the proceeds from the proposed financing will be expended to pay off a portion of the short-term. notes outstanding at the time of the sale, the proceeds of which will have been expended in the purchase and construction of property reasonably requisite for present and future use in the conduct of the petitioners' business, and for other proper corporate purposes, and further finds that the issue and sale of these securities will be consistent with the public good. Our order will issue accordingly.

#### Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Public Service Company of New Hampshire be, and hereby is, authorized to issue and sell 1.2 million shares of common stock, \$5 par value, for cash; and it is

Further ordered, that Public Service Company of New Hampshire be, and hereby is, authorized to issue and sell not exceeding 200,000 shares of preferred stock, \$100 par value; and it is

Further ordered, that Public Service Company of New Hampshire shall submit to this commission the purchase price of said common stock and the purchase price and dividend rate on said preferred stock, after which a supplemental order or orders will issue approving the terms of the issue and sale of these securities, including the price of said common stock and the price

and dividend rate on said preferred stock; and it is

Further ordered, that the proceeds

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from the sale of said securities shall be used for the purpose of discharging and repaying a portion of the outstanding short-term notes of said company; and it is

Further ordered, that Public Service Company of New Hampshire furnish this commission with copies of any amendments of its registration statement for the common stock filed with the Securities and Exchange Commission; and it is

Further ordered, that on January 1st and July 1st in each year, Public Service Company of New Hampshire shall file with this commission a detailed statement, duly sworn by its treasurer or assistant treasurer, showing the disposition of the proceeds of said securities being authorized until the expenditure of the whole of said proceeds shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of July, 1977.

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NH.PUC\*07/25/77\*[77913]\*62 NH PUC 211\*Stan's Van Service, Inc.

[Go to End of 77913]

**Re Stan's Van Service, Inc.**

DT 76-167

62 NH PUC 211

New Hampshire Public Utilities Commission

July 25, 1977

APPLICATION by motor carrier to expand service area; denied.

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CERTIFICATES, § 118 — Carrier of household goods — Base of operations.

[N.H.] The commission denied a motor carrier's application to base his operations in the city of Nashua where such authorization might impair existing carriers' investments to their detriment and to the detriment of the public generally.

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APPEARANCES: Silas Little III for the applicant; Stephen F. Weyl and William Green for Ray the Mover, Inc., Diggins and Rose, Inc., and McLaughlin Moving and Storage Company.

BY THE COMMISSION:

## Report

By this opposed application filed November 15, 1976, Stan's Van Service, Inc., seeks authority to operate as a carrier of household goods between all points and places in the state of New Hampshire. A duly noticed hearing was held at the office of the commission on February 14, 1977.

Applicant presented eleven witnesses, five of whom had actually used applicant's services, two who, although not users, opined that there was a need for additional household goods carriers, one who requested service and did not receive service, and three who operate competing household goods carrier businesses in the area affected by the application.

User witnesses praised applicant's service as "excellent" (Muller, Transcript p. 8; Osgood, Transcript p. 46) "just excellent" (Largey, Transcript

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p. 35) and "super" (Wagner, Transcript, p. 46). User witnesses were generally "very satisfied" (Ratzel, Transcript p. 54) and testified that the applicant offered "personalized service" (Osgood, Transcript p. 28). As a basis for these statements, the witnesses indicated that applicant complied with requests for written estimates (Muller, Transcript p. 11), did no damage to items moved (Osgood, Transcript p. 26), was willing to undertake almost any kind of move (Largey, Transcript p. 35), performed the move at the appointed time (Wagner, Transcript p. 45), and undertook jobs that most of the others were not interested in taking (Ratzel, Transcript p. 54).

In further testimonial support of the application, these witnesses related unsatisfactory dealings with some of the existing carriers. These witnesses explained their displeasure with existing carriers who failed to give estimates upon request (Muller, Transcript p. 10), refused to give service (Peselli, Transcript p. 16), failed to appear at the designated time (Largey, Transcript p. 34), and damaged goods in transit (Muller, Transcript p. 11).

Five of the first eight witnesses were real estate agents who generally testified that the Nashua area is growing (Holland, Transcript p. 49; Largey, Transcript p. 35; Panagoulas, Transcript p. 62), that more carriers were needed to serve their clients who were planning moves and that such additional carriers should concentrate on local as opposed to long-distance moves (Holland, Transcript p. 49).

There was special emphasis placed upon the fact that applicant provided local as opposed to long-distance moves and would undertake single items or small volume moves (Largey, Transcript p. 35). Witness Osgood (Transcript p. 27) encountered resistance and reluctance of other carriers to move smaller items and smaller volumes.

The customers the applicant has served are satisfied customers. Applicant's business is small, with two fulltime employees (Stancik, Transcript p. 151) and most of the work accomplished by applicant himself (Stancik, Transcript p. 152). Applicant has ten years' experience in the business (Stancik, Transcript p. 153) has no affiliation with any national service and thus is characterized as a small personalized local moving company (Stancik, Transcript p. 154) based in Laconia (Stancik, Transcript p. 150). Applicant enjoys a good reputation among customers (see previous witness testimony), has not had any complaints about service (Stancik, Transcript p.

153), and receives referrals from existing carriers (Stancik, Transcript p. 156).

Applicant's counsel; willingness, and ability to perform household goods carriage amply demonstrated by the foregoing evidence.

Applicant's counsel sought to prove that existing carriers are overbooked and thus do not serve some customers they have agreed to serve. Applicant's counsel also offered to prove that existing carriers are interested in the long haul interstate moves and not interested in the short intrastate moves. Applicant's counsel presented Richard Rose of Diggins and Rose, an existing carrier, who testified that his company provides written estimates when time is available (Transcript p. 79), is on time 95 per cent of the time (Transcript p. 81), refers business to other carriers (Transcript p. 86), provides moves of short duration (Transcript p. 99), has a company policy not to set a specific

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time for any move (Transcript p 99), and adds to its work force in the summer to compensate for the additional volume of business (Transcript p. 101).

Applicant's counsel also presented Raymond R. Allard of Ray the Mover who testified that his company does not cancel any moves except for inclement weather (Transcript p. 109) and does very many welfare moves (Transcript p. 113).

Counsel finally presented Robert E. Smith, general manager of the John W. McLaughlin Company who testified that his company cancels a scheduled move only in inclement weather (Transcript p. 135) or when a customer requests cancellation (Transcript p. 136) and performs small moves but does not book them for a specific time (Transcript p. 145).

In connection with the presentation of the existing carrier witnesses (Rose, Allard and Smith), applicant's counsel made repeated requests for production of those companies' records. At a separate hearing prior to this hearing on the merits, the commission granted the protestants' motion to quash subpoenas which were issued for the purpose of producing voluminous documents from all protesting carriers. The commission in that decision said that if an adequate demonstration of relevance was made at the hearing on the merits that production of those documents would be allowed.

We find that the carrier witnesses presented by applicant's counsel had adequate knowledge of their company's operations and policies so that production of company files is unnecessary.

We find that occasional unavailability of an existing carrier's service is not in and of itself determinative of inadequacy of its service. Certain deficiencies will occur among existing carriers such as the unavailability of equipment or manpower for a particular service (such as a short move) and at a particular time (such as in the summer).

We find further that entry of a new carrier into the market may create a duplication of services especially in the winter months. The seasonality of the household goods moving business is an important consideration. While at times during peak load summer months there may appear to be a need, this need is sporadic and usually lessens during most months of the year. Addition of new carriers may not create any wasteful duplication of service in the summer peak months but may contribute to unused capacity during winter months. This unused capacity

might impair existing carriers' investments to their detriment and to the detriment of the public generally.

Applicant is presently authorized to serve all points of the state of New Hampshire and seeks by this new application to demonstrate a need for his service in the Nashua area so that he may base his operations there. This is the clear intent of this application as evidenced by previous proceedings before the commission.

We find further that applicant is presently fulfilling an important need, and is serving his customers well. The status quo in the moving business as related to the commission in testimony is serving the public adequately, economically, and efficiently. Accordingly, the application is denied.

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NH.PUC\*07/26/77\*[77914]\*62 NH PUC 214\*New England Telephone and Telegraph Company

[Go to End of 77914]

## Re New England Telephone and Telegraph Company

I-R14,714, Supplemental Order No. 12,855

62 NH PUC 214

New Hampshire Public Utilities Commission

July 26, 1977

PETITION of telephone company to introduce new usage-sensitive optional calling plan; granted.

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BY THE COMMISSION:

Supplemental Order

Whereas, New England Telephone and Telegraph Company, a public utility engaged in the business of supplying telephone service in the state of New Hampshire, on June 24, 1977, filed with this commission certain revisions of its tariff, NHPUC No. 70 — Telephone, providing for the introduction of regulations, rates, and charges for a new, usage-sensitive, optional calling plan to be known as selective calling service, filed for effect August 1, 1977; and

Whereas, by its Order No. 12,841 dated July 18, 1977, this commission suspended that filing pending investigation and decision thereon; and

Whereas, this commission has now made such investigation as it deems necessary and has concluded that the experimental program proposed in this filing has merit and should be allowed to progress during an 18-month period ending February 1, 1979; and it is

Ordered, that Part V — Message Toll, Section 1, Fourth Revised Page 6, Ninth Revised Pages 3 and 4, Tenth Revised Page 5, 11th Revised Page 1, and 15th Revised Page 2 and Section 2 Original Pages 1-4 of New England Telephone and Telegraph Company tariff, NHPUC No. 70

— Telephone, be, and hereby are, authorized to become effective on August 1, 1977; and it is

Further ordered, that at the termination of the experimental period this commission will review the results of the selective calling service experiment, and, if necessary, cause such changes to be made as will assure that they are in the best interests of the customers, the participating independent telephone companies, and New England Telephone and Telegraph Company.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of July, 1977.

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NH.PUC\*07/28/77\*[77915]\*62 NH PUC 215\*New Hampshire Electric Cooperative, Inc.

[Go to End of 77915]

**Re New Hampshire Electric Cooperative, Inc.**

DR 76-33, Second Supplemental Order No. 12,856

62 NH PUC 215

New Hampshire Public Utilities Commission

July 28, 1977

PETITION by electric cooperative to reduce its fuel adjustment clause; granted.

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RATES, § 303 — Fuel adjustment clauses — Wholesale rate reduction.

[N.H.] The commission authorized an electric cooperative to revise its tariffs where the cooperative had received a reduction in wholesale rates from power suppliers who were under the jurisdiction of the Federal Power Commission.

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BY THE COMMISSION:

Supplemental Order

Whereas, the New Hampshire Electric Cooperative, Inc., a public utility doing business in the state of New Hampshire, has filed with this commission a revision to its tariff, NHPUC No. 6 — Electricity, to provide for a reduction in its purchased power adjustment; and

Whereas, the company contends that this reduced purchased power adjustment results from reductions in wholesale rates from power suppliers, whose rates are under the jurisdiction of the Federal Power Commission; and

Whereas, this reduced purchased power adjustment is particularly intended to reflect a settlement rate of the Public Service Company of New Hampshire effective with bills to the Cooperative for the July, 1977, billing cycle; and

Whereas, this commission has investigated the matter and is satisfied that such a reduced purchased power adjustment is in accordance with the provisions of the Cooperative's filed tariff and is in the best interests of both the Cooperative and its customers; it is

Ordered, that Third Revised Page 11c-1 to its tariff, NHPUC No. 6 — Electricity providing for a purchased power adjustment of 16 cents be, and hereby is, rescinded; and it is

Further ordered, that Fourth Revised Page 11c-1 to New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 6 — Electricity, providing for a purchased power adjustment of \$0.1586 be, and hereby is, authorized to become effective with all bills rendered on or after August 1, 1977.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of July, 1977.

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NH.PUC\*08/09/77\*[77916]\*62 NH PUC 216\*New England Telephone and Telegraph Company

[Go to End of 77916]

## Re New England Telephone and Telegraph Company

DE 77-95, Order No. 12,858

62 NH PUC 216

New Hampshire Public Utilities Commission

August 9, 1977

PETITION by telephone company for license to place and maintain buried telephone cables on state-owned land; granted.

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TELEPHONES, § 2 — Construction and equipment — Buried telephone cable.

[N.H.] The commission authorized a telephone company to place and maintain a buried cable on state-owned land as the cable would provide for future growth.

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BY THE COMMISSION:

Order

Whereas, by petition filed June 2, 1977, New England Telephone and Telegraph Company seeks a license, pursuant to RSA 37 1:1 7-20, to place and maintain buried telephone cable on state-owned railroad right of way in Laconia, New Hampshire; and

Whereas, the petitioner represents that the proposed plant will be placed along the railroad right of way from Messer street to the Winnepesaukee river and is designed to provide telephone

service and for future growth in the New England Company's Laconia exchange; and

Whereas, following due notice no other interested parties recorded any objections to the proposed construction and upon investigation of all the facts before the commission, it is found that the proposed construction is necessary to meet the reasonable requirements of the public, and that the license sought may be issued and exercised by the petitioner without substantially affecting the public rights; it is

Ordered, that a license be, and hereby is, granted to New England Telephone and Telegraph Company to place and maintain a buried cable on state-owned land in the city of Laconia, all in accordance with the above description which is contained on a plan On file at the office of the commission.

By order of the Public Utilities Commission of New Hampshire this ninth day of August, 1977.

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NH.PUC\*08/09/77\*[77917]\*62 NH PUC 216\*Chester Telephone Company, d/b/a Granite State Telephone Company

[Go to End of 77917]

**Re Chester Telephone Company, d/b/a Granite State Telephone Company**

DR 77-116, Order No. 12,862

62 NH PUC 216

New Hampshire Public Utilities Commission

August 9, 1977

PETITION of telephone company seeking rate increase; suspended pending r commission investigation.

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BY THE COMMISSION:

Order

Whereas, Chester Telephone Company, d/b/a Granite State Telephone company, a public utility engaged in the

**Page 216**

business of supplying telephone service in the state of New Hampshire July 15, 1977, filed with this commission certain revisions of its tariff, NHPUC No. 6 — Telephone, providing for increased rates, effective August 15, 1977; and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date thereof be suspended pending investigation and decision thereon; it

is

Ordered, that Section 2, Fifth Revised Page 1A, etc. (see list in acknowledgement letter) of tariff, NHPUC No. 6 — Telephone of Chester Telephone Company d/b/a Granite State Telephone Company be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this ninth day of August, 1977.

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NH.PUC\*08/09/77\*[77918]\*62 NH PUC 217\*Exeter and Hampton Electric Company

[Go to End of 77918]

### Re Exeter and Hampton Electric Company

DR 76-35, Second Supplemental Order No. 12,863

62 NH PUC 217

New Hampshire Public Utilities Commission

August 9, 1977

PETITION by electric company to revise tariff; granted.

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REPARATION, § 14 — Federal jurisdiction — Purchased power adjustment.

[N.H.] The commission authorized an electric company to revise its tariff where the company had received a reduction in wholesale rates from. its power supplier, whose rates were under the jurisdiction of the Federal Power Commission.

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BY THE COMMISSION:

Supplemental Order

Whereas, the Exeter and Hampton Electric Company, a public utility doing business in the state of New Hampshire, has filed with this commission a revision to its tariff, NHPUC No. 11 — Electricity, to provide for a reduction in its purchased power adjustment; and

Whereas, the company contends that this reduced purchased power adjustment results from reduction in wholesale rates from power supplier, whose rates are under the jurisdiction of the Federal Power Commission; and

Whereas, this reduced purchased power adjustment is particularly intended to reflect a settlement rate of the Public Service Company of New Hampshire effective with bills to the company for the July, 1977, billing cycle; and

Whereas, this commission has investigated the matter and is satisfied that such a reduced

purchased power adjustment is in accordance with the provisions of the company's filed tariff and is in the best interests of both the company and its customers; it is

Ordered, that Original Page 15A to its tariff, NHPUC No. 11 — Electricity, providing for purchased power adjustment

**Page 217**

of 20.22 per cent be, and hereby is, rescinded; and it is

Further ordered, that First Revised Page 15A to Exeter and Hampton Electric Company tariff, NHPUC No. 11 — Electricity, providing for a purchased power adjustment of 17.17 per cent be, and hereby is, authorized to become effective with all bills rendered on or after August 26, 1977.

By order of the Public Utilities Commission of New Hampshire this ninth day of August 1977.

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NH.PUC\*08/09/77\*[77919]\*62 NH PUC 218\*Concord Electric Company

[Go to End of 77919]

**Re Concord Electric Company**

DR 76-34, Second Supplemental Order No. 12,864

62 NH PUC 218

New Hampshire Public Utilities Commission

August 9, 1977

PETITION by electric company to revise tariff; granted.

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REPARATION, § 14 — Federal jurisdiction — Purchased power adjustment.

[N.H.] The commission authorized an electric company to revise its tariff where the company had received a reduction in wholesale rates from its power supplier, whose rates were under the jurisdiction of the Federal Power Commission.

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**Supplemental Order**

Whereas, the Concord Electric Company, a public utility doing business in the state of New Hampshire, has filed with this commission a revision to its tariff, NHPUC No. 6 — Electricity, to provide for a reduction in its purchased power adjustment; and

Whereas, the company contends that this reduced purchased power adjustment results from

reductions in wholesale rates from power suppliers, whose rates are under the jurisdiction of the Federal Power Commission; and

Whereas, this reduced purchased power adjustment is particularly intended to reflect a settlement rate of the Public Service Company of New Hampshire effective with bills to the company for the July, 1977, billing cycle; and

Whereas, this commission has investigated the matter and is satisfied that such a reduced purchased power adjustment is in accordance with the provisions of the company's filed tariff and is in the best interests of both the company and its customers; and it is

Ordered, that Original Page 14A to its tariff, NHPUC No. 6 — Electricity, providing for purchased power adjustment of 20.22 per cent be, and hereby is rescinded; and it is

Further ordered, that First Revised Page 14A to Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for a purchased power adjustment of 17.29 per cent be, and hereby is, authorized to become effective with all bills rendered on or after August 26, 1977.

By order of the Public Utilities Commission of New Hampshire this ninth day of August, 1977.

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NH.PUC\*08/09/77\*[77920]\*62 NH PUC 219\*Public Service Company of New Hampshire

[Go to End of 77920]

## Re Public Service Company of New Hampshire

DF 77-102, Supplemental Order No. 12,867

62 NH PUC 219

New Hampshire Public Utilities Commission

August 9, 1977

PETITION by utility for authority to issue and sell common and preferred stock; granted.

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BY THE COMMISSION:

Supplemental Order

Whereas, our Order No. 12,849 dated July 22, 1977 (62 NH PUC 209), issued in the above entitled proceeding, authorized Public Service Company of New Hampshire, inter alia, to issue and sell 1.2 million shares of common stock, \$5 par value, subject to further order of this commission; and

Whereas, in compliance with said Order No. 12,849, following negotiation with underwriters, the company has submitted to this commission the details concerning the sale of said common stock, which contemplate the issue and sale of 1.2 million shares of said common stock by the company to underwriters who will make a public offering thereof, as set forth in the underwriting agreement between the company and the underwriters, a copy of which is to be

filed with the commission, said common stock to be sold at a price to the company of \$20.91 per share; and

Whereas, after due consideration, it appears that the issue and sale of said common stock upon the terms, including the price, hereinabove set forth or referred to, is consistent with the public good; it is

Ordered, that Public Service Company of New Hampshire be, and hereby is, authorized to issue and sell at a price of \$20.91 per share in cash 1.2 million shares of its common stock, \$5 par value, said stock to be sold at said price of \$20.91 per share to underwriters who will make a public offering thereof, as set forth in the underwriting agreement between the company and the underwriters; and it is

Further ordered, that all other provisions of said Order No. 12,849 of this commission relating to the sale of common stock are incorporated herein by reference.

By order of the Public Utilities Commission of New Hampshire this ninth day of August, 1977.

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NH.PUC\*08/11/77\*[77921]\*62 NH PUC 220\*New Hampshire Department of Public Works and Highways

[Go to End of 77921]

## Re New Hampshire Department of Public Works and Highways

DT 77-80, Supplemental Order No. 12,871

62 NH PUC 220

New Hampshire Public Utilities Commission

August 11, 1977

PETITION for authority to construct three highway bridges; granted.

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BY THE COMMISSION:

Supplemental Order

Whereas, this commission issued its Order No. 12,818, dated July 5, 1977 (62 NH PUC 185), authorizing the construction of three highway bridges over the tracks of the Boston and Maine Corporation in accordance with a petition filed by the state of New Hampshire Department of Public Works and Highways; and

Whereas, two of these overhead bridges were designated as carrying the southbound lane of the Spaulding Turnpike, one of which was over the tracks of the Farmington branch in the city of Rochester and the other over the Conway branch in the town of Milton; and

Whereas, it develops that initially the structures authorized will carry two lanes of the Spaulding Turnpike until future plans provide for separating the lanes, at which time the structures authorized will be carrying the southbound lane; it is

Ordered, that the said Order No. 12,818 be, and hereby is, amended so that the "ordered" paragraphs will read as follows:

Structure No. 103/194. An overhead bridge to carry Spaulding Turnpike extension over the tracks of the Farmington branch at Railroad Engineering Station No. 596+98 with a minimum vertical clearance of 20 feet 1.625 inches above the rails.

Structure No. 141/122. An overhead bridge to carry Spaulding Turnpike extension over the tracks of the Conway branch of the Boston and Maine Corporation at Railway Engineering Station No. 1,210+12 with a minimum vertical clearance of 20 feet 3.5 inches.

Structure No. 219/124. An overhead bridge carrying the relocated Farmington road over the tracks of the Conway branch of the Boston and Maine Corporation at Railroad Engineering Station No. 1,005+12 with a minimum vertical clearance of 20 feet one inch above the rail.

By order of the Public Utilities Commission of New Hampshire this eleventh day of August, 1977.

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NH.PUC\*08/11/77\*[77922]\*62 NH PUC 221\*Granite State Electric Company

[Go to End of 77922]

## **Re Granite State Electric Company**

DR 77-63, Supplemental Order No. 12,872

62 NH PUC 221

New Hampshire Public Utilities Commission

August 11, 1977

PETITION by electric company for temporary rate increase; granted.

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RATES, § 85 — Temporary rates — Electric company.

[N.H.] The commission allowed an electric company to collect temporary rates pending the final resolution of all issues in the company's rate proceeding.

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APPEARANCES: Philip H. R. Cahill and William G. Hayes for the petitioner; Steven W. Ruback and Michael Love for the Legislative Utility Consumers' Council; and William Weismann for Lebanon in Service to each Neighbor (LISTEN).

BY THE COMMISSION:

Report

These proceedings were initiated on April 22, 1977, when Granite State Electric Company

(hereinafter the "company"), a public utility engaged in the business of supplying electric service in limited areas of the state filed with this commission a request to increase its gross annual revenues by \$1,089,100. On May 2, 1977, the commission issued Order No. 12,731 (62 NH PUC 124) suspending the effective date of any proposed rate increase pending investigation and decision thereon.

A duly noticed procedural hearing was held on May 18, 1977, at which time the company filed with the commission its prepared testimony and exhibits supporting its proposed rate increase request of \$1,089,100. Noting the agreement of the company and intervenors, an informal conference was held at the office of the commission on May 27, 1977, in order to expedite the submission of data requests and the making of responses to such requests.

Duly noticed evidentiary hearings were held at Concord on June 14 and 15, 1977, followed by duly noticed and well publicized evening informational hearings in Salem, NH (June 14) and Lebanon, NH (June 15).

Subsequent to adjournment of the June 15th evidentiary hearings without settlement, and since the next scheduled evidentiary hearing was estimated to be in September, the company, on July 8, 1977, filed a petition for temporary rates as noted above. A duly noticed hearing was held pursuant to RSA 378:27 at the offices of the commission on this petition on July 21, 1977.

At this hearing on the temporary rate petition the company testified that its earnings had declined and that its rate of return on rate base had declined. The company testified that the rate of return realized over the twelve months ended May 31, 1977, was less than the company's cost of capital. Intervenors and staff cross-examined the company on various issues and without finally resolving these issues at this stage of the proceedings the commission, in accordance with RSA 378:27, will establish reasonable temporary rates for the duration of these proceedings.

The commission will allow an increase

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in gross annual revenues on a temporary basis until such time as it finally determines all of the issues in this proceeding and finally decides what level of annual revenues are just and reasonable as permanent rates. Thus, the commission will allow rates to be charged by the company on a temporary basis to reflect an increase in annual revenues of \$750,000. This temporary rate increase shall become effective with all current billings rendered on or after the date of this report and order. Our order will issue accordingly.

#### Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the rates and charges set forth in tariff, NHPUC No. 8 — Electricity of Granite State Electric Company, pp. 17, 19, 23-26, 35, 37, and 38 be revised to reflect a temporary increase in annual revenues of \$750,000 for all current billings rendered on or after the date of this order; and it is

Further ordered, that Granite State Electric Company give public notice of these changes by publishing a copy of this order in a newspaper having general circulation in the territory served

by said company; and it is

Further ordered, that pursuant to RSA 378:30, Granite State Electric Company furnish this commission with a bond to secure the repayment to the customers of said public utility of the difference, if any, between the amounts collected under such temporary rates and the rates which the commission finds should have been in effect during the continuance of such temporary rates.

By order of the Public Utilities Commission of New Hampshire this eleventh day of August, 1977.

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NH.PUC\*08/15/77\*[77923]\*62 NH PUC 222\*New Hampshire Department of Public Works and Highways

[Go to End of 77923]

## Re New Hampshire Department of Public Works and Highways

I-T14,717, Order No. 12,873

62 NH PUC 222

New Hampshire Public Utilities Commission

August 15, 1977

PETITION to exempt vehicles from rule requiring them to stop at a crossing; granted.

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1. CROSSINGS, § 71 — Infrequent use — "Exempt" signs.

[N.H.] Where rail operations over a section of the railroad track were practically nonexistent, the commission permitted the erection of "exempt" signs at the track crossing in order to eliminate the necessity for certain vehicles to stop before proceeding over the crossing. p. 223.

2. CROSSINGS, § 71 — Train movements — Highway intersection.

[N.H.] The commission ordered all train movements to stop, and a flagman warn highway traffic, before trains may proceed over an intersection of a highway and railroad tracks. p. 223.

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BY THE COMMISSION:

Order

Whereas, Route 101 intersects the tracks of the Boston and Maine Corporation at grade in the town of Epping; and

Whereas, operations over this section of railroad are practically nonexistent as there is no business being conducted on the line; and

Whereas, under present circumstances all motor vehicles carrying inflammable or dangerous commodities are required to stop before proceeding over the said crossing; and

Whereas, this creates a hazard to highway traffic; it is

[1] Ordered, that the New Hampshire Department of Public Works and Highways be and hereby is, authorized to erect and maintain a standard "exempt" sign on the mast which supports the advance warning disc at each approach to said crossing, thereby eliminating the necessity for stopping vehicles before proceeding over said crossing; and it is

[2] Further ordered, that all train movements before passing over said crossing shall stop and a flagman shall warn highway traffic by displaying a red flag during the hours of daylight and a lighted red lantern during the hours of darkness, or poor visibility, and when highway traffic has stopped, the train movement shall then proceed over the crossing.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of August, 1977.

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NH.PUC\*08/25/77\*[77924]\*62 NH PUC 223\*Filtrine Manufacturing Company

[Go to End of 77924]

### Re Filtrine Manufacturing Company

DE 77-108, Order No. 12,874

62 NH PUC 223

New Hampshire Public Utilities Commission

August 25, 1977

PETITION by a manufacturing company for authority to sell surplus energy; granted.

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1. PUBLIC UTILITIES, § 46 — Manufacturing company — Surplus power sale.

[N.H.] The commission authorized a manufacturing company to sell surplus hydroelectric energy and concurrently approved an agreement for such sale between the company and an electric company under its jurisdiction. p. 223.

2. PUBLIC UTILITIES, § 46 — Manufacturing company — Exemption.

[N.H.] The commission granted an exemption from requirements of being a public utility to a manufacturing company for the sale of cogenerated energy, except for the provision of Title 34 which pertained to rates and service. p. 224.

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BY THE COMMISSION:

Order

[1] Whereas, the Filtrine Manufacturing Company of Harrisville, New

**Page 223**

Hampshire, on July 12, 1977, filed with this commission a petition for an exemption under RSA 362:5 and concurrent approval of an agreement to sell surplus hydroelectric energy to the Public Service Company of New Hampshire; and

Whereas, said petition alleges in part that the petitioner is principally engaged in the manufacture of water coolers and water filters and owns and operates a hydroelectric generating facility primarily for the operation of such business; and

Whereas, the petitioner is a "manufacturing establishment" within the terms of RSA 362:5; and

Whereas, said petition contains as a part thereof an agreement for the purchase and sale of excess hydroelectric energy between the petitioner and the Public Service Company of New Hampshire under which the terms and conditions of such sales of surplus electricity are to be made; and

Whereas, after investigation, this commission finds that exempting the petitioner from the requirements of a public utility except those provisions relating directly to rates and service is consistent with the public good in that surplus electricity would otherwise be wasted and that the cost of said surplus electricity will be lower than conventionally produced fossil fuel generated electricity and for other reasons; it is

Ordered, that Filtrine Manufacturing Company be, and hereby is, authorized to sell its surplus electricity to Public Service Company of New Hampshire under the terms and conditions of a contract which is a part of this filing and to be executed by the parties; and it is

[2] Further ordered, that Filtrine Manufacturing company shall not be considered to be a public utility and shall be exempt from the requirements of being a public utility except for the provision of Title XXXIV pertaining directly to rates and service.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of August, 1977.

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NH.PUC\*08/29/77\*[77925]\*62 NH PUC 224\*Public Service Company of New Hampshire et al.

[Go to End of 77925]

## **Re Public Service Company of New Hampshire et al.**

DR 76-46, 19th Supplemental Order No. 12,876

62 NH PUC 224

New Hampshire Public Utilities Commission

August 29, 1977

PETITION for authority to apply a fuel adjustment charge to a monthly bill; granted.

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RATES, § 303 — Fuel adjustment clauses — Electric companies.

[N.H.] The commission authorized electric utilities to recover additional fuel costs through a fuel adjustment charge due to scheduled and unscheduled maintenance of a coal plant.

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APPEARANCES: Eaton W. Tarbell, Jr., and Frederick J. Coolbroth for Public Service Company of New Hampshire; Rocco Pelillo for Concord Electric Company; Richard F. Gilmore for Exeter and Hampton Electric Company; Richard Schwartz for Connecticut Valley Electric Company, Inc.; Thomas W. Morse for New Hampshire Electric Cooperative, Inc.; William G. Hayes for Granite State Electric Company; Dennis Bean for the Municipal Electric Department of Wolfeboro; John Cassidy for Littleton Water and Light Department; Robert Brown for Woodsville Water and Light Department; and Michael Love for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

Pursuant to RSA 378:3-A(II), the commission, on August 18, 1977, held hearings on the petitions of nine New Hampshire electric companies for authority to apply a fuel adjustment charge to regular September monthly billings to their customers.

Reference may be made to previous commission decisions in this docket for statements and explanations for the fuel adjustment clause.

*Littleton Water and Light Department*

Littleton Water and Light Department, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on August 17, 1977, filed with this commission 44th Revised Page 6 of its tariff, NHPUC No. 1 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect on September 1, 1977. Littleton purchases all of its requirements from the New England Power Company. Littleton reported that the total fuel cost billed by the New England Power Company during the month of July, 1977, was \$11,267.59. During this period the total kilowatt-hours sold by Littleton were 2,562,503. The fuel adjustment charge, therefore, by simple division is \$0.0044 per kilowatt-hour. The fuel adjustment charge proposed for effect in the month of September, 1977, is 44 cents per hundred kilowatt-hours to be applied to all bills rendered in that month.

*Municipal Electric Department of Wolfeboro*

Municipal Electric Department of Wolfeboro, a public utility engaged in the business of

supplying electric service in the state of New Hampshire, on August 8, 1977, filed with this commission 34th Revised Page 9A to its tariff, NHPUC No. 4 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect September 1, 1977. Wolfeboro purchases all of its requirements from Public Service Company of New Hampshire. Wolfeboro reported that during the month of July, 1977, the total fuel cost billed by Public Service Company was \$28,792.80. During this same period the total kilowatt-hours sold by Wolfeboro were 1,931,595. The fuel adjustment, therefore, by simple division and rounded is \$0.0149 per kilowatt-hour. The fuel adjustment charge proposed for effect in the month of September, 1977, is \$1.49 per hundred kilowatt-hours to be applied to all bills rendered in that month.

*New Hampshire Electric Cooperative, Inc.*

New Hampshire Electric Cooperative,

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Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on August 16, 1977, filed with this commission 40th Revised Page 13 to its tariff, NHPUC No. 6 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect on September 1, 1977. The company reported that the total fuel cost billed by its several power suppliers for power during the month of July, 1977, was \$250,148. Total sales by the Co-op during the same month were 19,985,545 kilowatt-hours. By simple division, the fuel adjustment charge proposed for September, 1977, and rounded is \$0.0125 per kilowatt-hour. The fuel adjustment charge to be applied to all bills rendered in the month of September, 1977, is proposed to be \$1.25 per hundred kilowatt-hours.

*Granite State Electric Company*

Granite State Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on August 15, 1977, filed with this commission 36th Revised Page 15A to its tariff, NHPUC No. 8 — Electricity, comprising the monthly fuel adjustment charge for effect September 1, 1977. Granite State Electric Company purchases all of its requirements from the New England Power Company. Granite State reported that the variable portion of the fuel cost billed by New England Power Company was \$106,887.17. Total sales to Granite State customers during the same period were 26,099,593 kilowatt-hours. By simple division this yields \$0.0041 to which is added the fixed fuel portion of \$0.0124 per kilowatt-hour. Thus, the fuel adjustment charge applicable to bills rendered in the month of September, 1977, is proposed to be \$1.65 per hundred kilowatt-hours.

*Woodsville Water and Light Department*

Woodsville Water and Light Department, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on August 12, 1977, filed with this commission Tenth Revised Page 10B to its tariff, NHPUC No. 3 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect September 1, 1977. Woodsville purchases all of its requirements from Central Vermont Public Service Corporation. Woodsville reported that during the month of July, 1977, the total fuel cost billed by Central Vermont was \$1,888.80. During this same period the total kilowatt-hours sold by Woodsville were 788,887. The fuel adjustment, therefore, by simple division is \$0.002389 per kilowatt-hour. The fuel

adjustment charge, therefore, proposed for the month of September, 1977, is \$0.24 per hundred kilowatt-hours to apply to all bills rendered in that month.

*Connecticut Valley Electric Company, Inc.*

Connecticut Valley Electric Company, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on August 17, 1977, filed with this commission Fifth Revised Page 18 to its tariff, NHPUC No. 4 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect September 1, 1977. Connecticut Valley purchases all of its requirements from Central Vermont Public Service Corporation. Connecticut Valley reported that during the

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month of July, 1977, the total fuel cost billed by Central Vermont was \$24,764. During this same period the total kilowatt-hours sold by Connecticut Valley were 10,170,000. The fuel adjustment, therefore, by simple division is \$0.002435 per kilowatt-hour. The fuel adjustment charge proposed for the month of September, 1977, is 24 cents per hundred kilowatt-hours to apply to all bills rendered in that month.

*Concord Electric Company*

Concord Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on August 5, 1977, filed with this commission 30th Revised Page 15A to its tariff, NHPUC No. 6 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect September 1, 1977. Concord Electric purchases all of its requirements from Public Service Company of New Hampshire. Concord Electric reported that the total fuel cost billed by Public Service Company during the month of July, 1977, was \$289,336.95. Total sales during that same period were 20,572,429 kilowatt-hours. The fuel adjustment charge by simple division is \$0.0141 per kilowatt-hour. Therefore, the fuel adjustment charge proposed for the month of September, 1977, is \$1.41 per hundred kilowatt-hours.

*Exeter and Hampton Electric Company*

Exeter and Hampton Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on August 10, 1977, filed with this commission 26th Revised Page 16 of its tariff, NHPUC No. 11 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect September 1, 1977. Exeter and Hampton purchases all of its requirements from Public Service Company of New Hampshire. Exeter and Hampton reported that the total fuel cost billed by Public Service Company for the month of July, 1977, was \$342,751.50. Total sales by Exeter and Hampton during the same period were 21,892,052 kilowatt-hours. The fuel adjustment charge, therefore, by simple division is \$0.01565 per kilowatt-hour. Thus, the fuel adjustment charge proposed to be billed during the month of September, 1977, is \$1.56 per hundred kilowatt-hours.

*Public Service Company of New Hampshire*

Public Service Company of New Hampshire, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on August 16, 1977, filed with this

commission 34th Revised Pages 15 and 16 to its tariff, NHPUC No. 20 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect September 1, 1977.

Page 16 of the company's fuel surcharge filing for September, 1977, indicates that fuel costs above base for the data month of July were \$5,281,205. During this same period the kilowatt-hours subject to the fuel adjustment were 370,973,000. The fuel adjustment, therefore, by simple division and rounded is \$0.0142 per kilowatt-hour. The fuel adjustment charge proposed for effect in the month of September, 1977, is \$1.42 per hundred kilowatt-hours to be applied to all bills rendered in that month.

The primary reason the September

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fuel adjustment is higher than the previous month's is the outage of the Merrimack II coal plant. During the data month of July, Merrimack II was out of service for 24.23 days of previously scheduled maintenance and an additional 4.78 days of unscheduled maintenance. Approximately 84 per cent of the outage was due to scheduled maintenance.

Public Service Company witness Rodier presented a comparison of calculated and actual Maine Electric Power Company-New Brunswick adjustment returned to retail customers in June and July, 1977, which showed that Public Service Company overrefunded to its customers by \$20,908. Witness Rodier testified that Public Service Company does not plan to recover this overrefund from its customers.

The Legislative Utility Consumers' Council renewed its motions regarding substituted fuel costs and the independent coal sample analysis but agreed that it was appropriate to defer resolution of these motions until a later date.

Based upon all of the evidence in the record of this proceeding, the commission finds that the proposed fuel adjustment charges for the month of September are just and reasonable, in accordance with pertinent provisions and all other applicable provisions of law. Our order will issue accordingly.

#### Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that 34th Revised Pages 15 and 16 of Public Service Company of New Hampshire tariff, NHPUC No. 20 — Electricity, providing for the monthly fuel surcharge of \$1.42 per hundred kilowatt-hours for the month of September, 1977, be, and hereby are, permitted to become effective September 1, 1977; and it is

Further ordered, that 30th Revised Page 15A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of \$1.41 per hundred kilowatt-hours for the month of September, 1977, be, and hereby is, permitted to become effective September 1, 1977; and it is

Further ordered, that 26th Revised Page 16 of Exeter and Hampton Electric Company tariff, NHPUC No. 11 — Electricity, providing for the monthly fuel surcharge of \$1.56 per hundred kilowatt-hours for the month of September, 1977, be, and hereby is, permitted to become

effective September 1, 1977; and it is

Further ordered, that Fifth Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of 24 cents per hundred kilowatt-hours for the month of September, 1977, be, and hereby is, permitted to become effective September 1, 1977; and it is

Further ordered, that 40th Revised Page 13 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of \$1.25 per hundred kilowatt-hours for the month of September, 1977, be, and hereby is, permitted to become effective September 1, 1977; and it is

Further ordered, that 36th Revised Page 15A of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of \$1.65 per hundred kilowatt-hours for the month of September, 1977, be, and hereby is, permitted

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to become effective September 1, 1977; and it is

Further ordered, that 34th Revised Page 9A of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of \$1.49 per hundred kilowatt-hours for the month of September, 1977, be, and hereby is, permitted to become effective September 1, 1977; and it is

Further ordered, that 44th Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of 44 cents per hundred kilowatt-hours for the month of September, 1977, be, and hereby is, permitted to become effective September 1, 1977; and it is

Further ordered, that Tenth Revised Page 10B of Woodsville Water and Light Department tariff NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of 24 cents per hundred kilowatt-hours for the month of September, 1977, be, and hereby is, permitted to become effective September 1, 1977.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth of August, 1977.

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NH.PUC\*08/31/77\*[77926]\*62 NH PUC 229\*New Hampshire Department of Public Works and Highways

[Go to End of 77926]

## Re New Hampshire Department of Public Works and Highways

DT 77-113, Order No. 12,883

62 NH PUC 229

New Hampshire Public Utilities Commission

August 31, 1977

PETITION for authority to rehabilitate certain grade crossings and to modernize and install signals at certain grade crossings; granted.

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CROSSINGS, § 68 — Installation of lights — Resurfacing.

[N.H.] The commission authorized the rehabilitation of roadway surfaces and modernization of signals at certain railroad and highway intersections.

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BY THE COMMISSION:

Order

Whereas, the New Hampshire Department of Public Works and Highways has petitioned to rehabilitate certain grade crossings and to modernize or install signals at certain grade crossings in the towns of Whitefield and Conway; and

Whereas, the funds to accomplish this work are being made available through the provisions of the federal Highway Safety Act of 1973 with no contribution expected from the Maine Central Railroad Company; and

Whereas, the said Maine Central Railroad Company has executed an agreement for the execution of the work; and

Whereas, the commission is of the opinion that the work proposed is consistent

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with public safety; it is

Ordered, that the New Hampshire Department of Public Works and Highways and the Maine Central Railroad Company be, and hereby are, authorized to improve crossings as follows:

In the town of Whitefield:

1. The grade crossing at the intersection of US highway Route 3 and the Maine Central Railroad, also known as High street, (AAR DOT 364 681 K) to be rehabilitated and signals modernized;

2. The intersection of New Hampshire highway Route 116 and the Maine Central Railroad, at grade, known as Maine street, (AAR DOT 364 680 D) to be rehabilitated and new signals installed.

In the town of Conway:

3. The intersection of US highway Route 302 and the Maine Central Railroad at Center Conway (AAR DOT 364 621 B) to be resurfaced and the signals modernized;

4. The intersection, at grade of US highway Route 302 and New Hampshire highway Route

16 and the Maine Central Railroad, at Intervale, (AAR DOT 364 640 F) to be resurfaced and signals modernized; and it is

Further ordered, that the changes authorized herein shall be in accordance with the agreement and plans on file with this office marked DT 77-113.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of August, 1977.

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NH.PUC\*09/01/77\*[77927]\*62 NH PUC 230\*New Hampshire Electric Cooperative, Inc.

[Go to End of 77927]

### **Re New Hampshire Electric Cooperative, Inc.**

DR 76-33, Third Supplemental Order No. 12,884

62 NH PUC 230

New Hampshire Public Utilities Commission

September 1, 1977

ORDER by the commission to refund certain overcollections by an electric cooperative.

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REPARATION, § 14 — Refund of overcollection — Settlement of wholesale rate case.

[N.H.] Where an electric cooperative had received a refund as an adjustment following the settlement of a wholesale rate case the commission ordered the cooperative to refund the overcollection to its customers.

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BY THE COMMISSION:

Supplemental Order

Whereas, New Hampshire Electric Cooperative, Inc., a public utility selling electricity in the state of New Hampshire, has received from Public Service Company of New Hampshire,

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one of its suppliers, a refund of \$91,105.96 as an adjustment following settlement of the Public Service Company of New Hampshire wholesale rate case; and

Whereas, such sum was an overcollection from customers of New Hampshire Electric Cooperative, Inc., pending final settlement; it is

Ordered, that said moneys be refunded to customers in the manner outlined in Supplement No. 3 to New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 6 — Electricity; to be

effective with all billings on or after August 15, 1977.

By order of the Public Utilities Commission of New Hampshire this first day of September, 1977.

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NH.PUC\*09/06/77\*[77928]\*62 NH PUC 231\*Connecticut Valley Electric Company, Inc.

[Go to End of 77928]

### **Re Connecticut Valley Electric Company, Inc.**

I-R14,718, Order No. 12,886

62 NH PUC 231

New Hampshire Public Utilities Commission

September 6, 1977

PETITION of electric company seeking approval of special contract; granted.

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BY THE COMMISSION:

Order

Whereas, Connecticut Valley Electric Company, Inc., a public utility selling electricity under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 5 with the city of Claremont, New Hampshire, effective September 10, 1977, for electric service at rates other than those fixed by its schedule of general application; and

Whereas, upon investigation and consideration, this commission is of the opinion that special circumstances exist relative thereto, which render the terms and conditions thereof just and consistent with the public interest; it is

Ordered, that said contract may become effective as of the effective date thereof.

By order of the Public Utilities Commission of New Hampshire this sixth day of September, 1977.

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NH.PUC\*09/06/77\*[77929]\*62 NH PUC 232\*Municipal Electric Department of Wolfeboro

[Go to End of 77929]

### **Re Municipal Electric Department of Wolfeboro**

DR 76-39, Second Supplemental Order No. 12,887

62 NH PUC 232

New Hampshire Public Utilities Commission

September 6, 1977

PETITION by electric company to revise its purchased power adjustment tariff; granted.

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BY THE COMMISSION:

Supplemental Order

Whereas, the Municipal Electric Department of Wolfeboro, a public utility doing business in the state of New Hampshire, has filed with this commission a revision of its tariff, NHPUC No. 4 — Electricity, to provide for a reduction in its purchased power adjustment; and

Whereas, the department contends that this reduced purchased power adjustment results from reductions in wholesale rates from its power supplier, whose rates are under the jurisdiction of the Federal Power Commission; and

Whereas, this reduced purchased power adjustment is intended to reflect a settlement rate of the Public Service Company of New Hampshire effective with bills to the department for the July, 1977, billing cycle; and

Whereas, this commission has investigated the matter and is satisfied that such a reduced purchased power adjustment is in accordance with the provisions of the department's filed tariff and is in the best interest of both the department and its customers; it is

Ordered, that First Revised Page 9B-1 of its tariff, NHPUC No. 4 — Electricity, providing for purchased power adjustment factor of 0.2056 be, and hereby is rescinded; and it is

Further ordered, that Second Revised Page 9B-1 of Wolfeboro Municipal Electric Department tariff, NHPUC No. 4 — Electricity, providing for a purchased power adjustment factor of 0.1783 be, and hereby is, authorized to become effective with all bills rendered on or after September 1, 1977.

By order of the Public Utilities Commission of New Hampshire this sixth day of September, 1977.

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NH.PUC\*09/06/77\*[77930]\*62 NH PUC 233\*New England Telephone and Telegraph Company

[Go to End of 77930]

## Re New England Telephone and Telegraph Company

DF 77-121, Order No. 12,888

62 NH PUC 233

New Hampshire Public Utilities Commission

September 6, 1977

PETITION by telephone company for authority to issue securities for an employee stock ownership plan; granted.

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SECURITY ISSUES, § 58 — Employee stock ownership plan — Investment tax credit.

[N.H.] The commission authorized a telephone company to annually issue and sell shares of its stock to its parent company which would make a simultaneous contribution to an employee stock ownership plan pursuant to which the telephone company could elect an additional one per cent investment tax credit; the proceeds could be used for extensions, additions, and improvements to its telephone plant.

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APPEARANCES: Peter Guenther for the petitioner.

BY THE COMMISSION:

Report

By unopposed petition filed August 30, 1977, the New England Telephone and Telegraph Company (NET) seeks the approval of the commission to participate in the American Telephone and Telegraph Company (AT&T) "Bell system employee stock ownership plan" (hereafter referred to as the "plan").

New England Telephone and Telegraph Company is a duly organized corporation under the laws of the state of New Hampshire as well as other states and is engaged in the communications business in those states and is affiliated with the AT&T as one of its subsidiaries. New England Telephone and Telegraph Company files this petition pursuant to RSA 369.

A duly noticed hearing was held at the office of the commission on September 1, 1977.

Under § 46(a)(2)(B) of the Internal Revenue Code, and § 301(d) of the Tax Reduction Act of 1975, as amended by the Tax Reform Act of 1976, NET may elect an additional one per cent investment tax credit for years through 1980 if it contributes to an employee stock ownership plan an amount of its stock, stock of an affiliated company, or cash to purchase such stock, equal to the additional investment tax credit. In order to make this additional investment tax credit to NET AT&T has established the plan. Under the plan, NET will annually issue and sell shares of its stock to AT&T, and AT&T will make a simultaneous contribution to the plan.

There are no cash proceeds resulting directly from the proposed issue at the time of issue. Additional cash proceeds, however, will become available to NET by reason of its participation in the plan and because of the resultant reduction in federal income tax. The NET witness testified that this available cash will be used for lawful corporate purposes and thereby possibly reducing the requirement for future borrowings.

It is presently anticipated that the additional

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investment tax credit to be claimed for the tax year 1976 will be approximately \$2.9 million and that accordingly approximately 85,000 shares will be issued on or about September 15, 1977, to the AT&T. Once the necessary contributions to the plan have been made the employees

will be able to benefit from the stock ownership provision. Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that New England Telephone and Telegraph Company be, and hereby is, authorized to participate in the Bell system employee stock ownership plan, and, insofar as the same pertains to property or expenditures in the state of New Hampshire, annually, so long as such plan remains in effect and so long as participation in an employee stock ownership plan is a requirement that must be met to establish the company's eligibility for a tax credit under any federal tax law, to issue to American Telephone and Telegraph Company shares of its stock (common) in an amount and at a price to be determined in accordance with the requirements of such plan, in its present form or as it may hereafter be amended, all in accordance with the resolutions of the board of directors, adopted August 16, 1977, as set out in Exh 3 of the company's petition; and it is

Further ordered, that New England Telephone and Telegraph Company shall annually submit to this commission within sixty days of the issuance of any stock pursuant to the plan a report of the number of shares issued and the price at which they were issued; and it is

Further ordered, that the additional cash available to the company by reason of its participation in the plan will be used for lawful corporate purposes including extensions, additions, and improvements to its telephone plant, and the reimbursement of the company's treasury for monies expended for such corporate purposes; and it is

Further ordered, that New England Telephone and Telegraph Company shall file with this commission, as soon as reasonably practicable after they are adopted, copies of all amendments to the Bell system employee stock ownership plan.

By order of the Public Utilities Commission of New Hampshire this sixth day of September, 1977.

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NH.PUC\*09/07/77\*[77931]\*62 NH PUC 234\*Exeter and Hampton Electric Company

[Go to End of 77931]

## Re Exeter and Hampton Electric Company

DR 76-35, Third Supplemental Order No. 12,891

62 NH PUC 234

New Hampshire Public Utilities Commission

September 7, 1977

ORDER by commission requiring refund from overcollection of purchased power adjustment surcharge by electric company.

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REPARATION, § 14 — Federal jurisdiction — Purchased power adjustment.

[N.H.] The commission authorized an electric company to revise its tariff where the company had received a reduction in wholesale rates from its power supplier, whose rates were under the jurisdiction of the Federal Power Commission.

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BY THE COMMISSION:

Supplemental Order

Whereas, Exeter and Hampton Electric Company, a public utility selling electricity in the state of New Hampshire, has received from its supplier, Public Service Company of New Hampshire, a refund of \$320,472, including interest, as an adjustment following the settlement of the Public Service Company of New Hampshire wholesale rate case; and

Whereas, such sum resulted from overcollection of purchased power adjustment surcharge from its customers pending final settlement; it is

Ordered, that said monies be refunded to customers in the manner outlined in First Revised Page 15A, Supplement No. 1 to Exeter and Hampton Electric Company tariff, NHPUC No. 11 — Electricity, to be effective with all billings rendered during September, 1977; and it is

Further ordered, that First Revised Page 15A, Supplement No. 1 to Exeter and Hampton Electric Company tariff, NHPUC No. 11 — Electricity be rescinded on October 1, 1977.

By order of the Public Utilities Commission of New Hampshire this seventh day of September, 1977.

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NH.PUC\*09/07/77\*[77932]\*62 NH PUC 235\*New Hampshire Electric Cooperative, Inc.

[Go to End of 77932]

### **Re New Hampshire Electric Cooperative, Inc.**

DR 77-93, Supplemental Order No. 12,892

62 NH PUC 235

New Hampshire Public Utilities Commission

September 7, 1977

PETITION by electric cooperative for authority to put in effect its new tariff; granted with modifications.

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1. RATES, § 83 — Suspension of rates — Extension of suspension.

[N.H.] The commission found that it had the jurisdiction and authority to extend a suspension of a filed tariff beyond the six-month period, and to continue the suspension period for the duration of rate proceedings. p. 238.

2. RATES, § 85 — Temporary rates — Notice and hearing.

[N.H.] The commission authorized the establishment of an electric cooperative's current rates as temporary rates finding that the current rates were sufficient to yield a reasonable rate of return on property used and useful, and further finding that it had satisfied the

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reasonable notice requirements pursuant to state statute. p. 239.

3. RATES, § 86 — Retroactive effect of schedules — Suspended rates.

[N.H.] The commission held that if its final order would specify the allowance of the filing of the suspended rates, they should be applied prospectively, since the suspended rates were not an increase and therefore the cooperative would not suffer any deficiency in return or revenues. p. 239.

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APPEARANCES: Mayland H. Morse, Jr., for the petitioner; Michael Love for the Legislative Utility Consumers' Council; James Higgins and Henry Stebbins for the Waterville Company, Inc.; Wilfred Sanders for the town of Waterville; Richard Cooper for the Loon Mountain Recreational Cooperative; Robert Wells for the Mount Attitash Lift Corporation; Herbert Brasseur, pro se; Reverend T. Edward McNutt for the Rumney Bible Conference; and Joan Lynch for Lynch Mill.

BY THE COMMISSION:

Report

New Hampshire Electric Cooperative, Inc., a public utility engaged in supplying electric service in various parts of the state of New Hampshire, on February 1, 1977, filed a new tariff, NHPUC No. 7 — Electricity, for effect March 7, 1977. This new filing was designed to produce approximately the same revenues on a test year ending September 30, 1976, as those collected by the present tariff No. 6. The notable aspect of this new tariff filing is a complete revision of the rate structure of the Co-op.

The commission suspended the effective date of the new tariff by its Order No. 12,598 dated February 9, 1977 (62 NH PUC 31). A duly noticed hearing was held on July 19, 1977, at the office of the commission. This hearing was held jointly with the state of Vermont, Rexford Roberts sitting as hearing examiner for the Vermont Public Service Board.

At the July 19th hearing the Co-op presented its direct case through four witnesses: Maurice Muzzey, budget and finance director of the Co-op; Richard S. Bower, professor at the Amos

Tuck School of Business Administration at Dartmouth College; Robert J. Rohr, professor of economics at Brown University, and J. Peter Williamson, professor of business administration at the Amos Tuck School at Dartmouth College.

The Co-op filing was based upon a test year ended September 30, 1976, and is characterized as an application for a restructuring of the rates and not a rate increase. The Co-op's purpose in filing this new tariff is to reapportion costs among Co-op customers to promote "the use of energy that is economically justified" and to "discourage the wasteful use of electrical energy" while still meeting the Co-op's existing revenue requirements.

In fact, the report of proposed rate changes, which accompanied the rate filing, indicates a net decrease in annual revenues of 1.5 per cent. While this net decrease is the expected result of the proposed restructured rates, it should be noted that substantial numbers of the Co-op's customers will receive a rate increase.

Subsequent to the presentation of the Co-op's direct case and after clarifying questions from intervenors and just prior to the conclusion of the July 19th proceedings, the attorneys for Waterville Company submitted a motion for the commission to adopt as temporary rates

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the current rates in effect for the Co-op. A duly noticed hearing was held at the office of the commission on September 1st on the matter of the motion for temporary rates brought pursuant to RSA 378:27. The balance of this report and order is devoted to the resolution of the various contentions on the issue of whether or not to establish temporary rates for the duration of these proceedings.

Intervenors Basseur and McNutt did not appear at the September 1st hearing on the temporary rate issue, and at that hearing Mount Attitash Lift Corporation made its first appearance.

The intervenors present at the September 1st hearing contend that they have standing to object to the new tariff because if it goes into effect it will adversely affect all of them. The intervenors who would be PG customers under the new tariff — i.e., the ski areas — particularly point out that the impact will be the greatest on them, that increased costs of electricity would force up their own rates and that this is unfair because their competitors would not be faced with similar increases.

Intervenors contend that the establishment of the existing Co-op rates as temporary rates would not harm the Co-op at all. In fact, since the new tariff filing is expected to result in a net decrease of revenues, establishing the existing Co-op rates as temporary rates will in effect yield the Comp more revenue than it would obtain if the new tariff were to go into effect.

Intervenors contend that the Co-op tariff proposal is premature and that sufficient data have not been collected upon which to restructure the rates. Intervenors refer to the need for a load characteristic study by class, a study of elasticity of demand and a more detailed study of cost allocations to class to support assumptions which are the basis for the filing of this new tariff. In fact, the Co-op proposal is the first of its kind in the state of New Hampshire and is very innovative and far-reaching in many respects. The news of this impending rate change has

generated unusually large numbers of inquiries to the public utilities commission from Co-op customers.

If the new tariff filing is allowed to go into effect it would result in widely divergent rates to be charged to Co-op customers, many of whom are in close proximity to customers of other companies who would continue to be charged under more traditional rate forms. Historically, this commission has attempted to keep the customers of this state on a similar basis relative to the rates being charged for utility service. The commission philosophy has been to attain where possible substantial parity in rates between customers of different utility systems. The introduction at this time of the Co-op's new rate structure would create a situation where widely divergent rates would be charged to customers of one system as compared with customers in another system.

It has been the commission's intention as expressed in its report and Order No. 12,557 dated January 10, 1977, to conduct an experiment, on a statewide basis, with many electric utilities to obtain results which could form the basis for some permanent tariff changes on a wider basis.

By report and Order No. 12,557 dated January 10, 1977 (62 NH PUC 4), this commission required the Co-op and other New Hampshire electric utilities to undertake an experimental pricing program in connection with the generic rate structure investigation pending

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before us (DR 75-20). The PUC specifically ordered the filing of experimental time differentiated rates based on average casts for randomly selected customers representing various customer classes. The experiment was ordered after hearing numerous days of testimony by companies, their experts, and commission experts, and was instituted for a one-year period after which the experimental results would be analyzed to form the basis for further rate structure considerations.

In that generic rate structure proceeding the commission stated that it "needs specific and actual data in individual cases ... to gain knowledge of the actual reactions of electric customers over a representative period of time." The commission particularly noted its awareness of various rate design programs and the electric utility rate design study being conducted by the Electric Power Research Institute (EPRI) and Edison Electric Institute (EEI) in response to a resolution adopted by the National Association of Regulatory Utility Commissioners (NARUC) on December 5, 1974. The attorney for Waterville Valley also alluded to this study which is considered to be the most definitive on this subject of rate structures. The results of this nationwide study are imminent and will serve a useful guide for the NHPUC in determining whether or not the Co-op rate filing has sufficient merit to be implemented in its submitted form.

[1] Subsequent to report and Order No. 12,557 (62 NH PUC 4) the Co-op, on February 1, 1977, filed the new tariff we now have before us. The Co-op proposed this new tariff for effect for all of its customers. The Co-op plan was to introduce this untested tariff while moving forward under our order to establish an experimental pricing program.

The commission specifically intended to move cautiously concerning instituting rate structure changes which would result in rate increases for electric customers. Small businesses such as the Lynch Mill represented at these hearings would be adversely affected and the

commission wants and needs to know the effect rate structure changes will have. Such knowledge is obtained by collecting data from rate experiments such as the one the PUC has already ordered the companies to institute.

The Co-op contends that they have the statutory right and privilege pursuant to RSA 378:6 to place their new tariff filing into effect after the six-month suspension period is over. The six-month suspension period ends at midnight on September 7, 1977. The commission by this report and order dated and issued on September 7, 1977, has made a determination prior to expiration of the statutory time period when the Co-op could act under RSA 378:6 to place its tariff filing into effect.

The Co-op contends the PUC does "not have further jurisdiction to extend beyond the statutory period of time, or attempt any limitation on the cooperative's rights to exercise the privileges under bond to put into effect the rates that have been filed." The Co-op suggests that the authority of the PUC is limited in this respect. We do not hold this view.

Section 27 appears later in Chap 378 and is a logical extension and progression of the authority the commission has when dealing with issues of rates and charges. Section 6 of the statute, we feel, does not limit our action under § 27 when § 6 contemplates that the commission may make a determination in the case prior to the expiration of the six-month

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period. In the instant case our action is taken by this report and order within the six-month period. The Coop's § 6 privilege can be used only when the commission is unable to make a determination.

[2] The commission has satisfied the reasonable notice and hearing requirements of the section and, in a matter of a few days, has issued this report and order establishing the current rates as temporary rates, thereby satisfying the requirement of immediacy. The current rates of the Co-op are also sufficient to yield a reasonable rate of return on the cost of property used and useful in the public service. Thus, by this report and order the PUC has satisfied § 27.

Section 6 allows a utility to place its filed rates into effect if the commission does not act within six months of the effective date of the originally proposed tariff. In the event a filed tariff is unreasonably excessive, unfair, or discriminatory, § 27 presents a mechanism for the commission, either on its own motion or upon complaint to fix and determine a reasonable level of temporary rates. Section 27 also presents the commission with an opportunity to act to prevent a utility company from bonding an unreasonable, excessive, or discriminatory rate.

Setting the current rates as temporary rates, as in this case, is not without precedent. See *New Hampshire v New England Teleph. & Teleg. Co.* (1961) 103 NH 394, 40 PUR3d 525, 173 A2d 728; *Pennichuck Water Works v New Hampshire* (1960) 103 NH 49, 36 PUR3d 374, 164 A2d 669.

[3] If the commission permits the tariff filing to be fully implemented it is our considered judgment that implementation of the tariff and the collection of the new rates thereunder should be prospective and not retroactive.

Revised Statute Annotated 378:29 provides for adjustments upon final disposition of rate

proceedings in which temporary rates are established. Since the present filing is not a rate increase the Co-op will not suffer any deficiency in return or revenues by the commission action in setting temporary rates. Since there will be no deficiency there is no need for recoupment and if there is no need for recoupment there is no need to apply any newly allowed rates retroactively to the time when the current rates were made temporary rates. Thus, our final order in these proceedings will specify that if the final disposition is to allow the Co-op tariff filing, it should be applied prospectively and not retroactively.

In conclusion, the commission is of the opinion, based upon the foregoing considerations that the petition to establish the current rates as temporary rates for the duration of these proceedings should be granted. Our order will issue accordingly.

#### Supplemental Order

Based upon the foregoing report, which is made a part hereof; it is

Ordered, that New Hampshire Electric Cooperative, Inc., existing tariff, NHPUC No. 6 — Electricity, be established as temporary rates for the duration of these proceedings; and it is

Further ordered, that New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 7 — Electricity, as filed on February 1, 1977, remains suspended for the duration of these proceedings.

By order of the Public Utilities Commission of New Hampshire this seventh day of September, 1977.

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NH.PUC\*09/08/77\*[77933]\*62 NH PUC 240\*Donald P. LaCroix

[Go to End of 77933]

### **Re Donald P. LaCroix**

DT 77-88, Supplemental Order No. 12,894

62 NH PUC 240

New Hampshire Public Utilities Commission

September 8, 1977

MOTION for rehearing of petition to revoke certificate; granted.

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PROCEDURE, § 36 — Res judicata — Revocation of certificate.

[N.H.] The commission held that where a petition involved new facts of new violations and involved new parties, the doctrine of res judicata should not apply to bar litigation even though it was for the same cause of action.

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## BY THE COMMISSION:

## Supplemental Order

The commission having before it a motion for rehearing and brief filed August 29, 1977, for, and on behalf of, Donald P. LaCroix for rehearing on Order No. 12,857 dated August 9, 1977; after full consideration of the allegations in said motion and after weighing the reasons presented in said motion and based upon the Memorandum of Law attached hereto and made a part hereof, is of the opinion, and the order is, that said motion for rehearing and brief be, and hereby is, granted. A hearing date will be set and all parties will be notified.

By order of the Public Utilities Commission of New Hampshire this eighth day of September, 1977.

Memorandum of Law

Both the United States Supreme Court

1(1) and the New Hampshire supreme court

2(2) have clearly held that res judicata does apply to administrative decisions. Strictly applied, this doctrine prevents relitigation by the same parties of the same claims or issues. Courts normally apply law to past facts which remain static — where res judicata operates at its best — but administrative agencies often work with fluid facts and shifting policies (K. Davis, Ad Law, Chap 18).

Thus, the present state of the law is that res judicata, when appropriate, is fully applicable to *some* administrative proceedings. In other administrative proceedings it should be modified, relaxed, and qualified to prevent injustice and to allow an administrative agency to use trial and error methods of feeling its way into an undeveloped frontier of law or policy. Even when conditions remain the same the administrative understanding of these conditions may change and the agency must be free to act (K. Davis, *supra*).

In matters affected with the public interest such as in the case of *Exposition Press, Inc. v Federal Trade Commission*

3(3)

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the second circuit federal court stated that "new violations will support new proceedings dealing with different periods of time, at least where there is no indication of harassment by the commission." And in *Louis Stores v Department of Alcoholic Beverage Control*<sup>4(4)</sup> the state court of California held that an agency's determination against revoking a license for a practice during one period did not bar the agency from revoking the license on account of continuation of the practice during a later period even though the facts were substantially the same. This case is very similar to the matter now before the commission.

The PUC has continuing jurisdiction over Rochester Dial-A-Ride. That continuing operation is not static and is subject to changing conditions. The PUC not only has the continuing jurisdiction but also has the responsibility to investigate alleged current violations of an existing certificate. This can be accomplished by an investigation on the commission's own motion or by a hearing upon complaint.

The PUC should not refuse to hear allegations of "new violations" because "new violations will support new proceedings." (*Exposition Press, Inc. v Federal Trade Commission, supra*). The PUC should not refuse to hear "new developments" in matters over which it has continuing jurisdiction (*Louis Stores v Department of Alcoholic Beverage Control, supra*).

The present petition involves the same cause of action determined in the prior proceeding; i.e., revocation of Certificate No. 422. But the present petition involves new facts of "new violations" and involves new parties. The doctrine of *res judicata* should not apply to bar litigation of new facts by new parties even though it is for the same cause of action.

The matter before us is not a static one but a fluid, ever changing one. The PUC, therefore, should exercise its continuing jurisdiction over this matter and hear the evidence the petitioner wishes to present.

#### FOOTNOTES

<sup>1</sup> *United States v Utah Construction & Mining Co.* (1966) 384 US 294, 16 L Ed 2d 642, 86 S Ct 1545.

<sup>2</sup> *Morin v J. H. Valliere Co.* (1973) 113 NH 431.

<sup>3</sup> (CA2d 1961) 295 F2d 869, cert den (1961) 370 US 917, 8 L Ed 2d 497, 82 S Ct 1554.

<sup>4</sup> (1962) 57 Cal 2d 749, 22 Cal Rptr 14, 371 P2d 758.

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NH.PUC\*09/08/77\*[77934]\*62 NH PUC 241\*Selective Calling Service

[Go to End of 77934]

### **Re Selective Calling Service**

I-R14,714, Supplemental Order No. 12,895

62 NH PUC 241

New Hampshire Public Utilities Commission

September 8, 1977

PETITIONS for tariff revisions by telephone companies; granted.

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RATES, § 84 — Experimental rates — Selective calling service.

[N.H.] The commission authorized a telephone company to file a revision to its tariff providing for the introduction of a usage-sensitive optional calling plan to be known as

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selective calling service, for an experimental period.

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BY THE COMMISSION:

Supplemental Order

Whereas, Union Telephone Company, a public utility engaged in the business of supplying telephone service in the state of New Hampshire, on August 23, 1977, filed with this commission certain revisions to its tariff, NHPUC No. 6, providing for the introduction of an experimental usage-sensitive optional calling plan, to be known as selective calling service, filed for effect with billing periods after August 19, 1977; and

Whereas, such filing is intended to represent an experimental program similar to, and compatible with, a program currently in effect by New England Telephone and Telegraph Company; and

Whereas, after investigation and consideration, this commission finds that the experimental program proposed has merit and should be allowed to progress until February 18, 1979; it is

Ordered, that Section 5, Original Sheet 2 of Union Telephone Company tariff, NHPUC No. 6 be, and hereby is, authorized to become effective as of the date of this order; and it is

Further ordered, that the company shall provide individual notice to customers of this service offering; and it is

Further ordered, that at the termination of the experimental period this commission will review the results of the selective calling service experiment, and, if necessary, cause such changes to be made as will assure that it is in the best interests of both the customers and the company.

By order of the Public Utilities Commission of New Hampshire this eighth day of September, 1977.

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NH.PUC\*09/08/77\*[77935]\*62 NH PUC 242\*Selective Calling Service

[Go to End of 77935]

## Re Selective Calling Service

I-R14,714, Second Supplemental Order No. 12,896

62 NH PUC 242

New Hampshire Public Utilities Commission

September 8, 1977

PETITIONS for tariff revisions by telephone companies; granted.

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RATES, § 84 — Experimental rates — Selective calling service.

[N.H.] The commission authorized a telephone company to file a revision to its tariff providing for the introduction of a usage-sensitive optional calling plan to be known as selective calling service, for an experimental period.

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BY THE COMMISSION:

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Supplemental Order

Whereas, Granite State Telephone, a public utility engaged in the business of supplying telephone service in the state of New Hampshire, on August 9, 1977, filed with this commission certain revisions to its tariff, NHPUC No. 6, providing for the introduction of an experimental usage-sensitive optional calling plan, to be known as selective calling service, filed for effect with all bills rendered on or after September 10, 1977; and

Whereas, such filing is intended to represent an experimental program similar to, and compatible with, a program currently in effect by New England Telephone and Telegraph Company; and

Whereas, after investigation and consideration, this commission finds that the experimental program proposed has merit and should be allowed to progress until February 18, 1979; it is

Ordered, that Supplement No. 3 to Granite State Telephone tariff, NHPUC No. 6 be, and hereby is, authorized to become effective as of the date of this order; and it is

Further ordered, that the company shall provide individual notice to customers of this service offering; and it is

Further ordered, that at the termination of the experimental period this commission will review the results of the selective calling service experiment and, if necessary, cause such changes to be made as will assure that it is in the best interests of both the customers and the company.

By order of the Public Utilities Commission of New Hampshire this eighth day of September, 1977.

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NH.PUC\*09/12/77\*[77936]\*62 NH PUC 243\*Stan's Van Service, Inc.

[Go to End of 77936]

**Re Stan's Van Service, Inc.**

DT 76-167, Order No. 12,900

62 NH PUC 243

New Hampshire Public Utilities Commission

September 12, 1977

APPLICATION for authority to operate as a carrier of household goods by motor vehicle; denied.

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BY THE COMMISSION:

Order

Whereas, the applicant, through its counsel, on August 15, 1977, filed with this commission a motion for rehearing of the commission's report dated July 25, 1977; and

Whereas, pursuant to RSA 541:5 the commission should have taken action within ten days of August 15, 1977; and

Whereas, due to administrative oversight the intended denial for the motion for rehearing was not issued on a timely basis; and

Whereas, during the ten-day period

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the commission fully considered the allegations of said motion and after weighing the reasons presented in said motion had intended to issue a denial of the motion for rehearing on a timely basis; it is

Ordered, that the motion for rehearing filed on behalf of Stan's Van Service, Inc., dated August 15, 1977, be, and hereby is, denied.

By order of the Public Utilities Commission of New Hampshire this twelfth day of September, 1977.

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NH.PUC\*09/14/77\*[77937]\*62 NH PUC 244\*Public Service Company of New Hampshire

[Go to End of 77937]

**Re Public Service Company of New Hampshire**

DF 77-102, Second Supplemental Order No. 12,903

62 NH PUC 244

## New Hampshire Public Utilities Commission

September 14, 1977

PETITION for authority to issue shares of preferred stock; granted.

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SECURITY ISSUES, § 120 — Conditions on restrictions — Sinking fund.

[N.H.] The commission authorized an electric company to issue preferred stock to be sold through a private placement with insurance companies and other financial institutions, in order to provide for a mandatory sinking fund.

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BY THE COMMISSION:

Supplemental Order

Whereas, our Order No. 12,849 dated July 22, 1977, issued in the above entitled proceeding, authorized Public Service Company of New Hampshire, inter alia, to issue and sell not exceeding 200,000 shares of preferred stock, \$100 par value, subject to further order of this commission; and

Whereas, in compliance with said Order No. 12,849 (62 NH PUC 209), the company has submitted to this commission details concerning the sale of said preferred stock, including the price, dividend rate and other terms thereof, which contemplate the issue and sale, through a private placement with insurance companies and other financial institutions, of 180,000 shares of a new series of its preferred stock, \$100 par value, designated "sinking fund preferred stock 9 per cent dividend series," said preferred stock to be sold bearing a dividend rate of 9 per cent per year, at a price to the company of \$100 per share, and to provide for a mandatory sinking fund under which 10,800 shares will be redeemed annually beginning November 15, 1982, and for optional redemption of an additional 10,800 shares on each mandatory sinking fund redemption date, all in accordance with the provisions of preferred stock purchase agreements, conformed

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copies of which will be filed with the commission; and

Whereas, after due consideration, it appears that the issuance and sale of said preferred stock upon the terms, including the price and dividend rate, hereinabove set forth or referred to is consistent with the public good; it is

Ordered, that Public Service Company of New Hampshire be, and hereby is, authorized to issue and sell 180,000 shares of its sinking fund preferred stock 9 per cent dividend series at \$100 per share in cash to insurance companies and other financial institutions, as hereinabove set forth and in accordance with the preferred stock purchase agreements, copies of which are to be filed with the commission; and it is

Further ordered, that all other provisions of said Order No. 12,849 of this commission are

incorporated herein by reference.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of September, 1977.

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NH.PUC\*09/15/77\*[77938]\*62 NH PUC 245\*New England Telephone and Telegraph Company

[Go to End of 77938]

### Re New England Telephone and Telegraph Company

DE 77-118, Order No. 12,906

62 NH PUC 245

New Hampshire Public Utilities Commission

September 15, 1977

PETITION of a telephone company for a license to place and maintain an aerial plant over a river; granted.

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TELEPHONES, § 2 — In general — Construction and equipment — Licensing.

[N.H.] The commission granted a license to a telephone company to place and maintain an aerial plant over a river where the construction was necessary to provide additional service to meet the requirements of the public, no other interested parties recorded any objection to the proposed construction, and the exercise of the license would not substantially affect the public rights or the waters crossed.

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BY THE COMMISSION:

Order

Whereas, by petition filed August 8, 1977, New England Telephone and Telegraph Company seeks a license pursuant to RSA 371:17-20 to place and maintain additional telephone aerial plant over state-owned waters of the Connecticut river in the town of Stewartstown, New Hampshire; and

Whereas, the petitioner represents that the proposed construction, from Pole No. 12/6 on Main street in Stewartstown, New Hampshire to Pole No. 12/7 on Vermont state Highway No. 114 in Canaan, Vermont, is designed to provide additional telephone circuits in the company's West Stewartstown exchange; and

Whereas, following due notice no

other interested parties recorded any objections to the proposed construction and upon investigation of all the facts before the commission, it is found that the proposed construction is necessary to meet the reasonable requirements of the public, and that the license sought may be issued and exercised by the petitioner without substantially affecting the public rights and the waters crossed; it is

Ordered, that a license be, and hereby is, granted to New England Telephone and Telegraph Company to place and maintain an aerial telephone plant across the Connecticut river in Stewartstown, New Hampshire, all in accordance with the above description which is contained on a plan on file at the office of the commission.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of September, 1977.

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NH.PUC\*09/16/77\*[77939]\*62 NH PUC 246\*Hampton Water Works Company

[Go to End of 77939]

## **Re Hampton Water Works Company**

DF 77-105, Order No. 12,908

62 NH PUC 246

New Hampshire Public Utilities Commission

September 16, 1977

PETITION of a water company for authority to mortgage property, to issue and sell general mortgage bonds, and to issue common stock; granted.

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SECURITY ISSUES, § 58 — Purposes of capitalization — Additions and betterments.

[N.H.] A water company was authorized to issue and sell common stock, to mortgage its present and future property, tangible and intangible, including franchises under a general mortgage indenture, and to issue and sell general mortgage bonds where the commission was satisfied that the proceeds would be expended to pay off short-term notes, to reimburse working capital for capital expenditures, to repay the company's first mortgage bonds, and to pay the costs of the subject financing.

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APPEARANCES: Joseph S. Ransmeier for the petitioner.

BY THE COMMISSION:

Report

By this unopposed petition, filed July 5, 1977, Hampton Water Works Company, a duly

organized New Hampshire corporation, operating as a public water utility in Hampton, North Hampton, and Rye, seeks authority, pursuant to RSA 369, to issue and sell for cash, \$900,000 principal amount of general mortgage bonds, such bonds to bear an interest rate not in excess of 8.875 per cent due October 1, 1997, and 4,000 shares of its \$25 par value common stock for a total consideration of \$100,000.

At duly noticed hearing on the petition, held in Concord September 14, 1977, the petitioner submitted the

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details which led to the filing of this petition for the proposed sale of said bonds and common stock. The bonds are to be sold at par to Indianapolis Fire Insurance Company, \$500,000 principal amount, and United Farm Bureau Family Life Insurance Company, \$400,000 principal amount, under an original and supplemental indentures of mortgage, copies of which have been filed with this commission. The common stock is to be sold at par value for cash to Greenwich Water System, Inc., a Delaware Corporation, which is the present holder of all of the outstanding shares of common stock of the company.

The company represents that the proceeds from the new financing of \$1 million will be used to retire short-term notes, reimburse the company's treasury for expenditures made from it in the purchase and construction of property and facilities reasonably requisite for present and future use in the conduct of the company's business; to finance the future purchases and construction of such property and facilities; to defray the costs and expenses of the financing contemplated by this petition, or for other proper corporate purposes, and to retire at maturity on October 1, 1977, the \$200,000 Series B 3.75 per cent first mortgage bonds.

At the hearing, the petitioner introduced as exhibits, various financial information pertaining to the contemplated application of the proceeds of the securities to be issued and sold under this issue.

Among some of these exhibits were the following:

Exhibit 1 Net Capital Additions from December 1, 1970 to, and including, December 31, 1976. Exhibit 1-A Construction Budget for 1977. Exhibit 2 Estimated Financing Expenses. Exhibit 4 Income Statement for 12 months ending December 31, 1976, adjusted to give effect of the proposed financing.

The following balance sheet, as of December 31, 1976, adjusted to give effect of the proposed financing, was submitted by the petitioner as Exh 3:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

<i>Assets and Other Debits</i>	<i>Actual</i>	<i>Adjustments</i>	<i>Pro Forma</i>
Fixed Capital	\$3,325,257	\$ 507,700	\$3,832,957
Current Assets:			
Cash	74,226	(1) 1,000,000 (2) (200,000) (3) (200,000) (4) (20,000) (5) (507,700)	46,526

Special Deposits	\$ 10,312	\$ 10,312	
Working Fund	100		100
Accounts Receivable	128,116		128,116
Materials and Supplies	10,797		10,797
Prepayments	40,695		40,695
Total Current Assets	\$ 264,246	\$72,300	\$336,546
Deferred Debits:			
Unamortized Debt			
Discount & Expense	25,913	(4) 20,000	45,913
Misc. Expense	12,770	12,700	
Total Deferred Debits	\$ 38,683	\$ 20,000	\$58,683
Total Assets and Debits	\$3,628,186	\$ 6 00,000	\$4,228,186
(1) Debit Account 120-Cash			\$1,000,000
Credit Account 200-Common Stock			\$100,000
Credit Account 210-Bonds and Notes			900,000
To reflect the sale of \$100,000 of common stock and \$900,000 of general mortgage bonds, 8.875 per cent due October 1, 1977, in the principal amount of \$900,000.			
(2) Debit Account 210-Bonds and Notes		200,000	
Credit Account 120-Cash			200,000
To record the maturity of Series B, First Mortgage Bonds due October 1, 1977.			
(3) Debit Account 220-Notes Payable		200,000	
Credit Account 120-Cash			200,000
To reflect the payment of outstanding short-term notes held by First Pennsylvania Bank			
(4) Debit Account 140-Unamortized Debt			
Discount & Expense		20,000	
Credit Account 120-Cash			20,000
To record the issuance expenses relating to the proposed financing.			
(5) Debit Account 100-Fixed Capital		507,000	
Credit Account 120-Cash			507,000
To reflect 1977 budgeted plant additions			

[Graphic(s) below may extend beyond size of screen or contain distortions.]

BALANCE SHEET AT DECEMBER 31, 1976

*Giving Effect to the Proposed Financing Liabilities and Other Credits*

*Capital stock:*

*Common stock-\$25 par value*

*Authorized-50,000 shares*

*Issued and outstanding-*

*17,715 shares*

*New issue-4,000 shares*

*Cumulative preferred stock-*

*\$100 par value*

*6% series authorized-700 shares*

*Issued and outstanding-622 shares*

*7% series-authorized-5,000 shares*

*Issued and outstanding-1,250 shares*

*Premium on capital stock*

*Total Capital Stock**Long-term debt:**First mortgage**Series B, 3.75% due 10/1/77**Series C, 5% due 10/1/83**Series D, 4.75% due 11/1/93**General Mortgage Bonds**7.375% series-due 7/1/93**9.25% series-due 4/1/96**8.875% series-due 10/1/97**Total Long-term Debt**Current and accrued liabilities**Notes payable**Accounts payable**Payable to affiliated companies**Dividends declared**Taxes accrued**Interest accrued**Misc. current liabilities**Misc. accruals**Total Current and Accrued Lia.**Misc. Unadjusted Credits**Reserves:**Depreciation**Uncollectible accounts**Total reserves**Contributions in aid of construction**Earned surplus**Total liabilities and Other Credits*

Certified copies of the necessary authorizations were submitted, as well as the proposed forms of bond purchase agreements to be entered into with the purchaser, and third supplemental indenture to be given to the Fidelity Bank, trustee, as further security for the issue and supplementing the company's original indenture of mortgage to the trustee dated as of May 1, 1968, and authorizing in proceedings before this commission, captioned D-F5345 Re Hampton Water Works Co., 52 NH PUC 143. An agreement with Greenwich Water System, Inc., was submitted for the purchase of 4,000 shares of common stock, par value \$25 per share.

*Order*

Upon investigation and consideration of the evidence submitted, this commission is of the opinion that the granting of the authorization requested herein will be for the public good. Our order will issue accordingly.

*Order*

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Hampton Water Works Company, be, and hereby is, authorized to issue and sell at private sale, \$900,000 principal amount of its general mortgage bonds, such bonds to bear

interest at a rate not in excess of 8.875 per cent due October 1, 1997, under its original indenture of mortgage to the Fidelity Bank, trustee, of Philadelphia, Pennsylvania, dated as of May 1, 1968, as supplemented by first supplemental indenture from the company to the trustee, dated as of March 1, 1971, second supplemental indenture dated as of October 1, 1975, and third supplemental indenture dated as of September 1, 1977; and it is

Further ordered, that the petitioner be, and hereby is, authorized to mortgage all, or any part, of its present and future property, both real and personal, tangible and intangible, including its franchises, as security, among other things, for the payment of said bonds; and it is

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Further ordered, that the petitioner be and hereby is authorized to issue and sell 4,000 shares of its \$25 par value common stock at par to Greenwich Water System, its present sole shareholder, for a total consideration of \$100,000; and it is

Further ordered, that the proceeds from the issue and sale of the bonds and common stock authorized hereunder shall be used to retire existing short-term notes; to reimburse working capital for capital expenditures, and amounts paid out to repay the company's first mortgage bonds, Series B, 3.75 per cent, maturing October 1, 1977, with a face value of \$200,000 and to pay the costs of the subject financing; and it is

Further ordered, that on January 1st and July 1st of each year, the company shall file with this commission a detailed statement, duly sworn to by its treasurer, showing the disposition of the proceeds of such bonds until the whole of such proceeds have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this sixteenth day of September, 1977.

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NH.PUC\*09/20/77\*[77940]\*62 NH PUC 250\*Merrimack County Telephone Company et al.

[Go to End of 77940]

## Re Merrimack County Telephone Company et al.

DF 77-81, Order No. 12,909

62 NH PUC 250

New Hampshire Public Utilities Commission

September 20, 1977

PETITION by telephone companies for approval of merger; granted.

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1. CONSOLIDATION, MERGER, AND SALE, § 19 — Grounds for approval — Public benefit.

[N.H.] The commission found that a merger of two telephone companies would benefit the

respective stockholders, subscribers, and the public, through the sharing of personnel, continuing flexibility and efficiency in the utilization of work forces, better ability to attract and retain technical personnel through compensation incentives, training programs, opportunities for greater specialization, and through the elimination of duplication in the areas of planning, engineering, purchasing and inventory control, accounting, auditing, billing, paperwork, and other functions; the commission held that the larger enterprise would be better able to afford and use specialized equipment for construction and repairs, install advanced electronic equipment, and to attract the necessary capital for these improvements. p. 254.

2. CONSOLIDATION, MERGER, AND SALE, § 17 — Transfer of securities — Comparative net book values.

[N.H.] The commission found that the net book value for the conversion of shares and the issuance of new shares in exchange for outstanding shares as provided in the two telephone companies' merger agreement was reasonable, fair, and just from the standpoint of the existing investors of each company as well as from the point of view of consumers and the public. p. 254.

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APPEARANCES: Frederic K. Upton and Douglas S. Hatfield, Jr., for the petitioner and Steven W. Ruback and Michael S. Love for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

By joint petition filed May 27, 1977, Merrimack County Telephone Company, a New Hampshire corporation having its principal office in Warner, New Hampshire (hereinafter called "Merrimack") and Hopkinton Telephone Company, a New Hampshire corporation having its principal place of business in Hopkinton, New Hampshire (hereinafter called "Hopkinton") seek the approval of this commission for the merger of Hopkinton into and with Merrimack as the continuing or surviving corporation pursuant to RSA 294:42, such merger to be accomplished in accordance with an agreement and plan of merger between the parties dated as of April 1, 1977 (the merger agreement), prescribing the terms and conditions for uniting the constituent corporations.

The petitioners request that this commission find and rule, pursuant to RSA 294:42 VIII, that the merger of Hopkinton with and into Merrimack in accordance with the provisions of the merger agreement is consistent with the public good. The petitioners also request that this commission, pursuant to RSA 369:14, approve an increase in the capital stock of Merrimack, the continuing corporation, as contemplated by the merger agreement, and that the commission approve the issuance of additional capital stock by such continuing corporation in accordance with the merger agreement, as required by RSA 369:1, such approval to be predicated on a finding by the commission that the issuance of such additional stock is consistent with the public good. Finally, they request the commission, in the exercise of its authority, to examine the fairness of the terms and conditions for the issuance of stock by Merrimack, as such continuing

or surviving corporation, in exchange for other stock, as contemplated by the merger agreement, and to find and rule that such terms and conditions are fair from the standpoint of the public, consumers and the stockholders of the constituent corporations.

A duly noticed hearing was held at the office of the commission on July 12, 1977. In addition to newspaper notice, the petitioners also gave individual notice to all of the stockholders of Merrimack and Hopkinton.

Merrimack is authorized to do business and is doing business in Warner, Bradford, Sutton, and limited parts of Webster, Newbury, Wilmot, and Salisbury. Hopkinton has authority to do business and is doing business in Hopkinton and in limited parts of Warner, Webster, and Henniker. According to a recent survey, Merrimack serves a total of 1,785 customers from its three exchanges in Warner, Bradford, and Sutton. The same survey showed that Hopkinton serves 1,498 customers from its single exchange in the village of Contoocook (Exh B). Both companies anticipate substantial customer growth in the years ahead. The area served by Hopkinton is suburban in nature and its population is relatively concentrated, while the service area of Merrimack is largely rural in character. Merrimack has some 202 miles of pole line compared with 102 miles of Hopkinton, illustrating

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this difference (Exh B). The two service areas lend themselves to a natural and easy combination for the accommodation of future growth.

Merrimack and Hopkinton resemble each other in many ways. The capital structures of the two companies are similar, except that Hopkinton has 2,000 shares of outstanding preferred stock while Merrimack has only 1,000 shares of preferred stock outstanding. The net worth of Hopkinton attributable to its common stock as of the December 31, 1977, was \$440,891.81 while the net worth of Merrimack attributable to its common stock as of the same date was \$440,471.30, a difference of only \$420 (Exh K). At the end of 1976, the total net telephone plant of Merrimack was only \$150,000 less than that of Hopkinton. In 1976 the net income transferred to surplus by each company was almost identical in amount (Exhs C and D). The books and records of the constituents are kept on the same basis and audited by the same certified public accountant who has been performing this function for both companies for more than fifteen years. A complete inventory was taken of Merrimack's outside plant a year ago and its continuing property records brought up to date.

The central exchange equipment used by the two companies is of the same type and manufacture and is, therefore, interchangeable.

The two companies have been operating under a common manager since 1972, namely Alderic O. Violette. Mr. Violette serves as both the president and manager of Hopkinton and as the operating vice president and general manager of Merrimack. In addition, each company loans to each other from time to time repair and construction personnel and central office technicians, and each performs for the other various services and functions pursuant to longstanding cooperative arrangements. This relationship has introduced flexibility in the operations of the two companies, and has enabled each to provide better service than would be possible if they were operated as completely independent entities.

The board of directors of Merrimack and Hopkinton, at separate meetings thereof held on March 22, 1977, authorized the proposed merger of Hopkinton with and into Merrimack, in accordance with the merger agreement, subject to favorable action by their respective stockholders and approval by this commission. The stockholders of Hopkinton, at a special meeting thereof duly called and held on April 25, 1977, approved the merger in accordance with the merger agreement and the laws of New Hampshire. Similar action was taken by the stockholders of Merrimack at a special meeting thereof duly called and held on April 26, 1977. Certified copies of the votes of the directors and stockholders of each company were filed in this proceeding (Exhs F, G, H, and I).

Under the merger agreement (Exh A), Merrimack is the surviving corporation and will continue to be known by its existing corporate name. Merrimack will have its principal place of business in Hopkinton, New Hampshire and will be authorized to do business in all of the towns in New Hampshire in which Hopkinton and Merrimack are now authorized to do business. The continuing corporation will be managed by a board of seven directors, consisting of persons who have been serving as the directors of the two constituent corporations. The executive officers of the continuing

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corporation will consist of the same persons who have been operating the two companies for several years, thereby providing continuity in the corporation management.

The presently authorized capital stock of Merrimack consists of 1,000 shares of 6 per cent preferred stock of the par value of \$50 each, all of which shares are issued and outstanding; and 10,000 shares of common stock of the par value of \$25 each, of which 8,320 shares are issued and outstanding. Hopkinton's authorized capital stock consists of 4,000 shares of preferred stock having a par value of \$50 per share, issuable in series, of which 2,000 shares of Series A 6.25 per cent preferred stock are issued and outstanding; and 10,000 shares of common stock having a par value of \$25 per share, of which 7,200 shares are issued and outstanding (Exh J).

The authorized capital stock of Merrimack as the continuing corporation in accordance with its restated articles of agreement (Exh A), will consist of 20,000 shares of common stock having a par value of \$25 per share, amounting in the aggregate to \$500,000; and 5,000 shares of preferred stock having a par value of \$50 per share, amounting in the aggregate to \$250,000. Such preferred stock will be issued in series, and provision is made for two initial series as follows: a first series designated 6 per cent preferred stock, Series A, consisting of 1,000 shares, and a second series designated 6.25 per cent preferred stock, Series B, consisting of 2,000 shares. The rights, preferences, privileges, powers, and limitations of the common stock and preferred stock of the continuing corporation are as set forth in said restated articles of agreement. These restated articles eliminate preemptive rights of stockholders.

The merger agreement contemplates and provides that Merrimack, as the continuing or surviving corporation, will issue the 1,000 shares of its new 6 per cent preferred stock, Series A, of the par value of \$50 per share, in substitution and exchange for the 1,000 shares of its old 6 per cent preferred stock of like par value, on a share for share basis without interruption of dividend. The 8,320 outstanding shares of Merrimack's common stock of the par value of \$25

per share will not be converted or exchanged, and each such share will remain outstanding as one share of the continuing corporation's common stock of the par value of \$25 per share. The merger agreement also contemplates and provides that Merrimack as the continuing corporation, will issue to the stockholders of Hopkinton, in conversion of and in exchange for their stock, the following stock:

(a) The 2,000 shares of Merrimack's new 6.25 per cent preferred stock, Series B, of the par value of \$50 per share, in exchange for the 2,000 outstanding shares of Hopkinton's Series A 6.25 per cent preferred stock of like par value, such conversion to be on a share for share basis and without interruption of dividend.

(b) Shares of Merrimack's common stock of the par value of \$25 per share in exchange for the 7,200 outstanding shares of Hopkinton's stock of like par value, in the ratio of 1.1567 shares of Merrimack's common stock for each share of Hopkinton's common stock outstanding (except that Merrimack will pay cash in lieu of the issuance of fractional shares of its common stock). The conversion of Hopkinton's common stock into common stock of Merrimack,

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pursuant to the conversion ratio stated above, will result in the issuance of 8,319 shares of common stock of Merrimack in exchange for the 7,200 shares of the outstanding common stock of Hopkinton and the payment to Hopkinton's stockholders of a total of \$489.17 in cash in lieu of fractional shares (Exh K).

Balance sheets of Merrimack and Hopkinton as of December 31, 1976, and related income statements for the year then ended, as well as a pro forma condensed combined balance sheet as of the same date, and a related pro forma combined income statement for the year then ended, were introduced in evidence (Exhs C, D, L, and M). The constituent corporations will be combined on a pooling of interests basis, and the telephone plant of Hopkinton will appear on the books of the surviving corporation at net plant cost. The constituent corporations have been depreciating their respective plants on the same straight-line basis.

[1] It is expected this merger will benefit Merrimack and Hopkinton and their respective stockholders, subscribers, and the public they serve. Sharing of personnel, continuing flexibility, and efficiency in the utilization of work forces, better ability to attract and retain technical personnel through compensation incentives, training programs, opportunities for greater specialization, and economies will result from the elimination of duplication in the areas of planning, engineering, purchasing and inventory control, accounting, auditing, billing, paper work, and other functions. The larger enterprise will be better able to afford and use specialized equipment for construction and repairs, install advanced electronic equipment and to attract the necessary capital for these improvements. A merger will, however, result in substantially greater federal income taxes because of the loss of one surtax exemption.

At the conclusion of the hearing, the consumer advocate indicated that he was satisfied on the evidence that the proposed union would be consistent with the public good. The merger is not expected to result in an advance in rates, and the petitioners do not now contemplate making application for a higher rate structure. The only present requirement is for the continuing corporation to file a tariff supplement adopting the rates now on file in the name of Hopkinton.

[2] The basis adopted by Merrimack and Hopkinton, for the conversion of the 7,200 shares of outstanding common stock of Hopkinton into shares of common stock of Merrimack, is the relative net book values per share of the common stock of each corporation as of December 31, 1976. These net book values per common share were \$61.23 for Hopkinton and \$52.94 for Merrimack, and when divided result in a conversion ratio of 1.1567 shares of Merrimack common stock for each share of Hopkinton common stock (Exh K). A study committee composed of representatives of each company examined all factors bearing upon the comparative values which each company would bring to a union, including nature and quality of telephone plant, operating revenues, and prospects for growth. In the judgement of the study committee, a union based on comparative net book values would be not only the most logical and sensible method of combining the two companies, but would also result in treating the existing stockholders or investors in each company in the fairest possible

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way, and accordingly the committee recommended this approach to the board of directors of each company. This commission specifically finds that the basis for conversion of shares and the issuance of new shares in exchange for outstanding shares, as provided in the merger agreement, is reasonable, fair, and just from the standpoint of existing investors of each company (those who will receive stock of Merrimack and the existing stockholders of Merrimack) as well as from the point of view of consumers and the public. In making this finding the commission notes that the securities to be issued in the proposed merger have not been registered under the Securities Act of 1933 and that the petitioners rely on the exemption from registration afforded by § 3 (a)(10) of the Securities Act of 1933 (15 USCA § 77c(10)), all as set forth in Par 13 of the petition.

Upon investigation and upon consideration of the evidence and exhibits received, this commission finds and rules that the granting of the authorities and approvals sought herein will be for the public good. Our order will issue accordingly.

#### Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the merger of Hopkinton Telephone Company, a New Hampshire corporation ("Hopkinton"), with and into Merrimack County Telephone Company, a New Hampshire corporation ("Merrimack"), which is to be the sole corporation surviving the merger (the "continuing corporation"), upon the terms and conditions provided in the merger agreement dated as of April 1, 1977, by and between said corporations, is consistent with the public good; and it is

Further ordered, that the increase in the authorized capital stock of Merrimack as such continuing corporation to \$750,000, consisting of 20,000 shares of common stock having a par value of \$25 per share, amounting in the aggregate to \$500,000 and 5,000 shares of new preferred stock having a par value of \$50 per share, amounting in the aggregate to \$250,000 (of which preferred stock there will be a first series designated 6 per cent preferred stock, Series A. consisting of 1,000 shares, and a second series designated 6.25 per cent preferred stock. Series B. consisting of 2.00 shares), in order to accommodate the transactions contemplated by the said merger agreement, is hereby approved: and it is

Further ordered, that the issuance by Merrimack as such continuing corporation of all shares of its capital stock, preferred and common, contemplated by the said merger agreement (which issuable shares will be [a] the 1,000 shares of its new 6 per cent preferred stock, Series A, \$50 par value, in substitution and exchange for the 1,000 shares of Merrimack's old 6 per cent preferred stock of like par value, [b] the 2,000 shares of its new 6.25 per cent preferred stock, Series B, \$50 par value, in exchange for the 2,000 outstanding shares of Hopkinton's Series A 6.25 per cent preferred stock of like par value, and [c] 8,319 shares of its common stock, \$25 par value plus cash of \$489.17 in lieu of fractional shares in conversion of and exchange for the 7,200 outstanding shares of Hopkinton's common stock), is consistent with the public good and is hereby approved; and it is

Further ordered, that the issuance by Merrimack, the continuing corporation,

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of instruments assuming and agreeing to pay or otherwise satisfy the debts, liabilities, and obligations of Hopkinton, if such issuance becomes necessary or desirable in order to effectuate the merger, is approved and authorized; and it is

Further ordered, that, when the merger is consummated, Merrimack, as the continuing corporation, file with the commission, in accordance with Rule 30(a)(3) of the commission's tariff filing rules a tariff supplement covering the adoption of the tariff now on file under the name of Hopkinton.

By order of the Public Utilities Commission of New Hampshire this twentieth day of September, 1977.

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NH.PUC\*09/28/77\*[77941]\*62 NH PUC 256\*Merrimack County Telephone Company et al.

[Go to End of 77941]

**Re Merrimack County Telephone Company et al.**

DF 77-81

62 NH PUC 256

New Hampshire Public Utilities Commission

September 28, 1977

MOTION by consumers' council for rate reduction; denied.

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RATES, § 648 — Procedure and practice — Evidence.

[N.H.] Where a petition before the commission for authorization of a merger between two telephone companies did not contain detailed schedules of rate base, revenues, operating

expenses, rate of return, rate structure, and tax effects, the commission denied a motion for a rate reduction.

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APPEARANCES: Frederic K. Upton and Douglas S. Hatfield, Jr., for the petitioner and Steven W. Ruback and Michael S. Love for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Supplemental Report

At the close of the proceedings in this matter the Legislative Utility Consumers' Council (LUCC) made a motion for rate reduction. Subsequently, LUCC, on August 3, 1977, submitted a memorandum in support of that motion. By letter dated August 5, 1977, company courser filed an objection to that motion.

The record in this proceeding reveals evidence regarding the similarity of operations and needs of the two companies, the capital structure of the companies, and the resultant benefits such a merger will have on the public. The record, however, does not contain detailed schedules of rate base, revenues, operating expenses, rate of return, rate structure, tax effects, and the like showing the effect of any rate reduction. In short, the rate reduction issue raised by Mr. Love was not adequately

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treated in the record and the commission finds insufficient evidence upon which to base any decision for rate reduction. Consequently, the motion for rate reduction is denied.

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NH.PUC\*09/28/77\*[77942]\*62 NH PUC 257\*Continental Telephone Company of Maine

[Go to End of 77942]

**Re Continental Telephone Company of Maine**

DR 76-49, Supplemental Order No. 12,912

62 NH PUC 257

New Hampshire Public Utilities Commission

September 28, 1977

PETITION of telephone company seeking rate increase; granted.

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BY THE COMMISSION:

Supplemental Order

Whereas, on September 20, 1977, Continental Telephone Company of Maine, a public utility

engaged in the business of providing telephone service in Chatham and East Conway, New Hampshire, filed with this commission, revised tariff pages providing for increases in telephone rates; and

Whereas, the provisions of this filing have been duly heard, considered, and investigated by the Maine Public Utilities Commission, under whose jurisdiction the telephone exchanges serving these communities fall; and

Whereas, this commission is satisfied that in the deliberations of the Maine Public Utilities Commission, the interests of the New Hampshire customers of these exchanges were given the same consideration as those of the Maine customers; and

Whereas, in preceding cases involving these exchanges, this commission has relied on and accepted the decisions of the Maine Public Utilities Commission in matters regarding these customers; it is

Ordered, that Section 4, Original Sheet 4 and Section 5, Original Sheets 51, 69, 72, 73, 77, 92, and 94 of Continental Telephone Company of Maine tariff, NHPUC No. 4 — Telephone, be, and hereby are, canceled; and it is

Further ordered, that Section 4, First Revised Sheet 4 and Section 5, First Revised Sheets 51, 69, 72, 73, 77, 92, and 94 of Continental Telephone Company of Maine tariff, NHPUC No. 4 — Telephone, be, and hereby are, authorized to become effective with service rendered on or after September 19, 1977; and it is

Further ordered, that Continental Telephone Company of Maine give public notice of the new rates and tariff changes by bill insert, or equivalent means, to ensure customer notification.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of September, 1977.

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NH.PUC\*09/28/77\*[77943]\*62 NH PUC 258\*Public Service Company of New Hampshire et al.

[Go to End of 77943]

**Re Public Service Company of New Hampshire et al.**

DR 76-46, 20th Supplemental Order No. 12,913

62 NH PUC 258

New Hampshire Public Utilities Commission

September 28, 1977

PETITION for authority to apply a fuel adjustment charge to a monthly bill; granted.

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RATES, § 303 — Fuel adjustment clauses — Electric companies.

[N.H.] The commission authorized electric utilities to recover additional fuel costs through a

fuel adjustment charge due to scheduled and unscheduled maintenance of a coal plant.

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APPEARANCES: Martin L. Gross and Philip Ayers for Public Service Company of New Hampshire; Rocco Pelillo for Concord Electric Company; Richard F. Gilmore for Exeter and Hampton Electric Company; Richard Schwartz for Connecticut Valley Electric Company, Inc.; Thomas W. Morse for New Hampshire Electric Cooperative, Inc.; Kirk L. Ramsauer for Granite State Electric Company; Dennis Bean for the Municipal Electric Department of Wolfeboro; John Cassidy for Littleton Water and Light Department; Robert Brown for Woodsville Water and Light Department and Michael Love for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

Pursuant to RSA 378 :3-A(II), the commission, on September 19, 1977, held hearings on the petitions of nine New Hampshire electric companies for authority to apply a fuel adjustment charge to regular October monthly billings to their customers.

Reference may be made to previous commission decisions in this docket for statements and explanations of the fuel adjustment clause.

*Littleton Water and Light Department*

Littleton Water and Light Department, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on September 13, 1977, filed with this commission 45th Revised Page 6 of its tariff, NHPUC No. 1 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect on October 1, 1977. Littleton purchases all of its requirements from the New England Power Company. Littleton reported that the total fuel cost billed by the New England Power Company during the month of August, 1977, was \$12,633.64. During this period the total kilowatt-hours sold by Littleton were 2,497,688. The fuel adjustment charge, therefore, by simple division and rounded which is proposed for effect in the month of October, 1977, is 51 cents per hundred kilowatt-hours.

*Municipal Electric Department of Wolfeboro*

Municipal Electric Department of

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Wolfeboro, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on September 8, 1977, filed with this commission 35th Revised Page 9A to its tariff, NHPUC No. 4 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect October 1, 1977. Wolfeboro purchases all of its requirements from Public Service Company of New Hampshire. Wolfeboro reported that during the month of August, 1977, the total fuel cost billed by Public Service Company was \$27,398.52. During this same period the total kilowatt-hours sold by Wolfeboro were 2,051,311. The fuel adjustment, therefore, by simple division and rounded which is proposed for effect in the month of October, 1977, is \$1.34 per hundred kilowatt-hours.

*New Hampshire Electric Cooperative, Inc.*

New Hampshire Electric Cooperative, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on September 15, 1977, filed with this commission 41st Revised Page 13 to its tariff, NHPUC No. 6 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect on October 1, 1977. The company reported that the total fuel cost billed by its several power suppliers for power during the month of August, 1977, was \$246,226. Total sales by the Co-op during the same month were 22,020,290 kilowatt-hours. The fuel adjustment, therefore, by simple division and rounded which is proposed for effect in the month of October, 1977, is \$1.12 per hundred kilowatt-hours.

*Granite State Electric Company*

Granite State Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on September 14, 1977, filed with this commission 37th Revised Page 15A to its tariff, NHPUC No. 8 — Electricity, comprising the monthly fuel adjustment charge for effect October 1, 1977. Granite State purchases all of its requirements from the New England Power Company. Granite State reported that the variable portion of the fuel cost billed by New England Power Company was \$120,831.47. Total sales to Granite State customers during the same period were 28,387,354 kilowatt-hours. By simple division this yields 50.0043 to which is added the fixed fuel portion of \$0.0124 per kilowatt-hour. Thus, the fuel adjustment charge applicable to bills rendered in the month of October, 1977, is proposed to be \$1.67 per hundred kilowatt-hours.

*Woodsville Water and Light Department*

Woodsville Water and Light Department, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on September 15, 1977, filed with this commission 11th Revised Page 10B to its tariff, NHPUC No. 3 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect October 1, 1977. Woodsville purchases all of its requirements from Central Vermont Public Service Corporation. Woodsville reported that during the month of August, 1977, the total fuel cost billed by Central Vermont was \$3,712.84. During this same period the total kilowatt-hours sold by Woodsville were 648,095. The fuel adjustment, therefore, by simple division and rounded which is proposed for effect in

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the month of October, 1977, is 57 cents per hundred kilowatt-hours.

*Connecticut Valley Electric Company*

Connecticut Valley Electric Company, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on September 16, 1977, filed with this commission Sixth Revised Page 18 to its tariff, NHPUC No. 4 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect October 1, 1977. Connecticut Valley purchases all of its requirements from Central Vermont Public Service Corporation. Connecticut Valley reported that during the month of August, 1977, the total fuel cost billed by Central Vermont was \$55,291. During this same period the total kilowatt-hours sold by Connecticut Valley were 11,908,051. The fuel adjustment, therefore, by simple division and rounded which is

proposed for effect in the month of October, 1977, is 46 cents per hundred kilowatt-hours.

*Concord Electric Company*

Concord Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire on September 6, 1977, filed with this commission 31st Revised Page 15A to its tariff, NHPUC No. 6 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect October 1, 1977. Concord Electric purchases all of its requirements from Public Service Company of New Hampshire. Concord Electric reported that the total fuel cost billed by Public Service Company during the month of August, 1977, was \$264,174.02. Total sales during that same period were 21,246,750 kilowatt-hours. The fuel adjustment charge, therefore, by simple division and rounded which is proposed for effect in the month of October, 1977, is \$1.24 per hundred kilowatt-hours.

*Exeter and Hampton Electric Company*

Exeter and Hampton Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on September 15, 1977, filed with this commission 27th Revised Page 16 of its tariff, NHPUC No. 11 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect October 1, 1977. Exeter and Hampton purchases all of its requirements from Public Service Company of New Hampshire. Exeter and Hampton reported that the total fuel cost billed by Public Service Company for the month of August, 1977, was \$310,538.62. Total sales by Exeter and Hampton during the same period were 26,221,635 kilowatt-hours. The fuel adjustment charge, therefore, by simple division and rounded which is proposed for effect in the month of October, 1977, is 51.18 per hundred kilowatt-hours.

*Public Service Company of New Hampshire*

Public Service Company of New Hampshire, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on September 15, 1977, filed with this commission 35th Revised Pages 15 and 16 to its tariff, NHPUC No. 20 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect October 1, 1977.

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Page 16 of the company's fuel surcharge filing for October, 1977, indicates that fuel costs above base for the data month of August were \$5,428,114. During this same period were the kilowatt-hours subject to the fuel adjustment were 404,312,000. The fuel adjustment, therefore, by simple division and rounded which is proposed for effect in the month of October, 1977, is \$1.34 per hundred kilowatt-hours.

The fuel adjustment charge proposed for October, 1977, is eight cents less than the fuel adjustment charge for September. The reasons for the decrease are twofold: one, Merrimack II operated each day during the data month, being out of service only 0.72 days; and two, Public Service Company experienced a reduction in the cost of oil burned at its Newington station. The reason the proposed October fuel adjustment charge is not lower than \$1.34 is that Merrimack Unit No. I was out of service for 25.79 days in the data month for its required annual scheduled maintenance.

The Legislative Utility Consumers' Council (LUCC) made two motions at the conclusion of the proceedings, to which Public Service Company objected. Legislative Utility Consumers' Council requested that Public Service Company use the independent analysis of coal rather than the vendor's analysis of coal for purposes of determining contract compliance. Legislative Utility Consumers' Council also requested that the fuel adjustment charge for the month of July, 1977, be recalculated based upon the independent analysis of the coal sample. Upon examination of the record there is insufficient evidence upon which to determine these motions and therefore they are denied.

Based upon all of the evidence in the record of this proceeding, the commission finds that the proposed fuel adjustment charges for the month of October are just and reasonable, in accordance with pertinent provisions and all other applicable provisions of law. Our order will issue accordingly.

#### Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that 35th Revised Pages 15 and 16 of Public Service Company of New Hampshire tariff, NHPUC No. 20 — Electricity, providing for the monthly fuel surcharge of \$ 1.34 per hundred kilowatt-hours for the month of October, 1977, be, and hereby are, permitted to become effective October 1, 1977; and it is

Further ordered, that 31st Revised Page 15A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of \$1.24 per hundred kilowatt-hours for the month of October, 1977, be, and hereby is, permitted to become effective October 1, 1977; and it is

Further ordered, that 27th Revised Page 16 of Exeter and Hampton Electric Company tariff, NHPUC No. 11 — Electricity, providing for the monthly fuel surcharge of \$1.18 per hundred kilowatt-hours for the month of October, 1977, be, and hereby is, permitted to become effective October 1, 1977; and it is

Further ordered, that Sixth Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of 46 cents per hundred kilowatt-hours for the month of October, 1977, be, and hereby is, permitted to become effective October 1, 1977; and it is

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Further ordered, that 41st Revised Page 13 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of \$1.12 per hundred kilowatt-hours for the month of October, 1977, be, and hereby is, permitted to become effective October 1, 1977; and it is

Further ordered, that 37th Revised Page 15A of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of \$1.67 per hundred kilowatt-hours for the month of October, 1977, be, and hereby is, permitted to become effective October 1, 1977; and it is

Further ordered, that 35th Revised Page 9A of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of \$1.34 per hundred kilowatt-hours for the month of October, 1977, be, and hereby is, permitted to become effective October 1, 1977; and it is

Further ordered, that 45th Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of 51 cents per hundred kilowatt-hours for the month of October, 1977, be, and hereby is, permitted to become effective October 1, 1977; and it is

Further ordered, that 11th Revised Page 10B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of 57 cents per hundred kilowatt-hours for the month of October, 1977, be, and hereby is, permitted to become effective October 1, 1977.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of September, 1977.

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NH.PUC\*10/04/77\*[77944]\*62 NH PUC 262\*Manchester Water Works

[Go to End of 77944]

## Re Manchester Water Works

DE 77-143, Order No. 12,923

62 NH PUC 262

New Hampshire Public Utilities Commission

October 4, 1977

PETITION of water utility seeking authority to extend its mains; granted.

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BY THE COMMISSION:

Order

Whereas, Manchester Water Works, a water public utility operating under the jurisdiction of this commission by a petition filed September 19, 1977, seeks authority under RSA 374:22 and 26 as amended, to extend its mains and service further into the town of Hooksett; and

Whereas, no other water utility has franchise rights in the area sought, and the petitioner submits that the area will be served under its regularly filed tariff; and

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Whereas, the Board of Selectmen, town of Hooksett has stated that it is in accord with the petition; and

Whereas, after investigation and consideration, this commission is satisfied that the granting of the petition will be for the public good; it is

Ordered, that Manchester Water Works be, and hereby is, authorized to extend its mains and service further into the town of Hooksett in the area herein described, and as set forth on a map on file with the commission, as follows:

Beginning at a point along the center line of Morrill road, Hooksett, New Hampshire 255 feet easterly on where said road intersects with the center line of Mammoth road, easterly along the center line of the path and contour of Morrill road, a distance of 290 feet; and for these purposes to construct and maintain the necessary lines and apparatus.

By order of the Public Utilities Commission of New Hampshire this fourth day of October, 1977.

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NH.PUC\*10/07/77\*[77945]\*62 NH PUC 263\*Public Service Company of New Hampshire

[Go to End of 77945]

## Re Public Service Company of New Hampshire

DE 77-115, Order No. 12,928

62 NH PUC 263

New Hampshire Public Utilities Commission

October 7, 1977

PETITION by electric company for a license to construct and maintain an electric line over and across a river; granted.

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ELECTRICITY, § 7 — Authorization for transmission lines — Licensing.

[N.H.] The commission found that an electric company's proposed construction was necessary to meet the reasonable requirements of the public and that the license sought would be issued and exercised by the company without substantially affecting the public rights and waters crossed.

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BY THE COMMISSION:

Order

Whereas, by petition filed July 26, 1977, Public Service Company of New Hampshire seeks a license pursuant to RSA 371:17-20 to construct and maintain an electric line over and across the Merrimack river in the towns of Merrimack and Litchfield, New Hampshire; and

Whereas, the petition represents that the proposed construction will cross approximately 550 feet of the river and said construction will tap an existing 34.5 kv line near the petitioner's Anheuser-Busch substation and run easterly along an existing right of way across the river to NH Route 3-A. The

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proposed water crossing will be located northerly of and adjacent to the petitioner's existing 345 kv line that runs from the Scobie Pond substation in Londonderry, New Hampshire to Vernon, Vermont; and

Whereas, following due notice no other interested parties recorded any objections to the proposed construction and upon investigation of all the facts before the commission, it is found that the proposed construction is necessary to meet the reasonable requirements of the public and that the license sought may be issued and exercised by the petitioner without substantially affecting the public rights and waters crossed; it is

Ordered, that a license be, and hereby is, granted to Public Service Company of New Hampshire to construct and maintain an electric line over and across the Merrimack river in the towns of Merrimack and Litchfield, New Hampshire, all in accordance with the above description which is contained on a plan on file at the office of the commission.

By order of the Public Utilities Commission of New Hampshire this seventh day of October, 1977.

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NH.PUC\*10/13/77\*[77946]\*62 NH PUC 264\*Granite State Electric Company

[Go to End of 77946]

## Re Granite State Electric Company

DR77-63

62 NH PUC 264

New Hampshire Public Utilities Commission

October 13, 1977

MOTION to exclude supplemental testimony; denied.

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1. PROCEDURE, § 2 — Issues previously raised — Relevant testimony.

[N.H.] The commission allowed an electric utility to file supplemental clarifying testimony on issues previously raised in prior hearings where the commission found that such testimony was relevant, material, and pertinent to the determination that it had to make on those issues. p. 265.

2. EVIDENCE, § 4 — Reports to commission — Right of cross-examination.

[N.H.] The commission held that where supplemental testimony was based on periodically filed company reports, and the right to further cross-examination had been reserved by the commission, such evidence was not excludable. p. 266.

3. REVENUES, § 2 — Estimates for the future — Attrition and erosion of earnings.

[N.H.] Where a witness's testimony was offered for the purpose of showing attrition and erosion of earnings and did not increase the company's requested revenues, the commission found that the presentation of evidence to meet the burden of proof of the original rate request was clearly relevant material and pertinent to the final determination that it must make regarding revenue requirements. p. 266.

4. PROCEDURE, § 2 — Administrative discretion — Procedural decision of an interim nature.

[N.H.] The commission stated that allowing supplemental testimony was a conscientious exercise of administrative discretion and held that its allowance of the supplemental testimony was a procedural decision of an interim nature not in any way determinative of the substantive issues of the rate proceedings. p. 266.

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APPEARANCES: Philip H. R. Cahill and William G. Hayes for the petitioner; Steven Ruback and Michael Love for the Legislative Utility Consumers' Council; William Weismann for Lebanon in Service to Each Neighbor (LISTEN).

BY THE COMMISSION:

Supplemental Report

On September 16, 1977, LUCC filed a motion to exclude supplemental testimony of company witnesses Saturley and Rose which had been filed August 19, 1977. The filing of this supplemental testimony followed hearings on the merits on June 14, 15, and July 21, 1977, as well as a procedural hearing (May 18, 1977) and informal conferences on May 27th and June 15th designed to resolve disputed issues. Subsequent to the filing of the supplemental testimony the commission staff filed direct testimony and the commission also held a further previously scheduled hearing on the merits on September 7, 1977. On September 29th the company filed a response to the LUCC motion.

*Rose Testimony*

The original Rose testimony was devoted to the various components of fair rate of return including cost of capital and capital structure. The Rose supplemental testimony addresses the issues of working capital and New England Energy Inc. (NEEI) taxes, both previously treated by witness Saturley. Legislative Utility Consumers' Council objects because Saturley had testified and been cross-examined on these issues and because the supplemental testimony was not being offered in rebuttal to any witnesses of the intervenors. Legislative Utility Consumers' Council cites no legal authority to support its objection.

The company has the burden of proving the filed rate case and has the prerogative to

determine which of its employees is best qualified to meet that burden of proof. Their choice to file supplemental clarifying testimony by Rose on issues previously testified by Saturley is a rightful exercise of their prerogative to plan and present their case in the best way they can.

[1] The purpose of the present proceedings is to establish permanent rates pursuant to RSA 378:28. That statute states in pertinent part that "Nothing herein contained shall preclude the commission from receiving and considering any evidence which may be pertinent and material to the determination of a just and reasonable rate base and a just and reasonable rate of return thereon." The Rose testimony is offered to clarify issues previously raised in the hearings and thus is relevant, material, and pertinent to the determination the commission must make on those issues.

#### *Saturley Testimony*

The original Saturley testimony covered, among other things, rate base, working capital requirements, and NEEI tax issues. The Saturley supplemental testimony addresses the single limited issue of an updated test year. Legislative Utility Consumers' Council objects because the Saturley supplemental testimony submits new data, is not being offered in rebuttal to any intervenors' witnesses and would create a hardship on intervenors.

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Legislative Utility Consumers' Council cites the recent NH supreme court decision in *Windham Estates Asso. v New Hampshire* (1977) 117 NH 419, 374 A2d 645, to support the proposition that "the commission is not required to use the most current figures available." This case is loosely cited for it does not apply to the factual circumstances of this case. In the *Windham* case the record was closed before additional data was filed with the commission. In that situation, the court said the commission did not have to consider this most current data. The court made it clear, however, that it was "within the discretion and expertise of the commission" to determine whether it would consider such evidence.

[2] In the case before us the record is not closed, and the data in Saturley's supplemental testimony is based on periodically filed company reports, specifically the quarterly report for June, 1977, which has been on file during much of these proceedings. Also, the right to further cross-examination has been reserved and the commission, as well as the LUCC, have yet to present any direct evidence. Thus, the evidence now before us in the form of Saturley's supplemental testimony is not excludable under the principle of the *Windham* case cited by LUCC.

[3] Saturley's testimony seeks to show more clearly the company's need for the originally requested revenue of 51,089,000. It does not increase the company's requested revenues but is offered for the purpose of showing attrition and erosion of earnings for a different period from the original test year. The presentation of evidence to meet the burden of proof of the original rate request is clearly relevant material and pertinent to the final determination the commission must make regarding revenue requirements. Such evidence as Saturley has presented in his supplemental testimony is clearly contemplated by RSA 378:29.

[4] In addition, we believe that allowing the supplemental testimony of Saturley and Rose is a conscientious exercise of administrative discretion designed to afford the company an

opportunity to be heard on certain issues already in the record. We note that the record is still open and that our allowance of the supplemental testimony is a procedural decision of an interim nature not in any way determinative of the substantive issues of this rate proceeding. Accordingly, the motion to exclude the supplemental testimony of Saturley and Rose is denied.

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NH.PUC\*10/13/77\*[77947]\*62 NH PUC 266\*Exeter and Hampton Electric Company

[Go to End of 77947]

## Re Exeter and Hampton Electric Company

DF 77-141, Order No. 12,930

62 NH PUC 266

New Hampshire Public Utilities Commission

October 13, 1977

APPLICATION for authority to issue short-term notes; granted.

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**Page 266**

SECURITY ISSUES, § 98 — Short-term notes.

[N.H.] The commission authorized an electric company to issue short-term notes consistent with the public good where the company had furnished supporting data and represented that it was planning to refinance all, or substantially all, of said notes by the issuance of bonds and preferred stock in the near future.

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BY THE COMMISSION:

Order

Whereas, on September 29, 1977, Exeter and Hampton Electric Company filed a petition with this commission for authority to issue notes payable less than twelve months from the date of issue in an aggregate amount of \$2.5 million at an interest rate not in excess of one-half of one per cent above the prime interest rate; and

Whereas, the company furnished supporting data and represented that it is planning to refinance all, or substantially all, of said notes by the issuance of bonds and preferred stock in the near future; and

Whereas, the commission has found that the issuance of such short-term indebtedness upon the terms proposed is consistent with the public good; it is

Ordered, that Exeter and Hampton Electric Company be, and hereby is, authorized from the

date of this order to, and including December 31, 1978, to issue and sell for cash, or renew, its short-term note, or notes, payable less than twelve months after the date thereof, in an aggregate principal amount not in excess of \$2.5 million to bear interest at a rate not in excess of one-half of one per cent above the prime rate at the time of issuance or renewal; and it is

Further ordered, that Exeter and Hampton Electric Company first obtain approval of this commission before incurring short-term indebtedness in excess of the amount allowed by the terms of this order; and it is

Further ordered, that on or before January 1st and July 1st in each year, Exeter and Hampton Electric Company shall file with this commission a detailed statement, duly sworn to by its treasurer, showing the disposition of the proceeds of the notes herein authorized until the expenditure of the whole of said proceeds shall have been accounted for.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of October, 1977.

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NH.PUC\*10/13/77\*[77948]\*62 NH PUC 267\*Northern Utilities, Inc.

[Go to End of 77948]

### **Re Northern Utilities, Inc.**

DF 77-127, Order No. 12,931

62 NH PUC 267

New Hampshire Public Utilities Commission

October 13, 1977

PETITION by utility for authority to issue common stock pursuant to an employee stock ownership plan; granted.

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**Page 267**

SECURITY ISSUES, § 119 — Stock option plan — Authorization.

[N.H.] The commission approved a utility's reversed incentive stock option plan which provided for incentive stock option agreements under which designated officers and managerial employees would have the right for a limited period of time to purchase common stock where the proceeds from the sale of the stock would be used to pay off short-term notes, to reimburse the treasury, to finance the purchase and construction of additional property, and other proper corporate purposes.

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BY THE COMMISSION:

## Order

Whereas, on September 6, 1977, Northern Utilities, Inc., a corporation duly organized under the laws of this state, and operating therein as a gas public utility under the jurisdiction of this commission, seeks authority, pursuant to the provisions of RSA 369 to issue and sell for cash shares of its common stock pursuant to an incentive common stock option plan (the new plan); and

Whereas, the petitioner submitted that its stockholders and directors had adopted a reversed incentive stock option plan (the new plan), which provides for incentive stock option agreements under which designated officers and managerial employees to be named by the directors would have the right for a limited period of time to purchase not exceeding 25,000 shares of the petitioner's common stock for cash, at a price equal to the greater of its par value (\$5 per share) or its market value at the time of execution of the incentive stock option agreements; and

Whereas, the company submits that:

"The purpose of the plan is to advance the interests of the company and its stockholders by affording key employees, upon whose judgement, initiative, and efforts the company is largely dependent for the successful conduct of its business, an additional incentive and an opportunity to increase or acquire a proprietary interest in the company and the advantages inherent in stock ownership in the company. It is anticipated that the aquisition of such interest in the company will provide such key employees with a further basis for remaining with the company and increasing their efforts on behalf of the company and its subsidiaries."

Whereas, there appears to be a need for the issuance of common stock both to secure additional capital for construction and to improve the capital structure; and

Whereas, the commission has fully considered and investigated the factual data submitted in the company petition and finds that the issuance of common stock pursuant to the proposed stock options as set forth in the petition is consistent with the public good; it is

Ordered, that Northern Utilities, Inc., be, and hereby is, authorized to issue and sell 25,000 shares of its common stock, pursuant to the incentive stock option plan for a price of \$5 per share, payable in cash as therein provided; and it is

Further ordered, that the proceeds from the sale of common stock shall be used (a) to pay off short-term notes outstanding at the time of sale, the proceeds of which will have been expended in the purchase and construction of property reasonably requisite for present and future use in the conduct of the company's business; (b) to reimburse the treasury for expenditures made for the purchase and construction

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of additional such property; (c) to finance the purchase and construction of additional such property; and (d) for other proper corporate purposes; it being understood that all expenses incurred in accomplishing the financing will be paid from the general funds of the company; and it is

Further ordered, that on January 1st and July 1st in each year, said Northern Utilities, Inc.,

shall file with this commission a detailed statement, duly sworn to by a vice president or the treasurer, showing the disposition of the proceeds of said stock until the whole of said proceeds have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of October, 1977.

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NH.PUC\*10/13/77\*[77949]\*62 NH PUC 269\*Concord Electric Company

[Go to End of 77949]

**Re Concord Electric Company**

DR 77-142, Order No. 12,932

62 NH PUC 269

New Hampshire Public Utilities Commission

October 13, 1977

PETITION of electric company seeking a rate increase; suspended pending commission investigation.

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BY THE COMMISSION:

Order

Whereas, Concord Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on September 30, 1977, filed with this commission certain revisions of its tariff, NHPUC No. 6 — Electricity, providing for an increase in annual gross revenues of \$714,000, effective October 30, 1977; and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date thereof be suspended pending investigation and decision thereon; it is

Ordered, that First Revised Pages 25 and 30; Second Revised Pages 16, 17, 19-21, 24, 28, and 29; Third Revised Page 26; and Second Revised Pages 1 and 2 of Supplement No. 1 of Tariff, NHPUC No. 6 — Electricity, of Concord Electric Company be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of October, 1977.

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NH.PUC\*10/14/77\*[77950]\*62 NH PUC 270\*Concord Steam Corporation

[Go to End of 77950]

**Re Concord Steam Corporation**

I-R14,713, Order No. 12,933

62 NH PUC 270

New Hampshire Public Utilities Commission

October 14, 1977

PETITION of steam utility seeking tariff revisions regarding fuel adjustment clause; suspended pending commission investigation.

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BY THE COMMISSION:

Order

Whereas, Concord Steam Corporation, a public utility engaged in the business of supplying steam service in the state of New Hampshire, on September 15, 1977, filed with this commission for effect October 14, 1977, certain revisions of its tariff, NHPUC No. 2 — Steam, relative to the fuel adjustment clause and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date thereof be suspended pending investigation and decision thereon; it is

Ordered, that Second Revised Page 11 and First Revised Page 11 (a) of tariff, NHPUC No. 2 — Steam, of Concord Steam Corporation be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of October, 1977.

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NH.PUC\*10/27/77\*[77951]\*62 NH PUC 270\*Northern Utilities, Inc., Allied Gas Division

[Go to End of 77951]

**Re Northern Utilities, Inc., Allied Gas Division**

I-R14,735, Order No. 12,937

62 NH PUC 270

New Hampshire Public Utilities Commission

October 27, 1977

PETITION of gas company seeking approval of special contract; granted.

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BY THE COMMISSION:

Order

Whereas, Northern Utilities, Inc., Allied Gas Division, a utility selling gas under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 34 with Kane-Gonic Brick Company, effective on October 31, 1977, for gas service at rates other than those fixed by its schedule of general application; and

Whereas, upon investigation and consideration,

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this commission is of the opinion that special circumstances exist relative thereto, which render the terms and conditions thereof just and consistent with the public interest; it is

Ordered, that said contract may become effective as of the effective date thereof.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of October, 1977.

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NH.PUC\*10/27/77\*[77953]\*62 NH PUC 271\*House Bill No. 851

[Go to End of 77953]

### **Re House Bill No. 851**

I-A14,655, Order No. 12,939

62 NH PUC 271

New Hampshire Public Utilities Commission

October 27, 1977

ADOPTION by commission of federal registration program relative to the use of privately purchased telephones on the existing telephone system.

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TELEPHONES, § 4.1 — Federal Communications Commission — Registration program.

[N.H.] Registration program of the Federal Communications Commission was adopted by the commission and became the governing document in determining the attachment of private equipment to residential telephone lines.

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BY THE COMMISSION:

Order

Whereas, the Federal Communications Commission, by its decision in its Docket No. 19528,

has established a registration program for all terminal equipment of all telephone companies in the United States; and

Whereas, the decision of the Federal Communications Commission was appealed to the U. S. Supreme Court which has now denied petitions for writ of certiorari requesting review of the order of the fourth circuit court of appeals, thereby leaving in full force and effect the original Federal Communications Commission decision; and

Whereas, RSA 637:8 (IV) effective August 7, 1977, provides for the attachment of private equipment to residential telephone lines unless the telephone company can prove that the attached equipment will cause direct harm to the telephone system; and

Whereas, such attached equipment which is registered with the New Hampshire Public Utilities Commission shall not require a protective interconnecting device as required by currently filed tariffs; and

Whereas, this commission has no registration program nor the means to establish a registration program; it is

Ordered, that the registration program of the Federal Communications Commission as presently constituted and as hereafter modified be, and hereby is, adopted by the New Hampshire Public Utilities Commission and shall become the governing document in determining the attachment of private equipment to residential telephone lines; and it is

Further ordered, that all New Hampshire operating telephone companies shall file revised tariffs to comply with the Federal Communications Commission order authorizing the connection of registered equipment to the exchange and toll network.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of October, 1977.

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NH.PUC\*10/28/77\*[77952]\*62 NH PUC 271\*Public Service Company of New Hampshire

[Go to End of 77952]

## **Re Public Service Company of New Hampshire**

I-R14,737, Order No. 12,938

62 NH PUC 271

New Hampshire Public Utilities Commission

October 28, 1977

PETITION of electric company seeking approval of special contract; granted.

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BY THE COMMISSION:

Order

Whereas, Public Service Company of New Hampshire, a utility selling electricity under the

jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 39 with Clarke Distributors, Inc., for electric service at rates other than those fixed by its schedule of general application; and

Whereas, upon investigation and consideration, this commission is of the opinion that special circumstances exist relative thereto, which render the terms and conditions thereof just and consistent with the public interest; it is

Ordered, that said contract may become effective as of the effective date thereof.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of October, 1977.

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NH.PUC\*10/28/77\*[77954]\*62 NH PUC 272\*Public Service Company of New Hampshire, et al.

[Go to End of 77954]

## **Re Public Service Company of New Hampshire, et al.**

DR 76-46, 21st Supplemental Order No. 12,940

62 NH PUC 272

New Hampshire Public Utilities Commission

October 28, 1977

PETITIONS by electric companies for authority to apply a fuel adjustment charge to monthly billings; granted.

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RATES, § 303 — Kinds and forms of rates and charges — Variable rates based on cost — Fuel clauses.

[N.H.] The request of electric companies for permission to apply a fuel adjustment charge to regular monthly billings to customers was granted on a finding by the commission that the proposed charges were just and reasonable and in accordance with all pertinent provisions of law.

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APPEARANCES: Eaton W. Tarbell and Philip Ayers for Public Service Company of New Hampshire; Rocco Pelillo for Concord Electric Company; Richard F. Gilmore for Exeter and Hampton Electric Company; Richard Schwartz for Connecticut Valley Electric Company, Inc.; Mayland H. Morse for New Hampshire Electric Cooperative, Inc.; Kirk L. Ramsauer for Granite State Electric Company; Dennis Bean for the Municipal Electric Department of Wolfeboro; John Cassidy for Littleton Water and Light Department; Robert Brown for Woodsville Water and

Light Department; and Michael Love for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

Pursuant to RSA 378:3-A(II), the commission, on October 20, 1977, held hearings on the petitions of nine New Hampshire electric companies for authority to apply a fuel adjustment charge to regular November monthly billings to their customers.

Reference may be made to previous commission decisions in this docket for statements and explanations of the fuel adjustment clause.

*Littleton Water and Light Department*

Littleton Water and Light Department, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on October 17, 1977, filed with this commission 46th Revised Page 6 of its tariff, NHPUC No. 1 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect November 1, 1977. Littleton purchases all of its requirements from the New England Power Company. Littleton reported that the total fuel cost billed by the New England Power Company during the month of September, 1977, was \$8,336.14. During this period the total kilowatt-hours sold by Littleton were 2,828,685. The fuel adjustment charge, therefore, by simple division and rounded which is proposed for effect in the month of November, 1977, is 29 cents per hundred kilowatt-hours.

*Municipal Electric Department of Wolfeboro*

Municipal Electric Department of Wolfeboro, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on October 12, 1977, filed with this commission 36th Revised Page 9A to its tariff, NHPUC No. 4 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect November 1, 1977. Wolfeboro purchases all of its requirements from Public Service Company of New Hampshire. Wolfeboro reported that during the month of September, 1977, the total fuel cost billed by Public Service Company was \$26,275.20. During this same period the total kilowatt-hours sold by Wolfeboro were 2,159,713. The fuel adjustment charge, therefore, by simple division and rounded which is proposed for effect in the month of November, 1977 is \$1.22 per hundred kilowatt-hours.

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*New Hampshire Electric Cooperative, Inc.*

New Hampshire Electric Cooperative, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on October 18, 1977, filed with this commission 42nd Revised Page 13 to its tariff, NHPUC No. 6 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect on November 1, 1977. The company reported that the total fuel cost billed by its several power suppliers for power during the month of September, 1977, was \$242,125. Total sales by the Co-op during the same month were 22,878,293 kilowatt-hours. The fuel adjustment charge, therefore, by simple division and rounded which is proposed for effect in the month of November, 1977, is \$1.06 per hundred kilowatt-hours.

*Granite State Electric Company*

Granite State Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on October 17, 1977, filed with this commission 38th Revised Page 15A to its tariff, NHPUC No. 8 — Electricity, comprising the monthly fuel adjustment charge for effect November 1, 1977. Granite State purchases all of its requirements from the New England Power Company. Granite State reported that the variable portion of the fuel cost billed by New England Power Company was \$78,749.24. Total sales to Granite State customers during the same period were 27,845,759 kilowatt-hours. By simple division this yields \$0.0028 to which is added the fixed fuel portion of \$0.0124 per kilowatt-hour. Thus, the fuel adjustment charge applicable to bills rendered in the month of November, 1977, is proposed to be \$1.52 per hundred kilowatt-hours.

*Woodsville Water and Light Department*

Woodsville Water and Light Department, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on October 14, 1977, filed with this commission 12th Revised Page 10B to its tariff, NHPUC No. 3 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect November 1, 1977. Woodsville purchases all of its requirements from Central Vermont Public Service Corporation. Woodsville reported that during the month of September, 1977, the total fuel cost billed by Central Vermont was \$4,397.29. During this same period the total kilowatt-hours sold by Woodsville were 792,399. The fuel adjustment charge, therefore, by simple division and rounded which is proposed for effect in the month of November, 1977, is 55 cents per hundred kilowatt-hours.

*Connecticut Valley Electric Company, Inc.*

Connecticut Valley Electric Company, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on October 18, 1977, filed with this commission Seventh Revised Page 18 to its tariff, NHPUC No. 4 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect November 1, 1977. Connecticut Valley purchases all of its requirements from Central Vermont Public Service Corporation. Connecticut Valley reported that during the month of September, 1977, the total fuel cost billed by Central Vermont was \$64,340. During

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this same period the total kilowatt-hours sold by Connecticut Valley were 11,264,500. The fuel adjustment charge, therefore, by simple division and rounded which is proposed for effect in the month of November, 1977, is 57 cents per hundred kilowatt-hours.

*Concord Electric Company*

Concord Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire on October 14, 1977, filed with this commission 32nd Revised Page 15A to its tariff, NHPUC No. 6 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect November 1, 1977. Concord Electric purchases all of its requirements from Public Service Company of New Hampshire. Concord Electric reported that the total fuel cost billed by Public Service Company during the month of September, 1977, was

\$276,836.28. Total sales during that same period were 21,459,461 kilowatt-hours. The fuel adjustment charge, therefore, by simple division and rounded which is proposed for effect in the month of November, 1977, is \$1.29 per hundred kilowatt-hours.

*Exeter and Hampton Electric Company*

Exeter and Hampton Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on October 13, 1977; filed with this commission 28th Revised Page 16 to its tariff, NHPUC No. 11 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect November 1, 1977. Exeter and Hampton purchases all of its requirements from Public Service Company of New Hampshire. Exeter and Hampton reported that the total fuel cost billed by Public Service Company for the month of September, 1977, was \$305,462.08. Total sales by Exeter and Hampton during the same period were 25,493,545 kilowatt-hours. The fuel adjustment charge, therefore, by simple division and rounded which is proposed for effect in the month of November, 1977, is \$1.20 per hundred kilowatt-hours.

*Public Service Company of New Hampshire*

Public Service Company of New Hampshire, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on October 18, 1977, filed with this commission 36th Revised Pages 15 and 16 to its tariff, NHPUC No. 20 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect November 1, 1977.

Page 16 of the company's fuel surcharge filing for November, 1977, indicates that fuel costs above base for the data month of September were \$4,855,968. During this same period the kilowatt-hours subject to the fuel adjustment were 399,962,000. The fuel adjustment charge, therefore, by simple division and rounded which is proposed for effect in the month of November, 1977, is \$1.21 per hundred kilowatt-hours.

Based upon all of the evidence in the record of this proceeding, the commission finds that the proposed fuel adjustment charges for the month of November, 1977, are just and reasonable, in accordance with pertinent provisions and all other applicable provisions of law. Our order will issue accordingly.

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Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that 36th Revised Pages 15 and 16 of Public Service Company of New Hampshire tariff, NHPUC No. 20 — Electricity, providing for the monthly fuel surcharge of \$1.21 per hundred kilowatt-hours for the month of November, 1977, be, and hereby are, permitted to become effective November 1, 1977; and it is

Further ordered, that 32nd Revised Page 15A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of \$1.29 per hundred kilowatt-hours for the month of November, 1977, be, and hereby is, permitted to become effective November 1, 1977; and it is

Further ordered, that 28th Revised Page 16 of Exeter and Hampton Electric Company tariff, NHPUC No. 11 — Electricity, providing for the monthly fuel surcharge of \$1.20 per hundred kilowatt-hours for the month of November, 1977, be, and hereby is, permitted to become effective November 1, 1977; and it is

Further ordered, that Seventh Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of 57 cents per hundred kilowatt-hours for the month of November, 1977, be, and hereby is, permitted to become effective November 1, 1977; and it is

Further ordered, that 42nd Revised Page 13 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of \$1.06 per hundred kilowatt-hours for the month of November, 1977, be, and hereby is, permitted to become effective November 1, 1977; and it is

Further ordered, that 38th Revised Page 15A of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of \$1.52 per hundred kilowatt-hours for the month of November, 1977, be, and hereby is, permitted to become effective November 1, 1977; and it is

Further ordered, that 36th Revised Page 9A of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of \$1.22 per hundred kilowatt-hours for the month of November, 1977, be, and hereby is, permitted to become effective November 1, 1977; and it is

Further ordered, that 46th Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of 29 cents per hundred kilowatt-hours for the month of November, 1977, be, and hereby is, permitted to become effective November 1, 1977; and it is

Further ordered, that 12th Revised Page 10B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of 55 cents per hundred kilowatt-hours for the month of November, 1977, be, and hereby is, permitted to become effective November 1, 1977.

By order of the Public Utilities Commission of New Hampshire this twenty. eighth day of October, 1977.

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NH.PUC\*10/31/77\*[77955]\*62 NH PUC 277\*Public Service Company of New Hampshire

[Go to End of 77955]

## **Re Public Service Company of New Hampshire**

DR 77-49, Third Supplemental Order No. 12,941

62 NH PUC 277

New Hampshire Public Utilities Commission

October 31, 1977

PETITION for a rate increase; order setting procedural guidelines.

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1. PROCEDURE, § 2 — Hearings and testimony — Procedural guidelines.

[N.H.] The commission issued an order providing procedural guidelines for data requests and cross-examination of witnesses. p. 277.

2. PROCEDURE, § 16 — Inspection of evidence — Denial of rebuttal evidence.

[N.H.] Where a consumer advocate had adequate time to inspect an electric company witness's testimony and responses to its data requests, and where the consumer advocate would be presenting a direct case to rebut contrary positions on the issue of construction work in progress, the commission denied the consumer advocate permission to file a rebuttal to the electric company witness's testimony. p. 278.

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BY THE COMMISSION:

Supplemental Report

In its earlier procedural report and Order No. 12,803 dated June 17, 1977, the commission stated that although it "will not now limit the time period for discovery and data requests," it would, "at some future point in time ... determine when to terminate its receipt of information."

On Thursday, October 27, 1977, the commission held a hearing regarding procedural matters raised by the parties in this proceeding. As a result of that hearing the commission will establish the following procedure for the filing of data requests, the responses thereto, the scheduling of witnesses and the presentation of rebuttal testimony.

[1] Starting with the date of this report and order, no further routine data requests will be directed to Public Service Company of New Hampshire (PSC) witnesses by any party. All parties have had PSC testimony for seventeen weeks, which is an ample time for discovery and data requests of the company. In the event, however, that during cross-examination a PSC witness is unable to answer a question, a data request may be made to obtain the answer to that question.

All further data requests by a party of any noncompany witness will be required to be filed by November 14, 1977. The witnesses to whom those data requests are directed shall respond to them no later than December 14, 1977, and by agreement of the parties no witness who is engaged in the discovery process will be scheduled for cross-examination until the party conducting the discovery has two weeks to review responses to that witness's data requests; i.e., December 28th.

Public Service Company of New Hampshire shall complete and file any outstanding data requests from LUCC relating to testimony of PSC witness Littlefield no later than Tuesday, November 22, 1977. Witness Littlefield is scheduled for cross-examination on

Tuesday, December 6th, and the commission shall reserve December 7th and 8th for the continuation of cross-examination of this witness.

Public Service Company of New Hampshire shall complete and file any outstanding data requests from LUCC relating to the testimony of PSC witness Stetson no later than Tuesday, November 29, 1977. Witness Stetson is scheduled for cross-examination on Tuesday, December 13th, and the commission will reserve December 14th and 15th for any continuation of the cross-examination of this witness which may become necessary.

By agreement of all parties, PSC witness Harrison is scheduled for further cross-examination by any party on Wednesday, November 9, 1977.

The commission further establishes January 3, 1978, for the commencement of cross-examination of LUCC expert witness Logue and reserves the two days thereafter for any continuation which may be necessary. The commission also establishes January 10, 1978, for the commencement of cross-examination of PUC expert witness Trawicki and reserves the two days thereafter for any continuation of cross-examination of this witness which may become necessary.

Data requests specifically marked as exhibits in this proceeding shall become a part of the formal record, and those not marked will not become a part of the record.

[2] Legislative Utility Consumers' Council requests permission to file a rebuttal to the testimony of PUC expert witness Trawicki insofar as his testimony treats construction work in progress (CWIP). The LUCC will have the Trawicki testimony on this issue eleven weeks prior to the time Trawicki must be cross-examined. Furthermore, Trawicki's responses to LUCC data requests will be filed no later than December 14th or nearly four weeks prior to his scheduled cross-examination. These are ample time periods to prepare to conduct cross-examination.

The LUCC has an expert witness on the issue of CWIP and that testimony as filed takes a position completely contrary to the testimony of Trawicki on the subject. Thus, LUCC will be presenting a direct case to rebut contrary positions on CWIP. Thus, the LUCC request for rebuttal is denied. Our order will issue accordingly.

#### Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that all parties to this proceeding shall comply with the procedure set forth in the attached supplemental report; and it is

Further ordered, that the original procedural order of June 17, 1977, remains in full force and effect to the extent that it is not inconsistent with the terms of this supplemental report and order.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of October, 1977.

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NH.PUC\*10/31/77\*[77956]\*62 NH PUC 279\*Granite State Telephone

[Go to End of 77956]

## Re Granite State Telephone

DE 77-86, Supplemental Order No. 12,945

62 NH PUC 279

New Hampshire Public Utilities Commission

October 31, 1977

APPLICATION by telephone company for the elimination of two- and four-party line service; denied.

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1. SERVICE, § 452 — Multiparty lines — Maintenance of service.

[N.H.] The commission rejected a telephone company's proposal to eliminate existing two- and four-party service and ordered the company to make appropriate plant additions so as to allow the company's customers the option of receiving such service. p. 279.

2. SERVICE, § 435 — Equipment and facilities — Traffic service position system.

[N.H.] A telephone company was authorized to install a traffic service position system which would provide for better customer service by minimizing operator involvement in person-to-person, collect, credit card, and third party billing calls. p. 279.

3. RATES, § 561 — Party and single line — Number of customers.

[N.H.] Where existing two- and four-party customers were not agreeable to the company's well-intentioned desire to upgrade its service and where even though the company had provided testimony that it had decided for economic reasons not to make the added investment in view of the number of customers in the two- and four-party categories, the commission ordered the continuation of two- and four-party service at two- and four-party rates where it found that it would not be proper for those customers to pay higher rates for a service which they did not request. p. 279.

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APPEARANCES: John Holland for the petitioner and Michael Love for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

[1-3] On May 10, 1977, Granite State Telephone, a New Hampshire corporation with its place of business in South Weare, New Hampshire, filed with this commission a petition requesting authority to eliminate all two- and four-party line service in its Chester, New Hampshire, exchange, thus upgrading the exchange to all one-party line service. The company

proposed an effective date of June 11, 1977. On June 7, 1977, Granite State filed with this commission a revised filing changing the effective date from June 11, 1977, to November 11, 1977. On June 9, 1977, this commission suspended the filing. A duly noticed public hearing was held at the commission on October 4, 1977.

Granite State's manager, Hobart G. Rand, testified at the hearing that at December 31, 1976, there were 1,119 customers in the Chester exchange, eighty-one with two- and four-party service, and the remainder with one-party service. Of the eighty-one customers ten have two-party service, and seventy-one have four-party service. Of the seventy-one four-party customers, thirteen are seasonal.

Subsequent to the tariff filing, and at our request, the company gave public notice of the proposed filing by newspaper publication. Additionally, a letter was sent to all current two- and four-party customers advising them of the company's intent to provide only one-party service. The company testified

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that two of the seventy-one customers expressed extreme dissatisfaction with the proposal. The remainder appeared reluctant and expressed a desire to remain on their existing service.

The company testified that in November a new plant facility will be introduced to provide for traffic service position system (TSPS). This new facility will provide for better customer service by minimizing operator involvement in person-to-person, collect, credit card, and third-party billing calls. The equipment will not, however, accommodate two- party and four-party service. The company explained that such service could have been provided by an additional \$8,000 plant addition; the company elected for economic reasons not to make the added investment in view of the number of customers in those categories.

This commission is sensitive to the fact that these existing two- and four-party customers are not agreeable to the company's well-intentioned desire to upgrade its service to all customers. It does not appear proper for those customers to pay higher rates for a service which they did not request and which in fact they appear not to want.

We find no evidence to suggest that addition of plant facilities to provide TSPS will not be in the public interest; however, we concurrently find evidence showing the need for appropriate additions to that plant to provide for the continuation of two- and four-party service at two- and four-party rates. Our order will issue accordingly.

#### Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Granite State Telephone, NHPUC No. 6 — Telephone Section 2, Fourth Revised Sheet 1A, be, and hereby is rejected; and it is

Further ordered, that the company submit new tariff pages to reflect the continuation of two- and four-party service at two- and four-party rates to existing Chester exchange customers; and it is

Further ordered, that appropriate notice shall be given of this order; and it is

Further ordered, that the tariff shall bear the effective date of this order.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of October, 1977.

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NH.PUC\*11/01/77\*[77957]\*62 NH PUC 280\*Public Service Company of New Hampshire

[Go to End of 77957]

## Re Public Service Company of New Hampshire

IE14,423, Order No. 12,946

62 NH PUC 280

New Hampshire Public Utilities Commission

November 1, 1977

COMMISSION order on treatment of refunds pending appeal.

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REPARATION, § 43 — Award of reparation — Refund pursuant to appeal.

[N.H.] The commission ordered retail electric customers of a wholesale electric company to retain in appropriate interest-bearing investments refunds received from the wholesale company until the outcome of the appeal to the circuit court of appeals.

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BY THE COMMISSION:

Order

Whereas, the Federal Power Commission (FPC) in Docket No. ER 76-285 has ordered the Public Service Company of New Hampshire to make certain refunds to its New Hampshire retail electric customers; and

Whereas, said refunds result from the FPC denial of certain portions of the Public Service Company wholesale fuel adjustment charge; and

Whereas, the New Hampshire Electric Co-operative, Inc. (Co-op), a retail customer of Public Service Company has filed Supplement No. 4 to its tariff — NHPUC No. 6 requesting authority to distribute those refunds to the members of the Co-op; and

Whereas, the Concord Electric Company, Concord, and the E-H Electric Company, Exeter, have requested the advice of the commission regarding distribution of said refunds to their customers; and

Whereas, Public Service Company has perfected an appeal to the appropriate circuit court of appeals which raises the possibility that the Public Service Company may be successful on appeal and may thereafter reinstitute a surcharge to recollect monies which now have been refunded to New Hampshire retail companies; and

Whereas, the FPC (now the Federal Energy Regulatory Commission) in its order denying Public Service Company a rehearing stated that should the commission's decision eventually be overturned, Public Service Company will merely have to reinstitute the surcharge to recover the money that has been refunded, and

Whereas, after investigation the commission is of the opinion that the refund amounts received by Concord, Exeter, the Co-op, and the Municipal Electric Department of Wolfeboro (Wolfeboro), from the Public Service Company should be retained in an appropriate interest bearing investment and not refunded to customers until the outcome of the appeal to the circuit court of appeals; it is

Ordered, that Concord, Exeter, the Co-op, and Wolfeboro, be, and hereby are, authorized to retain the refunds received from PSC as a result of the recent FPC actions and should place said refunds in appropriate interest bearing investments; and it is

Further ordered, that in the event the circuit court of appeals upholds the FPC decision, said refunds shall then be made to customers of Concord, Exeter, the Co-op, and Wolfeboro with interest; and it is

Further ordered, that in the event Public Service Company is successful on appeal and the circuit court of appeals reverses the FPC order, Concord, Exeter, the Co-op, and Wolfeboro shall return the refunds to Public Service Company.

By order of the Public Utilities Commission of New Hampshire this first day of November, 1977.

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NH.PUC\*11/02/77\*[77958]\*62 NH PUC 282\*Northern Utilities, Inc., Allied Gas Division et al.

[Go to End of 77958]

## **Re Northern Utilities, Inc., Allied Gas Division et al.**

DR 77-54 et al., Order No. 12,947

62 NH PUC 282

New Hampshire Public Utilities Commission

November 2, 1977

PETITION by natural gas companies for authority to revise cost of gas adjustments; granted as modified.

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1. REPARATION, § 42 — Cost of gas adjustment — Refunds.

[N.H.] The commission denied a utility's petition for a cost of gas adjustment and found that the winter period refunds as well as the summer period refunds should be returned to customers at an annual rate of 8 per cent interest over the refund period. p. 283.

2. REPARATION, § 43 — Retention of refund — Appeal of wholesaler.

[N.H.] Where a natural gas wholesaler had an appeal pending which involved approximately 25 per cent of refunded amounts, the commission held that natural gas companies should retain 25 per cent of the total refund received from the wholesaler and place it in appropriate interest-free investment until such time as a final determination of the appeal would be rendered. p. 284.

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APPEARANCES: Milton F. Todd, assistant treasurer for Northern Utilities, Inc.; James C. Hood for Manchester Gas Company; Charles H. Toll for Gas Service, Inc., and Concord Natural Gas Corporation; and Michael Love for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

In accordance with the commission's tariff filing rules, and with the terms of the cost of gas adjustment (CGA) tariffs of each of the above named companies, proposed cost of gas adjustments for the winter period, November 1, 1977, to April 30, 1978, have been submitted for the commission's consideration.

The proposed cost of gas adjustments were as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Northern Utilities, Inc., Allied Gas Division	\$0.0760 per therm
Concord Natural Gas Corporation	0.0377 per therm
Gas Service, Inc. - Nashua	0.0733 per therm
Laconia	0.0338 per therm
Keene	0.0873 per therm
Manchester Gas Company	0.0439 per therm

A duly noticed public hearing was held at the offices of the commission on October 20, 1977, at which time witnesses for each of the distribution companies reviewed the various components of their representative cost of gas calculations. Witnesses also submitted revised pages, in the form of exhibits, reflecting more current projected natural gas costs during the winter period than were available at the time of the original submissions. The exhibits also provided for substantial refunds, which result from a recent Federal Power Commission (FPC) decision which reduces wholesale natural gas

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rates during the period January 1, 1974, to March 14, 1975. Testimony and cross-examination of witnesses at the hearing disclosed that the companies' methods of determining appropriate natural gas costs and peak-shaving costs were consistent with those

accepted and approved by this commission in the past. We find no evidence to justify denial of the proposed revisions to estimated gas costs or projected volumes during the winter period.

In the matter of refunds, the companies' exhibits included projected refunds based on estimates received from their supplier, Tennessee Gas Pipeline Company (FPC Docket No. RP73-113). The propose to return these refunds over two succeeding CGA periods, prorating them in relation to the actual terms sold over the same periods in which the collections were made in 1974-75. They also propose to include interest payments to customers for that portion retained for payment in the summer period.

We concur in the companies' decision to use the CGA as the vehicle for making the refund. We also concur in their manner of allocating appropriate portions to both summer and winter periods, since those customers who actually were responsible for the original payments will become the recipients of the refund.

[1] We do not agree with the companies' proposed interest payment plan, however. The proposal would provide that the winter portion block of the refund would be carried interest free during the entire winter period. We find that the winter period refunds as well as the summer period refunds should be returned to customers at an annual rate of 8 per cent interest over the refund period.

Legislative Utility Consumers' Council (LUCC) filed a motion that the distribution companies be required to pay interest during the entire refund period. Our decision does in fact require the companies to pay interest at the rate of 8 per cent on the declining balance in each month except the first month of the refund (November, 1977). The motion of the LUCC is denied as unnecessary and inappropriate because the matter of the requirement of including interest was a matter brought out by the commission staff at the hearing and was not initiated by the LUCC at that time. (Transcript pp. 42, 43.)

Legislative Utility Consumers' Council filed a motion that refunds based on the decision in RP73-113 should be refunded only to those customers who were overcharged during the period of January, 1974, to March 14, 1975, and that no customers, who have become customers of the various gas utilities since March of 1975, be allowed to receive the benefits of these refunds. The commission has consistently allowed refunds to be paid to *current* customers of record, rather than to those who *were* customers of record at the time the higher rates were in effect. We have done so for two reasons. First, we have been guided by the stated positions of the companies that their records and administrative practices have been such as to make it difficult and costly to precisely identify and locate those customers and then to further precisely determine the exact amount of refund due them on the basis of actual utility service used or consumed during the period.

Second, we know that some future cases will result, not in refunds, but in surcharges. We must be consistent in our treatment of customers in both cases. If a surcharge for past service

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were applied to customers of record during that past period instead of *current* customers, we anticipate that some of those customers who have since left the system, or who may also be outside of our jurisdiction, would not voluntarily remit payments for such past services. A policy

of billing customers no longer living in the state or living outside of the franchise area of the company rendering the bill we think would be inefficient and ineffective and could produce incomplete results.

We must treat both types of situations in a consistent manner. While we recognize that the manner of directing refund or surcharges to current customers of record may be imperfect and imprecise we find that method to be the most reasonable, fair, and proper. Accordingly the LUCC motion is denied.

[2] Company witnesses testified that Tennessee plans to take an appeal of approximately 25 per cent of the refunded amounts. In the event Tennessee is successful on appeal it is likely they would reinstitute a surcharge against the distribution companies. Accordingly, and consistent with prior commission actions regarding an electric utility refund which is also under appeal, (IR14,423) we find that the companies should retain 25 per cent of the total refund and place it in appropriate interest bearing investment until such time as a final determination of the appeal is rendered.

Adjustments for undercollections and overcollections during the previous winter period were appropriately made consistent with the provisions of each company's tariff. Three companies reported overcollections and one year's simple interest was applied to the total overcollection in calculating the appropriate deductions.

In summary, the proposed CGA should be allowed to become effective on all bills rendered on or after November 1, 1977, subject to the modifications noted herein. Our order will issue accordingly.

#### Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Seventh Revised Page 21 and Fourth Revised Page 21A of Concord Natural Gas Corporation tariff, NHPUC No. 13 — Gas, providing for a cost of gas adjustment of \$0.0377 per therm for the period of November 1, 1977, through April 30, 1978, be, and hereby are, rejected; and it is

Further ordered, that Section 2, Eighth Revised Page 3 of Gas Service, Inc. (Nashua), tariff, NHPUC No. 5 — Gas, providing for a cost of gas adjustment of \$0.0733 per therm for the period of November 1, 1977, through April 30, 1978, be, and hereby is, rejected; and it is

Further ordered, that Section 3, Sixth Revised page 3 of Gas Service, Inc. (Keene), tariff, NHPUC No. 5 — Gas, providing for a cost of gas adjustment of \$0.0873 per therm for the period of November 1, 1977, through April 30, 1978, be, and hereby is, rejected; and it is

Further ordered, that Section 4, Seventh Revised Page 3 of Gas Service, Inc. (Laconia), tariff, NHPUC No. 5 — Gas, providing for a cost of gas adjustment of \$0.0338 per therm for the period of November 1, 1977, through April 30, 1978, be, and hereby is, rejected; and it is

Further ordered, that Ninth Revised Page 20 of Manchester Gas Company, Inc. tariff, NHPUC No. 12 — Gas,

providing for a cost of gas adjustment of \$0.0439 per therm for the period November 1, 1977, through April 30, 1978, be, and hereby is, rejected; and it is

Further ordered, that Seventh Revised page 22A of Northern Utilities, Inc., Allied Gas Division tariff, NHPUC No. 6 — Gas, providing for a cost of gas adjustment of \$0.0760 per therm for the period of November 1, 1977, through April 30, 1978, be, and hereby is, rejected; and it is

Further ordered, that all reporting companies submit revised tariff pages reflecting updated anticipated costs of purchased and produced gas as provided in company exhibits at the public hearing; and it is

Further ordered, that all reporting companies include in their revised tariff pages provisions which will reflect, with interest, 75 per cent of the winter portion of a refund resulting from the FPC resolution of RP73-113; and it is

Further ordered, that all reporting companies shall retain 25 per cent of the total refunded amount and shall place such amount in an appropriate interest bearing investment pending resolution of the appeal of RP73-113; and it is

Further ordered, that the revised tariff pages submitted as a result of this order shall be allowed to become effective on all bills rendered on or after November 1, 1977; and it is

Further ordered, that public notice of these provisions be given by publication of this order in newspapers having a general circulation in the territories served.

By order of the Public Utilities Commission of New Hampshire this second day of November, 1977.

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NH.PUC\*11/08/77\*[77959]\*62 NH PUC 285\*New England Telephone and Telegraph Company

[Go to End of 77959]

## **Re New England Telephone and Telegraph Company**

DE 77-149, Order No. 12,950

62 NH PUC 285

New Hampshire Public Utilities Commission

November 8, 1977

PETITION of a telephone company for a license to place and maintain an aerial plant over a river; granted.

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TELEPHONES, § 2 — In general — Construction and equipment — Licensing.

[N.H.] The commission granted a license to a telephone company to place and maintain a

temporary aerial plant over a river where the construction was necessary to meet the reasonable requirements of the public, to provide additional toll and exchange telephone circuits, and where the proposed construction was planned to be removed a year later at which time a submarine cable crossing was planned for construction.

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BY THE COMMISSION:

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Order

Whereas, by petition filed October 7, 1977, New England Telephone and Telegraph Company seeks a license pursuant to RSA 371:17 — 20 to place and maintain a temporary aerial plant across the public waters of Saco river in the town of Conway, New Hampshire; and

Whereas, the petitioner represents that the proposed construction will cross the river from Pole No. 115 1/4 to Pole No. 115 1/2 and is planned to be removed in 1978, at which time a submarine cable crossing is planned for construction; and

Whereas, following due notice no interested parties recorded any objections to the proposed construction and upon investigation of all the facts before the commission, it is found that the proposed construction is necessary to meet the reasonable requirements of the public, to provide toll and exchange telephone circuits in the company's Conway exchange, and that the license sought may be issued and exercised by the petitioner without substantially affecting the public rights and the waters crossed; it is

Ordered, that a license be, and hereby is, granted to New England Telephone and Telegraph Company to place and maintain a temporary aerial plant crossing the Saco river in the town of Conway, all in accordance with the above description which is contained on a plan on file at the office of the commission.

By order of the Public Utilities Commission of New Hampshire this eighth day of November, 1977.

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NH.PUC\*11/09/77\*[77960]\*62 NH PUC 286\*Concord Steam Corporation

[Go to End of 77960]

## Re Concord Steam Corporation

I-R14,713, Order No. 12,952

62 NH PUC 286

New Hampshire Public Utilities Commission

November 9, 1977

PETITION of steam supply company for certain tariff revisions; granted in part and denied in part.

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1. PAYMENT, § 55 — Penalties — Interest charges on delinquent accounts.

[N.H.] Where the commission found that the portion of a steam supply company's tariff filing relative to the late payment charge was appropriate, consistent with the tariff provisions of other utilities, and in the interests of the general public, it authorized the company to apply a late payment charge of 1.25 per cent per month on its customers' unpaid balance. p. 287.

2. RATES, § 303 — Kinds and forms of rates and charges — Variable rates based on cost — Historical intent of fuel clauses.

[N.H.] The commission rejected a steam supply company's fuel adjustment clause tariff revisions where it had determined that the portion of the filing relative to the fuel charge presented a proposal that was inconsistent with the historically accepted intent of the fuel clause due to the fact that it reflected

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equivalent oil costs in establishing the fuel charge instead of the actual costs of fuel actually used. p. 287.

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BY THE COMMISSION:

Order

Whereas, Concord Steam Corporation, a public utility engaged in the business of supplying steam service in the state of New Hampshire, on June 22, 1977, filed with this commission for effect July 29, 1977, certain revisions of its tariff, NHPUC No. 2 — Steam, relative to the fuel adjustment clause, return on common equity, and the interest rate on delinquent accounts; and

Whereas, said tariff filing was suspended by this commission by Order No. 12,835, dated July 13, 1977; and

Whereas, on September 19, 1977, Concord Steam Corporation submitted a revised tariff filing deleting certain portions of its original filing; and

Whereas, this revised filing was suspended by this commission by Order No. 12,933 on October 14, 1977 (62 NH PUC 270); and

Whereas, this commission has now reviewed the provisions of the proposed tariff filing and has identified two separate issues which should be addressed —

- (1) A late payment charge of 1.25 per cent per month on an unpaid balance, and
- (2) A revision of its fuel adjustment charge; and

[1] Whereas, after due deliberation this commission finds that the portion of the filing

relative to the late payment charge is appropriate, consistent with the tariff provisions of other utilities, and in the interests of the general public; and

[2] Whereas, in its deliberations on this filing the commission considered whether or not that portion of the filing relative to the fuel adjustment charge was consistent with the historically accepted intent of the fuel adjustment clause by reflecting actual costs of fuel used in producing steam; and

Whereas, this commission has determined that the portion of the filing relative to the fuel charge presents a proposal which is inconsistent with that historically accepted intent, due to the fact that it reflects equivalent oil costs in establishing the fuel charge instead of actual costs of fuel actually used; it is

Ordered, that Concord Steam Corporation tariff, NHPUC No. 2 — Steam, Second Revised Page 11, First Revised Page 11(a), and First Revised Page 12 be, and hereby are, rejected; and it is

Further ordered, that Concord Steam Corporation submit new tariff pages to reflect provisions for late payment charges of 1.25 per cent per month on the unpaid balance.

By order of the Public Utilities Commission of New Hampshire this ninth day of November, 1977.

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NH.PUC\*11/17/77\*[77961]\*62 NH PUC 288\*Manchester Water Works

[Go to End of 77961]

## **Re Manchester Water Works**

DE 77-164, Order No. 12,957

62 NH PUC 288

New Hampshire Public Utilities Commission

November 17, 1977

PETITION of water utility for authority to extend its mains; granted.

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BY THE COMMISSION:

Order

Whereas, Manchester Water Works, a water public utility operating under the jurisdiction of this commission, by a petition filed October 20, 1977, seeks authority under RSA 374:22 and 26 as amended, to extend its mains and service further into the town of Bedford; and

Whereas, no other water utility has franchise rights in the area sought, and the petitioner submits that the area will be served under its regularly filed tariff; and

Whereas, the Board of Selectmen, town of Bedford, has stated that it is in accord with the petition; and

Whereas, after investigation and consideration, this commission is satisfied that the granting of the petition will be for the public good; it is

Ordered, that Manchester Water Works be, and hereby is, authorized to extend its mains and service further into the town of Bedford in the area herein described, and as set forth on a map on file in the commission offices, as follows:

*Area A — Ridgewood Road*

Beginning at a point along the center line of Ridgewood road, said point being 200 feet westerly of its intersection with the center line of South River road, and the westerly most existing franchise limit for Ridgewood road, from this point westerly along the center line of the path and contour of Ridgewood road, as laid out on the subdivision plan, to a point that is in line with the westerly most property line of Lot No. 4, as shown on the attached plan. Further extended on the northerly side of proposed extension to Ridgewood road to include all of the area within the perimeter boundary lines of Lot Nos. 4 and 5 as shown on plant at the office of the commission.

*Area B — Ridgewood Lane*

Beginning at a point along the center line of Ridgewood lane, where said lane intersects with the center line of Ridgewood road, from this point southerly along the path and contour of Ridgewood lane a distance of 550 feet +/- to present dead end;

and for these purposes to construct and maintain the necessary lines and apparatus.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of November, 1977.

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NH.PUC\*11/23/77\*[77962]\*62 NH PUC 289\*Rules and Regulations Prescribing Standards for Gas Utilities

[Go to End of 77962]

**Re Rules and Regulations Prescribing Standards for Gas Utilities**

DE 3978, Ninth Supplemental Order No. 12,958

62 NH PUC 289

New Hampshire Public Utilities Commission

November 23, 1977

ORDER promulgating regulations governing the discontinuance of gas service.

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SERVICE, § 220 — Discontinuance of service — Gas utilities.

[N.H.] The commission set out regulations governing the discontinuance of gas service, including disconnection with and without notice, insufficient reasons for disconnection, payment

arrangements, procedure for disconnection, restoration of service, and denial of service.

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BY THE COMMISSION:

Supplemental Order

Whereas, the commission in the exercise of its general rule-making powers pursuant to the provisions of RSA 365:8 and pursuant to RSA 363-B and in accordance with RSA 541-A, the Administrative Procedures Act, and after a duly noticed public hearing held on May 17, 1977; it is

Ordered, that the rules attached hereto relative to discontinuance of service are hereby adopted, effective November 23, 1977.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of November, 1977.

Rules and Regulations Prescribing Standards for Gas Utilities

*9. Discontinuance of Service*

A. Residential Customers

1. *By Customer.* A customer may be required to give reasonable notice of his intention to discontinue service in accordance with tariff provisions and shall be responsible for all charges until expiration of such notice period.

2. *By Company.*

a. *Disconnection With Notice*

(1) Subject to these regulations, a utility may disconnect service to a residential customer after appropriate notice only if:

(a) The customer has failed to pay within a reasonable time any proper undisputed bill or deposit request. Bills are payable upon receipt and payment will be accomplished by receipt of the amount due at a business office or authorized payment agency of the utility, or as provided in this regulation; provided however that no action shall be taken by the utility on account of nonpayment of a bill for service until after thirty days following the postmarked date of the bill.

(b) The customer has failed to abide by the terms of an agreement entered into pursuant to subsection e. below.

(c) The customer unreasonably refuses access to his premises for a necessary inspection of utility property.

(d) The commission orders the disconnection, in which case the commission will prescribe appropriate notice.

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(2) In lieu of disconnection or upon reconnection without deposit, the utility may require payment at less than monthly intervals. If service is disconnected for nonpayment, the utility

may make such reasonable charge for reconnection as is provided in its tariff.

*b. Disconnection Without Notice*

(1) Subject to these regulations, a utility may disconnect service to a residential customer without notice only if:

(a) There exists unauthorized or fraudulent use or procurement of the utility service, or tampering with the connections or other equipment of the utility, or conditions dangerous to the health, safety, or utility service of others, or a clear and present danger to life, health, physical property, or to the utility's ability to serve other customers.

(b) The customer has clearly abandoned the premises.

*c. Insufficient Reasons for Disconnection*

(1) No customer shall be disconnected if:

(a) The customer's unpaid bill is less than \$25, unless it includes an arrearage in whole or in part outstanding in excess of sixty days.

(b) The unpaid bill results from other than basic utility service, such as merchandise or appliance sales.

(c) The unpaid has, within the preceding thirty days, been advised by a registered physician that a medical emergency exists at the location or would result from the disconnection. A registered physician's certificate of medical emergency may originally be made by telephone; however, no such oral certification shall continue to be effective unless written notice of the medical emergency shall be received by the utility within seven days of any certification by telephone. Such certification is renewable monthly, and the customer shall be required to negotiate a payment schedule pursuant to subsection e. below.

*d. Notice*

(1) Service shall not be terminated unless the customer has been sent written notice of the company's intention to disconnect, postmarked at least twelve days in advance of the date of the proposed disconnection. Notice may be sent not less than thirty days after the postmark date of the original bill.

(2) Unless the bill is paid or arrangements to pay the bill are made, the service may be terminated on the scheduled termination date.

*e. Payment Arrangements*

(1) When a customer cannot pay a bill in full, the utility shall continue to serve the customer if the customer:

(a) Pays a reasonable portion of the outstanding bill; and

(b) Agrees to pay the balance of the outstanding bill in reasonable installments; and

(c) Agrees to pay all current bills within thirty days as delineated in subsection a. above.

(2) In deciding on the reasonableness of particular agreements, the company shall take into account the size of the unpaid balance, the customer's payment history and the amount of time and reasons why the debt is outstanding. If the customer and utility cannot agree, the customer

shall have the right of appeal to the commission and the utility shall advise the customer of such right.

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*f. Procedure for Accomplishing Disconnection*

(1) Utilities may disconnect service for nonpayment only from 8 A.M. to 3 P.M. on any authorized business day; however, service may not be disconnected for nonpayment of bills on any day preceding a day that the utility's business office is closed to the public, unless special arrangements are made with the customer to disconnect during these times, or unless, for utilities which must enter the premises to disconnect, access can only be obtained at some other time.

(2) Before disconnection, the utility employee disconnecting the service must notify an adult occupant of the premises or leave a note if no adult is at the premises. The note should include information as to how the customer may be reconnected.

(3) If the utility sends an employee to the customer's premises for the purpose of disconnecting service and the customer tenders payment in full of the bill to prevent disconnection, the employee shall either accept payment, give a receipt, and leave the service intact; or else, without disconnecting, direct the customer to go immediately to the utility's nearest office and tender payment there. The employee must know the full amount to be paid but shall not be required to make change or negotiate payment agreements. The utility shall be required to follow the procedures outlined in this section no more than twice in any twelve-month period, on any account.

*g. Restoration of Service*

(1) If service has been disconnected, the utility shall restore service promptly upon the customer's request when the cause for the disconnection has been removed.

(2) The utility shall endeavor to restore service during the business hours of the day of the request. When the customer requests that the service be restored at other than regular business hours, the utility shall attempt to make the reconnection, provided, however, that the utility shall be under no obligation to do so unless a medical emergency exists.

(3) A charge may be made for a reconnection in accordance with tariffs on file.

*h. Records*

Every public utility shall maintain records showing the annual number of disconnect notices sent out and the number of actual disconnections for nonpayment.

NH.PUC\*11/23/77\*[77963]\*62 NH PUC 292\*Rules and Regulations Prescribing Standards for Telephone Utilities

[Go to End of 77963]

## Re Rules and Regulations Prescribing Standards for Telephone Utilities

DE 3595, Third Supplemental Order No. 12,959

62 NH PUC 292

New Hampshire Public Utilities Commission

November 23, 1977

ORDER promulgating regulations governing the discontinuance of telephone service.

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SERVICE, § 220 — Operation — Discontinuance of service.

[N.H.] The commission set out regulations governing the discontinuance of telephone service, including disconnection with and without notice, insufficient reasons for disconnection, payment arrangements, procedure for disconnection, restoration of service, and denial of service.

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BY THE COMMISSION:

Supplemental Order

Whereas, the commission in the exercise of its general rule-making powers pursuant to the provisions of RSA 365:8 and in accordance with RSA 541-A, the Administrative Procedures Act, and after a duly noticed public hearing held on June 10, 1977; it is

Ordered, that the rules attached hereto relative to discontinuance of service are hereby adopted, effective November 23, 1977.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of November, 1977.

Rules and Regulations Prescribing Standards for Telephone Utilities

*6. Discontinuance of Service*

A. Residential Customers

1. *By Customer.* A customer may be required to give reasonable notice of his intention to discontinue service in accordance with tariff provisions and shall be responsible for all charges until expiration of such notice period.

2. *By Company.*

a. *Disconnection With Notice*

(1) Subject to these regulations, a utility may disconnect service to a residential customer after appropriate notice only if:

(a) The customer has failed to pay within a reasonable time any proper undisputed bill or deposit request. Bills are payable upon receipt and payment will be accomplished by receipt of the amount due at a business office or authorized payment agency of the utility, or as provided in this regulation; provided however that no action shall be taken by the utility on account of nonpayment of a bill for service until after thirty days following the postmarked date of the bill.

(b) The customer has failed to abide by the terms of an agreement entered into pursuant to subsection e. below.

(c) The customer unreasonably refuses access to his premises for a necessary inspection of utility property.

(d) The commission orders the disconnection, in which case the commission will prescribe appropriate notice.

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2. In lieu of disconnection or upon reconnection without deposit, the utility may require payment at less than monthly intervals. If service is disconnected for nonpayment, the utility may make such reasonable charge for reconnection as is provided in its tariff.

*b. Disconnection Without Notice*

(1) Subject to these regulations, a utility may disconnect service to a residential customer without notice only if:

(a) There exists unauthorized or fraudulent use or procurement of the utility service, or tampering with the connections or other equipment of the utility, or conditions dangerous to the health, safety, or utility service of others, or a clear and present danger to life, health, physical property, or to the utility's ability to serve other customers.

(b) The customer has clearly abandoned the premises.

*c. Insufficient Reasons for Disconnection*

(1) No customer shall be disconnected if:

(a) The customer's unpaid bill is less than \$25, unless it includes an arrearage in whole or in part outstanding in excess of sixty days.

(b) The unpaid bill results from other than basic utility service, such as telephone directory advertising or merchandise sales.

(c) The utility has, within the preceding thirty days, been advised by a registered physician that a medical emergency exists at the location or would result from the disconnection. A registered physician's certification of medical emergency may originally be made by telephone; however, no such oral certification shall continue to be effective unless written notice of the medical emergency shall be received by the utility within seven days of any certification by telephone. Such certification is renewable monthly, and the customer shall be required to negotiate a payment schedule pursuant to subsection e. below.

*d. Notice*

(1) Service shall not be terminated unless the customer has been sent written notice of the company's intention to disconnect, postmarked at least twelve days in advance of the date of the proposed disconnection. Notice may be sent not less than thirty days after the postmark date of the original bill.

(2) Unless the bill is paid or arrangements to pay the bill are made, the service may be

terminated on the scheduled termination date.

*e. Payment Arrangements*

(1) When a customer cannot pay a bill in full, the utility shall continue to serve the customer if the customer:

- (a) Pays a reasonable portion of the outstanding bill; and
- (b) Agrees to pay the balance of the outstanding bill in reasonable installments; and
- (c) Agrees to pay all current bills within thirty days as delineated in subsection a. above.

(2) In deciding on the reasonableness of particular agreements, the company shall take into account the size of the unpaid balance, the customer's payment history and the amount of time and reasons why the debt is outstanding. If

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the customer and utility cannot agree, the customer shall have the right of appeal to the commission and the utility shall advise the customer of such right.

*f. Procedure for Accomplishing Disconnection*

(1) Utilities may disconnect service for nonpayment only 8 *A.M.* to 3 *P.M.* on any authorized business day; however, service may not be disconnected for nonpayment of bills on any day preceding a day that the utility's business office is closed to the public, unless special arrangements are made with the customer to disconnect during these times, or unless, for utilities which must enter the premises to disconnect, access can only be obtained at some other time.

(2) Before disconnection, the company must attempt to notify an adult occupant of the premises by the telephone. If an employee visits the premises to achieve disconnection, that employee must notify an adult occupant of the premises or leave a note if no adult is at the premises. The note should include information as to how the customer may be reconnected.

(3) If the utility sends an employee to the customer's premises for the purpose of disconnecting service and the customer tenders payment in full of the bill to prevent disconnection, the employee shall either accept payment, give a receipt, and leave the service in-tact; or else, without disconnecting, direct the customer to go immediately to the utility's nearest office and tender payment there. The employee must know the full amount to be paid but shall not be required to make change or negotiate payment agreements. The utility shall be required to follow the procedures outlined in this section no more than twice in any twelve-month period, on any account.

*g. Restoration of Service*

(1) If service has been disconnected, the utility shall restore service promptly upon the customer's request when the cause for the disconnection has been removed.

(2) The utility shall endeavor to restore service during the business hours of the day of the request. When the customer requests that service be restored at other than regular business hours' the utility shall attempt to make the reconnection; provided, however, that the utility shall be under no obligation to do so unless a medical emergency exists.

(3) A charge may be made for a reconnection in accordance with tariffs on file.

*h. Records*

Every public utility shall maintain records showing the annual number of disconnect notices sent out and the number of actual disconnections for nonpayment.

*i. Denial of Service*

Service may be denied to any applicant for failure to comply with applicable requirements of these rules, or the telephone utility's tariff or the requirements of any law pertaining to telephone service.

*3. Disconnect Notice.*

The notice sent to the customer shall set forth the following information clearly, concisely, and conspicuously in three separately numbered large type paragraphs:

1. The date of disconnect.
2. The reason for disconnect.
3. The manner by which the customer may question or contest the reason for disconnect.

The notice shall also contain the name and billing address of the customer and the telephone number of the service to be disconnected. The attached form of notice prescribed by the commission, where possible, shall be used. Such notice may contain any additional data which the utility deems necessary.

*4. Time of Customer Request for Conference.*

A customer must request a conference with the utility *prior to* the date of disconnect which is specified in the disconnect notice. If a customer calls on the disconnect date, he is not entitled to a meeting with the utility. If a customer calls the company either one or two days before the disconnect date, it shall be scheduled no later than three business days after the request.

*5. Continuance of Service.*

The utility shall continue service for three days after the conference with the customer. If the customer requests a meeting with the public utilities commission within this three-day period, then the utility shall continue service until the final decision of the public utilities review.

*6. Utility's Decision.*

Before the conclusion of the customer's conference with the utility, the utility representative, if possible, shall state the utility's final decision. If it becomes necessary after the conference to further investigate the customer's challenge, the customer's appeal period will not begin to run until the utility communicates its final decision to proceed with the disconnect. In either case, the utility representative shall provide to the customer or the customer's representative a form for requesting a review of the utility's decision to the public utilities commission. The form of request for review attached hereto and prescribed by the commission shall be used.

*7. Computation of Time.*

The law does not recognize fractions of days. Computation of any period of time referred to in these rules begins with the first day following that on which the act which initiates the period of time occurs.

8. *Conference Memorandum.*

Each utility shall make a memorandum of any conference, indicating the outcome of such conference, and shall furnish the customer a copy. Should the customer seek a conference with the commission, the utility will forward a copy of the memorandum of the utility conference with the customer to the commission.

9. *Customer — Change of Name.*

Whenever the utility receives a request to change service from one

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customer to another, it shall give timely notice to the new customer of such change.

B. All Customers Other Than Residential

1. *By Customer.* A customer may be required to give reasonable notice of his intention to discontinue service in accordance with tariff provisions and shall be responsible for all charges until expiration of such notice period.

2. *By Company.*

a. *Nonpayment of Bills.* In accordance with tariff provisions, a utility may require that bills be paid within a specified time after presentation. Thirty days from the date the bill is rendered, service may be discontinued for the nonpayment of bills provided the customer has been given written notice at least five days prior to the date of disconnection. In lieu of disconnection, or upon reconnection, the utility may require payments at less than monthly intervals. If service is discontinued for nonpayment, the utility may make a reasonable charge for reconnection.

b. *For Violation of Rules.* No utility shall discontinue service to a customer for violation of any rule without written notice of at least five days, advising the customer in what particular such rule has been violated, except that service may be discontinued immediately when the violation of the rule is such as to endanger life or property.

c. *For Fraudulent Use of Service.* A utility may discontinue service without notice whenever a fraudulent use of the service by the customer is detected.

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NH.PUC\*11/23/77\*[77964]\*62 NH PUC 296\*Rules and Regulations Prescribing Standards for Electric Utilities

[Go to End of 77964]

## Re Rules and Regulations Prescribing Standards for Electric Utilities

D-E3335, 11th Supplemental Order No. 12,960

62 NH PUC 296

## New Hampshire Public Utilities Commission

November 23, 1977

ORDER promulgating regulations governing the discontinuance of electric service.

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SERVICE, § 220 — Discontinuance of service — Electric utility.

[N.H.] The commission adopted rules and regulations prescribing standards for electric utilities that wish to discontinue service.

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## Supplemental Order

Whereas, the commission, in the exercise of its general rule-making powers pursuant to the provisions of RSA 365:8

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and pursuant to RSA 363-B and in accordance with RSA 541-A, the Administrative Procedures Act, and after a duly noticed public hearing held on May 16, 1977; it is

Ordered, that the rules attached hereto relative to discontinuance of service are hereby adopted, effective November 23, 1977.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of November, 1977.

Rules and Regulations Prescribing Standards for Electric Utilities

8. *Discontinuance of Service*

A. Residential Customers

1. *By Customer.* A customer may be required to give reasonable notice of his intention to discontinue service in accordance with tariff provisions and shall be responsible for all charges until expiration of such notice period.

2. *By Company.*

a. *Disconnection With Notice*

(1) Subject to these regulations, a utility may disconnect service to a residential customer after appropriate notice only if:

(a) The customer has failed to pay within a reasonable time any proper undisputed bill or deposit request. Bills are payable upon receipt and payment will be accomplished by receipt of the amount due at a business office or authorized payment agency of the utility, or as provided in this regulation; provided however that no action shall be taken by the utility on account of nonpayment of a bill for service until after thirty days following the postmarked date of the bill.

(b) The customer has failed to abide by the terms of an agreement entered into pursuant to

subsection e. below.

(c) The customer unreasonably refuses access to his premises for a necessary inspection of utility property.

(d) The commission orders the disconnection, in which case the commission will prescribe appropriate notice.

(2) In lieu of disconnection or upon reconnection without deposit, the utility may require payment at less than monthly intervals. If service is disconnected for nonpayment, the utility may make such reasonable charge for reconnection as is provided in its tariff.

*b. Disconnection Without Notice*

(1) Subject to these regulations, a utility may disconnect service to a residential customer without notice only if:

(a) There exists unauthorized or fraudulent use or procurement of the utility service, or tampering with the connections or other equipment of the utility, or conditions dangerous to the health, safety, or utility service of others, or a clear and present danger to life, health, physical property, or to the utility's ability to serve other customers.

(b) The customer has clearly abandoned the premises.

*c. Insufficient Reasons for Disconnection*

(1) No customer shall be disconnected if:

(a) The customer's unpaid bill is less than \$25, unless it includes an arrearage in whole or in part outstanding in excess of sixty days.

(b) The unpaid bill results from other

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than basic utility service, such as merchandise or appliance sales.

(c) The utility has, within the preceding thirty days, been advised by a registered physician that a medical emergency exists at the location or would result from the disconnection. A registered physician's certification of medical emergency may originally be made by telephone; however, no such oral certification shall continue to be effective unless written notice of the medical emergency shall be received by the utility within seven days of any certification by telephone. Such certification is renewable monthly, and the customer shall be required to negotiate a payment schedule pursuant to subsection e. below.

*d. Notice*

(1) Service shall not be terminated unless the customer has been sent written notice of the company's intention to disconnect, postmarked at least twelve days in advance of the date of the proposed disconnection. Notice may be sent not less than thirty days after the postmark date of the original bill.

(2) Unless the bill is paid or arrangements to pay the bill are made, the service may be terminated on the scheduled termination date.

*e. Payment Arrangements*

(1) When a customer cannot pay a bill in full, the utility shall continue to serve the customer if the customer:

- (a) Pays a reasonable portion of the outstanding bill; and
- (b) Agrees to pay the balance of the outstanding bill in reasonable installments; and
- (c) Agrees to pay all current bills within thirty days as delineated in subsection a. above.

(2) In deciding on the reasonableness of particular agreements, the company shall take into account the size of the unpaid balance, the customer's payment history and the amount of time and reasons why the debt is outstanding. If the customer and utility cannot agree, the customer shall have the right of appeal to the commission and the utility shall advise the customer of such right.

*f. Procedure for Accomplishing Disconnection*

(1) Utilities may disconnect service for nonpayment only from 8 A.M. to 3 P.M. on any authorized business day; however, service may not be disconnected for nonpayment of bills on any day preceding a day that the utility's business office is closed to the public, unless special arrangements are made with the customer to disconnect during these times, or unless, for utilities which must enter the premises to disconnect, access can only be obtained at some other time.

(2) Before disconnection, the utility employee disconnecting the service must notify an adult occupant of the premises or leave a note if no adult is at the premises. The note should include information as to how the customer may be reconnected.

(3) If the utility sends an employee to the customer's premises for the purpose of disconnecting service and the customer tenders payment in full of the bill to prevent disconnection, the employee shall either accept payment, give a receipt, and leave the service intact; or else, without disconnecting, direct the customer to go immediately to the utility's nearest office and tender

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payment there. The employee must know the full amount to be paid but shall not be required to make change or negotiate payment agreements. The utility shall be required to follow the procedures outlined in this section no more than twice in any twelve-month period, on any account.

*g. Restoration of Service*

(1) If service has been disconnected, the utility shall restore service promptly upon the customer's request when the cause for the disconnection has been removed.

(2) The utility shall endeavor to restore service during the business hours of the day of the request. When the customer requests that service be restored at other than regular business hours, the utility shall attempt to make the reconnection; provided, however, that the utility shall be under no obligation to do so unless a medical emergency exists.

(3) A charge may be made for a reconnection in accordance with tariffs on file.

h. *Records*

Every public utility shall maintain records showing the annual number of disconnect notices sent out and the number of actual disconnections for nonpayment.

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NH.PUC\*11/23/77\*[77965]\*62 NH PUC 299\*Rules and Regulations Prescribing Standards for Water Utilities

[Go to End of 77965]

**Re Rules and Regulations Prescribing Standards for Water Utilities**

DE 3757, Fourth Supplemental Order No. 12,961

62 NH PUC 299

New Hampshire Public Utilities Commission

November 23, 1977

ORDER promulgating regulations governing the discontinuance of water service.

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SERVICE, § 220 — Discontinuance of service — Water utilities.

[**N.H.**] The commission adopted rules and regulations for water utilities prescribing the standards that they must follow when discontinuing service.

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Supplemental Order

Whereas, the commission in the exercise of its general rule-making powers pursuant to the provisions of RSA 365:8 and in accordance with RSA 541-A, the Administrative Procedures Act, and after a duly noticed public hearing held on June 13, 1977; it is

Ordered, that the rules attached hereto relative to discontinuance of service are hereby adopted, effective November 23, 1977.

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By order of the Public Utilities Commission of New Hampshire this twenty-third day of November, 1977.

Rules and Regulations Prescribing Standards for Water Utilities.

8. *Discontinuance of Service*

A. Residential Customers

1. *By Customer.* A customer may be required to give reasonable notice of his intention to discontinue service in accordance with tariff provisions and shall be responsible for all charges

until expiration of such notice period.

2. *By Company.*

a. *Disconnection With Notice*

(1) Subject to these regulations, a utility may disconnect service to a residential customer after appropriate notice only if:

(a) The customer has failed to pay within a reasonable time any proper undisputed bill or deposit request. Bills are payable upon receipt and payment will be accomplished by receipt of the amount due at a business office or authorized payment agency of the utility, or as provided in this regulation; provided however that no action shall be taken by the utility on account of nonpayment of a bill for service until after thirty days following the postmarked date of the bill.

(b) The customer has failed to abide by the terms of an agreement entered into pursuant to subsection e. below.

(c) The customer unreasonably refuses access to his premises for a necessary inspection of utility property.

(d) The commission orders the disconnection, in which case the commission will prescribe appropriate notice.

(2) In lieu of disconnection or upon reconnection without deposit, the utility may require payment at less than monthly intervals. If service is disconnected for nonpayment, the utility may make such reasonable charge for reconnection as is provided in its tariff.

b. *Disconnection Without Notice*

(1) Subject to these regulations, a utility may disconnect service to a residential customer without notice only if:

(a) There exists unauthorized or fraudulent use or procurement of the utility service, or tampering with the connections or other equipment of the utility, or conditions dangerous to the health, safety, or utility service of others, or a clear and present danger to life, health, physical property, or to the utility's ability to serve other customers.

(b) The customer has clearly abandoned the premises.

c. *Insufficient Reasons for Disconnection*

(1) No customer shall be disconnected if:

(a) The customer's unpaid bill is less than \$25, unless it includes an arrearage in whole or in part outstanding in excess of sixty days.

(b) The unpaid bill results from other than basic utility service.

(c) The utility has, within the preceding thirty days, been advised by the registered physician that a medical emergency exists at the location or would result from the disconnection. A registered physician's certification of medical emergency may originally be made by telephone; however, no such

oral certification shall continue to be effective unless written notice of the medical emergency shall be received by the utility within seven days of any certification by telephone. Such certification is renewable monthly, and the customer shall be required to negotiate a payment schedule pursuant to subsection e. below.

*d. Notice*

(1) Service shall not be terminated unless the customer has been sent written notice of the company's intention to disconnect, postmarked at least twelve days in advance of the date of the proposed disconnection. Notice may be sent not less than thirty days after the postmark date of the original bill.

(2) Unless the bill is paid or arrangements to pay the bill are made, the service may be terminated on the scheduled termination date.

*e. Payment Arrangements*

(1) When a customer cannot pay a bill in full, the utility shall continue to serve the customer if the customer:

- (a) Pays a reasonable portion of the outstanding bill; and
- (b) Agrees to pay the balance of the outstanding bill in reasonable installments; and
- (c) Agrees to pay all current bills within thirty days as delineated in subsection a. above.

(2) In deciding on the reasonableness of particular agreements, the company shall take into account the size of the unpaid balance, the customer's payment history and the amount of time and reasons why the debt is outstanding. If the customer and utility cannot agree, the customer shall have the right of appeal to the commission and the utility shall advise the customer of such right.

*f. Procedure for Accomplishing Disconnection*

(1) Utilities may disconnect service for nonpayment only from 8 A.M. to 3 P.M. on any authorized business day; however, service may not be disconnected for nonpayment of bills on any day preceding a day that the utility's business office is closed to the public, unless special arrangements are made with the customer to disconnect during these times, or unless, for utilities which must enter the premises to disconnect, access can only be obtained at some other time.

(2) Before disconnection, the utility employee disconnecting the service must notify an adult occupant of the premises or leave a note if no adult is at the premises. The note should include information as to how the customer may be reconnected.

(3) If the utility sends an employee to the customer's premises for the purpose of disconnecting service and the customer tenders payment in full of the bill to prevent disconnection, the employee shall either accept payment, give a receipt and leave the service intact; or else, without disconnecting, direct the customer to go immediately to the utility's nearest office and tender payment there. The employee must know the full amount to be paid but shall not be required to make change or negotiate payment agreements. The utility shall be required to follow the procedures outlined in this section no more than twice in any 12-month period, on any account.

g. *Restoration of Service*

(1) If service has been disconnected,

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the utility shall restore service promptly upon the customer's request when the cause for the disconnection has been removed.

(2) The utility shall endeavor to restore service during the business hours of the day of the request. When the customer requests that service be restored at other than regular business hours, the utility shall attempt to make the reconnection; provided, however, that the utility shall be under no obligation to do so unless a medical emergency exists.

(3) A charge may be made for a reconnection in accordance with tariffs on file.

h. *Records*

Every public utility shall maintain records showing the annual number of disconnect notices sent out and the number of actual disconnections for nonpayment.

3. *Disconnect Notice.* The notice sent to the customer shall set forth the following information clearly, concisely and conspicuously in three separately numbered large type paragraphs:

1. The date of disconnect
2. The reason for disconnect
3. The manner by which the customer may question or contest the reason for disconnect.

The notice shall also contain the name and address of the customer and the address of the premises affected, if different. The attached form of notice prescribed by the commission, where possible, shall be used. Such notice may contain any additional data which the utility deems necessary.

4. *Time of Customer Request for Conference.* A customer must request a conference with the utility prior to the date of disconnect which is specified in the disconnect notice. If a customer calls on the disconnect date, he is not entitled to a meeting with the utility. If a customer calls the company either one or two days before the disconnect date, it shall be scheduled no later than three business days after the request.

5. *Continuance of Service.* The utility shall continue service for three days after the conference with the customer. If the customer requests a meeting with the public utilities commission within this three-day period, then the utility shall continue service until the final decision of the public utilities commission's review.

6. *Utility's Decision.* Before the conclusion of the customer's conference with the utility, the utility representative, if possible, shall state the utility's final decision. If it becomes necessary after the conference to further investigate the customer's challenge, the customer's appeal period will not begin to run until the utility communicates its final decision to proceed with the disconnect. In either case, the utility representative shall provide to the customer or the customer's representative a form for requesting a review of the utility's decision to the public

utilities commission. The form of request for review attached hereto and prescribed by the commission shall be used.

7. *Computation of Time.* The law does not recognize fractions of days. Computation of any period of time referred to in these rules begins with the first day following that on which the act which initiates the period of time occurs.

8. *Conference Memorandum.* Each utility shall make a memorandum of any conference, indicating the outcome of such conference, and shall furnish the customer a copy. Should the customer

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seek a conference with the commission, the utility will forward a copy of the memorandum of the utility conference with the customer to the commission.

9. *Customer — Change of Name.* Whenever the utility receives a request to change service from one customer to another, it shall give timely notice to the new customer of such change.

B. All Customers Other than Residential

1. *By Customer.* A customer may be required to give reasonable notice of his intention to discontinue service in accordance with tariff provisions and shall be responsible for all charges until expiration of such notice period.

2. *By Company.*

a. *Nonpayment of Bills.* In accordance with tariff provisions, a utility may require that bills be paid within a specified time after presentation. Thirty days from the date the bill is rendered, service may be discontinued for the nonpayment of bills provided the customer has been given written notice at least five days prior to the date of disconnection. In lieu of disconnection, or upon reconnection, the utility may require payments at less than monthly intervals. If service is discontinued for nonpayment, the utility may make a reasonable charge for reconnection.

b. *For Violation of Rules.* No utility shall discontinue service to a customer for violation of any rule without written notice of at least five days, advising the customer in what particular such rule has been violated, except that service may be discontinued immediately when the violation of the rule is such as to endanger life or property.

c. *For Fraudulent Use of Service.* A utility may discontinue service without notice whenever a fraudulent use of the service by the customer is detected.

d. *Accounts Involving a Landlord — Residential Tenant Relationship.* In the specific instance of a proposed discontinuance of service by the company of an account involving a landlord-residential tenant relationship, the company shall notify the commission of its disconnect action. Such notice to the commission shall be given to the commission if no payment arrangement can be made and before the landlord is actually disconnected. Thereafter, the commission shall have the discretion to direct the manner in which the disconnection shall be executed, such as, but not limited to, a requirement that as many residential tenants as reasonably possible be notified of the disconnect action which will affect them.

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[Go to End of 77966]

## Re Rules and Regulations Governing Railroad Operations and Safety

IT14,673, Order No. 12,962

62 NH PUC 303

New Hampshire Public Utilities Commission

November 23, 1977

ORDER promulgating regulations governing railroad operations and safety.

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**Page** 303

RAILROADS, § 11 — Operations and safety — Rules and regulations.

[N.H.] The commission, in the exercise of its general rule-making powers, adopted rules and regulations governing railroad operations and safety.

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BY THE COMMISSION:

Order

Whereas, the commission in the exercise of its general rule-making powers, pursuant to RSA 365:8 and in accordance with RSA 541-A, the Administrative Procedures Act, and after a duly noticed public hearing held on May 13, 1977; it is

Ordered, that the rule attached hereto and entitled "New Hampshire Statutes and Rules Governing Railroad Operations and Safety" is hereby adopted.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of November, 1977. Section XII New Hampshire Statutes and Rules Governing Railroad Operations and Safety New Hampshire Revised Statutes Annotated (RSA) Applicable to Railroad Operations

RSA 370:10 Lights on Railroad Track Motor Cars. Every person, firm, or corporation operating or controlling any railroad running through or within the state shall equip each of its track motor cars used during the period from thirty minutes before sunset to thirty minutes after sunrise, with an electric headlight of such construction and with sufficient candlepower to render plainly visible at a distance of not less than 300 feet in advance of such track motor car, any track obstruction, landmark, warning sign, or grade crossing, and further shall equip such track motor car with a red rear electric light of such construction and with sufficient candlepower as to be plainly visible at a distance of 300 feet. Crossing Protection

RSA 373:10 Railroad Signs, Gates, and Other Protection. Every railroad shall construct or improve, and operate and maintain at every grade crossing of its railroad with another railroad or highway such warning signs, gates, or other protection; it shall so regulate the speed of its trains across any grade crossing and it shall give such appropriate warning of the approach of its trains to any grade crossing as the commission, after notice and hearing, may find necessary in the interest of safety of the railroad or of the public; provided, however, that cost of constructing or improving such warning signs, gates, or other protection shall be apportioned in accordance with the provisions of § 3 of this chapter. The railroad shall maintain signs, signals, gates, or other equipment, installed within the limits of its right of way, after the installation thereof.

RSA 373:15 Occupancy of Crossing by Engines or Cars. A railroad shall not occupy a grade crossing over a highway by its engines and cars more than five minutes at one time, without authority from the commission.

RSA 373:16 Exceptions. The commission, upon petition, notice, and hearing, may fix the maximum time for such occupancy,

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not exceeding nine minutes, and may establish such regulations in relation thereto as the public accommodation requires. Accidents

RSA 374:39 Reports. Every public utility shall report to the commission accidents occurring in connection with the operation of its business wherein loss of life occurs or any person is injured, or of such a nature as to endanger the safety, health, or property of its consumers or the public, as and whenever directed by such rules and regulations as the commission may prescribe. Heating Passenger Cars

RSA 377:12 Methods. No passenger, mail, or baggage car, except when in mixed trains composed of passenger and freight cars, shall be heated by common stoves or by any method of heating that has not been approved in writing by the commission, or that is not permitted by them in the making of experiments. Fires

RSA 380:1 Railroad's Liability. Every railroad shall be liable for all damages to any person or property by fire or steam from any locomotive or other engine upon their road.

RSA 380:2 Insurable Interest. Such railroad shall have an insurable interest in all property situate upon the line of their road which is exposed to such damage, and they may effect insurance thereon for their own benefit.

RSA 380:3 Owner's Insurance. Such railroads shall be entitled to the benefit of any insurance effected upon such property by the owner thereof, less the cost of premium and of expense of recovery. The insurance shall be deducted from the damages if recovered before the damages are assessed, or, if not, the policy shall be assigned to the railroads who may maintain an action thereon.

RSA 380:4 Spark Arresters, etc. Every railroad operating steam locomotives in this state shall, subject to the approval of the commission, equip and maintain in good condition a spark arrester and a suitable ash pan on every such locomotive. Every railroad operating locomotives

powered by diesel or other types of internal combustion engines shall equip and maintain in good condition such types of exhaust manifolds or spark arresters as may be prescribed by the commission on every such engine. Every such railroad shall require its employees operating such locomotives and engines to exercise due care to keep such devices in good order and to prevent the escape of live coals, sparks, or carbon deposits which may cause fires along the right of way; and shall, subject to the approval of the commission, make and enforce regulations for the giving of fire signals and notifications of the existence and location of fires along the right of way to its employees.

RSA 380:5 Deputy Fire Wardens. The state forester may appoint as deputy forest fire wardens the section foremen or such other railroad employees as the authorized officials of the railroad may recommend. Such deputies, when so appointed, shall be vested with the powers and duties of deputy forest fire wardens, except as such powers and duties are limited or extended hereby.

RSA 380:6 — Duties. Railroad deputies thus appointed shall extinguish

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and supervise the fighting of forest and brush fires originating along the railroad right of way, but shall not be required to supervise the fighting of fires which do not so originate, except that a railroad deputy who receives notice of the existence of a fire adjacent to the right of way shall proceed forthwith to extinguish it.

RSA 380:7 — Cooperation With. The department of resources and economic development shall instruct all wardens and other employees of the department to cooperate with the railroad deputies in the prevention and extinguishment of railroad fires, immediately to notify the nearest station agent or railroad deputy upon the discovery of a fire along the right of way, and to combat such fire until the railroad deputy or other railroad official shall assume charge.

RSA 380:8 Expenses. All just and proper expenses incurred in extinguishing forest or brush fires caused by a railroad shall be paid by such railroad; but the fact that such payment has been made shall not be admissible as evidence that such fire was so caused.

RSA 380:9 Instruction to Employees. Railroads shall promulgate among their employees instructions for the prevention and extinguishment of fires along the right of way.

RSA 380:10 Patrol. They shall, through the railroad deputies or other officials, organize and maintain a system of patrol during dry weather along the sections of the right of way where there is danger of fire.

RSA 380:11 Neglect. The fact that a section of the right of way was not patrolled shall not be evidence of negligence to debar such railroad from insurance on property as provided in § 3.  
Entry on Land

RSA 380:12 To Clear Brush, etc. Railroads shall have the right, subject to the provisions hereof, to enter upon forest or brush land adjacent to the right of way, without liability for trespass, for the purpose of clearing brush, grass, and inflammable material from such land for a distance of 25 feet from the railroad right of way but shall not remove valuable timber growth without recompense to the owner.

RSA 380:13 Notice. Prior to making such a clearing, the railroad shall give the owner thereof notice of its intention by letter mailed to his last known address, and thereafter by publishing said notice at least once in two newspapers of general circulation in the county. Said notice shall quote §§ 12 to 17.

RSA 380:14 Failure to Object. If the owner shall not file an objection to such clearing with the commission within fifteen days from the date of such publication he shall be deemed to have given consent.

RSA 380:15 Objection. Upon the filing of such an objection, the commission shall notify the owner of the time and place when he may appear to show cause why such clearing should not be done.

RSA 380:16 Hearing; Order. After a hearing, the commission may sustain the objection or permit the clearing to be done, and may prescribe the extent and methods of such clearing.

RSA 380:17 Assistance. The commission may require the assistance of the department of resources and economic development and the director of the division of resources development in furnishing information pertinent to carrying out the foregoing provision.

RSA 380: 18 Reports. The department

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ment of resources and economic development or its authorized agents shall have the right to enter upon railroad or other property to ascertain facts, and from time to time shall report the same to the commission.

The rules and regulations herein prescribed are applicable to railroad operations in New Hampshire wherever such railroads have not adopted the standard "Rules of the Government of the Operating Department of Class I Railroads." General Rules

1. Every employee, while on duty connected with the trains on any division of a railroad in this state, shall conform to the rules herein stated. Train employees are subject to the rules of the division or railroad on which they are running. All concerned must provide themselves with a copy of such rules unless otherwise provided.

2. Employees must be conversant with and obey the rules and special instructions. If in doubt as to their meaning they shall apply to proper authority for an explanation.

3. While special rules are subdivided for convenience, they apply equally to all and shall be observed wherever they relate in any way to the proper discharge of the duties of any employee.

4. Employees whose duties or employment are affected by federal, state; or municipal laws, rules, and/or regulations relative to the operation of railroad equipment shall familiarize themselves with all requirements and conform to them, and must keep themselves informed of changes in the same as may be made.

5. Persons employed in any service on trains are subject to these rules, regulations, and any special orders of the public utilities commission.

6. Employees shall render every assistance in their power in carrying out the rules,

regulations, and special instructions and must report promptly to the proper official any violation thereof.

7. Accidents, defects in track, bridges, signals including crossing protection, or any unusual conditions which may affect the movement of trains, must be promptly reported by quickest means of communication to the proper authority.

8. The use of intoxicants or narcotics by any employees subject to duty, or their possession or use while on duty or on company property is prohibited.

9. Employees must exercise care to avoid injury to themselves or others. They should inform themselves as to the location of structures or obstructions where clearances are close.

(a) They must expect the movement of trains, engines, or cars at any time, on any track in either direction. Operating Rules

10. Each conductor, engineman, and other employee as may be designated must carry a reliable watch while on duty.

11. Conductors and enginemen must compare watches daily with conductors or enginemen who have correct time.

12. Employees whose duties may require them to give signals must provide themselves with the proper appliances, keep them in good order and ready for immediate use.

13. Crews of trains or engines clear of main track must not give a proceed signal to an approaching train or engine unless specifically required to do so.

14. Day signals must be displayed

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from sunrise to sunset, but when day signals cannot be plainly seen night signals must be used in addition. Night signals must be displayed from sunset to sunrise.

15. The hand or a flag, moved the same as the lamp, gives the same indication. The end of the diesel switch engines and of diesel road switchers on which the letter "f" is stenciled on each side is the head or forward end. Hand signalling includes the use of fusee signals.

(a) STOP Swung at right angle to track.

(b) Held horizontally at arm's length: When train is moving — REDUCE SPEED, When train is standing — READY TO MOVE.

(c) PROCEED Raised and lowered vertically.

(d) BACK Swung vertically in a circle at right angle to track.

(e) APPLY AIR BRAKES Swung horizontally above the head when standing.

(f) RELEASE AIR BRAKES Held at arm's length above the head when standing.

(g) Any object waved violently by anyone on or near the track is a signal to stop.

(h) Signals must be given from a point where they may be plainly seen and in such a way that they cannot be misunderstood. If there is doubt as to the meaning of a signal, or for whom it is

intended, it must be regarded as a stop signal. If signals disappear from view, the movement must be stopped immediately, unless radio communication is used between the engine and breakman stationed at the end of the draft.

16. Whistle sounding approaching public crossings at grade shall be two long, one short, and one long blast to be prolonged or repeated until crossing is occupied by engine or leading car; the first blast to be begun at the location of a whistle post, and the last blast to be completed as the engine, or lead car, reaches the crossing.

17. The explosion of two torpedoes is a signal to proceed at restricted speed. The explosion of one torpedo will indicate the same as two, but the use of two is required.

Torpedoes must be placed approximately 100 feet apart but must not be placed at stations or on public crossings.

Torpedoes exploded by other than a train or engine must be replaced at once.

18. The headlight, lighted, will be displayed to the front of every train by day and by night. It should be dimmed when a train turns out to meet another and has stopped clear of main track.

(a) When an engine is running backward by night, without cars, or at the front of a train pulling cars, a white light must be displayed on the leading end in the absence of a headlight.

19. A blue signal, displayed at one or both ends of an engine, car, or train, indicates that workmen are under or about it; when thus protected it must not be coupled to or moved. Any workmen that display the blue signals are the only workmen authorized to remove them. Other equipment must not be placed on the same track so as to intercept the view of the blue signals, without first notifying the workmen.

(a) When emergency repair work is to be done under or about cars in a train and a blue signal is not available, the engineman and other persons in the engine cab will be notified and protection must be given those engaged in making the repairs.

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20. When main tracks are temporarily unsafe for trains to pass except at reduced speed, a reduce speed sign, slow sign, and resume speed sign will be displayed.

The signs will be displayed in a position where enginemen on approaching trains will have a clear view of same.

21. When a signal, except a fixed signal, is given to stop a train, it must, unless otherwise provided, be acknowledged and obeyed.

22. Except in instances of momentary stops and starts in connection with continuous switching movements, the engine bell must be rung when an engine is about to move and while approaching and passing public crossings at grade, or to prevent accident.

23. The whistle must be sounded at all places where required by rule or by law.

24. The unnecessary use of either the whistle or the bell is prohibited.

25. Flagmen stationed at public crossings at grade must use stop signals when necessary to stop trains. They will use prescribed signals to stop highway traffic.

26. The following signals will be used by flagmen: Day Signals — A red flag, torpedoes, and fuses. Night Signals — A red light, a white light, torpedoes, and fuses.

#### Movement of Trains

When the running order of a train expires at any station, the conductor must request and receive a new running order before the train shall move.

28. When a train must move to a siding to clear the time of any opposing trains, it shall be done at least five minutes before the time of the opposing train and failing to clear the main track by the time required, the train must be protected.

29. Extra trains must not be run without train orders.

30. Trains and engines must approach the end of two or more tracks, junctions, railroad crossings at grade, and drawbridges prepared to stop, unless the switches are properly lined, signals indicate proceed, and track is clear. Where required by law, trains and engines must stop.

31. Unless otherwise provided, trains and engines must run at restricted speed when entering or leaving branch tracks at junctions, entering or leaving sidings, and when making crossover movements.

32. Trains and engines must be fully protected against any known conditions, not covered by the rules, which interfere with their safe passage.

33. When a train is disabled or stopped suddenly by an emergency application of the brakes, or other causes, adjacent tracks as well as tracks of other railroads that are liable to be obstructed must at once be protected until it is ascertained they are safe and clear for the movement of trains.

34. When cars are pushed by an engine, a trainman must take a conspicuous position on the leading car. When shifting over public crossings at grade not protected by a watchman, by gates or crossing signals in operation a member of the crew must protect the crossing.

35. Trains and engines must run at restricted speed when backing over any public crossing at grade unless protected by gates, watchman, or automatic crossing signals known to be properly protecting the crossing.

36. No train or engine will obstruct any public crossing at grade for a longer period than five consecutive minutes; a

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member of the crew will uncouple the train and clear the crossing if found necessary to remain longer, unless prior authority has been received from the commission.

37. Conductors are responsible for the position of switches used by them and members of the crews. Switches must be properly lined after having been used.

(a) A switch must not be left open for another train or engine unless in charge of a member of the crew of such train or engine.

(b) When practicable, the engineman must see that the switches near the engine are properly

lined.

(c) Switches must not be restored to normal position until a movement is completed or clear of the track involved.

(d) Where trains or engines are required to be reported clear of main track such report must not be made until switch has been secured in its normal position.

(e) When spring or remotely controlled switches are operated by hand, they are hand-operated switches and Rule 38 applies.

38. The normal position for all switches and siding derails is that which leaves the main tracks clear for the safe passage of trains. Derails must be fastened with a lock and main track switches when in normal position after use must be locked. After a switch is lined the points must be examined to know that they fit properly.

39. If a switch is found defective or a lock is missing or inoperative, the switch must be secured or protected, and report made immediately to proper official.

40. Adjoining tracks must not be fouled until it is known that switches are properly lined and route is clear. Trains or cars standing on sidings must clear the main track. Cars on other tracks must not be left standing to foul an adjoining track.

41. Trains and engines must stop and a member of crew examine main track spring switches before making facing point movements over them, unless receiving a signal indication permitting them to proceed.

42. Unless otherwise provided, trains and engines using other than a main track must proceed at yard speed, except that when using sidings of an assigned direction the movement may proceed at restricted speed.

43. Both the conductor and the engineman are responsible for the safety of the train and the observance of the rules, and under conditions not provided for by the rules must take every precaution for protection. This does not relieve other employees of their responsibility under the rules.

44. A train or engine must not be operated at a speed in excess of the maximum speed authorized for the type of train or engine in the territory in which operating.

(a) Speed restrictions shown in timetable, bulletin orders, by wayside signs, or by other means, must be observed.

(b) Freight train speed restrictions apply to all trains hauling freight cars not equipped for passenger service, and to work and wreck trains.

45. For movements not provided by timetable, unless otherwise provided, train orders will be issued by authority and over the signature of the superintendent and only contain information or instructions essential to such movements.

(a) They must be brief and clear and without erasure, alteration, or interlineation.

(b) Each train order must be given in

the same words to all employees or trains addressed and shall be consecutively numbered.

46. Train orders must be addressed to those who are to execute them. Those for a train must be addressed to the conductor and engineman and also to anyone who acts as its pilot. A copy for each employee addressed must be supplied. Orders restricting the movement of trains must be respected by conductors and enginemen the same as if addressed to them.

47. Each train order must be written in full and with it recorded the time and the signals which show when, from what offices, and by whom the order was received and the train dispatcher's initials. Additions to train orders must not be made after they have been received and given to the train crew.

48. Enginemen must show train orders to all members of crew in cab of engine. Conductors must show train orders to trainmen. Crew members must insist on seeing and are required to read, train orders at first opportunity and, if necessary, remind enginemen and conductors of their contents.

49. No employee shall allow or cause a car containing a hazardous material to move or be moved unless it is coupled to an engine or train and remains coupled until the movement of said car is completed.

(a) Hazardous material means a substance or material in a quantity and form which may pose an unreasonable risk to health and safety when transported, such as, but not restricted to, liquefied petroleum gas, inflammable liquids, and corrosive materials.

#### Reporting Accident

50. All accidents involving personal injury, all collisions and derailments of trains, and all crossing accidents must be reported immediately to the commission.

#### Radio Operation

51. Radio communicating systems are under the jurisdiction of the Federal Communications Commission. The railroad company is governed by the operating rules of that commission.

52. An operating check of the radio equipment should be made before train departs. Caboose radio should be used to call locomotive to ascertain that radio equipment is operating.

53. No employee shall knowingly transmit any false distress communication, any unnecessary, irrelevant, or unidentified communication, nor utter any obscene, indecent, or profane language via radio.

54. When the radio is used in connection with switching movements, or for other operations where constant communication is necessary for complete safety of the move, the same general rule applies as is now in effect with hand signals. If there is doubt as to the meaning of a radio message or for whom it is intended, it must be regarded as a stop signal. If radio communication fails, the movement must be stopped immediately.

55. In certain cases at crossings, junctions, or parallel tracks, some interference may develop with another railroad. In such cases, especial care in making identification shall be used, and the employee concerned shall cooperate in handling their business by alternating calls and being as brief as possible.

56. Train orders must not be transmitted by radio between head and rear end of train. However, conversation

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between head and rear end of train relative to fulfillment of train orders in their possession is permitted.

Conductors

57. They will have general charge of the trains to which they are assigned and all persons employed thereon, will be responsible for the movement, safety, and proper care of their trains, and for the vigilance and conduct of the men employed thereon.

To avoid delay to other trains, and when to do so is practicable and it can be done without track damage, disabled trains or engines must be promptly moved clear of main tracks.

58. Before starting on initial trip they must see that the men employed on the train are familiar with their duties, ascertain the extent of their experience and knowledge of the rules, instruct them if necessary in the proper performance of their work, and caution them as to its risks.

59. They must see that their trains are supplied with full sets of signals, and that the latter are displayed in accordance with the rules. They must also see that the train is furnished with tools and equipment required.

60. They must ascertain that trains are properly made up and inspected. It must be known that brake tests have been or are made in compliance with current air brake rules.

(a) They must ascertain that required tests are made whenever any cars are added to any part of the train, or when any cars are taken from any part of the train. They must keep the engineman informed as to the number of cars, and the number having effective air brakes in the train, and will report all defects discovered.

61. Whenever for any reason cars are left standing on a grade, a sufficient number of hand brakes must be set to prevent their moving.

62. They are responsible for the security of all freight carried on their trains.

(a) They will see that all cars in their trains are accompanied by proper waybills, unless otherwise instructed and that empty cars are moved in accordance with instructions.

(b) They must see that hoppers are closed and properly secured; that the doors of all box cars are shut, unless left open for ventilation in which case they must be securely fastened; that the covers of openings in the roofs are in place and everything securely fastened; pay special attention to the fastening of swinging doors of refrigerators, making this inspection as often during the trip as opportunity offers.

63. They must station themselves upon the train in the best possible position to enable them to see that the train is intact, and that their trainmen properly perform their duties.

64. They must handle freight with care, using every effort to prevent loss or damage, when cars are opened; note contents of the loading, keep car doors fastened except when loading and

unloading, and not permit unauthorized persons to enter the cars or handle freight or ride on the train.

65. They must follow any instructions on waybills accompanying perishable shipments.

66. They must see that hand brakes are set on cars left on side tracks, and wheels blocked if left on grades. Cars must not be left so as to obstruct the use of other tracks or in any way endanger the safety of passing trains or be left within the limits of a highway.

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67. Derails on side tracks must be left in proper position to protect main track or siding at all times.

68. In switching at stations and in yards when it is necessary to move cars that are being loaded or unloaded, conductors or yard foremen must first notify all persons in or about them that they are to be moved; and that persons loading or unloading cars leave the cars before the movement is started. The contents should be properly secured to avoid damage during the switching. When cars are so moved, they must be returned to the same or equally convenient position designated by the agent or customer.

69. When necessary to leave any freight where it does not belong, they will write the facts on the backs of the waybill, sign their name thereon, and notify the agent at the station where such freight was left.

70. Where there are no car inspectors, with the assistance of the trainmen they are required to inspect thoroughly all cars offered and be sure of their safe condition before taking them.

(a) Whenever cars are set off due to hot boxes or other defects, notation must be made on the waybill, giving sufficient information for the guidance of others concerned.

**Trainmen (Flagmen and Brakemen)**

71. It is their special duty to protect the trains in accordance with the rules, and they should not allow anything to interfere with the prompt and efficient discharge of this duty.

72. They are required to obey the signals and orders from the engineman as prescribed by rules, but never to wait for such signal or for orders from the conductor when their trains need protection.

73. They must, when practicable, and as early as possible, see train orders. After reading train orders they must keep them in mind, and if occasion requires, must remind the conductor or engineman of them.

74. They must protect their trains when taking or leaving sidings; when flagging a train they must walk on the track to be protected and must be particular not only to spread the flag so that it can be seen by the engineman, but flag should be waved across the track so that it may be distinguished as a signal.

(a) They must not attempt to inform the engineman why he is flagged until the train has been brought to a stop. Flagman must not go forward of the second rear car while en route unless relieved by the conductor.

75. When freight trains are running, forward trainmen will, in addition to keeping a watchful lookout ahead for signal indications and obstructions on the track, frequently look back and observe the general condition of their trains. Such observation to be made at points on curves and straight track where best possible view of the train can be obtained. If any defects are noticed or dangerous conditions are apparent, the engineman must immediately be informed and prompt action taken for the safety of the train and trains on adjacent tracks. Rear trainmen from the cupola or rear platform of caboose shall in like manner observe the general condition of their trains for defects, and if any dangerous conditions are apparent, they must take such prompt action for the safety of the train and other trains as may be practicable.

(a) On freight trains forward trainmen will ride in control cab of engine at front of train, except at such times as the rules may require them to

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be elsewhere in the performance of other duties. Conductors and enginemen will see that trainmen properly perform the duties prescribed herein.

76. When lining switches they must see that the switch points have moved the entire distance and are in proper line for the track to be used. Switches must be fastened as soon as lined either way. When setting up a route they must know that adjacent tracks are clear to the fouling point of the switch involved.

77. They must see that the switches are in good condition, clear of ice, snow, and other obstructions, and promptly report any defects which they cannot repair.

Enginemen

78. They must see that engine is furnished with the necessary signals and supplies.

79. Engineman must not leave engine while on duty without permission or authority except in case of necessity and then only when engine is left in charge of some competent person or if not available, engine is properly secured.

80. Enginemen must see that head end of train is protected when necessary. A flagman's equipment for engines consists of:

1 red flag 1 red and 1 white light 6 torpedoes 6 fuses

81. They must start and stop their trains cautiously, and use special care in coupling and switching cars to avoid injury to trainmen or disturbing passengers; under no circumstances will engines couple to trains that are in motion for the purpose of pushing them.

82. They must stop and inquire regarding signals not understood, report any irregularity in signals or neglect of duty observed; observe trains on other tracks to see whether they are displaying signals.

(a) They must observe train frequently to detect any condition endangering the safety of operation, and to see that train is intact, and see that other employees in cab of engine do the same.

(b) They should observe when possible if automatic crossing protection signals are working,

and report to the superintendent any irregularity in crossing protection that may come to their notice.

83. They must sound whistle signals accurately, and as prescribed by rule and law.

84. The engineman is personally responsible for the safe movement and efficient operation of the engine when in his charge, and all crew members employed thereon must obey his instructions. The engineman must instruct them in their duties, especially as to the observance and use of signals.

85. Engineman must not permit any unauthorized person to handle the engine.

86. When there is no conductor, or when the conductor is disabled, the engineman will, until otherwise directed, have charge of the train and will be governed by the rules prescribed for conductors.

87. They must be alert in all matters pertaining to the protection of their trains, and when it becomes evident to them that rear protection will be required they must immediately order out the flagman.

88. Only railroad personnel will be allowed to ride on engines without permits issued by the proper authority; the only exception being regulatory and safety personnel, with proper identification,

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in the discharge of their duties.

89. They must see that necessary brake tests are made in accordance with prescribed rules.

90. When stopped by hand, flag, or lamp signal, they must obtain full information as to the cause before proceeding.

91. Enginemen must notify the proper authority at once, should there be any reason to believe that the train has passed over a dangerous track or bridge defect.

92. In the discharge of their duties they must make the safety of trains of the first importance. They must be vigilant and cautious, not trusting to signals or rules alone for safety.

**Maintenance of Way**

93. No work shall be done on any tracks, bridges, buildings, signals, or other facilities which will interfere with the safe passage of trains except under proper protection as prescribed by the rules.

94. Any defects noted in tracks, bridges, or other facilities beyond your own responsibility or ability to correct, should be reported to the proper authority.

Safety of train operation is required; therefore, necessary protective action should be taken pending repairs.

95. When a track is impassable, or before obstructing a track or in any way rendering it impassable, a flagman must be sent in each direction with a red double-staff flag and a red hand flag, fusees, and torpedoes. He shall proceed a sufficient distance to insure full protection,

preferably not less than one-half mile from the point to be protected. On his way out the flagman must notify enginemen of all trains on sidings within the protecting distance.

At this point he must place a double-staff red flag over the engineman's rail and place two torpedoes, two rail lengths apart, on the engineman's side, at least 1,000 feet beyond.

96. No manual flagging is necessary under provisions of the 94 rule when the following conditions are complied with in territory specified by bulletin or timetable:

1. The foreman requests and receives exclusive use of track from the dispatcher for a designated period of time.
2. Double-staff unattended flag placed in track — no closer than 300 feet from the location where track is obstructed or impassable — must be in view of track forces at all times.
  - (a) On double running track flags must be placed above to protect in both directions.
  - (b) On directional running track flag should be placed as above to protect against normal direction of traffic.

97. On single track lines exception to Rule 94 may be made so that protection prescribed after the foreman requests and is advised by the train dispatcher that no extra trains will be operated between specified times and designated points.

#### Hy-Rail

98. No one except a qualified employee will be allowed to operate a Hy-Rail car or a motor car on any main track, and car must not be put in motion without this man in position on the car to control its movement.

99. Hy-Rail cars operating on rails shall have headlights lighted by night and by day.

100. Before occupying main track, car operator must obtain permission from train dispatcher to use the main track

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between specific points and for a specified clock time over which no extras will be operated other than designated in the permission up to the expiration of the time limit granted. Rule 101 must be fully complied with.

101. When at any time against-the-current-of-traffic train movements are noted, all track cars must be immediately removed from all main tracks, and the main track must not again be occupied until permission can be obtained from the dispatcher to reoccupy the tracks.

102. All cars and other track equipment shall clear scheduled trains ten minutes in advance of the time the trains are due.

103. When cars are loaned or rented they shall be operated only by a qualified employee on main track branch lines or sidings.

104. Necessary flagging equipment, torpedoes, and fusees must be carried on all cars.

105. Torpedoes exploded or fusees displaced by passage of cars must be promptly replaced. Torpedoes must not be run over if possible to avoid doing so.

106. Cars must approach public grade crossings under complete control prepared to stop, and must pass over crossing carefully after clear view has been obtained in all directions so that the way is known to be clear.

107. Where view is obstructed or where highway traffic is heavy, a flagman must be sent ahead to flag crossing.

108. Before expiration of time limit, if the movement cannot be completed, further extension of time must be obtained or the car removed from the track.

109. Cars must not exceed a speed of five miles per hour and must be under complete control when passing stations, men working or walking on track, train standing on adjacent track, through interlocking, over switches, frogs, railroad, highway, or private crossings at grade. At all other points motor cars and Hy-Rail cars when operated on rails are restricted to 20 miles per hour.

110. Cars must always be run at such speed that they may be stopped within one-half the seeing distance in order to protect against collisions or obstructions on the track.

111. Cars must not be attached to engines or trains and they must not be run closer than 1,000 feet behind moving trains nor stopped within 500 feet of standing trains.

112. Cars not in use must not be left standing on main track unless protected as per Rule 94.

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NH.PUC\*11/23/77\*[77967]\*62 NH PUC 316\*New Hampshire Electric Cooperative, Inc.

[Go to End of 77967]

## Re New Hampshire Electric Cooperative, Inc.

DR 77-168, Order No. 12,963

62 NH PUC 316

New Hampshire Public Utilities Commission

November 23, 1977

PETITION of electric cooperative for fold-in and modification of purchased power adjustment and a rate increase; suspended pending commission investigation.

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**Page 316**

BY THE COMMISSION:

Order

Whereas, New Hampshire Electric Cooperative, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on October 28, 1977, filed with this commission Supplement No. 5 to its tariff, NHPUC No. 6 — Electricity, providing for (1)

fold-in of its 15.86 per cent purchased power adjustment; (2) modification of the PPA formula based on kilowatt-hours instead of revenue, and (3) additional annual revenue of \$606,545 (4.26); and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date thereof be suspended pending investigation and decision thereon; it is

Ordered, that Supplement No. 5 of its tariff, NHPUC No. 6 — Electricity, of New Hampshire Electric Cooperative, Inc., be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of November 1977.

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NH.PUC\*11/23/77\*[77968]\*62 NH PUC 317\*Public Service Company of New Hampshire

[Go to End of 77968]

## **Re Public Service Company of New Hampshire**

DR 77-49, Fourth Supplemental Order No. 12,968

62 NH PUC 317

New Hampshire Public Utilities Commission

November 23, 1977

MOTION for rehearing regarding electric company's rate increase request; granted.

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BY THE COMMISSION:

Supplemental Order

The commission having before it a motion for rehearing filed on November 17, 1977, by Legislative Utility Consumers' Council of the commission's report of October 31, 1977, and its Third Supplemental Order No. 12,941 which denied the Legislative Utility Consumers' Council the opportunity to present a rebuttal testimony to the commission's expert on construction work in progress (CWIP) in this matter; after full consideration of the allegations in said motion and after weighing the reasons presented therein, is of the opinion and the order is, that said motion for rehearing is granted.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of November, 1977.

R2

NH.PUC\*11/23/77\*[77969]\*62 NH PUC 318\*Policy Water Systems, Inc.

[Go to End of 77969]

## Re Policy Water Systems, Inc.

DE 74-49, Order No. 12,969

62 NH PUC 318

New Hampshire Public Utilities Commission

November 23, 1977

PETITION for authority to operate as a public water utility; granted.

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1. VALUATION, § 296 — Working capital — Water company — Interest expense.

[N.H.] Where a water company's rate base was a negative amount, due to contributions in aid of construction being equal to gross plant in service, the commission made an exception from its normal procedure and allowed the company a pro forma interest expense in the amount of \$910. p. 319.

2. DEPRECIATION, § 16 — Property subject to depreciation — Contributions in aid of construction.

[N.H.] The commission permitted a water utility a depreciation allowance on donated or contributed assets in order to provide for the uncertain eventualities which may occur and to provide assurance to their customers regarding future continued service. p. 319.

3. RATES, § 595 — Water company — Flat rates.

[N.H.] The commission allowed a water company to charge a flat rate for water service of \$117 per customer per year in order to realize its annual revenue requirements. p. 320.

R1

APPEARANCES: Robert Fryer and Raymond LeFurge, certified public accountant for the petitioner; J. Michael Love for the Legislative Utility Consumers' Council; R. Eaton for the town of Londonderry; Representative Ralph L. Blake and Representative Robert C. Erler for the town of Raymond; F. Carlton for the town of Derry; R. Vercollone for the Brook Park Estates Tenant Organization; and R. Lewis for the Green Hills Residents' Association.

BY THE COMMISSION:

Report

On March 19, 1977, Policy Water Systems, Inc., a New Hampshire corporation with its place of business in Salem, New Hampshire, filed with this commission a petition requesting authority to operate as a public utility in limited areas in the towns of Raymond, Pelham, Derry, Windham,

Plaistow, and Londonderry.

This commission, by letter dated May 1, 1974, had informed Policy that its rates then being charged — i.e., \$60 per customer per year — must remain in effect until such time as certain material was filed with the Commission as a part of a petition to operate as a public utility.

Duly noticed hearings were held at the offices of the commission on June 28 and October 19, 1977.

The corporation is comprised of eight physically separate water systems serving approximately 581 customers. The company's original filing, Schedule J for 1977, sought annual gross revenues of approximately \$86,000.

*Rate of Return*

We will accept the company's cost of capital submitted on Update Schedule I, of 10.5 per cent as of December 31, 1976.

*Rate Base*

Per the company's updated Schedule

**Page 318**

I, due to contributions in aid of construction being at least equal to gross plant in service, the average rate base is a negative amount. We will use \$0.00.

*Revenue Requirements*

[1] Normally, the fair rate of return is multiplied by the average rate base to determine net utility operating income. In this case 10.5 per cent times \$0.00 yields \$0.00; however, this would have \$0.00 net utility operating income to pay for 1977 proformed interest expense of \$3,897, per company Exh J.

As this is an extraordinary situation, with a \$0.00 rate base, we will make an exception from our normal procedure and allow the interest expense, but not the net income of \$12,966. We disagree with the company estimate of \$3,897 interest expense, and will instead use \$910. This figure was computed by averaging the outstanding debt of the company as of December 31, 1976, March 31, 1977, and June 30, 1977, and multiplying the result by an interest rate of 10.5 per cent.

The company submitted exhibits reflecting pro forma operating expenses for 1977 of approximately \$69,300. This figure was made up of \$50,281 for operation and maintenance expense, \$10,695 for depreciation, \$908 for the New Hampshire business profits tax and \$7,392 for other taxes. We accept the amounts for operation and maintenance expense and other taxes.

[2] As to depreciation, all of the plant and equipment of Policy Water Systems, Inc. (hereinafter referred to as "Policy"), has been contributed by its customers. The weight of authority as well as the precedent of this commission which we will follow in this case indicate that contributions in aid of construction are not included in the rate base of a utility. In this case, the rate base of Policy is zero. The question is raised as to whether or not Policy should be allowed to account for depreciation on assets paid for by contributed capital. In the past, this

commission has allowed a depreciation expense on an asset of a water utility where that asset has been paid for by contributed capital.

The purpose of a depreciation reserve is to preserve the integrity of a company's investment against necessary retirals from service, obsolescence, and perhaps replacements due to emergencies, and to provide and create a fund which, at the end of the estimated life of the property, would approximate the original cost of the property in order that the property may be replaced and so that continued service to customers would be assured.

The depreciation reserve is a source of internal funds for the company and is a ready source of cash for replacements due to obsolescence or emergency. Without the depreciation reserve allowance, a company may find itself needing large amounts of capital for replacements. Without the ready source of cash, service to customers may be interrupted until the utility has an opportunity to raise the capital from investors or lending institutions for the necessary replacement.

In the event Policy has no depreciation reserve and at some future time would find it necessary to add new plant, it would have to borrow funds from lending institutions or raise funds through investors and require a rate of return and/or interest on these funds from customers. Also, at the time of addition of new plant financed by a source other than contributed capital, the customers would have to pay depreciation.

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The effect of this would be a substantial increase in rates at that future time.

It has been the commission's objective in allowing depreciation on contributed capital on water utilities to prevent the occurrence of a dramatic increase in rates at some future time when additions or replacements of expensive equipment are needed. It has also been the commission's objective to establish a depreciation reserve to meet contingencies which may arise.

Without allowing depreciation as an expense item on an outgoing basis, the company will need to borrow all its funds for retirals and replacements and because of such borrowings will need to ask its ratepayers to pay interest on those borrowed funds as well as the cost of depreciation on the replaced plant. In our judgment, this would cause the rate base and allowable expenses of the company to take a substantial increase at some future point in time. We think it is better planning for a company and less burdensome on the ratepayers in the future to provide for some element of depreciation currently. Thus, the commission finds that Policy will be allowed depreciation on donated or contributed assets to provide for the uncertain eventualities that may occur and to provide assurance to their customers regarding future continued service.

The factors that were considered in determining an appropriate allowance for depreciation for Policy were:

1. Wear and tear on the property to date.
2. Present adequacy or inadequacy of the system for serving the existing customers in the existing franchise areas.
3. Functional depreciation or obsolescence which resulted from changes in the art which may

make use of certain structures and equipment uneconomical or disadvantageous.

Upon application of these standards to Policy, it is our opinion that an appropriate depreciation expense as computed from the fixed asset balance as of December 31, 1976 as shown on Update Schedule F is \$9,200 rounded.

Due to the disallowance of any net utility operating income other than that needed to cover estimated interest expense, we see no need for \$908 for New Hampshire business profits tax; therefore, we will allow proformed operating expenses and/or annual revenues of \$68,000.

#### *Rates*

[3] Policy is presently charging a flat rate for water service of \$60 per year, and, in order that it may realize annual revenues of \$68,000 we will allow a new annual rate of \$117 per customer.

It is our opinion that Policy should establish an orderly program for metering its residential customers, and our order shall contain this provision.

During and prior to these proceedings, this commission heard and received complaints from the customers of Policy that there have been many interruptions of service without prior notice to the customers affected. This commission's standards of service for water utilities specifies that planned outages shall be preceded by notice to such customers and that these interruptions shall be executed at times that will cause minimum inconvenience. We will expect the water company to comply with the requirements for termination of service set forth in the New Hampshire Public Utilities Commission rules and regulations prescribing standards for

#### Page 320

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water utilities. Our order will issue accordingly.

#### Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Policy Water Systems, Inc., be, and hereby is, authorized to operate as a public water utility in limited areas of the towns of Raymond, Pelham, Derry, Windham, Plaistow, and Londonderry, New Hampshire bounded and described as follows:

#### *Derry — Maple Hill Acres*

Beginning at a point 2,200 feet, due west of the intersection of Routes 25 and Bypass 28 in the town of Derry and turning at right angles in a southerly direction and continuing in a straight line to its intersection with Berry (Knox) road then turning easterly and continuing along Berry (Knox) road to its intersection with Route 28, then turning north and west on Route 28 and continuing to the point of beginning.

#### *Derry-Windham — Oakwood*

Beginning at a point on the Windham-Derry town line, 800 feet from the intersection of the Londonderry-Windham-Derry town lines and continuing at right angles in a southerly direction for a distance of 1,800 feet, then turning at right angles in an easterly direction and continuing for a distance of 2,400 feet, then turning at right angles in a northerly direction and continuing for a distance of 2,600 feet, then turning at right angles in a westerly direction and continuing for

a distance of 2,400 feet, then turning at right angles in a southerly direction and continuing to the point of beginning.

*Londonderry — Birchville*

Beginning at the intersection of Hardy road and the Public Service Company of New Hampshire right of way and proceeding easterly along the right of way to its intersection with Hovey road, then proceeding southerly along Hovey road to Spring road, then turning westerly along Spring road to Hardy road, then northerly along Hardy road to the point of beginning.

*Londonderry — Brook Park*

Beginning at the intersection of Litchfield (Mugwash) road and Kimball road and proceeding southeasterly along Kimball road to its intersection with Watts road, then proceeding westerly in a straight line a distance of 11.1 miles to a point on the Londonderry-Litchfield town line, such point being 0.5 miles southerly of the intersection of Litchfield (Mugwash) road and the Londonderry town line then proceeding northerly along the Londonderry town line to Litchfield (Mugwash) road then proceeding easterly along this road to the point of beginning.

*Pelham — Gage Hill*

Beginning at the intersection of NH highway Route 38 and Ledge road and running southeasterly, along Ledge road a distance of 1,000 feet, then turning at right angles and proceeding southwestwardly a distance of approximately 1,800 feet to a road, then turning and proceeding northerly along this road to its intersection with NH Route 38, then proceeding northeasterly along Route 38 to the point of beginning.

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*Pelham — Stonegate*

Beginning at the intersection of Marsh (Rt. 111A) and Gumpas roads and running westerly on Gumpas road to its intersection with Mammoth road, then northerly along Mammoth road to its intersection with Tenny road, then easterly along Tenney road to its intersection with Nashua road, then easterly along Nashua road to its intersection with Marsh road (Rt. 111A), then proceeding southerly along Marsh road to the point of beginning.

*Plaistow — Rolling Hills*

Beginning at a point on the westerly side of Danville road at its intersection with Walton road and proceeding at right angles to Danville road in a westerly direction a distance of 0.4 miles, then turning at right angles and proceeding northerly in a straight line a distance of about 0.9 miles to Main street, then southeasterly along Main street to Danville road, then southerly along Danville road to the point of beginning.

*Raymond — Green Hills*

Beginning at the intersection of Cross road and Route 102 and proceeding southerly along Route 102 a distance of approximately 2,000 feet to an unnamed brook crossing under Route 102 and proceeding southerly along this brook to its intersection with the Exeter river then continuing easterly along the Exeter river to its intersection with the next brook flowing southerly from Route 107, continuing northerly along this unnamed brook to Route 107 then

continuing northerly along Route 107 a distance of about 1,200 feet to its intersection with Cross road then continuing westerly along Cross road to the point of beginning; said areas being outlined on maps on file in the office of the commission and for this purpose to construct the necessary facilities; and it is

Further ordered, that its tariff, NHPUC No. 1 — Water, specifying the annual charge of \$117 as authorized by this report and order, and the terms and conditions covering water service in the above areas, shall be filed as set forth in the tariff filing rules of this commission, and shall bear the effective date of January 1, 1978, and such annual charge shall apply to all bills rendered for service after this effective date; and it is

Further ordered, that Policy shall by bill insert at the next scheduled billing inform each of its customers of the name and telephone number of the party to contact in the event of a service problem whenever it should occur; and it is

Further ordered, that in accordance with this commission's rules and regulations prescribing standards for water utilities, Policy shall keep a record of all interruptions to service of over thirty minutes duration, such record to include the date and time of interruption, approximate number of customers affected, date and time of service restoration, and the cause and steps taken to prevent a recurrence; and it is

Further ordered, that Policy shall include in its tariff an orderly program for the installation of meters throughout its water system(s).

By order of the Public Utilities Commission of New Hampshire this twenty-third day of November, 1977.

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NH.PUC\*11/29/77\*[77970]\*62 NH PUC 323\*Public Service Company of New Hampshire et al.

[Go to End of 77970]

**Re Public Service Company of New Hampshire et al.**

DR 76-46, 22nd Supplemental Order No. 12,971

62 NH PUC 323

New Hampshire Public Utilities Commission

November 29, 1977

PETITION of utilities for authority to apply a fuel adjustment charge to monthly billings to their customers; granted.

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RATES, § 303 — Variable rates based on cost — Fuel adjustment clauses.

[N.H.] The commission authorized utilities to apply a fuel adjustment charge figured on their total monthly fuel cost divided by their total monthly kilowatt-hour sales.

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APPEARANCES: Eaton W. Tarbell and Philip Ayers for Public Service Company of New Hampshire; Rocco Pelillo for Concord Electric Company; Richard F. Gilmore for Exeter and Hampton Electric Company; Richard Schwartz for Connecticut Valley Electric Company, Inc.; Thomas W. Morse for New Hampshire Electric Cooperative, Inc.; William Hayes for Granite State Electric Company; Dennis Bean for the Municipal Electric Department of Wolfeboro; John Cassidy for Littleton Water and Light Department; Robert Brown for Woodsville Water and Light Department; and Michael Love for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

Pursuant to RSA 378:3-A(II), the commission, on November 17, 1977, held hearings on the petitions of nine New Hampshire electric companies for authority to apply a fuel adjustment charge to regular December monthly billings to their customers.

Reference may be made to previous commission decisions in this docket for statements and explanations of the fuel adjustment clause.

*Woodsville Water and Light Department*

Woodsville Water and Light Department, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on November 14, 1977, filed with this commission 13th Revised Page 10B to its tariff, NHPUC No. 3 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect December 1, 1977. Woodsville purchases all of its requirements from Central Vermont Public Service Corporation. Woodsville reported that during the month of October, 1977, the total fuel cost billed by Central Vermont was \$3,889.55. During this same period the total kilowatt-hours sold by Woodsville were 703,209. The fuel adjustment, therefore, by simple division and rounded which is proposed for effect in the month of December, 1977, is 55 cents per hundred kilowatt-hours.

*Littleton Water and Light Department*

Littleton Water and Light Department, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on

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November 14, 1977, filed with this commission 47th Revised Page 6 of its tariff, NHPUC No. 1 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect December 1, 1977. Littleton purchases all of its requirements from the New England Power Company. Littleton reported that the total fuel cost billed by the New England Power Company during the month of October, 1977, was \$964.49. During this period the total kilowatt-hours sold by Littleton were 2,736,239. The fuel adjustment charge, therefore, by simple division and rounded which is proposed for effect in the month of December, 1977, is four cents per hundred kilowatt-hours.

*Municipal Electric Department of Wolfeboro*

Municipal Electric Department of Wolfeboro, a public utility engaged in the business of

supplying electric service in the state of New Hampshire, on November 5, 1977, filed with this commission 37th Revised Page 9A to its tariff, NHPUC No. 4 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect December 1, 1977. Wolfeboro purchases all of its requirements from Public Service Company of New Hampshire. Wolfeboro reported that during the month of October, 1977, the total fuel cost billed by Public Service Company was \$24,055.68. During this same period the total kilowatt-hours sold by Wolfeboro were 1,829,530. The fuel adjustment, therefore, by simple division and rounded which is proposed for effect in the month of December, 1977, is \$1.31 per hundred kilowatt-hours.

*Granite State Electric Company*

Granite State Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on November 10, 1977, filed with this commission 39th Revised Page 15A to its tariff, NHPUC No. 8 — Electricity, comprising the monthly fuel adjustment charge for effect December 1, 1977. Granite State purchases all of its requirements from the New England Power Company. Granite State reported that the variable portion of the fuel cost billed by New England Power Company was \$9,146.84. Total sales to Granite State customers during the same period were 26,362,749 kilowatt-hours. By simple division this yields \$0.0003 to which is added the fixed fuel portion of \$0.0124 per kilowatt-hours. Thus, the fuel adjustment charge applicable to bills rendered in the month of December, 1977, is proposed to be \$1.27 per hundred kilowatt-hours.

*New Hampshire Electric Cooperative, Inc.*

New Hampshire Electric Cooperative, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on November 14, 1977, filed with this commission 43rd Revised Page 13 to its tariff, NHPUC No. 6 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect on December 1, 1977. The company reported that the total fuel cost billed by its several power suppliers for power during the month of October, 1977, was \$229,169. Total sales by the Co-op during the same month were 22,422,062 kilowatt-hours. The fuel adjustment, therefore, by simple division and rounded which is proposed for effect in the month of December, 1977, is \$1.02 per hundred kilowatt-hours.

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*Connecticut Valley Electric Company, Inc.*

Connecticut Valley Electric Company, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on November 14, 1977, filed with this commission Eighth Revised Page 18 to its tariff, NHPUC No. 4 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect December 1, 1977. Connecticut Valley purchases all of its requirements from Central Vermont Public Service Corporation. Connecticut Valley reported that during the month of October, 1977, the total fuel cost billed by Central Vermont was \$57,318. During this same period the total kilowatt-hours sold by Connecticut Valley were 11,918,820. The fuel adjustment, therefore, by simple division and rounded which is proposed for effect in the month of December, 1977, is 48 cents per hundred kilowatt-hours.

*Exeter and Hampton Electric Company*

Exeter and Hampton Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on November 9, 1977, filed with this commission 29th Revised Page 16 to its tariff, NHPUC No. 11 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect December 1, 1977. Exeter and Hampton purchases all of its requirements from Public Service Company of New Hampshire. Exeter and Hampton reported that the total fuel cost billed by Public Service Company for the month of October, 1977, was \$278,736.08. Total sales by Exeter and Hampton during the same period were 21,093,575 kilowatt-hours. The fuel adjustment charge, therefore, by simple division and rounded which is proposed for effect in the month of December, 1977, is \$1.32 per hundred kilowatt-hours.

*Concord Electric Company*

Concord Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire on November 8, 1977, filed with this commission 33rd Revised Page 15A to its tariff, NHPUC No. 6 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect December 1, 1977. Concord Electric purchases all of its requirements from Public Service Company of New Hampshire. Concord Electric reported that the total fuel cost billed by Public Service Company during the month of October, 1977, was \$261,833.32. Total sales during that same period were 19,816,992 kilowatt-hours. The fuel adjustment charge, therefore, by simple division and rounded which is proposed for effect in the month of December, 1977, is \$1.32 per hundred kilowatt-hours.

*Public Service Company of New Hampshire*

Public Service Company of New Hampshire, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on November 17, 1977, filed with this commission 37th Revised Pages 15 and 16 to its tariff, NHPUC No. 20 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect December 1, 1977.

Page 16 of the company's fuel surcharge filing for December, 1977, indicates that fuel costs above base for the

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data month of October were \$4,374,231. During this same period the kilowatt-hours subject to the fuel adjustment were 387,722,000. The fuel adjustment, therefore, by simple division and rounded which is proposed for effect in the month of December, 1977, is \$1.13 per hundred kilowatt-hours.

Based upon all of the evidence in the record of this proceeding, the commission finds that the proposed fuel adjustment charges for the month of December, 1977, are just and reasonable, in accordance with pertinent provisions and all other applicable provisions of law. Our order will issue accordingly.

## Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that 37th Revised Pages 15 and 16 of Public Service Company of New Hampshire tariff, NHPUC No. 20 — Electricity, providing for the monthly fuel surcharge of \$1.13 per hundred kilowatt-hours for the month of December, 1977, be, and hereby are, permitted to become effective December 1, 1977; and it is

Further ordered, that 33rd Revised Page 15A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of \$1.32 per hundred kilowatt-hours for the month of December, 1977, be, and hereby is, permitted to become effective December 1, 1977; and it is

Further ordered, that 29th Revised Page 16 of Exeter and Hampton Electric Company tariff, NHPUC No. 11 — Electricity, providing for the monthly fuel surcharge of \$1.32 per hundred kilowatt-hours for the month of December, 1977, be, and hereby is, permitted to become effective December 1, 1977; and it is

Further ordered, that Eighth Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of 48 cents per hundred kilowatt-hours for the month of December, 1977, be, and hereby is, permitted to become effective December 1, 1977; and it is

Further ordered, that 43rd Revised Page 13 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of \$1.02 per hundred kilowatt-hours for the month of December, 1977, be, and hereby is, permitted to become effective December 1, 1977; and it is

Further ordered, that 39th Revised Page 15A of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of \$1.27 per hundred kilowatt-hours for the month of December, 1977, be, and hereby is, permitted to become effective December 1, 1977; and it is

Further ordered, that 37th Revised Page 9A of the Municipal Electric Department of Wolfeboro tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of \$1.31 per hundred kilowatt-hours for the month of December, 1977, be, and hereby is, permitted to become effective December 1, 1977; and it is

Further ordered, that 47th Revised Page 6 of the Littleton Water and Light Department tariff, NHPUC No. 1 — Electricity, providing for the monthly fuel surcharge of four cents per hundred kilowatt-hours for the month of December, 1977, be, and hereby is, permitted

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to become effective December 1, 1977; and it is

Further ordered, that 13th Revised Page 10B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of 55 cents per hundred kilowatt-hours for the month of December, 1977, be, and hereby is, permitted to become effective December 1, 1977.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of November, 1977.

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NH.PUC\*11/29/77\*[77971]\*62 NH PUC 327\*Union Telephone Company

[Go to End of 77971]

## Re Union Telephone Company

DT 77-101, Order No. 12,972

62 NH PUC 327

New Hampshire Public Utilities Commission

November 29, 1977

PETITION by telephone company for authority to issue unsecured notes; granted.

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SECURITY ISSUES, § 48 — Issuance of notes — Authorization.

[N.H.] The commission authorized a telephone company to issue and sell notes where the net proceeds from the said financing would be expended in part for certain improvements of the utility's plant and to refund the company's existing short-term indebtedness.

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APPEARANCES: Richard P. Thayer for the petitioner and Michael Love for Legislative Utility Consumer's Council.

BY THE COMMISSION:

Report

By this unopposed petition filed on June 28, 1977, Union Telephone Company, a telephone public utility operating under the jurisdiction of this commission, seeks authority pursuant to RSA 369 to engage in certain financing, insofar as the proceeds thereof pertain to the refunding of certain existing short-term indebtedness of the company and expended by the company for improvements of its utility plant. A duly noticed hearing was held on September 22, 1977.

The financing contemplated by the company includes the issue and sales of notes with maturities of three, five, and seven years totaling not more than \$340,000 for each maturity issued and interest rates to be by the company and the purchaser at the time of the purchase, but within the range of 8 per cent — 9 per cent. The company intends to sell not more than \$1 million aggregate principal amount of notes during the twelve months ending June 30, 1978. Notes may be renewed at maturity, interest will be payable quarterly, semiannually, and annually, at the purchaser's option. Notes are offered only to bona fide New Hampshire residents.

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The notes are unsecured obligations of the company. The notes are subordinated to indebtedness for money borrowed or to be borrowed under mortgage agreements.

The net proceeds from the said financing will be expended in part for certain improvements of the utility plants of the company and to refund the existing short-term indebtedness of the company having maturities of one year or less.

Sufficient supporting data was submitted with the company's petition herein to enable the commission to adjudicate the merits thereof; and this commission after investigation and consideration, including review of the exhibits submitted in support of the petition, finds that granting the petition is consistent with the public good. Our order will issue accordingly.

Order

Based upon the foregoing report, which is made a part hereof; it is

Ordered, that Union Telephone Company be, and hereby is, authorized to issue and sell for cash at any time or to June 30, 1978, \$1 million aggregate principal amount of notes with interest rates to be determined by the company and the purchaser at the time of the purchase but within the range of 8 per cent — 9 per cent, and it is

Further ordered, that said notes may be renewed at maturity, interest will be payable quarterly, semiannually, and annually at the purchaser's option; and it is

Further ordered, that the proceeds from the said financing will be expended in part for certain improvements of the utility plants of the company and to refund the existing short-term indebtedness of the company having maturities of one year or less; and it is

Further ordered, that on or before January 1st and July 1st in each year, the Union Telephone Company shall file with this commission a detailed statement, duly sworn to by its treasurer, showing the disposition of the proceeds of the notes herein authorized until the disbursement of the whole of said proceeds shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of November, 1977.

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NH.PUC\*11/30/77\*[77972]\*62 NH PUC 328\*Public Service Company of New Hampshire

[Go to End of 77972]

## Re Public Service Company of New Hampshire

DR 77-49, Fifth Supplemental Order No. 12,975

62 NH PUC 328

New Hampshire Public Utilities Commission

November 30, 1977

MOTION for rehearing regarding electric company's rate increase request; denied.

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BY THE COMMISSION:

Supplemental Order

The commission having before it a Motion to Prohibit Public Service Company from Placing in Effect Tariff, NHPUC No. 21 — Electricity and Supplement No. 1; on behalf of the Legislative Utility Consumers' Council dated November 28, 1977, after full consideration of the allegations in said motion and after weighing the reasons presented in said motion, is of the opinion and the order is that said motion be, and hereby is, denied.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of November, 1977.

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NH.PUC\*12/01/77\*[77973]\*62 NH PUC 329\*New Hampshire Electric Cooperative, Inc.

[Go to End of 77973]

### Re New Hampshire Electric Cooperative, Inc.

I-R14,741, Order No. 12,977

62 NH PUC 329

New Hampshire Public Utilities Commission

December 1, 1977

PETITION of electric cooperative seeking approval of special contract; granted.

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BY THE COMMISSION:

Order

Whereas, New Hampshire Electric Cooperative, Inc., a utility selling electricity under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 53 with Loon Mountain Recreation Corporation, effective November 15, 1977, for electric service at rates other than those fixed by its schedule of general application; and

Whereas, upon investigation and consideration, this commission is of the opinion that special circumstances exist relative thereto, which render the terms and conditions thereof just and consistent with the public interest; it is

Ordered, that said contract may become effective as of the effective date thereof.

By order of the Public Utilities Commission of New Hampshire this first day of December, 1977.

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NH.PUC\*12/05/77\*[77974]\*62 NH PUC 330\*New England Telephone and Telegraph Company

[Go to End of 77974]

## Re New England Telephone and Telegraph Company

DE 77-146, Order No. 12,981

62 NH PUC 330

New Hampshire Public Utilities Commission

December 5, 1977

PETITION of a telephone company for a license to place and maintain submarine plant crossing state-owned public waters; granted.

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TELEPHONES, § 2 — In general — Construction and equipment — Licensing.

[N.H.] A license to place and maintain a submarine plant crossing state-owned public waters was granted by the commission where it found that the proposed construction was necessary to meet the reasonable requirements of the public and the license sought could be issued and exercised by the company without substantially affecting the public rights.

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BY THE COMMISSION:

Order

Whereas, by petition filed October 3, 1977, New England Telephone and Telegraph Company seeks a license, pursuant to RSA 371:17-20, to place and maintain submarine plant crossing state-owned public waters in Moultonboro, New Hampshire under Lake Winnepesaukee; and

Whereas, the petitioner represents that the proposed plant will run from pole No. 702D/2 on the shoreline in Moultonboro, New Hampshire, to pole No. 702D/3 on Cove Island in Moultonboro, New Hampshire, and is designed to replace existing telephone circuits, in the New England Company's Center Harbor exchange; and

Whereas, following due notice no other interested parties recorded any objections to the proposed construction and upon investigation of all the facts before the commission, it is found that the proposed construction is necessary to meet the reasonable requirements of the public, and that the license sought may be issued and exercised by the petitioner without substantially affecting the public rights; it is

Ordered, that a license be, and hereby is, granted to New England Telephone and Telegraph Company to place and maintain submarine plant crossing state-owned public waters in Moultonboro, New Hampshire under Lake Winnepesaukee, all in accordance with the above description which is contained on a plan on file at the office of the commission.

By order of the Public Utilities Commission of New Hampshire this fifth day of December, 1977.

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NH.PUC\*12/05/77\*[77975]\*62 NH PUC 331\*New England Telephone and Telegraph Company

[Go to End of 77975]

**Re New England Telephone and Telegraph Company**

DE 77-145, Order No. 12,984

62 NH PUC 331

New Hampshire Public Utilities Commission

December 5, 1977

PETITION of a telephone company for a license to place and maintain submarine plant crossing state-owned public waters; granted.

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TELEPHONES, § 2 — In general — Construction and equipment — Licensing.

[N.H.] A license to place and maintain a submarine plant crossing state-owned public waters was granted by the commission where it was found that the proposed construction was necessary to meet the reasonable requirements of the public, and that the license sought could be issued and exercised by the company without substantially affecting the public rights.

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BY THE COMMISSION:

Order

Whereas, by petition filed October 3, 1977, New England Telephone and Telegraph Company seeks a license, pursuant to RSA 371:17-20, to place and maintain submarine plant crossing state-owned public waters in Conway, New Hampshire under the Saco river; and

Whereas, the petitioner represents that the proposed plant will cross approximately 332 feet of the river from Terminal No. 7 on the south side of the Saco river to Terminal No. 8 on the north side of the Saco river in Conway, and is designed to provide toll and exchange telephone circuits, in the New England Company's Conway exchange; and

Whereas, following due notice no other interested parties recorded any objections to the proposed construction and upon investigation of all the facts before the commission, it is found that the proposed construction is necessary to meet the reasonable requirements of the public, and that the license sought may be issued and exercised by the petitioner without substantially affecting the public rights; it is

Ordered, that a license be, and hereby is, granted to New England Telephone and Telegraph

Company to place and maintain submarine plant crossing state-owned public waters in Conway, New Hampshire under the Saco river, all in accordance with the above description which is contained on a plan on file at the office of the commission.

By order of the Public Utilities Commission of New Hampshire this fifth day of December, 1977.

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NH.PUC\*12/08/77\*[77976]\*62 NH PUC 332\*Exeter and Hampton Electric Company

[Go to End of 77976]

## Re Exeter and Hampton Electric Company

DF 77-154, Order No. 12,987

62 NH PUC 332

New Hampshire Public Utilities Commission

December 8, 1977

PETITION for authority to issue and sell preferred stock and bonds; granted.

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SECURITY ISSUES, § 48 — Stocks and bonds — Authorization.

[N.H.] The commission authorized an electric company to issue preferred stock and mortgage bonds where the proceeds of the issues would be applied to pay off short-term indebtedness outstanding at the time of sale, the proceeds of which were expended to pay for the purchase and construction of property and facilities reasonably requisite for present and future use in the conduct of the company's business.

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APPEARANCES: Joseph S. Ransmeier and Franklin Hollis for the petitioner.

BY THE COMMISSION:

Report

By this unopposed petition, filed October 28, 1977, Exeter and Hampton Electric Company, a corporation duly organized under the state of New Hampshire and operating as an electric public utility in certain parts of said state, seeks authority (a) to issue and sell 5,000 shares of a new 8.25 per cent dividend series of preferred stock, \$100 par value and (b) to issue and sell \$1,750,000 of first mortgage bonds, Series H 8.50 per cent maturing 2002. A duly noticed hearing was held in Concord on November 22, 1977. A company witness testified that the proposed preferred stock and bonds had been privately placed, through Merrill, Lynch, Pierce, Fenner and Smith, Inc., with specified institutional investors. The preferred stock would be sold at par with a dividend rate of 8.50 per cent and bonds would be sold at par with an interest rate of 8.25 per cent. The company witness stated that the terms and manner of sale are advantageous.

The company expects that the proceeds of the issues would be applied for the following purposes:

a. to pay off short-term indebtedness outstanding at the time of sale, the proceeds of which will have been expended to pay at maturity the company's Series A bonds and for the purchase and construction of property and facilities reasonably requisite for present and future use in the conduct of the company's business, but may be applied in part.

b. to reimburse the company treasury for expenditures made from it for those purposes.

c. to finance the future purchase and construction of such property and facilities; and

d. to defray the costs and expenses of the financing, or for other corporate purposes.

The following balance sheet, as of August 31, 1977, proformed to reflect the issue was submitted by the petitioner.

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[Graphic(s) below may extend beyond size of screen or contain distortions.]

<i>Assets</i>	<i>Actual</i>	<i>Pro Forma Adjustment</i>	<i>Pro Forma</i>
Utility Plant (at original cost)	\$15,409,686	\$ -	\$15,409,686
Less: Accumulated depreciation	3,847,112	-	3,847,112
Net Utility Plant	<u>\$11,562,574</u>	<u>\$ -</u>	<u>\$11,562,574</u>
Nonoperating Property	1	-	1
Investments (at cost)	500	-	500
Current Assets:			
Cash	\$ 305,894	\$ 610,000	\$ 915,894
Accounts receivable (including installment sales) Less Reserve of \$26,461	1,065,405	-	1,065,405
Deferred fuel cost	556,851	-	556,851
Materials and supplies (at average cost)	158,575	-	158,575
Prepayments	54,994	-	54,994
Total Current Assets	<u>\$ 2,141,719</u>	<u>\$ 610,000</u>	<u>\$ 2,751,719</u>
Deferred Debits:			
Unamortized debt expense (to be amortized over term of securities)	\$ 56,260	\$ 34,555	\$ 90,815
Other	79,524	-	79,524
Total Deferred Debits	<u>135,784</u>	<u>34,555</u>	<u>170,339</u>
Total	<u>\$13,840,578</u>	<u>\$ 644,555</u>	<u>\$14,485,133</u>
<i>Liabilities</i>	<i>Actual</i>	<i>Pro Forma Adjustment</i>	<i>Pro Forma</i>
Capitalization:			
Capital Stock and Retained Earnings:			
Cumulative preferred stock, \$100 par value			
Authorized 25,000 shares			
Outstanding:			
5% Dividend Series - 2,170 shares	\$ 217,000	-	\$ 217,000
6% Dividend Series - 2,870 shares	287,000	-	287,000
8.75% Dividend Series - 5,000 shares	500,000	-	500,000
8.25% Dividend Series - 5,000 shares	-	\$ 500,000	500,000
Common Stock - 55 par value			
Authorized - 300,000 shares			

## PURbase

Outstanding - 195,000 shares	975,000	-	975,000
Premium on common stock	1,005,875	-	1,005,875
Capital stock expense	(84,092)	(18,445)	(102,537)
Retained earnings	2,286,621	-	2,286,621
Total Capital Stock and Retained Earnings	\$ 5,187,404	\$ 481,555	\$ 5,668,959
Long-term Debt:			
First Mortgage, Series A, 3.75% Bonds due December 1, 1977	\$ 912,000	\$(912,000)	-
First Mortgage, Series B, 3.75% Bonds due January 15, 1981	405,000	-	\$ 405,000
First Mortgage, Series C, 5.625% Bonds due January 14, 1985	425,000	-	425,000
First Mortgage, Series D, 4.75% Bonds due June 1, 1994	667,500	-	667,500
First Mortgage, Series E, 6.75% Bonds due January 15, 1998	637,000	-	637,000
First Mortgage, Series F, 8.70% Bonds due November 15, 2001	1,287,000	-	1,287,000
First Mortgage, Series G, 8.875% Bonds due April 1, 2004	980,000	-	980,000
First Mortgage, Series H, 8.50% Bonds due 2002	-	1,750,000	1,750,000
Total	\$ 5,313,500	\$ 838,000	\$ 6,151,500
Less: Installments due within one year (excepting the requirement for the Series A Bonds)	47,500	-	47,500
Total Long-term Debt	\$ 5,266,000	\$ 838,000	\$ 6,104,000
Total Capitalization	\$10,453,404	\$1,319,555	\$11,772,959
Current and Accrued Liabilities:			
Long-term debt due within one year (excepting the requirement for the Series A Bonds)	\$ 47,500	-	\$ 47,500
Notes payable	675,000	\$(675,000)	-
Accounts payable	872,669	-	872,669
Customers' deposits and refunds	397,052	-	397,052
Taxes accrued	332,934	-	332,934
Deferred federal income tax	267,288	-	267,288
Interest accrued	97,504	-	97,504
Miscellaneous accruals	196,252	-	196,252
Total Current and Accrued Liabilities	\$ 2,886,199	\$(675,000)	\$ 2,211,199
Deferred Credits:			
Unamortized Investment Tax Credit	\$ 332,449	-	\$ 332,449
Other	13,691	-	13,691
Total Deferred Credits	\$ 346,140	-	\$ 346,140
Deferred Federal Income Tax	154,835	-	154,835
Total	\$13,840,578	\$ 644,555	

Upon consideration of the evidence submitted, the commission is satisfied that the proceeds of the issues proposed herein will be used for the purposes hereinabove listed. The commission thus finds that the issuance of 5,000 shares of preferred stock, \$100 par value and \$1,750,000 of first mortgage bonds, Series H, maturing in 2002, is consistent with the public good. Our order

authorizing the issue and sale of these securities will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Exeter and Hampton Electric Company be, and hereby is, authorized to issue and sell for each 5,000 shares of its preferred stock, at par, such shares to be issued and sold in accordance with terms and conditions set forth in the petition and presented at the hearing; and it is

Further ordered, that Exeter and Hampton Electric Company be, and hereby is, authorized to issue and sell for cash \$1,750,000 of its first mortgage bonds, Series H, 8.50 per cent at par, such bonds to be issued and sold in accordance with terms and conditions set forth in the petition and presented at the hearing; and it is

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Further ordered, the Exeter and Hampton Electric Company be, and hereby is, authorized to mortgage its present and future property, tangible and intangible including franchises, as security for the first mortgage bonds to be issued; and it is

Further ordered, that the proceeds from the sale of said securities be used solely for one or more of the following purposes: to pay off its outstanding short-term indebtedness, to reimburse the company treasury, to finance future purchases and construction of such property and facilities, to defray the cost and expense of financing, and for other lawful corporate purposes; and it is

Further ordered, that on January 1st and July 1st in each year, Exeter and Hampton Electric Company shall file with this commission a detailed statement, duly sworn to by its treasurer, showing the disposition of the proceeds of such securities until the whole of such proceeds shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this eighth day of December, 1977.

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NH.PUC\*12/09/77\*[77977]\*62 NH PUC 335\*Concord Steam Corporation

[Go to End of 77977]

**Re Concord Steam Corporation**

I-R14,713, Order No. 12,988

62 NH PUC 335

New Hampshire Public Utilities Commission

December 9, 1977

PETITION of steam utility seeking revisions to its tariff; suspended pending commission

investigation.

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BY THE COMMISSION:

Order

Whereas, Concord Steam Corporation, a public utility engaged in the business of supplying steam service in the state of New Hampshire, on November 30, 1977, filed with this commission certain revisions to its tariff, NHPUC No. 2 — Steam, designed to fold in the cost of oil from the existing \$2.60 per bbl. to \$14 per bbl., thus adding \$3.07 to each block of the basic rates; and

Whereas, it appears to the commission that the rights and interest of the public that the affected require that the effective date thereof be suspended pending investigation and decision thereon; it is

Ordered, that First Revised Pages 11 and 12 of tariff, NHPUC No. 2 — Steam, of Concord Steam Corporation be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this ninth day of December, 1977.

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NH.PUC\*12/09/77\*[77978]\*62 NH PUC 336\*Southern New Hampshire Gas Company

[Go to End of 77978]

## Re Southern New Hampshire Gas Company

DR 77-175, Order No. 12,990

62 NH PUC 336

New Hampshire Public Utilities Commission

December 9, 1977

PETITION of gas company seeking rate increase; suspended pending commission investigation.

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BY THE COMMISSION:

Order

Whereas, Southern New Hampshire Gas Company, a public utility engaged in the business of supplying gas service in the state of New Hampshire, on November 30, 1977, filed with this commission certain revisions to its tariff, NHPUC No. 1 — Gas, providing for cancellation of the domestic Rate D and an increase in the commercial-industrial Rate CI, effective January 1, 1978; and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date thereof be suspended pending investigation and decision thereon; it is

Ordered, that Second Revised Pages 16 and 17 of tariff NHPUC No. 1 — Gas, of Southern New Hampshire Gas Company be, and hereby are, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this ninth day of December, 1977.

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NH.PUC\*12/19/77\*[77979]\*62 NH PUC 336\*Public Service Company of New Hampshire

[Go to End of 77979]

## Re Public Service Company of New Hampshire

DF 77-170, Order No. 12,991

62 NH PUC 336

New Hampshire Public Utilities Commission

December 19, 1977

PETITION for authority to issue and sell term notes; granted.

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SECURITY ISSUES, § 11 — Term notes — Proceeds.

[N.H.] The commission required that the proceeds from the sale of term notes be used for the purpose of discharging and repaying an electric company's outstanding five-year note.

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APPEARANCES: Ralph H. Wood and Russell A. Winslow for the petitioner.

BY THE COMMISSION:

Report

By this unopposed petition filed

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November 30, 1977, Public Service Company of New Hampshire (the "company"), a corporation duly organized and existing under the laws of the state of New Hampshire and operating therein as an electric public utility under the jurisdiction of this commission, seeks authority pursuant to the provisions of RSA 369 to issue and sell for cash term notes in the aggregate amount of \$25 million.

At the hearing on the petition, held in Concord on December 13, 1977, the company submitted that it proposes to enter into a loan agreement with a group of seven commercial banks providing for the lending by said banks to the company of an aggregate of \$25 million and the

issuance by the company to said banks of its term notes aggregating that amount; said banks and the amount which each would lend the company being as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Citibank, N. A.	\$5,000,000
The First National Bank of Boston	5,000,000
Manufacturers Hanover Trust Company	5,000,000
Morgan Guaranty Trust Company of New York	5,000,000
Bank of America, NT & SA	2,000,000
Continental Illinois National Bank and Trust Company of Chicago	2,000,000
Shawmut Bank of Boston, N. A.	1,000,000

It was further submitted by the company that the loans would be unsecured; that the term of each would begin on the date of issue, expected to be December 28, 1977, and mature on January 2, 1979, or a date shortly thereafter which would be more than twelve months from the date of issue; and that interest would be paid quarterly at fluctuating interest rates per annum equal to the sum of 116 per cent of the base commercial lending rate charged from time to time by the First National Bank of Boston, plus 0.25 per cent. The company also represented that the principal or any portion in integral multiples of \$1 million could be repaid at any time upon three days' notice and described other provisions of the proposed loan agreement.

The company submitted that the proceeds of the term notes would be used directly or indirectly to pay at its maturity the \$25 million five-year note issued in December, 1972, to First National City Bank (now Citibank, N.A.), said proceeds to be used either to pay said five-year note directly or (if the term notes are not issued until after December 28, 1977, because all regulatory approvals have not then been received) to pay said five-year note indirectly through reimbursement to the company for \$25 million of other funds used by it to pay said five-year note and repayment by the company of \$25 million of short-term borrowings incurred to raise such funds.

The company submitted a balance sheet as at October 31, 1977, actual and pro formed for the issuance of the term notes. An exhibit was also submitted showing the disposition of proceeds. A certified copy of authorizing votes of the company's board of directors was put in evidence at the hearing.

Upon investigation and consideration, the commission is satisfied that the proceeds from the proposed financing will be expended to pay directly or indirectly the company's outstanding \$25 million five-year note payable at its

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maturity on December 28, 1977, and finds that the issue and sale of the term notes will be consistent with the public good.

Our order will issue authorizing the issuance and sale for cash, on the terms presented, of an aggregate of \$25 million of the company's term notes payable to said group of commercial banks.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Public Service Company of New Hampshire be, and hereby is, authorized to issue and sell for cash, in accordance with a term loan agreement between the company and the banks, its term notes in the aggregate amount of \$25 million payable more than twelve months from the date thereof to banks as follows:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Citibank, N. A.	\$5,000,000
The First National Bank of Boston	5,000,000
Manufacturers Hanover Trust Company	5,000,000
Morgan Guaranty Trust Company of New York	5,000,000
Bank of America, NT & SA	2,000,000
Continental Illinois National Bank and Trust Company of Chicago	2,000,000
Shawmut Bank of Boston, N. A.	1,000,000

and bearing interest at fluctuating rates per annum equal at all times to the sum of 116 per cent of the base commercial lending rate charged from time to time by The First National Bank of Boston, plus 0.25 per cent; and it is

Further ordered, that the proceeds from the sale of the term notes shall be used directly or indirectly for the purpose of paying at its maturity the \$25 million five-year note issued in December, 1972, to First National City Bank (now Citibank, N.A.), said proceeds to be used either to pay said five-year note directly or (if the term notes are not issued until after December 28, 1977, because all regulatory approvals have not then been received) to pay said five-year note indirectly through reimbursement to the company for \$25 million of other funds used by it to pay said five-year note and repayment by the company of \$25 million of short-term borrowings incurred to raise such funds; and it is

Further ordered, that on January 1st and July 1st in each year, Public Service Company of New Hampshire shall file with this commission a detailed statement, duly sworn by its financial vice president or its treasurer, showing the disposition of the proceeds of the term notes being authorized until the expenditure of the whole of said proceeds shall have been fully accounted for.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of December, 1977.

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NH.PUC\*12/19/77\*[77980]\*62 NH PUC 339\*Rules and Regulations Prescribing Standards for Telephone Utilities

[Go to End of 77980]

## **Re Rules and Regulations Prescribing Standards for Telephone Utilities**

D-E3595, Fourth Supplemental Order No. 12,992

62 NH PUC 339

New Hampshire Public Utilities Commission

December 19, 1977

ORDER adopting new rules relative to discontinuance of service.

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BY THE COMMISSION:

Supplemental Order

Whereas, the commission in the exercise of its general rule-making powers pursuant to the provisions of RSA 365:8 and in accordance with RSA 541-A, the Administrative Procedures Act, issued its Third Supplemental Order No. 12,959 dated November 23, 1977, adopting certain new rules relative to discontinuance of service; and

Whereas, said rules pursuant to RSA 541-A:4 became effective twenty days after filing with the Office of Legislative Services; and

Whereas, the commission has been informed that due to changes in computer programs and the need for training of supervisory personnel, the telephone companies need until April 1, 1978, to comply with said rules and regulations; it is

Ordered, that said rules and regulations relative to the disconnection of service for telephone companies promulgated by this commission on November 23, 1977, which became effective December 18, 1977, be, and hereby are, suspended until April 1, 1978.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of December, 1977.

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NH.PUC\*12/20/77\*[77981]\*62 NH PUC 339\*Jaffrey Water Works

[Go to End of 77981]

**Re Jaffrey Water Works**

DR 77-109, Order No. 12,995

62 NH PUC 339

New Hampshire Public Utilities Commission

December 20, 1977

PETITION for authority by water company for a revenue increase; granted.

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RATES § 203 — Territorial divisions — Water company.

[N.H.] Where there was no contrary evidence to indicate that differential rates should be applied to a municipal water company's out-of-town customers and neither the company nor the consumer advocate nor the staff had proposed differential rates, the commission held that there

should be parity among the customers of both localities and granted the water company a 100 per cent rate increase.

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APPEARANCES: David M. Tower for the petitioner; and J. Michael Love for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

On July 5, 1977, Jaffrey Water Works, a municipal utility providing water service to customers in the towns of Jaffrey and Rindge filed a petition for authority to increase its annual revenues derived from its 188 customers in Rindge in the amount of \$6,753 or 100 per cent above present levels. A duly noticed hearing was held at the offices of the commission on November 3, 1977.

Pursuant to their power to do so, the water commissioners of the town of Jaffrey revised the rates charged to Jaffrey residents for water service. Subsequent to raising these water rates 100 per cent the water commissioners filed the present request with the commission to be allowed to raise rates to Rindge customers by an equal percentage. Jaffrey Water Works invokes the jurisdiction of this commission as enunciated in the case of *Blair v Manchester Water Works* (1961) 103 NH 505, 42 PUR3d 237, 175 A2d 525.

Regarding equality of rates, RSA 378:10 provides in pertinent part that "no public utility shall make or give any undue or unreasonable preference or advantage to any person or corporation *or to any locality ...*" (emphasis added). Rindge is a "locality" outside of the municipal boundaries of Jaffrey which is served by Jaffrey Water Works and Jaffrey Water Works is justified in petitioning this commission for the equalization of rates between the Jaffrey customers and the Rindge customers.

At the same time, § 11 provides that "absolute uniformity" in charges shall not be required when lack of uniformity is reasonable, and that "differential rates" shall not be prohibited, subject to the approval of the commission if such rates shall be reasonable and just. Historically, rate increases have been allocated in unequal and varying amounts to various customer classes where evidence establishes the reasonableness of such "differential rates." *Public Service Company of New Hampshire v New Hampshire* (1959) 102 NH 150, 30 PUR3d 61, 153 A2d 801.

In the case before us there is no contrary evidence to indicate that "differential rates" should be applied to Rindge customers. Neither the company, nor the LUCC, nor the commission staff has proposed "differential rates" and as long as the rate increase is a reasonable request there should be parity among the customers of both localities.

The record shows that in 1967 the water commissioners of the Jaffrey Water Works employed an engineering firm to study the water supply that existed at that time. According to a population study at that time, Jaffrey had 3,392 people and was projected to have 3,700 people in

1977 and 4,000 people in 1990. The actual Jaffrey population in 1977 is 4,400 and the projected 1990 population (following the upward trend between 1967 and 1977) would be 5,300 or, expressed in another way, Jaffrey is thirteen years ahead of the 1967 projected population.

The 1967 study estimated the "safe yield" (see Exh No. 1) of the existing water supply to be 800,000 gallons per day. The study also estimated the 1990 daily average consumption to be 540,000 gallons. In actuality, in 1977,

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Jaffrey is consuming 540,000 gallons per day on an average day and 1,150,000 gallons on a peak day, which is over the safe yield of existing facilities.

Confronted with this rapid growth situation the water commissioners entertained engineering proposals from four different companies to correct the situation. The unanimous recommendation of all proposals, the Jaffrey water commissioners, the selectmen, and the superintendent of public works was that two new gravel packed wells should be installed and necessary repairs made to the existing facilities.

The water commissioners also consulted with the Water Supply and Pollution Control Commission (transcript, p. 9; see also Exh No. 1) which opined that work on the two new gravel packed wells should proceed without delay lest an emergency occur in the near future during an extended dry period. The Water Supply Commission concurred that the situation justified the calling of a special town meeting. On June 21, 1977, the town held a special meeting and voted affirmatively to raise \$350,000 for the two gravel packed wells (transcript, p. 10).

The town of Jaffrey engaged the services of accountant George E. Crowley who testified that in early 1977 the Jaffrey Water Works "revenues would not cover their current expenses," "they had already defaulted on their bond issue" (transcript, p. 29) that "they didn't have any funds to do any repairs, they had no funds to do any capital improvements, they had no funds to do virtually anything" (transcript, p. 30). Subsequently the town authorized a 100 per cent increase in rates which translates into about \$1 a week or about \$50 a year.

Crowley further testified that "even with the 100 per cent increase from the town of Jaffrey residents, there appears that there will be a deficiency in the overall cash flow of the Jaffrey Water Commissioners budget" (transcript, p. 32).

In answer to inquiries regarding his choice of service lives of assets, Crowley stated that "although the life may be challenged whether they be thirty years, fifty years, or ten years, it is a matter of what does the Jaffrey Water Department have for cash flow in order to maintain their system" (transcript, p. 34).

The amount necessary to be provided annually for depreciation is the subject of estimation and compensation. The computations are mathematical but the predictions underlying them (regarding service lives) are essentially matters of opinion. See *Lindheimer v Illinois Bell Teleph. Co.* (1934) 292 US 151, 3 PUR NS 337, 78 L Ed 1182, 54 S Ct 658. The opinion of witness Crowley regarding service lives which is uncontradicted by any other testimony in the record or which was not shown to be unreasonable during cross-examination is shown on p. 6 of the financial statements as of December, 1976.

Further, regarding the matter of service lives, LUCC during cross-examination (transcript, p. 5) established that since Jaffrey Water Works is not a profit maker (see also transcript, p. 33) the years for service lives of assets listed on p. 6 (*supra*) make "little difference" even though these service lives are "a little short of what the industry is using" (transcript, p. 22). It appears that the purpose of the shortened service lives is to improve cash flow for the needs of the Jaffrey Water Works. This purpose in this case appears reasonable and we thus allow the

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service lives as presented by witness Crowley.

Exhibit No. 4 as originally submitted indicated a 5.50 per cent interest rate on the \$350,000 bond issue. In actuality it is 4.75 per cent (transcript, p. 39) and we use this figure in computing the 1978 pro forma interest expense. That figure is \$26,140 instead of the \$28,140 originally submitted.

Concern was raised regarding a more equitable matching of financing periods and the physical lives of the property acquired by that financing. Jaffrey Water Works has obligated itself to a ten-year repayment of the \$350,000 borrowed to install the two gravel packed wells. The shorter than usual repayment period was chosen because of the likelihood that further substantial improvements will be incurred in the near future (transcript, p. 40). We find that under the circumstances this company is facing at this time and is likely to face in the near future, that its financing plans and its proposal to increase rates to Rindge customers 100 per cent is fair, reasonable, and justified. Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that the revisions to its tariff as filed by Jaffrey Water Works on July 5, 1977, be, and hereby are, accepted and shall become effective with the date of this order; and it is

Further ordered, that Jaffrey Water Works give public notice of these new rates by publishing the same in a newspaper having general circulation in the territory served.

By order of the Public Utilities Commission of New Hampshire this twentieth day of December, 1977.

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NH.PUC\*12/20/77\*[77982]\*62 NH PUC 342\*Policy Water Systems, Inc.

[Go to End of 77982]

### Re Policy Water Systems, Inc.

DE 74-49, Supplemental Order No. 12,996

62 NH PUC 342

New Hampshire Public Utilities Commission

December 20, 1977

MOTION for rehearing of petition for authority to operate a water utility; denied.

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BY THE COMMISSION:

Supplemental Order

The commission having before it a motion for rehearing filed December 13, 1977, for, and on behalf of, the Legislative Utility Consumers' Council for a rehearing on the commission decision rendered in its report and Order No. 12,969 issued November 23, 1977 (62 NH PUC 318); after full consideration of the allegations in said motion and after weighing the reasons

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presented in said motion, is of the opinion and the order is, that said motion for rehearing be, and hereby is, denied.

By order of the Public Utilities Commission of New Hampshire this twentieth day of December, 1977.

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NH.PUC\*12/20/77\*[77983]\*62 NH PUC 343\*Mountain Springs Water Company, Inc.

[Go to End of 77983]

**Re Mountain Springs Water Company, Inc.**

D-E6481, Order No. 12,997

62 NH PUC 343

New Hampshire Public Utilities Commission

December 20, 1977

PETITION by water company for emergency rate relief; granted.

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RATES, § 630 — Emergency rates — Viability of company.

[N.H.] The commission granted a water company emergency rate relief where the evidence tended to support the company's contention that it needed higher operating revenues to cover its operating expenses to keep it a viable ongoing concern in order to provide service to its customers.

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APPEARANCES: Peter W. Brown for the petitioner and Laurence F. Gardner and William H. Jackson for the Mountain Lakes Community Association.

## BY THE COMMISSION:

## Interim Report

On September 23, 1976, Mountain Springs Water Company, Inc., a New Hampshire corporation operating as a public water utility in the town of Haverhill, under the jurisdiction, of this commission was given temporary rate relief by this commission (Order No. 12,430). Prior to September 23, 1976, and henceforth, permanent rate hearings continued. On September 13, 1977, a petition for emergency rates was filed with this commission. Since then hearings on the emergency rate petition were held on September 14, 1977, September 29, 1977, October 5, 1977, October 13, 1977, and October 20, 1977. In the emergency rate petition (Exh 43) the company requested a 371.7 per cent increase in rates to produce an increase in revenues from \$39,900 to \$148,309 on an annual basis.

Revised Statute Annotated 378:9 provides that "whenever the commission shall be of the opinion that an emergency exists it may authorize any public utility temporarily to alter, amend, or suspend any existing rate ... ." The intention of this section was to vest in the commission as a fact-finding body wide discretionary powers to decide whether a crisis is of sufficient severity to warrant relief, and, if so, the extent of the relief. Per Blandin, J. in *Re Public Service Co.* (1951) 97 NH 549.

In the hearings on the merits of the emergency rate petition the evidence in the record supports the basic finding that there is a lack of adequate income to operate the company on an ongoing

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basis. The present level of income pursuant to the temporary rates schedule approved by this commission in September of 1976 is not enough revenue to cover existing expenses.

During cross-examination of company witnesses, counsel for the Mountain Lakes Association tried to show that Mountain Springs Water Company was insolvent. Indeed, this cross-examination tends to bolster the company's position that it needs higher operating revenue to cover its operating expenses just to stay solvent even in the absence of any return on its rate base or recognition of interest expense on debts due various parties. Also during cross-examination counsel for the association established that present rates were so low that no taxes were paid. In addition, he indicated that substantial amounts of accrued liabilities existed and that this exposed the company to litigation and that the company was vulnerable to suits by creditors further endangering the financial existence of the water company. This evidence tends to support the company's contention that it needs higher operating revenues to cover its operating expenses to keep it a viable ongoing concern to provide service to its customers.

In its Exh 43 the company requests a reserve for return of \$23,431. We disallow this requested amount because upon an application for emergency relief, the question of whether a utility is entitled to a return upon the equity value of its property is not properly considered. The question of a return upon the equity value of property is a matter to be determined in establishing permanent rates. *New England Teleph. & Teleg. Co. v New Hampshire* (1948) 95 NH 58, 75 PUR NS 370, 57 A2d 267. Therefore, we will only allow that amount authorized under

temporary rate Order No. 12,430.

The company in Exh 43 requests income to cover interest expenses on debts due to City Bank and Trust Company and to Dunnan and Taber. There are significant questions regarding the validity of these debts, thus, we do not make any allowance for interest expense in this emergency rate order.

The company in Exh 43 requests an allowance for uncollectibles of \$15,823. We are aware that the company has had difficulty in collecting rates from customers but at the same time the company has had a very limited history of bill collections and that history is clouded in controversy. Due to the uncertainty in this area the commission will allow approximately one per cent of anticipated revenues as a more reasonable figure; i.e., \$710.

Attempting to establish an acceptable allowance for depreciation is very difficult due to the major unanswered questions regarding such matters as the original cost of the fixed assets and amount of contributions in aid of construction. As reflected in Exh 34, the company's unaudited financial statements as of August 31, 1977, total fixed assets were listed at \$813,852. Of this \$400,000 was labeled "contribution." This amount will be disallowed for purposes of this emergency order due to many unanswered questions surrounding it. We accept the balance of \$413,852.

Therefore, we will allow \$413,852 of depreciable assets and have devised a composite rate of 2.1 per cent, which when applied to \$413,852 produces an allowance for depreciation expenses of \$8,590. In our calculation we have used conservative service lives of fifty years for the well, well house, concrete reservoir,

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mains, and services and thirty-three years for pumps and fittings.

After further analysis and review of the record the commission will accept the *purification and distribution* expenses of \$22,400 as well as the following *administrative and general expenses*: Office salaries of \$10,000; office supplies and postage of \$500; insurance of \$1,200; payroll taxes of \$2,000; taxes, general, PUC of \$300; telephone of \$500; and real estate taxes of \$8,350. Inasmuch as Exh 45 reflects legal and accounting expenses of \$18,170.31 for the period April 1, 1977 through September 30, 1977, and the temporary rates only provided an allowance of 8750, we will allow all of the \$10,000 requested.

Based upon the foregoing analysis and review of all requested items and based upon the record of these proceedings, the commission finds that the company is entitled to total annual revenues on an emergency basis of \$69,500.

*Rates*

This case has been made more difficult not only because of the company's legal problems but also because of the size of the physical plant in relation to the number of subscribers. Accordingly, we will allow the following rates based on 774 standby and 155 general service customers:

[Graphic(s) below may extend beyond size of screen or contain distortions.]

Standby Rate                      \$ 60

General Service Rate \$150

Our order will issue accordingly.

Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Mountain Springs Water Company, Inc., is authorized to file revisions to its tariff, NHPUC No. 1 reflecting the rates and charges authorized in this report; and it is

Further ordered, that Mountain Springs Water Company, Inc., give direct notice of these new rates to its customers.

By order of the Public Utilities Commission of New Hampshire this twentieth day of December, 1977.

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NH.PUC\*12/20/77\*[77984]\*62 NH PUC 345\*Public Service Company of New Hampshire

[Go to End of 77984]

### Re Public Service Company of New Hampshire

DR 77-49, Sixth Supplemental Order No. 12,998

62 NH PUC 345

New Hampshire Public Utilities Commission

December 20, 1977

MOTION for rehearing regarding electric company's rate increase request; denied.

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BY THE COMMISSION:

Supplemental Order

The commission having before it a motion for rehearing; filed for, and on behalf of the Legislative Utility Consumers' Council dated December 16, 1977, after full consideration of the allegations in said motion and after weighing the reasons presented in said motion, is of the opinion and the order is that said motion be, and hereby is, denied.

By order of the Public Utilities Commission of New Hampshire this twentieth day of December, 1977.

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NH.PUC\*12/21/77\*[77985]\*62 NH PUC 346\*New Hampshire Electric Cooperative, Inc.

[Go to End of 77985]

**Re New Hampshire Electric Cooperative, Inc.**

DE 77-159, Order No.12,999

62 NH PUC 346

New Hampshire Public Utilities Commission

December 21, 1977

PETITION of electric cooperative for the condemnation of property and the granting of a perpetual easement and right of way; granted.

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BY THE COMMISSION:

Order

Whereas, the New Hampshire Electric Cooperative, Inc., on November 10, 1977, filed a petition for the condemnation of property owned by Norris E. Littlefield in the town of Holderness and for the granting of a perpetual easement and right of way on said property; and

Whereas, the commission noticed a public hearing for December 12, 1977; and

Whereas, the parties, prior to the hearing, negotiated a satisfactory resolution of this matter; and

Whereas, the parties on December 14, 1977, filed a petition for consent decree; it is

Ordered, that the commission hereby adopts all of the stipulations of the parties as set forth in the petition for consent decree, as found in its files and as incorporated herein by reference.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of December, 1977.

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NH.PUC\*12/22/77\*[77986]\*62 NH PUC 347\*Gas Service, Inc.

[Go to End of 77986]

**Re Gas Service, Inc.**

DR 77-87, Supplemental Order No. 13,001

62 NH PUC 347

New Hampshire Public Utilities Commission

December 22, 1977

MOTION to exclude certain testimony from evidence in gas company's rate increase request; granted.

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BY THE COMMISSION:

Supplemental Order

The commission having before it a motion to exclude from evidence testimony of witness Orr filed December 21, 1977, for, and on behalf of the Legislative Utility Consumers' Council relative to a petition for an increase in rates by Gas Service, Inc.; after full consideration of the allegations in said motion and after weighing the reasons presented in said motion, is of the opinion and the order is, that said motion is granted.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of December, 1977.

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NH.PUC\*12/23/77\*[77987]\*62 NH PUC 347\*New Hampshire Electric Cooperative, Inc.

[Go to End of 77987]

### **Re New Hampshire Electric Cooperative, Inc.**

I-R14,744, Order No. 13,002

62 NH PUC 347

New Hampshire Public Utilities Commission

December 23, 1977

PETITION of electric cooperative seeking approval of special contract; granted.

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BY THE COMMISSION:

Order

Whereas, New Hampshire Electric Cooperative, Inc., a utility selling electricity under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 54 with the Waterville Company, Inc., effective November 15, 1977, for electric service at rates other than those fixed by its schedule of general application; and

Whereas, upon investigation and consideration, this commission is of the opinion that special circumstances exist relative thereto, which render the terms and conditions thereof just and consistent with the public interest; it is

Ordered, that said contract may become effective as of the effective date thereof.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of December, 1977.

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NH.PUC\*12/23/77\*[77988]\*62 NH PUC 348\*Wolfeboro Municipal Electric Department

[Go to End of 77988]

## Re Wolfeboro Municipal Electric Department

DR 76-39, Third Supplemental Order No. 13,003

62 NH PUC 348

New Hampshire Public Utilities Commission

December 23, 1977

ORDER by commission directing electric company to make refunds.

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REPARATION, § 43.1 — Refund received from wholesaler — Overcollection from customers.

[N.H.] Where a municipal electric company had received a refund as an adjustment following the settlement of a wholesale rate case and such a sum was an overcollection from the company's customers, the commission ordered such moneys to be refunded to customers.

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BY THE COMMISSION:

Supplemental Order

Whereas, Wolfeboro Municipal Electric Department, a public utility selling electricity in the state of New Hampshire, has received from Public Service Company of New Hampshire a refund, with interest, of \$27,425.10 as an adjustment following settlement of the Public Service Company of New Hampshire wholesale rate case; and

Whereas, such sum was an overcollection from customers of Wolfeboro Municipal Electric Department pending final settlement; it is

Ordered, that said moneys be refunded to customers in the manner outlined in Supplement No. 1 to Wolfeboro Municipal Electric Department tariff, NHPUC No. 4 — Electricity, to be effective with all billings on or after December 1, 1977.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of December, 1977.

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NH.PUC\*12/23/77\*[77989]\*62 NH PUC 348\*Granite State Electric Company

[Go to End of 77989]

## Re Granite State Electric Company

DR 77-181, Order No. 13,004

62 NH PUC 348

New Hampshire Public Utilities Commission

December 23, 1977

PETITION of electric company seeking an adjustment in its purchased power cost; suspended pending commission investigation.

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BY THE COMMISSION:

Order

Whereas, Granite State Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire on December 16, 1977, filed with this commission

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Original Page 16-F of its tariff, NHPUC No. 8 — Electricity (Purchased Power Cost Adjustment No. 6), designed to pass along to its customers the increase in cost of power purchased from New England Power Company resulting from the latter's FERC R-12 filing, proposed for effect January 1, 1978; and

Whereas, it appears to the commission that the rights and interests of the public affected require that the effective date thereof be suspended pending investigation and decision thereon; it is

Ordered, that Original Page 16-F of tariff, NHPUC No. 8 — Electricity of Granite State Electric Company be, and hereby is, suspended until otherwise ordered by this commission.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of December, 1977.

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NH.PUC\*12/27/77\*[77990]\*62 NH PUC 349\*New Hampshire Electric Cooperative, Inc.

[Go to End of 77990]

**Re New Hampshire Electric Cooperative, Inc.**

I-R14,745, Order No. 13,011

62 NH PUC 349

New Hampshire Public Utilities Commission

December 27, 1977

PETITION of electric cooperative seeking approval of a special contract; granted.

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BY THE COMMISSION:

Order

Whereas, New Hampshire Electric Cooperative, Inc., a utility selling electricity under the jurisdiction of this commission, has filed with this commission a copy of its Special Contract No. 55 with Herbert Schneider Corporation, effective November 15, 1977, for electric service at rates other than those fixed by its schedule of general application; and

Whereas, upon investigation and consideration, this commission is of the opinion that special circumstances exist relative thereto, which render the terms and conditions thereof just and consistent with the public interest; it is

Ordered, that said contract may become effective as of the effective date thereof.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of December, 1977.

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NH.PUC\*12/28/77\*[77991]\*62 NH PUC 350\*Concord Public Works Department

[Go to End of 77991]

### Re Concord Public Works Department

IT14,746, Order No. 13,012

62 NH PUC 350

New Hampshire Public Utilities Commission

December 28, 1977

PETITION to exempt vehicles from rule requiring them to stop at a crossing; granted.

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CROSSINGS, § 71 — Infrequent use — "Exempt" signs.

[N.H.] Where rail operations over a highway were found to be very infrequent, the commission permitted the erection of "exempt" signs at the track's crossing in order to eliminate the necessity for certain vehicles to stop before proceeding over the crossing.

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BY THE COMMISSION:

Order

Whereas, Route US 3 intersects the simple track Stone Hill branch of the Boston and Maine Corporation at grade in the city of Concord on North State street, known as the Prison crossing; and

Whereas, rail operations over this section are very infrequent to the extent that the line is not plowed during the winter months; and

Whereas, the said crossing is protected by flashing lights manually operated by a member of the train crew before any movement passes over it; and

Whereas, under present circumstances all motor vehicles carrying inflammable or dangerous commodities are required to stop before proceeding over the said crossing, thus creating an unnecessary hazard to highway traffic; it is

Ordered, that pursuant to the provisions of RSA 262-A:47 III, the New Hampshire Department of Public Works and Highways be, and hereby is, authorized to erect and maintain a standard "exempt" sign on the mast which supports the advance warning disc at each approach to the grade crossing at the intersection of the B & M Corporation, and North State street in the city of Concord thereby eliminating the necessity for stopping certain vehicles before proceeding over said crossing; and it is

Further ordered, that all train movements, before passing over the said crossing shall stop and actuate the flashing light signals, and when highway traffic has stopped, the train movement shall then proceed over the crossing.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of December, 1977.

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NH.PUC\*12/29/77\*[77992]\*62 NH PUC 351\*Public Service Company of New Hampshire et al.

[Go to End of 77992]

## Re Public Service Company of New Hampshire et al.

DR 76-46, 23rd Supplemental Order No. 13,013

62 NH PUC 351

New Hampshire Public Utilities Commission

December 29, 1977

PETITIONS by electric companies for authority to apply a fuel adjustment charge to their regular monthly billings; granted.

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RATES, § 303 — Variable rates based on cost — Fuel adjustment clauses.

**[N.H.]The commission permitted electric companies to pass through their increased purchased fuel costs pursuant to their fuel adjustment clauses.**

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APPEARANCES: Eaton W. Tarbell and Philip Ayers for Public Service Company of New Hampshire; Rocco Pelillo for Concord Electric Company; Richard F. Gilmore for Exeter and Hampton Electric Company; Jonathan W. Booraem for Connecticut Valley Electric Company,

Inc.; Mayland H. Morse for New Hampshire Electric Cooperative, Inc.; William G. Hayes for Granite State Electric Company; Dennis Bean for the Municipal Electric Department of Wolfeboro; John Cassidy for Littleton Water and Light Department; Robert Brown for Woodsville Water and Light Department; and J. Michael Love for the Legislative Utility Consumers' Council.

BY THE COMMISSION:

Report

Pursuant to RSA 378:3-A(II), the commission, on December 19, 1977, held hearings on the petitions of nine New Hampshire electric companies for authority to apply a fuel adjustment charge to regular January, 1978, monthly billings to their customers.

Reference may be made to previous commission decisions in this docket for statements and explanations of the fuel adjustment clause. *Woodsville Water and Light Department*

Woodsville Water and Light Department, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on December 16, 1977, filed with this commission 14th Revised Page 10B to its tariff, NHPUC No. 3 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect January 1, 1978. Woodsville purchases all of its requirements from Central Vermont Public Service Corporation. Woodsville reported that during the month of November, 1977, the total fuel cost billed by Central Vermont was \$870.36. During this same period the total kilowatt-hours sold by Woodsville were 777,080. The fuel adjustment, therefore, by simple division and rounded which is proposed for effect in the month of January, 1978, is 11 cents per hundred kilowatt-hours. *Littleton Water and Light Department*

Littleton Water and Light Depart

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ment, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on December 16, 1977, filed with this commission 48th Revised Page 6 to its tariff, NHPUC No. 1 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect January 1, 1978. Littleton purchases all of its requirements from the New England Power Company. Littleton reported that the total fuel cost billed by the New England Power Company during the month of November, 1977, was \$8,409.44. During this period the total kilowatt-hours sold by Littleton were 2,752,683. The fuel adjustment charge, therefore, by simple division and rounded which is proposed for effect in the month of January, 1978, is 31 cents per hundred kilowatt-hours. *Municipal Electric Department of Wolfeboro*

Municipal Electric Department of Wolfeboro, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on December 5, 1977, filed with this commission 38th Revised Page 9A to its tariff, NHPUC No. 4 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect January 1, 1978. Wolfeboro purchases all of its requirements from Public Service Company of New Hampshire. Wolfeboro reported that during the month of November, 1977, the total fuel cost billed by Public Service Company was \$20,469.36. During this same period the total kilowatt-hours sold by Wolfeboro

were 1,839,169. The fuel adjustment, therefore, by simple division and rounded which is proposed for effect in the month of January, 1978, is \$1.11 per hundred kilowatt-hours. *Granite State Electric Company*

Granite State Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on December 15, 1977, filed with this commission 40th Revised Page 15A to its tariff, NHPUC No. 8 — Electricity, comprising the monthly fuel adjustment charge for effect January 1, 1978. Granite State purchases all of its requirements from the New England Power Company. Granite State reported that the variable portion of the fuel cost billed by New England Power Company was \$83,278.40. Total sales to Granite State customers during the same period were 28,772,942 kilowatt-hours. By simple division this yields \$0.00289 to which is added the fixed fuel portion of \$0.0124 per kilowatt-hour. Thus, the fuel adjustment charge applicable to bills rendered in the month of January, 1978, is proposed to be \$1.53 per hundred kilowatt-hours. *New Hampshire Electric Cooperative, Inc.*

New Hampshire Electric Cooperative, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on December 14, 1977, filed with this commission 44th Revised Page 13 to its tariff, NHPUC No. 6 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect on January 1, 1978. The company reported that the total fuel cost billed by its several power suppliers for power during the month of November, 1977, was \$196,998. Total sales by the Co-op during the same month were 21,375,870 kilowatt-hours. The fuel adjustment, therefore, by simple division and

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rounded which is proposed for effect in the month of January, 1978 is 92 cents per hundred kilowatt-hours. *Connecticut Valley Electric Company, Inc.*

Connecticut Valley Electric Company, Inc., a public utility engaged in the business of supplying electric service in the state of New Hampshire, on December 19, 1977, filed with this commission Ninth Revised Page 18 to its tariff, NHPUC No. 4 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect January 1, 1978. Connecticut Valley purchases all of its requirements from Central Vermont Public Service Corporation. Connecticut Valley reported that during the month of November, 1977, the total fuel cost billed by Central Vermont was \$13,125. During this same period the total kilowatt-hours sold by Connecticut Valley were 12,197,755. The fuel adjustment, therefore, by simple division and rounded which is proposed for effect in the month of January, 1978, is ten cents per hundred kilowatt-hours. *Exeter and Hampton Electric Company*

Exeter and Hampton Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on December 12, 1977, filed with this commission 30th Revised Page 16 to its tariff, NHPUC No. 11 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect January 1, 1978. Exeter and Hampton purchases all of its requirements from Public Service Company of New Hampshire. Exeter and Hampton reported that the total fuel cost billed by Public Service Company for the month of November, 1977, was \$254,545.76. Total sales by Exeter and Hampton during the same period were 22,553,922 kilowatt-hours. The fuel adjustment charge, therefore, by simple

division and rounded which is proposed for effect in the month of January, 1978, is \$1.13 per hundred kilowatt-hours. *Concord Electric Company*

Concord Electric Company, a public utility engaged in the business of supplying electric service in the state of New Hampshire on December 7, 1977, filed with this commission 34th Revised Page 15A to its tariff, NHPUC No. 6 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect January 1, 1978. Concord Electric purchases all of its requirements from Public Service Company of New Hampshire. Concord Electric reported that the total fuel cost billed by Public Service Company during the month of November, 1977, was \$236,911.15. Total sales during that same period were 21,820,470 kilowatt-hours. The fuel adjustment charge, therefore, by simple division and rounded which is proposed for effect in the month of January, 1978, is \$1.09 per hundred kilowatt-hours. *Public Service Company of New Hampshire*

Public Service Company of New Hampshire, a public utility engaged in the business of supplying electric service in the state of New Hampshire, on December 16, 1977, filed with this commission Second Revised Pages 17 and 18 to its tariff, NHPUC No. 21 — Electricity, comprising the monthly calculation of the fuel adjustment charge for effect January 1, 1978.

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Page 18 of the company's fuel surcharge filing for January, 1978, indicates that fuel costs above base for the data month of November, 1977, were \$4,922,883. During this same period the kilowatt-hours subject to the fuel adjustment were 409,041,000. The fuel adjustment, therefore, by simple division and rounded is \$1.20 per hundred kilowatt-hours. The Merrimack coal adjustment reduces this amount to \$1.14 per hundred kilowatt-hours which is proposed for effect in the month of January, 1978.

Based upon all of the evidence in the record of this proceeding, the commission finds that the proposed fuel adjustment charges for the month of January, 1978, are just and reasonable, in accordance with pertinent provisions and all other applicable provisions of law. Our order will issue accordingly. Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that Second Revised Pages 17 and 18 of Public Service Company of New Hampshire tariff, NHPUC No. 21 — Electricity, providing for the monthly fuel surcharge of \$1.14 per hundred kilowatt-hours for the month of January, 1978, be, and hereby are, permitted to become effective January 1, 1978; and it is

Further ordered, that 34th Revised Page 15A of Concord Electric Company tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of 51.09 per hundred kilowatt-hours for the month of January, 1978, be, and hereby is, permitted to become effective January 1, 1978; and it is

Further ordered, that 30th Revised Page 16 of Exeter and Hampton Electric Company tariff, NHPUC No. 11 — Electricity, providing for the monthly fuel surcharge of \$1.13 per hundred kilowatt-hours for the month of January, 1978, be, and hereby is, permitted to become effective January 1, 1978; and it is

Further ordered, that Ninth Revised Page 18 of Connecticut Valley Electric Company, Inc., tariff, NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of ten cents per hundred kilowatt-hours for the month of January, 1978, be, and hereby is, permitted to become effective January 1, 1978; and it is

Further ordered, that 44th Revised Page 13 of New Hampshire Electric Cooperative, Inc., tariff, NHPUC No. 6 — Electricity, providing for the monthly fuel surcharge of 92 cents per hundred kilowatt-hours for the month of January, 1978, be, and hereby is, permitted to become effective January 1, 1978; and it is

Further ordered, that 40th Revised Page 15A of Granite State Electric Company tariff, NHPUC No. 8 — Electricity, providing for the monthly fuel surcharge of \$1.53 per hundred kilowatt-hours for the month of January, 1978, be, and hereby is, permitted to become effective January 1, 1978; and it is

Further ordered, that 38th Revised Page 9A of the Municipal Electric Department of Wolfeboro tariff NHPUC No. 4 — Electricity, providing for the monthly fuel surcharge of \$1.11 per hundred kilowatt-hours for the month of January, 1978, be, and hereby is, permitted to become effective January 1, 1978; and it is

Further ordered, that 48th Revised Page 6 of Littleton Water and Light Department tariff, NHPUC No. 1 —

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Electricity, providing for the monthly fuel surcharge of 31 cents per hundred kilowatt-hours for the month of January, 1978, be, and hereby is, permitted to become effective January 1, 1978; and it is

Further ordered, that 14th Revised Page 10B of Woodsville Water and Light Department tariff, NHPUC No. 3 — Electricity, providing for the monthly fuel surcharge of 11 cents per hundred kilowatt-hours for the month of January, 1978, be, and hereby is, permitted to become effective January 1, 1978.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of December, 1977.

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NH.PUC\*12/29/77\*[77993]\*62 NH PUC 355\*New Hampshire Department of Resources and Economic Development

[Go to End of 77993]

**Re New Hampshire Department of Resources and Economic  
Development**

DT 76-8, Supplemental Order No. 13,014

62 NH PUC 355

New Hampshire Public Utilities Commission

December 29, 1977

PETITION on behalf of a private group to construct grade crossing for off highway vehicles; granted.

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CROSSINGS, § 75 — Seasonal basis — Off highway vehicles.

**[N.H.]The commission authorized a railroad company to construct a grade crossing and provided that the cost of installing and maintaining the crossing would be borne by the Department of Resources and Economic Development, Bureau of Highway Vehicles, and further ordered that the crossing should be in use on a seasonal basis between December 1st, and April 1st, of each year.**

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BY THE COMMISSION:

Supplemental Order

Whereas, Order No. 12,569 issued in the above case, dated January 17, 1977 (62 NH PUC 9), authorizes an eight-foot wide crossing to be established at right angles to the tracks of the Concord to Lincoln railroad line in the town of Ashland at a location 35 feet north of the present spur track switch located south of Interstate 93 overhead bridge: and

Whereas, the said order authorized the crossing for the period terminating on April 1, 1977; and

Whereas, it is desired to continue a grade crossing at the same location and under the same conditions; and

Whereas, the commission is of the opinion that the request should be granted; it is

Ordered that the Goodwin Railroad Company be, and hereby is, authorized to construct a grade crossing at the location above referred to in accordance with the same specifications as indicated in said Order No. 12,569; and it is

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Further ordered, that all safety measures set forth in that order be, and hereby are, adopted by reference; and it is

Further ordered, that the cost of installing the crossing and its maintenance shall be borne by the Department of Resources and Economic Development Commission; and it is

Further ordered, that the crossing shall be made on a seasonal basis only between December 1st of each year and the following April 1st.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of December, 1977.

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NH.PUC\*12/30/77\*[77994]\*62 NH PUC 356\*Public Service Company of New Hampshire

[Go to End of 77994]

**Re Public Service Company of New Hampshire**

DR 77-49, Seventh Supplemental Order No. 13,016

62 NH PUC 356

New Hampshire Public Utilities Commission

December 30, 1977

MOTION for rehearing in electric company's rate increase request; granted.

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BY THE COMMISSION:

Supplemental Order

The commission having before it a motion for rehearing filed December 22, 1977, for, and on behalf of, Public Service Company of New Hampshire, for a rehearing on Sixth Supplemental Order No. 12,998 issued December 20, 1977 (62 NH PUC 345); after full considerations of the allegations in said motion and after weighing the reasons presented in said motion upon the issue of a rehearing, is of the opinion, and the order is, that said motion be, and hereby is, granted.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of December, 1977.

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NH.PUC\*12/30/77\*[77995]\*62 NH PUC 357\*Public Service Company of New Hampshire

[Go to End of 77995]

**Re Public Service Company of New Hampshire**

DR 77-49, Eighth Supplemental Order No. 13,017

62 NH PUC 357

New Hampshire Public Utilities Commission

December 30, 1977

PETITION to file rebuttal testimony in electric company's rate increase request; approved as modified.

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BY THE COMMISSION:

### Supplemental Report

The Legislative Utility Consumers' Council (LUCC) requests permission to file a rebuttal to the testimony of public utilities commission (PUC) witness Trawicki insofar as Trawicki treats construction work in progress (CWIP). In the supplemental report and Third Supplemental Order No. 12,941 dated October 31, 1977 (62 NH PUC 277), the commission denied the LUCC request for rebuttal. On November 17, 1977, LUCC filed a motion for rehearing which the commission granted on November 23, 1977, in its Fourth Supplemental Order No. 12,968 (62 NH PUC 317). On December 14, 1977, the commission entertained oral argument upon the issue of whether or not LUCC should have the opportunity to file a rebuttal to Trawicki's testimony on the issue of CWIP.

The right of rebuttal belongs to the party with the burden of proof and in this matter the Public Service Company of New Hampshire (PSC) has the privilege of rebuttal after the close of the case submitted by the LUCC. We think it is an improper characterization by the LUCC to request rebuttal. What the LUCC appears to be requesting is an opportunity to file additional testimony on the issue of CWIP. The commission will allow LUCC the opportunity to be heard through an additional witness on the issue of CWIP provided that the testimony planned to be submitted is received in prepared, prefiled form no later than January 16, 1978. Other parties may have until January 23rd to file data requests limited to this additional filing and the LUCC is expected to answer these requests no later than February 6th. Cross-examination of the additional testimony will be scheduled at the call of the commission in mid-February. Our order will issue accordingly.

### Supplemental Order

Upon consideration of the foregoing report, which is made a part hereof; it is

Ordered, that all parties to this proceeding shall comply with the procedure set forth in the attached supplemental report.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of December, 1977.

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**Endnotes****1 (Popup)**

<sup>1</sup> United States v Utah Construction & Mining Co. (1966) 384 US 294, 16 L Ed 2d 642, 86 S Ct 1545.

**2 (Popup)**

<sup>1</sup> United States v Utah Construction & Mining Co. (1966) 384 US 294, 16 L Ed 2d 642, 86 S Ct 1545.

**3 (Popup)**

<sup>2</sup> Morin v J. H. Valliere Co. (1973) 113 NH 431.

**4 (Popup)**

<sup>2</sup> Morin v J. H. Valliere Co. (1973) 113 NH 431.

**5 (Popup)**

<sup>3</sup> (CA2d 1961) 295 F2d 869, cert den (1961) 370 US 917, 8 L Ed 2d 497, 82 S Ct 1554.

**6 (Popup)**

<sup>3</sup> (CA2d 1961) 295 F2d 869, cert den (1961) 370 US 917, 8 L Ed 2d 497, 82 S Ct 1554.

**7 (Popup)**

<sup>4</sup> (1962) 57 Cal 2d 749, 22 Cal Rptr 14, 371 P2d 758.